



IN THE COURT OF COMMON PLEAS  
CENTRE COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

MICHAEL J. MCQUEARY : NO. 2012-1804  
VS :  
THE PENNSYLVANIA STATE :  
UNIVERSITY :

Transcript of Proceedings  
(Day 3 of jury trial - p.m. only)

Before: Thomas G. Gavin,  
Senior Judge Specially Presiding  
15th Judicial District

Date: October 19, 2016

Place: Centre County Courthouse  
Courtroom Annex  
108 South Allegheny Street  
Bellefonte, Pa 16823

Appearances:

For the Plaintiff:  
Elliott Strokoff, Esquire  
William T. Fleming, Esquire

For the Defendant:  
Nancy Conrad, Esquire  
George Morrison, Esquire

Notes by: Elise A. Fitzgerald  
Official Court Reporter  
Room 208, Centre County Courthouse  
Bellefonte, Pa 16823  
814 355-6734 or fax 814 548-1158

2016 OCT 19 12:55  
PROthonotary  
CENTRE COUNTY PA

ORIGINAL

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1 P R O C E E D I N G S

2 MS. CONRAD: YOUR HONOR, MAY WE  
3 APPROACH?

4 THE COURT: YES.

5 MS. CONRAD: YOUR HONOR, IT WAS BROUGHT  
6 TO OUR ATTENTION FROM MS. RUNKLE, OUR NEXT  
7 WITNESS, THAT SHE MAY BE FAMILIAR WITH ONE OF THE  
8 JURORS.

9 THE COURT: OKAY. WHICH JUROR?

10 MS. CONRAD: I DON'T KNOW THE NUMBER.

11 THE COURT: OKAY. SO WHY DO NOT YOU ASK  
12 HER SO WE CAN SEE WHO WE ARE TALKING ABOUT.

13 MS. CONRAD: I CAN GIVE YOU THE  
14 INFORMATION SHE PROVIDED?

15 THE COURT: HOW WELL DOES SHE KNOW THIS  
16 PERSON.

17 MS. CONRAD: MS. RUNKLE IS THE HR  
18 MANAGER FOR THE DEPARTMENT OF AGRICULTURE AT THE  
19 UNIVERSITY. SHE BELIEVES THAT THIS JUROR IS AN  
20 EMPLOYEE WITH THE DEPARTMENT OF AGRICULTURE. SHE  
21 BELIEVES THEY MAY HAVE HAD AT LEAST ONE INSTANCE  
22 IN WHICH THERE WAS AN MEETING RELATED TO THIS  
23 JUROR.

24 THE COURT: SHE MET WITH THE JUROR OR  
25 SOMEONE ELSE?

1 MS. CONRAD: I BELIEVE IT WAS WITH THE  
2 JUROR.

3 MR. STROKOFF: AND I HAVE A RECOLLECTION  
4 BUT I CAN GO CHECK MY NOTES THAT THERE IS AN HR  
5 PERSON FROM THERE AND I THINK SHE IDENTIFIED SHE  
6 DID KNOW ERIKKA RUNKLE.

7 MS. CONRAD: I DON'T RECALL THAT.

8 MR. STROKOFF: BUT WE DO NOT HAVE A  
9 QUESTIONNAIRE.

10 MS. CONRAD: I DON'T RECALL THAT. I  
11 REMEMBER HER SAYING SHE IS WITH THE DEPARTMENT OF  
12 AGRICULTURE BUT I DON'T BELIEVE SHE CIRCLED --

13 THE COURT: WHICH JUROR?

14 MR. MORRISON: JUROR NUMBER 5.

15 THE COURT: FIRST ROW.

16 MR. MORRISON: BACK ROW NEXT TO THE IN  
17 BLACK SHIRT WITH A BLACK BARRETT ON.

18 THE COURT: OKAY.

19 MS. CONRAD: WE JUST LEARNED THIS.

20 THE COURT: YOU DID THE RIGHT THING. SO  
21 I THINK WE HAVE TO VOIR DIRE THE JUROR. WHERE IS  
22 MR. FLEMING?

23 MR. FLEMING: EXCUSE ME, YOUR HONOR. I  
24 WAS MAKING SOME COPIES.

25 MS. CONRAD: THERE IS AN ISSUE WITH A



1 JUROR.

2 THE COURT: IS THERE A ROOM FOR JURORS  
3 WHERE WE CAN PULL THE JUROR OUT TO ASK QUESTIONS  
4 OF THEM?

5 MR. FLEMING: IN THERE. YES.

6 THE COURT: WE PUT JURORS IN THE JURY  
7 ROOM. IS THERE ANOTHER ROOM?

8 MR. FLEMING: IT'S ALL RECONFIGURED  
9 REALLY RECENTLY. I CAN CHECK. DO YOU WANT ME TO  
10 LOOK?

11 MS. CONRAD: CAN WE GO BACK TO WHERE WE  
12 MET YESTERDAY IN THAT OFFICE AREA?

13 THE COURT: UPSTAIRS?

14 MR. FLEMING: WE CAN GO RIGHT OUT THERE  
15 IN THE HALLWAY IF YOU DO NOT MIND.

16 THE COURT: I DON'T WANT TO DO IT OUT IN  
17 THE OPEN. LET'S TAKE A LOOK AT THAT ROOM THAT  
18 YOU THINK WORKS.

19 THE COURT: WERE YOU FOLKS GIVEN A LIST  
20 OF THE JURORS?

21 MR. MORRISON: COURT ADMINISTRATOR GOT  
22 THAT.

23 MR. FLEMING: THERE IS NOT JUDGE.

24 MR. STROKOFF: YOUR HONOR, I CAN CHECK  
25 TO SEE IF I HAVE ONE.

1 THE COURT: YEAH. BECAUSE I DON'T KNOW  
2 WHO NUMBER FIVE IS.

3 (WHEREUPON, A DISCUSSION WAS HELD OFF  
4 THE RECORD.)

5 (WHEREUPON, JUROR NUMBER 5 WAS  
6 QUESTIONED IN A SEPARATE ROOM AS  
7 FOLLOWS:)

8 THE COURT: WE RECALLED THAT WHEN YOU  
9 WERE ANSWERING YOUR QUESTIONNAIRE AS A JUROR THAT  
10 YOU INDICATED THAT YOU KNEW MS. RUNKLE ALONG WITH  
11 SOME OF THE PEOPLE WHO WERE ON THE LIST. WE GAVE  
12 YOU A LIST OF EVERYBODY.

13 JUROR NUMBER 5: YES. I REMEMBER.

14 THE COURT: AND YOU INDICATED YES, YOU  
15 KNEW MS. RUNKLE, AND NOW I REALIZE SHE IS HERE I  
16 AM AGAIN OUT OF ABUNDANCE OF CAUTION -- WHICH I  
17 AM SURE EVERYBODY APPRECIATES -- ASKING IN YOUR  
18 DEALINGS WITH MS. RUNKLE, WHATEVER DEALINGS YOU  
19 HAVE HAD WITH HER IN YOUR TENURE AS SOMEONE AT  
20 PENNSYLVANIA STATE UNIVERSITY -- IS THERE  
21 ANYTHING IN THAT RELATIONSHIP THAT WOULD INFER  
22 WITH YOUR ABILITY TO FAIRLY AND IMPARTIALLY  
23 LISTEN TO WHAT SHE HAS TO SAY?

24 JUROR NUMBER 5: NOT AT ALL.

25 THE COURT: OKAY. FINE. THANK YOU.

1 LET'S GO.

2 (WHEREUPON, COURT ADJOURNED IN THE  
3 COURTROOM.)

4 THE COURT: YOU FOLKS CAN GO AHEAD AND  
5 BE SEATED. I JUST WANTED TO GIVE MS. PYLE A  
6 HEAD'S UP SO SHE DIDN'T FAINT ON FRIDAY THAT SHE  
7 WAS RANDOMLY SELECTED TO BUY LUNCH. SO I WANTED  
8 HER TO KNOW THAT IN ADVANCE.

9 CALL THE WITNESS.

10 MR. STROKOFF: ERIKKA RUNKLE PLEASE,  
11 YOUR HONOR.

12 WHEREUPON,

13 ERIKKA RUNKLE  
14 WAS CALLED AS A WITNESS AND HAVING BEEN DULY  
15 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

16 THE COURT: PLEASE SIT UP TO THE  
17 MICROPHONE.

18 DIRECT EXAMINATION

19 BY MR. STROKOFF:

20 Q. PLEASE STATE FOR THE RECORD YOUR FULL  
21 NAME.

22 A. ERIKKA DEVELLE (PH.) RUNKLE.

23 Q. AND COULD YOU SPELL YOUR FIRST NAME AND  
24 LAST NAME FOR THE RECORD COURT REPORTER?

25 A. SURE. E-R-I-K-K-A, LAST NAME

1 R-U-N-K-L-E.

2 Q. AND YOUR OCCUPATION, MS. RUNKLE?

3 A. I AM HUMAN RESOURCES STRATEGIC PARTNER  
4 FOR THE COLLEGE OF AGRICULTURAL SCIENCES.

5 Q. AND THAT'S FOR PENNSYLVANIA STATE  
6 UNIVERSITY?

7 A. THAT'S CORRECT.

8 Q. AND FOR HOW LONG HAVE YOU BEEN EMPLOYED  
9 BY THE PENNSYLVANIA STATE UNIVERSITY?

10 A. I STARTED WITH PENN STATE APRIL OF 2008.

11 Q. AND WHAT IS YOUR EDUCATIONAL BACKGROUND?

12 A. I HAVE A MASTER'S FROM ROBERT MORRIS  
13 UNIVERSITY AND AN UNDERGRADUATE FROM PENNSYLVANIA  
14 STATE UNIVERSITY AND HIGH SCHOOL.

15 Q. WHAT IS YOUR MASTER'S DEGREE IN?

16 A. MY MASTER'S DEGREE IS INSTRUCTIONAL  
17 LEADERSHIP.

18 Q. AND YOUR BA?

19 A. LABOR RELATIONS.

20 Q. WHEN YOU FIRST CAME IN 2008 PRECISELY  
21 WHERE WERE YOU EMPLOYED?

22 A. I WAS EMPLOYED IN THE ATHLETIC  
23 DEPARTMENT.

24 Q. AND DID YOU HAVE A TITLE AT THAT TIME?

25 A. YES. HR MANAGER.

1 Q. SO YOU CAME IN AS HR MANAGER?

2 A. THAT IS CORRECT.

3 Q. AND HOW LONG DID YOU REMAIN HR MANAGER  
4 IN THE ATHLETIC DEPARTMENT?

5 A. I STAYED WITH ATHLETICS UNTIL ABOUT  
6 FEBRUARY OF 2013.

7 Q. COULD YOU TELL US WHAT YOUR  
8 RESPONSIBILITIES WERE AS THE HR MANAGER FOR THE  
9 ATHLETIC DEPARTMENT IN NOVEMBER OF 2011?

10 A. MY DUTIES WOULD NOT HAVE CHANGED IN 2011  
11 OR 2008. I HELPED WITH PERSONNEL PROBLEMS,  
12 EMPLOYEE RELATIONS, LABOR RELATIONS, PERFORMANCE  
13 MANAGEMENT, STRATEGIC PLANNING, THINGS OF THAT  
14 NATURE.

15 Q. AND DID YOU HAVE ANY EMPLOYEES WHO YOU  
16 WERE SUPERVISING AT THAT TIME?

17 A. I DID.

18 Q. GOING TO NOVEMBER OF 2011 ABOUT HOW MANY  
19 SUPERVISORS DID YOU EMPLOY?

20 A. I HAD TWO EMPLOYEE THAT DIRECTLY  
21 REPORTED TO ME.

22 Q. WHAT WERE THEIR TITLES? I DON'T NEED  
23 NAMES.

24 A. HUMAN RESOURCES ASSISTANT.

25 Q. HUMAN RESOURCES ASSISTANT?

1           A.    ASSISTANT.  UH-HUH.

2           Q.    AND IN NOVEMBER OF 2011 TO WHOM DID YOU  
3           DIRECTLY REPORT?

4           A.    IN 2011 I WOULD HAVE DIRECTLY REPORTED  
5           TO TIM CURLEY AS AD AND I WOULD HAVE HAD A DOTTED  
6           LINE TO I BELIEVE SUSAN BASSOW (PH.) AT THAT  
7           TIME.

8           Q.    SUSAN BASSOW?

9           A.    YES.

10          Q.    WHEN YOU SAY DOTTED LINE WHAT DO YOU  
11          MEAN BY THAT?

12          A.    I HAD A DUAL REPORTING RELATIONSHIP.

13          Q.    AND MR. CURLEY WAS ATHLETIC DIRECTOR.  
14          WHO WAS SUSAN BASSOW?

15          A.    SHE WAS ASSOCIATE VICE PRESIDENT FOR  
16          HUMAN RESOURCES.

17          Q.    THERE WILL BE OTHER HUMAN RESOURCE  
18          MANAGERS WHO WILL BE REPORTING TO HER AS WELL?

19          A.    YES.  THAT'S CORRECT.

20          Q.    ABOUT HOW MANY EMPLOYEES WERE THERE IN  
21          THE ATHLETIC DEPARTMENT IN NOVEMBER 2011?

22          A.    I WOULD SAY ABOUT TWO HUNDRED PEOPLE WHO  
23          WERE ACTUALLY ATHLETIC EMPLOYEES.  THERE WERE A  
24          HANDFUL THAT WERE DONOR RELATIONS BUT WE KIND OF  
25          KEPT THEM ALL IN THE REALM OF ATHLETICS BUT THEY

1 WEREN'T ATHLETIC EMPLOYEES.

2 Q. PRIOR TO NOVEMBER 5, 2011, DID YOU HAVE  
3 ANY INDICATIONS THAT THERE WAS AN INVESTIGATION  
4 BY THE OFFICE OF THE ATTORNEY GENERAL THAT  
5 INVOLVED INTERVIEWING PENN STATE EMPLOYEES?

6 A. I CAN REMEMBER A NEWS ARTICLE COMING OUT  
7 THAT ELUDED TO SOME ALLEGATIONS BUT I DON'T KNOW  
8 THAT I KNEW THAT THE ATTORNEY GENERAL'S OFFICE  
9 WAS INVOLVED.

10 Q. YOU HAVE NO RECOLLECTION THAT SOME  
11 ATTORNEY GENERAL INVESTIGATORS SHOWED UP AT THE  
12 LASCH BUILDING OR BRYCE JORDAN BUILDING TO  
13 INTERVIEW PEOPLE?

14 A. I WAS NEVER INTERVIEWED OR DO I RECALL  
15 HAVING ANYBODY TELL ME THEY WERE INTERVIEWED.

16 Q. OKAY. I AM HAVING A LITTLE DIFFICULTY  
17 HEARING YOU SO I DON'T KNOW IF YOUR MIKE IS ON OR  
18 NOT.

19 THE COURT: APPEARS TO BE ON.

20 YOU HAVE TO STAY IN FRONT OF IT.

21 MR. STROKOFF: THAT'S MY FAULT. I  
22 APOLOGIZE.

23 BY MR. STROKOFF:

24 Q. NOVEMBER 5, 2011?

25 A. YES.

1 Q. YOU HEARD SOMETHING ON THE NEWS?

2 A. I DID.

3 Q. AND WHAT WAS THAT?

4 A. I HEARD THAT TIM CURLEY WAS BEING  
5 INDITED ON CHARGES.

6 Q. THAT IS YOUR BOSS?

7 A. THAT IS CORRECT.

8 Q. WAS THAT ON THE TV? WAS THAT ON THE  
9 RADIO?

10 A. IT WAS EVERYWHERE.

11 Q. YOU MEAN IT WAS ON THE TV AND RADIO?

12 A. YES.

13 Q. WHERE WERE YOU WHEN YOU HEARD THIS?

14 A. I BELIEVE THAT WAS THE FIRST AWAY  
15 FOOTBALL GAME SO EVERYBODY KIND OF LEFT PENN  
16 STATE WHO WAS INVOLVED WITH FOOTBALL. SO I WAS  
17 IN -- OUTSIDE OF PHILADELPHIA AT MY PARENTS'  
18 HOUSE.

19 Q. OKAY. SO YOU HEARD THIS ON THE TV OR  
20 THE RADIO IN PHILADELPHIA?

21 A. ACTUALLY, I WAS COMING IN FROM DOING  
22 SOME ERRANDS AND A COWORKER HAD CALLED ME,  
23 CONTACTED ME, AND SAID ARE YOU WATCHING TV, AND  
24 AND I SAID NO, WHAT'S UP, AND SHE SAID GO TURN ON  
25 THE TV, AND I TURNED IT ON AND SAW WHAT SHE WAS



1 REFERRING TO.

2 Q. AFTER YOU SAW THIS ON TV AND HEARD IT ON  
3 THE RADIO DID YOU HAVE ANY OTHER DISCUSSIONS WITH  
4 YOUR COLLEAGUES THAT DAY?

5 A. YES. I DID.

6 Q. AND SPECIFICALLY TO WHOM DID YOU CONTACT  
7 ABOUT THIS BREAKING NEWS?

8 A. SO MY FIRST PHONE CALL WAS TO TIM CURLEY  
9 TO FIGURE OUT WHAT WAS GOING ON AND I COULD NOT  
10 REACH HIM SO MY SECOND CALL WAS TO MARK SHERBURNE  
11 WHO WAS WORKING IN THE ATHLETIC DEPARTMENT AND HE  
12 HAD NOT HEARD THE NEWS EITHER. SO WE DECIDED WE  
13 NEEDED TO CONTACT THE REST OF THE ADMINISTRATION  
14 GROUP TO FIGURE OUT WHAT WAS GOING ON.

15 Q. ADMINISTRATION GROUP BEING WHAT?

16 A. THERE IS AN EXECUTIVE GROUP OF  
17 INDIVIDUALS WHO HOLD AN ATHLETIC DIRECTOR TITLE  
18 WHO ARE RESPONSIBLE FOR DIFFERENT AREAS OF  
19 ATHLETICS.

20 Q. OKAY. SO THEN WHAT HAPPENED?

21 A. SO AS WE WERE TRYING TO FIGURE OUT WHAT  
22 WAS GOING ON TIM REACHED OUT TO ME AND I HAD A  
23 DISCUSSION WITH HIM.

24 Q. AND WHAT DID THE TWO OF YOU DISCUSS?

25 A. HE APOLOGIZED FOR ME FINDING OUT THE

1 INFORMATION THE WAY THAT I DID AND HE TOLD ME AT  
2 THAT TIME HE WAS PLANNING ON STAYING ACTIVE WITH  
3 -- WITH PENN STATE AND AT THAT POINT IT WAS OKAY.  
4 YOU KNOW, AND WE HUNG UP. IT WASN'T A VERY LONG  
5 CONVERSATION.

6 Q. DID YOU REPORT THAT PIECE OF INFORMATION  
7 TO YOUR OTHER COLLEAGUES?

8 A. I DID AT THE TIME.

9 Q. ALL RIGHT. DID YOUR DEPARTMENT DO  
10 ANYTHING THAT DAY?

11 A. LATER THAT DAY AN ANNOUNCEMENT CAME OUT  
12 THAT TIM WAS GOING TO BE PLACED ON ADMINISTRATIVE  
13 LEAVE.

14 Q. AN ANNOUNCEMENT FROM WHO?

15 A. IT WAS ON THE TV. I SAW PARTS OF IT ON  
16 THE TV AND AT THAT POINT THE ADMINISTRATION GROUP  
17 DECIDED WE NEEDED TO GET TOGETHER TO FIGURE OUT  
18 WHAT WAS GOING ON.

19 Q. OKAY. DID YOU GET TOGETHER?

20 A. YES. WE DID.

21 Q. AND WHEN DID YOU GET TOGETHER?

22 A. LIKE I SAID, EVERYBODY WAS OUT OF TOWN.  
23 SO THERE WAS A MEETING HELD ON SUNDAY, THAT  
24 SUNDAY -- I GUESS THAT WOULD HAVE BEEN THE 6TH --  
25 TO DISCUSS IF ANYBODY KNEW ANYTHING, WHAT WAS

1 GOING ON, HOW WE WERE GOING TO PROCEED WITH  
2 ATHLETICS.

3 Q. DID YOU MEET IN YOUR REGULAR OFFICES  
4 THAT SUNDAY?

5 A. SOME PEOPLE DID. SOME PEOPLE CALLED IN.  
6 I ELECTED TO CALL IN BECAUSE I WAS IN  
7 PHILADELPHIA.

8 Q. OKAY. SO YOU WEREN'T AWARE EXACTLY WHAT  
9 WAS HAPPENING ON THE CAMPUS THAT DAY?

10 A. NO.

11 Q. SO YOU HAD YOUR MEETING, IS THAT  
12 CORRECT?

13 A. THAT IS CORRECT.

14 Q. AND WHAT WAS DISCUSSED AT THE MEETING?

15 A. DID ANYBODY KNOW WHAT WAS GOING ON. DID  
16 ANYBODY HAVE CONTACT WITH TIM. YOU KNOW, WE WERE  
17 JUST -- WE WERE TRYING TO FIGURE OUT HOW WE WERE  
18 GOING TO MAINTAIN ATHLETICS. THERE WERE STUDENTS  
19 ON THE ROAD TRAVELING. THERE WERE TEAMS OUT AND  
20 ABOUT. WE WERE TRYING GET LOGISTICS OF WHERE  
21 EVERYBODY WAS TO MAKE SURE, NUMBER ONE, THEY ALL  
22 GOT THE INFORMATION, AND, NUMBER TWO, FIGURE OUT  
23 THE GAME PLAN OF HOW WE WERE GOING TO MOVE  
24 FORWARD.

25 Q. ONCE YOU FOUND OUT THAT MR. CURLEY WAS

1 NOT GOING TO BE THE BOSS WAS THERE ANY DISCUSSION  
2 ABOUT WHO WAS TEMPORARILY IN CHARGE?

3 A. YES. THE NEXT MORNING IT WAS A MONDAY  
4 WE WERE ALL BACK IN AND AT THAT TIME WE WERE  
5 NOTIFIED THAT MARK SHERBURNE WAS GOING TO BE THE  
6 INTERIM AD.

7 Q. NOW WERE YOU STILL IN PHILADELPHIA ON  
8 SUNDAY?

9 A. ON SUNDAY -- I CAME BACK AT SOME POINT  
10 ON SUNDAY BECAUSE I WAS AT WORK ON MONDAY.

11 Q. WERE YOU WATCHING TV ON SUNDAY?

12 A. YES.

13 Q. AND YOU WERE WATCHING TV ON SATURDAY  
14 FOLLOWING THIS BREAKING STORY?

15 A. YES.

16 Q. AND WHO ADVISED YOU THAT MARK SHERBURNE  
17 WAS GOING TO BE ACTING ATHLETIC DIRECTOR?

18 A. MARK DID.

19 Q. OKAY. WERE YOU IN THE OFFICE AT ALL ON  
20 SUNDAY?

21 A. NO.

22 Q. DO YOU KNOW IF THE ATHLETIC DEPARTMENT  
23 WAS GETTING REQUESTS FROM THE MEDIA ON SUNDAY?

24 A. ON SUNDAY I WOULD NOT HAVE -- I DON'T  
25 RECALL THAT BEING ON SUNDAY BECAUSE I WASN'T ON

1 CAMPUS.

2 Q. WHEN YOU ARRIVED AT THE OFFICE MONDAY  
3 MORNING --

4 A. YES.

5 Q. -- WERE THERE ANY MESSAGES ON YOUR  
6 VOICEMAIL FROM THE WEEKEND?

7 A. YES. OUR MAILBOXES WERE OVERFULL SO  
8 NOBODY WAS ABLE TO LEAVE ANYMORE MESSAGES.

9 Q. WHEN YOU SAY OUR MAILBOXES?

10 A. ATHLETICS.

11 Q. YOURS BUT WHO ELSE'S?

12 A. THE AD OFFICE, LASCH BUILDING, SO WHERE  
13 FOOTBALL RESIDES, OTHER AREAS THAT WERE  
14 ATHLETICS.

15 Q. AND WERE ANY OF THESE MESSAGES FROM THE  
16 MEDIA THAT HAD ACCUMULATED ON THE VOICEMAIL?

17 A. THERE WERE MESSAGES FROM EVERYBODY.

18 Q. WELL WITHOUT QUARRELLING WITH THAT WERE  
19 THERE MESSAGES FROM THE MEDIA SEEKING  
20 INFORMATION?

21 A. I KNEW AT ONE TIME TMZ HAD CONTACTED. I  
22 KNOW AT ONE POINT OPRAH WINFREY GROUP HAD  
23 CONTACTED BUT I DON'T RECALL SPECIFICALLY OTHER  
24 MEDIA OUTLETS.

25 Q. MA'AM, THERE IS A LOOSE LEAF BOOK UP

1 THERE THAT SAYS WITNESS EXHIBIT BOOK.

2 THE COURT: IT'S THE ONE ON THE FAR  
3 RIGHT.

4 THE WITNESS: YES. 79 OR JUST --

5 MR. STROKOFF: NO. NOT 79. I DON'T  
6 THINK THAT'S IT EITHER, YOUR HONOR. MINE DOES  
7 NOT HAVE A BREAK IN IT.

8 THE COURT: I BELIEVE THAT'S THE CORRECT  
9 ONE, COUNSEL.

10 TRY THIS ONE HERE.

11 THE WITNESS: THIS ONE?

12 THE COURT: NO. THIS ONE.

13 WHAT EXHIBIT DO YOU WANT HER TO LOOK AT?  
14 THEN WE WILL KNOW.

15 MR. STROKOFF: LOOKING FOR PLAINTIFF'S  
16 EXHIBIT 38.

17 THE COURT: TAB 38.

18 THE WITNESS: THE LIVE ARTICLE?

19 BY MR. STROKOFF:

20 Q. PARDON ME?

21 A. THE LIVE ARTICLE?

22 Q. YES. ARE YOU FAMILIAR WITH THAT  
23 STATEMENT?

24 A. I AM.

25 Q. CAN YOU TELL US WHEN IT WAS THAT YOU

1 FIRST BECAME AWARE OF THAT STATEMENT?

2 A. I BELIEVE THAT WHEN I WAS WATCHING TV  
3 THIS IS ONE OF THE STATEMENTS THAT CAME UP THAT  
4 THE PRESS WAS ELUDING TO.

5 Q. AND DO YOU RECALL IF THAT WAS ESPN?

6 A. I WAS WATCHING MANY OUTLETS BUT ESPN WAS  
7 MY MAIN TV CHOICE AT THAT TIME.

8 Q. AND YOU SAW THAT STATEMENT ON ESPN  
9 SATURDAY?

10 A. I SAW -- I AM NOT SURE IF THIS WAS LOCAL  
11 NEWS OR IF IT WAS ESPN BUT I DID SEE THIS ON THE  
12 NEWS STATION.

13 Q. ON SATURDAY THE 5TH?

14 A. I CAN'T REMEMBER IF IT WAS SATURDAY OR  
15 SUNDAY.

16 Q. OKAY. AND DID THEY READ THE STATEMENT  
17 ON THE NEWS?

18 A. THEY READ PORTIONS OF IT.

19 Q. OKAY. DID THEY READ THE PORTION THAT  
20 SAID I AM CONFIDENT THE RECORD WILL SHOW THAT  
21 THESE CHARGES ARE GROUNDLESS AND THAT THEY  
22 CONDUCTED THEMSELVES PROFESSIONALLY AND  
23 APPROPRIATELY?

24 MS. CONRAD: OBJECTION AS TO HEARSAY.  
25 IT'S AN OUT OF COURT STATEMENT. IT'S HEARSAY

1       WITHIN HEARSAY.

2               MR. STROKOFF:  WE ARE TALKING ABOUT  
3       PUBLICITY OF A DEFAMATORY STATEMENT, YOUR HONOR.

4               MS. CONRAD:  AND, YOUR HONOR, WE HAVE  
5       ADDRESSED PUBLICITY RELATING TO THE DAMAGES THAT  
6       ARE CLAIMED TO SUCH A STATEMENT.

7               THE COURT:  MA'AM, YOU HEARD THE  
8       ARTICLE?

9               THE WITNESS:  I SAW THE ARTICLE ON THE  
10      NEWS.

11              THE COURT:  OKAY.  ASK ANOTHER QUESTION.  
12      THERE IS AN EASIER WAY TO DO IT.

13              DID YOU HAVE A REACTION TO THE ARTICLE?

14              THE WITNESS:  NO.

15              THE COURT:  PUT THE WHITE NOISE ON AND  
16      COME UP HERE FOR SECOND.

17              (WHEREUPON, THE FOLLOWING DISCUSSION  
18      OCCURRED AT SIDE BAR:)

19              THE COURT:  WHAT IS THE ISSUE ABOUT THE  
20      PUBLICATIONS BECAUSE I DON'T KNOW WHY YOU ARE  
21      FIGHTING SO HARD AGAINST IT.  ON THE DEFAMATION  
22      COUNT ONE SIDE OR THE OTHER IS GOING TO PREVAIL.  
23      YOUR SIDE IS STILL IN SUMMATION.  YOU ARE GOING  
24      TO ARGUE THAT HE WAS DEFAMED AND DEFAMED AS A  
25      LIAR BY THOSE COMMENTS AND THAT'S WHY HE SUFFERED



1 THE HARM HE DID BASED ON THE ARTICLES THAT ARE  
2 OUT THERE. SHE IS GOING TO ARGUE THAT THE  
3 ARTICLES OUT THERE ARE BECAUSE HE DIDN'T DO WHAT  
4 A MAN SHOULD DO IN CIRCUMSTANCES AND THEY DIDN'T  
5 DEFAME HIM, BUT THE VERY SAME ARTICLES PROVE THE  
6 MISREPRESENTATION CLAIM THAT HE HAD SAYING THAT  
7 MY REPUTATION IS RUINED BECAUSE EVERYBODY THINKS  
8 I DIDN'T DO THE RIGHT THING. SO I DON'T KNOW WHY  
9 YOUR FIGHTING TO KEEP A SINGLE PIECE OUT.

10 MR. STROKOFF: I AM SORRY.

11 THE COURT: I DON'T KNOW WHY YOU ARE  
12 FIGHTING TO KEEP THIS OUT WHEN YOU ARE PUTTING UP  
13 ANY ONE SHE WANTS BECAUSE ITS GOING TO BE HIM IN  
14 HIS REPUTATION IF CURL AND /SH\*UL HAD ACT  
15 APPROPRIATELY HE WOULD NOT BE IN THIS PART

16 MR. STROKOFF: I DISAGREE, YOUR HONOR,  
17 BUT I AM TRYING TO GET THIS ONE IN THAT'S ALREADY  
18 IN. THAT IS WHY IT IS READ OR PUBLIC ESTABLISHED  
19 ON NATIONAL TV.

20 THE COURT: AND SO SHOULD YOU AVOID THE  
21 ISSUE OF HAVING YOUR CLIENT SAY SAME THING

22 MR. STROKOFF: OKAY.

23 THE COURT: I THINK IF YOU ARE THINKING  
24 ON THAT SAFETY SAKE PUT IT ALL IN WITHOUT  
25 OBJECTIONS.

1 MR. STROKOFF: THANK YOU, YOUR HONOR.

2 MS. CONRAD: THANK YOU, SIR.

3 (END OF SIDE BAR.)

4 BY MR. STROKOFF:

5 Q. MA'AM, DO YOU RECALL WHEN IT WAS THAT  
6 YOU FOUND OUT THAT MIKE MCQUEARY WAS THE GRADUATE  
7 ASSISTANT MENTIONED IN THE PRESENTMENT?

8 A. IT WAS AFTER COACH PATERNO HAD BEEN  
9 REMOVED FROM HIS POSITION AND IT WAS BEFORE THE  
10 FOOTBALL GAME ON SATURDAY.

11 Q. YOU SAID YOUR VOICEMAIL WAS OVERLY?

12 A. YES.

13 Q. WHAT ABOUT YOUR E-MAIL?

14 A. MY E-MAIL -- MY E-MAIL WAS KIND OF THE  
15 GATHERING PLACE WHEN WE STARTED REALIZING THAT  
16 OTHERS IN ATHLETIC WERE GETTING VILE E-MAILS FROM  
17 THE PUBLIC. WE STARTED CATALOGING ALL OF THE  
18 E-MAILS SO PEOPLE WERE SENDING E-MAILS TO ME THAT  
19 THEY HAD HAD IN THEIR WORK UNITS. SO I DID HAVE  
20 E-MAILS.

21 Q. AND WHAT DID YOU DO WITH THEM?

22 A. WE CATEGORIZED THEM AND WE PROVIDED THEM  
23 TO THE POLICE.

24 Q. YOU PROVIDED THEM TO?

25 A. ON CAMPUS POLICE.

1 Q. PENN STATE POLICE?

2 A. CORRECT.

3 Q. WHEN DID YOU DO THAT?

4 A. THERE WAS A FLURRY OF E-MAIL ACTIVITY  
5 AND THEN IT KIND OF TAPERED DOWN. SO EVERY NOW  
6 AND THEN WE WOULD COMPILE IT BECAUSE WE HAD A  
7 BINDER OF THEM AND WE WOULD SEND THEM DOWN TO  
8 MAKE SURE THERE WAS NO CRIME OF THREATS OR --

9 Q. DID YOU SAY ANYTHING TO THE POLICE ON  
10 MONDAY THE 7TH?

11 A. I DON'T RECALL WE DID SO.

12 Q. WELL DID YOU SEND ANY THE DAY AFTER  
13 COACH PATERNO WAS FIRED?

14 A. I DON'T RECALL WHEN WE ACTUALLY SENT  
15 THEM. I CAN TELL YOU THAT THERE WAS AN INCIDENT  
16 IN THE TICKET OFFICE WHERE WE THOUGHT IT WAS A  
17 BOMB THREAT AND THAT IS WHAT SPURRED US TO MAKE  
18 SURE WE WERE DILIGENTLY CAPTURING THE INFORMATION  
19 AND PROVIDING IT TO THE PEOPLE NEEDED.

20 Q. AND WHAT WAS THIS INCIDENT THAT PEOPLE  
21 SAID WAS THE BOMB THREAT?

22 A. THERE WAS A BOX THAT WAS SENT AND WHEN  
23 THE DELIVERY SERVICE SENT IT THERE WAS LOOSE  
24 POWDER THAT CAME OUT OF IT AND WE WEREN'T EXACTLY  
25 SURE WHAT THE CONTENTS WERE IN IT SO WE HAD TO

1 CALL POLICE TO FIGURE OUT WHAT WAS IN IT.

2 Q. WHEN WAS THAT, MA'AM?

3 A. I DON'T RECALL.

4 Q. BEFORE OR AFTER COACH PATERNO WAS  
5 TERMINATED?

6 A. I DON'T RECALL.

7 Q. WAS THERE AN INCREASE IN COMMUNICATIONS  
8 TO YOUR DEPARTMENT AFTER COACH PATERNO WAS  
9 TERMINATED?

10 A. YES. PEOPLE WERE VERY -- IT WAS 50/50  
11 SPLIT. PEOPLE WERE VERY ANGRY THAT COACH PATERNO  
12 WAS REMOVED AND THEN THERE WERE PEOPLE THAT WERE  
13 GRATEFUL TO THE UNIVERSITY FOR REMOVING COACH  
14 PATERNO.

15 Q. CAN WE GO TO WEDNESDAY NIGHT, NOVEMBER  
16 THE 9TH? YOU WERE IN TOWN THAT NIGHT?

17 A. I WAS IN TOWN. YES.

18 Q. DO YOU RECALL ANY PUBLIC DEMONSTRATIONS  
19 WHEN THE NEWS GOT OUT THAT COACH PATERNO HAD BEEN  
20 TERMINATED?

21 A. YES.

22 Q. AND WHAT DO YOU RECALL?

23 A. I RECALL THERE BEING A VIGILANT.  
24 STUDENTS WENT TO HIS PROPERTY AND BASICALLY HAD A  
25 VIGILANCE AND HE CAME OUT AND ADDRESSED THE

1 GROUP.

2 Q. NOW MIKE MCQUEARY'S PERSONNEL FILE WOULD  
3 HAVE BEEN SITUATED IN YOUR DEPARTMENT?

4 A. YES.

5 Q. AND EXACTLY WHERE WOULD IT HAVE BEEN?

6 A. IT WOULD HAVE BEEN IN MY OFFICE IN MY  
7 OFFICE'S -- WE HAD A HR SUITE. SO HIS PERSONNEL  
8 FILE WOULD BE ALPHABETICALLY WITH THE REST OF THE  
9 EMPLOYEES.

10 Q. AND WOULD HIS FILE HAVE BEEN IN A SECURE  
11 FILING SPOT?

12 A. YES.

13 Q. WHAT WAS THE SECURITY IN PLACE TO  
14 PROHIBIT OTHER PEOPLE FROM COMING IN AND LOOKING  
15 AT THE FILE?

16 A. SURE. IT WAS LOCKED AND THEN THE KEYS  
17 WERE LOCKED IN ANOTHER FILING CABINET.

18 Q. AND THESE ARE -- ALL OF THE PERSONNEL  
19 FILES WOULD BE UNDER LOCK AND KEY?

20 A. THAT IS CORRECT. AND THEN THE DOOR  
21 WOULD BE LOCKED ON TOP OF THAT AND THE SUITE  
22 WOULD BE LOCKED.

23 Q. TO YOUR KNOWLEDGE HAD ANYBODY ACCESSED  
24 MIKE MCQUEARY'S PERSONNEL FILE FROM NOVEMBER 3,  
25 2011, THROUGH NOVEMBER 15, 2011?

