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

MICHAEL J. MCQUEARY : NO. 12-1804

VS :

THE PENNSYLVANIA STATE UNIVERSITY :

TRANSCRIPT OF PROCEEDINGS
(Civil Jury Trial)
(Afternoon Session - Day 5)

BEFORE: Thomas G. Gavin, Sr. Judge
Specially Presiding
15th Judicial District

DATE: October 21, 2016

PLACE: Centre County Courthouse Annex
Annex Courtroom
108 South Allegheny Street
Bellefonte, PA 16823

APPEARANCES:

FOR THE PLAINTIFF:

Elliott Strokoff, Esq.
William T. Fleming, Esq.

FOR THE DEFENDANT:

Nancy Conrad, Esq.
George Morrison, Esq.
Kimberly Havear, Esq.

2016 OCT 21 PM 12:57
CENTRE COUNTY, PA

ORIGINAL

1 NOTES BY: Thomas C. Bitsko, CVR-CM-M
 2 Official Court Reporter
 3 Room 208, Centre County Courthouse
 4 102 South Allegheny Street
 5 Bellefonte, PA 16823
 6 814-355-6734 or fax 814-548-1158

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8 DIRECT CROSS REDIRECT RECROSS

9 PLAINTIFF:

10 Michael McQueary 4 75 -- --
 11

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P R O C E E D I N G S

AFTERNOON SESSION

THE COURT: Go ahead. Be seated,
everyone, please.

Go ahead, counsel.

MR. STROKOFF: Thank you, Judge.

DIRECT EXAMINATION

BY MR. STROKOFF:

Q. Mike, I want to go back and fill in a
few holes in the chronology here, so first I
would ask you to turn to Plaintiff's Exhibit 13
and identify that, please.

THE COURT: What exhibit, counsel?

MR. STROKOFF: Thirteen, Your Honor.

THE COURT: Okay.

BY MR. STROKOFF:

Q. Can you identify that document?

A. That's my resume from very early on in
the 2000s.

MR. STROKOFF: Move for admission of
Plaintiff's Exhibit 13, Your Honor.

THE COURT: Any objection?

MS. CONRAD: I'm sorry. I didn't
hear.

THE COURT: It's his resume from early

1 on.

2 MS. CONRAD: No objection.

3 THE COURT: It's admitted.

4 BY MR. STROKOFF:

5 Q. Was this the resume you used, sir,
6 when you obtained your first assistant coaching
7 position in February of 2004?

8 A. Yes, it is.

9 Q. Next please turn to Plaintiff's
10 Exhibit 19.

11 A. Okay.

12 Q. Are you able to identify that two-page
13 exhibit?

14 A. Yes.

15 Q. And what is that two-page exhibit?

16 A. It's a job worksheet kind of defining
17 our job and review of our job competencies, job
18 classification.

19 MR. STROKOFF: Move for admission of
20 Plaintiff's Exhibit 19, Your Honor.

21 MS. CONRAD: No objection.

22 THE COURT: Thank you. Admitted.

23 BY MR. STROKOFF:

24 Q. Mike, on the second page, what appears
25 there?

1 A. It is -- the part that's filled out is
2 reporting structure, chain of command.

3 Q. And who does it show that your direct
4 supervisor is?

5 A. Head Coach Joe Paterno.

6 Q. And who is Head Coach Joe Paterno's
7 supervisor?

8 A. Athletic Director Tim Curley.

9 Q. And as of the whole time you were
10 employed in the Penn State program, was Joe
11 Paterno your supervisor?

12 A. Yes.

13 Q. Next please turn to Plaintiff's
14 Exhibit 20, which is already in evidence.

15 A. Okay.

16 Q. Can you identify that?

17 A. Yes.

18 Q. What is that?

19 A. It was our severance contract that the
20 university drew up for us.

21 Q. And what is the date of that?

22 A. December 17, 2008.

23 Q. You had annual staff review and
24 development plans while you were employed as an
25 assistant coach; isn't that correct?

1 A. Correct.

2 Q. And Mr. Ganter testified about them on
3 -- I think it was Monday?

4 A. I think so.

5 Q. Okay. The whole time you were in the
6 employ of Penn State, did you have any
7 disciplinary issues? Were you disciplined?

8 A. No, I did not.

9 Q. All right. Do you have any reviews
10 other than the reviews that we put in here?

11 A. Not that I know of. I didn't keep
12 them in my office.

13 Q. Sir, could you turn to Plaintiff's
14 Exhibit 24, please?

15 A. Okay.

16 Q. What is Plaintiff's Exhibit 24?

17 A. That is a note from Mr. Curley
18 concerning my last salary raise while working.

19 Q. And what was your salary raised from
20 and to?

21 A. It was from -- I have to do some math
22 here.

23 Q. I'm sorry. Let me rephrase that.
24 What was your new annual salary, effective July
25 1, 2010?

1 A. \$140,040.

2 Q. And how much of a raise was that from
3 what you had been earning prior to that?

4 A. \$40,008.

5 Q. And that was your base pay until the
6 time you left Penn State; is that correct?

7 A. Yes.

8 Q. Now, in addition to your base pay, did
9 you receive any other compensation from the
10 university?

11 A. Yes.

12 Q. And what kind of compensation did you
13 receive from the university in addition to your
14 base pay?

15 A. A couple different things. During the
16 summer, we hosted summer camps, high school
17 camps, ninth through twelfth graders come and
18 participate on campus for camp. That usually
19 lasted 2 1/2, three weeks, and there were
20 several different sessions, and we received pay
21 separate from our base pay for that. The
22 December 1 paycheck -- let me go back. You
23 received that money, I think, on your July 1
24 paycheck for those camps. On the December 1
25 paycheck, you received what I believe was

1 referred to as profit-sharing, and that was
2 from the camps, the overall profit of the
3 camps. I believe, and someone higher up is
4 probably better to answer it, there was a sum
5 total of the revenue, and technically I think
6 that went to Coach Joe, but Coach Joe didn't
7 participate in the camps, and I think him and
8 Tim worked it out to break it down amongst
9 everyone, staff and full-time assistant
10 coaches, to give them another bonus from the
11 camps, and we got that December 1.

12 Q. Now, these camps are football training
13 camps, right?

14 A. Yes. Yes, they're football camps.

15 Q. For high school kids mainly?

16 A. Yes.

17 Q. Okay.

18 MR. STROKOFF: Move for admission of
19 Plaintiff's Exhibit 24, Your Honor.

20 THE COURT: Any objection?

21 MS. CONRAD: No objection.

22 THE COURT: It's admitted.

23 BY MR. STROKOFF:

24 Q. Mike, could you please turn to
25 Plaintiff's Exhibit 25?

1 A. Got it.

2 Q. What is it?

3 A. This is a letter that I wrote to Coach
4 Paterno as part of a project. A book was being
5 written, and it was going to be a sum of
6 captain's letters to Coach Paterno from all of
7 his years and all of his football teams. So
8 each captain -- or they requested each captain
9 to write a personal letter to Joe, put it in a
10 book, and publish it.

11 Q. And that was sold to raise money for
12 the football program or university?

13 A. It was definitely sold, published and
14 sold. I don't know where the monies went.
15 That, I'm not quite sure. I would doubt it
16 went directly to the university or the football
17 program. Maybe I would be speculating on where
18 it went.

19 MS. CONRAD: I would object,
20 speculation.

21 MR. STROKOFF: And he's not going to
22 speculate anymore.

23 Move for admission of Plaintiff's
24 Exhibit 25, Your Honor.

25 MS. CONRAD: No objection.

1 THE COURT: It's admitted.

2 BY MR. STROKOFF:

3 Q. Sir, in Plaintiff's Exhibit 25, the
4 third paragraph, first sentence, would you read
5 that out loud, please?

6 A. "I will someday be a head coach of a
7 program. I know that and believe it to be
8 true. You might say, quote, 'I will will it to
9 happen every day,' end quote."

10 Q. Okay. You wrote this letter about
11 when, sir?

12 A. Roughly 2008.

13 Q. And when you wrote, "I will someday be
14 a head coach of a program," what did that mean
15 to you?

16 A. I wanted to be a head coach. I wanted
17 to run my own program. I was a quarterback,
18 and kind of you're the head coach on the field.
19 It's my personality. That's' what I wanted to
20 do in my profession, and that's what I wrote.

21 Q. Did that ever change?

22 A. My goal to be a head coach?

23 Q. That's correct.

24 A. No.

25 Q. In the years before, when you entered

1 as a GA -- well, let me ask you, when did that
2 become your goal, to be a head coach?

3 A. I think pretty early on, when I began
4 in the football office, 2000, 2001, '99.

5 Q. Now, you have been referred to by some
6 as a wide receivers coach?

7 A. Yes, sir.

8 Q. And what is a wide receivers coach?

9 A. Well, in layman's terms, wideouts are
10 the guys who catch the football from the
11 quarterback in the passing game. I mean, we
12 could go on and on about what a wideout is.
13 They block on run plays. They are the
14 receivers in the pass game. They catch the
15 football down the field.

16 Q. But you also coached other players
17 other than wide receivers; isn't that correct?

18 A. At times, yes.

19 Q. You coached other positions other than
20 wide receivers?

21 A. As a GA, I helped with the tight ends.

22 Q. Do you have any experience with
23 kickers?

24 A. Yes, I coached the kickers through my
25 full-time assistantship, 2004 through 2011. I

1 was in charge of the kickers, yes.

2 Q. So you coached wide receivers and
3 kickers?

4 A. Yes.

5 Q. And where did you pick up the kicking
6 skill in order to be able to teach kicking?

7 A. From Frannie, Fran Ganter. I was a
8 holder in the kicking game in high school. I
9 was a holder at Penn State, and then Fran
10 Ganter, while I played and shortly after as a
11 GA, coached our kickers, and that is really how
12 I learned it, through osmosis, through him.