1 A. NOT THAT I CAN RECALL.

2 Q. DID YOU LOOK AT MIKE MCQUEARY'S  
3 PERSONNEL FILE AT ANY TIME FROM NOVEMBER 3, 2011,  
4 TO NOVEMBER 15, 2011?

5 A. NO. I DON'T KNOW WHY I WOULD SEE THE  
6 NEED TO LOOK AT HIS FILE. I DON'T RECALL BUT I  
7 DON'T BELIEVE I DID.

8 Q. DO YOU RECALL THERE BEING ANY CHANGE IN  
9 THE TELEPHONE CALLS AND E-MAILS THAT WERE COMING  
10 INTO YOUR OFFICE AFTER TOM BRADLEY ANNOUNCED THAT  
11 MIKE MCQUEARY WOULD COACH IN THE NEBRASKA GAME?  
12 HE SAID THIS ON THURSDAY?

13 A. SURE. SO NOT IN MY OFFICE BUT I KNOW  
14 THERE WAS UPTAKE IN PHONE MESSAGES IN LASCH AND  
15 OTHER AREAS SUCH AS THE ATHLETIC DIRECTOR'S AREA.

16 Q. WHAT KIND OF UPTAKE?

17 A. THEY WERE DIRECTED AT MIKE AND DIRECTED  
18 AT THE -- THEY WERE DIRECTED AT THE FACT THAT HE  
19 WAS GOING TO BE ALLOWED TO COACH ON SATURDAYS  
20 GAME BASED OFF THE PRESS CONFERENCE WHEN COACH  
21 PATERNO WAS FIRED.

22 Q. WHAT, IF ANYTHING, WAS DONE WITH THESE  
23 COMMUNICATIONS THAT WERE DONE AFTER IT WAS  
24 ANNOUNCED THAT MIKE MCQUEARY WOULD COACH IN THE  
25 NEBRASKA GAME?

1           A.    THAT WOULD HAVE BEEN FUNNELED TO MARK  
2   BODENSCHATZ, WHO WAS THE ATHLETIC DIRECTOR FOR  
3   BEAVER STADIUM.

4           Q.    WHEN YOU SAY THEY COULD HAVE BEEN, WERE  
5   THEY?

6           A.    YES.

7           Q.    WHO FUNNELED THEM TO HIM?

8           A.    ANYBODY WHO HAD CONTENT WOULD HAVE GIVEN  
9   IT TO MARK BECAUSE AT THAT POINT WE WERE  
10  CONCERNED FOR SAFETY.

11          Q.    WE MAY HAVE TO MANY MARKS.

12          A.    MARK BODENSCHATZ.  SORRY.

13          Q.    SO MR. SHERBURNE WOULD HAVE BEEN  
14  BYPASSED IN THESE COMMUNICATIONS WENT RIGHT TO  
15  MR. BODENSCHATZ?

16          A.    IT DEPENDED.  I THINK PEOPLE KNEW --  
17  PRETTY WELL KNEW MARK BODENSCHATZ WAS IN CHARGE  
18  OF THE FACILITY FOR THE GAME.

19          Q.    AND THE FACILITY BEING BEAVER STADIUM?

20          A.    BEAVER STADIUM.  CORRECT.  SO IF IT HAD  
21  SOMETHING TO DO WITH THE SAFETY OF BEAVER STADIUM  
22  IT MOST LIKELY WOULD HAVE WENT TO MARK  
23  BODENSCHATZ.  IT WOULD HAVE WENT TO MARK  
24  SHERBURNE BECAUSE HE WAS ACTING AD.

25          Q.    OKAY.  SO THESE COMMUNICATIONS WERE

1 FUNNELED TO MR. BODENSCHATZ AND YOU DON'T KNOW  
2 WHAT HAPPENED TO THEM AFTER THAT?

3 A. NO. I ASSUME THAT MARK WOULD HAVE DONE  
4 WHAT HE NEEDED WITH THEM.

5 THE COURT REPORTER: CAN YOU PLEASE  
6 SPELL THAT LAST NAME

7 THE WITNESS: I WILL TRY.

8 B-O-D-E-N-S-H-A-T-Z.

9 BY MR. STROKOFF:

10 Q. THEN AT SOME POINT DID YOU BECOME AWARE  
11 ON THURSDAY, NOVEMBER 10TH, THAT MIKE MCQUEARY  
12 WAS NOT GOING TO BE COACHING IN THE NEBRASKA  
13 GAME?

14 A. I KNEW THAT HE WOULDN'T BE COACHING BUT  
15 I DON'T KNOW WHEN I REALIZED THAT. I WASN'T A  
16 PART OF THAT DECISION MAKING.

17 Q. YOU WERE NOT A PART OF --

18 A. I WAS NOT.

19 Q. OKAY. ORDINARILY WHEN THERE IS A  
20 PERSONNEL DECISION INVOLVING A MEMBER OF THE  
21 ATHLETIC DEPARTMENT WOULDN'T YOU BE CALLED IN FOR  
22 A CONSULT?

23 A. NOT NECESSARILY.

24 Q. I DIDN'T MEAN NECESSARILY BUT I SAID  
25 ORDINARILY?



1           A.   IT DEPENDS ON WHAT THE PERSONNEL PROBLEM  
2           WAS.  IF IT IS A COACHING DECISION THAT WILL NOT  
3           BE IN MY JURISDICTION.

4           Q.   SO WHOSE JURISDICTION WOULD IT HAVE BEEN  
5           IN?

6           A.   IT WOULD HAVE BEEN IN THE SUPERVISOR'S  
7           JURISDICTION OR THE ATHLETIC DIRECTOR'S  
8           JURISDICTION.

9           Q.   AND PREVIOUSLY WHEN THERE MIGHT BE A  
10          MATTER INVOLVING A COACH YOU WEREN'T CALLED IN  
11          FOR ADVICE?

12          A.   IT DEPENDS ON THE SITUATION.

13          Q.   NOW AFTER YOU BECAME AWARE THAT HE WOULD  
14          NOT BE COACHING ON SATURDAY DID YOU SUBSEQUENTLY  
15          BECOME AWARE HE WAS GOING TO BE PLACED ON  
16          ADMINISTRATIVE LEAVE?

17          A.   YES.

18          Q.   AND HOW DID YOU FIND OUT ABOUT THAT?

19          A.   I BELIEVE CYNTHIA BALDWIN TOLD ME.

20          Q.   AND DO YOU RECALL WHEN SHE TOLD YOU?

21          A.   CYNTHIA WOULD HAVE MADE A PHONE CALL TO  
22          ME.  I DON'T REMEMBER WHEN THE PHONE CALL WAS.

23          Q.   OKAY.  DID YOU HAVE ANY INPUT AT ALL  
24          INTO THE DECISION TO PLACE MIKE MCQUEARY ON  
25          ADMINISTRATIVE LEAVE?

1           A.    NO.

2           Q.    DID MS. BALDWIN WHEN SHE CALLED TO TELL  
3   YOU THAT MIKE WAS GOING TO BE PLACED ON  
4   ADMINISTRATIVE LEAVE ASK FOR YOUR ASSISTANCE IN  
5   ANYTHING?

6           A.    SHE ASKED IF I WOULD BE ABLE TO BE  
7   PRESENT WITH MARK SHERBURNE TO HAVE THAT  
8   CONVERSATION.

9           Q.    TO HAVE WHAT CONVERSATION?

10          A.    TO HAVE A MEETING WITH MIKE.

11          Q.    AND EXPLAIN TO HIM THE ADMINISTRATIVE  
12   LEAVE?

13          A.    CORRECT.

14          Q.    OKAY. ASK YOUR RESPONSE TO THAT WAS?

15          A.    OKAY.

16          Q.    COULDN'T REALLY SAY NO, RIGHT?

17          A.    DIDN'T THINK I NEEDED TO.

18          Q.    OKAY. SO WHAT WAS THE NEXT STEP IN  
19   ARRANGING FOR THIS MEETING?

20          A.    SO THE NEXT STEP WOULD HAVE BEEN  
21   CONTACTING MIKE. SO MARK SHERBURNE HAD A PHONE  
22   CONVERSATION WITH MIKE ASKING IF HE COULD HAVE A  
23   MEETING WITH MIKE.

24          Q.    AND WHERE WERE YOU WHEN THIS PHONE  
25   CONVERSATION OCCURRED?

1           A.    I WAS IN MARK'S OFFICE ALONG WITH  
2           CYNTHIA BALDWIN BUT WE WERE NOT ON SPEAKER PHONE.  
3           WE WERE JUST IN HIS OFFICE.

4           Q.    YOU WERE JUST HEARING BASICALLY ONE HALF  
5           OF THE CONVERSATION?

6           A.    THAT IS CORRECT.

7           Q.    DO YOU RECALL HEARING MARK SAY TO MIKE  
8           OVER THE PHONE THAT YOU WOULD NOT NEED A LAWYER  
9           FOR THIS MEETING?

10          A.    I VAGUELY REMEMBER SOMETHING TO THAT  
11          NATURE.

12          Q.    DO YOU REMEMBER WHEN THE MEETING WAS  
13          HELD?

14          A.    THE MEETING WAS HELD ON SUNDAY IN THE  
15          EVENING.

16          Q.    AND DO YOU REMEMBER WHERE IT WAS HELD?

17          A.    IT WAS HELD IN MARK'S OFFICE, MARK  
18          SHERBURNE'S OFFICE.

19          Q.    DO YOU REMEMBER THAT DR. ERICKSON HELD A  
20          PRESS CONFERENCE AT 4:00 P.M. FRIDAY ANNOUNCING  
21          THAT MIKE WAS BEING PLACED ON ADMINISTRATIVE  
22          LEAVE?

23          A.    HONESTLY AT THIS POINT I DON'T REMEMBER  
24          THAT.

25          Q.    WERE YOU AT THAT PRESS CONFERENCE?

1 A. I WAS NOT.

2 Q. DID YOU ATTEND THE MEETING ON SUNDAY,  
3 NOVEMBER 13, 2011, IN MARK'S OFFICE?

4 A. I DID.

5 Q. DID YOU DO ANYTHING IN PREPARATION FOR  
6 THE MEETING?

7 A. I BELIEVE THAT MARK, CYNTHIA, AND I MET  
8 TO DISCUSS BASICALLY WHAT WAS GOING TO BE SAID.

9 Q. OKAY. WHEN WAS THAT MEETING?

10 A. I THINK IT WAS FRIDAY AFTER MARK HAD  
11 SPOKEN WITH MIKE.

12 Q. AND WHERE WERE THAT MEETING?

13 A. IT WAS IN MARK SHERBURNE'S OFFICE.

14 Q. AND WHAT WAS DISCUSSED WAS GOING TO BE  
15 SAID AT THE MEETING?

16 A. JUST, YOU KNOW, THAT DUE TO SAFETY  
17 CONCERNS WE WERE PLANNING ON PLACING MIKE ON  
18 LEAVE, ON ADMINISTRATIVE LEAVE.

19 Q. OKAY. WAS THAT A VERY SHORT MEETING?

20 A. I DON'T RECALL IT BEING TOO LONG.

21 Q. OKAY. CAN YOU TURN PLEASE TO  
22 PLAINTIFF'S EXHIBIT 47.

23 A. SURE.

24 Q. CAN YOU IDENTIFY THAT DOCUMENT?

25 A. YES.

1 Q. WHAT IS IT?

2 A. THESE ARE THE TALKING POINTS THAT MARK  
3 USED IN THAT MEETING.

4 Q. OKAY. YOU USE THE TERM TALKING POINTS.  
5 WHAT DO YOU MEAN BY THAT?

6 A. I BELIEVE HE USED THEM BASICALLY TO  
7 PLACE MIKE ON ADMINISTRATIVE LEAVE.

8 Q. DID HE READ THIS STATEMENT WORD FOR  
9 WORD?

10 A. PRETTY MUCH.

11 Q. DO YOU REMEMBER ANY DEVIATIONS FROM THIS  
12 STATEMENT THAT HE MADE?

13 A. NO. I MEAN, I THINK HE PRETTY MUCH READ  
14 THIS WORD FOR WORD. I THINK THERE WAS SOME  
15 CONVERSATION AT THE END OF THE MEETING.

16 Q. WE WILL GET THERE. THE MEETING STARTED  
17 OFF WHERE HE READ PLAINTIFF'S EXHIBIT 47 PRETTY  
18 MUCH WORD FOR WORD?

19 A. YEAH.

20 Q. AND, INDEED, DID YOU HAVE A COPY OF THIS  
21 WHILE MARK SHERBURNE WAS READING?

22 A. YES.

23 Q. DID MS. BALDWIN HAVE A COPY OF THIS  
24 WHILE MARK SHERBURNE WAS READING?

25 A. YES.

1 Q. DID MIKE MCQUEARY HAVE A COPY WHEN MARK  
2 SHERBURNE WAS READING?

3 A. I DON'T KNOW IF HE HAD A COPY WHEN HE  
4 WAS READING IT. I DO REMEMBER THEM PROVIDING HIM  
5 A COPY.

6 Q. SO YOU REMEMBER HE AT LEAST GOT A COPY  
7 AFTER IT WAS READ?

8 A. YES. THAT IS CORRECT.

9 Q. WELL AFTER MARK READ THIS DOCUMENT YOU  
10 SAID THERE WAS SOME DISCUSSION?

11 A. YES.

12 Q. WHAT DO YOU REMEMBER ABOUT THAT  
13 DISCUSSION?

14 A. I REMEMBER MIKE SAYING THAT HE HAD A  
15 STRONG DESIRE TO COACH AND THAT HE FELT THAT HE  
16 OWED IT TO THE STUDENTS AND HE FELT THAT HE DID  
17 NOT DO ANYTHING WRONG.

18 Q. AND YOU REMEMBER MIKE SAID THAT. DO YOU  
19 REMEMBER ANYTHING YOU SAID?

20 A. I DON'T REMEMBER ME SAYING ANYTHING AT  
21 THAT POINT.

22 Q. DO YOU REMEMBER ANYONE ELSE SAYING  
23 ANYTHING?

24 A. I THINK CYNTHIA MIGHT HAVE AGREED WITH  
25 HIM SAYING, YOU KNOW, THIS WASN'T DONE FOR

1 SOMETHING YOU DID WRONG. IT WAS DONE FOR YOUR  
2 SAFETY. SOMETHING TO THAT EFFECT.

3 Q. OKAY.

4 A. AND THEN BASICALLY THE REST OF THE  
5 MEETING WAS LOGISTICS OF PROVIDING THAT  
6 INFORMATION, TRYING TO FIND A DATE WHERE HE CAN  
7 COLLECT HIS PERSONAL EFFECTS IN HIS OFFICE, AND  
8 HE CAN PROVIDE BACK THE KEYS. I KNOW THAT MARK  
9 PROVIDED HIM WITH THE EAP INFORMATION, WHICH IS  
10 THE EMPLOYEE ASSISTANCE PROGRAM THAT WE PROVIDED  
11 TO PEOPLE WHO MIGHT NEED SOME COUNSELING OR SOME  
12 EXTRA INFORMATION. THAT'S PRETTY MUCH PROTOCOL.

13 Q. COULD YOU PLEASE TURN TO PLAINTIFF'S  
14 EXHIBIT 49.

15 A. SURE.

16 Q. ARE YOU ABLE TO IDENTIFY PLAINTIFF'S  
17 EXHIBIT 49?

18 A. YES.

19 Q. WHAT IS IT?

20 A. THOSE ARE MY NOTES FROM THE MEETING.

21 Q. SO THESE ARE THE NOTES YOU MADE OF THE  
22 MEETING OF NOVEMBER 13TH IN MARK SHERBURNE'S  
23 OFFICE?

24 A. YES.

25 MR. STROKOFF: MOVE FOR ADMISSION OF

1 PLAINTIFF'S EXHIBIT 49, YOUR HONOR.

2 MS. CONRAD: NO OBJECTION.

3 THE COURT: IT'S ADMITTED.

4 BY MR. STROKOFF:

5 Q. SO YOU HAVE YOUR CHOICE. YOU CAN LOOK  
6 AT THE BOOK OR LOOK AT THE MONITOR.

7 A. I WILL LOOK AT THE BOOK.

8 Q. WE WILL ASK YOU TO READ WORD FOR WORD --  
9 WE WILL ASK YOU TO INTERPRET IT LATER BUT READ  
10 WORD FOR WORD.

11 A. IT SAYS THOSE ARE ACTIVE EMPLOYEE  
12 BENEFITS. LEAVE WOULD BE A DIFFERENT WHEN. AND  
13 THEN THERE IS A BRACKETED AREA THAT SAYS NOTED,  
14 HEAVILY DESIRE TO COACH AND HE HERE AT PENN  
15 STATE, DO NOT FEEL DONE ANYTHING WRONG, DILIGENT  
16 IN JOB DUTIES, AND THEN THERE IS A DASH AND IT  
17 SAYS IT GATHER ALL PERSONAL THINGS OFF COMPUTER.

18 Q. IT SAYS IT?

19 A. I AM SORRY. I.T. IT SAYS IT BUT I.T.  
20 I.T. THEN IT SAYS CLARIFYING CONTACT AS FAR AS  
21 LEAVE, NO PERSONNEL ISSUE STUDENT, AND THEN  
22 OBLIGATION TO OUR STUDENTS DIDN'T DO ANYTHING.

23 Q. OKAY. NOW HAVING LOOKED AT YOUR NOTES  
24 DO THEY REFRESH YOUR MEMORY AS TO ANYTHING YOU  
25 MIGHT HAVE LEFT OUT IN TELLING US WHAT HAPPENED



1 AT THE MEETING?

2 A. WELL WHEN WE GOT DOWN TO THE HOUSE  
3 DUTIES OR HOUSEKEEPING DUTIES WE NEEDED TO  
4 COLLECT DIFFERENT THINGS SUCH AS KEYS AND THINGS  
5 OF THAT NATURE AND WE ASKED WAS THERE ANYTHING  
6 YOU NEEDED RIGHT NOW CURRENTLY AND MIKE HAD  
7 INDICATED THAT HE WANTED SOME THINGS OFF HIS  
8 COMPUTER AND I THINK IT WAS LIKE A RESUME AND  
9 PICTURES OF HIS DAUGHTER OFF HIS COMPUTER AND  
10 THAT'S PRETTY MUCH IT. I MEAN, I ALREADY SAID  
11 THAT HE NOTED A STRONG DESIRE TO COACH. I MEAN,  
12 IS THERE SOMETHING IN PARTICULAR?

13 Q. NO.

14 A. YEAH. I THINK THAT'S --

15 Q. CAN WE GO BACK TO 47 AND PUT 47 UP  
16 PLEASE. MA'AM, WITH RESPECT TO PLAINTIFF'S  
17 EXHIBIT 47, THIS STATEMENT THAT MARK READ, DID  
18 YOU HAVE ANY INPUT IN DRAFTING THIS DOCUMENT?

19 A. I DID NOT.

20 Q. DO YOU KNOW WHO DRAFTED THIS DOCUMENT?

21 A. I BELIEVE CYNTHIA DRAFTED IT.

22 Q. THAT'S CYNTHIA BALDWIN?

23 A. THAT IS CORRECT.

24 Q. AND WERE YOU ASKED TO REVIEW IT FOR  
25 ACCURACY?

1           A.    I MAY HAVE BEEN.  I DON'T RECALL.  
2           DURING THAT MEETING WHEN SHE PROVIDED US THE  
3           DOCUMENTATION I AM SURE THAT I READ IT.

4           Q.    TO YOUR KNOWLEDGE WERE THERE ANY  
5           PERSONNEL POLICIES, OR CHAPTER, OR SOMETHING IN  
6           THE POLICY MANUAL SETTING FORTH HOW SOMEBODY IS  
7           TO BE PLACED ON ADMINISTRATIVE LEAVE WITH PAY?

8           A.    NO.  THIS IS SOMETHING THAT I HAVE NOT  
9           SEEN.  THIS WAS AN UNPRECEDENTED EVENT IN MY  
10          CAREER ANY WAY.  I DO NOT RECALL ANYBODY BEING  
11          PLACED ON ADMINISTRATIVE LEAVE WITH PAY.  OF  
12          COURSE WE HAVE ADMINISTRATIVE LEAVE WITHOUT PAY  
13          BUT WITH PAY, NO.

14          Q.    MR. MCQUEARY WAS REQUIRED TO TURN IN HIS  
15          VEHICLE RATHER IMMEDIATELY?

16          A.    YES.

17          Q.    AND HE WAS REQUIRED TO TURN IN HIS  
18          CELLPHONE RATHER IMMEDIATELY?

19          A.    YES.

20          Q.    AND THE COMPUTER THAT YOU'RE TALKING  
21          ABOUT, HE WANTED SOMETHING DOWNLOADED OFF  
22          COMPUTER?

23          A.    YEAH.

24          Q.    WAS THAT A LAPTOP IN HIS OFFICE?

25          A.    IT WAS A COMPUTER IN HIS OFFICE.  I

1 DON'T REMEMBER IF IT WAS A LAPTOP OR NOT.

2 Q. NOW THE SECOND PARAGRAPH OF PLAINTIFF'S  
3 EXHIBIT 47 SAYS YOUR FIXED TERM CONTRACT IS  
4 SCHEDULED TO END ON JUNE 30, 2012, AND MY  
5 QUESTION TO YOU IS HAVE YOU EVER SEEN A PHYSICAL  
6 PIECE OF PAPER THAT SAYS THIS IS A FIXED TERM  
7 CONTRACT AND IT RUNS FROM JULY 1, 2011, THROUGH  
8 JUNE 30, 2012?

9 A. YES. WE HAVE TYPICALLY -- IN PEOPLE'S  
10 OFFER LETTER WE STATE THOSE AGREEMENTS AND SHOULD  
11 HAVE DONE SO IN ATHLETICS FOR MR. MCQUEARY TOO.

12 Q. THE ORIGINAL OFFER LETTER?

13 A. YES. THAT IS CORRECT.

14 Q. OKAY. IF WE GO HERE TO PLAINTIFF'S  
15 EXHIBIT 14 -- CAN YOU DO THAT PLEASE?

16 A. SURE.

17 Q. WHAT IS 14?

18 A. THAT WILL BE MR. MCQUEARY'S OFFER  
19 LETTER.

20 Q. PARDON ME?

21 A. THIS WOULD BE MIKE'S OFFER LETTER.

22 Q. AND ISN'T IT TRUE -- YOU CAN PUT THIS  
23 UP. THIS IS IN EVIDENCE. I THINK IT'S IN  
24 EVIDENCE.

25 MS. CONRAD: NO.

1 MR. STROKOFF: MOVE FOR ADMISSION OF  
2 PLAINTIFF'S EXHIBIT 14, YOUR HONOR.

3 THE COURT: IT'S ADMITTED.  
4 BY MR. STROKOFF:

5 Q. THIS IS AN OFFER FOR A POSITION OF  
6 ASSISTANT FOOTBALL COACH EFFECTIVE MARCH 1, 2004,  
7 THROUGH DECEMBER 31, 2004?

8 A. THAT IS CORRECT.

9 Q. AND THEN IT SAYS THIS IS A FIXED TERM  
10 ONE APPOINTMENT, RIGHT?

11 A. THAT IS CORRECT.

12 Q. TO YOUR KNOWLEDGE IS THERE ANY OTHER  
13 DOCUMENT IN EXISTENCE THAT SAYS YOU HAVE A FIXED  
14 TERM APPOINTMENT WITH A STARTING DATE AND AN  
15 ENDING DATE?

16 A. I AM NOT SURE IF THERE WOULD HAVE BEEN  
17 DOCUMENTS. ATHLETICS TYPICALLY WOULD LOOK AT  
18 CONTRACTS YEAR TO YEAR FOR FIXED-TERM  
19 INDIVIDUALS. WE WOULD HAVE CONVERSATIONS WITH  
20 THE SUPERVISOR OR THE ATHLETIC DIRECTOR TO VERIFY  
21 WHETHER THAT CONTRACT WOULD BE CONTINUED AND IF  
22 IT WAS THEN IT WOULD HAPPEN IN A ELECTRONIC  
23 PROCESS THAT WOULD UPLOAD THE CURRENT POSITION  
24 AND CONTINUE IT SO THERE WAS NO LOSS IN BENEFITS.

25 Q. SO YOU'RE NOT SURE THERE IS A PHYSICAL

1       PIECE OF PAPER THAT SAYS MR. MCQUEARY HAD A FIXED  
2       TERM APPOINTMENT OTHER THAN THIS INITIAL  
3       APPOINTMENT LETTER?

4           A.    I HAVE AN E-MAIL THAT WAS GENERATED I  
5       BELIEVE FROM THE ATHLETIC DIRECTOR ASKING IF THE  
6       APPOINTMENTS WERE GOING TO CONTINUE IN FOOTBALL  
7       AND HE CONSULTED WITH COACH PATERNO, HE SAID YES,  
8       WE ARE GOING TO DO THAT.  SO WE WENT AHEAD AND  
9       PROVIDED A REAPPOINTMENT.

10          Q.    IS THERE ANYTHING, AN E-MAIL OR  
11       ANYTHING, TO MR. MCQUEARY THAT SAYS AT ANY TIME  
12       YOU ARE BEING RENEWED FOR ANOTHER YEAR?

13          A.    NOT FROM MY OFFICE.  IN ATHLETICS IT WAS  
14       DONE THROUGH -- THE FOOTBALL ADMINISTRATION WOULD  
15       NOTIFY THOSE WHO WERE GOING TO CONTINUE ON.

16          Q.    COULD YOU GO PLEASE TO PLAINTIFF'S  
17       EXHIBIT 22?

18          A.    SURE.

19          Q.    DO YOU HAVE THAT?

20          A.    YES.

21          Q.    ARE YOU ABLE TO IDENTIFY THAT?

22          A.    YES.

23          Q.    WHAT IS IT?

24          A.    IT'S A POLICY REGARDING THE DIFFERENT  
25       TYPES OF APPOINTMENTS.

1 MR. STROKOFF: MOVE FOR ADMISSION OF  
2 PLAINTIFF EXHIBIT 22, YOUR HONOR.

3 MS. CONRAD: NO OBJECTION.

4 THE COURT: IT'S ADMITTED.

5 BY MR. STROKOFF:

6 Q. NOW THE FIRST PAGE OF THIS POLICY REFERS  
7 TO STANDING APPOINTMENTS, CORRECT?

8 A. THAT IS CORRECT.

9 Q. YOU MAY REFRESH YOUR MEMORY BUT YOU  
10 DON'T HAVE TO READ IT, THE WHOLE PARAGRAPH, BUT  
11 WHAT IS A STANDING APPOINTMENT?

12 A. STANDING APPOINTMENT IS AN APPOINTMENT  
13 THAT HAS FUNDING BACKING IT, THEREFORE, THAT THE  
14 POSITION WOULD CONTINUE ON AN INDEFINITE TYPE OF  
15 A CYCLE WHERE THERE IS NO RENEWAL PROCESS.

16 Q. OKAY. THE VERY FIRST SENTENCE IS SORT  
17 OF A SYNOPSIS OF IT. STANDING APPOINTMENT  
18 DESIGNATES THOSE APPOINTMENTS WHICH ARE FULL TIME  
19 AND FOR WHICH NO ENDING DATE IS SPECIFIED?

20 A. THAT IS CORRECT.

21 Q. NOW LET'S GO TO THE NEXT PAGE. THERE IS  
22 A FIXED TERM ONE APPOINTMENT, IS THAT CORRECT?

23 A. THAT IS CORRECT.

24 Q. AND VERY FIRST SENTENCE SAYS FIXED TERM  
25 ONE APPOINTMENT DESIGNATES THOSE APPOINTMENTS

1 WHICH ARE FULL TIME FOR AT LEAST SIX CALENDAR  
2 MONTHS, COMMA, BUT WHICH HAVE AN ENDING DATE  
3 SPECIFIED, PERIOD. OTHER THAN MR. MCQUEARY'S  
4 FIRST LETTER WHICH SPECIFIES A DECEMBER 31, 2004,  
5 ENDING DATE ARE THERE ANY OTHER DOCUMENTS WHICH  
6 SPECIFY AN ENDING DATE FOR MR. MCQUEARY'S  
7 EMPLOYMENT?

8 A. I AM SURE IF YOU WENT INTO THE FINANCIAL  
9 SYSTEM IT WILL SHOW EVERY REAPPOINTMENT THAT  
10 MR. MCQUEARY HAD. ALL OF THE CONTRACTS TYPICALLY  
11 RAN THE FISCAL YEAR SO IT'S VERY COMMON THAT  
12 ANYBODY IN THE UNIVERSITY, WHETHER IT BE MIKE OR  
13 ANY TYPE OF POSITION, WOULD UNDERSTAND THAT IF  
14 THEY ARE ON FIXED TERM APPOINTMENT THE CONTRACT  
15 DATE WOULD RUN UNTIL THE END OF THE FISCAL YEAR.

16 Q. IF THEY KNEW THEY WERE ON FIXED TERM ONE  
17 APPOINTMENT?

18 A. WELL MOST PEOPLE DO KNOW THEY ARE FIXED  
19 TERM ONE BECAUSE YOU HAVE TO ATTEST TO THAT EVERY  
20 TIME YOU GO ON THE CALENDAR, YOUR ATTENDANCE  
21 CALENDAR, WHEN YOU SELECT YOUR BENEFITS, THINGS  
22 OF THAT NATURE, THERE IS A SYSTEM, A SELF SYSTEM,  
23 THAT YOU CAN GET ONTO THAT SHOWS ALL OF YOUR  
24 BENEFITS, ALL OF YOUR STANDINGS, EVERYTHING  
25 ASSOCIATED WITH YOU AS AN EMPLOYEE. SO IT WOULD

1 SURPRISE ME THAT ANYBODY WOULD NOT KNOW WHAT TYPE  
2 OF APPOINTMENT. IT'S KIND OF A BIG DEAL AT THE  
3 UNIVERSITY.

4 Q. LET'S GO TO THE LAST SENTENCE IN THE  
5 FIXED TERM ONE EMPLOYMENT.

6 A. SURE.

7 Q. UNIT, QUOTE, IF SUCH APPOINTMENT IS NOT  
8 ACADEMIC, COMMA, A CONFIRMATION OF FIXED TERM ONE  
9 APPOINTMENT IS COMPLETED AND GIVEN TO THE  
10 INCUMBENT. WILL YOU AGREE MR. MCQUEARY'S  
11 APPOINTMENT WAS NOT AN ACADEMIC APPOINTMENT?

12 A. THAT IS CORRECT.

13 Q. SO ACCORDING TO THIS POLICY A  
14 CONFIRMATION OF FIXED TERM STAFF APPOINTMENT IS  
15 TO BE COMPLETED AND GIVEN TO THE INCUMBENT?

16 A. THAT'S WHAT IT SAYS.

17 Q. SO EVERY TIME THERE IS RENEWAL ISN'T THE  
18 INCUMBENT SUPPOSED TO RECEIVE A NOTIFICATION THAT  
19 YOU HAVE A FIXED TERM ONE APPOINTMENT FOR THE  
20 COMING YEAR?

21 A. THAT'S WHAT IT SAYS IN THE POLICY. YES.

22 Q. BUT YOU ARE IMPLYING THAT'S NOT WHAT WAS  
23 DONE?

24 A. I CAN TELL YOU IF IT WASN'T IN THE  
25 PERSONNEL FILE I CAN'T SAY THAT IT WAS DONE OR



1 NOT DONE.

2 Q. DO YOU HAVE ANY KNOWLEDGE THAT  
3 MR. MCQUEARY WAS EVER PROVIDED WITH A  
4 CONFIRMATION OF A FIXED TERM ONE STAFF  
5 APPOINTMENT?

6 A. NO. I DON'T HAVE ANY FIRSTHAND  
7 KNOWLEDGE IF HE WAS OR WAS NOT.

8 Q. AND THIS HR6 POLICY, THAT WAS THE ONE  
9 THAT WAS IN EFFECT ON -- FOR THE CALENDAR YEAR  
10 2011?

11 A. YES.

12 Q. MA'AM AFTER THE MEETING IN MR.  
13 SHERBURNE'S OFFICE ON NOVEMBER 15, 2011, DID YOU  
14 HAVE AN OCCASION TO GO INTO MR. MCQUEARY'S  
15 PERSONNEL FILE?

16 A. THE ONLY TIME I WOULD HAVE GONE INTO  
17 MR. MCQUEARY'S PERSONNEL FILE IS IF I WAS ASKED  
18 TO AT THAT POINT.

19 Q. IF YOU WERE ASKED TO WHAT --

20 A. IF I WAS ASKED TO.

21 Q. AND WERE YOU EVER ASKED TO GO INTO HIS  
22 PERSONNEL FILE?

23 A. I WAS ASKED TO PROVIDE DOCUMENTATION FOR  
24 LEGAL PROCEEDINGS. YES.

25 Q. AND WHEN WAS THAT?

1           A.    I DON'T RECALL.

2           Q.    WAS IT IN 2012?  2013?

3           A.    WHENEVER THE LAWSUIT WAS NAMED.  WHEN IT  
4 WAS SUBPOENAED.

5           Q.    OKAY.  LET ME ASK YOU ANOTHER QUESTION.  
6 AT SOME POINT IN TIME YOU BECOME AWARE THAT  
7 MR. MCQUEARY WAS NO LONGER EMPLOYED BY THE  
8 PENNSYLVANIA STATE UNIVERSITY, RIGHT?

9           A.    THAT IS CORRECT.

10          Q.    WHEN SOMEBODY LEAVES THE EMPLOYER,  
11 REGARDLESS OF THE FIXED TERM, OR STANDING, OR  
12 TENURE, OR WHATEVER, AREN'T THEY SUPPOSED TO GET  
13 A POLICY STATEMENT EXPLAINING RIGHTS AND  
14 ENTITLEMENTS OF FORMER PENN STATE EMPLOYEES?

15          A.    SURE.

16          Q.    DID MR. MCQUEARY GET ANYTHING LIKE THAT?

17          A.    I WOULD NOT KNOW.

18          Q.    PARDON ME?

19          A.    I WOULD NOT KNOW.

20          Q.    WHY WOULD NOT YOU KNOW?

21          A.    BECAUSE AT THE TIME MR. MCQUEARY LEFT  
22 EMPLOYMENT WITH PENN STATE HE ALREADY HAD LEGAL  
23 COUNSEL SO THIS WAS UNPRECEDENTED.  ANY TIME THAT  
24 LEGAL COUNSEL IS A PART OF A TERMINATION HR BACKS  
25 OUT AND ALLOWS THE LAWYERS TO TALK WITH EACH

1 OTHER. SO IT WOULD HAVE BEEN OUT OF MY HAND AT  
2 THAT POINT.

3 Q. DO YOU RECALL THAT IN EARLY JANUARY OF  
4 2012 THE UNIVERSITY HIRED BILL O'BRIEN TO BE HEAD  
5 FOOTBALL COACH?

6 A. YES. I DID.

7 Q. NOW YOU ARE SMILING. WHY ARE YOU  
8 SMILING?

9 A. JUST SMILING.

10 Q. OKAY. TO YOUR KNOWLEDGE DID YOU  
11 PROVIDED MR. O'BRIEN WITH A COPY OF  
12 MR. MCQUEARY'S PERSONNEL FILE?

13 A. ABSOLUTELY NOT.

14 Q. WAS A COPY OF HIS PERSONNEL FILE  
15 REQUESTED BY MR. O'BRIEN?

16 A. NOT TO MY KNOWLEDGE. NO.

17 Q. SO HIS FILE IN JANUARY 2012 WAS STILL  
18 KEPT UNDER LOCK AND KEY IN YOUR OFFICE?

19 A. THAT WOULD BE CORRECT.

20 Q. NOW THERE WERE A NUMBER OF ASSISTANT  
21 FOOTBALL COACHES UNDER JOE PATERNO WHO WERE  
22 TERMINATED WHEN COACH O'BRIEN CAME IN?

23 A. THAT IS CORRECT.

24 Q. DO YOU KNOW WHEN THEY STARTED RECEIVING  
25 THEIR SEVERANCE PAYMENTS?

1           A.    THEY WOULD HAVE RECEIVED THEM WHEN THEY  
2 WERE TERMINATED SO THAT WOULD HAVE BEEN IN  
3 JANUARY.

4           Q.    WHAT ABOUT THEIR HEALTH INSURANCE  
5 BENEFITS PURSUANT TO THE SEVERANCE PAY?

6           A.    SO THEY WOULD HAVE BEEN SWITCHED TO  
7 COBRA BUT IT WAS A PART OF A SEVERANCE AGREEMENT  
8 PACKAGE.  SO, YES, THEY WOULD HAVE HAD HEALTH  
9 INSURANCE FOR SOMETIME.

10          Q.    SO TO YOUR KNOWLEDGE THE OTHER ASSISTANT  
11 FOOTBALL COACHES SATISFIED THEIR SEVERANCE  
12 IMMEDIATELY?

13          A.    THAT IS CORRECT.

14          Q.    AND HEALTH INSURANCE IMMEDIATELY?

15          A.    THAT IS CORRECT.

16          Q.    SO IS THERE A UNIVERSITY POLICY  
17 REQUIRING ADVANCE NOTICE TO BE GIVEN TO EMPLOYEES  
18 WHOSE APPOINTMENTS ARE BEING TERMINATED?

19          A.    IT'S GENERAL PRACTICE WE TRY TO GIVE  
20 PEOPLE AS MUCH TIME AS POSSIBLE.

21          Q.    ARE THERE ANY EXCEPTION THAT YOU KNOW OF  
22 TO THAT GENERAL PRACTICE?

23          A.    SURE.  I MEAN, IF FUNDING -- IF FUNDING  
24 IS NO LONGER AN ISSUE.  THAT WAS NOT THE CASE IN  
25 THIS MATTER BUT THERE ARE CIRCUMSTANCES WHERE

1 PEOPLE ARE NOTIFIED MORE THAN THE APPROPRIATE  
2 TIME OF, YOU KNOW, 30 DAYS.

3 Q. THE APPROPRIATE TIME IS USUALLY 30 DAYS?

4 A. IF AT ALL POSSIBLE, YES. WE LIKE TO  
5 GIVE PEOPLE AS MUCH NOTICE AS POSSIBLE.

6 Q. IS THIS A WRITTEN NOTICE USUALLY OR  
7 ANOTHER FORM?

8 A. IT DOES NOT HAVE TO BE WRITTEN NOTICE.  
9 THE EMPLOYEE NEEDS TO KNOW THEIR EMPLOYMENT IS  
10 ENDING AND THAT BENEFITS WILL BE CHANGING AND  
11 ALLOW THEM TO GET THEIR FINANCES. IT'S THE RIGHT  
12 THING TO DO.

13 Q. AGAIN IN THE PLAINTIFF'S EXHIBIT BOOK  
14 CAN YOU GO TO PLAINTIFF'S EXHIBIT 55. MY FIRST  
15 QUESTION WILL BE AFTER YOU READ IT ARE YOU ABLE  
16 TO IDENTIFY IT.

17 A. YES.

18 Q. WHAT IS IT?

19 A. IT'S I GUESS THE COURT DOCKET.

20 Q. PARDON ME?

21 A. IT'S THE -- I MIGHT BE IN THE WRONG  
22 PLACE. I AM SORRY. OH, THIS ONE IS AN E-MAIL TO  
23 FROM DAVE JOYNER TO MYSELF.

24 Q. AND THE DATE OF THE E-MAIL?

25 A. JUNE 18, 2012.

1 MR. STROKOFF: MOVE FOR ADMISSION OF, 55  
2 YOUR HONOR.

3 THE COURT: 55 YOU SAID?

4 MR. STROKOFF: I DID.

5 THE COURT: OKAY.

6 MS. CONRAD: NO OBJECTION.

7 THE COURT: OKAY. IT'S ADMITTED.

8 BY MR. STROKOFF:

9 Q. SO JUNE 18, 2012, 12:49 P.M.?

10 A. YES.

11 Q. DAVID JOYNER SENDS YOU AN E-MAIL AND  
12 WHAT DOES HE SAY TO YOU?

13 A. AT 12:49? I AM SORRY.

14 Q. YEAH. BOTTOM ONE.

15 A. IT SAYS ERIKKA, THIS IS NOT BEING  
16 RENEWED, CORRECT, THANKS.

17 Q. SO HE IS ASKING YOU A QUESTION AND AT  
18 4:01 YOU REPLY WHAT?

19 A. NO. HE IS NOT BEING RENEWED.

20 Q. SO YOU WERE TELLING HIM --

21 A. I WAS CONFIRMING.

22 Q. YOU WERE CONFIRMING?

23 A. YES.

24 Q. OKAY. WHAT WERE YOU CONFIRMING?

25 A. THAT HE WAS NOT BEING RENEWED.

1 Q. OKAY. YOU WERE CONFIRMING IT TO  
2 ATHLETIC DIRECTOR JOYNER?

3 A. THAT IS CORRECT.

4 Q. OKAY. NOW DID YOU DECIDE WHETHER OR NOT  
5 MR. MCQUEARY WAS GOING TO BE RENEWED?

6 A. ABSOLUTELY NOT.

7 Q. WHO DECIDED WHETHER OR NOT HE WAS GOING  
8 TO BE RENEWED?

9 A. I DON'T KNOW.

10 Q. OKAY. WELL WHO TOLD YOU THAT HE WASN'T  
11 GOING TO BE RENEWED SO YOU COULD SEND THIS  
12 CONFIRMATION TO ATHLETIC DIRECTOR JOYNER? LET ME  
13 REPHRASE THIS. ON WHAT BASIS DID YOU TELL  
14 ATHLETIC DIRECTOR JOYNER ON JUNE 18, 2012, NO, HE  
15 IS NOT BEING RENEWED IF YOU REMEMBER?

16 A. THERE WERE OTHER CONVERSATIONS BEING  
17 HAD. THIS IS A CONFIRMATION OF THE CONVERSATIONS  
18 THAT WERE BEING HAD. I DID NOT MAKE THE  
19 DECISION. I WAS JUST CONFIRMING THAT NO, TO MY  
20 RECOLLECTION HE WAS NOT BEING RENEWED.

21 Q. BUT SOMEBODY TOLD YOU HE WASN'T GOING TO  
22 BE RENEWED OR SOMEBODY SENT YOU A DOCUMENT THAT  
23 SAID HE WASN'T GOING TO BE RENEWED SO THAT YOU  
24 WOULD BE IN A POSITION TO CONFIRM TO DR. JOYNER  
25 AS YOU PUT IT THAT MCQUEARY WASN'T BEING RENEWED.

1 DO YOU REMEMBER WHO OR WHAT IT WAS?

2 A. I DON'T AT THIS POINT.

3 Q. PARDON ME?

4 A. I DON'T AT THIS POINT. NO.

5 Q. GOING BACK TO JANUARY OF 2012 WHEN THE  
6 OTHER ASSISTANT COACHES WERE LET GO.

7 A. YES.

8 Q. DO YOU KNOW WHETHER OR NOT THEY RECEIVED  
9 SPECIFIC NOTIFICATION THAT THEIR SERVICES WERE NO  
10 LONGER REQUIRED?

11 A. I BELIEVE COACH O'BRIEN NOTIFIED THEM  
12 THAT THEIR SERVICES WERE NO LONGER REQUIRED.

13 Q. BUT IN ANY EVENT YOU KNOW THEY RECEIVED  
14 NOTICE?

15 A. YES.

16 Q. AT SOME POINT IN TIME DID YOU RECEIVE AN  
17 INSTRUCTION FROM CYNTHIA BALDWIN THAT YOU WERE  
18 NOT TO BE INVOLVED IN -- WITH ANYTHING HAVING TO  
19 DO WITH MIKE MCQUEARY?

20 A. I RECALL HER MAKING A COMMENT THAT  
21 ANYTHING IN THE LEGAL PROCEEDINGS REGARDLESS OF  
22 WHAT ANYBODY'S STANCE IS --

23 MS. CONRAD: YOUR HONOR, IF I MAY  
24 INTERJECT HERE. IT SOUNDS AS IF THE WITNESS IS  
25 TESTIFYING AS TO OPERATIONAL MATTERS AND NOT WITH



1 RESPECT TO ANY PRIVILEGED CONVERSATIONS FROM  
2 ATTORNEY BALDWIN AND I JUST WANT TO BE CLEAR  
3 THAT'S THE CASE.

4 THE COURT: OKAY. SO ON BEHALF OF THE  
5 UNIVERSITY YOU ARE INVOKING THE PRIVILEGE, IS  
6 THAT CORRECT?

7 MS. CONRAD: I AM SORRY. I COULDN'T  
8 HEAR YOU, SIR.

9 THE COURT: I SAID ON BEHALF OF THE  
10 UNIVERSITY YOU ARE INVOKING THE ATTORNEY/CLIENT  
11 PRIVILEGE?

12 MS. CONRAD: AS IT RELATES TO PRIVILEGED  
13 INFORMATION, YES, SIR. I WOULD BE --

14 THE COURT: SO YOU HAVE TO BE VERY  
15 SPECIFIC AS TO THE QUESTION.

16 MR. STROKOFF: I WILL TRY TO GET AROUND  
17 IT.

18 BY MR. STROKOFF:

19 Q. DO YOU RECALL AT WHAT POINT IN TIME YOU  
20 STOPPED BEING INVOLVED IN ANY PERSONNEL MATTERS  
21 HAVING ANYTHING TO DO WITH MR. MCQUEARY?

22 A. MIKE WAS ALWAYS ABLE TO CALL ME IF HE  
23 NEEDED ADVICE ON HR RELATED TOPICS BUT ANYTHING  
24 REGARDING LITIGATION MATTERS WAS NOT IN MY  
25 JURISDICTION, THEREFORE, I DID NOT HAVE ANY TYPE

1 OF COUNSELING.

2 Q. AND WHAT DO YOU MEAN ANYTHING IN  
3 LITIGATION MATTERS?

4 A. SUCH AS THE END OF -- END OF HIS  
5 APPOINTMENT DECISIONS BEING MADE AROUND THINGS OF  
6 THAT NATURE.

7 Q. WELL DID HE EVER CALL YOU TO DISCUSS  
8 THAT?

9 A. NO.

10 MR. STROKOFF: PASS THE WITNESS, YOUR  
11 HONOR.

12 CROSS-EXAMINATION

13 BY MS. CONRAD:

14 Q. MS. RUNKLE, I AM GOING TO MOVE TO THE  
15 PODIUM SO WE CAN SEE EACH OTHER BETTER.

16 A. OKAY. SURE.

17 Q. DO YOU NEED A BREAK BEFORE WE BEGIN?

18 A. NO, MA'AM.

19 Q. I WANT TO FOCUS YOUR ATTENTION TO THE  
20 TIME YOU SERVED AS HR MANAGER IN ATHLETICS.

21 A. OKAY.

22 Q. YOU WERE ASKED SOME QUESTIONS ABOUT  
23 FIXED TERM ONE EMPLOYMENT. ARE THEY  
24 MISCHARACTERIZED AS FIXED TERM CONTRACTS OR FIXED  
25 TERM APPOINTMENTS?

1           A.    I THINK THAT THE WORDS ARE  
2 INTERCHANGEABLE.  IF YOU ARE AT THE UNIVERSITY  
3 MAYBE THE INTERNAL PEOPLE WILL HAVE A HARD TIME  
4 DIFFERENTIATING BUT THEY'RE INTERCHANGEABLE AT  
5 THE UNIVERSITY.

6           Q.    WELL CONTRACT IS USUALLY THOUGHT OF AS A  
7 PIECE OF PAPER CONTAINED ON FOUR CORNERS.

8           A.    SURE.

9           Q.    DOES A FIXED TERM CONTRACT NECESSARILY  
10 BASED ON YOUR PRACTICE AT THE UNIVERSITY RELATE  
11 TO AN ACTUAL PIECE OF PAPER?

12          A.    NO.  NOT IN ATHLETICS.  A LOT OF THE  
13 RENEWALS AND I THINK OF THAT NATURE WERE DONE  
14 VERBALLY AND THE EMPLOYEE WOULD KNOW BASED OFF OF  
15 THE CONVERSATIONS WITH THEIR SUPERVISOR.

16          Q.    AND I BELIEVE YOU TESTIFIED THAT WITH  
17 RESPECT TO MR. MCQUEARY -- INITIALLY HE WAS  
18 ISSUED A PIECE OF PAPER THAT OFFERED HIM A FIXED  
19 TERM APPOINTMENT?

20          A.    THAT IS CORRECT.

21          Q.    D-2 PLEASE.  WE NEED TO HAVE THE --  
22 THERE IS A BINDER CALLED DEFENDANT'S EXHIBITS?

23          A.    THERE IS A BLANK BINDER, AND THEN  
24 EXHIBIT 79 WITNESS COPY, AND THEN THE ONE I AM  
25 READING FROM.

1 Q. I BELIEVE PERHAPS THE LARGER BINDER TO  
2 YOUR LEFT.

3 A. THIS ONE? OH, YEP. IT DOES ON THE  
4 SIDE.

5 Q. AND DIRECTING YOUR ATTENTION TO TAB TWO.  
6 ARE YOU FAMILIAR WITH D-2?

7 A. YES.

8 Q. I BELIEVE THIS HAS BEEN PREVIOUSLY  
9 MARKED AS PLAINTIFF'S 14. GOT IT.

10 MS. CONRAD: PERMISSION TO PUBLISH IT?

11 THE COURT: YES.

12 BY MS. CONRAD:

13 Q. THIS IS MR. MCQUEARY'S APPOINTMENT  
14 LETTER, ISN'T IT?

15 A. YES.

16 Q. AND, IN FACT, MR. STROKOFF HAD ASKED YOU  
17 ABOUT H POLICY HR6, TYPES OF EMPLOYMENT AND  
18 PROVIDING CONFIRMATION OF A FIXED TERM ONE STAFF  
19 APPOINTMENT TO THE EMPLOYEE, CORRECT?

20 A. THAT IS CORRECT.

21 Q. IS D-2 THE LETTER THAT WAS ISSUED TO  
22 MR. MCQUEARY ON FEBRUARY 18, 2004, AN APPOINTMENT  
23 LETTER CONFIRMING HIS APPOINTMENT?

24 A. IT'S OFFERING.

25 Q. IT'S OFFERING HIS APPOINTMENT?

1 A. CORRECT.

2 Q. DID HE ACCEPT THAT APPOINTMENT BY HIS  
3 SIGNATURE ON THE BOTTOM?

4 A. THAT IS CORRECT.

5 Q. SO IS THIS THEN A DOCUMENT THAT CONFIRMS  
6 HIS APPOINTMENT?

7 A. YES. AND APPOINTMENT TIME. YES.

8 Q. AND DOES THAT COMPLY THEN WITH THE  
9 PROVISION CONTAINED IN HR6?

10 A. YES.

11 Q. AND THEN I WOULD LIKE TO DIRECT YOUR  
12 ATTENTION TO TAB 56. ARE YOU FAMILIAR WITH THE  
13 DOCUMENTS CONTAINED IN TAB 56? AND THERE ARE  
14 SEVERAL PAGES.

15 A. YES.

16 Q. WHAT ARE THEY?

17 A. THESE ARE -- WELL FIRST ONE WILL BE THE  
18 APPOINTMENT AND THEN THREE APPOINTMENTS FOR  
19 SUBSEQUENT YEARS.

20 Q. ARE THESE DOCUMENTS MAINTAINED WITHIN  
21 YOUR OFFICE?

22 A. NO. THESE ARE ELECTRONIC DOCUMENTS THAT  
23 WILL BE HOUSED IN THE FINANCIAL SYSTEM.

24 Q. AND WOULD THESE BE DOCUMENTS THAT YOU  
25 MAY ACCESS IN THE COURSE OF -- COURSE AND SCOPE

1 OF YOUR EMPLOYMENT?

2 A. YES.

3 MS. CONRAD: MOVE FOR ADMISSION OF D-56.

4 THE COURT: ANY OBJECTION?

5 MR. STROKOFF: NO OBJECTION.

6 THE COURT: IT'S ADMITTED.

7 BY MS. CONRAD:

8 Q. MS. RUNKLE, CAN YOU THEN WALK US THROUGH  
9 WHAT INFORMATION THESE DOCUMENTS CONTAIN?

10 A. SURE. SO THE FIRST DOCUMENT WOULD HAVE  
11 BEEN AS YOU CAN SEE HIS EMPLOYMENT ID, HIS NAME,  
12 THE EMPLOYMENT TYPE WILL BE FIXED TERM ONE, AND  
13 FOR THIS PARTICULAR FIXED TERM APPOINTMENT THE  
14 APPOINTMENT BEGIN DATE WAS 7/1/2011 AND  
15 EMPLOYMENT END DATE WAS 6/30/2012.

16 Q. AND JUST TO CLARIFY UNDER THE  
17 APPOINTMENT TYPE DIRECT YOUR ATTENTION TO THE  
18 VERY TOP OF THE DOCUMENT. WHAT DOES IT PROVIDE  
19 FOR EMPLOYMENT TYPE?

20 A. IT WILL BE FIXED TERM ONE.

21 Q. AND AGAIN BASED ON YOUR TESTIMONY WITH  
22 RESPECT TO HR POLICY WHAT IS FIXED TERM ONE  
23 APPOINTMENT?

24 A. FIXED TERM ONE APPOINTMENT IS THAT THE  
25 EMPLOYMENT IS GUARANTEED FOR A FINITE AMOUNT OF

1 TIME AND IN THIS CASE IT WAS A YEAR APPOINTMENT.

2 Q. AND IN THIS CASE THE YEAR APPOINTMENT  
3 ENDED AT WHAT POINT IN TIME?

4 A. 6/30/2012.

5 Q. THIS WAS AS I UNDERSTAND YOUR TESTIMONY  
6 THE ELECTRONIC COPY THAT WAS MAINTAINED BY  
7 FINANCE DID YOU SAY?

8 A. WELL IT'S -- ONCE THE INDIVIDUAL HAS  
9 ACCEPTED AND WE HAVE OFFERED THE NEW APPOINTMENT  
10 IT WOULD COME IN THROUGH THE OFFICE TO BE  
11 PROCESSED AND THEN IT WOULD BE UPLOADED INTO THE  
12 FINANCIAL SYSTEM.

13 Q. AND WOULD AN EMPLOYEE BE ABLE TO ACCESS  
14 OR OTHERWISE GAIN INFORMATION IF HE OR SHE HAD  
15 ANY QUESTION ABOUT THE TYPE OF APPOINTMENT?

16 A. YES.

17 Q. HOW WOULD HE OR SHE DO THAT?

18 A. MANY WAYS. YOU COULD PICK UP THE PHONE  
19 AND CALL. TYPICALLY AN APPOINTMENT DOES NOT  
20 CHANGE IN THE COURSE OF EMPLOYMENT. YOU WOULD  
21 KNOW IF YOUR FIXED TERM APPOINTMENT MOVED TO A  
22 STANDING APPOINTMENT BECAUSE THERE WILL BE AN  
23 OFFER LETTER FOR DIFFERENT TYPE OF EMPLOYMENT.  
24 SO WE WOULD PROVIDE AN OFFER LETTER OF SUCH TO  
25 SHOW THE CHANGE IN STATUS. LIKE I SAID BEFORE IN

1 MY PREVIOUS TESTIMONY, WHEN PEOPLE LOG INTO THE  
2 ATTENDANCE SYSTEM YOU ARE ABLE TO SEE HOW MUCH  
3 MONEY YOU MAKE, WHAT TYPE OF APPOINTMENT YOU  
4 HAVE. ALL OF THE INFORMATION PERTAINING TO YOUR  
5 APPOINTMENT IS AT THE TIP OF YOUR HANDS.

6 Q. WOULD THIS INFORMATION THEN BE  
7 ACCESSIBLE TO MR. MCQUEARY AS IT WOULD BE TO  
8 EVERY OTHER EMPLOYEE AT PENN STATE?

9 A. YES.

10 Q. AND DID MR. MCQUEARY AT ANY TYPE EVER  
11 CALL YOU TO SAY TO YOU WHAT IS MY APPOINTMENT  
12 TYPE?

13 A. NO. HE NEVER CALLED. HOWEVER, THERE  
14 WAS AN INCIDENT THAT HAPPENED TWO YEARS IN A ROW  
15 WHERE HIS APPOINTMENT WAS DISRUPTED BECAUSE OF  
16 THE SYSTEM. SO IT WOULD HAVE LAPSED IN BENEFIT  
17 COVERAGE. SO AT THAT POINT, YOU KNOW, WE HAD TO  
18 TALK TO HIM ABOUT NOW WE NEEDED TO RENEW HIS  
19 APPOINTMENT -- OH, SORRY. WE NEEDED TO RENEW HIS  
20 APPOINTMENT IN ORDER FOR BENEFITS TO BE  
21 CONTINUED.

22 Q. DO YOU RECALL WHAT HAPPENED? WHAT  
23 CAUSED THE DISRUPTION?

24 A. YES. IT'S GOING TO SOUND FUNNY BUT THE  
25 SYSTEM -- IT'S A PROCESS OF BATCH WHERE IT



1 UPLOADS THE PROCESS AND FOR SOME ODD REASON THERE  
2 WERE FEW PEOPLE, MIKE WAS ONE OF THEM, WHERE THE  
3 SYSTEM FELT THAT HE WAS AN ALIEN FROM A DIFFERENT  
4 COUNTRY AND IT WAS ASKING FOR US TO RENEW THE  
5 I-9. SO WHEN THIS HAPPENED WE WEREN'T SURE IF HE  
6 WAS GOING TO BE PAID ON TIME, NUMBER ONE, AND,  
7 NUMBER TWO, WE WEREN'T SURE IF THERE WAS GOING TO  
8 BE A BREAK IN HIS BENEFITS. SO I CONTACTED HIM  
9 AND SAID, HEY, LISTEN, THERE HAS BEEN THIS ISSUE,  
10 IF YOU GO FOR BENEFITS AND THEY TELL YOU YOU  
11 DON'T HAVE ANY PLEASE KNOW WE ARE WORKING ON, YOU  
12 KNOW, GETTING THAT RESOLVED AND I THINK THAT  
13 HAPPENED TWO YEARS IN ROW.

14 Q. DID THAT ONLY HAPPEN TO MR. MCQUEARY?

15 A. NO. I THINK THERE WERE THREE OR FOUR  
16 PEOPLE THAT IT HAPPENED TO.

17 Q. AND AT THAT TIME DID YOU HAVE ANY  
18 EXCHANGES WITH MR. MCQUEARY ABOUT HIS APPOINTMENT  
19 STATUS OR THIS PARTICULAR ISSUE?

20 A. WELL I DON'T KNOW IF I POINT BLANK SAID,  
21 YOU KNOW, YOU'RE FIXED TERM ONE APPOINTMENT BUT  
22 STANDING APPOINTMENTS DON'T DO THAT. THEY ARE  
23 AUTOMATICALLY FOR THE DURATION OF THEIR TIME.  
24 THERE IS NO END APPOINTMENT SO THERE WOULD BE NO  
25 REASON FOR THIS TO HAPPEN WITH ANYBODY ON THE

1       STANDING APPOINTMENT.

2           Q.    BUT TALKING NOW ABOUT FIXED TERM  
3       APPOINTMENT?

4           A.    FIXED TERM APPOINTMENT BECAUSE THERE WAS  
5       AN UPSET IN THE SYSTEM I HAD TO CALL HIM AND  
6       NOTIFY HIM OF THAT DISRUPTION, POTENTIAL  
7       DISRUPTION.

8           Q.    AND THEN DIRECTING YOUR ATTENTION -- AND  
9       FOR EFFICIENCY SAKE I AM NOT GOING TO TAKE YOU  
10      THROUGH EVERY SINGLE PAGE OF D-56 BUT WILL YOU  
11      REVIEW THOSE ELECTRONIC FORMS OF THE DOCUMENT AND  
12      DETERMINE THE APPOINTMENT TYPE THAT IS LISTED FOR  
13      MR. MCQUEARY FOR EACH OF THE YEARS?

14          A.    SURE.  FOR 2011 TO '12 IT WAS FIXED TERM  
15      ONE APPOINTMENT.  THIS WAS REAPPOINTMENT.  THE  
16      NEXT PAGE IS THE REAPPOINTMENT, AND WITH MY NOTES  
17      THERE IS GSI, GENERAL SALARY INCOME, GSI ERROR  
18      AND NEEDED TO BE MANUALLY INPUTTED.  THAT WAS  
19      STILL FIXED TERM ONE APPOINTMENT AND THEN THERE  
20      IS THAT NOTE THAT HE GOT KICKED OUT OF THE  
21      SYSTEM, FIXED TERM ONE APPOINTMENT, AND THEN  
22      ANOTHER REAPPOINTMENT PAGE, FIXED TERM ONE  
23      APPOINTMENT.  THEN THE FOLLOWING PAGE IS ANOTHER  
24      REAPPOINTMENT AND THAT WOULD BE FOR 2007.  THE  
25      NEXT TWO PAGES ARE JUST -- IT'S JUST SHOWING HOW

1 IT'S PAID IN THE BUDGETS. IT'S RELATED TO THE  
2 FIXED TERM APPOINTMENT BUT IT'S REALLY JUST HOW  
3 WE'RE BALANCING THE FUNDS, AND THEN THE LAST PAGE  
4 IS CHANGE EFFECTIVELY 3/1/2004. SO IT LOOKS LIKE  
5 MAYBE A PROMOTION. IT WAS A PROMOTION.

6 Q. AGAIN IS THERE AN INDICATION OF HIS  
7 EMPLOYMENT TYPE?

8 A. YES. STILL FIXED TERM ONE.

9 Q. WAS IT YOUR UNDERSTANDING FOR  
10 MR. MCQUEARY'S ENTIRE EMPLOYMENT AS AN ASSISTANT  
11 COACH HE WAS IN THE FIXED TERM ONE APPOINTMENT  
12 CATEGORY?

13 A. THAT IS CORRECT.

14 Q. AND BASED AGAIN ON THE LANGUAGE  
15 CONTAINED IN HR-6, TYPES OF EMPLOYMENT, THAT  
16 DOESN'T PROVIDE THAT AN EMPLOYEE HAS TO BE  
17 NOTIFIED EVERY YEAR OF THEIR STATUS, DOES IT?

18 A. NO. BUT TYPICALLY THERE IS SOME TYPE OF  
19 VERBAL CONVERSATION OR I GUESS YOU DON'T SHOW UP  
20 THE NEXT DAY BUT PEOPLE KNOW THEY ARE BEING  
21 EMPLOYED.

22 Q. AND IN FOOTBALL?

23 A. YES.

24 Q. HOW DID THAT VERBAL CONVERSATION TAKE  
25 PLACE?

1           A.    I AM SURE -- I WAS NOT PRESENT FOR ANY  
2           OF THOSE MEETINGS BUT I AM SURE THAT COACH  
3           PATERNO WOULD TELL INDIVIDUALS WHETHER THEY WERE  
4           BEING RETAINED OR NOT.

5           Q.    DIRECTING YOUR ATTENTION NOW TO D-5.

6           A.    IS IT THE 5TH?  5?  OKAY.

7           Q.    IS THIS A DOCUMENT THAT YOU ARE FAMILIAR  
8           WITH?

9           A.    YES.

10          Q.    WHAT IS IT?

11          A.    THIS IS A MEMO TO MIKE MCQUEARY FROM TIM  
12          CURLEY TO DISCUSS --

13          Q.    BEFORE WE GET TO THE CONTENT WHAT IS THE  
14          DATE OF IT?

15          A.    I AM SORRY?

16          Q.    THE DATE?

17          A.    DECEMBER 17, 2008.

18          Q.    THANK YOU.  PUBLISH AS IT'S ALREADY BEEN  
19          ADMITTED.  PLEASE NOW CAN YOU BRIEFLY TELL US  
20          WHAT IS THIS DOCUMENT?

21          A.    SURE.  SO AS COACH PATERNO WAS ENDING --  
22          GOING TOWARDS THE END OF HIS CAREER A LOT OF THE  
23          COACHES WANTED SOME SECURITY AS TO WHAT WOULD  
24          HAPPEN IF HE WERE TO LEAVE.  SO ALL OF THE  
25          ASSISTANT COACHES AT THE TIME WERE PROVIDED WITH

1       THESE CONTINGENT AGREEMENTS IF THEY WERE ACTIVE  
2       EMPLOYEES WHEN COACH PATERNO WERE NO LONGER IN  
3       PLACE AS HEAD FOOTBALL COACH.

4           Q.    AND THIS IS A DOCUMENT CONTAINED IN  
5       MR. MCQUEARY'S FILES?

6           A.    YES.

7           Q.    NOW YOU MADE REFERENCE TO FILES BEING  
8       UNDER LOCK AND KEY, IS THAT CORRECT?

9           A.    YES.

10          Q.    WERE ALL OF THE PERSONNEL FILES UNDER  
11       LOCK AND KEY?

12          A.    YES.

13          Q.    I AM GOING TO DIRECT YOUR ATTENTION NOW  
14       TO SATURDAY NOVEMBER 5TH WHEN YOU LEARNED ABOUT  
15       THE PRESENTMENT.  I BELIEVE YOU TESTIFIED YOU  
16       LEARNED THAT FROM A COLLEAGUE WHO HAD CALLED TO  
17       ALERT YOU ABOUT IT?

18          A.    THAT IS CORRECT.

19          Q.    AND YOU HEARD SOME INFORMATION ABOUT THE  
20       STATEMENT THAT DR. SPANIER HAD ISSUED?

21          A.    YES.

22          Q.    DID YOU HEAR ANY REFERENCE IN  
23       CONJUNCTION WITH THAT STATEMENT TO MR. MCQUEARY?

24          A.    NO.

25          Q.    DID YOU AS YOU HEARD INFORMATION ABOUT

1        THAT STATEMENT RELATED IN ANY WAY TO  
2        MR. MCQUEARY?

3            A.    NO.

4            Q.    DID YOU AT ANY TIME AFTER YOU SAW HEARD  
5        THAT INFORMATION ABOUT THAT STATEMENT RELATE IT  
6        TO MR. MCQUEARY?

7            A.    NO.

8            Q.    SUNDAY I BELIEVE YOU SAID YOU HAD YOUR  
9        FIRST EXECUTIVE COUNSEL MEETING TO ADDRESS THE  
10       SITUATION THAT WAS UNFOLDING ON CAMPUS?

11          A.    YEAH.

12          Q.    WAS THERE ANY INFORMATION RELATED ABOUT  
13       MR. MCQUEARY IN THAT MEETING?

14          A.    NO.    NOT THAT I CAN RECALL.

15          Q.    AND THEN MONDAY, NOVEMBER 7TH, I BELIEVE  
16       YOU TESTIFIED DR. SPANIER HELD TWO MEETINGS, IS  
17       THAT CORRECT?

18          A.    THAT IS CORRECT.

19          Q.    FIRST ONE BEING A MEETING FOR HEAD  
20       COACHES?

21          A.    YES.

22          Q.    WAS THERE ANY EXTRA SECURITY AT THOSE  
23       MEETINGS?

24          A.    YES.

25          Q.    WHAT WAS THE NATURE OF THOSE EXTRA

1 SECURITY?

2 A. WE WERE BEING BOMBARDED BY PRESS AT THAT  
3 POINT. THEY WERE LINED OUTSIDE BEAVER STADIUM,  
4 ACROSS THE STREET FROM BRYCE JORDAN CENTER. THEY  
5 WERE ALL OVER CAMPUS BUT IT WAS REALLY SPECIFIED  
6 TO ATHLETIC AREAS. SO WE HIRED GUARDS FOR THE  
7 FRONT OF THE MEETINGS TO TAKE PLACE BECAUSE WE  
8 WERE HAVING IT IN BEAVER STADIUM AND I ACTED AS A  
9 GATEKEEPER WHEN WE WERE THERE SO THAT I COULD  
10 IDENTIFY THE EMPLOYEES COMING IN AND OUT OF THESE  
11 MEETINGS AND I KNEW WHO WAS AN ATHLETIC  
12 DEPARTMENT EMPLOYEE AND WHO WAS NOT. SO I WAS  
13 THERE AS A GATEKEEPER AS WELL.

14 Q. AS I UNDERSTAND YOU DID NOT ATTEND THE  
15 MEETING WITH HEAD COACHES?

16 A. I DID NOT. I REMAINED THE GATEKEEPER  
17 OUTSIDE THE DOORS.

18 Q. AS THEY WERE IN THE MEETING DID YOU HEAR  
19 ANYONE MAKE ANY REFERENCE TO MR. MCQUEARY?

20 A. NO.

21 Q. AS THE HEAD COACHES LEFT THAT MEETING  
22 DID YOU HEAR ANYONE MAKE ANY REFERENCE TO MIKE  
23 MCQUEARY?

24 A. NO.

25 Q. AND THEN WITH RESPECT TO THE SECOND

1 MEETING THAT WAS THE STAFF OF INTERCOLLEGIATE  
2 ATHLETICS?

3 A. YES.

4 Q. AND WERE YOU PRESENT AS THEY WERE  
5 WALKING IN THE MEETING?

6 A. YES.

7 Q. AS GATEKEEPER?

8 A. AS GATEKEEPER.

9 Q. DID YOU HEAR ANYONE MAKE ANY REFERENCE  
10 TO MIKE MCQUEARY AS YOU WALKED INTO THE MEETING?

11 A. NO.

12 Q. YOU JOINED THAT MEETING FOR PART OF IT,  
13 DIDN'T YOU?

14 A. YES. ONCE THE LAST EMPLOYEE CAME  
15 THROUGH THE GATES I TURNED IT OVER TO THE GUARDS  
16 AND I WENT UPSTAIRS AND JOINED THE MEETING.

17 Q. DURING THE TIME YOU WERE IN THE MEETING  
18 DID YOU HEAR ANY REFERENCE TO MIKE MCQUEARY?

19 A. NO.

20 Q. DID YOU HEAR ANY STATEMENT THAT RELATED  
21 TO MICHAEL MCQUEARY IN ANY WAY?

22 A. NO.

23 Q. AND AS YOU LEFT THAT MEETING -- AND, BY  
24 THE WAY, HOW MANY PEOPLE WERE THERE?

25 A. IT WAS A FULL HOUSE. THERE WERE A LOT



1 OF PEOPLE THERE.

2 Q. WHEN YOU SAY A LOT WHAT DO YOU MEAN?

3 A. I AM SORRY. I THINK ALL OF THE COACHES.  
4 ALL OF THE HEAD COACHES CAME THROUGH WHO WERE ON  
5 CAMPUS. THERE WERE MANY TRAVELING FOR  
6 DIFFERENT --

7 Q. I AM FOCUSSING ON THE MEETING OF  
8 INTERCOLLEGIATE ATHLETICS?

9 A. OKAY. I WOULD PROBABLY SAY OVER A  
10 HUNDRED.

11 Q. AND AS THOSE STAFF MEMBERS OF  
12 INTERCOLLEGIATE ATHLETICS LEFT THE MEETING DID  
13 YOU HEAR ANYONE TALKING ABOUT -- ANYONE TALKING  
14 ABOUT MIKE MCQUEARY?

15 A. NO.

16 Q. DID YOU HEAR ANY STATEMENT THAT REFERRED  
17 TO MIKE MCQUEARY?

18 A. NO.

19 Q. DID YOU HEAR ANY STATEMENT THAT MADE YOU  
20 THINK OF MIKE MCQUEARY?

21 A. NO.

22 Q. AT THIS TIME WHAT WAS THE ATMOSPHERE  
23 LIKE IN ATHLETICS?

24 A. IT'S NOT A TIME I LIKE TO REMEMBER,  
25 FIRST OF ALL. IT WAS VERY VOLATILE. PEOPLE WERE

1 SCARED. WE HAD PEOPLE NOT COMING INTO WORK.  
2 PEOPLE WERE SAD. IT WAS ALMOST -- IT WAS A  
3 GRIEVING TIME. TIM WAS VERY WELL LIKED, VERY,  
4 VERY WELL LIKED, AND IT JUST FELT LIKE IT WAS  
5 SOMETHING WE COULD NEVER IMAGINE HAPPENING.

6 Q. YOU MENTION THAT ATHLETICS WAS RECEIVING  
7 E-MAILS, VOICEMAILS, ALL KINDS OF MESSAGES AT THE  
8 START OF THE WEEK. WHAT WAS THE NATURE OF THOSE  
9 MESSAGES?

10 A. WELL THEY WERE GATHERED TOWARDS  
11 MR. SANDUSKY AND TIM CURLEY AND ADMINISTRATION  
12 JUST IN GENERAL. THAT'S --

13 Q. WITH REGARD TO SANDUSKY WHAT WERE THEY  
14 SAYING?

15 A. THEY WERE SAYING VILE THINGS.

16 Q. AND THEN ON NOVEMBER 9TH AFTER COACH  
17 PATERNO WAS REMOVED FROM HIS POSITION --

18 A. YES.

19 Q. -- WHAT WAS THE TYPES OF COMMUNICATIONS  
20 YOU WERE RECEIVING IN ATHLETICS?

21 A. IT WAS A 50/50 SPLIT. THINGS WERE  
22 SCALED TOWARDS COACH, PEOPLE WERE IN SHOCK,  
23 ANGERED HE WAS RELIEVED OF HIS RESPONSIBILITIES,  
24 AND THEN THERE WERE SOME PEOPLE THAT WERE  
25 APPLAUDING THE UNIVERSITY FOR TAKING ACTION

1 AGAINST COACH PATERNO. IT WAS A 50/50 SPLIT.

2 Q. AND THEN FOLLOWING THE PRESS CONFERENCE  
3 IN WHICH INTERIM HEAD COACH BRADLEY ANNOUNCED  
4 MIKE MCQUEARY WOULD BE COACHING -- WERE YOU  
5 PRESENT DURING THAT PRESS CONFERENCE?

6 A. I WAS NOT.

7 Q. YOU HEARD ABOUT THAT PRESS CONFERENCE?

8 A. YES.

9 Q. AND WHAT WAS THE TYPE OF COMMUNICATIONS  
10 ATHLETICS WAS RECEIVING FOLLOWING THAT  
11 CONFERENCE?

12 A. AFTER THAT CONFERENCE THE VILE MESSAGES  
13 WERE GATHERED TOWARD MIKE.

14 Q. WHEN YOU SAY VILE MESSAGES, WHAT KIND OF  
15 MESSAGES?

16 A. CLEARLY WE WERE CONCERNED ABOUT HIS  
17 SAFETY. WE WERE CONCERNED ABOUT HIS FAMILY'S  
18 SAFETY. THE THINGS PEOPLE WERE SAYING -- THERE  
19 WAS NO COMPASSION FOR ANYBODY IN ATHLETICS AT  
20 THAT POINT.

21 Q. AND WHAT ABOUT MR. MCQUEARY? WERE THERE  
22 SPECIFIC REFERENCES TO HIM IN THOSE MESSAGES?

23 A. YES.

24 Q. WERE YOU ABLE TO KEEP UP TRACKING THESE  
25 MESSAGES?

1           A.    BETWEEN THE EMPLOYEES BEING DISTRESSED  
2           AND EVERYTHING CHANGING AND THE PRESS AND  
3           EVERYTHING ELSE WE WERE TRYING TO COMPILE  
4           ACCURATE ACCOUNTS OF WHAT WAS HAPPENING AS WE  
5           COULD BUT I CAN'T SAY THAT IT WAS A GREAT EFFORT  
6           AT THAT POINT.  WE WERE JUST TRYING TO COMPILE  
7           THE INFORMATION TO MAKE SURE THAT PEOPLE WERE  
8           SAFE.

9           Q.    FAIR TO SAY IT WAS TIME OF CHAOS?

10          A.    THAT WOULD BE AN UNDERSTATEMENT.

11          Q.    I AM SORRY?

12          A.    THAT WOULD BE AN UNDERSTATEMENT.

13          Q.    AND DURING THIS TIME, THAT IS AFTER  
14          COACH BRADLEY'S ANNOUNCEMENT, WHEN YOU ARE  
15          RECEIVING THESE MESSAGES IN DO YOU HAVE A  
16          CONVERSATION WITH ANYONE IN ATHLETICS ABOUT THE  
17          STATUS OF MR. MCQUEARY?