13 Q. Okay. Sir, I'm going to ask you to
14 turn to page 26. Can you just identify what 26
15 is?

16 A. This is a series of W-2 forms during,
17 it looks like, most of my years at Penn State.

18 Q. Well, specifically what years? Can
19 you identify them?

20 A. 2004.

21 Q. Through what year?

22 A. It looks like 2010.

23 MR. STROKOFF: Move for admission of
24 Plaintiff's Exhibit 26, Your Honor.

25 MS. CONRAD: No objection.

1 THE COURT: It's admitted.

2 BY MR. STROKOFF:

3 Q. Sir, could you turn please to
4 Plaintiff's Exhibit 29?

5 A. Okay.

6 Q. What is that?

7 A. It is a bio page out of the Penn State
8 football media guide.

9 Q. So this is published by Penn State?

10 A. Yes, by the university. Yes.

11 Q. And for what year was this the media
12 guide?

13 A. 2011.

14 Q. So this is the media guide that was in
15 effect, published by the university at the time
16 you were placed on administrative leave?

17 A. Yes.

18 Q. Sir, they have a list of one, two,
19 three, four, five, six, seven, eight, nine
20 coaching accomplishments. Do you see that
21 there?

22 A. Okay.

23 Q. Now, this media guide page didn't copy
24 so hot, did it?

25 A. No, it doesn't look like it.

1 Q. It's not going to project very well.
2 Why don't you read us the first block under
3 coaching accomplishments? Just read it out
4 loud.

5 MS. CONRAD: I would object. I don't
6 believe this documents been moved into
7 evidence.

8 MR. STROKOFF: That is correct. Move
9 for admission of Plaintiff's Exhibit 29, Your
10 Honor.

11 MS. CONRAD: No objection.

12 THE COURT: Thank you.

13 BY MR. STROKOFF:

14 Q. Are you able to read that first line,
15 Mike?

16 A. Yes.

17 Q. And what does that first line say?

18 A. Has coached three of the top four all-
19 time reception leaders in Penn State history.

20 Q. And reception leaders refers to who?

21 A. Receivers. It could be tight ends,
22 but in this case it's three receivers that
23 catch the ball.

24 Q. Three wide receivers?

25 A. Yes.

1 Q. Okay. How about going down one, two,
2 three, four, five, six, seven? That's Kevin
3 Kelly. Can you read that out loud?

4 A. Coached Penn State's all-time leading
5 scorer, Kevin Kelly, who, as a four-year
6 starter at kicker, amassed 425 points and a Big
7 10 record 78 field goals. He also made at
8 least one field goal in an NCAA record 31
9 consecutive games and tied the Penn State
10 season record with 22 field goals in 2006.

11 Q. And how about the last bullet point?

12 A. Effort as recruiting coordinator has
13 yielded six of the fastest and most athletic
14 classes in program history. The initial class
15 included two of the top -- two of the nation's
16 top 10 players.

17 Q. So that refers to your recruiting
18 coordinator position?

19 A. Yes, but I would be uncomfortable
20 overstating it. Everyone contributes and
21 everyone -- it's not just me, for sure.

22 Q. Okay, but let's think about this for a
23 second. You were assistant coach for the 2004
24 season?

25 A. Yes.

1 Q. Four, five, six, seven, eight, nine,
2 10, 11 -- you were there eight seasons, and in
3 eight seasons you were recruiting coordinator
4 for six of the fastest and most athletic in the
5 program's history?

6 A. Yes. Again, the answer is yes, but
7 again I would feel uncomfortable overstating
8 that accomplishment.

9 Q. All right. How about the prominent
10 players coached? Why don't you just name them
11 as set forth in the media guide and what it
12 says under where they are now or what their
13 accomplishments were?

14 A. Okay. One question about that. Where
15 they are right now today or --

16 Q. Well, no, just what's in the guide?
17 What does it say underneath their names?

18 A. Okay. It says Derek Moy, honorable
19 mention. It says HM, all Big 10, but that is
20 honorable mention, 2009, 2010.

21 Q. Okay.

22 A. It says Detroit Lions -- or Derek
23 Williams, Detroit Lions, All-American, 2008.
24 It says Dion Butler, Seattle Seahawks, PSU
25 record holder; Jordan Norwood, Cleveland

1 Browns, number three in Penn State career
2 receiving yards. It says Kevin Kelly, number
3 two in Big 10 career scoring, and Robbie Gould,
4 Chicago Bears All-Pro kicker.

5 Q. So, in addition to Kevin Kelly, you
6 also coached Robbie Gould?

7 A. Yes, for one year in 2004.

8 Q. Okay. Now, some of these players are
9 not in the NFL anymore, right?

10 A. That's correct.

11 Q. Some are with different teams?

12 A. Correct.

13 Q. Okay. Sir, could you go next to
14 Plaintiff's Exhibit 51, please?

15 A. Okay.

16 Q. Can you identify that for us, please?

17 A. This is my W-2 from 2011.

18 MR. STROKOFF: Move for admission of
19 Plaintiff's Exhibit 51.

20 MS. CONRAD: No objection.

21 THE COURT: It's admitted.

22 MR. STROKOFF: Your Honor, I'd move
23 for admission of Plaintiff's Exhibit 56. It is
24 a response to Document Request No. 2 in
25 Plaintiff's Second Request for Production of

1 Documents.

2 MS. CONRAD: A moment please to
3 review?

4 THE COURT: Yes.

5 Mr. Strokoff, I don't seem to have
6 your exhibit list. I have been working off Ms.
7 Conrad's, which I thought was the master list,
8 so do you have an extra copy of your exhibit
9 list? Some of your exhibits are not on hers.

10 MR. STROKOFF: I can give you a clean
11 copy, Your Honor.

12 THE COURT: That's fine. Thank you.

13 MS. CONRAD: Your Honor, I would
14 object on the basis that there is not a witness
15 here to authenticate this document.

16 MR. STROKOFF: Your Honor, what I have
17 is the Defendant's Response to Plaintiff's
18 Second Request for Production of Documents. It
19 was produced by defendants.

20 MS. CONRAD: I understand that, but
21 there's still not a witness to authenticate it,
22 nor did he call a witness to authenticate the
23 document.

24 MR. STROKOFF: Well --

25 THE COURT: Just a second. Are the

1 job openings that are relevant to the time
2 frame indicated in the bottom of some of the
3 exhibits?

4 MR. STROKOFF: That is correct, Your
5 Honor, and it was produced by defense counsel
6 and verified by defense counsel on May 21,
7 2014, and I have the document.

8 THE COURT: Okay. It's admitted over
9 objection.

10 BY MR. STROKOFF:

11 Q. Okay. Sir, before the break you had
12 indicated that you found out you were no longer
13 officially employed from the press conference,
14 and you thought it was around the time the
15 Freeh report was issued?

16 A. I think so.

17 Q. Okay. Could you turn to Tab 59,
18 Plaintiff's Exhibit 59?

19 A. Yes.

20 Q. What is it?

21 A. It is a letter from Highmark, dated
22 7/13/2012, indicating that my health coverage
23 for myself, my spouse, and my daughter is
24 ending.

25 MR. STROKOFF: Move for admission of

1 Plaintiff's Exhibit 59, Your Honor.

2 MS. CONRAD: No objection.

3 THE COURT: Admitted.

4 BY MR. STROKOFF:

5 Q. Now, your severance letter of December
6 2008 provided, in the event you were severed
7 because Coach Paterno was no longer the coach,
8 you would get a salary for 18 months and health
9 insurance for 18 months; isn't that correct?

10 A. That's correct.

11 Q. But your health insurance is being
12 terminated. You got notice of this in mid-July
13 2012?

14 A. Yes.

15 Q. Sir, could you turn to Exhibit 63 and
16 tell us what that is?

17 A. This is a letter from me to Highmark.

18 Q. Concerning what?

19 A. Concerning my COBRA benefits and that
20 I had not received any notice of my COBRA
21 benefits.

22 MR. STROKOFF: Move for admission of
23 Plaintiff's Exhibit 63, Your Honor.

24 MS. CONRAD: Your Honor, again there
25 is no authentication. I certainly recognize

1 this is a document -- well, there is no
2 authentication of this document except that Mr.
3 McQueary received it.

4 MR. STROKOFF: No, Mr. McQueary said
5 he sent it.

6 MS. CONRAD: Mr. McQueary sent it. I
7 apologize. Withdrawn.

8 THE COURT: Sixty-three, so it's
9 admitted without objection.

10 BY MR. STROKOFF:

11 Q. Sir, could you identify 64, please,
12 Plaintiff's Exhibit 64?

13 A. This is a, for lack of better words, a
14 summary or a report from TIAA-CREF outlining
15 the withdrawal that I took from my retirement.

16 MR. STROKOFF: Move for admission of
17 Plaintiff's Exhibit 64, Your Honor.

18 MS. CONRAD: One moment, please.

19 THE COURT: Yes.

20 MS. CONRAD: Your Honor, I understand
21 that Mr. McQueary has testified, I believe,
22 that this is a document he received. However,
23 it is a document that reflects a payment, and
24 that is only what it indicates.

25 THE COURT: I'm not understanding you.

1 He said that he cashed in his retirement plan
2 and this is the check reflecting that
3 transaction, and this is an item of damages
4 that he is asserting in the case.

5 MS. CONRAD: I understand that, sir,
6 but again I see that it says payment for.
7 Again, if Mr. McQueary is testifying that this
8 is a check that he received, it's not clear to
9 me from this document.

10 THE COURT: He indicates on the
11 document on almost the last line that it was
12 sent to his financial institution as directed.

13 So, Mr. McQueary, did you direct TIAA-
14 CREF to cash you out and send the net income to
15 your financial institution?