18          A.    YES.

19          Q.    WHO DO YOU HAVE A CONVERSATION WITH?

20          A.    MIKE'S ASSISTANT CAME TO ME.

21          Q.    WHO IS THE ASSISTANT?

22          A.    BILL KAVANAUGH (PH.) CAME TO ME IN A  
23          STATE OF PANIC AND FRUSTRATION AND SAT DOWN WITH  
24          ME AND TOLD ME THAT LASCH WAS BEING BOMBARDED  
25          WITH JUST HORRIBLE THREATS AND THAT HE FEAR FOR

1 MIKE'S SAFETY AND FOR THE SAFETY OF HIS FAMILY.

2 Q. AND IF I MAY INTERRUPT YOU, WHEN YOU SAY  
3 LASCH DID YOU --

4 A. LASCH BUILDING. THAT'S WHERE FOOTBALL  
5 IS HOUSED.

6 Q. SO AFTER MR. KAVANAUGH RELATES THESE  
7 CONCERNS ABOUT MR. MCQUEARY'S SAFETY, NOT ONLY  
8 HIS SAFETY BUT THE SAFETY OF HIS FAMILY, WHAT DO  
9 YOU DO -- STRIKE THAT. WAS MR. -- DO YOU KNOW  
10 WAS MR. KAVANAUGH A CLOSE FRIEND OF MR. MCQUEARY?

11 A. YES. I BELIEVE THEY WERE.

12 Q. WHAT DID YOU DO WITH THIS INFORMATION  
13 FROM MR. MCQUEARY'S CLOSE FRIEND?

14 A. I WENT STRAIGHT TO MARK BODENSCHATZ, WHO  
15 IS THE DIRECTOR OF THE FACILITY OF BEAVER  
16 STADIUM, AND I TOLD HIM WE NEEDED TO MAKE SURE  
17 THAT SAFETY WAS PROVIDED FOR MIKE.

18 Q. DID YOU GIVE ANY RECOMMENDATION OF WHAT  
19 SAFETY SHOULD BE PROVIDED TO MR. MCQUEARY?

20 A. NO. THAT'S NOT MY EXPERTISE.

21 Q. NOW FOLLOWING THAT NOTICE THAT YOU  
22 PROVIDED TO MR. KAVANAUGH DID THERE COME A POINT  
23 IN TIME THAT YOU LEARNED MR. MCQUEARY WOULD NOT  
24 BE COACHING THE NEBRASKA GAME?

25 A. YES.

1 Q. DO YOU RECALL WHEN THAT WAS?

2 A. I TRULY DO NOT. I DON'T REMEMBER THE  
3 DATE. FRIDAY. I DEFINITELY KNEW BY SATURDAY.  
4 SO FRIDAY MAYBE.

5 Q. I WOULD LIKE TO DIRECT YOUR ATTENTION TO  
6 D-31. ARE YOU FAMILIAR WITH THE TWO-PAGE  
7 DOCUMENT THAT IS CONTAINED IN D-31?

8 A. YES.

9 Q. WHAT IS IT?

10 A. THIS IS AN E-MAIL BY THE FORMER HR  
11 MANAGER OF ATHLETICS WHO WAS RETIRE FOR QUITE  
12 SOME TIME AND SHE WAS STARTING TO RECEIVE E-MAILS  
13 FROM PEOPLE ABOUT MIKE.

14 Q. AND DIRECTING --

15 MS. CONRAD: MOVE FOR ADMISSION OF --  
16 BY MS. CONRAD:

17 Q. AND DID SHE FORWARD THESE E-MAILS TO  
18 YOU?

19 A. YES. SHE DID.

20 MS. CONRAD: MOVE FOR ADMISSION OF D-31.

21 MR. STROKOFF: NO OBJECTION.

22 THE COURT: IT'S ADMITTED.

23 BY MS. CONRAD:

24 Q. DIRECTING YOUR ATTENTION TO THE FIRST  
25 PAGE, THE MESSAGE TOWARDS -- THAT IS CONTAINED

1 TOWARDS THE END OF THE E-MAIL. COULD YOU READ  
2 THAT INTO THE RECORD?

3 A. DO NOT LET MCQUEENY OR WHATEVER HIS NAME  
4 IS COACH THE WEEKEND FROM A CARDBOARD BOX AND  
5 FIRE HIM FOR LACK OF CURIOSITY.

6 Q. AND DIRECTING YOUR ATTENTION TO THE NEXT  
7 PAGE? WAS THERE ANOTHER MESSAGE FROM THE SAME  
8 SENDER?

9 A. YES.

10 Q. AND DO THESE MESSAGES -- ARE THESE  
11 MESSAGES AN EXAMPLE OF THE TYPES OF MESSAGES THAT  
12 ATHLETICS WAS RECEIVING?

13 A. YES.

14 Q. DO THESE MESSAGES AT ALL CONTAIN THE  
15 VILE VICIOUS NATURE THAT YOU PREVIOUSLY  
16 REFERENCED?

17 A. YES. BUT THESE ARE QUITE TAME COMPARED  
18 TO SOME OF THE OTHER ONES WE WERE RECEIVING.

19 Q. I AM SORRY. I DIDN'T HEAR YOU.

20 A. YES. BUT THESE ARE QUITE TAME COMPARED  
21 TO THE OTHER ONES WE WERE RECEIVING.

22 Q. WHEN YOU SAY OTHER ONES THAT YOU WERE  
23 RECEIVING, ANY RECOLLECTION OF THOSE?

24 A. WELL ELECTRONICALLY, NO, BUT THE PHONES  
25 CALLS THAT WERE COMING IN WERE ATROCIOUS. OUR

1     ATHLETIC WEB SERVER IS OPEN TO THE PUBLIC AND  
2     PEOPLE WOULD JUST CALL THE LIST RIGHT DOWN THE  
3     NAMES AND CALL AND SAY HORRIBLE THINGS TO EACH  
4     AND EVERYONE OF US AND PARTICULARLY ABOUT  
5     PATERNO, MIKE, TIM, AND SANDUSKY.

6           Q.   DID YOU HAVE A CONCERN FOR MIKE  
7     MCQUEARY'S SAFETY?

8           A.   I HAD A CONCERN FOR EVERYBODY IN  
9     ATHLETICS AT THAT POINT BECAUSE EVERYBODY WAS A  
10    TARGET BUT WHEN BILL KAVANAUGH CAME AND TOLD ME  
11    HE WAS CONCERNED THAT'S WHEN I FELT THAT I NEEDED  
12    TO SAY SOMETHING.

13          Q.   SO YOU HAD -- AFTER SPEAKING WITH  
14    MR. KAVANAUGH YOU HAD INCREASED CONCERN ABOUT  
15    MIKE MCQUEARY'S SAFETY?

16          A.   THAT IS CORRECT.

17          Q.   YOU THEN LEARNED HE WOULD NOT BE  
18    COACHING IN THE NEBRASKA GAME?

19          A.   THAT IS CORRECT.

20          Q.   YOU PRESENT THEN WHEN MR. SHERBURNE  
21    CALLED HIM TO SCHEDULE A MEETING TO MEET WITH  
22    HIM?

23          A.   THAT IS CORRECT.

24          Q.   AND THEN YOU ON THAT SUNDAY EVENING MET  
25    WITH HIM AND MR. SHERBURNE READ FROM THE DOCUMENT



1        THAT'S BEEN MARKED AS D-53?

2            A.    THAT IS CORRECT.

3            Q.    CAN YOU GET TO THAT PLEASE.    D-53.    NOW  
4        WE HAVE ALREADY GONE OVER THIS DOCUMENT AND I DO  
5        NOT WANT TO TAKE YOU THROUGH IT LINE BY LINE  
6        AGAIN BUT I WANT TO ASK YOU A FEW SPECIFIC  
7        QUESTIONS ABOUT IT.    I BELIEVE YOU MADE REFERENCE  
8        ON THE SECOND PAGE TO THE RETURN OF THE DEALER  
9        VEHICLE?

10          A.    YES.

11          Q.    AND AGAIN WHAT WAS THE REASON FOR  
12        REQUESTING THAT MR. MCQUEARY RETURN HIS DEALER  
13        VEHICLE WHILE HE WAS ON HIS PAID ADMINISTRATIVE  
14        LEAVE?

15          A.    THOSE ARE ACTIVE EMPLOYEE BENEFITS.

16          Q.    AND WERE THEY BENEFITS THAT HE WOULD  
17        USE?    MEANING HE WOULD USE THE CAR IN CONJUNCTION  
18        WITH HIS POSITION?

19          A.    THAT IS CORRECT.

20          Q.    AND WAS THE REASON BECAUSE HE WAS NO  
21        LONGER ACTIVELY CARRYING OUT HIS JOB DUTIES THERE  
22        WAS NO REASON FOR HIM TO MAINTAIN THE DEALER  
23        VEHICLE?

24          A.    THAT IS CORRECT.

25          Q.    AND THEN DIRECTING YOUR ATTENTION TO THE

1 LAST PARAGRAPH THERE YOU MAY ALSO DISCUSS THE  
2 EMPLOYEE ASSISTANCE PROGRAM WITH YOUR HUMAN  
3 RESOURCES MANAGER. DO YOU SEE THAT?

4 A. YES.

5 Q. AND THAT INFORMATION WAS PROVIDED TO  
6 MR. MCQUEARY?

7 A. YES.

8 Q. I BELIEVE YOU MADE REFERENCE TO WHAT  
9 BENEFITS ARE AVAILABLE THROUGH THE UNIVERSITY'S  
10 EMPLOYEE ASSISTANCE PROGRAM. WHAT ARE THOSE  
11 BENEFITS?

12 A. SO THE UNIVERSITY IS PRETTY GENEROUS.  
13 IT'S A CONFIDENTIAL PROGRAM. FIVE FREE CALENDAR  
14 -- OR FREE COUNSELING SESSIONS PER ISSUE PER  
15 FAMILY MEMBER OF THE HOUSEHOLD. THERE IS  
16 FINANCIAL COUNSELING. THERE IS A SUBPART CALLED  
17 HEALTH ADVOCATE WHERE YOU CAN GO THROUGH YOUR  
18 MEDICAL BENEFITS AND HAVE SOMEBODY HELP ON YOUR  
19 BEHALF IF YOU DO NOT UNDERSTAND BILLING  
20 INQUIRIES. AM I MISSING ANYTHING? COUNSELING,  
21 FINANCIAL COUNSELING, AND LEGAL COUNSELING.

22 Q. AND THIS WAS A CONFIDENTIAL SOURCE OF  
23 RESOURCE, WASN'T IT?

24 A. ABSOLUTELY.

25 Q. YET YOU INDICATED TO MR. MCQUEARY THAT

1 IF HE WANTED INFORMATION ABOUT THE PROGRAM HE  
2 COULD CONTACT YOU, CORRECT?

3 A. YES.

4 Q. AND DID HE EVER CONTACT YOU ABOUT THESE  
5 BENEFITS -- SO COUNSELING, FINANCIAL COUNSELING,  
6 LEGAL COUNSELING -- WHILE YOU WERE WITH  
7 ATHLETICS?

8 A. NO.

9 Q. YOU DIDN'T PARTICIPATE IN THE DECISION  
10 RELATED TO THE PAYMENT OF BOWL BONUSES FOLLOWING  
11 THE TICKETCITY BOWL, DID YOU?

12 A. NO. I DID NOT.

13 Q. IN JANUARY OF 2012 WHEN COACH O'BRIEN  
14 WAS NAMED AND APPOINTED AS HEAD FOOTBALL COACH  
15 DID HE AT ANY TIME ASK TO SEE ANY OF THE  
16 PERSONNEL FILES OF ANY OF THE ASSISTANT COACHES  
17 UNDER COACH PATERNO?

18 A. NOT THAT I AM AWARE OF.

19 Q. WITH RESPECT TO THE SEVERANCE PAYMENTS  
20 THAT MR. MCQUEARY -- THAT FOLLOWED MR. MCQUEARY'S  
21 FIXED TERM APPOINTMENT DID YOU PLAY ANY ROLE IN  
22 THE DECISION TO ISSUE THOSE SEVERANCE PAYMENTS TO  
23 MR. MCQUEARY?

24 A. NO.

25 Q. WERE YOU AWARE HE WAS PAID 18 MONTHS OF

1 SALARY AND BENEFITS FOLLOWING THE EXPIRATION OF  
2 HIS EMPLOYMENT?

3 A. YES.

4 Q. AND IN YOUR ROLE AS HR MANAGER WOULD YOU  
5 AGREE WITH THE POSITION THAT THE UNIVERSITY  
6 HONORED ALL OF ITS OBLIGATIONS UNDER THE  
7 APPOINTMENT THAT MR. MCQUEARY HELD WITH THE  
8 UNIVERSITY?

9 A. YES.

10 Q. AND IN YOUR POSITION OF HR MANAGER DID  
11 YOU DO EVERYTHING YOU COULD TO SUPPORT  
12 MR. MCQUEARY?

13 A. YES.

14 MS. CONRAD: THANK YOU. I HAVE NO  
15 FURTHER QUESTIONS.

16 MR. STROKOFF: A FEW, YOUR HONOR.

17 REDIRECT EXAMINATION

18 BY MR. STROKOFF:

19 Q. DID YOU IDENTIFY ANY SUPPORT THAT YOU  
20 FELT MR. MCQUEARY NEEDED AT ALL ONCE HE WAS  
21 PLACED ON ADMINISTRATIVE LEAVE?

22 A. IDENTIFY ANY --

23 Q. YOU SAID TO MS. CONRAD'S QUESTION YOU  
24 DID EVERYTHING YOU COULD TO HELP MICHAEL  
25 MCQUEARY.

1           A.    SURE.  SO THE EAP PROGRAM IS SOMETHING  
2           THAT WE REFERENCE TO ALL EMPLOYEES WHO MIGHT HAVE  
3           A DISTRESSING TIME.  SO, YES, I MEAN, THAT'S  
4           WHERE WE PROVIDED IT, AND, LIKE I SAID WITH MY  
5           TESTIMONY WITH YOU, IF HE HAD ANY QUESTIONS OR  
6           NEEDED ANYTHING HE WOULD HAVE CONTACTED ME AS HIS  
7           HR REP.

8           Q.    AT THE MEETING ON NOVEMBER 13, 2011 --

9           A.    OKAY.

10          Q.    -- DIDN'T HE MAKE IT CLEAR HE WANTED TO  
11          CONTINUE TO COACH?

12          A.    THAT IS CORRECT.

13          Q.    AND THAT HE DIDN'T FEEL HE DID ANYTHING  
14          WRONG?

15          A.    YES.

16          Q.    OKAY.  WHAT DID YOU DO TO ADVOCATE THAT  
17          POSITION FOR MIKE MCQUEARY FOLLOWING NOVEMBER 13,  
18          2011?

19          A.    COACHING DECISIONS ARE NOT IN MY  
20          JURISDICTION.  MR. SHERBURNE WAS THERE.  HE WAS  
21          THE INTERIM AD.  THAT WOULD HAVE BEEN SOMETHING  
22          HE WOULD HAVE BEEN ABLE TO HANDLE AT THAT POINT  
23          IF THAT'S WHAT HE CHOSE TO DO.

24          Q.    SO YOU DID NOT FEEL THAT THERE WAS  
25          ANYTHING YOU WERE ABLE TO DO TO HELP MR. MCQUEARY

1 AFTER --

2 MS. CONRAD: OBJECTION.

3 MISCHARACTERIZING THE WITNESS'S TESTIMONY.

4 THE COURT: OBJECTION IS OVERRULED.

5 YOU CAN ANSWER THE QUESTION. IF YOU

6 CAN'T --

7 THE WITNESS: CAN YOU REPEAT QUESTION  
8 PLEASE?

9 BY MR. STROKOFF:

10 Q. WELL YOU SAID YOU DID EVERYTHING YOU  
11 COULD TO HELP MR. MCQUEARY. I AM TRYING TO FIND  
12 OUT WHAT IT WAS THAT YOU DID TO HELP  
13 MR. MCQUEARY.

14 A. SURE. I PROVIDED HIM WITH EVERYTHING HE  
15 ASKED FOR IN TERMS OF HIS ITEMS, WE SELECTED DATE  
16 THAT WAS CONVENIENT TO HIM, WE PROVIDED HIM WITH  
17 EAP SERVICES. THAT'S MY ROLE.

18 Q. THE DEALER CAR WHICH HE HAD TO TURN IN  
19 YOU SAID BECAUSE HE WASN'T ACTIVE EMPLOYEE?

20 A. CORRECT.

21 Q. BUT HE WAS STILL WAS AN EMPLOYEE?

22 A. YES.

23 Q. UNDER THE SEVERANCE AGREEMENT, IF YOU GO  
24 BACK TO PLAINTIFF'S EXHIBIT 20, WOULDN'T YOU  
25 AGREE THAT AFTER SEVERANCE OF MR. MCQUEARY AND

1 THE OTHER ASSISTANT FOOTBALL COACHES WERE  
2 ENTITLED TO KEEP THE DEALER CAR FOR THREE MONTHS?

3 A. CAN I SEE WHAT --

4 Q. IT'S PLAINTIFF'S EXHIBIT 30.

5 A. SO IT'S THIS BOOK? YES. THAT'S WHAT IT  
6 SAYS.

7 Q. SO A COMMITMENT WAS MADE IN 2008 THAT  
8 AFTER SEPARATION MR. MCQUEARY COULD KEEP THE  
9 DEALER CAR FOR THREE MONTHS EVEN THOUGH HE WASN'T  
10 AN EMPLOYEE?

11 A. THAT WOULD BE WHAT THIS PARTICULAR  
12 DOCUMENT SAYS. YES.

13 Q. OKAY. AFTER MR. MCQUEARY CEASED BEING  
14 AN EMPLOYEE?

15 A. UH-HUH.

16 Q. JULY 1, 2012, WAS HE GIVEN A DEALER CAR  
17 FOR THREE MONTHS?

18 A. NOT THAT I AM AWARE.

19 Q. OR CELLPHONE FOR THREE MONTHS?

20 A. NOT THAT I AM AWARE OF.

21 Q. THE EXTRA SECURITY THAT WAS IN PLACE AT  
22 THESE MEETINGS OF NOVEMBER 7, 2011 --

23 A. UH-HUH.

24 Q. -- WAS TO KEEP THE MEDIA OUT, RIGHT?

25 A. THAT IS CORRECT OR NON-EMPLOYEES.

1 Q. AND YOU HAVE EXPRESSED THE VIEW THAT  
2 FIXED TERM ONE RENEWALS WERE TO BE DONE VERBALLY?

3 A. THEY COULD BE DONE VERBALLY.

4 Q. OKAY. IF THEY WOULD BE DONE VERBALLY  
5 WASN'T THE PROPER PRACTICE TO HAVE SOME KIND OF  
6 CONFIRMATION SOMEWHERE THAT -- FOR EXAMPLE, COACH  
7 PATERNO TOLD MIKE MCQUEARY ON JUNE 28, 2009, THAT  
8 HE IS BEING RENEWED FOR ANOTHER YEAR?

9 A. I DON'T KNOW WHAT PRACTICE WAS ON THAT  
10 -- IN THE FOOTBALL PROGRAM. I SIMPLY ASKED THE  
11 AD WHO WOULD BE STAYING ON. HE PROVIDED ME WITH  
12 THE INFORMATION AND WE PROCESSED THE FORMS.

13 Q. OKAY. THE VERY FIRST SENTENCE OF  
14 PLAINTIFF'S 20 --

15 A. OKAY.

16 Q. -- SAYS I AM PLEASED TO CONFIRM THE  
17 UNIVERSITY'S COMMITMENT REGARDING THE FOLLOWING  
18 TERMS FOR YOUR CONTINUED EMPLOYMENT AS AN  
19 ASSISTANT FOOTBALL COACH. IT DOES NOT SAY  
20 ANYTHING ABOUT FIXED TERM EMPLOYMENT, DOES IT?

21 A. NO. BUT CONTINUED EMPLOYMENT COULD BE  
22 TAKEN -- THAT'S -- THOSE ARE PLAY ON WORDS. I  
23 DON'T SEE THAT RELATING TO FIXED TERM OR  
24 STANDING. IT'S JUST CONTINUED EMPLOYMENT.

25 Q. AND LASTLY I WANT TO GO TO 56. THESE



1 ARE COPIES OF COMPUTER SCREENS. ISN'T THAT  
2 REALLY WHAT THEY ARE?

3 A. 56?

4 Q. NOT PLAINTIFF'S. DEFENDANT'S 56. MY  
5 APOLOGIES.

6 A. OKAY. WHAT WAS YOUR QUESTION? I AM  
7 SORRY.

8 Q. THESE VARIOUS PAGES HERE -- THEY ARE  
9 COPIES OF COMPUTER SCREENS?

10 A. AS I SAID BEFORE THESE WERE PROCESSED  
11 FROM OUR FINANCIAL SYSTEM, YES.

12 Q. OKAY. WHEN YOU SAY YOUR FINANCIAL  
13 SYSTEM IS THAT WITHIN --

14 A. WITHIN PENN STATE.

15 Q. YES. BUT NOT WITHIN YOUR OFFICE?

16 A. NO. THIS IS PENN STATE SYSTEM.

17 Q. OKAY. AND AT THE TOP OF THE FIRST PAGE  
18 DOESN'T IT SAY APPOINTMENT INQUIRY 11/4/11?

19 A. YES.

20 Q. SOMEBODY WENT INTO THIS SYSTEM THE DAY  
21 AFTER YOU HAD YOUR MEETING WITH MR. MCQUEARY?

22 A. WHERE ARE YOU SEEING THIS? THAT'S A  
23 SCREEN ON THE FINANCE SYSTEM. YES.

24 Q. PARDON ME?

25 A. YES. IT APPEARS THIS WAS PULLED

1 11/14/2011.

2 Q. AND YOU DON'T KNOW WHO THAT WAS?

3 A. I CAN TELL YOU WHO IT WAS.

4 Q. WHO WAS IT?

5 A. IT WAS BECKY BARTON (PH.).

6 Q. AND WHY WAS BECKY BARTON ACCESSING --

7 A. YOU WOULD HAVE TO ASK BECKY.

8 Q. OKAY. AND ON HERE AT THE TOP OF THE  
9 MIDDLE UNDER APPT TYPE COLON IT SAYS FT1P?

10 A. YES.

11 Q. WHAT IS THE P?

12 A. I HAVE NO IDEA WHAT THE P IS.

13 MR. STROKOFF: NOTHING FURTHER, YOUR  
14 HONOR.

15 MS. CONRAD: ONE AREA OF FOLLOW UP.

16 RECROSS-EXAMINATION

17 BY MS. CONRAD:

18 Q. I WANT TO TAKE YOU BACK TO D-5.

19 A. OKAY.

20 Q. DIRECTING YOUR ATTENTION TO PARAGRAPH  
21 2B?

22 A. YES.

23 Q. AND COUNSEL ASKED YOU ABOUT THE DEALER  
24 CAR AND CELLPHONES, CORRECT?

25 A. YES.

1 Q. AND DOESN'T THAT PARAGRAPH READ YOU WILL  
2 BE ENTITLED TO CONTINUE USING THE DEALER CAR AND  
3 CELL PHONES ASSIGNED TO YOU FOR A PERIOD OF THREE  
4 MONTHS FOLLOWING THE DATE OF TERMINATION OF YOUR  
5 UNIVERSITY EMPLOYMENT?

6 A. YES.

7 Q. AT THE TIME MR. MCQUEARY'S APPOINTMENT  
8 ENDED DID HE HAVE A DEALER CAR?

9 A. NO.

10 Q. SO WAS HE ABLE TO CONTINUE USING THE  
11 DEALER CAR?

12 A. NO.

13 Q. AND WAS MR. MCQUEARY'S EMPLOYMENT  
14 TERMINATED AS IN HE WAS TERMINATED AS A RESULT OF  
15 THE KNEW HEAD COACH IN JANUARY 2012?

16 A. YES.

17 Q. WAS HE TERMINATED IN JANUARY --

18 A. OH, NO. NO. HE WAS PLACED ON  
19 ADMINISTRATIVE LEAVE SO ADMINISTRATIVE LEAVE  
20 CARRIED OUT THROUGH THE END OF HIS CONTRACT. HE  
21 WAS PAID THROUGH THE END OF HIS CONTRACT AND THEN  
22 TERMINATION WOULD HAVE HAPPENED THE DAY THAT IT  
23 WAS NOT RENEWED.

24 Q. SO TERMINATION WAS THE RESULT OF HIS  
25 APPOINTMENT ENDING?

1           A.    THAT IS CORRECT.

2           MS. CONRAD:  THANK YOU.  I HAVE NO  
3   FURTHER QUESTIONS.

4           MR. STROKOFF:  NOTHING FURTHER, YOUR  
5   HONOR

6           THE COURT:  MEMBERS OF THE JURY, I THINK  
7   WILL TAKE OUR TAKE AFTERNOON BREAK.  TAKE A BREAK  
8   UNTIL 3:30.  GO AHEAD AND STEP OUT PLEASE.

9           PLEASE REMAIN THERE.

10          (WHEREUPON, THE JURY WAS ESCORTED TO THE  
11   JURY ROOM AND THE FOLLOWING CONVERSATION  
12   WAS HELD OUTSIDE OF THEIR PRESENCE:)

13          THE COURT:  YOU CAN BE SEATED.

14          MA'AM, WHERE IS THE WRITTEN POLICY FOR  
15   PENN STATE FOR ADMINISTRATIVE LEAVE WITH PAY?  
16   WHERE DO I FIND THAT?

17          THE WITNESS:  I DON'T BELIEVE THERE IS  
18   AN ACTUAL POLICY FOR ADMINISTRATIVE LEAVE WITH  
19   PAY.  WE HAVE ONE WITHOUT PAY.

20          THE COURT:  ALL RIGHT.  SO MR. MCQUEARY  
21   IS PLACED ON ADMINISTRATIVE LEAVE WITH PAY?

22          THE WITNESS:  THAT IS CORRECT.

23          THE COURT:  AND YOU ARE THE HR PERSON?

24          THE WITNESS:  CORRECT.

25          THE COURT:  WHAT INPUT DID YOU HAVE IN

1        THAT DECISION FOR A POLICY THAT YOU AREN'T AWARE  
2        OF?

3                THE WITNESS:  I HAD NO INPUT ON THAT  
4        DECISION.

5                THE COURT:  AND WHO INDICATED THAT A NEW  
6        CATEGORY ADMINISTRATIVE LEAVE WITH PAY WAS GOING  
7        TO BE CREATED?

8                THE WITNESS:  I DON'T NECESSARILY KNOW  
9        IF A NEW -- WELL CYNTHIA BALDWIN HAD TOLD ME THAT  
10       WE WERE PLACING HIM ON ADMINISTRATIVE LEAVE WITH  
11       PAY.

12               THE COURT:  BUT IF SOMEONE CAME TO YOU  
13       AND SAID -- AN EMPLOYEE, CAN I GET ADMINISTRATIVE  
14       LEAVE WITH PAY --

15               THE WITNESS:  NO.

16               THE COURT:  WOULDN'T HAPPEN?

17               THE WITNESS:  NO.  I MEAN, THEY COULD --  
18       THEY COULD UTILIZE VACATION OR SICK LEAVE TO MAKE  
19       IT A PAID LEAVE BUT THE POLICY IS UNPAID.  SO IF  
20       YOU HAD OTHER FORMS OF WAYS TO MAKE IT PAID YOU  
21       CAN DO IT THAT WAY BUT WE DO NOT TYPICALLY PLACE  
22       PEOPLE ON LEAVE WITH PAY.

23               THE COURT:  AND SO AT MY REQUEST  
24       MS. CONRAD PROVIDED ME WITH WHAT I THOUGHT WAS  
25       THE ADMINISTRATIVE LEAVE WITH PAY AND IT TURNS

1 OUT TO BE ADMINISTRATIVE LEAVE WITHOUT PAY.

2 THE WITNESS: THAT IS CORRECT.

3 THE COURT: AND YOU RECOGNIZE THAT  
4 DOCUMENT?

5 THE WITNESS: I DO.

6 THE COURT: AND THE PURPOSE OF THE  
7 DOCUMENT IS SET FORTH ON PAGE ONE, CORRECT?

8 THE WITNESS: THAT IS CORRECT.

9 THE COURT: AND BASICALLY IT'S FOR  
10 SOMEONE WHO HAS HEALTH ISSUE OR SOMEONE WHO WANTS  
11 TO CONTINUE ACADEMIC STUDY, CORRECT?

12 THE WITNESS: THAT IS CORRECT.

13 THE COURT: BUT AN ADMINISTRATIVE LEAVE  
14 FOR SOMEONE WHO IS AT THE CENTER OF THE  
15 CONTROVERSY -- THAT'S NOT COVERED?

16 THE WITNESS: NO. I DON'T BELIEVE IT'S  
17 COVERED.

18 THE COURT: OKAY. NOW HOW MANY YEARS  
19 WERE YOU -- YOUR OFFICE WAS IN THE LASCH  
20 BUILDING?

21 THE WITNESS: NO. MY OFFICE WAS IN THE  
22 BRYCE JORDAN CENTER.

23 THE COURT: OKAY. SO I AM NOT FAMILIAR  
24 WITH THE NAMES OF THE BUILDINGS, ET CETERA. WHAT  
25 INTERACTIONS, IF ANY, DURING THE PERIOD OF TIME

1        THAT YOU WERE IN THIS POSITION WOULD YOU HAVE HAD  
2        WITH MR. MCQUEARY?

3                THE WITNESS:  WE HAD A COUPLE OF  
4        OCCURRENCES.  JUST IF HE NEEDED HR HELP OR  
5        ASSISTANCE, IF HE WERE HIRING FOR A POSITION HE  
6        MIGHT COME OVER, JUST IN THE COURSE OF REGULAR  
7        BUSINESS ONGOING.  IF THERE WAS DISCIPLINARY  
8        PROBLEM I MIGHT HAVE GOTTEN INVOLVED BUT THERE  
9        WASN'T.

10              THE COURT:  OKAY.  AND I TAKE IT THAT  
11        THE FOOTBALL PEOPLE ARE INSULAR GROUP OF PEOPLE?  
12        THEY ALL HANG TOGETHER?

13              THE WITNESS:  YOU CAN SAY THAT.

14              THE COURT:  AND OUTSIDE OF THAT  
15        COMMUNITY WOULD YOU EXPECT THAT MR. MCQUEARY  
16        WOULD BE INVOLVED IN THE OTHER ACTIVITIES OF THE  
17        UNIVERSITY OR WAS HE COMMITTED TO THAT  
18        ENVIRONMENT?

19              THE WITNESS:  MY UNDERSTANDING IS HE WAS  
20        COMMITTED TO THAT ENVIRONMENT.

21              THE COURT:  COMMITTED TO THAT  
22        ENVIRONMENT.

23              MR. STROKOFF:  I AM SORRY, YOUR HONOR.  
24        I DIDN'T HEAR HER ANSWER.

25              THE WITNESS:  COMMITTED TO THAT

1 ENVIRONMENT.

2 THE COURT: DID ANY MEMBER OF THE  
3 ADMINISTRATION SPEAK FAVORABLY ABOUT MR. MCQUEARY  
4 HAVING STEP FORWARD AND SETTING -- SAYING WHAT HE  
5 SAID TO THE GRAND JURY?

6 THE WITNESS: I DON'T RECALL US EVER  
7 DISCUSSING THAT AS A MANAGEMENT GROUP OR I HAVE  
8 BEEN WITNESS TO ANY CONVERSATIONS REGARDING MIKE.

9 THE COURT: WELL WHAT DID YOU THINK OF  
10 THE PRESIDENT OF THE UNIVERSITY COMING FORWARD  
11 AND SPEAKING ON BEHALF OF MR. CURLEY AND SCHULTZ?

12 THE WITNESS: WHEN I SAW IT I WAS  
13 ACTUALLY SHOCKED WE MADE ANY STATEMENT.

14 THE COURT: AND IF MR. MCQUEARY WAS NOT  
15 PERMITTED IN THE ATHLETIC COMPOUND WHERE HE HAD  
16 APPARENTLY SPENT MANY YEARS AND BEEN DEDICATED TO  
17 WHAT SUPPORT NETWORK WOULD HE BE EXPECT TO HAVE?

18 THE WITNESS: WELL WHEN ANYBODY IS  
19 PLACED ON ADMINISTRATIVE LEAVE WE ASK --

20 MR. STROKOFF: I DON'T KNOW. I DON'T  
21 WANT TO BE RUDE BUT WHEN SHE IS LOOKING AT YOU I  
22 CAN'T HEAR.

23 THE WITNESS: SORRY. ANY TIME SOMEBODY  
24 IS PLACED ON ADMINISTRATIVE LEAVE THEY WOULD BE  
25 ASKED NOT TO GO INTO THE AREAS OF WHICH THEY WERE



1        ASSOCIATED WITH, BUT, I MEAN, SUPPORT COMES IN  
2        MANY DIFFERENT WAYS. I KNOW MIKE WAS VERY CLOSE  
3        WITH SOME OF THESE PEOPLE AND COULD HAVE HAD  
4        OUTSIDE -- OUTSIDE RELATIONSHIPS WITH THEM.

5                THE COURT: WHEN YOU SAY PEOPLE ARE  
6        PLACED ON ADMINISTRATIVE LEAVE YOUR ENTIRE POLICY  
7        IS GEARED FOR SOMEONE WHO IS ASKING TO BE PLACED  
8        ON ADMINISTRATIVE LEAVE. ARE YOU TELLING ME  
9        UNDER THAT POLICY THEY ARE NOT PERMITTED BACK IN  
10       THEIR AREA?

11               THE WITNESS: WHAT I AM SAYING IF  
12       SOMEONE WAS TO GO ON MATERNITY LEAVE, FOR  
13       EXAMPLE, WE WOULD TAKE THE PARKING, WE WOULD TAKE  
14       THE KEYS BECAUSE THEY ARE NO LONGER AN ACTIVE  
15       EMPLOYEE IN THAT TIMEFRAME.

16               THE COURT: AND WILL THEY BE ABLE TO GO  
17       BACK TO THE OFFICE AREA FROM WHICH THEY LEFT?

18               THE WITNESS: I ASSUME SO. IF THERE WAS  
19       AN UNPAID LEAVE FOR A PERFORMANCE ISSUE OR  
20       SOMETHING OF THAT NATURE IT WOULD BE A DIFFERENT  
21       CIRCUMSTANCES BUT IN THIS PARTICULAR INCIDENT,  
22       YEAH.

23               THE COURT: IN THIS PARTICULAR INCIDENT  
24       WHAT?

25               THE WITNESS: IF YOU ARE TALKING

1 MATERNITY LEAVE, YES.

2 THE COURT: OKAY. LET ME SEE THIS  
3 POLICY BACK.

4 THE WITNESS: MILITARY LEAVE, MATERNITY  
5 LEAVE.

6 THE COURT: IT'S YOUR POLICY SO I AM  
7 SURE YOU ARE MORE FAMILIAR THAN I BECAUSE. I  
8 ONLY READ IT BRIEFLY AND QUICKLY BUT I DON'T SEE  
9 ANYTHING IN THERE WHERE THE PERSON WHO IS ON  
10 ADMINISTRATIVE LEAVE WITHOUT PAY IS PRECLUDED  
11 FROM COMING BACK INTO THE AREA FROM WHICH THEY  
12 TOOK ADMINISTRATIVE LEAVE. IS THERE SUCH A  
13 PROVISION IN THERE?

14 THE WITNESS: I AM NOT SURE IN THE  
15 POLICY. WHAT PEOPLE PRACTICE WOULD BE AN AREA TO  
16 AREA PREFERENCE.

17 THE COURT: SO HOW DOES ANYONE KNOW WHAT  
18 THE PREFERENCE IS?

19 THE WITNESS: WELL THAT'S A GOOD  
20 QUESTION. I THINK SOME OF THESE DECISIONS WERE  
21 DEFINITELY MADE AT A HIGHER LEVEL AND WERE  
22 ENFORCED.

23 THE COURT: OKAY. AND SINCE THEY WERE  
24 MADE AT THE HIGHER LEVEL YOU HAD NO QUESTIONS  
25 WHATSOEVER?

1 THE WITNESS: IT'S NOT THAT I DIDN'T  
2 HAVE ANY QUESTIONS. I DID WHAT I WAS ASKED TO  
3 DO.

4 THE COURT: WELL OKAY. WE WILL LET IT  
5 GO. THANK YOU.

6 YOU CAN FOLLOW UP, EITHER ONE OF YOU, AS  
7 YOU SEEM FIT.

8 MR. STROKOFF: I HAVE NOTHING YOUR  
9 HONOR.

10 MS. CONRAD: JUST FEW A FOLLOW-UP  
11 QUESTIONS.

12 CROSS-EXAMINATION

13 BY MS. CONRAD:

14 Q. MS. RUNKLE, IS THERE A SEPARATE POLICY  
15 FOR MATERNITY LEAVE?

16 A. THERE IS.

17 Q. IS THERE A SEPARATE APOLOGIZE FOR LEAVE  
18 UNDER THE FAMILY MEDICAL LEAVE ACT?

19 A. YES.

20 Q. AND WITH RESPECT TO HR-16 IS THERE  
21 DISCRETION ON THE PART OF THE ADMINISTRATION TO  
22 EACH PLACE AN EMPLOYEE ON UNPAID LEAVE?

23 A. ABSOLUTELY.

24 Q. AND IS THERE DISCRETION ON THE PART OF  
25 ADMINISTRATION TO PLACE ON EMPLOYEE ON PAID

1 LEAVE?

2 A. YES.

3 Q. AND WITH RESPECT TO THE DIRECTION THAT  
4 MR. MCQUEARY NOT ACCESS THE FOOTBALL FACILITIES I  
5 BELIEVE YOU TESTIFIED THAT AT THE TIME HE WAS  
6 PLACED ON PAID ADMINISTRATIVE LEAVE IT WAS WHEN  
7 THERE HAD BEEN MANY THREATS AGAINST HIM, IS THAT  
8 CORRECT?

9 A. THAT IS CORRECT.

10 Q. I BELIEVE YOU TESTIFIED THAT HE HAD BEEN  
11 IDENTIFIED AS A TARGET?

12 A. YES.

13 Q. IS THAT CORRECT?

14 A. YES.

15 Q. AND DID THAT CONTINUE AFTER HE HAD BEEN  
16 PLACED ON ADMINISTRATIVE LEAVE?

17 A. YES.

18 MS. CONRAD: NO FURTHER QUESTIONS, SIR.

19 MR. STROKOFF: NOTHING, YOUR HONOR.

20 THE COURT: AND PENN STATE HAS A RATHER  
21 LARGE SECURITY FORCE, DOES IT NOT?

22 THE WITNESS: SECURITY FORCE?

23 THE COURT: POLICE DEPARTMENT.

24 THE WITNESS: YEAH. WE DEFINITELY HAVE  
25 A POLICE DEPARTMENT BUT IF YOU ARE LOOKING AT

1 BEAVER STADIUM THAT'S --

2 THE COURT: I AM NOT LOOKING AT BEAVER  
3 STADIUM. YOU HAVE A LARGE POLICE FORCE. WAS ANY  
4 POLICE SECURITY MADE AVAILABLE TO MR. MCQUEARY?

5 THE WITNESS: WE WOULD HAVE HAD -- YOU  
6 WOULD HAVE TO TALK TO MARK. HE WAS THE  
7 FACILITIES BUT I AM SURE WE UPPED -- WE INCREASED  
8 SECURITY FOR THE DIFFERENT EVENTS THAT WERE  
9 TAKING PLACE, YES, AND FOR LASCH.

10 THE COURT: FOR MR. MCQUEARY WAS THERE  
11 ANY SECURITY?

12 THE WITNESS: YOU WOULD HAVE TO TALK TO  
13 MARK. I WASN'T AWARE OF ANY.

14 THE COURT: AND YOU SAID THAT  
15 ADMINISTRATORS HAD DISCRETION TO PLACE PEOPLE ON  
16 LEAVE. WHAT WERE THE CRITERIA FOR THE EXERCISE  
17 OF THEIR DISCRETION?

18 THE WITNESS: WELL IT WOULD DEPEND ON  
19 THE CIRCUMSTANCES. I MEAN, THIS WAS  
20 UNPRECEDENTED AGAIN. I DON'T THINK THERE ARE ANY  
21 RULES THAT REALLY PERTAINED POLICY WISE. I THINK  
22 DECISIONS WERE MADE AS THE COURSE OF THE EVENTS  
23 TRANSPIRED, BUT, YEAH, PEOPLE -- ADMINISTRATORS  
24 AT HIGH LEVEL CAN MAKE DECISIONS TO PLACE PEOPLE  
25 ON LEAVE.

1 THE COURT: DO YOU RECALL IN YOUR TIME  
2 AS HR TO THE ATHLETIC DEPARTMENT ANYBODY BEING  
3 PLACED ON ADMINISTRATIVE LEAVE BY AN  
4 ADMINISTRATOR?

5 THE WITNESS: WITH THE CONCURRENCE OF  
6 THE ADMINISTRATORS, YES.

7 THE COURT: BUT IN ANY MANNER EVEN CLOSE  
8 TO MR. MCQUEARY'S SITUATION?

9 THE WITNESS: NO.

10 THE COURT: THANK YOU.

11 SEE YOU AT QUARTER OF.

12 (WHEREUPON, A BREAK WAS TAKEN.)

13 THE COURT: GO AHEAD AND BE SEATED  
14 FOLKS.

15 GO AHEAD AND CALL YOUR WITNESS.

16 WHEREUPON,

17 JONATHAN DRANOV

18 WAS CALLED AS A WITNESS AND HAVING BEEN DULY  
19 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

20 THE COURT: HAVE A SEATED PLEASE. IT  
21 WILL HELP IF YOU STAY ON THE MICROPHONE PLEASE.

22 DIRECT EXAMINATION

23 BY MR. STROKOFF:

24 Q. SIR, WILL YOU STATE FOR THE RECORD YOUR  
25 NAME PLEASE?

1 A. JONATHAN DRANOV.

2 Q. AND YOUR OCCUPATION, SIR?

3 A. I AM A PHYSICIAN.

4 Q. AND WHERE ARE YOU A PHYSICIAN?

5 A. IN STATE COLLEGE.

6 Q. AND HOW LONG HAVE YOU BEEN PRACTICING  
7 MEDICINE IN STATE COLLEGE?

8 A. 42 YEARS.

9 Q. AND BACK IN THE YEAR 2001 WHERE WAS YOUR  
10 MEDICAL PRACTICE?

11 A. IN STATE COLLEGE AT THE CURRENT ADDRESS  
12 1850 EAST PARK AVENUE.

13 Q. AND IN THE YEAR 2001 DID YOUR PRACTICE  
14 HAVE A NAME?

15 A. AT THAT TIME IT WAS THE MOUNT NITTANY  
16 PHYSICIAN GROUP.

17 Q. TODAY IT'S --

18 A. EXCUSE ME. THAT'S NOT TRUE. IT WAS  
19 CENTRE MEDICAL AND SURGICAL ASSOCIATES AT THAT  
20 TIME. IT SUBSEQUENTLY BECAME THE MOUNT NITTANY  
21 PHYSICIAN GROUP.

22 Q. ARE YOU STILL PRACTICING WITH EITHER  
23 THAT GROUP OR A SUCCESSOR OF THAT GROUP?

24 A. YES. I AM WITH THE MOUNT NITTANY  
25 PHYSICIAN GROUP.

1 Q. OKAY. AND DO YOU HAVE A SPECIALTY, SIR?

2 A. INTERNAL MEDICINE AND NEPHROLOGY, WHICH  
3 IS KIDNEY DISEASE.

4 Q. AND DO YOU KNOW MIKE MCQUEARY?

5 A. YES. I DO.

6 Q. HOW LONG HAVE YOU KNOWN MIKE MCQUEARY?

7 A. SINCE I BELIEVE 1974.

8 Q. SINCE HE WAS BORN?

9 A. I FIRST MET HIM I THINK IT WAS ABOUT TWO  
10 AND HALF MONTHS AFTER HE WAS BORN.

11 Q. AND HOW DID YOU COME TO MEET HIM WHEN HE  
12 WAS TWO AND HALF MONTHS OLD?

13 A. HIS PARENTS WERE DRIVING TO STATE  
14 COLLEGE I BELIEVE ON THE WAY TO BUFFALO. THEY  
15 LIVED IN NORTH CAROLINA AT THE TIME AND THEY  
16 STOPPED BY OUR HOUSE TO VISIT FOR A WHILE.

17 Q. OKAY. AND YOU HAD KNOWN MIKE'S FATHER,  
18 JOHN, FOR A WHILE, IS THAT CORRECT?

19 A. YES.

20 Q. WHEN DID YOU FIRST MEET MIKE'S FATHER,  
21 JOHN?

22 A. WE WERE BOTH AT DUKE UNIVERSITY. WE  
23 WERE BOTH INVOLVED WITH THE PHYSICIANS ASSISTANT  
24 PROGRAM. I WAS FOR ONE YEAR THE ASSISTANT  
25 MEDICAL DIRECTOR THEN FOR THE SECOND YEAR A



1 MEDICAL DIRECTOR BEFORE I MOVED HERE AND JOHN WAS  
2 AN ADMINISTRATORS IN THE PHYSICIAN ASSISTANT  
3 PROGRAM.

4 Q. DOWN AT DUKE?

5 A. AT DUKE.

6 Q. DID THERE COME A POINT IN TIME WHEN YOU  
7 AND JOHN BECAME ASSOCIATED PROFESSIONALLY UP  
8 HERE?

9 A. RIGHT. JOHN MOVED ON FROM THE PHYSICIAN  
10 ASSISTANT PROGRAM AT DUKE AND BECAME AN  
11 ADMINISTRATOR IN THERE NEPHROLOGY PROGRAM. ANY  
12 WAY, I KEPT IN CONTACT WITH HIM AND WE WERE  
13 LOOKING FOR AN ADMINISTRATOR FOR OUR PRACTICE,  
14 WHICH AT THAT TIME WAS CENTRE MEDICAL AND  
15 SURGICAL ASSOCIATES -- ACTUALLY WE CHANGED THE  
16 NAME A COUPLE TIMES. AT THAT TIME IT WAS  
17 INTERNAL MEDICAL ASSOCIATES AND WE WERE LOOKING  
18 FOR AN ADMINISTRATOR AND I TALKED WITH JOHN AND  
19 CONVINCED HIM TO COME UP AND INTERVIEW AND HE  
20 ACCEPTED OUR JOB.

21 Q. AND ABOUT WHEN DID HE START WORKING FOR  
22 THE --

23 A. I BELIEVE IT WAS IN 1981.

24 Q. AND DID YOU REMAIN ASSOCIATED  
25 PROFESSIONALLY WITH JOHN MCQUEARY UNTIL WHAT

1 TIME?

2 A. YES. HE WAS THE ADMINISTRATOR FOR  
3 INTERNAL MEDICINE ASSOCIATES WHICH WAS WHEN THE  
4 NAME -- WHEN HE JOINED THE NAME WE EXPANDED THE  
5 GROUP TO BE MULTISPECIALTY GROUP IN THE LATE  
6 1990'S AND HE BECAME THE ADMINISTRATOR AND CHIEF  
7 OPERATING OFFICER OF THAT GROUP UNTIL WE WERE  
8 SOLD TO THE MOUNT NITTANY -- OR IT WAS SOLD TO  
9 THE MOUNT NITTANY MEDICAL CENTER AND NOW THE  
10 CONTROLLING INTEREST THERE IS THE MOUNT NITTANY  
11 HEALTH SYSTEM. IN 2011 THAT BECAME FINAL AND  
12 JOHN WORKED IN THAT SYSTEM FOR ABOUT A YEAR  
13 BEFORE RETIREMENT.

14 Q. OKAY. SO YOU HAVE KNOWN JOHN MCQUEARY  
15 AND MIKE MCQUEARY AN AWFULLY LONG TIME?

16 A. THAT IS CORRECT.

17 Q. SIR, I WOULD LIKE TO GO, IF I CAN, TO  
18 THE NIGHT OF FEBRUARY 9, 2001. DO YOU REMEMBER  
19 THAT NIGHT?

20 A. YES. I DO.

21 Q. OKAY. AT 9:00 OR SO DID YOU RECEIVE A  
22 TELEPHONE CALL FROM JOHN MCQUEARY?

23 A. YES.

24 Q. OKAY. NOW TELL US WHAT HE TOLD YOU AT  
25 THAT TIME?

1           A.    IN THE TELEPHONE CALL?

2           Q.    YES.

3           A.    HE ASKED IF I CAN COME BY HIS HOUSE,  
4           WHICH WAS AN UNUSUAL REQUEST FOR HIM.  USUALLY IT  
5           WAS BECAUSE SOMEBODY MIGHT BE SICK OR HE HAD SOME  
6           PERSONAL MATTER TO DISCUSS BUT THIS TIME WHEN I  
7           ASKED HIM WHAT THE PROBLEM WAS HE JUST SAID WE  
8           WILL TALK WHEN I GET THERE.  HE DID NOT WANT TO  
9           TALK ABOUT IT ON THE PHONE.  SO I TOLD HIM AS  
10          SOON AS I WRAPPED THINGS UP -- WHICH I WAS ABOUT  
11          FINISHED BECAUSE MY WIFE AND I WERE GOING OUT OF  
12          TOWN NEXT DAY I SAID AS SOON AS I FINISHED I  
13          WOULD STOP ON MY WAY HOME.

14          Q.    YOU KNEW WHERE HE LIVED?

15          A.    YES.

16          Q.    DID YOU ARRIVE AT JOHN MCQUEARY'S HOUSE?

17          A.    YES.  I DID.

18          Q.    AND DO YOU REMEMBER WHAT TIME IT WAS?

19          A.    I WOULD GUESS ABOUT 9:15, 9:30.

20          Q.    OKAY.  AND TELL US WHAT HAPPENED AS YOU  
21          CAME INTO THE HOUSE?

22          A.    JOHN HAD ME COME IN.  MIKE WAS THERE.  
23          HIS MOTHER, ANNE -- MIKE'S MOTHER, ANNE, WAS  
24          THERE AND IT WAS APPARENT THAT MIKE SEEMED TO BE  
25          VISIBLY SHAKEN AND WE SAT DOWN.  MIKE WAS SITTING

1 ON THE COUCH AND I WAS SITTING JUST RIGHT CROSS  
2 FROM HIM AND HIS DAD ASKED HIM TO TELL ME WHAT  
3 HAPPENED, WHAT HE HAD OBSERVED.

4 Q. AND NOW AS BEST YOU CAN WALK US THROUGH  
5 WHO SAID WHAT WHEN AND HOW IT WAS SAID?

6 A. APPARENTLY MIKE HAD BROUGHT SOME  
7 SNEAKERS OR SOMETHING ELSE THAT HE WANTED TO PUT  
8 IN HIS LOCKER IN THE FOOTBALL PROGRAM. HE WAS A  
9 GRADUATE ASSISTANT AND HE WENT INTO THE LOCKER  
10 ROOM. I IMAGINE THIS WAS ABOUT AN HOUR BEFORE  
11 AND WHEN HE WENT IN AND WAS HEADING TOWARD HIS  
12 LOCKER HE SAID HE HEARD SOUNDS AND I ASKED HIM  
13 WHAT KIND OF SOUNDS AND HE SAID THERE WERE SEXUAL  
14 SOUNDS. I ASKED HIM WHAT HE SAW AND HE SAID  
15 NOTHING. THEY WERE SOUNDS. SO I TRIED TO FOCUS  
16 ON THAT WITH HIM TO SEE EXACTLY WHAT HIS  
17 INTERPRETATION OF THE SOUNDS WERE AND HE JUST  
18 SAID THEY WERE SEXUAL SOUNDS. WHEN I ASKED HIM  
19 AGAIN WHAT HE SAW HE COULD NOT OR DID NOT TELL ME  
20 THAT HE HAD SEEN ANYTHING SPECIFIC. THEN HE WENT  
21 ON TO SAY THAT A BOY HAD LOOKED AROUND. I ASSUME  
22 IT WAS LOOKED AROUND FROM CORNER OF THE SHOWER OR  
23 WALL IN THE SHOWER BUT HE LOOKED AROUND. I ASKED  
24 MIKE IF THE BOY CRIED FOR HELP, IF HE LOOKED  
25 UPSET, AND HE SAID NO AND THEN HE SAID AN ARM

1 CAME AROUND THE BOY AND PULLED HIM BACK IN. HE  
2 WENT TO HIS LOCKER. HE SLAMMED THE LOCKER DOOR,  
3 CLOSED THE LOCKER DOOR, AND WHEN HE TURNED AROUND  
4 THE MAN CAME WALKING OUT OF THE SHOWER AND IT WAS  
5 -- HE SAID TO ME IT WAS JERRY SANDUSKY.

6 Q. NOW AS HE IS RELATING THIS TO YOU HOW  
7 WAS HE SPEAKING?

8 A. HIS VOICE WAS QUIVERING, WHICH IS  
9 UNUSUAL FOR MIKE. MIKE IS A PRETTY GOOD SPEAKER.  
10 HE HAS A PRETTY GOOD VOICE BUT HE WAS QUIVERING,  
11 CHOOSING HIS WORDS. HE HAD HIS HANDS IN FRONT OF  
12 HIM AND THEY WERE SHAKING SO HE WAS OBVIOUSLY  
13 VISIBLY UPSET.

14 Q. HAD YOU EVER SEEN HIM THIS WAY BEFORE?

15 A. NO. I HAD NOT.

16 Q. SO WHEN YOU ASKED HIM FOR SOME SPECIFICS  
17 HE WAS UNABLE TO ARTICULATE THEM?

18 A. HE JUST KEPT COMING BACK TO SEXUAL  
19 SOUNDS.

20 Q. OKAY. SO WHAT HAPPENED NEXT?

21 A. THE TOPIC TURNED TO WHAT DO YOU DO AND  
22 APPARENTLY ONE OF THE REASONS JOHN WANTED ME TO  
23 COME OVER IS WHO DO YOU REPORT THIS TO AT PENN  
24 STATE AND IT WAS MY UNDERSTANDING AT PENN STATE  
25 THAT IF YOU ARE WITNESSED TO SOME KIND OF EVENT

1       WHATEVER IT MAYBE THAT IS UPSETTING YOU REPORT IT  
2       TO YOUR SUPERVISOR AND I TOLD HIM HE HAD TO  
3       REPORT IT TO HIS SUPERVISOR. I THINK HE HAD  
4       ALREADY COME TO THAT CONCLUSION BUT I TOLD HIM  
5       THAT I THINK HIS DAD TOLD HIM THAT HIS SUPERVISOR  
6       WAS JOSEPH PATERNO.

7           Q.   WELL DID YOU SAY REPORT IT TO YOUR  
8       SUPERVISOR OR REPORT IT TO JOSEPH PATERNO?

9           A.   SUPERVISOR.

10          Q.   HOW LONG WOULD YOU SAY YOU WERE THERE  
11       THAT NIGHT?

12          A.   I WOULD GUESS ABOUT 45 MINUTES.

13          Q.   OKAY. DID MIKE'S QUIVERING CALM DOWN AT  
14       ALL DURING THAT 45 MINUTES?

15          A.   SLIGHTLY IF AT ALL.

16          Q.   AND YOU THEN LEFT WITH THE IDEA THAT  
17       MIKE WAS GOING TO REPORT IT TO JOSEPH PATERNO?

18          A.   YES.

19          Q.   NOW YOU SAID ON BASIS OF WHAT YOU KNOW  
20       ABOUT PENN STATE. AT THAT TIME 2001 WHAT  
21       CONNECTIONS, IF ANY, HAD YOU HAD IN YOUR LIFETIME  
22       TO PENN STATE?

23          A.   WELL I WAS A GRADUATE FROM PENN STATE,  
24       NUMBER ONE, BUT WHEN WE -- WHEN I CAME BACK TO  
25       TOWN TO PRACTICED MEDICINE I RECRUITED OTHER

1 PHYSICIANS TO COME WITH ME AND WE DEVELOPED A  
2 FAIRLY CLOSE RELATIONSHIP WITH PENN STATE FOR A  
3 SIGNIFICANT LENGTH OF TIME. WE TAUGHT IN THE  
4 NURSING PROGRAM, TAUGHT PHYSICAL DIAGNOSIS IN THE  
5 NURSING PROGRAM. WE HAD GIVEN SOME LECTURES TO  
6 PREMEDICAL STUDENTS. WE WERE KIND OF GO TO --  
7 BECAME A GO-TO GROUP IN TERMS OF MEDICAL  
8 SPECIALTIES SO IF THEY HAD STUDENTS, ATHLETES,  
9 GUESTS THEY WOULD OFTEN CALL US TO TAKE CARE OF  
10 THEM ON AN EMERGENT BASIS. SO OUR RELATIONSHIP  
11 WAS VERY GOOD AND VERY TIGHT AND WE EVEN WERE IN  
12 THE PROCESS AGAIN IN 2001 OF TRYING TO SET UP A  
13 MORE FORMAL AGREEMENT WITH PENN STATE, WHICH WE  
14 WERE IN PROCESS OF DOING THAT.

15 Q. IN ADDITION TO YOUR MEDICAL RELATIONSHIP  
16 WITH THE UNIVERSITY DID YOU HAVE ANY OTHER LESS  
17 FORMAL RELATIONSHIPS WITH THE UNIVERSITY OVER THE  
18 YEARS?

19 A. I SERVED ON THEIR ALUMNI BOARD IN THE  
20 COLLEGE OF SCIENCE. I GUESS IN TERMS OF LESS  
21 FORMAL RELATIONSHIP THAT WOULD BE THE EXTENT OF  
22 IT. I MEAN, TRYING TO THINK OF OTHER THINGS I  
23 DID. IT SEEMS LIKE IN STATE COLLEGE YOU ARE VERY  
24 INVOLVED IN SOME WAY, SHAPE, OR FORM WITH PENN  
25 STATE.

1 Q. DID YOU HAVE ANY OTHER INVOLVEMENT WITH  
2 THE FOOTBALL TEAM?

3 A. NOT DIRECTLY. I SAW AN OCCASIONAL  
4 PLAYER THAT HAD, YOU KNOW, SOME TYPE OF ILLNESS  
5 THAT WAS -- OR PROBLEM THAT WAS RELATED TO MY  
6 SPECIALTY. I GUESS IN A ROUND ABOUT SENSE IN THE  
7 EARLY 1980'S -- ACTUALLY 1981 AND 1982 I WAS  
8 PRESIDENT OF THE STATE COLLEGE QUARTER BACK CLUB  
9 SO THAT'S NOT A DIRECT ASSOCIATION WITH PENN  
10 STATE PER SE. IT WAS THE QUARTER BACK CLUB HAD A  
11 RELATIONSHIP THAT IT HAD JOE PATERNO COME AND  
12 SPEAK AT LUNCHEONS BUT I WAS THE PRESIDENT OF  
13 THAT ORGANIZATION.

14 Q. IS THAT A BOOSTERS CLUB?

15 A. IT'S MORE OR LESS A BOOSTERS CLUB. THEY  
16 GET TOGETHER WITH LOCAL FANS AND JOE COMES AND  
17 TALKS ABOUT PREVIOUS GAMES AND HE BRINGS PLAYERS.

18 Q. HOW LONG WERE YOU INVOLVED IN THE  
19 BOOSTER CLUB?

20 A. ACTUALLY I BEGAN TO GET INVOLVED WITH IT  
21 SHORTLY AFTER COMING TO TOWN BUT I WAS SO BUSY  
22 THAT PROBABLY BY 1985 I JUST DIDN'T HAVE TIME TO  
23 BE INVOLVED WITH IT ANYMORE.

24 Q. AND IN THE COURSE OF YOUR MEDICAL  
25 PRACTICE DID YOU COME INTO PROFESSIONAL CONTACT



1 WITH PATIENTS WITH SEVERAL OF PENN STATE'S  
2 ADMINISTRATORS AND EMPLOYEES?

3 A. I WOULD SAY OVER A PERIOD OF TIME I HAD  
4 AT LEAST ONE CONTACT OR A MORE SUSTAINED  
5 RELATIONSHIP, PHYSICIAN/PATIENT RELATIONSHIP,  
6 WITH A NUMBER OF PEOPLE. I SAW GRAHAM SPANIER.

7 Q. OKAY. WE ARE NOT GOING TO EVEN RUN A  
8 RISK OF REMOTELY VIOLATING HIPAA.

9 A. GOOD.

10 Q. SO WE WILL NOT GET INTO PATIENTS. I  
11 WANT TO NOW -- AFTER FEBRUARY 9, 2001, I WANT TO  
12 GO AHEAD A MONTH OR TWO AND ASK YOU IF YOU CAN  
13 RECALL A MEETING IN WHICH YOU AND GARY SCHULTZ  
14 AND JOHN MCQUEARY WERE PRESENT?

15 A. YES.

16 Q. AND WHERE WAS THAT MEETING?

17 A. IT WAS IN JOHN MCQUEARY'S OFFICE IN OUR  
18 OFFICE OF THE CENTRE MEDICAL SERVICES IN OUR  
19 OFFICE.

20 Q. SO JOHN MCQUEARY'S OFFICE IN YOUR  
21 MEDICAL BUILDING?

22 A. CORRECT.

23 Q. OKAY. WHAT WAS THE PURPOSE OF THE THREE  
24 OF YOU COMING TOGETHER ON THAT PARTICULAR DAY?

25 A. THE ORIGINAL PURPOSE OF THE MEETING PER

1 SE HAD TO DO WITH WORKING OUT A MASTERS  
2 AFFILIATION AGREEMENT BETWEEN WHAT WAS THEN  
3 CENTRE MEDICAL AND SURGICAL ASSOCIATES AND PENN  
4 STATE. SO IT WOULD HAVE BEEN AN AFFILIATION  
5 AGREEMENT THAT HAD TO DO WITH TEACHING, HAD TO DO  
6 WITH BRINGING MEDICAL STUDENTS AND RESIDENTS TO  
7 THE COMMUNITY. THAT TYPE OF RELATIONSHIP.

8 Q. YOU HAD KNOWN GARY SCHULTZ  
9 PROFESSIONALLY BECAUSE OF YOUR NUMBER OF  
10 PRACTICES WITH PENN STATE OVER THE NUMBER OF  
11 YEARS?

12 A. YES.

13 Q. WHAT HAPPENED AFTER THE BUSINESS PART OF  
14 THE MEETING WAS CONCLUDED?

15 A. BEFORE GARY CAME JOHN AND I HAD  
16 DISCUSSED THAT WE FELT THAT WE NEEDED SOME KIND  
17 OF FOLLOW UP ON MIKE'S REPORT TO PENN STATE ABOUT  
18 WHAT HAD OCCURRED ON THE NIGHT OF FEBRUARY 9TH.  
19 WE NEVER REALLY HEARD BACK FROM ANYONE. I AM NOT  
20 SURE THAT WE NECESSARILY DESERVED TO HEAR, JOHN  
21 AND I. MIKE MAY HAVE BUT WE HAD NEVER HEARD  
22 WHETHER OR NOT THE INCIDENT HAD BEEN INVESTIGATED  
23 AND WHAT HAD HAPPENED. SO THAT WAS THE PURPOSE  
24 OF, YOU KNOW, WHAT WE DID AFTER THE MEETING.  
25 ERIC WAS THERE AND IT WAS --

1 Q. WHAT HAPPENED AFTER THE MEETING?

2 A. AFTER THAT MEETING?

3 Q. WELL YOU SAID AFTER THE BUSINESS PART --

4 A. AFTER THE BUSINESS PART JOHN THEN WENT  
5 ONTO -- OR HE BROUGHT IT UP IN TERMS OF EXACTLY  
6 WHAT HAPPENED OR WHERE THE UNIVERSITY WAS IN THE  
7 PROCESS OF INVESTIGATING OR FOLLOW UP ON MIKE'S  
8 REPORT.

9 Q. AND DO YOU REMEMBER GARY SCHULTZ'S  
10 RESPONSE?

11 A. YES. THE FIRST THING HE SAID THAT --  
12 THE WORD HE USED I FOUND A LITTLE BIT CONFUSING.  
13 HE SAID THERE WERE RUMORS OF SIMILAR INCIDENTS OR  
14 A SIMILAR INCIDENT THAT OCCURRED IN THE PAST AND  
15 THEN WENT ON TO DESCRIBE AN INCIDENT THAT  
16 OCCURRED IN THE LATE 1990'S WHEN THERE WAS AN  
17 APPARENT RUMOR -- ALTHOUGH I THINK IT MAY HAVE  
18 BEEN AN ALLEGATION BECAUSE IT HAD APPARENTLY BEEN  
19 FOLLOWED UP BY AT LEAST CHILDREN AND YOUTH  
20 SERVICES, APPARENTLY THE DEPARTMENT OF PUBLIC  
21 WELFARE WAS INVOLVED, TWO POLICE FORCE WERE  
22 INVOLVED, THE UNIVERSITY AND STATE COLLEGE, THE  
23 DA'S HAD BEEN INVOLVED. SO CLEARLY IT MUST HAVE  
24 BEEN AN ALLEGATION BUT IT WAS INVESTIGATED AND  
25 THEY SAID THERE WAS NOTHING THAT HAD COME OF IT.

1 THE IMPLICATION ALSO -- AND HE WENT ON TO SAY  
2 THAT THEY WERE LOOKING INTO THE INCIDENT THAT  
3 MIKE REPORTED IN A SIMILAR FASHION, THAT THE  
4 ADMINISTRATION WAS TAKING IT SERIOUSLY, THAT I  
5 BELIEVE AT THAT TIME THE 1990'S INCIDENT HAD BEEN  
6 DISCUSSED WITH THE SECOND MILE BOARD. I THINK HE  
7 IMPLIED AT THAT TIME THAT SAME THING HAD HAPPENED  
8 THIS YEAR THAT THEY TALKED TO THE BOARD. SOMEONE  
9 FROM PENN STATE TALKED TO JERRY SANDUSKY AND  
10 CALLED HIM IN BUT BEYOND THAT I CAN'T RECALL THAT  
11 THERE WERE ANY OTHER AUTHORITIES OR ANYTHING THAT  
12 HAD BEEN NOTIFIED.

13 Q. DID JOHN MCQUEARY SAY ANYTHING WITH  
14 REGARD TO GARY'S EXPLANATION?

15 A. I THINK THE MAIN THINGS JOHN WANTED TO  
16 GET ACROSS IS THIS IS A SERIOUS ALLEGATION.

17 MS. CONRAD: OBJECTION. THIS WOULD BE  
18 HEARSAY, SIR.

19 THE COURT: MR. MCQUEARY IS GOING TO BE  
20 HERE, RIGHT?

21 MR. STROKOFF: HE IS.  
22 BY MR. STROKOFF:

23 Q. INSTEAD OF TELLING US THE MAIN POINT YOU  
24 ARE TRYING TO GET ACROSS TELL US WHAT BEST YOU  
25 CAN REMEMBER HE SAID.

1           A.    I JUST RECALL HIM SAYING THAT THIS WAS A  
2           POTENTIALLY SERIOUS INCIDENT THAT COULD HAVE  
3           SIGNIFICANT REPERCUSSIONS AND HE WAS CONCERNED IT  
4           WAS BEING LOOKED INTO IN A PROPER FASHION.

5           Q.    IS THERE ANYTHING ELSE YOU REMEMBER  
6           ABOUT THAT SAID MEETING?

7           A.    THE SECOND PART OF --

8           Q.    YEAH.  I AM SORRY.

9           A.    NOT SPECIFICALLY.  NO.

10           MR. STROKOFF:  PASS THE WITNESS, YOUR  
11           HONOR.

12                           CROSS-EXAMINATION

13           BY MS. CONRAD:

14           Q.    DR. DRANOV, I AM GOING TO MOVE TO THE  
15           PODIUM SO I CAN SEE YOU BETTER.

16           A.    I AM SORRY?

17           Q.    I AM GOING TO MOVE TO THE PODIUM SO I  
18           CAN SEE YOU BETTER.

19           THE COURT REPORTER:  CAN YOU PLEASE  
20           SPELL YOUR LAST NAME.

21           THE WITNESS:  D-R-A-N-O-V.

22           BY MS. CONRAD:

23           Q.    DR. DRANOV, GOOD AFTERNOON.  MY NAME IS  
24           NANCY CONRAD AND I REPRESENT THE PENNSYLVANIA  
25           STATE UNIVERSITY.  I BELIEVE YOU TESTIFIED THAT

1 YOU ARE A PHYSICIAN?

2 A. YES.

3 Q. AS A PHYSICIAN YOU ARE A MANDATED  
4 REPORTER, AREN'T YOU?

5 A. YES.

6 Q. AND THAT MEANS THAT YOU ARE REQUIRED TO  
7 REPORT SUSPECTED CHILD ABUSE, CORRECT?

8 A. UNDER CERTAIN CIRCUMSTANCES THAT WOULD  
9 BE CORRECT. THE INCIDENT THAT MIKE REPORTED TO  
10 ME WOULD NOT REALLY MEET THAT CRITERIA IN 2001  
11 AND FRANKLY EVEN WITH THE INCREASED CRITERIA THAT  
12 OCCURRED IN 2014 AND STILL DOES NOT MEET THEIR  
13 CRITERIA.

14 Q. SO IF I UNDERSTAND YOUR TESTIMONY BASED  
15 ON THE INFORMATION THAT YOU RECEIVED FROM  
16 MR. MCQUEARY IT DOES NOT RISE TO THE LEVEL THAT  
17 REQUIRED YOU TO REPORT IT AS SUSPECTED CHILD  
18 ABUSE?

19 A. SINCE I DID NOT SEE THE PATIENT AND I  
20 HAD NO INFORMATION ABOUT THE IDENTITY OF THE  
21 PATIENT, NOR DID THE PRESUMED PERPETRATOR OF THE  
22 INCIDENT REPORT SOMETHING TO ME, THEN IT DOES NOT  
23 MEET THE CRITERIA THAT WOULD BE REQUIRED FOR ME  
24 TO REPORT IT AS A MANDATED REPORTER.

25 Q. DID YOU CONSIDER IT WAS THE SMART OR

1 PRUDENT THING TO DO TO REPORT IT?

2 A. I THINK I CONSIDERED THE FACT THAT IT  
3 WAS A SMART AND PRUDENT THING FOR IT TO BE  
4 REPORTED AND AS A RESULT THAT LED TO OUR STRONG  
5 RECOMMENDATION TO MIKE THAT HE REPORT IT IN THE  
6 FASHION THAT IT'S SUPPOSED TO BE REPORTED AT PENN  
7 STATE OR AT LEAST IT WAS MY UNDERSTANDING AND  
8 THAT WAS DONE.

9 Q. BUT YOU DID NOT TELL MIKE MCQUEARY THAT  
10 IT WOULD BE A SMART OR PRUDENT THING FOR HIM TO  
11 REPORT IT?

12 A. I DIDN'T USE THAT TERM. I SIMPLY SAID  
13 YOU NEED TO REPORT IT.

14 Q. YOU DIDN'T TELL HIM THAT HE SHOULD  
15 REPORT IT TO CHILDREN AND YOUTH SERVICES, DID  
16 YOU?

17 A. NO. I DID NOT.

18 Q. YOU DID NOT TELL HIM HE SHOULD REPORT IT  
19 TO THE POLICE, DID YOU?

20 A. NO. I DID NOT.

21 Q. YOU DID NOT TELL HIM TO PICK UP THAT  
22 PHONE RIGHT THAT VERY INCIDENT -- AT THAT VERY  
23 TIME AND CALL CAMPUS SECURITY, DID YOU?

24 A. NO. I DID NOT.

25 Q. I BELIEVE WHAT YOU TESTIFIED ALL YOU

1 HEARD FROM MIKE MCQUEARY WAS THAT HE HEARD SEXUAL  
2 SOUNDS, IS THAT CORRECT?

3 A. THE REASON THAT HE SUSPECTED IT MIGHT  
4 HAVE BEEN A SEXUAL INCIDENT WAS BECAUSE OF THE  
5 SOUNDS HE HEARD BUT HE DID NOT TELL ME OR  
6 DESCRIBE TO ME ANYTHING THAT HE SAW THAT WAS  
7 SEXUAL.

8 Q. DID I HEAR YOU CORRECTLY THAT HE TOLD  
9 YOU HE BELIEVED IT WAS A SEXUAL INCIDENT?

10 A. HE NEVER USED THE TERM SEXUAL INCIDENT.  
11 HE SAID SEXUAL SOUNDS.

12 Q. AND BECAUSE OF THAT DESCRIPTION IS THAT  
13 WHAT LED YOU TO NOT TELL HIM OR INFORM HIM TO  
14 CALL CHILDREN AND YOUTH?

15 A. BECAUSE HE DID NOT VISUALIZE ANY TYPE OF  
16 INCIDENT OR SEE IT VISUALLY OR NOT TO IMMEDIATELY  
17 CALL THE POLICE. I THOUGHT THE INCIDENT WAS  
18 INAPPROPRIATE ENOUGH IT HAD TO BE REPORTED.

19 Q. BUT YOU DIDN'T THINK IT WAS  
20 INAPPROPRIATE ENOUGH TO TELL MR. MCQUEARY THAT  
21 NIGHT TO CALL THE POLICE?

22 A. NO.

23 Q. AND YOU DIDN'T THINK IT WAS THAT  
24 SIGNIFICANT TO TELL MR. MCQUEARY TO CALL CHILDREN  
25 AND YOUTH THAT NIGHT?



1 A. NO.

2 Q. AND YOU DIDN'T THINK THE INCIDENT WAS  
3 THAT SIGNIFICANT TO TELL MR. MCQUEARY TO CALL THE  
4 STATE COLLEGE POLICE THAT NIGHT?

5 A. NO.

6 Q. AND YOU DIDN'T THINK THE INCIDENT WAS  
7 THAT SIGNIFICANT TO TELL MR. MCQUEARY TO CALL THE  
8 STATE POLICE THAT NIGHT?

9 A. NO. I DON'T WANT TO GIVE YOU THE  
10 IMPLICATION THAT I DID NOT THINK IT WAS A SERIOUS  
11 INCIDENT. I DID. I FOLLOWED UP. WE LEFT TOWN  
12 THE NEXT DAY. I CAN'T RECALL IF I CALLED JOHN --  
13 OR MIKE'S FATHER BUT I FOLLOWED UP AS SOON AS I  
14 GOT BACK INTO TOWN TO MAKE SURE THAT HE HAD  
15 REPORTED IT TO PENN STATE AND OBVIOUSLY WE  
16 FOLLOWED UP WITH PENN STATE AND GARY SCHULTZ TO  
17 MAKE SURE THAT SOMETHING APPROPRIATE WAS BEING  
18 DONE.

19 Q. I UNDERSTAND YOUR TESTIMONY, SIR, BUT I  
20 AM ASKING YOU ABOUT THAT NIGHT. DID EITHER YOU  
21 OR MR. JOHN MCQUEARY SUGGEST TO MR. MCQUEARY,  
22 MIKE MCQUEARY, THAT I CALL SHOULD BE MADE THAT  
23 NIGHT TO DPW, TO THE STATE POLICE, TO CAMPUS  
24 POLICE?

25 A. I DID NOT MAKE THAT SUGGESTION TO HIM

1 AND I DON'T KNOW FI HIS DAD DID AT THE TIME WHEN  
2 I WAS NOT THERE.

3 Q. DURING THAT TIME THAT YOU WERE THERE DID  
4 YOU MAKE ANY SUGGESTION TO MR. MCQUEARY THAT YOU,  
5 HE, THE THREE OF YOU SHOULD GO BACK TO THE LASCH  
6 BUILDING TO DETERMINE IF THE YOUNG BOY WAS STILL  
7 THERE WITH JERRY SANDUSKY?