16 THE WITNESS: Yes, sir.

17 THE COURT: And is this document
18 corroboration of that?

19 THE WITNESS: Yes, that's the last
20 four digits of my account number.

21 THE COURT: Admitted.

22 MS. CONRAD: Thank you.

23 THE COURT: Okay.

24 BY MR. STROKOFF:

25 Q. Sir, why is it that in mid-August

1 2012, you cashed out your TIAA-CREF retirement
2 account?

3 A. I was scared. I learned my employment
4 was ending during that television news
5 conference. No one had contacted me, one,
6 about that, and, two, about if my severance
7 would start. I believe we sent letters asking,
8 and meanwhile I have a house payment. I have a
9 wife, a daughter. Panic set in pretty quick
10 without a job, so I did what I thought was my
11 best option and really the only option at that
12 point, to withdraw my retirement.

13 Q. So that by mid-August of 2012, you had
14 received no indication from the university that
15 it was going to honor your severance agreement?

16 A. None, and again, I think we sent a
17 letter or two. I mean, there was some kind of
18 correspondence back, but definitely had not
19 received absolute confirmation of my severance
20 nor the severance payments.

21 Q. Okay. Sir, can you identify
22 Plaintiff's Exhibit 65? First I want to ask
23 you if you are able to identify it.

24 A. I don't know what's technical for
25 identifying --

1 Q. Do you know what it is?

2 A. Yes.

3 Q. Okay. What is it?

4 A. It is a letter from defendant's
5 counsel to my counsel, instructing them that --

6 MS. CONRAD: I'm going to object as to
7 the characterization of the document. This is
8 a document that was not directed to Mr.
9 McQueary, nor -- and I just want to be certain
10 that it's --

11 THE COURT: Mr. Strokoff, just ask
12 another question.

13 BY MR. STROKOFF:

14 Q. Sir, is this the first indication on
15 August 31, 2012, that the university was going
16 to honor its severance agreement?

17 A. Yes.

18 MR. STROKOFF: Move for admission of
19 Plaintiff's 65, Your Honor.

20 MS. CONRAD: I think the question has
21 been answered. I don't know that it requires
22 admission of this document.

23 THE COURT: It's admitted over
24 objection with the understanding that, as we've
25 admitted many other documents, the jury is not

1 going to be looking at some of the volumes of
2 documents. Some are admitted and some are
3 going to be seen. Go ahead -- unless you want
4 to look at all seven volumes.

5 Go ahead.

6 BY MR. STROKOFF:

7 Q. Sir, are you able to identify
8 Plaintiff's Exhibit 66?

9 A. (No response)

10 Q. I'm going to withdraw that. How about
11 go -- go to 67. Can you identify Plaintiff's
12 Exhibit 67?

13 A. Yes.

14 Q. And what is this?

15 A. It is a letter, I believe, concerning
16 my health insurance and confirming that I have
17 received my premium payment coupon book
18 booklet.

19 MR. STROKOFF: Move for admission of
20 Plaintiff's Exhibit 67, Your Honor.

21 MS. CONRAD: No objection.

22 THE COURT: Admitted.

23 BY MR. STROKOFF:

24 Q. Sir, if -- let me rephrase that. Your
25 severance agreement provided that you would not

1 have to pay any health insurance, isn't that
2 correct, for 18 months?

3 A. That's correct.

4 Q. But, on September 17, 2012, you
5 received premium payment coupons to pay for
6 your health insurance?

7 A. Correct.

8 Q. Sir, can you go to 68, which is
9 already in evidence? Do you see that?

10 A. Yes, sir.

11 Q. When did you receive your first
12 severance payment from the university?

13 A. It's dated September 18, 2012.

14 Q. Do you remember if this was direct
15 deposit or mailed to you?

16 A. This is an actual mailed check. This
17 is how Penn State's mailed check looked like.

18 Q. All right. So did you receive it on
19 the 18th?

20 A. I couldn't verify that.

21 Q. Okay. But you received it, if not on
22 the 18th, a short time thereafter?

23 A. Yes.

24 Q. Okay. And this check had three months
25 of payments in it?

1 A. Yes.

2 Q. Could you turn to Plaintiff's Exhibit
3 69, please?

4 A. Yes.

5 Q. What is that?

6 A. I believe it's a letter.

7 MS. CONRAD: Your Honor, again this
8 appears to be a document that is not directed
9 to Mr. McQueary. I believe the question could
10 be asked without the need for the document.

11 MR. STROKOFF: Your Honor, I will try
12 to do that.

13 BY MR. STROKOFF:

14 Q. Sir, when was it that you finally
15 received confirmation that you would not have
16 to pay health insurance because you were
17 covered by the severance agreement?

18 A. October 2, 2012.

19 Q. Thank you.

20 MR. STROKOFF: So 69 will not be in
21 the book?

22 THE COURT: Not offering 69, I take
23 it, or you are offering it?

24 MR. STROKOFF: Yeah, I would like to
25 offer it. I would like to offer it because it

1 pins the date down.

2 THE COURT: I understand your
3 objection, Ms. Conrad. It's admitted over
4 objection. It's going to be one of those
5 documents that the jury certainly doesn't get
6 to see.

7 Members of the jury, we admit some
8 documents for record purposes and that's all,
9 and then there are some documents that you're
10 going to get to see because you need them to
11 evaluate the case. Enough said on that. Go
12 ahead.

13 BY MR. STROKOFF:

14 Q. Sir, can you turn to Plaintiff's
15 Exhibit 70 and tell us what that is?

16 A. This is a W-2 from 2012, my W-2 from
17 2012.

18 MR. STROKOFF: Move for admission of
19 Plaintiff's Exhibit 70, Your Honor.

20 MS. CONRAD: No objection.

21 THE COURT: It's admitted.

22 BY MR. STROKOFF:

23 Q. Sir, in the second half of 2012,
24 you're unemployed, right?

25 A. Yes.

1 Q. Okay. So explain to the jury, if you
2 would, please, how a coach goes about looking
3 for employment.

4 A. Well, first and foremost, the -- and
5 maybe the most important thing to understand is
6 the hiring season for a coach is very specific.
7 Usually, staffs turn over right after football
8 season, let's say the second half of November
9 on through the December 1 area. That's when
10 football seasons, from the smaller schools all
11 the way up to the bigger schools, end. At that
12 time, that is when coaching staffs usually get
13 fired or coaches from staffs leave to go to
14 another place. So you begin through your
15 contacts and online through football coaching
16 sites mostly. I mean, there's all kinds of
17 ways, but mostly to track those movements and
18 those staffs, the universities that have open
19 positions, the guys who are moving from here to
20 there. And once you see that, you begin to try
21 to connect the dots in terms of who you might
22 know going to a specific place, where you might
23 have had contact with someone at a specific
24 place, a geographical location that makes
25 sense. It might be somewhere where you have

1 had success recruiting. There are some factors
2 that you try to find common to you in the
3 position or a position, and then you start the
4 process of sending texts, sending e-mails,
5 reaching out to contacts that might know
6 someone at that school or has worked with this
7 coach somewhere else, and you try to begin to
8 get into that position.

9 Football coaching and getting hired
10 onto a staff is not, you know, go out, fill out
11 the application, show up for an interview a lot
12 of the time. A lot of the time it is who you
13 know, and you get hired on the spot because a
14 guy is comfortable with you or it's just a good
15 fit. It's not a very -- it's not a very
16 official job-seeking process, if you will.

17 Q. Okay.

18 A. I'm sorry it's long, but that's the
19 truth.

20 Q. So the high season for obtaining a job
21 is the end of November?

22 A. It starts in November, and really the
23 peak is through that December-January, maybe
24 into February a little bit, but then it starts
25 to really come down off.

1 Q. All right. So your first peak hiring
2 season after you were let go in July of 2012
3 would have been when?

4 A. It would have been that -- coming into
5 that November or December of 2012.

6 Q. Can you identify Plaintiff's Exhibit
7 71, please?

8 A. Yes.

9 Q. And what is that?

10 A. That was my resume up to date till
11 2011.

12 Q. And is this the one -- okay.

13 MR. STROKOFF: Move for admission of
14 Plaintiff's Exhibit 71, Your Honor.

15 MS. CONRAD: No objection.

16 THE COURT: It's admitted.

17 BY MR. STROKOFF:

18 Q. So is this the resume you used for the
19 2012 hiring season?

20 A. Yes.

21 Q. Now, sir, when you were looking for
22 work, did you restrict your search to just
23 college football coaching?

24 A. No.

25 Q. Okay. Where else did you look for

1 work?

2 A. Oh, I tried to find or tried to think
3 about whatever skills I may possess that
4 carried over into other careers. For instance,
5 as one example, and I've tried to explore
6 medical device sales. They hire a lot of ex-
7 athletes. They hire extremely competitive
8 people, high energy, great interpersonal
9 skills, people who are able to communicate,
10 people who work hard. So I investigated and
11 tried to explore that field and tried to catch
12 on with a medical device sales job. I was a
13 health policy administration major, had been
14 around the medical field a lot of my life
15 through my father, and I thought it would be a
16 good fit.

17 Q. Any other career choices did you
18 explore?

19 A. Yes, HR/recruiting. I have tried to
20 explore that. Obviously, the direct area would
21 be -- and while it's not the same, it's
22 similar, the recruiting coordinator role I had
23 at Penn State and recruiting kids out of
24 college to go to work for companies.

25 I investigated a career in golf,

1 obviously not playing golf, although I wish,
2 but a golf professional or a teacher. There's
3 others. I can't think of them.