8 A. NO. AT THAT TIME. NO.

9 Q. DID YOU MAKE ANY SUGGESTION TO  
10 MR. MCQUEARY THAT HE, YOU, JOHN MCQUEARY, OR THE  
11 THREE OF YOU SHOULD RETURN TO LASCH TO DETERMINE  
12 IF THAT YOUNG BOY NEEDED ASSISTANCE?

13 A. NO. IT WAS OUR IMPRESSION THAT THE  
14 INCIDENT WAS OVER.

15 Q. BUT WHEN MR. MCQUEARY LEFT THE BUILDING  
16 HE DID NOT KNOW THE STATUS OF THE YOUNG BOY, DID  
17 HE?

18 A. I DON'T KNOW THE ANSWER TO THAT.

19 Q. AND DID YOU CONSIDER SUGGESTING TO  
20 MR. MCQUEARY, TO JOHN MCQUEARY, OR THE THREE OF  
21 YOU THAT YOU GO BACK TO LASCH TO DETERMINE IF THE  
22 YOUNG BOY WANTED ASSISTANCE?

23 A. NO.

24 Q. AND BASED ON THE INFORMATION THAT YOU  
25 RECEIVED FROM MR. MCQUEARY YOU TOOK NO FURTHER

1 ACTION THAT NIGHT?

2 A. THAT'S CORRECT.

3 Q. AND BASED ON THE INFORMATION YOU  
4 RECEIVED FROM MR. MCQUEARY YOU DID NOT SUGGEST TO  
5 MR. MCQUEARY THAT HE SHOULD -- MR. MIKE MCQUEARY  
6 SHOULD TAKE ANY FURTHER ACTION THAT NIGHT?

7 A. THAT'S CORRECT.

8 MS. CONRAD: THANK YOU. I HAVE NO  
9 FURTHER QUESTIONS.

10 REDIRECT EXAMINATION

11 BY MR. STROKOFF:

12 Q. SIR, YOU SAID THAT MIKE WAS QUIVERING,  
13 AND SHAKING, AND WHATEVER. WAS HE ABLE TO SPEAK  
14 COMPLETE SENTENCES WHEN YOU WERE ASKING SPECIFICS  
15 ABOUT WHAT HE SAW?

16 A. I WOULD SAY MOST OF IT WAS IN BROKEN  
17 SENTENCES.

18 Q. AND DID YOU EVER GET A CLEAR IDEA OF  
19 EVERYTHING THAT HE SAW BECAUSE OF THE CONDITION  
20 HE WAS IN?

21 A. CERTAINLY NOT THAT NIGHT.

22 MR. STROKOFF: NOTHING FURTHER, YOUR  
23 HONOR.

24 MS. CONRAD: I HAVE NO FURTHER  
25 QUESTIONS.

1 THE COURT: THANK YOU, DOCTOR. YOU ARE  
2 FREE TO GO ABOUT YOUR BUSINESS.

3 MR. STROKOFF: YOUR HONOR AT THIS TIME  
4 WE WERE GOING TO READ A DEPOSITION. WHEN I SAY  
5 AT THIS TIME I MEAN AFTER DR. DRANOV'S TESTIMONY.  
6 IT MIGHT RUN A LITTLE OVER 50 MINUTES.

7 THE COURT: A LITTLE OVER 50 MINUTES?

8 MR. STROKOFF: 50 MINUTES.

9 THE COURT: FIVE-ZERO?

10 MR. STROKOFF: IT'S HARD TO SAY. IT  
11 MIGHT NOT.

12 MS. CONRAD: WHAT IS THE TIME LISTING ON  
13 THE TRANSCRIPT? MIGHT BE A GOOD INDICATION.

14 MR. STROKOFF: THE DEPOSITION I BELIEVE  
15 ITSELF IS OVER AN HOUR AND A HALF BUT WE HAVE CUT  
16 OUT SOME STUFF.

17 MS. CONRAD: I DON'T KNOW THAT WE HAVE  
18 CUT OUT 30 MINUTES, SIR.

19 THE COURT: I WILL LEAVE IT YOUR CALL,  
20 MEMBERS OF THE JURY. WHAT'S GOING TO HAPPEN NOW  
21 WE ARE GOING TO HAVE A DEPOSITION READ TO YOU. A  
22 DEPOSITION IS A STATEMENT TAKEN UNDER OATH AND IT  
23 COULD BE USED AT TRIAL. IT MEANS THE PERSON DOES  
24 NOT HAVE TO BE HERE. SO WHAT'S GOING TO HAPPEN  
25 IS WE ARE GOING TO HAVE SOMEONE COME IN AND ONE

1 PERSON IS GOING TO ASK QUESTION AND THEN THE  
2 OTHER PERSON IS GOING TO READ THE ANSWER OF THE  
3 WITNESS. NOW THE DISADVANTAGE OF THE DEPOSITION  
4 IS YOU DON'T GET TO SEE THE PERSON, YOU DON'T GET  
5 TO LOOK THEM IN THE EYE, AND HOPEFULLY WE ARE NOT  
6 HAVING JOHN BARRYMORE AND SOMEBODY ELSE DOING THE  
7 READING ON BOTH SIDES OF THE QUESTION. SO WHAT  
8 YOU ARE DOING IS JUST HEARING QUESTION, ANSWER,  
9 QUESTION, ANSWER, AND WE HAVE TO GO THROUGH THAT  
10 PORTION OF THE DEPOSITION THAT THE PARTIES WANT  
11 READ. IF YOU WANT TO DO THAT IN THE MORNING AS  
12 OPPOSED TO A NEW DAY WITH IT I WILL BE GUIDED BY  
13 WHAT YOU FOLKS WANT TO DO OR IF YOU WANT TO GO  
14 AHEAD AND SIT HERE AND BE READ TO FOR THE NEXT 50  
15 MINUTES YOU CAN PUT YOUR COLLECTIVE HEADS  
16 TOGETHER FOR A SECOND AND DECIDE GET IT DONE.

17 GET IT DONE? OKAY. LET'S GO.

18 (WHEREUPON, A STRETCH BREAK IS TAKEN.)

19 MR. STROKOFF: MY OPENING LINE, YOUR  
20 HONOR --

21 THE COURT: YOUR OPENING LINE IS WHAT?  
22 YOU WANT HIM SWORN IN?

23 MR. STROKOFF: NO. MY OPENING LIKE IS  
24 WILL YOU SWEAR IN THE WITNESS AND THEN WE MOVE ON  
25 TO HIS ANSWER.

1 THE COURT: SO WE ARE NOT GOING TO SWEAR  
2 THE READER IN.

3 THE READER: I WILL DO MY BEST.

4 THE COURT: KEEP IN MIND IT'S QUARTER  
5 AFTER FOUR AND YOU ARE TRYING TO KEEP THEM AWAKE.

6 MR. STROKOFF: WILL YOU SWEAR IN  
7 WITNESS.

8 THE WITNESS: WITNESS HAS BEEN SWORN.  
9 KEEP GOING.

10 BY MR. STROKOFF:

11 Q. SIR, WOULD YOU STATE FOR THE RECORD  
12 YOUR NAME PLEASE?

13 A. DAVID JOYNER.

14 Q. AND YOUR CURRENT OCCUPATION?

15 A. I'M THE ATHLETIC DIRECTOR AT THE  
16 PENNSYLVANIA STATE UNIVERSITY.

17 Q. AND COULD YOU GIVE US A BRIEF  
18 SYNOPSIS OF YOUR EDUCATIONAL BACKGROUND?

19 A. SURE. I -- WELL, I GRADUATED FROM  
20 STATE COLLEGE HIGH SCHOOL. I WENT TO  
21 PENN STATE UNDERGRADUATE; WENT TO PENN  
22 STATE MEDICAL SCHOOL AND GRADUATED FROM  
23 THERE IN 1976, AND THEN AFTER MEDICAL  
24 SCHOOL THEN I DID MY RESIDENCY AT  
25 HERSHEY FOR FIVE YEARS AND I FINISHED MY

1 RESIDENCY IN 1981.

2 Q. AND THAT WAS AS AN ORTHOPEDIC?

3 A. YES, SIR.

4 Q. AND SINCE '81 WHAT WAS YOUR  
5 PROFESSION?

6 A. I WAS AN ORTHOPEDIC SURGEON,  
7 SPECIALIZING IN SPORTS MEDICINE AND SO,  
8 THEREFORE, -- AND I DID GENERAL  
9 ORTHOPEDICS AS WELL FOR QUITE A WHILE  
10 AND THEN CONTINUED DOING THAT UNTIL  
11 1999, BUT IN 1992 I FORMED A COMPANY  
12 THAT WAS A NATIONAL PHYSICAL THERAPY  
13 COMPANY AND ALSO WAS THE CEO OF THAT  
14 COMPANY UNTIL IT WAS SOLD IN 1998 TO  
15 NOVACARE.

16 Q. AND AFTER 1999?

17 A. IN 1988 -- IN '98 AND '99 -- I  
18 STOPPED DOING SURGERY IN 1999 AND THEN I  
19 HAD WORKED FOR NOVACARE FOR JUST ABOUT  
20 TWO YEARS AS NATIONAL DIRECTOR OF SPORTS  
21 MEDICINE, AND THEN I ALSO WAS DOING,  
22 BASICALLY, CONSULTING WORK AND SEEING A  
23 FEW PATIENTS THROUGHOUT THE WEEK.

24 Q. AND YOU WERE PRACTICING IN THE  
25 HARRISBURG AREA, WERE YOU NOT?

1 A. YES, SIR.

2 Q. SIR, THE COURT REPORTER HAS HANDED  
3 YOU A DOCUMENT THAT IS MARKED JOYNER  
4 DEPOSITION NUMBER 1. I WANT TO ASK YOU  
5 IF YOU ARE FAMILIAR WITH THAT DOCUMENT.

6 A. YES, SIR.

7 Q. AND IF YOU NOTICE ON THE SECOND PAGE  
8 THERE IS A REQUEST MADE THAT YOU BRING  
9 WITH YOU CERTAIN DOCUMENTS?

10 A. YES, SIR.

11 Q. DID YOU BRING THOSE DOCUMENTS WITH  
12 YOU TODAY?

13 A. ACTUALLY, I DON'T HAVE ANY DOCUMENTS  
14 OTHER THAN THOSE THAT ARE -- THAT WOULD  
15 BE HELD BY OUR HR DEPARTMENT.

16 Q. SO THAT OTHER THAN WHAT'S HELD BY  
17 THE HR DEPARTMENT YOU, YOURSELF, DON'T  
18 HAVE ANY DOCUMENTS, OR NOTES, OR RECORDS  
19 PERTAINING TO MICHAEL MCQUEARY'S  
20 ADMINISTRATIVE LEAVE, SEVERANCE, AND  
21 STUFF LIKE THAT?

22 A. NO, SIR. AND I WOULD QUALIFY THAT  
23 YOU HAVE HAD ACCESS TO E-MAILS, I  
24 IMAGINE, FROM OTHERS IN THE UNIVERSITY  
25 BACK-AND-FORTH BUT, OTHER THAN THAT, I



1 DON'T HAVE ANY NOTES.

2 Q. SIR, I WANT TO ASK YOU WHEN IT WAS  
3 THAT YOU FIRST BECAME AWARE THAT JERRY  
4 SANDUSKY MIGHT BE CHARGED WITH CRIMINAL  
5 ACTIVITY?

6 A. I BECAME AWARE WHEN THERE WAS A  
7 PATRIOT ARTICLE, I BELIEVE, IN THE  
8 SPRING OF 2011, WHEN I WAS LIVING IN  
9 HARRISBURG. THAT'S WHEN I SAW THAT.

10 Q. DID THAT ARTICLE PROMPT YOU TO  
11 ENGAGE IN ANY KIND OF FOLLOW-UP  
12 CONCERNING THE CONTENTS OF THE ARTICLE?

13 A. NO, SIR.

14 Q. WHEN DID YOU NEXT HEAR ABOUT THE  
15 POSSIBILITY OF CRIMINAL CHARGES BEING  
16 BROUGHT AGAINST MR. SANDUSKY?

17 A. WELL, A LONG TIME AGO. AS FAR AS MY  
18 MEMORY SERVES, OTHER THAN MAYBE SOME  
19 OTHER -- MAYBE -- I DON'T HAVE ANY  
20 SPECIFIC RECOLLECTION. MAYBE SOME  
21 THINGS THAT WERE, YOU KNOW, -- I WOULD  
22 FOLLOW UP IN THE NEWSPAPER FROM  
23 TIME TO TIME, BUT IT WOULD BE IN THE  
24 EARLY PART OF NOVEMBER OF 2011.

25 Q. AND IN WHAT CONTEXT DID YOU RECEIVE

1            THAT NOTIFICATION?

2            A.    I DON'T RECALL THE SPECIFICS OF THE  
3            CONTEXT BUT AS A MEMBER OF THE BOARD OF  
4            TRUSTEES I BELIEVE IT WAS ON OR ABOUT  
5            NOVEMBER 5TH OR SO THAT, YOU KNOW, WE  
6            RECEIVED NOTICE OF I BELIEVE HIS ARREST.

7            Q.    THE BOARD OF TRUSTEES AT PENN STATE?

8            A.    YES, SIR.

9            Q.    HOW LONG HAVE YOU BEEN ON THE BOARD  
10          OF TRUSTEES AT PENN STATE?

11          A.    SINCE 2000.

12          Q.    AND DO YOU STAND FOR ELECTION EVERY  
13          SO OFTEN?

14          A.    EVERY THREE YEARS.

15          Q.    SO THE NEXT NOTIFICATION YOU  
16          RECEIVED WAS A NOTIFICATION YOU RECEIVED  
17          ALONG WITH THE OTHER MEMBERS OF THE

18          BOARD?

19          A.    YES, SIR.

20          Q.    HOW MANY OF THE -- EXCUSE ME. HOW  
21          MANY MEMBERS OF THE BOARD WERE THERE?

22          A.    THERE ARE 32.

23          Q.    DID YOU RECEIVE THIS NOTIFICATION MY  
24          PHONE, BY E-MAIL, BY TEXT MESSAGE?

25          A.    I ACTUALLY DON'T RECALL. I DON'T

1 BELIEVE BY PHONE BUT --

2 Q. ALL RIGHT. WHEN DID YOU BECOME  
3 ATHLETIC DIRECTOR?

4 A. OFFICIALLY I BELIEVE THE DATE WAS  
5 NOVEMBER 17, 2011.

6 Q. AND HOW DID THAT COME ABOUT?

7 A. THE -- DR. ERICKSON TALKED TO ME AND  
8 BECAUSE OF A NEED IN THE DEPARTMENT FOR  
9 LEADERSHIP HE ASKED IF I WOULD ASSUME  
10 THAT ROLE TO HELP THE ATHLETIC  
11 DEPARTMENT AT PENN STATE UNIVERSITY.

12 Q. SO HE ASKED YOU ON -- WAS IT  
13 NOVEMBER 17TH?

14 A. NO. NOVEMBER 17TH, I BELIEVE, IS  
15 THE -- ON OR ABOUT THAT I BELIEVE THAT'S  
16 THE CORRECT DATE OF MY SIGNING OF  
17 MEMORANDUM UNDERSTANDING. WE HAD A  
18 CONVERSATION PROBABLY OR WE BEGAN HAVING  
19 A CONVERSATION JUST FOLLOWING THE BOARD  
20 MEETING. AS I RECALL, THAT WAS THE WEEK  
21 OF THE NEBRASKA GAME I BELIEVE BUT IT  
22 WAS A WEEK OR SO -- YOU KNOW, FIVE, SIX  
23 DAYS PRIOR TO THAT.

24 Q. I'M GOING TO REPRESENT TO YOU AND  
25 COUNSEL IS FREE TO CHALLENGE IT. I'M

1 JUST TRYING TO GET YOU EARLY AS TO DATES  
2 AND TIMES THAT FRIDAY WAS NOVEMBER THE  
3 4TH; SATURDAY WAS NOVEMBER THE 5TH; AND  
4 THE NEBRASKA GAME WAS NOVEMBER THE 12TH.

5 A. YES, OKAY.

6 Q. NOW THE 5TH YOU SAID --

7 A. WELL, IT MAY HAVE BEEN FRIDAY. I  
8 THINK IT WAS A FRIDAY THAT WE HAD  
9 NOTIFIED SO IF IT WAS FRIDAY THE 4TH I  
10 BELIEVE THAT'S CORRECT.

11 Q. AND YOU DON'T RECALL HOW YOU  
12 RECEIVED NOTICE BUT WHAT WAS THE NEXT  
13 THING THAT YOU DID AS A BOARD MEMBER?

14 A. WELL, WE HAD -- ON THAT WEEKEND  
15 THERE WAS A LOT OF THINGS GOING ON WITH  
16 THE BOARD. WE HAD SOME PHONE CALLS. I  
17 BELIEVE I WAS UP ON SUNDAY FOR AN IN  
18 PERSON MEETING. I BELIEVE THAT I WAS UP  
19 FOR AN IN PERSON MEETING OF THE BOARD  
20 AND SOME WERE ON THE PHONE. AND THEN WE  
21 HAD AT LEAST A COUPLE OF MORE MEETINGS  
22 EITHER BY PHONE OR IN PERSON COMING INTO  
23 THE WEDNESDAY OF THE FOLLOWING WEEK  
24 WHATEVER THAT DATE -- THE WEDNESDAY  
25 PRIOR TO THE NEBRASKA GAME.

1 Q. SO WEDNESDAY WOULD BE THE 9TH?

2 A. WELL, IT DEPENDS ON YOUR MATH.

3 Q. I NEVER DID WELL IN MATH. OKAY.

4 WHEN WAS IT USING THOSE DATES AND

5 MEETINGS THAT YOU HAD THE FIRST

6 DISCUSSION WITH DR. ERICKSON CONCERNING

7 THE POSSIBILITY OF BECOMING ATHLETIC

8 DIRECTOR?

9 A. I BELIEVE IT WAS FRIDAY OF THAT

10 WEEK.

11 Q. SO THAT WOULD HAVE BEEN THE 11TH?

12 A. ALL DEPENDING ON YOUR MATH, YES,

13 SIR.

14 Q. SO THAT WAS BASICALLY ONE WEEK AFTER

15 YOU RECEIVED NOTIFICATION OF THE

16 SANDUSKY CRIMINAL CHARGES?

17 A. THAT WOULD BE ACCURATE.

18 Q. DO YOU RECALL IF THIS DISCUSSION

19 WITH DR. ERICKSON WAS -- WELL, WHAT TIME

20 OF DAY WAS THIS?

21 A. I BELIEVE IT WAS IN THE AFTERNOON.

22 I CAN'T REMEMBER EXACTLY WHEN THE BOARD

23 MEETING WAS OVER ON THAT FRIDAY BUT I

24 BELIEVE WE HAD A -- SORT OF A DEBRIEF

25 AFTER OUR -- AFTER OUR TRUSTEE MEETING

1           AND I THINK THERE WAS A LUNCH THAT I WAS  
2           TALKING TO HIM, YOU KNOW, CASUAL.  
3           THERE WASN'T A LOT OF CASUAL BACK THEN  
4           BUT, YOU KNOW, IN A NONOFFICIAL  
5           CAPACITY RIGHT AFTER THAT.

6           Q.    WHEN YOU HAD THIS INITIAL  
7           DISCUSSION DO YOU KNOW WHETHER OR NOT  
8           YOU HAD BEEN ADVISED THAT MR. MCQUEARY  
9           HAD BEEN PLACED ON ADMINISTRATIVE LEAVE?

10          A.    YOU KNOW, EVERYTHING WAS MOVING SO  
11          FAST THAT WEEK.  I BECAME AWARE OF  
12          MR. MCQUEARY BEING ON ADMINISTRATIVE  
13          LEAVE SOME TIME WITHIN THAT TIMEFRAME  
14          BUT I HONESTLY CAN'T -- I CAN'T RECALL  
15          THE EXACT TIME.  I MEAN, IT MAY NOT HAVE  
16          BEEN RIGHT THEN.  IT MAY HAVE BEEN AFTER  
17          BUT I HONESTLY DON'T RECALL.

18          Q.    DO YOU RECALL A RELEASE FROM  
19          DR. ERICKSON TO THE PUBLIC ABOUT  
20          MR. MCQUEARY WAS BEING PLACED ON  
21          ADMINISTRATIVE LEAVE?

22          A.    I RECALL.

23                MR. STROKOFF:  I BELIEVE THE WITNESS IS  
24                SUPPOSED TO CONTINUE.

25                THE WITNESS.  OKAY.  I RECALL BECOMING

1           AWARE THAT HE WAS ON ADMINISTRATIVE  
2           LEAVE. I'M NOT SURE WHETHER I READ IT  
3           IN THE NEWSPAPER OR READ THE RELEASE AT  
4           THE TIME. THERE WERE A LOT OF THINGS  
5           GOING ON IN A VERY QUICK FASHION THAT  
6           WEEK.

7           Q. WELL, ON NOVEMBER 11, 2011, YOU KNEW  
8           WHO MIKE MCQUEARY WAS, RIGHT?

9           A. YES, SIR.

10          Q. OKAY. HOW LONG HAD YOU KNOWN MIKE?

11          A. I'VE PROBABLY KNOWN MIKE SINCE -- OR  
12          KNOWN OF HIM AND I'VE KNOWN HIM,  
13          OBVIOUSLY, BUT PROBABLY SINCE THE EARLY  
14          '90S, I'M GUESSING. I MEAN, I KNEW  
15          ABOUT MIKE WHEN HE WAS PLAYING HERE.

16          Q. DID YOU KNOW ABOUT HIM WHEN HE WAS  
17          PLAYING AT STATE COLLEGE HIGH SCHOOL?

18          A. I KNEW HE WAS FROM STATE COLLEGE,  
19          YES, SIR.

20          Q. AND I BELIEVE YOU SAID YOU WERE  
21          ORIGINALLY FROM STATE COLLEGE?

22          A. I WAS BUT IN HERSHEY MORE-OR-LESS  
23          SINCE I WENT TO MEDICAL SCHOOL IN  
24          1972.

25          Q. SO YOU DIDN'T COME BACK TO HIGH

1 SCHOOL FOOTBALL GAMES?

2 A. NOT VERY OFTEN.

3 Q. WHEN WAS THE FIRST TIME YOU HEARD  
4 MIKE MCQUEARY'S NAME IN CONNECTION WITH  
5 THE SANDUSKY MATTER?

6 A. I HONESTLY CAN'T REMEMBER. I MEAN,  
7 IT WAS IN THAT TIME FRAME SOMETIME  
8 BETWEEN THE HARRISBURG PATRIOT ARTICLE  
9 AND THE NOVEMBER 11TH DATE BUT I  
10 HONESTLY DON'T REMEMBER WHAT THE  
11 SPECIFICS WERE.

12 I MEAN, IF IT WAS MENTIONED IN THE  
13 ARTICLE THEN I WOULD HAVE -- YOU KNOW, I  
14 WOULD HAVE UNDERSTOOD IT BACK IN THAT  
15 ARTICLE IN THE SPRING BUT I DON'T KNOW  
16 IF IT WAS AND I DON'T REMEMBER.

17 Q. WELL I'M GOING TO REPRESENT TO YOU  
18 THAT HIS NAME WAS NOT MENTIONED IN THAT  
19 SPRING 2011 ARTICLE.

20 A. OKAY.

21 Q. OKAY. YOU DON'T HAVE ANY BETTER  
22 RECOLLECTION AS TO WHEN YOU FIRST FOUND  
23 OUT THAT MR. MCQUEARY WAS THE GRAD  
24 STUDENT WHO WITNESSED THE ASSAULT?

25 A. ACTUALLY, NO, SIR, I DON'T. IT WAS



1                   OBVIOUSLY IN THAT -- IN THE -- IF IT  
2                   WASN'T IN THAT PAPER IT WAS LIKELY IN A  
3                   -- IN A REASONABLE TIGHT TIME FRAME  
4                   SURROUNDING ALL THE EVENTS THAT WERE  
5                   OCCURRING IN NOVEMBER, BUT THERE WERE SO  
6                   MANY THINGS GOING ON SO FAST I DON'T  
7                   HAVE A SPECIFIC RECOLLECTION OF THE  
8                   EXACT NATURE OF HOW I BECAME AWARE.  
9                   Q.   WITH RESPECT TO THESE -- THE BOARD  
10                  MEETING THAT YOU'VE REFERRED TO WERE  
11                  MINUTES KEPT OF THOSE MEETINGS?  
12                  A.   YES, SIR.  
13                  Q.   AND WHO KEEPS THE MINUTES OF THESE  
14                  MEETINGS?  
15                  A.   THE BOARD OF TRUSTEES OFFICE.  
16                  Q.   ARE THERE VERBATIM TAPES KEPT OF  
17                  THOSE MEETINGS?  
18                  A.   THAT I CAN'T -- THAT I DON'T KNOW.  
19                  Q.   WELL, WHEN DO YOU RECALL MR.  
20                  MCQUEARY'S NAME FIRST SURFACING AT A  
21                  BOARD MEETING?  
22                  MS. CONRAD:  OBJECTION.  IF IT SURFACED?  
23                  THE WITNESS:  I DON'T RECALL ONE WAY OR  
24                  THE OTHER WHETHER IT DIDN'T -- WHETHER  
25                  IT DID SURFACE AT A BOARD MEETING OR

1 NOT.

2 BY MR. STROKOFF:

3 Q. WERE YOU AT ALL THE BOARD MEETINGS  
4 THAT WERE HELD BEGINNING -- OR I SHOULD  
5 SAY FROM THE TIME FRAME OF  
6 NOVEMBER 5TH, 2011, THROUGH NOVEMBER 11,  
7 2011?

8 A. I WOULD HAVE BEEN EITHER BY PHONE OR  
9 IN PERSON.

10 Q. AND YOU'RE SAYING YOU DON'T RECALL  
11 HIS NAME BEING MENTIONED AT A BOARD  
12 MEETING?

13 A. NO. WHAT I'M SAYING IS THAT IN THAT  
14 TIMEFRAME I BECAME AWARE OF MIKE  
15 MCQUEARY -- OBVIOUSLY I WAS AWARE OF  
16 MIKE MCQUEARY AS AN INDIVIDUAL PRIOR TO  
17 THAT BUT I BECAME AWARE OF MIKE MCQUEARY  
18 AS IT RELATES TO WHAT HAPPENED IN  
19 THE -- AND WHAT WENT ON IN THAT  
20 TIMEFRAME BUT I DON'T RECALL WHAT DAY,  
21 WHAT TIME, AND BY WHAT MEANS THAT I  
22 BECAME AWARE.

23 Q. WHAT DO YOU KNOW ABOUT THE DECISION  
24 TO PLACE MR. MCQUEARY ON ADMINISTRATIVE  
25 LEAVE?

1 A. I WAS NOT SPECIFICALLY INVOLVED IN  
2 THAT DECISION BUT, BASED ON MY  
3 UNDERSTANDING, IT WAS FOR HIS SAFETY.

4 Q. AND WHERE DID YOU GET THAT  
5 UNDERSTANDING FROM?

6 A. I, UH, -- I DON'T RECALL  
7 SPECIFICALLY BUT -- I DON'T KNOW IF IT  
8 WAS IN THE NEWSPAPER OR IF IT WAS  
9 MENTIONED AT SOME POINT IN THE  
10 DISCUSSIONS THAT WE MAY HAVE HAD.

11 Q. SO, SIR, ARE YOU SAYING THAT YOU DID  
12 NOT PARTICIPATE IN ANY DELIBERATIONS AS  
13 TO WHETHER OR NOT  
14 MR. MCQUEARY SHOULD BE PLACED ON  
15 ADMINISTRATIVE LEAVE?

16 A. WELL, THAT'S NOT A BOARD FUNCTION  
17 ANYWAY AND SO THAT WOULD BE A FUNCTION  
18 OF THE ADMINISTRATION. SO THE BOARD  
19 WOULD NOT HAVE PURVIEW OVER THAT BUT I  
20 OBVIOUSLY HEARD IN THIS TIME FRAME AT  
21 SOME POINT THAT HE WAS PLACED ON  
22 ADMINISTRATIVE LEAVE.

23 Q. AND YOU DON'T KNOW WHO MADE THAT  
24 DECISION?

25 A. NO, SIR.

1 Q. BUT YOU ARE SAYING THAT IT WAS NOT  
2 THE BOARD OF TRUSTEES?

3 A. IT WOULD NOT BE THE BOARD OF  
4 TRUSTEES DUTY TO DO THAT. THAT'S AN  
5 ADMINISTRATIVE --

6 Q. AND THAT PART EVERYBODY AGREES ON.  
7 I JUST WANT TO -- I'M TRYING TO GET A  
8 SPECIFIC ANSWER. TO THE BEST OF YOUR  
9 KNOWLEDGE, THE BOARD OF TRUSTEES DID NOT  
10 HAVE INPUT INTO THE DECISION TO PLACE  
11 MR. MCQUEARY ON ADMINISTRATIVE LEAVE?

12 A. TO THE BEST OF MY KNOWLEDGE, THAT IS  
13 -- THAT THE BOARD OF TRUSTEES DID NOT  
14 HAVE INPUT INTO PLACING MR. MCQUEARY ON  
15 ADMINISTRATIVE LEAVE.

16 Q. NOW YOU MENTIONED THAT THERE ARE 32  
17 MEMBERS OF THE BOARD OF TRUSTEES. NOW  
18 AT SOMETIME ON OR SHORTLY AFTER NOVEMBER  
19 5, 2011, WAS A SUBCOMMITTEE APPOINTED TO  
20 DEAL WITH THIS MATTER AS OPPOSED TO THE  
21 WHOLE BOARD?

22 MS. CONRAD: OBJECTION. WHAT DO YOU  
23 MEAN BY THIS MATTER?

24 MR. STROKOFF: YOU KNOW, THE FALLOUT  
25 FROM THE SANDUSKY, SCHULTZ, AND CURLEY

1 ARRESTS.

2 THE WITNESS: THERE WAS A -- AT SOME  
3 POINT, I DON'T RECALL IT WAS DURING THIS  
4 WEEK BUT PRIOR TO MY LEAVING THE BOARD  
5 OF TRUSTEES, WHICH I SUSPENDED MY  
6 MEMBERSHIP WHEN I BECAME AN EMPLOYEE, SO  
7 SOMETIME PRIOR TO THE 17TH I BELIEVE  
8 THAT A SUBCOMMITTEE WAS FORMED TO LOOK  
9 INTO -- YOU KNOW, HOW DO WE INVESTIGATE  
10 THIS INTERNALLY? HOW DO WE PROCEED? I  
11 WAS NOT ON THAT -- I WAS NOT ON THAT  
12 COMMITTEE.

13 BY MR. STROKOFF:

14 Q. THAT WAS MY NEXT QUESTION. YOU WERE  
15 NOT ON THAT COMMITTEE?

16 A. NO, SIR.

17 Q. WERE YOU ON ANY BOARD COMMITTEES UP  
18 UNTIL THE TIME YOU SUSPENDED YOUR  
19 MEMBERSHIP?

20 A. I WAS ON -- I DON'T REMEMBER WHAT WE  
21 CALLED THEM BACK THEN; THEY CHANGED IT  
22 QUITE A BIT. ALL OF US, FROM  
23 TIME-TO-TIME, WILL SERVE ON A COMMITTEE.  
24 I WAS ON THE -- I CAN'T EVEN REMEMBER  
25 WHAT THEY CALL IT BUT IT HAD TO DO WITH

1 THE EDUCATIONAL MATTERS. I WAS ON THAT  
2 COMMITTEE.

3 I WAS ON CAMPUS LIFE COMMITTEE AT ONE  
4 POINT. I'D HAVE TO LOOK BACK TO SEE  
5 WHICH COMMITTEES I WAS ON AT THAT TIME.

6 Q. OKAY. SO YOU OFFICIALLY BEGAN AS  
7 ATHLETIC DIRECTOR OR WAS IT ACTING  
8 ATHLETIC DIRECTOR?

9 A. IT WAS ACTING ATHLETIC DIRECTOR AT  
10 THAT TIME.

11 Q. AND THAT WAS NOVEMBER 17TH, 2011?

12 A. I BELIEVE THAT'S CORRECT.

13 Q. AND DID THERE COME A POINT IN TIME  
14 WHEN THE ACTING WAS REMOVED FROM YOUR  
15 TITLE?

16 A. IT WAS REMOVED IN JANUARY OF THIS  
17 YEAR I BELIEVE.

18 Q. NOW YOU MADE REFERENCE TO A  
19 MEMORANDUM OF UNDERSTANDING THAT YOU  
20 ENTERED INTO I GUESS IN NOVEMBER OF  
21 2011?

22 A. YES, SIR.

23 Q. IS THAT A CONTRACT WITH A SPECIFIC  
24 TERM?

25 A. NO. IT DOESN'T HAVE A TERM ON IT.

1 IT HAS -- AS A MATTER OF FACT, IT HAS A  
2 30-DAY NOTICE.

3 Q. OKAY. AND WHAT ABOUT ONCE YOU  
4 BECAME THE ATHLETIC DIRECTOR; IS THERE A  
5 CONTRACT THERE?

6 A. THERE'S ANOTHER, YOU KNOW, LETTER  
7 THAT SAYS -- THAT MEMORIALIZES THAT I  
8 WAS APPOINTED AND THAT I WOULD SERVE  
9 CONCURRENT WITH DR. ERICKSON.

10 Q. SO WHEN YOU CAME ON NOVEMBER 17,  
11 2011, DID YOU CONDUCT ANY INVESTIGATION  
12 ON YOUR PART WITH RESPECT TO  
13 MR. MCQUEARY WHO, AT THAT TIME, WAS ON  
14 ADMINISTRATIVE LEAVE?

15 MS. CONRAD: JUST SO I UNDERSTAND, DID  
16 DR. JOYNER --

17 MR. STROKOFF: YES.

18 MS. CONRAD: -- CONDUCT AN INVESTIGATION  
19 WITH RESPECT TO MR. MCQUEARY?

20 MR. STROKOFF: THAT'S CORRECT.

21 THE WITNESS: NO, SIR.

22 BY MR. STROKOFF:

23 Q. DID YOU AUTHORIZE THAT ANY  
24 INVESTIGATION BE CONDUCTED WITH RESPECT  
25 TO MR. MCQUEARY?

1 A. NO, SIR.

2 Q. WHAT WAS YOUR UNDERSTANDING OF HIS  
3 STATUS WHEN HE WAS ON ADMINISTRATIVE  
4 LEAVE?

5 A. MY UNDERSTANDING WAS THAT HE WAS ON  
6 ADMINISTRATIVE LEAVE AND WAS TO DO NO  
7 WORK WHICH, BASICALLY, IS WHAT  
8 ADMINISTRATIVE LEAVE MEANS.

9 Q. I UNDERSTAND THAT. BUT YOU ALSO  
10 UNDERSTAND HE WAS ON PAID ADMINISTRATIVE  
11 LEAVE; IS THAT CORRECT?

12 A. YES. YES, SIR.

13 Q. OKAY. WHAT, IF ANY, DUE DILIGENCE  
14 DID YOU DO WITH RESPECT TO THE FOOTBALL  
15 PROGRAM WHICH, AT THAT TIME, WAS KIND OF  
16 WINDING TO THE END OF THE SEASON?

17 MS. CONRAD: WHAT DO YOU MEAN BY DUE  
18 DILIGENCE?

19 BY MR. STROKOFF:

20 Q. WELL YOU USED TO PLAY FOR PENN  
21 STATE, RIGHT?

22 A. YES, SIR.

23 Q. BUT YOU NEVER COACHED FOR PENN  
24 STATE?

25 A. NO, SIR.



1 Q. ALL RIGHT. YOU KNEW SOME OF THE  
2 INDIVIDUALS WHO WERE INVOLVED WITH  
3 COACHING THE PENN STATE FOOTBALL TEAM IN  
4 2011, DID YOU NOT?

5 A. YES.

6 Q. AND YOU ATTENDED GAMES, RIGHT?

7 A. YES.

8 Q. WHEN YOU BECAME ATHLETIC DIRECTOR  
9 DID YOU MEET WITH THE COACHES, FOR  
10 INSTANCE?

11 A. I WOULD MEET WITH THE COACHES FROM  
12 TIME-TO-TIME BUT I DON'T RECALL THE  
13 SPECIFIC TIMES. I WORKED VERY CLOSELY  
14 WITH TOM BRADLEY WHO WAS NAMED THE  
15 INTERIM HEAD COACH, AND WE WERE IN A --  
16 YOU KNOW, IT WAS A WARZONE. WE WERE  
17 TRYING TO SURVIVE EVERY DAY AND SO WE  
18 WERE REALLY IN CRISIS MANAGEMENT.  
19 SO WE WERE IN A CRISIS MANAGEMENT  
20 SITUATION AND WE WERE TRYING TO CONDUCT  
21 THE FOOTBALL PROGRAM AND MAINTAIN ANY  
22 KIND OF STABILITY THAT WE COULD  
23 THROUGHOUT THE REMAINDER OF THE SEASON  
24 AND, AT THE SAME TIME, STARTED A SEARCH  
25 FOR A NEW HEAD COACH AND THAT WAS OUR

1 FOCUS.

2 Q. WELL YOU CAME ON-BOARD JUST BEFORE  
3 THE OHIO STATE GAME; ISN'T THAT CORRECT?

4 A. I BELIEVE THAT'S CORRECT, YES.

5 Q. AND THEN AFTER THE OHIO STATE GAME  
6 WAS ONE MORE GAME?

7 A. THE WISCONSIN GAME, I BELIEVE, YES.

8 Q. DID YOU HAVE ANY DISCUSSION WITH  
9 COACH BRADLEY CONCERNING MIKE MCQUEARY?

10 A. NOT THAT I RECALL.

11 Q. DID YOU HAVE ANY DISCUSSION ABOUT  
12 MIKE MCQUEARY WITH ANY OF THE OTHER  
13 FOOTBALL COACHES?

14 A. NOT THAT I RECALL.

15 Q. DID YOU HAVE ANY DISCUSSIONS ABOUT  
16 MIKE MCQUEARY WITH ANY OF THE OTHER  
17 FOOTBALL OPERATIONS STAFF?

18 A. NOT THAT I RECALL.

19 Q. NOW PENN STATE DID GO TO -- I THINK  
20 IT'S CALLED THE TICKETCITY BOWL?

21 A. YES, SIR.

22 Q. AND IT'S IN HOUSTON -- AND IT'S IN  
23 HOUSTON THAT YEAR?

24 A. YES, SIR.

25 Q. OKAY. WERE YOU INVOLVED IN THAT

1 DECISION AS TO WHETHER OR NOT TO GO TO A  
2 BOWL?

3 A. YES.

4 Q. AND WHAT WAS YOUR INVOLVEMENT  
5 IN THAT?

6 A. WELL, I'M THE HEAD FOOTBALL COACH  
7 AND -- EXCUSE ME, I'M THE ATHLETIC  
8 DIRECTOR AT THAT TIME -- ACTING ATHLETIC  
9 DIRECTOR AND, ULTIMATELY, A LARGE PART  
10 OF THE DECISION WOULD FALL ON MY  
11 SHOULDERS.