4 Q. Well, we'll get into them.

5 A. There were several.

6 Q. Do you possess any credentials for
7 being a golf professional?

8 A. I do.

9 Q. Okay. And what is that?

10 A. It's called a PAT, a Player Assessment
11 Test. I think that's what it stands for. The
12 long and short of it is you go out to a golf
13 course, you enter a tournament. It's 36 holes.
14 You have to come up with a minimum score. If
15 you meet that score or better, you pass the
16 skill portion of being certified as a golf
17 professional.

18 Q. Okay. So did you prepare a resume for
19 these non-football positions?

20 A. I tried to. There's at least two
21 separate kinds of resumes I prepared and
22 probably one or two more. I just -- I'm not
23 sure. There's definitely multiple resumes I've
24 used.

25 Q. Can you identify Plaintiff's Exhibit

1 72?

2 Q. And what are they?

3 A. I'm sorry?

4 Q. What is Plaintiff's Exhibit 72?

5 A. This is a form cover letter that I
6 have used, one of a few.

7 Q. And these are for non-football
8 opportunities?

9 A. I think this is for non-football, yes.

10 MR. STROKOFF: Move for admission of
11 Plaintiff's Exhibit 72, Your Honor.

12 MS. CONRAD: No objection.

13 THE COURT: It's admitted.

14 BY MR. STROKOFF:

15 Q. Sir, are you able to identify
16 Plaintiff's Exhibit 73?

17 A. Yes.

18 Q. And what is it?

19 A. My 1040 from 2012, my tax return from
20 2012.

21 Q. And that is not just yours, right?

22 A. Correct.

23 Q. Okay. It's a joint return with
24 Barbara?

25 A. Barbara and -- yes.

1 MR. STROKOFF: Okay. Move for
2 admission of Plaintiff's Exhibit 73, Your
3 Honor.

4 MS. CONRAD: No objection.

5 THE COURT: Thank you. It's admitted.
6 BY MR. STROKOFF:

7 Q. Mike, there is a separate binder up
8 there, Plaintiff's Exhibit 79. Could you go to
9 that, please?

10 A. Okay.

11 Q. What is this binder that contains
12 Plaintiff's Exhibit 79?

13 A. It is all that I have kept track of --
14 or I'm sure there's one or two things missing -
15 - but the very, very bulk of my employment
16 efforts, whatever I have been able to record in
17 terms of my employment efforts and job search.

18 Q. Since you have left the employment of
19 Penn State, have you been able to find any
20 regular employment?

21 A. Not regular employment, no.

22 Q. Okay. We're going to go over what
23 employment you have found in a bit, and I just
24 want to go -- I just want to make sure that we
25 understand. This binder contains not just

1 coaching employment searches, but employment
2 searches outside the coaching area; isn't that
3 correct?

4 A. Yeah, I think it's the very, very bulk
5 -- 99.9 percent of all jobs I have tried to
6 track down.

7 MR. STROKOFF: Move for admission of
8 Plaintiff's Exhibit 79, Your Honor.

9 MS. CONRAD: Objection. Many of these
10 documents are duplicative. Many of these
11 documents contain information unrelated to a
12 job search. I would proffer to this Court that
13 we need to go through the documents as opposed
14 to make a representation about a complete
15 binder of them.

16 MR. STROKOFF: I'm not sure I
17 understand the objection, Your Honor, but the
18 witness has identified the --

19 THE COURT: The witness has identified
20 P79 as the efforts he has made to find
21 employment; is that correct?

22 THE WITNESS: It is, Your Honor.

23 THE COURT: And the contents of that
24 document those efforts, correct?

25 MR. STROKOFF: It does, Your Honor.

1 THE COURT: Okay. So to the extent
2 that you think there is any duplication or any
3 other grounds that you wish to raise, you can
4 certainly cross-examine him on them, because
5 there is no way we're going to go through each
6 of those documents, given the size of the
7 binder.

8 MR. STROKOFF: Yeah.

9 THE COURT: It's admitted over
10 objection, and I assume you're going to
11 selectively pull some out?

12 MR. STROKOFF: That is correct, Your
13 Honor, but I would like to advise the Court
14 that we have already in the record as
15 Plaintiff's Exhibit 74, which is a series of
16 text messages and communications with Coach
17 Wilson, and some of that is in here, but we
18 have all of his efforts from start to finish in
19 chronological order, so there's a very small
20 duplication, and I'm not going to go over that.

21 THE COURT: So we solve the problem
22 this way; that to the extent that you direct
23 his attention to a particular document in P79,
24 Ms. Conrad has an opportunity to look at it and
25 nobody is unhappy with it, that can be pulled

1 out and we will have a subset folder P79A, and
2 if the jury wants to look at it, they can look
3 at 79A as opposed to 79 in its entirety.

4 MS. CONRAD: Thank you, sir.

5 MR. STROKOFF: Thank you.

6 BY MR. STROKOFF:

7 Q. Sir, there are page numbers at the
8 bottom of this document, MM and then a page
9 number. Do you see that?

10 A. Yes.

11 Q. And hopefully these are all in
12 numerical order. I would ask you to turn to
13 MM0188.

14 A. Okay.

15 Q. Can you identify what MM0188 is?

16 A. It is a -- let me review it first.
17 It's a listing for a job that I applied to for
18 a golf academy assistant.

19 Q. And about when did you make that
20 application?

21 A. May 8, 2013.

22 Q. And did you possess the minimum skills
23 for that position?

24 A. I believe so.

25 Q. And were you successful in obtaining

1 that position?

2 A. No.

3 Q. All right. How about go back to pages
4 -- to MM0186?

5 A. Okay.

6 Q. What is that, sir?

7 A. It's a confirmation of a job I applied
8 for as a sales clerk in a golf shop in State
9 College.

10 Q. That's different than the golf academy
11 assistant job?

12 A. Yes, that was a different job listing.

13 Q. Okay. And were you successful in
14 obtaining this sales clerk job in a pro shop?

15 A. No.

16 Q. And when did you apply for that, sir?

17 A. May 3, 2013.

18 Q. Now, shortly after these two
19 applications, we heard from Coach Wilson the
20 other day that he wanted to hire you as an
21 assistant coach at Savannah State?

22 A. Yes.

23 Q. Sir, could you go to page MM238?

24 A. Okay.

25 Q. And without telling us what is

1 contained therein, just tell us what we are
2 looking at here.

3 A. Text messages between me and another
4 person.

5 Q. And who is the other person?

6 A. His name is Dave Roberson.

7 Q. Could you spell that for the court
8 reporter?

9 A. R-O-B-E-R-S-O-N.

10 Q. And who is Dave Roberson?

11 A. He was a GA on our staff at Penn State
12 late in the 2000s. He may have been there when
13 everything unfolded, but was there right before
14 if he wasn't, and has since moved on to other
15 areas in coaching.

16 Q. Okay. But at that time, in June of
17 2013, where was he?

18 A. He was at Savannah State.

19 Q. And you were communicating with him
20 also about the assistant coaching position at
21 Savannah State?

22 A. Yes.

23 Q. Okay. Now go to page MM0420.

24 A. Okay.

25 Q. What is this page?

1 A. The same text messages, you know,
2 further down the stream of text messages.

3 Q. Okay. With Mr. Roberson?

4 A. Yes.

5 Q. Okay. Now, do these text messages set
6 forth what your pay would have been at Savannah
7 State?

8 A. Yes, according to Dave. Yes.

9 Q. Okay. And what was that pay to be?

10 A. A paycheck of \$1,200 a month for four
11 months.

12 Q. Plus a furnished apartment?

13 A. Yes, the apartment is furnished. Yes.

14 Q. Okay. And you were willing to accept
15 that job for \$4,800 plus a furnished apartment?

16 A. Yes, very much. We got pretty far
17 along in the process, yes.

18 Q. Well, you applied for it, right?

19 A. Applied for it and --

20 Q. You were told you had it, right?

21 A. I was, yeah. I was about a day away
22 from packing up, yes.

23 Q. So, to get back into coaching, you
24 were willing to accept a position paying \$4,800
25 plus a furnished apartment for four months?

1 MS. CONRAD: Objection, leading.

2 THE COURT: Overruled. You can answer
3 the question.

4 THE WITNESS: I was willing to accept
5 that job, yes.

6 BY MR. STROKOFF:

7 Q. And he testified the other day that he
8 had to withdraw his offer?

9 A. Yes.

10 Q. Sir, could you go to MM0222?

11 A. 0222. Okay.

12 Q. And what is that, sir?

13 A. This is a confirmation that I applied
14 for an orthopedic sales representative job
15 through the search engine job search site
16 Monster.

17 Q. Okay. And were you successful, sir,
18 in landing that position as an orthopedic sales
19 representative?

20 A. No.

21 Q. Would you go to MM0193?

22 A. Okay.

23 Q. What is that, without naming the
24 company?

25 A. Oh, sorry. It's again a confirmation

1 that I have submitted the appropriate materials
2 for a position in pharma sales.

3 Q. Was there any further follow-up with
4 respect to this application?

5 A. Not this one, no.

6 Q. Okay. How about -- go to MM316.
7 Again, without naming the company --

8 A. Okay.

9 Q. -- what was this?

10 A. This is a string of e-mails, a pretty
11 good string, got pretty -- well, decently far
12 along.

13 Q. What time frame, sir?

14 A. November 8, 2013.

15 Q. Okay. Go ahead.

16 A. About a sales position within an
17 insurance -- a national insurance company.

18 Q. So there were a number of
19 communications between you and the company?

20 A. Yes, a number of communications.

21 Q. All right. Were there any interviews
22 of any kind?

23 A. Yes, I drove to New York City and
24 interviewed in person.

25 Q. Okay. And did you obtain this

1 position?

2 A. No.

3 Q. And then 392. Would you turn to that,
4 please?

5 A. Okay.

6 Q. And what is that, sir?

7 A. This is a follow-up e-mail regarding
8 an interview I had. That may have been a phone
9 interview, because I did both with this
10 company.