12 Q. AND DO YOU RECALL -- SCRATCH THAT.  
13 DO YOU REMEMBER WHEN THAT BOWL GAME WAS  
14 HELD APPROXIMATELY?

15 A. THE END OF DECEMBER. I WOULD HAVE  
16 TO CHECK THE RECORDS.

17 Q. THAT WAS NOT A NEW YEAR'S DAY BOWL?

18 A. I DON'T BELIEVE IT WAS.

19 Q. NOW DID YOU BECOME AWARE, SIR, --  
20 DID YOU BECOME AWARE THAT IN THE PAST  
21 YEARS AT THE END OF THE CALENDAR YEAR  
22 ASSISTANT FOOTBALL COACHES WOULD BE  
23 PROVIDED WITH A BONUS DEPENDING UPON,  
24 AMONG OTHER THINGS, WHETHER OR NOT THE  
25 TEAM WENT TO A BOWL?

1 A. I BECAME AWARE THAT WE PAID BOWL  
2 BONUSES.

3 Q. AND HOW DID YOU BECOME AWARE OF  
4 THAT?

5 A. IN A DISCUSSION ABOUT HOW WE WERE --  
6 WHAT AMOUNT OF MONIES WERE WE GOING TO  
7 ALLOCATE FOR A BOWL BONUS.

8 Q. SO THIS IS THE FIRST YOU BECAME  
9 AWARE ABOUT BOWL BONUSES WAS AFTER YOU  
10 BECAME ATHLETIC DIRECTOR?

11 A. YES, SIR.

12 Q. AND WHO DID YOU HAVE THAT DISCUSSION  
13 WITH?

14 A. RICK KALUZA, I BELIEVE. WE HAD TO  
15 USE OUR ASSISTANT -- ASSOCIATE AD FOR  
16 FINANCE AND BUSINESS.

17 Q. AND DID YOU DISCUSS BOWL BONUSES  
18 WITH ANYBODY OTHER THAN MR. KALUZA?

19 A. I LIKELY -- I BELIEVE I DISCUSSED  
20 THEM WITH ERIKKA RUNKLE IN OUR HR  
21 DEPARTMENT.

22 Q. AND DID YOU DISCUSS WITH EITHER OF  
23 THOSE TWO INDIVIDUALS WHETHER OR NOT MR.  
24 MCQUEARY SHOULD RECEIVE A BOWL BONUS?

25 A. LIKELY BOTH OF THEM.

1 Q. AND DO YOU RECALL WHETHER OR NOT HE  
2 RECEIVED A BOWL BONUS?

3 A. HE DID NOT.

4 Q. AND DO YOU RECALL WHAT THE RATIONALE  
5 WAS FOR THAT DECISION?

6 A. HE WASN'T PARTICIPATING IN THE BOWL.

7 Q. TO THE BEST OF YOUR KNOWLEDGE, DID  
8 THE ASSISTANT COACHES RECEIVE THE SAME  
9 AMOUNT FOR A BOWL BONUS?

10 A. THERE WERE VARYING -- I MEAN,  
11 THERE'S A RECORD OF THAT. THERE WERE  
12 VARIED AMOUNTS GIVEN TO DIFFERENT STAFF  
13 MEMBERS, INCLUDING ASSISTANT COACHES SO  
14 WITHOUT HAVING THAT REFERENCE HERE, BUT,  
15 YES.

16 Q. DO YOU REMEMBER GENERALLY WHAT THE  
17 BASIS WAS FOR DIFFERENTIATING THEM? DO  
18 YOU KNOW?

19 A. NO, I DON'T.

20 Q. DO YOU REMEMBER WHAT THE RANGE OF  
21 THE AMOUNT WAS?

22 A. I DON'T WITHOUT HAVING IT IN FRONT  
23 OF ME.

24 Q. WAS IT YOUR UNDERSTANDING THAT WHAT  
25 YOU REFER TO AS BOWL BONUSES WERE FOR

1 ACTUALLY GOING TO THE BOWL, OR THE  
2 RECORD FOR THE ENTIRE SEASON, OR WHAT?

3 A. MY FEELING WAS IT WAS FOR  
4 PARTICIPATION IN THE BOWL.

5 Q. NOW YOU MADE REFERENCE TO THE FACT  
6 THAT ONE OF THE THINGS ON YOUR PLATE WAS  
7 TO TRY TO FIND A NEW HEAD FOOTBALL  
8 COACH; IS THAT CORRECT?

9 A. THAT IS CORRECT.

10 Q. YOU FOUND ONE?

11 A. THAT'S CORRECT.

12 Q. AND I DON'T WANT TO PROBE INTO THE  
13 DETAILS OF YOUR DISCUSSIONS. THERE MAY  
14 HAVE BEEN JUST ONE DISCUSSION. I DON'T  
15 WANT TO KNOW THE NUMBER OF DISCUSSIONS  
16 YOU HAD WITH COACH O'BRIEN BUT I DO WANT  
17 TO KNOW WHETHER OR NOT YOU DISCUSSED  
18 MIKE MCQUEARY AT ALL WITH COACH O'BRIEN.

19 A. I DON'T RECALL EVER DISCUSSING MIKE  
20 SPECIFICALLY WITH COACH O'BRIEN.

21 Q. DID YOU DISCUSS ASSISTANT COACHES IN  
22 GENERAL WITH COACH O'BRIEN? BY  
23 ASSISTANT COACHES I MEAN THE INCUMBENT  
24 PENN STATE ASSISTANT COACHES.

25 MS. CONRAD: YOU MEAN ANYONE IN

1 PARTICULAR OR IN GENERAL, OR BOTH?

2 MR. STROKOFF: ANY OF THE INCUMBENT OR  
3 ALL OF THE INCUMBENT HEAD AND ASSISTANT  
4 COACHES.

5 THE WITNESS: WE HAD A GENERAL  
6 DISCUSSION ABOUT THE FACT THAT BILL  
7 O'BRIEN HAD FOR A LONG TIME BEEN  
8 PLANNING ON BEING A HEAD COACH, AND  
9 BEING THE ORGANIZED PERSON THAT HE IS HE  
10 HAD HIS ASSISTANT COACH ROSTER PRETTY  
11 MUCH SET BEFORE HE EVEN SHOWED UP HERE.  
12 AND SO WE DISCUSSED THAT -- AND WE  
13 DISCUSSED THAT, THAT HE WOULD LIKE TO  
14 HAVE COURTESY INTERVIEWS WITH THE  
15 SITTING ASSISTANT COACHES.

16 BY MR. STROKOFF:

17 Q. HE SAID HE WOULD LIKE TO HAVE THOSE  
18 INTERVIEWS. WERE YOU AGREEABLE WITH  
19 THAT?

20 A. I WAS AGREEABLE AND I PROBABLY WAS  
21 EVEN SUGGESTIBLE TO DOING THAT.

22 Q. BUT YOU DID NOT SUGGEST THAT HE HAVE  
23 AN INTERVIEW WITH MR. MCQUEARY?

24 A. I DON'T RECALL EVEN DISCUSSING THAT  
25 WITH HIM.

1 Q. DO YOU RECALL WHETHER OR NOT MR.  
2 MCQUEARY WAS OFFERED THE COURTESY OF AN  
3 INTERVIEW WITH MR. O'BRIEN?

4 A. I DON'T, BUT I DON'T BELIEVE THAT  
5 THAT OCCURRED.

6 Q. AND WHY DON'T YOU BELIEVE THAT THAT  
7 OCCURRED?

8 A. HE WAS ON ADMINISTRATIVE LEAVE  
9 SO TO ME THAT WAS A LOGICAL REASON WHY,  
10 PERHAPS, HE WASN'T GOING TO BE, IN  
11 RETROSPECT.

12 Q. THIS STATUS OF MR. MCQUEARY BEING ON  
13 ADMINISTRATIVE LEAVE, AT ANY POINT IN  
14 TIME DID YOU LOOK INTO THE POSSIBILITY  
15 OF BRINGING HIM BACK FROM ADMINISTRATIVE  
16 LEAVE?

17 A. NO, SIR.

18 Q. WHY NOT?

19 A. BECAUSE I WASN'T THE ONE THAT PLACED  
20 HIM ON ADMINISTRATIVE LEAVE AND SO I DID  
21 NOT THINK OF THE POSSIBILITY OF TAKING  
22 HIM BACK OR BRINGING HIM BACK.

23 Q. WHO DID YOU UNDERSTAND PLACED HIM ON  
24 ADMINISTRATIVE LEAVE?

25 A. I DON'T KNOW WHO SPECIFICALLY PLACED



1 HIM ON ADMINISTRATIVE LEAVE. IT  
2 PROBABLY -- IT WOULD HAVE BEEN LIKELY --  
3 IT WOULD HAVE BEEN LIKELY MARK SHERBURNE  
4 BECAUSE THAT WOULD HAVE FALLEN TO THE  
5 INTERIM ATHLETIC DIRECTOR.

6 Q. ARE YOU SAYING, SIR, THAT YOU  
7 BELIEVE IT SHOULD HAVE BEEN MARK  
8 SHERBURNE?

9 A. NO, I BELIEVE IT WAS.

10 Q. ALL RIGHT. DO YOU BELIEVE HE WAS  
11 THE INDIVIDUAL WHO MADE THE DECISION TO  
12 PLACE MR. MCQUEARY ON ADMINISTRATIVE  
13 LEAVE?

14 A. ULTIMATELY HE WOULD HAVE BEEN.

15 Q. BUT THAT'S YOUR BELIEF?

16 A. YES, SIR.

17 Q. BECAUSE THAT'S THE WAY IT SHOULD  
18 HAVE BEEN DECIDED?

19 MR. STROKOFF: I THINK WITNESS MAY  
20 CONTINUE.

21 THE WITNESS: I SEE ONE MORE QUESTION  
22 THERE.

23 BY MR. STROKOFF:

24 Q. IT'S THE ATHLETIC DIRECTOR -- I'M  
25 SORRY -- IS THE ONE WHO WOULD NORMALLY

1 MAKE THE DECISION TO PLACE A COACH OR AN  
2 ASSISTANT COACH ON ADMINISTRATIVE LEAVE,  
3 CORRECT?

4 A. SINCE I'VE BEEN HERE, IN THE NORMAL  
5 COURSE OF DOING BUSINESS, I WOULD BE THE  
6 ONE TO MAKE A DECISION ABOUT PUTTING  
7 SOMEONE ON ADMINISTRATIVE LEAVE.

8 THEREFORE, MY BELIEF WOULD BE THAT  
9 LOGICALLY IT WOULD BE MR. SHERBURNE WHO  
10 WOULD HAVE DONE THAT.

11 MR. STROKOFF:

12 Q. BECAUSE THAT'S THE WAY YOU WOULD  
13 HAVE DONE IT, THAT'S WHAT YOU MEAN?

14 A. THE WAY I WOULD DO IT NOW IS I WOULD  
15 BE THE ONE TO MAKE THE DECISION AND HAVE  
16 THE DISCUSSION.

17 Q. SINCE NOVEMBER 17TH, 2011, HAVE YOU  
18 PLACED ANYONE ON ADMINISTRATIVE LEAVE?

19 A. I'VE DONE A NUMBER OF PERSONNEL  
20 MATTERS. I DON'T RECALL THAT WE PLACED  
21 ANYONE ON PAID ADMINISTRATIVE LEAVE.

22 Q. HAVE YOU DONE ANY PERSONNEL MATTERS  
23 WITH RESPECT TO COACHES OR ASSISTANT  
24 COACHES?

25 A. YES, SIR.

1 Q. COACHES OR ASSISTANT COACHES WITH  
2 RESPECT TO FOOTBALL?

3 A. WELL, IT WOULD HAVE BEEN ALL OF THE  
4 COACHES THAT WERE NOT RETAINED WE DEALT  
5 WITH THOSE SITUATIONS.

6 Q. WHO'S THE WE?

7 A. THE DEPARTMENT. HR AND MYSELF AS  
8 FAR AS WE PROCESSED -- WE PROCESSED THEM  
9 -- THEIR EXIT FROM THE UNIVERSITY.

10 Q. ARE YOU SAYING YOU MADE THE DECISION  
11 NOT TO RETAIN TOM BRADLEY AS AN  
12 ASSISTANT FOOTBALL COACH?

13 MS. CONRAD: OBJECTION. THAT'S NOT WHAT  
14 HE SAID BUT DR. JOYNER CAN EXPLAIN.

15 THE WITNESS: WHAT I SAID WAS THAT WHEN  
16 BILL O'BRIEN FINALIZED HIS DECISION ON  
17 HIS COACHING STAFF I THEN INSTITUTED  
18 WITH HR TO PROCESS PEOPLE OUT.

19 BY MR. STROKOFF:

20 Q. I DON'T WANT TO GET INTO -- WELL,  
21 I'LL LET YOU FINISH.

22 A. NO, THAT'S IT.

23 Q. DID MR. O'BRIEN TELL YOU THOSE  
24 ASSISTANT COACHES HE DID NOT WANT TO  
25 RETAIN AND THEN YOU TOLD THEM THEY

1 WEREN'T BEING -- GOING TO BE RETAINED?  
2 IS THAT THE WAY IT WORKED?

3 A. I TOLD TOM BRADLEY THAT HE -- AND  
4 THE COACHES THAT HAD APPLIED. THEY WERE  
5 MAINTAINING CONFIDENTIALITY. TOM  
6 BRADLEY HAS STATED IN THE PAPERS  
7 THAT HE WAS A CANDIDATE OR HE APPLIED  
8 FOR THE PENN STATE JOB SO I'M NOT  
9 REVEALING ANYTHING THAT WE HAVEN'T  
10 ALREADY --

11 Q. YOU MEAN THE HEAD COACHING JOB?

12 A. YES, SIR.

13 Q. NO. I'M TALKING ABOUT HE APPLIED  
14 FOR THE HEAD COACHING JOB, RIGHT?

15 A. CORRECT.

16 Q. I'M NOT SAYING THAT YOU TOLD HIM  
17 THAT HE DIDN'T GET IT. I'M TALKING  
18 ABOUT WHO TOLD THE ASSISTANT COACHES WHO  
19 WEREN'T RETAINED THAT THEY WEREN'T GOING  
20 TO BE RETAINED?

21 A. THAT WOULD HAVE BEEN BILL O'BRIEN, I  
22 BELIEVE.

23 Q. SO DID YOU DO ANYTHING WITH RESPECT  
24 TO THOSE ASSISTANT COACHES AFTER MR.  
25 O'BRIEN TOLD THEM THEY WEREN'T BEING

1 RETAINED?

2 A. I HELPED WITH -- THAT I WAS -- I  
3 PARTICIPATED IN THE PROCESSING OF THEIR  
4 SEVERANCE AGREEMENTS.

5 Q. AND YOU SAY YOU ASSISTED. YOU WERE  
6 WORKING WITH ONE OR MORE OTHER PERSONS?

7 A. OUR HR DEPARTMENT.

8 Q. OKAY. AND WAS THAT ERIKKA RUNKLE  
9 AND HER STAFF?

10 A. THAT WOULD HAVE BEEN ERIKKA, YES.

11 Q. SO FAR AS YOU KNOW, COACH O'BRIEN  
12 TOLD EACH OF THE ASSISTANT COACHES WHO  
13 WEREN'T RETAINED THAT THEY WEREN'T GOING  
14 TO BE RETAINED?

15 A. THAT WOULD BE ACCURATE.

16 Q. AND SO FAR AS YOU KNOW, ALL OF THE  
17 ASSISTANT COACHES WHO WEREN'T RETAINED  
18 RECEIVED THEIR SEVERANCE PAYMENTS RATHER  
19 IMMEDIATELY?

20 A. IT IS MY KNOWLEDGE AND BELIEF THAT  
21 THE ASSISTANT COACHES, IN WHATEVER WAY  
22 THE SEVERANCE AGREEMENTS WERE WRITTEN,  
23 RECEIVED THEIR SEVERANCE PAYMENTS BASED  
24 ON THOSE AGREEMENTS.

25 Q. THOSE SEVERANCE AGREEMENTS I BELIEVE

1 PROVIDE, AMONG OTHER THINGS, THAT THE  
2 ASSISTANT COACHES THAT WERE RETAINED  
3 WOULD STILL HAVE THE ABILITY TO HAVE A  
4 DEALER CAR FOR, I THINK, THREE MONTHS,  
5 CORRECT?

6 A. I'D HAVE TO LOOK -- I'D HAVE TO HAVE  
7 THE AGREEMENT IN FRONT OF ME TO LOOK AT  
8 IT BUT THAT IS SOMETIMES DONE, SO -- AND  
9 EACH AGREEMENT CAN BE DIFFERENT.

10 Q. BUT IS IT YOUR BELIEF AND  
11 UNDERSTANDING THAT THE AGREEMENT  
12 PROVIDED THAT THE DEALER CAR COULD BE  
13 RETAINED FOR A PERIOD OF TIME AS PART OF  
14 THEIR SEVERANCE?

15 A. I'D HAVE TO SEE THE AGREEMENT TO BE  
16 ABLE TO MAKE AN ACCURATE STATEMENT.

17 Q. ARE YOU AWARE OF ANY INSTANCES IN  
18 WHICH AN AGREEMENT PROVIDED FOR THE  
19 RETENTION OF A DEALER CAR FOR A PERIOD  
20 OF MONTHS WHERE THAT WASN'T DONE?

21 A. WE'VE HAD CONTRACTS -- WE'VE HAD  
22 SEVERANCE CONTRACT WHERE -- NOT RELATED  
23 TO FOOTBALL WHERE DEALER CARS ARE TURNED  
24 IN VIRTUALLY IMMEDIATELY.

25 Q. BECAUSE THAT'S PROVIDED FOR IN THE

1 SEVERANCE CONTRACT?

2 A. EACH SEVERANCE CONTRACT CAN BE  
3 DIFFERENT.

4 Q. SORRY, THIS SHOULD BE ONE PAGE. AND  
5 I THINK THIS IS JOYNER DEPOSITION NUMBER  
6 2. SIR, ARE YOU FAMILIAR WITH THIS  
7 DOCUMENT?

8 A. NOT NECESSARILY THE DOCUMENT BUT  
9 I'VE SEEN THIS STATEMENT BEFORE.

10 MR. STROKOFF: YOUR HONOR, JOYNER  
11 DEPOSITION EXHIBIT NUMBER 2 IS THE  
12 SPANIER STATEMENT WHICH IS PLAINTIFF'S  
13 EXHIBIT 38.

14 BY MR. STROKOFF:

15 Q. AND WHEN DID YOU FIRST SEE THIS  
16 STATEMENT?

17 A. IT WOULD HAVE BEEN ON OR ABOUT THE  
18 DATE THAT'S ON THIS DOCUMENT; SATURDAY,  
19 NOVEMBER 5TH. BASED ON MY RECOLLECTION,  
20 I BELIEVE THAT'S ACCURATE.

21 Q. AND DID YOU READ IT AT THE TIME?

22 A. I READ IT IN -- I BELIEVE I READ IT  
23 IN THE NEWSPAPER OR HEARD IT BUT I DON'T  
24 RECALL READING IT ON THIS PIECE OF  
25 PAPER.

1 Q. SO YOU DON'T RECALL READING IT ON  
2 THE UNIVERSITY'S WEBSITE?

3 A. NO, SIR, I DON'T.

4 Q. OKAY. YOU SAY YOU MAY HAVE READ IT  
5 IN THE NEWSPAPER?

6 A. WELL, I MAY HAVE READ IT IN THE  
7 NEWSPAPER. I MAY HAVE READ IT ON A  
8 RELEASE ON THE UNIVERSITY'S WEBSITE BUT  
9 I DON'T RECALL WHICH MEDIA THAT I SAW IT  
10 ON.

11 Q. WAS THERE ANYTHING IN THIS STATEMENT  
12 THAT CONCERNED YOU AT THE TIME YOU READ  
13 IT?

14 A. I WOULD HAVE BEEN -- I WOULD HAVE  
15 BEEN CONCERNED ABOUT PRESIDENT SPANIER,  
16 PERHAPS, GETTING OUT IN FRONT OF SOME  
17 THINGS BUT, YES.

18 Q. WHAT DO YOU MEAN GETTING OUT IN  
19 FRONT OF SOME THINGS?

20 A. PERHAPS MAYBE SPEAKING TOO SOON  
21 ABOUT GUILT OR INNOCENCE IN THIS  
22 SITUATION.

23 Q. DO YOU RECALL WHETHER OR NOT YOU  
24 EXPRESSED ANY CONCERNS TO THAT EFFECT TO  
25 PRESIDENT SPANIER?



1           A.     I DON'T -- I DIDN'T -- I DON'T  
2           BELIEVE I EXPRESSED ANYTHING TO HIM  
3           PERSONALLY.

4           Q.     WELL, DO YOU RECALL WHETHER OR NOT  
5           THERE WAS ANY DISCUSSION AT THE BOARD  
6           LEVEL ABOUT THIS STATEMENT?

7           A.     I BELIEVE THAT THERE LIKELY WAS  
8           BECAUSE OF THIS -- THIS STATEMENT BEING  
9           RATHER FORWARD LOOKING WITHOUT, PERHAPS,  
10          ANY KNOWLEDGE SPECIFIC TO THOSE  
11          STATEMENTS MADE.

12          Q.     BUT YOU HAVE NO SPECIFIC  
13          RECOLLECTION OF BOARD MEMBERS EXPRESSING  
14          CONCERN ABOUT THIS SPECIFIC STATEMENT BY  
15          PRESIDENT SPANIER?

16          A.     I DO RECALL THAT THERE IS -- THERE  
17          WAS CONCERN BUT I DON'T HAVE THE  
18          SPECIFICS OF WHO EXPRESSED WHAT WHEN AND  
19          HOW THOSE WERE EXPRESSED.

20          Q.     AND DO YOU BELIEVE THAT SUCH  
21          EXPRESSIONS WOULD BE REFLECTED IN THE  
22          BOARD'S MINUTES?

23          A.     THEY VERY WELL MAY BE.

24          Q.     DO YOU REMEMBER WHETHER OR NOT THE  
25          BOARD DID ANYTHING TO MODIFY THIS

1 STATEMENT?

2 A. I'D HAVE TO GO BACK AND LOOK AT WHAT  
3 WAS RELEASED. I MEAN, I DON'T KNOW HOW  
4 YOU MODIFY A STATEMENT ONCE IT'S STATED.  
5 IN OTHER WORDS, IT'S ALREADY RELEASED.

6 Q. PRESIDENT NIXON USED TO DO THAT ALL  
7 THE TIME.

8 A. YES. I KNOW THAT. OTHER ONES ALSO  
9 I THINK BUT THE STATEMENTS MADE I DON'T  
10 KNOW HOW YOU MODIFY THE STATEMENT.  
11 PERHAPS IF WE WENT BACK AND LOOKED AT,  
12 YOU KNOW, THINGS THAT WERE POSTED AND  
13 WHATNOT, YOU KNOW, WE COULD LOOK AND SEE  
14 HOW THEIR REACTION WAS OR HOW OTHER  
15 STATEMENTS WERE MADE.

16 Q. TO YOUR KNOWLEDGE, DID THE ISSUANCE  
17 OF THIS STATEMENT FROM PRESIDENT SPANIER  
18 HAVE ANYTHING TO DO WITH THE BOARD'S  
19 DECISION TO RELIEVE HIM OF THE  
20 PRESIDENCY?

21 A. I THINK THAT THE GENERAL FEELING WAS  
22 THAT THE LEADERSHIP WAS QUESTIONED.  
23 THERE WERE MANY FACTORS THAT ENTERED  
24 INTO THAT THOUGHT PROCESS AND THOSE THAT  
25 DID NOT SEE THIS AS A POSITIVE STATEMENT

1 I'M SURE THAT ENTERED INTO THEIR  
2 DECISIONS.

3 Q. WELL, DID IT ENTER INTO YOUR  
4 DECISION?

5 A. I WOULD NEVER HAVE MADE THAT  
6 STATEMENT.

7 Q. THAT I UNDERSTAND. DID HIS ISSUANCE  
8 OF THIS STATEMENT HAVE ANY FACTOR IN  
9 YOUR -- I DON'T EVEN KNOW HOW YOU VOTED  
10 ON WHETHER OR NOT HE SHOULD HAVE BEEN  
11 RELIEVED WEDNESDAY NIGHT BUT, FOR YOU,  
12 IS THIS STATEMENT --

13 A. FOR ME THAT STATEMENT DID NOT SIT  
14 WELL, CORRECT.

15 Q. BUT WAS IT A FACTOR IN YOUR  
16 DECISION?

17 A. IT WOULD BE A FACTOR IN MY OUTLOOK  
18 ON PRESIDENT SPANIER'S LEADERSHIP, YES.

19 Q. BEGINNING NOVEMBER 5, 2011, THROUGH  
20 THE NIGHT OF THE 9TH OF 2011, DID YOU  
21 HAVE ANY DISCUSSIONS WITH  
22 COACH PATERNO; THAT IS, HEAD COACH  
23 PATERNO?

24 A. NO, SIR.

25 Q. YOU DIDN'T SPEAK TO HIM AT ALL

1 DURING THAT TIMEFRAME?

2 A. NO, SIR.

3 Q. DID YOU HAVE ANY COMMUNICATIONS FROM  
4 HIM DURING THAT TIME FRAME THAT WEREN'T  
5 VERBAL?

6 A. NOT ME PERSONALLY.

7 Q. ARE YOU AWARE OF ANY COMMUNICATIONS  
8 THAT HE SENT TO THE BOARD THAT YOU HAVE  
9 BEEN PRIVY TO?

10 A. I'M AWARE OF A COMMUNICATION THAT  
11 WAS SENT AND I ALSO BELIEVE WAS IN THE  
12 MEDIA ABOUT HE ANNOUNCED THAT -- AND I'M  
13 PARAPHRASING, THAT WE DIDN'T HAVE TO  
14 WORRY ABOUT HIM. HE SAID WE DIDN'T HAVE  
15 TO WORRY ABOUT HIM ANYMORE; HE WAS GOING  
16 TO RETIRE AT THE END OF THE -- AT THE  
17 END OF THE YEAR.

18 Q. DID YOU HAVE ANY DISCUSSIONS WITH  
19 COACH PATERNO AFTER THE 9TH OF NOVEMBER?

20 A. NO, SIR.

21 Q. SO WHEN WAS THE LAST TIME YOU  
22 ACTUALLY HAD A DISCUSSION EITHER OR ON  
23 THE PHONE OR IN PERSON WITH COACH  
24 PATERNO?

25 A. EVER?

1 Q. YEAH.

2 A. IT WOULD BE HARD TO RECALL. IT WAS  
3 PROBABLY AT A BANQUET SOMEWHERE BUT, YOU  
4 KNOW, WELL IN ADVANCE OF THE ISSUES THAT  
5 OCCURRED IN NOVEMBER; MEANING MONTHS OR  
6 YEARS PERHAPS.

7 Q. SO BEFORE THE FOOTBALL SEASON ENDED  
8 AND IT WAS A BANQUET?

9 A. WELL, I MEAN, IT COULD HAVE BEEN. I  
10 WOULD SEE HIM SOMETIMES AT BANQUETS, YOU  
11 KNOW, THAT THE UNIVERSITY WOULD HOLD;  
12 ENDOWMENT DINNERS AND THINGS LIKE THAT,  
13 SO, BUT I DON'T RECALL THE EXACT  
14 TIMEFRAME. IT WOULD HAVE BEEN A NUMBER  
15 OF MONTHS AT LEAST PRIOR TO THIS.

16 Q. BEFORE YOU LOOK AT THAT, SIR, I'M  
17 GOING TO GIVE YOUR COUNSEL AN  
18 OPPORTUNITY TO DETERMINE IF SHE THINKS  
19 THAT THIS E-MAIL CHAIN OUGHT TO BE  
20 REORGANIZED. I GAVE IT TO YOU IN PAGE  
21 NUMBER SEQUENCE BUT IT'S NOT NECESSARILY  
22 IN CHRONOLOGICAL SEQUENCE. SIR, YOU'VE  
23 BEEN HANDED A DOCUMENT WHICH WAS  
24 PREVIOUSLY - WHICH WAS MARKED RUNKLE  
25 DEPOSITION EXHIBIT NUMBER 12 AND WE'RE

1           ALSO GOING TO LABEL IT JOYNER DEPOSITION  
2           EXHIBIT NUMBER 3 AND SEVERAL PAGES IT  
3           HAS PARTS OF E-MAILS ON IT, OKAY?

4           A.    YES, SIR.

5           Q.    AND THE OTHER THING I WANT TO  
6           REPRESENT TO YOU IS THAT THE BLACKED OUT  
7           PARTS HAVE BEEN BLACKED OUT BY  
8           PENN STATE'S LAWYER IN THIS CASE OF --  
9           FOR REASONS OF ATTORNEY-CLIENT  
10          CONFIDENTIALITY, OKAY?

11          A.    YES, SIR.

12          Q.    THE FIRST NAME ON THE FIRST PAGE --  
13          THERE IS AN E-MAIL FROM ERIKKA RUNKLE.  
14          WE CAN'T TELL EXACTLY TO WHOM.

15          MS. CONRAD:   REFERRING TO THE MAY 4TH  
16          SECTION.

17          MR. STROKOFF:  YES.   THE MAY 4TH SECTION  
18          IN WHICH SHE WROTE AN E-MAIL AND THEN AT  
19          THE TOP -- NO.   WE'RE ON THE FIRST PAGE  
20          STILL.

21          THE WITNESS:  I AM SORRY.

22          Q.    A RESPONSE TO THAT E-MAIL IS  
23          PURPORTED TO HAVE BEEN SENT BY YOU TO  
24          ERIKKA WITH A COPY TO CYNTHIA BALDWIN  
25          AND TOM POOLE, CORRECT?

1 A. YES, SIR.

2 Q. THE SUBJECT MATTER IS RE: MICHAEL  
3 MCQUEARY APPOINTMENT?

4 A. YES.

5 Q. OKAY. SO FIRST QUESTION IS DO YOU  
6 REMEMBER RESPONDING TO AN E-MAIL FROM  
7 ERIKKA RUNKLE, WHICH SHE TESTIFIED SHE  
8 SENT ABOUT 11 DAYS BEFORE SHE WENT ON  
9 MATERNITY LEAVE, TO HER WITH A COPY TO  
10 YOUR GENERAL COUNSEL AND TOM POOLE?

11 A. IF YOU'RE REFERRING TO DO I HAVE A  
12 RESPONSE -- A REMEMBRANCE OF EXACT DATES  
13 SENDING AN E-MAIL WITHOUT LOOKING AT THE  
14 E-MAIL THE ANSWER IS NO, BUT BASED ON  
15 THIS OBVIOUS E-MAIL THAT I SENT THEN I  
16 WOULD TESTIFY THAT I SENT AN E-MAIL TO  
17 ERIKKA RUNKLE IN RESPONSE TO HER MAY  
18 4TH.

19 Q. LETS GO THEN TO THE NEXT PAGE WHERE  
20 WE SEE THAT CYNTHIA BALDWIN HAS  
21 RESPONDED TO YOU AND ERIKKA WITH A CC TO  
22 TOM POOLE RE: MICHAEL MCQUEARY  
23 APPOINTMENT. DO YOU SEE THAT AT THE  
24 BOTTOM OF THE NEXT PAGE?

25 A. YES, SIR.

1 Q. OKAY, THANK YOU. AND THEN YOU GO A  
2 LITTLE BIT FURTHER UP ON MAY 6TH AND WE  
3 SEE A RESPONSE FROM YOU TO TOM POOLE  
4 WITH A COPY TO CYNTHIA BALDWIN AND  
5 ERIKKA RUNKLE RE: MICHAEL MCQUEARY  
6 APPOINTMENT?

7 A. YES, SIR.

8 Q. AND THEN AT THE TOP ALMOST SIX WEEKS  
9 LATER WE SEE AN E-MAIL FROM YOU TO  
10 ERIKKA QUOTE THIS IS NOT BEING RENEWED,  
11 CORRECT? THANKS.

12 A. YES, SIR.

13 Q. NOW HAVING LOOKED AT WHAT'S GOING TO  
14 BE THE NEXT PAGE IN THE MIDDLE OF THE  
15 PAGE ERIKKA RUNKLE, WHO SHE TELLS US WAS  
16 STILL ON MATERNITY LEAVE AT THE TIME,  
17 RESPONDED TO YOU, NO, HE IS NOT BEING  
18 RENEWED AND YOU SAY AT THE TOP OKAY,  
19 THANKS?

20 A. YES, SIR.

21 Q. DOES THIS E-MAIL CHAIN, AND PARTS OF  
22 IT ARE SUBSTANTIALLY REDACTED, REFRESH  
23 YOUR MEMORY AT -- BEGINNING ON MAY 6TH,  
24 2012, YOU WERE INVOLVED IN SOME E-MAILS  
25 CONCERNING MICHAEL MCQUEARY'S



1 APPOINTMENT?

2 A. YES.

3 Q. OKAY. AND IS IT FAIR TO SAY THAT AS  
4 OF MAY 6TH, 2012, YOU DIDN'T KNOW  
5 WHETHER OR NOT MR. MCQUEARY WAS GOING TO  
6 BE CONTINUED ON THE PAYROLL AND FOR HOW  
7 LONG?

8 A. THAT DOES NOT CHARACTERIZED IT IN  
9 THE WAY I WOULD CHARACTERIZED IT.

10 Q. WELL THAT'S THE WHOLE IDEA IS TO  
11 GIVE YOU THE OPPORTUNITY TO CORRECT IT.

12 A. CORRECT. THIS WOULD INDICATE TO ME  
13 THAT -- AND BY MEMORY THAT MR.  
14 MCQUEARY'S APPOINTMENT, I BELIEVE, WAS  
15 ENDING ON JULY 1 OR JUNE 30TH; I THINK  
16 IT WAS OF THAT YEAR, AND BASED ON THE  
17 PIECES OF INFORMATION THAT ARE NOT  
18 REDACTED THAT I'M MERELY DOUBLE-CHECKING  
19 THAT WE'RE NOT RENEWING HIS CONTRACT AS  
20 THAT WAS MY DECISION.

21 Q. WELL WHY DID YOU HAVE TO  
22 DOUBLE-CHECK WITH ANYBODY?

23 A. I JUST WANTED TO MAKE SURE THE  
24 PAPERWORK WAS BEING PROCESSED CORRECTLY.

25 Q. SO IS IT FAIR TO SAY THAT ON MAY

1 6TH, 2012, YOU HAD DECIDED NOT TO RENEW  
2 HIS CONTRACT?

3 A. I DON'T RECALL ABOUT WHEN -- THE  
4 EXACT TIMEFRAME OF WHEN THE DECISION WAS  
5 MADE BUT THERE WERE CONVERSATIONS  
6 BETWEEN ERIKKA AND I ABOUT PROCESSING  
7 THIS AND MAKING SURE IT WAS DONE AT THE  
8 APPROPRIATE TIMING.

9 Q. BUT YOU MADE A DECISION NOT TO RENEW  
10 HIM, NOT OLD MAIN OR ANYBODY IN  
11 ADMINISTRATION; ISN'T THAT CORRECT?

12 A. THAT IS CORRECT.

13 Q. THE BOARD OF TRUSTEES DIDN'T MAKE  
14 THAT DECISION?

15 A. NO, SIR.

16 Q. IT WAS SOLELY YOUR DECISION?

17 A. THE WAY IT WORKS AT PENN STATE IS  
18 THAT I WOULD HAVE CONCURRED WITH THE  
19 PRESIDENT ABOUT MY DECISION SO THAT HE  
20 WOULD HAVE BEEN AWARE AND HAD ANY CHANCE  
21 TO DISCUSS THAT WITH ME.

22 Q. SIR, DO YOU RECALL SPECIFICALLY  
23 DISCUSSING THIS WITH PRESIDENT ERICKSON?

24 A. I WOULD HAVE DISCUSSED IT WITH HIM,  
25 YES, SIR. I DON'T RECALL THE EXACT TIME

1 FRAME OF WHEN I WOULD HAVE.

2 Q. DID YOU HAVE RECORDS THAT WOULD  
3 PINPOINT THE TIME FRAME WHEN YOU HAD  
4 THIS DISCUSSION WITH PRESIDENT ERICKSON?

5 A. I WOULDN'T HAVE NECESSARILY WRITTEN  
6 RECORDS, YOU KNOW, LIKE IN THE E-MAIL.  
7 THE E-MAILS POOLE MAY HAVE, YOU KNOW,  
8 MEMORIALIZED THAT BUT I DON'T HAVE  
9 THOSE.