11 Q. You did both? What do you mean both?

12 A. I'm sorry. I had both a phone
13 interview, at least two maybe, and also an in-
14 person interview with this particular --

15 Q. And what kind of company was it?

16 A. This is a medical device sales
17 position, orthopedic, specifically spine.

18 Q. And what is the date and time frame
19 that you applied for this position?

20 A. This happened during the whole summer
21 -- well, kind of the whole summer of 2014, but
22 this particular date is June 25.

23 Q. How about 411? Please turn to that.

24 A. Okay.

25 Q. And again, without naming the company,

1 what does this document reflect?

2 A. It reflects me going in to their
3 online system and submitting materials for a
4 job.

5 Q. What kind of job?

6 A. It's a sales job within a sports --
7 national -- international sportswear company.

8 Q. So this would be a sales clerk in a
9 store?

10 A. No, no. I think this would be more of
11 a -- like a product line sales to -- I'm not
12 sure I'm using the right word -- to -- like a -
13 - you're selling that line to a -- for example,
14 a Dick's Sporting Goods, something like that.

15 Q. Okay. Did you obtain this position?

16 A. No.

17 Q. And the time frame here?

18 A. This is October of 2014.

19 Q. We are only going to do this for
20 another five minutes and then we're going to go
21 back to some coaching positions. How about
22 440?

23 A. Okay.

24 Q. Do you have that?

25 A. Yep.

1 Q. And what is the time frame here?

2 A. This is December 1 of 2014.

3 Q. And what kind of position does this
4 refer to?

5 A. This was a -- this is a fellow
6 referred to me as a human resource job
7 placement specialist, who I think may have been
8 a Penn Stater, and I reached out to him to see
9 if he can lend me help, and he -- this is a
10 return e-mail from him to me.

11 Q. And did you have a number of
12 communications with him?

13 A. Yes.

14 Q. Were there any interviews?

15 A. So he was really nice to me and he
16 connected me with at least two different
17 companies and people within those companies,
18 and I had one phone interview with one of those
19 companies, and the second one I don't know if
20 we had follow-up.

21 Q. And the time frame here, sir?

22 A. December 2014.

23 Q. Let's do a few more; 547.

24 A. Okay.

25 Q. And, sir, what does 547 document?

1 A. This is a confirmation of my interest
2 in submitting my application to a -- another
3 medical device company that specializes in
4 women's health.

5 MS. CONRAD: I'm sorry. I didn't hear
6 that.

7 THE WITNESS: It's a medical device
8 company that specializes in women's health.

9 MS. CONRAD: Thank you.

10 BY MR. STROKOFF:

11 Q. And, sir, were you successful in
12 obtaining this position?

13 A. No.

14 Q. And this time frame?

15 A. July of 2015.

16 Q. Let's go to MM0774.

17 A. 0774?

18 Q. Yep. It might be the next-to-the-last
19 one in the book.

20 A. Okay.

21 Q. What is that?

22 A. It's an application to work at Rite
23 Aid.

24 Q. In what capacity, sir?

25 A. Sales clerk or shift manager.

1 Q. In a Rite Aid retail store?

2 A. Yeah, or, you know, a pharmacy, a
3 pharmacy store. You know, a pharmacy store.

4 Q. And that's a local one in the State
5 College area? Don't identify the specific one.

6 A. Yes, right down the street from my
7 house.

8 Q. All right. When did you apply for
9 that, sir?

10 A. Just recently. It was early August of
11 this year -- excuse me, 2016.

12 Q. Okay. And did you get the job?

13 A. No.

14 Q. Let's go back and talk a little bit
15 about assistant coaching jobs.

16 A. Okay.

17 Q. And I want you to just explain a
18 little bit better. Just hypothetically, you
19 find out about a coaching vacancy at a school
20 where you don't know the head coach, okay?

21 A. Okay.

22 Q. What, if anything, do you do in an
23 effort to try to get that job where you don't
24 know the head coach?

25 A. Like I said before, you try to come up

1 with parallels with that head coach, mutual
2 contacts, mutual geographic area, some kind of
3 link to that school.

4 Q. Let's go to the contacts.

5 A. Okay.

6 Q. What do you mean a mutual contact?

7 A. For instance, a guy gets a head
8 coaching at a -- a head coaching position at a
9 college school. You look at who was on his
10 previous staff, who he has worked with at other
11 staffs, who that you know may know a guy --
12 this is kind of getting complicated.

13 Q. Well, that's the part I want to ask.
14 How do you figure out you know somebody who
15 might know the head coach?

16 A. You have just got to reach out. You
17 just have to ask. You know, it kind of strikes
18 a bell in your mind. You may know where guys
19 have recruited or you just kind of have a
20 running -- you just kind of know the football
21 coaching landscape. It's kind of tough to
22 define.

23 Q. All right. So you find a vacancy and
24 then you look to see if you know anybody who
25 can -- who knows the head coach and can put in

1 a word for you?

2 A. Yes. Yes, a lot of the time.

3 Q. Okay. Let me ask you something. When
4 you were assistant coach at Penn State, did you
5 get calls to put in words for people?

6 A. Oh, yes. Yeah. Absolutely. Yes.

7 Q. From people that you had met over the
8 years?

9 A. Yes.

10 Q. Okay. Can you give me an example?

11 A. Yeah. Yeah. Two of -- two of my
12 buddies from growing up in State College, at
13 State College High, were at different, smaller
14 schools, and a connection that I had at Penn
15 State when I was a GA, that fellow moved on
16 from Penn State and eventually got a head
17 coaching job at Temple, and both of my friends
18 from State College High that I played ball with
19 and were in coaching at smaller schools, they
20 both called me and said, "Can you give this new
21 head coach a job? Do you know him and we don't
22 really know him." And I said, "Absolutely.
23 I'd love to do it," and I liked both of them.
24 I had respect for both of them, and I called
25 them on their behalf and said they would be two

1 great hires for you.

2 Q. Who was the head coach that you're
3 referring to?

4 A. Al Golden.

5 Q. And who were the two high school
6 friends who you gave references for to Al?

7 A. Jeff Nixon and Matt Rhule.

8 Q. Do you know whether or not either of
9 them obtained positions with Mr. Golden?

10 A. They both did.

11 Q. They both did?

12 A. Yes.

13 Q. Okay. And when you were unemployed,
14 then you reached out to folks that you knew in
15 the coaching community to see if they could put
16 in words for you; is that correct?

17 A. Yes. Absolutely. Yes.

18 Q. And we see those text messages to
19 different people throughout this 79, asking if
20 they know somebody or can they put in a word
21 for --

22 A. Oh, yeah. Yes. Yes.

23 Q. Okay. Can you give us a general idea
24 of the variety of places where you applied for
25 college coaching positions in the last four

1 years?

2 A. A general idea? Sure. I have tried
3 to, one, seek commonalities with my contacts,
4 and two, stay relatively on the east side of
5 the country. So obviously you look for
6 positions that come open and new jobs that are
7 open and again you figure out if you might have
8 a shot. The football coach hiring situation is
9 a difficult one. It usually happens lightning-
10 fast. Within a day, a guy will have his staff,
11 usually, a lot of the time, so you have to be
12 very quick. So anyway, I have applied. I have
13 sent stuff to Pitt, West Virginia, Maryland,
14 Rutgers, East Carolina, Duke, Virginia, maybe
15 Syracuse. There are more, but those are some
16 of the bigger schools that I've sent to. I
17 have also sent to some smaller schools.

18 Q. Such as?

19 A. Bucknell, Susquehanna, Davidson. I
20 have talked with Coach Talley at Villanova. We
21 can't seem to find any material I sent him.
22 There are others; Norwich, up in Vermont, which
23 is a D2 or 3 school. My most recent was very
24 close -- is a small D3 school that I had never
25 heard of, Mount Ida.

1 Q. And where is Mount Ida?

2 A. Outside of Boston.

3 Q. And the closest you came to landing a
4 job was Savannah State?

5 A. Savannah or Mount Ida.

6 Q. Okay. Explain to the jury how
7 important credibility is with respect to an
8 assistant coaching position?

9 A. It's very important. When you talk
10 about recruiting, you're going into a
11 prospect's home. You are sitting down with
12 moms and dads, and they're trusting you with
13 their kid. They're sending their kid to that
14 school, and you're the parents away from home.
15 It has a lot to do with it. That's, I think,
16 one of the reasons we were successful at Penn
17 State, because I think, starting from the top
18 with Coach Paterno and the assistant coaches,
19 we did it the right way or at least -- not that
20 we were infallible. I don't want to make it
21 look like that, but there was a strong attempt
22 to do it the right way, whether it be on the
23 football field or, you know, in the classroom,
24 and I know that gets worn out and everyone says
25 it, but it is true. We would sit in a staff

1 meeting for an hour-and-a-half and talk about
2 night classes and how to restructure our
3 practice schedule, so that's the kinds of
4 things that I think lend to credibility and
5 parents trusting you in the recruiting portion
6 of your job.

7 Q. What about with respect to the
8 relationship with the head coach?

9 A. Rephrase that for me. I'm not sure
10 what you mean.

11 Q. Credibility as a factor in your
12 relationship with the head coach?

13 A. Again, it's important. You know, if
14 you are looked at as not credible or a cloud
15 over your head or -- and to be frank with you,
16 in my situation, involvement in maybe one of
17 the bigger scandals that's ever been in college
18 football. There are 10 other guys, 20 other
19 guys that he can pick from that may not be the
20 coach that you are or the recruiter that you
21 are, but because you have this hanging over
22 your head, you are just not going to get in.

23 Q. Sir, Dr. Joyner testified that Penn
24 State had no work for you in the spring of
25 2012?

1 A. Yes.

2 Q. Did you have an opportunity to look at
3 Plaintiff's Exhibit 56, which are job
4 opportunities at the university, in the spring
5 of 2012?

6 A. Yes.

7 Q. Could you turn, please, to PSU 530?

8 A. Okay.

9 Q. What is the position that is listed at
10 the bottom of that page?

11 A. Administrative support assistant.

12 Q. For which department?

13 A. Intercollegiate athletics.

14 Q. Did you possess the minimum skills
15 required as set forth on that job posting?

16 A. In my opinion, yes.

17 Q. Could you go to 540, please? What is
18 the position that is listed at the bottom of
19 that page as being available in May of 2012?

20 A. Administrative support assistant.

21 Q. In what department, sir?

22 A. Intercollegiate athletics.

23 Q. Did you possess the minimum skills
24 necessary for that position?

25 A. I believe so.

1 Q. Could you go to page 552? What is the
2 position set forth at the bottom of that page?

3 A. It's a head men's golf coach.

4 Q. Did you possess the qualifications
5 necessary, minimum qualifications necessary, as
6 set forth in that posting?

7 A. I believe so.

8 Q. Now, that is at Penn State Harrisburg?

9 A. Yes.

10 Q. Would you be willing to go to Penn
11 State Harrisburg for that position?

12 A. Yes. Yeah. Yes.

13 Q. All right. Now, within the football
14 program itself, were there behind-the-scenes
15 jobs that you could have done?

16 A. Yes, several.

17 Q. Like what?

18 A. Almost all of them. I didn't have the
19 equipment room expertise, for sure, and I'm not
20 a trainer, a certified athletic trainer, but
21 certainly assistant recruiting coordinator,
22 recruiting coordinator in the office, certainly
23 strength coach. Those are two. Director of
24 football operations are usually a football guy
25 -- football guys that are filled into that

1 role. Yes, more than one.

2 Q. Okay. Well, let's go back and see
3 what work you have done since you left Penn
4 State.

5 A. Okay.

6 Q. So I think the first exhibit would be
7 Plaintiff's Exhibit 75. Tell us what
8 Plaintiff's Exhibit 75 is.

9 A. All right. Oh, okay. It says there -
10 - it's a 1099.

11 Q. For what year?

12 A. For 2013.

13 Q. And how many of them are there in this
14 exhibit?

15 A. There are two.

16 Q. Okay. And what is the first one for,
17 the amount of money?

18 A. \$1,500.

19 Q. And who was the issuer of that 1099?

20 A. Bellefonte Medical Investors.

21 Q. And the second 1099 for 2013?

22 A. The issuers and the amount?

23 Q. Yes.

24 A. Medical Surgical Associates, and it's
25 for \$2,500.

1 Q. Okay. Now, what did you do for
2 Bellefonte Medical Investors where they paid
3 you \$1,500 in 2013?

4 A. For both jobs, it is the same, just
5 two different sites.

6 Q. Okay. Well, what did you do?

7 A. I cleaned windows, cleaned up flower
8 beds, primarily picking up cigarettes out of
9 flower beds, cleaning up storage rooms,
10 sweeping the parking lot, more or less be on
11 call, not an errand boy, but to go down and
12 take care of an emergent issue, if there was,
13 with the physical property.

14 Q. Now, who is Bellefonte Medical
15 Investors?

16 A. It is a group of -- Bellefonte. We're
17 talking Bellefonte. It's a group of physicians
18 and my father involved in the owning of
19 buildings.

20 Q. And what about Medical Surgical
21 Associates?

22 A. The same, except my father is not an
23 owner.

24 Q. Okay. Did your father help you get
25 these jobs?

1 A. Yes, he assigned them to me. Yes,
2 he's in charge of both the physical properties.

3 Q. Did you earn any other money in 2013
4 other than this \$4,000?

5 A. Not in 2013, I don't think.

6 Q. Okay. Let's go to --

7 MR. STROKOFF: I have to move for
8 admission, Your Honor, of 75.

9 THE COURT: Any objection?

10 MS. CONRAD: No objection.

11 THE COURT: It's admitted.

12 BY MR. STROKOFF:

13 Q. Go to 76, please. Tell us what 76 is.

14 A. The same. It's a 1099 from Bellefonte
15 Medical Investors.

16 MR. STROKOFF: Move for admission of
17 76, Your Honor.

18 MS. CONRAD: No objection.

19 THE COURT: Admitted.

20 BY MR. STROKOFF:

21 Q. And how much did you earn in 2014 from
22 Bellefonte Medical Investors?

23 A. \$2,000.

24 Q. Nothing from Medical Surgical
25 Associates?

1 A. No.

2 Q. Doing the same kind of --

3 A. The same work.

4 Q. -- work? Okay. Would you turn to
5 Plaintiff's Exhibit 77, please?

6 A. Okay.

7 Q. What is 77?

8 A. What is 77? I'm sorry.

9 Q. Yes.

10 A. It is an e-mail, the bottom portion of
11 it, from me to one of my friends and a former -
12 - my former player agent, actually, confirming
13 that I had done work for him in terms of
14 training a prospect getting ready to enter the
15 draft and enter the NFL.

16 Q. And you rendered those services?

17 A. Yes, I did.

18 Q. And what were you paid for those
19 services in 2015?

20 A. I think \$50 an hour, I think.

21 Q. So the 15 hours would be a total of
22 what?

23 A. I think they sent me a check for \$750.

24 Q. Did you earn any money from Bellefonte
25 Medical Investors in 2015?

1 A. In 2015, I think I did. It's not
2 here.

3 Q. It isn't here. That, I can tell you.

4 A. No, I don't -- I don't think it's
5 here, but I would be shocked if I didn't get
6 paid from them.

7 Q. And how much do you recall getting
8 paid from them?

9 A. Oh, a minimal amount, no more than
10 3,000, \$4,000.

11 Q. Okay.

12 MR. STROKOFF: Move for admission of
13 77, Your Honor.

14 MS. CONRAD: No objection.

15 THE COURT: It's admitted.

16 BY MR. STROKOFF:

17 Q. Was it that you performed these 15
18 hours of training services for?

19 A. His name?

20 Q. Yes.

21 A. His name is Ross Travis.

22 Q. And who is Ross Travis?

23 A. He was a former Penn State basketball
24 player, actually, who was a great athlete --
25 and I don't know him well -- but a really good

1 kid, and I think, when he graduated from Penn
2 State and it came time for him to make a
3 decision what he was going to do -- and, again,
4 I don't know the details of the story -- but I
5 think it became apparent he was not going to
6 play --

7 Q. I just want to know who he was. He's
8 a basketball player?

9 A. Yes.

10 Q. Okay. You're training a basketball
11 player to do what?

12 A. Play football.

13 Q. Okay. When was the last time he
14 played organized football?

15 A. I think he said ninth grade, maybe
16 10th grade.

17 Q. So he didn't play in college?

18 A. No, he definitely did not play in
19 college.

20 Q. Did not play in high school?

21 A. If he did, it was very early.

22 Q. Okay. And you gave him 15 hours of
23 training when?

24 A. It was the spring of 2015.

25 Q. Okay. And where is Mr. Travis today?

1 A. I believe he's on the roster with the
2 Kansas City Chiefs.

3 Q. So he was successful in making the
4 transition to professional football?

5 A. I believe so. And, again, I don't
6 want to overstate it. To his credit -- I mean,
7 I helped a little bit, but, you know, it's his
8 doing. It's -- I don't wave a magic wand.

9 Q. Right. But you did -- if we go to 78,
10 what is 78?

11 A. Seventy-eight is another one of my
12 resumes.

13 Q. At the top it says Current.

14 A. Yes. This would be the most up-to-
15 date, I think.

16 Q. Okay. And you put Ross Travis' name
17 on your resume, right?

18 A. I did.

19 MR. STROKOFF: Okay. Move for
20 admission of 78, Your Honor?

21 MS. CONRAD: No objection.

22 THE COURT: Thank you. It's admitted.
23 BY MR. STROKOFF:

24 Q. Sir, you have indicated your feelings
25 when you received the administrative leave

1 document, and I don't want to go over that
2 again.

3 A. Yeah, I don't either.

4 Q. But once the reality of being on
5 administrative leave set in, how did that make
6 you feel?

7 A. It's humbling. Again, I don't want to
8 get angry again, but it's awful. I'm starting
9 to simmer here. It's not good, you know.

10 Q. Well, the jury has to hear more than
11 it's just not good?

12 A. I'm sorry?

13 Q. How did you feel at that time?

14 A. I was again --

15 Q. It is almost five years ago?

16 A. Yeah. Again, you know, right now,
17 right now, as we sit here today, there is a kid
18 in some locker room or some church having the
19 same thing happen to him, and someone may know
20 about it, and that person is scared to speak
21 up, and to do it to someone, to treat someone
22 that way, who does speak up, and I'm not
23 sitting here saying I handled it exactly
24 perfectly. I have said this before. I will
25 point a finger at myself before I point it at

1 anyone else. I'm a man, and I can take
2 responsibility, but you don't treat someone
3 like that who tries to stop something, maybe
4 not perfectly, but tries to do the right thing
5 in these awful acts, so that's how I feel about
6 it. You don't do that to someone. You stand
7 up and you say, "Hey, listen. This guy tried
8 to do the right thing. He came to us with it,"
9 and you don't throw him because he's, quote,
10 unquote, "threatened." You don't throw him
11 somewhere like he's the guy who committed the
12 acts, you know. It's not right.