10 Q. BUT IF YOU MADE THE DECISION THAT HE  
11 WASN'T TO BE RENEWED, WHY ARE YOU  
12 E-MAILING ERIKKA RUNKLE ON JUNE 18TH  
13 QUOTE THIS IS NOT BEING RENEWED,  
14 CORRECT?

15 A. MEANING IT'S NOT BEING RENEWED;  
16 MEANING I'M MAKING SURE THAT THE PROCESS  
17 HAS BEEN DONE TO ENSURE THAT IT'S NOT  
18 BEING RENEWED AT THE END OF JUNE KNOWING  
19 THAT THE TIMING WAS GETTING NEAR.

20 Q. SIR, DO YOU BELIEVE THAT THERE'S  
21 ANYTHING IN WRITING THAT SAYS WORDS TO  
22 THE EFFECT THAT I, MEANING DAVID JOYNER,  
23 HAVE DECIDED NOT TO RENEW MIKE  
24 MCQUEARY'S CONTRACT?

25 A. I DON'T KNOW WHAT'S IN THESE --

1           THESE REDACTIONS HERE SO -- AND,

2           OBVIOUSLY, THOSE ARE OFF-LIMITS, BUT --

3           Q.   WELL, NO, THEY MAY OR MAY NOT BE BUT

4           MY QUESTION IS WHERE DO YOU SET FORTH

5           YOUR DECISION NOT TO RENEW HIS CONTRACT?

6           MS. CONRAD:   SAY THAT AGAIN, PLEASE.

7           BY MR. STROKOFF:

8           Q.   DO YOU BELIEVE THERE'S ANYTHING IN

9           WRITING TO SUBSTANTIATE THAT IT WAS YOU

10          WHO MADE THE DECISION NOT TO RENEW HIS

11          CONTRACT?

12          MS. CONRAD:   OBJECTION AS TO FORM.

13          DR. JOYNER TESTIFIED HE MADE THE

14          DECISION IN CONSULTING OR CONCURRING

15          WITH THE PRESIDENT SO I JUST WANT THE

16          RECORD TO BE CLEAR.

17          BY MR. STROKOFF:

18          Q.   WELL, I THINK HE SAID WORDS SIMILAR

19          TO THAT BUT MY QUESTION IS IS THERE

20          ANYTHING IN WRITING WHICH WOULD INDICATE

21          THAT YOU WERE THE DECISION-MAKER WITH

22          RESPECT TO WHETHER OR NOT TO CONTINUE

23          MICHAEL MCQUEARY'S EMPLOYMENT BEYOND

24          JUNE 30, 2012?

25          A.   I CAN'T -- I CAN'T ANSWER THAT ONE

1 WAY OR THE OTHER BUT IT WAS MY DECISION  
2 REGARDLESS OF WHAT'S IN WRITING OR NOT.

3 Q. DO YOU RECALL IF YOU MADE THAT  
4 DECISION INDEPENDENTLY OF RECEIVING ANY  
5 LEGAL ADVICE?

6 A. I'M NOT SURE ABOUT ANSWERING THAT  
7 QUESTION.

8 MS. CONRAD: THEN DON'T ANSWER THE  
9 QUESTION.

10 BY MR. STROKOFF:

11 Q. DID YOU OBTAIN ANY LEGAL ADVISE  
12 BEFORE YOU DECIDED NOT TO CONTINUE MR.  
13 MCQUEARY'S APPOINTMENT?

14 A. I'M ALSO NOT SURE ABOUT ANSWERING  
15 THAT QUESTION.

16 Q. WELL, MAYBE I -- I DON'T KNOW WHY  
17 THAT'S OBJECTIONABLE.

18 MS. CONRAD: HE CAN ANSWER YES OR NO BUT  
19 NOT REVEAL THE SUBSTANCE OF ANY LEGAL  
20 ADVICE YOU MAY HAVE OBTAINED.

21 THE WITNESS: OKAY. I WOULD, OF COURSE,  
22 HAVE HAD LEGAL ADVICE IN EVERY HR  
23 SITUATION VIRTUALLY ABOUT HOW DO WE  
24 WRITE THINGS? HOW DO WE MAKE SURE THAT  
25 THE I'S ARE DOTTED AND THE T'S ARE

1           CROSSED SO THIS WOULD NOT HAVE BEEN ANY  
2           DIFFERENT SITUATION.

3           BY MR. STROKOFF:

4           Q.   AND JUST SO WE'RE CLEAR, I JUST --  
5           THIS WAS YOUR DECISION NOT TO CONTINUE  
6           HIS EMPLOYMENT, RIGHT?

7           A.   THAT'S CORRECT.

8           Q.   AND TELL ME YOUR REASONS FOR YOUR  
9           DECISION.

10          A.   THERE WAS NO WORK FOR HIM TO DO,  
11          NUMBER ONE, AND HIS TERM WAS EXPIRING.

12          Q.   IN THE WHOLE UNIVERSITY THERE WAS NO  
13          WORK FOR HIM TO DO?

14          A.   WELL, ONE OF THE THINGS THAT WE'RE  
15          VERY CAREFUL ABOUT IS THAT INDIVIDUALS  
16          -- WE DON'T JUST PASS ON WORK TO PEOPLE  
17          TO KEEP THEM WORKING, SO -- AND WE'RE  
18          VERY CAREFUL ABOUT THAT AND THERE WAS NO  
19          WORK IN OUR DEPARTMENT OR ANYWHERE FOR  
20          MR. MCQUEARY TO DO BASED ON HIS PREVIOUS  
21          EMPLOYMENT.

22          Q.   OKAY.  NOW WHO MADE THAT  
23          DETERMINATION THAT THERE WAS NO WORK FOR  
24          HIM TO DO?

25          A.   I DID.

1 Q. AND YOU MADE THAT DETERMINATION  
2 AFTER REVIEWING HIS PERSONNEL FILE?

3 A. NO, SIR. THERE WERE NO JOBS  
4 AVAILABLE OR POSTED AND HE WOULD HAVE  
5 HAD THE OPPORTUNITY TO DO WHATEVER HE  
6 WANTED AS ANY INDIVIDUAL WOULD IN THE  
7 COMMUNITY AND -- BUT THERE WAS NOT A  
8 POSITION THAT I WAS LOOKING FOR SOMEONE.

9 Q. SIR, DO YOU AGREE THAT AT NO TIME  
10 DID YOU EVER LOOK AT MR. MCQUEARY'S  
11 PERSONNEL FILE?

12 A. I DON'T RECALL LOOKING AT MR.  
13 MCQUEARY'S PERSONNEL FILE.

14 Q. DID YOU HAVE ANY OPINION AS TO  
15 WHETHER OR NOT MR. MCQUEARY WAS A GOOD  
16 COACH?

17 A. NO, SIR.

18 Q. YOU HAVE NO OPINION ONE WAY OR THE  
19 OTHER?

20 A. NO, SIR.

21 Q. DID YOU CONSULT WITH ANYBODY AS TO  
22 WHETHER OR NOT THERE WAS ANY WORK IN THE  
23 UNIVERSITY FOR MR. MCQUEARY TO DO?

24 A. AS I'VE ALREADY STATED, THAT'S NOT  
25 HOW IT WORKS. INDIVIDUALS HAVE TO

1 APPLY. WE DON'T JUST GIVE THEM WORK.

2 Q. WELL, THAT'S HOW IT WAS FOR THE TIME  
3 YOU WERE ATHLETIC DIRECTOR FROM NOVEMBER  
4 17TH, 2011, UNTIL SOMETIME IN THE SPRING  
5 OF 2012?

6 A. NO. THAT'S HOW IT IS WHEN -- FROM  
7 THE MOMENT I TOOK THE JOB UNTIL  
8 CONTINUING.

9 Q. BUT YOU HAD ONLY BEEN ON THE JOB A  
10 FEW MONTHS, RIGHT?

11 A. WHEN?

12 Q. YOU TOOK THE JOB IN NOVEMBER OF 2011  
13 AND YOU'RE DECIDING IN MAY OF 2012,  
14 THAT, YOU KNOW, IF HE WANTS WORK HE HAS  
15 TO APPLY FOR WORK?

16 A. THAT'S CORRECT.

17 Q. WE'RE NOT GOING TO GO LOOK FOR WORK  
18 FOR HIM, RIGHT?

19 A. THAT'S CORRECT.

20 Q. OKAY. AND IT WAS YOUR UNDERSTANDING  
21 THAT MR. MCQUEARY KNEW THAT IF HE WANTED  
22 TO CONTINUE TO WORK AT PENN STATE THAT  
23 HE SHOULD APPLY FOR JOBS AT PENN STATE?

24 A. IT WOULD BE MY UNDERSTANDING -- AND  
25 IF I WAS AN INDIVIDUAL THAT HAD A



1 CONTRACT THAT WAS -- THE TERM WAS  
2 EXPIRING, I WOULD BE DECIDING ON HOW I  
3 WAS GOING TO CONTINUE TO CONDUCT MY  
4 EMPLOYMENT; WHETHER IT BE AT PENN STATE  
5 OR ANYWHERE ELSE.

6 Q. DID YOU MAKE DECISION NOT TO  
7 CONTINUE HIM ON ADMINISTRATIVE LEAVE  
8 BEYOND JUNE 30, 2012?

9 A. I MADE THE DECISION THAT AS HIS TERM  
10 WAS EXPIRING THAT -- WHETHER HE BE ON  
11 WHATEVER FORM OF DUTIES THAT HE HAD THAT  
12 HIS TERM WAS EXPIRING AND WE WERE NOT  
13 GOING TO RENEW HIS TERM.

14 Q. AND YOU WEREN'T GOING TO CONTINUE  
15 HIM ON ADMINISTRATIVE LEAVE?

16 A. NO. NOT RENEWING HIS TERM MEANS  
17 HE'S NOT EMPLOYED AT THE UNIVERSITY  
18 ANYMORE.

19 Q. NOW YOU SAY YOU HAD NO OPINION AS TO  
20 WHETHER OR NOT MR. MCQUEARY WAS A GOOD  
21 COACH. HAD YOU EVER HEARD FROM ANY OF  
22 THE OTHER COACHES AT THE UNIVERSITY THAT  
23 MR. MCQUEARY WAS A GOOD COACH?

24 A. I DIDN'T DISCUSS ANY OF THOSE ISSUES  
25 ABOUT MR. MCQUEARY WITH ANY OF THE OTHER

1 COACHES.

2 Q. WELL, I'M TALKING ABOUT BEFORE YOU  
3 BECAME AD DID YOU EVER HEAR HE WAS A  
4 GOOD COACH?

5 A. I NEVER HEARD ANYTHING NEGATIVE OR  
6 -- YOU KNOW, NEGATIVE ABOUT HIM, BUT IT  
7 WASN'T MY JOB TO JUDGE HIS COACHING  
8 ABILITY.

9 Q. WELL I KNOW THAT BUT AS A --  
10 SOMEBODY WHO COMES BACK TO THE  
11 UNIVERSITY TIME-TO-TIME, ON THE BOARD OF  
12 TRUSTEES, AND ATTENDS GAMES YOU NEVER  
13 HEARD OF OTHER PEOPLE COMMENTING ON WHAT  
14 A GOOD COACH HE WAS?

15 A. PEOPLE MAY HAVE IN THE '90S AND IN  
16 2000 SAID THINGS THAT WOULD INDICATE  
17 THAT HE WAS DOING A GOOD JOB BUT I DON'T  
18 RECALL ANY SPECIFIC -- YOU KNOW,  
19 SPECIFIC CONVERSATIONS.

20 Q. WELL ONCE YOU DECIDED THAT HE WASN'T  
21 GOING TO BE RENEWED, --

22 A. MM-HMM. THAT WAS A YES.

23 Q. WELL ONCE YOU DECIDED HE WASN'T  
24 GOING TO BE RENEWED, DID YOU TELL HIM HE  
25 WASN'T GOING TO BE RENEWED?

1 A. WE -- I DIDN'T TELL HIM PERSONALLY  
2 BUT THERE WERE -- MY KNOWLEDGE IS THAT  
3 THERE WAS COMMUNICATIONS TO HIM FROM OUR  
4 HR DEPARTMENT INDICATING THAT HE WAS NOT  
5 GOING TO BE RENEWED.

6 Q. AND WHO GAVE YOU THAT INDICATION?

7 A. I BELIEVE THAT WOULD HAVE BEEN  
8 ERIKKA RUNKLE.

9 Q. AND IF SHE SAYS SHE THOUGHT SHE  
10 WASN'T SUPPOSED TO NOTIFY HIM WOULD THAT  
11 MEAN THERE WAS A BREAKDOWN IN  
12 COMMUNICATION BETWEEN HER AND YOU?

13 A. THERE MAY HAVE BEEN SOME CONFUSION  
14 IN THE DEPARTMENT WITH NOTIFICATION, BUT  
15 I ALSO ASSUMED THAT -- AS I WOULD -- AS  
16 I STATED PREVIOUSLY, THAT IF I HAD A  
17 CONTRACT THAT WASN'T BEING RENEWED I'D  
18 BE ON THE PHONE CALLING SOMEONE ELSE  
19 RATHER THAN WAITING TO FIND OUT. SO I  
20 WASN'T -- IT WASN'T ON MY RADAR.

21 Q. SO YOU THOUGHT HR WOULD BE NOTIFYING  
22 MR. MCQUEARY THAT HE WASN'T GOING TO BE  
23 RENEWED?

24 A. WELL, I'M NOT SURE I THOUGHT ANYBODY  
25 WAS GOING TO NOTIFY HIM BECAUSE WHEN

1 YOUR CONTRACT IS UP IT'S OVER, SO IT'S  
2 NOT LIKE THERE'S A -- IF I HAVE A  
3 CONTRACT OF JANUARY 1, 2015 AND THEN  
4 JANUARY 1, 2015 COMES IT'S OVER, SO I'M  
5 NOT THE ONE WHO NEEDS TO HAVE  
6 NOTIFICATION THAT MY CONTRACT IS  
7 OVER.

8 Q. WAS IT YOUR UNDERSTANDING THAT IN  
9 PRIOR YEARS MR. MCQUEARY RECEIVED A  
10 COMMUNICATION THAT HIS FIXED-TERM I  
11 CONTRACT WAS DEEMED RENEWED YEAR AFTER  
12 YEAR AFTER YEAR?

13 MS. CONRAD: IF YOU KNOW.

14 THE WITNESS: I DON'T KNOW BUT FROM WHAT  
15 YOU'RE SAYING HE RECEIVED A  
16 COMMUNICATION THAT IT WAS BEING RENEWED.  
17 THEREFORE, IT WOULD IMPLY THAT IF HE  
18 DIDN'T RECEIVE A NOTIFICATION THAT IT  
19 WOULD BE RENEWED THAT IT WASN'T BEING  
20 RENEWED.

21 BY MR. STROKOFF:

22 Q. YOU'RE MISUNDERSTANDING WHAT I'M  
23 ASKING, OKAY, SO LET ME BE FRANK. DID  
24 YOU UNDERSTAND THAT IT WAS THE PRACTICE  
25 YEAR-IN AND YEAR-OUT AFTER HIS FIRST

1 YEAR OF EMPLOYMENT THAT HE NEVER  
2 RECEIVED ANY NOTICE ABOUT THE RENEWAL OF  
3 HIS CONTRACT?

4 A. WELL, NO, I HAVE NO KNOWLEDGE OF  
5 THAT. I WASN'T INVOLVED IN THOSE YEARS  
6 BUT FROM WHAT YOU'VE SAID THAT'S A  
7 DIFFERENT STATEMENT THAN YOU JUST ASKED  
8 ME. YOU ASKED ME IF IT WAS -- IF I  
9 ACKNOWLEDGED THAT THEY WERE CONTINUALLY  
10 NOTIFIED THAT THEY WERE BEING RENEWED,  
11 AND I SAID THEN THAT WOULD IMPLY THAT  
12 NOT BEING NOTIFIED YOU'RE BEING RENEWED  
13 MEANS YOU'RE NOT.

14 Q. I KNOW, BUT I ASKED YOU WHAT YOUR  
15 KNOWLEDGE WAS.

16 A. MY KNOWLEDGE IS AS I SAID; I HAD NO  
17 KNOWLEDGE SPECIFIC OF THE PRACTICE --  
18 PAST PRACTICE OF WHAT WENT ON.

19 MR. MORRISON: 54 LINE 5.

20 Q. TO THE BEST OF YOUR KNOWLEDGE, SIR,  
21 DO YOU KNOW IF ANYBODY EVER ADVISED MR.  
22 MCQUEARY THAT HE WASN'T BEING CONTINUED  
23 ON THE PAYROLL AFTER JUNE 30, 2012?

24 A. OBVIOUSLY, SOMEONE MUST HAVE ADVISED  
25 HIM OR WE WOULDN'T BE SITTING HERE

1 CURRENTLY.

2 Q. I'M ASKING, TO THE BEST OF YOUR  
3 KNOWLEDGE, DID ANYBODY ADVISE HIM?

4 A. I DO KNOW THERE WERE QUESTIONS ASKED  
5 THAT WOULD INDICATE TO ME, AS FAR AS HIS  
6 INSURANCE AND OTHER THINGS, THAT HE WAS  
7 AWARE THAT HE WASN'T BEING -- AT SOME  
8 POINT, HE BECAME AWARE THAT HE WASN'T  
9 BEING RENEWED.

10 Q. MY QUESTION IS DID ANYBODY NOTIFY  
11 HIM FROM PENN STATE THAT HE WAS NOT  
12 GOING TO BE CONTINUED ON ADMINISTRATIVE  
13 LEAVE OR IN ANY STATUS AFTER JUNE 30TH,  
14 2012?

15 A. I DON'T KNOW THE ANSWER TO THAT.

16 Q. NOW YOU WERE AWARE, WERE YOU NOT,  
17 THAT MR. MCQUEARY HAD A SEVERANCE LETTER  
18 THAT PROVIDED FOR A CERTAIN CONTINUATION  
19 OF WAGES AND BENEFITS FOR A PERIOD OF  
20 TIME, WERE YOU NOT?

21 A. YES.

22 Q. OKAY. AND WERE YOU AWARE, SIR, THAT  
23 HE DID NOT RECEIVE ANY SEVERANCE  
24 PAYMENTS IN THE MONTH OF JULY OF 2012?

25 A. I BELIEVE THERE WAS A DELAY IN THE

1                   -- WELL, THERE WAS -- ORIGINALLY, HE  
2                   WASN'T GETTING SEVERANCE.

3                   Q.   DID YOU PARTICIPATE IN THAT DECISION  
4                   THAT HE SHOULDN'T BE GETTING SEVERANCE?

5                   A.   I ACTUALLY PARTICIPATED IN THE  
6                   DECISION.  IT WAS MY DECISION TO GRANT  
7                   HIM SEVERANCE.

8                   Q.   THAT'S NOT WHAT I ASKED.

9                   A.   WELL, THAT'S MY ANSWER.

10                  Q.   I ASKED WHETHER OR NOT YOU  
11                  PARTICIPATED IN THE DECISION THAT HE  
12                  SHOULD NOT RECEIVE SEVERANCE?

13                  A.   I DON'T RECALL CONVERSATIONS ABOUT  
14                  HIM NOT RECEIVING SEVERANCE.  I RECALL  
15                  CONVERSATIONS ABOUT INSTATING HIS  
16                  SEVERANCE.

17                  Q.   AND WAS THAT YOUR DECISION TO  
18                  REINSTATE HIS SEVERANCE?

19                  A.   YES.  NOT REINSTATE TO INSTATE.

20                  Q.   TO INSTATE, IS THAT A WORD?

21                  A.   IT MUST BE.  TO BEGIN.

22                  Q.   AND YOU MADE THAT DECISION?

23                  A.   YES, SIR.

24                  Q.   OKAY.  AND WHY DID YOU MAKE THAT  
25                  DECISION?

1 A. WELL FIRST-OFF, IN MY OPINION,  
2 BECAUSE HE WASN'T TERMINATED -- THE  
3 SEVERANCE WAS WRITTEN FOR IF HE WAS  
4 TERMINATED. HE WASN'T TERMINATED. HIS  
5 CONTRACT WAS ENDING OR HIS -- HIS LEGAL  
6 RELATIONSHIP WITH THE UNIVERSITY WAS  
7 ENDING OR EMPLOYMENT RELATIONSHIP WAS  
8 ENDING, BUT BECAUSE MR. MCQUEARY  
9 WOULD'VE BEEN TERMINATED EARLIER I  
10 THOUGHT IT WAS THE FAIR THING TO DO TO  
11 INSTITUTE THAT SEVERANCE EVEN THOUGH I  
12 DIDN'T FEEL I HAD TO.

13 Q. AND YOU WERE AWARE, WERE YOU NOT,  
14 THAT MR. MCQUEARY WENT WITHOUT HEALTH  
15 INSURANCE FOR JULY AND AUGUST OF 2012  
16 THROUGH SEPTEMBER OF 2012?

17 A. I BECAME AWARE THAT THERE WAS SOME  
18 MIX-UP AND DELAY, I BELIEVE, AT SOME  
19 POINT BUT, TO MY KNOWLEDGE, THAT'S ALL  
20 BEEN RECONSTITUTED.

21 Q. I UNDERSTAND THAT BUT IN THE MONTH  
22 OF JULY OF 2012, YOU WERE AWARE THAT HE  
23 HAD NO HEALTH INSURANCE?

24 A. I BECAME AWARE AT SOME POINT THAT  
25 THERE WAS SOME MISCOMMUNICATION OR --



1 SCREW-UPS IS NOT A GOOD WORD BUT THAT  
2 THERE WAS SOME -- SOMETHING THAT HAD  
3 OCCURRED THAT IT DELAYED THE INSTITUTION  
4 OF HIS HEALTHCARE.

5 Q. SIR IS IT YOUR TESTIMONY THAT YOUR  
6 DECISION NOT TO RETAIN MR. MCQUEARY HAD  
7 NOTHING TO DO WITH THIS PROVISION OF  
8 TESTIMONY TO THE GRAND JURY?

9 A. MY DECISION NOT TO RETAIN MR.  
10 MCQUEARY ONLY RELATES TO THE FACT THAT  
11 THERE WAS NO EMPLOYMENT FOR HIM AND HIS  
12 TERM WAS RUNNING OUT AND WE DID NOT  
13 RENEW IT.

14 Q. THERE ARE NO OTHER FACTORS?

15 A. NO, SIR.

16 Q. OKAY. SIR, HAVE ANY OTHER  
17 INDIVIDUALS EVER TOLD YOU THAT COACH  
18 PATERNO HAD TOLD THEM THAT MIKE MCQUEARY  
19 HAD DONE THE RIGHT THING?

20 A. NOT THAT I RECALL.

21 Q. HAVE YOU HAD ANY DISCUSSIONS WITH  
22 THE PRIOR ATHLETIC DIRECTOR CURLEY  
23 CONCERNING THE SANDUSKY MATTER  
24 AND -- WELL, CONCERNING THE SANDUSKY  
25 MATTER?

1 A. NO, SIR.

2 Q. HAVE YOU HAD ANY DISCUSSIONS WITH  
3 MR. CURLEY AT ALL SINCE YOU BECAME  
4 ACTING AD?

5 A. NONE.

6 Q. AND THAT WOULD INCLUDE THE PERIOD OF  
7 TIME THAT YOU'VE BEEN ATHLETIC DIRECTOR?

8 A. THAT'S CORRECT.

9 Q. HAVE YOU HAD ANY DISCUSSIONS WITH  
10 GARY SCHULTZ AT ALL SINCE YOU BECAME  
11 ACTING ATHLETIC DIRECTOR?

12 A. NO, SIR.

13 Q. HAVE YOU HAD ANY DISCUSSIONS WITH  
14 GARY SCHULTZ SINCE NOVEMBER 5, 2011?

15 A. NO, SIR.

16 Q. DO YOU KNOW WHETHER OR NOT THE  
17 ASSISTANT COACHES RECEIVED SEVERANCE --  
18 I GUESS IT WAS IN JANUARY OR FEBRUARY OF  
19 2012, BEGAN RECEIVING SEVERANCE AND  
20 RETAINED THE USE OF THEIR AUTOMOBILES  
21 FOR A PERIOD OF TIME?

22 A. I DON'T RECALL. I'D HAVE TO LOOK AT  
23 THEIR SEVERANCE AGREEMENTS TO KNOW.

24 Q. DO YOU RECALL WHAT THE RANGE OF BOWL  
25 BONUSES WAS FOR THE TICKETCITY BOWL?

1 A. NO, SIR. I ALREADY ANSWERED THAT.  
2 IT'S CERTAINLY AVAILABLE BUT I DON'T  
3 HAVE IT AT THE TOP -- THE TIP OF MY  
4 TONGUE.

5 Q. CAN I GATHER THAT YOU WERE NOT  
6 PRESENT WHEN PRESIDENT SPANIER ADDRESSED  
7 THE COACHES OF THE VARIOUS -- THE HEAD  
8 COACHES OF THE VARIOUS TEAMS AT PENN  
9 STATE ON NOVEMBER 7, 2011, AT THE MOUNT  
10 NITTANY LOUNGE?

11 A. I WAS NOT PRESENT.

12 Q. AND YOU WERE NOT PRESENT WHEN HE  
13 ADDRESSED ALL OF THE MEMBERS OF THE  
14 STAFF EMPLOYEES OF THE ATHLETIC  
15 DEPARTMENT ON THAT DAY AS WELL?

16 A. NO, SIR.

17 Q. HAVE YOU EVER SEEN A TRANSCRIPT OF  
18 WHAT HE TOLD TO THOSE FOLKS AT THOSE  
19 MEETINGS ON THOSE DATES?

20 A. NOT THAT I RECALL.

21 Q. SIR, WERE YOU AWARE THAT THE  
22 ADMINISTRATIVE LEAVE DOCUMENT THAT MR.  
23 MCQUEARY WAS PROVIDED ADVISED HIM THAT  
24 IF HE WAS CONTACTED CONCERNING ANY  
25 MATTERS UPON WHICH HE WAS BEING PLACED

1 ON ADMINISTRATIVE LEAVE THAT HE SHOULD  
2 REFER TO TOM BRADLEY?

3 A. REFER THEM TO WHOM?

4 Q. TOM BRADLEY.

5 A. TOM BRADLEY? I'M NOT SURE I'VE EVER  
6 SEEN THAT DOCUMENT. I'M NOT SURE WHICH  
7 DOCUMENT YOU'RE REFERRING TO.

8 Q. IT'S EXHIBIT C OF THE COMPLAINT.

9 MR. STROKOFF: THAT'S REFERRING TO  
10 PLAINTIFF'S EXHIBIT 47, YOUR HONOR.

11 BY MR. STROKOFF:

12 Q. ITS ABOUT TWO-THIRDS OF THE WAY DOWN  
13 ON THE FIRST PARAGRAPH. YOUR COUNSEL  
14 WILL SHOW IT TO YOU.

15 MS. CONRAD: DIRECTING YOUR ATTENTION TO  
16 THE THIRD SENTENCE ON EXHIBIT C: YOU  
17 ARE TO DO NO WORK ON BEHALF OF THE  
18 PENNSYLVANIA STATE UNIVERSITY AND ANY  
19 MATTERS FOR WHICH YOU ARE CONTACTED  
20 CONCERNING THE POSITION FROM WHICH YOU  
21 ARE ON ADMINISTRATIVE LEAVE MUST BE  
22 REFERRED TO TOM BRADLEY.

23 Q. THE FIRST QUESTION IS WERE YOU AWARE  
24 THAT THAT WAS A PROVISION OF HIS  
25 ADMINISTRATIVE LEAVE?

1           A.    WHAT DOCUMENT AM I LOOKING AT, FIRST  
2           OF ALL?  
3           MS. CONRAD:  IT'S EXHIBIT C TO THE  
4           COMPLAINT.  AND THAT'S A GOOD FIRST  
5           QUESTION, ARE YOU FAMILIAR WITH THIS  
6           DOCUMENT?  
7           THE WITNESS:  WELL, I'M NOT SURE WHICH  
8           DOCUMENT IT IS UNTIL I SEE --  
9           MS. CONRAD:  THE DOCUMENT STARTING RIGHT  
10          HERE.  IT'S LABELED EXHIBIT C.  
11          THE WITNESS:  MAY I LOOK AT THE OTHER  
12          PARTS OF IT SO I CAN --  
13          MS. CONRAD:  IT'S A TWO-PAGE DOCUMENT.  
14          YOU CERTAINLY HAVE THE RIGHT TO LOOK AT  
15          THE TWO PAGES OF THE DOCUMENT.  
16          THE WITNESS:  NOW I'M BECOMING FAMILIAR.  
17          I'VE SEEN THIS DOCUMENT AND THIS WAS THE  
18          SCRIPT, IF YOU WILL, I BELIEVE, I'M  
19          ASKING A QUESTION, THAT MARK SHERBURNE  
20          USED IN CONVERSATION WITH MR. MCQUEARY.  
21          I'M ASKING THAT AS A QUESTION.  
22          MR. STROKOFF:  WELL, --  
23          MS. CONRAD:  UNFORTUNATELY, ATTORNEY  
24          STROKOFF --  
25          THE WITNESS:  I DON'T GET TO ASK

1           QUESTIONS, I UNDERSTAND.

2           MR. STROKOFF: NO, NO, LET ME REPRESENT

3           --

4           THE WITNESS: OR I ASK FOR

5           CLARIFICATION.

6           BY MR. STROKOFF:

7           Q. LET ME REPRESENT TO YOU THAT THAT IS

8           THE DOCUMENT THAT MARK SHERBURNE AND

9           ERIKKA RUNKLE HAVE TESTIFIED HE READ

10          FROM ON THE EVENING OF SEPTEMBER --

11          NOVEMBER 13TH, SUNDAY EVENING, AND THEN

12          HANDED HIM A COPY OF IT.

13          ERIKKA RUNKLE REFERRED TO THAT AS THE

14          SCRIPT AND I GATHER SOMEBODY ELSE HAS

15          REFERRED TO THAT AS THE SCRIPT.

16          A. WELL, WE ALWAYS USE SCRIPTS AND WE

17          OFTEN USE SCRIPTS IN THESE -- IN THESE

18          TYPES OF SITUATIONS SO THAT WAS MERELY

19          MY QUESTION.

20          Q. WELL, WHEN WAS THE LAST TIME YOU

21          USED THE SCRIPT?

22          A. OH, PROBABLY A MONTH AGO. I'VE USED

23          SEVERAL.

24          Q. WELL, ASIDE FROM WHEN YOU WERE

25          PRESCRIBING MEDICINE AS A PHYSICIAN --

1 A. DIFFERENT KIND OF SCRIPT THERE.

2 Q. WHEN DID YOU FIRST USE THE WORD  
3 SCRIPT IN A PERSONNEL SETTING?

4 A. OH, UM, MANY TIMES BACK DATING INTO  
5 THE SPRING PROBABLY OF 2012.

6 Q. AND WHO USUALLY WROTE THE SCRIPT, TO  
7 YOUR KNOWLEDGE?

8 A. WE WOULD WRITE IT -- I WOULD EDIT  
9 AND WRITE IT IN CONJUNCTION WITH THE HR  
10 DEPARTMENT. DO YOU WANT TO ASK THE  
11 OTHER QUESTION?

12 Q. MY QUESTION IS ACCORDING TO QUOTE  
13 THE SCRIPT END QUOTE MR. MCQUEARY WAS TO  
14 FORWARD CONTACTS, SHOULD THERE BE ANY,  
15 TO TOM BRADLEY CONCERNING COACHING  
16 MATTERS; ISN'T THAT CORRECT?

17 A. WHAT THE SCRIPT SAYS, AS WE HAVE  
18 READ, YOU ARE TO DO NO WORK ON BEHALF OF  
19 THE PENNSYLVANIA STATE UNIVERSITY AND  
20 ANY MATTERS FOR WHICH YOU ARE CONTACTED  
21 CONCERNING THE POSITION, WHICH WOULD BE  
22 HIS COACHING POSITION I'M ASSUMING, FROM  
23 WHICH YOU ARE ON ADMINISTRATIVE LEAVE  
24 MUST BE REFERRED TO TOM BRADLEY WHO IS  
25 THE HEAD -- WHO WAS THE INTERIM HEAD

1 COACH AT THAT POINT, SO, YES, THAT'S  
2 WHAT THIS DOCUMENT SAYS.

3 Q. NOW AS OF JANUARY 10TH OR 15TH OF  
4 2012, MR. BRADLEY WAS NO LONGER EMPLOYED  
5 BY THE UNIVERSITY; ISN'T THAT CORRECT?

6 A. THAT WOULD BE THE APPROXIMATE TIME  
7 FRAME, YES.

8 Q. TO YOUR KNOWLEDGE, DID ANYBODY  
9 CONTACT MR. MCQUEARY AND ADVISE HIM AS  
10 TO WHO HE SHOULD BE NOTIFYING ABOUT  
11 CONTACTS CONCERNING COACHING MATTERS NOW  
12 THAT TOM BRADLEY WAS NO LONGER AT THE  
13 UNIVERSITY?

14 A. I DON'T HAVE ANY REMEMBRANCE OF  
15 THAT.

16 Q. WHEN DO YOU THINK YOU FIRST READ  
17 THIS SCRIPT?

18 A. UM, I HONESTLY DON'T RECALL BUT IT  
19 PROBABLY WOULD HAVE BEEN IN THE  
20 SPRINGTIME, PERHAPS, OR, YOU KNOW,  
21 SHORTLY MAYBE A LITTLE AFTER THE JANUARY  
22 DATE BUT I DON'T RECALL SPECIFICALLY  
23 WHEN.

24 Q. DO YOU RECALL THAT MR. SHERBURNE  
25 GAVE YOU A COPY OF IT?



1 A. I DON'T, BUT HE VERY WELL COULD  
2 HAVE.

3 Q. DID YOU RETAIN --

4 A. HE LIKELY COULD HAVE.

5 Q. DID YOU RETAIN A COPY OF IT IN YOUR  
6 FILES?

7 A. NO, SIR.

8 Q. DO YOU HAVE ANY FILES ON MR.  
9 MCQUEARY?

10 A. NO, SIR.

11 Q. DID YOU REFER TO THIS DOCUMENT AT  
12 THE TIME YOU DETERMINED THAT HE WOULD BE  
13 SEPARATED FROM THE PAYROLL AT THE END OF  
14 JUNE OF 2012?

15 MS. CONRAD: AND WHEN YOU'RE SAYING THIS  
16 DOCUMENT, YOU'RE REFERRING TO EXHIBIT C  
17 TO THE COMPLAINT?

18 MR. STROKOFF: THE SCRIPT. I LIKE THE  
19 WORDS THE SCRIPT.

20 MS. CONRAD: IT DOES BRING A SMILE TO  
21 YOUR FACE.

22 MR. STROKOFF: YES, IT DOES.

23 THE WITNESS: NO, SIR, I DON'T RECALL  
24 SPECIFICALLY REFERRING TO IT.

25 MR. STROKOFF: ALL RIGHT. WHY DON'T WE

1 TAKE A TWO-MINUTE BREAK AND I CAN  
2 DETERMINE IF THERE'S ANYTHING ELSE THAT  
3 I NEED TO GO OVER.

4 PASS THE WITNESS.

5 MS. CONRAD: I BELIEVE WE ARE FINISHED.

6 MR. STROKOFF: WE ARE.

7 (END OF DEPOSITION.)

8 MR. STROKOFF: THE ONLY OTHER THING,  
9 YOUR HONOR, I THINK BARES NOTING THAT THE  
10 DEPOSITION WAS TAKEN ON NOVEMBER 6, 2013.

11 THE COURT: OKAY. ALL RIGHT. WITH  
12 THAT, LADIES AND GENTLEMEN, PLEASE HAVE A SAFE  
13 TRIP HOME. AGAIN REMEMBER NOT TO DISCUSS THE  
14 MATTER WITH ANYONE, AVOID THE NEWS MEDIA REPORTS,  
15 AND WE WILL PICK IT UP AT 9:00 TOMORROW MORNING.  
16 HAVE A SAFE TRIP HOME.

17 E N D O F P R O C E E D I N G S  
18  
19  
20  
21  
22  
23  
24  
25

## C E R T I F I C A T E

I HEREBY CERTIFY THAT THE PROCEEDINGS AND  
EVIDENCE ARE CONTAINED FULLY AND ACCURATELY IN  
THE NOTES TAKEN BY ME UPON THE HEARING OF THE  
WITHIN MATTER AND THAT THIS COPY IS A CORRECT  
TRANSCRIPT OF THE SAME.

11/2/16

DATE

Elise A Fitzgerald

ELISE A. FITZGERALD

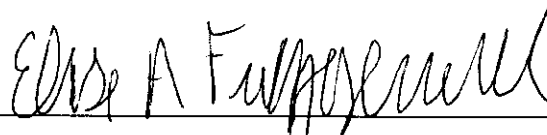
OFFICIAL COURT REPORTER

## C E R T I F I C A T E

I HEREBY CERTIFY THAT A COPY OF THIS  
TRANSCRIPT WAS MADE AVAILABLE TO COUNSEL OF  
RECORD FOR THE PARTIES, ADVISING THEM THAT THEY  
HAD UNTIL \_\_\_\_\_ IN WHICH TO FILE  
ANY OBJECTIONS OR EXCEPTIONS TO THE SAME. THAT  
TIME PERIOD HAVING ELAPSED WITHOUT RECORDING OF  
OBJECTIONS OR EXCEPTIONS, THE TRANSCRIPT IS  
THEREFORE LODGED WITH THE COURT FOR FURTHER  
ACTION.

11/2/16

DATE



ELISE A. FITZGERALD

OFFICIAL COURT REPORTER

## ACCEPTANCE BY COURT

UPON COUNSEL'S OPPORTUNITY TO REVIEW AND TO  
OFFER CORRECTIONS TO THE RECORD, THE FOREGOING  
RECORD OF PROCEEDINGS IS HEREBY ACCEPTED AND  
DIRECTED TO BE FILED.

11-2-16

DATE

Thomas G. Brown

JUDGE