13 Q. How does the fact you are not able to
14 find work all this time, how do you feel about
15 that?

16 A. Again, I'm biased, obviously, to
17 myself. I don't think it's fair. I don't. I
18 don't. I'm not a perfect person. I didn't
19 handle this, quote, unquote, "situation"
20 perfectly, but I did I darn good thing. All
21 right. I testified in that courtroom right
22 there. I stood up and I did it, and I can't
23 get a job. I can't get a job at Rite Aid,
24 working a cash register? You know, I'm not the
25 smartest guy in the world. I have skills. I

1 have abilities. I'm going to speak up. I'm a
2 God darn good football coach. I can coach. I
3 know what it means to be a coach. I learned
4 from the best football coach to ever step on
5 this planet. He was the best football coach
6 ever, and for me to not be able to go to work
7 as a coach or work a cash register or -- I
8 mean, that's humiliating. That's humbling.
9 I'm biased. I know it. I get it. That's not
10 fair. It wasn't me who did it. All right. It
11 wasn't.

12 Q. The very first exhibit which the
13 defense put in this case, Defense Exhibit 35,
14 was an e-mail which you sent to Janelle Eshbach
15 when somebody said he was going to post your
16 name on their website because you were part of
17 the cover-up. Do you remember that exhibit?

18 A. Yes.

19 Q. How did it make you feel on November
20 9, 2011, to get an e-mail from somebody saying
21 that you were part of the cover-up?

22 A. It's not fair. It's not correct.
23 It's not right. I have never tried to cover it
24 up at all. It's the exact opposite of what I
25 tried to do.

1 Q. How has, if at all, the course of
2 events, the Spanier statement, putting you on
3 administrative leave, keeping you off the
4 football facilities for 7 1/2 months -- how did
5 that impact your family and friends?

6 A. It's been hard. You know, I feel bad
7 for my parents.

8 Q. Do you have any siblings in the area?

9 A. Siblings, yeah. I have a brother and
10 his family and my sister and her family.

11 Q. And how large of a family does your
12 sister have?

13 A. Three kids and her husband.

14 Q. Okay. And your brother?

15 A. Five kids and a wife.

16 Q. And how has this impacted them?

17 A. It hasn't been easy. You know, a lot
18 of people write a lot of things and say a lot
19 of things, and, you know, not only to me, but
20 it's not fair to some other people, too. It
21 really is. There's one bad person in this,
22 truly bad, and as I said before, some good
23 people have gotten involved in this. I'm not
24 exactly happy with how they handled it, but
25 they're not bad people. There is one bad

1 person who ruined a ton of lives. It is tough
2 for my family to see every night. I don't have
3 a job. I sleep in my childhood bedroom, and I
4 will say this: At the end of the day, I go to
5 bed saying it will be fine, Mike. You did the
6 right thing. Eventually, it will work out.
7 It's been a long time coming and, you know,
8 hopefully, sooner or later, it does work out.
9 Hopefully I can coach. Hopefully I can get a
10 job. To be frank with you, I would have to
11 move out of State College, so you do the right
12 thing and --

13 Q. What about your relationship with your
14 football colleagues at the university?

15 A. Again, it's been difficult. Again,
16 they are good people. They are some of my best
17 friends, and I had some of my best times in my
18 life with them, but, I mean, they work for Penn
19 State. They're all scared. I mean, they don't
20 know what to do. I don't blame him. When I
21 went golfing, anytime I went golfing -- I went
22 golfing with Tom Venturino. I haven't been
23 golfing with him since, and I don't blame him.
24 He's in a tough spot. Go to lunch, got lunch -
25 - we used to be friends. I mean, you know, I

1 haven't seen him, you know. One guy had a
2 retirement party and was going away. He was
3 moving. I wasn't invited to the retirement
4 party. I hung out with him every day. I was
5 one of his best buddies -- or I thought one of
6 his best buddies. People who you thought were
7 friends have turned out not to be friends.
8 Coach Rhule -- it hasn't been easy, you know,
9 when you figure out your friends are and you
10 figure out that nothing is like family and you
11 learn lessons, you know. It's humbling. It's
12 -- and I don't want to overstate it. I've had
13 a blessed life. I've had experiences that no
14 one has had. I got to coach with Joe Paterno.
15 I played in front of 100,000 people. I'm
16 blessed. I have my health, but this has not
17 been easy.

18 Q. I want to go back to something that I
19 didn't mention previously, and that is were you
20 granted an interview with Bill O'Brien when he
21 became the head coach?

22 A. No.

23 Q. How did you know that he was
24 interviewing the former head coaches?

25 A. I don't think he interviewed the

1 former head coaches.

2 Q. I'm sorry, the former assistant
3 coaches.

4 A. Just word-of-mouth, my buddies.

5 Q. Within the program?

6 A. Yes.

7 Q. And you were not interviewed by him?

8 A. No.

9 Q. And everybody in the football program
10 knew it, right?

11 A. That I was not interviewed?

12 Q. That's correct.

13 A. Yeah, I'm pretty sure they --

14 MS. CONRAD: Objection. How would he
15 know what everybody else knew?

16 MR. STROKOFF: I will rephrase it,
17 Your Honor.

18 BY MR. STROKOFF:

19 Q. How many people reported to you that
20 you were the only assistant coach who wasn't
21 interviewed?

22 A. What was reported to me --

23 MS. CONRAD: Objection, assumes a fact
24 not in evidence; that he was the only assistant
25 coach not interviewed.

1 MR. STROKOFF: I think, Your Honor,
2 Dr. Joyner agreed with that in his deposition.

3 THE COURT: Overruled. He can tell us
4 how many people got back to him.

5 THE WITNESS: What I was told was --
6 BY MR. STROKOFF:

7 Q. By how many people?

8 A. Three or four. I don't know the exact
9 number.

10 Q. Okay.

11 A. Continue?

12 THE COURT: No. Wait for the
13 question.

14 THE WITNESS: Okay.

15 MR. STROKOFF: Pass the witness, Your
16 Honor.

17 THE COURT: I think this is an
18 opportune time for us to take our afternoon
19 break, members of the jury. Why don't we come
20 back at about five minutes till three? Put
21 your notes away and do not discuss the matter.

22 You may step down.

23 THE WITNESS: Yes, sir.

24 (Recess)

25 THE COURT: Go ahead and take a seat,

1 everyone, please.

2 MS. CONRAD: May we approach first,
3 sir?

4 THE COURT: Pardon?

5 MS. CONRAD: May we approach?

6 THE COURT: Yes.

7 MS. CONRAD: Thank you.

8 (Whereupon, the following discussion
9 was held at sidebar:)

10 MS. CONRAD: I was just trying to plan
11 my cross in terms of when Your Honor is
12 deciding the end of the day. I have heard
13 various comments throughout from various court
14 personnel and from Your Honor.

15 THE COURT: I would rather we finish
16 the cross-examination before we leave today no
17 matter how long unless you're going on for
18 beaucoup hours.

19 MS. CONRAD: Well, I think you went
20 probably three hours. It is likely I will go
21 beyond five o'clock, so that is why I was
22 wondering if you would want a breaking point
23 before that time.

24 THE COURT: Why don't you just start
25 and then figure out where you're at? And I

1 don't really think it makes any sense,
2 especially with this witness, to break the
3 direct and cross.

4 MS. CONRAD: On the other hand, I
5 don't want to lose the jury on a Friday
6 afternoon, and to the extent we finish on
7 Monday, I would not be opposed to that.

8 THE COURT: All right. Sit back down.
9 I'll ask them.

10 MS. CONRAD: Thank you, sir.

11 THE COURT: Members of the jury, I'm
12 going to play it by ear for the moment, but it
13 may well be that the cross-examination of Mr.
14 McQueary may be as lengthy as the direct
15 examination of Mr. McQueary, which would have
16 us bumping up against the five o'clock ceiling
17 that we have been trying to maintain, so the
18 question becomes, if we are able to finish Mr.
19 McQueary today even if we go beyond five
20 o'clock, is that something that is going to
21 work with you folks, or we can sort of say to
22 counsel, "Look, when we're getting close to
23 five o'clock, if it's at the end of a segment
24 that you want to talk about, let me know and
25 we'll just go home and pick it up on Monday."

1 So it's really up to you folks. If you want to
2 just collectively put your heads together and
3 say, if we have to be here beyond five o'clock,
4 fine. I understand it's Friday night. It's
5 date night. You might have other plans, so see
6 what you want to do.

7 JUROR: I have to be at work at six.

8 THE COURT: You have to be at work at
9 six.

10 JUROR: I can go until 5:30.

11 THE COURT: Okay. So does 5:30 work
12 for everybody? Okay. We'll go as close to
13 5:30 as we can.

14 CROSS-EXAMINATION

15 BY MS. CONRAD:

16 Q. Good afternoon, Mr. McQueary. My name
17 is Nancy Conrad, and I represent the
18 Pennsylvania State University.

19 A. Yes, ma'am.

20 Q. I want to begin to ask you some
21 follow-up questions that relate to your direct
22 testimony. With respect to the incident that
23 occurred in February 2001, I believe that you
24 testified that you returned to the Lasch
25 football building to put some sneakers into

1 your locker; is that correct?

2 A. That wasn't the sole reason, but
3 that's what I did when I got there first.

4 Q. And I believe you testified, when you
5 entered into the locker room, you became
6 terrified. Do you recall using that word?

7 A. At some point I'm sure I was
8 terrified, yes.

9 Q. And, at any point in time, did you
10 step back and determine whether that young
11 child was terrified?

12 A. I'm sure he was.

13 Q. And did you take any action at that
14 moment in time to ask him if he needed
15 assistance?

16 A. No, I did not, ma'am.

17 Q. Now, I believe you testified that in
18 November 2010, you met with Investigator
19 Sassano; is that correct?

20 A. Yes, and another person with him.

21 Q. And that other person was?

22 A. Mr. Rossman.

23 Q. And there was a point in time, I
24 believe you said, that you met with them in Mr.
25 Fleming's office; is that correct?

1 A. Yes.

2 Q. And that's Attorney Fleming, correct?

3 A. Yes.

4 Q. So, as of November 2010, you had
5 retained a lawyer with respect to this matter;
6 is that correct?

7 A. Yes, ma'am.

8 Q. Now I want to direct your attention to
9 an exhibit that is contained in plaintiff's
10 binder at Tab 91.

11 A. Just give me one second. What volume,
12 ma'am?

13 Q. Plaintiff's exhibit, the first one --

14 A. Oh, plaintiff's Exhibit. Got it.

15 Q. Tab 91, please.

16 A. Okay.

17 Q. I want you to flip 10 or 15 pages into
18 that article that counsel asked you about.

19 A. The article with the big symbol?

20 Q. No, the next article, sir -- well,
21 actually, several articles. Unfortunately,
22 there's no page numbers. The letter in which
23 counsel asked you about a particular comment,
24 it's dated November 6, 2011.

25 A. I'm sorry.

1 THE COURT: Is it the Black Shoe
2 Diaries that you're directing him to?

3 MS. CONRAD: No -- my binder just
4 broke. No, sir. I'll hold it up so everyone -
5 - may I approach, sir?

6 THE COURT: Yes.

7 MS. CONRAD: Thank you.

8 THE WITNESS: Okay. Thank you.

9 MS. CONRAD: You're welcome. Just
10 give me a moment while I try to get the binder
11 back together. I believe I have broken the
12 binder. We will do our best.

13 BY MS. CONRAD:

14 Q. In the article -- counsel asked you
15 about the comments connected to this article,
16 didn't he?

17 A. Yes.

18 Q. He asked you about one comment in
19 particular, didn't he?

20 A. I think so, yes.

21 Q. But how many comments are noted on
22 this page of the article?

23 A. When you say comments, are you saying
24 all the lines? Are you saying --

25 Q. No, at the end of the article.

1 A. There is a number 85 in parentheses
2 next to comments.

3 Q. That's correct. So there would have
4 been 85 comments to this article, wouldn't
5 there?

6 A. It looks like it.

7 Q. And did counsel include all 85 of
8 these comments to this article?

9 A. No.

10 Q. You made reference to the lunch group
11 that you ate with on a regular basis when you
12 were employed as an assistant football coach at
13 Penn State, didn't you?

14 A. Yes, ma'am.

15 Q. You referenced that lunch group
16 included Tommy Venturino?

17 A. Yes, ma'am.

18 Q. And Cavanaugh?

19 A. Yeah, some days, yes.

20 Q. And there were several other members
21 of that group?

22 A. Yes, ma'am.

23 Q. And who were those other members?

24 A. Oh, Brad Caldwell, Kirk Diehl, Pat
25 Foley, and there may be -- you know, depending

1 on the day -- like everyone came in on Thursday
2 because we cooked up hot dogs and had beans and
3 stuff, so just depending on the day, but that
4 is kind of the core group.

5 Q. But it did include Kirk Diehl?

6 A. Yes.

7 Q. And Brad Caldwell?

8 A. Yes.

9 Q. And I want to direct your attention to
10 Tab 43.

11 A. Yes.

12 Q. This was the e-mail that you sent to
13 Ms. Eshbach and Sassano on November 10, 2011,
14 correct?

15 A. Yes, ma'am.

16 Q. And I believe you testified you sent
17 it because you had a concern that you wanted
18 some kind of support and guidance from them; is
19 that correct?

20 A. Yes, that, along with one or two other
21 things I wanted to get off my chest.

22 Q. Right. And if I direct your attention
23 to the PS at the end of the e-mail that you
24 sent?

25 A. Yes.

1 Q. What information did you provide in
2 that PS?

3 A. Can I read it word-for-word?

4 Q. Yes, please.

5 A. "I have also re-watched the press
6 conference from Monday. Nowhere is there
7 strong support for me. I'm sorry, but there
8 just isn't. My brain and guts are telling me
9 to be skeptical of everything now."

10 Q. And when you refer to the press
11 conference there, what press conference are you
12 referring to?

13 A. I think that is when they -- I don't
14 know if introduced is the right word -- but
15 that is when they announced the charges or the
16 presentment.

17 Q. And you are relating to the Office of
18 Attorney General that nowhere during the press
19 conference by the Attorney General did they
20 express support for you?

21 A. That's right.

22 Q. And you were concerned about that?

23 A. Yeah, I was angry.

24 Q. You were bothered and angry at the
25 Office of Attorney General?

1 A. Yeah, them and anyone else, really.

2 Q. I want to direct your attention --
3 well, let me go back. In this e-mail, you make
4 reference to the Office of Attorney General
5 press conference, don't you?

6 A. Uh-huh. Yes. I'm sorry.

7 Q. And that's who you have a concern
8 about, correct?

9 A. Yes, I voiced my concern.

10 Q. I direct your attention to Tab 48.

11 A. Yes.

12 Q. You were asked about these handwritten
13 notes during your direct examination, weren't
14 you?

15 A. Yes, ma'am.

16 Q. And these were the notes that you
17 wrote, I believe you testified, during the
18 meeting that took place on Sunday November 13?

19 A. Yes.

20 Q. Now, as I understand the meeting, a
21 document was being read to you; is that
22 correct?

23 A. Uh-huh. Yes.

24 Q. And as the document was being read to
25 you, is it your testimony you were taking these

1 notes?

2 A. No. No. No.

3 Q. When were you taking these notes, sir?

4 A. There's no notes to take during the
5 actual reading of the document. Shortly after
6 the reading of the document, I had a chance to
7 make statements and stuff. I did. I wrote it
8 down. I received answers and I wrote them down
9 as fast as I could.

10 Q. My question is, sir, were you were
11 actually writing these questions and answers
12 during that November 13 meeting?

13 A. Yes, as fast as I could. Yes, ma'am.

14 Q. At one point you made a statement to
15 Ms. Baldwin, Ms. Runkle, and Mr. Sherburne,
16 didn't you?

17 A. Yes.

18 Q. And I believe you testified that that
19 statement was that you wanted the university or
20 them to know that you had done nothing wrong;
21 is that correct?

22 A. Yes.

23 Q. In this document, you state, "I do not
24 feel I was negligent in any way with my job
25 responsibilities." Do you see that?

1 A. Yes, ma'am.

2 Q. Anywhere in this document do you see
3 where it says, "I do not feel as if I did
4 anything wrong"?

5 A. No, I think you're playing semantics
6 and parsing words --

7 Q. Sir --

8 A. To me, it means the same thing.

9 Q. -- I do not mean to play semantics.
10 I'm just asking you about what's on the
11 document.

12 A. No. No, I didn't.

13 Q. I'm sorry?

14 A. I said no.

15 Q. Excuse me. I don't understand your
16 answer.

17 A. The answer to your question -- you
18 said anywhere in this document, did I see that
19 statement? No.

20 Q. Which statement did you make, then,
21 sir?

22 A. I said I didn't think I did anything
23 wrong. I don't think I was negligent.

24 Q. Did you say both wrong and negligent
25 or did you just say wrong?

1 A. Ma'am, I can't remember, but I
2 definitely expressed that concern, as they have
3 testified to.

4 Q. Well, in this document, you have in
5 quotes, "I do not feel I was negligent in any
6 way with my job responsibilities!" end quote.
7 Do you see that direct quote?

8 A. Yes, ma'am.

9 Q. Is that what you said or did you say
10 that, "I don't believe I did anything wrong"?

11 A. Well, if that is what I wrote at that
12 time, which I did, then that must have been
13 what I said.

14 Q. You go on to state Cynthia, and what
15 do you have in quotes for Cynthia?

16 A. She says, "No one is accusing you of
17 being negligent at all."

18 Q. And that is in quotes, correct?

19 A. Yes.

20 Q. And when you refer to Cynthia, who are
21 you referring to?

22 A. Ms. Baldwin.

23 Q. You were here during Ms. Baldwin's
24 testimony, weren't you?

25 A. Yes.

1 Q. And didn't you hear her say that she
2 replied to you, "No one is accusing you of
3 doing anything wrong"?

4 A. Not during her testimony.

5 Q. You didn't hear her say that?

6 A. No.

7 Q. Did you hear Ms. Runkle relate that
8 she recalled that Ms. Baldwin said that no one
9 was accusing you of doing anything wrong?

10 A. I think Ms. Baldwin -- or I'm sorry --
11 Ms. Runkle and both Mr. Sherburne, while they
12 didn't use that exact word, did express that
13 Cynthia said no one said you did anything
14 wrong.

15 Q. No one used the word "negligent," did
16 they?

17 A. I think I did.

18 Q. But Ms. Baldwin didn't use the word
19 "negligent," did she?

20 A. I can't remember if it was negligent
21 or anything wrong.

22 Q. But you put the word "negligent" here
23 in quotes, don't you?

24 A. Well, yeah. Then that's what I think
25 she said if it's there. That's what I wrote at

1 the time.

2 Q. And you will agree with me Mr.
3 Sherburne didn't relate that she used the word
4 "negligent," correct?

5 A. Again, I think -- I don't know if Mark
6 was saying, quote, unquote, what she said. I
7 think he's passing the message on that Cynthia
8 said, but you would have to ask Mark, I think.

9 Q. Well, we did ask Mark during his
10 testimony.

11 A. Okay.

12 Q. And he didn't use the word
13 "negligent," did he?

14 A. I don't know what he said.

15 Q. You were here in the courtroom,
16 weren't you?

17 A. Yes, ma'am. I'm just saying right now
18 I can't remember --

19 Q. You don't recall.

20 A. -- what he said in his testimony, the
21 word he used. That's all.

22 Q. And how about Ms. Runkle? Do you
23 remember that she used the word "wrong"?

24 A. I don't know. I know that's the
25 message she conveyed.

1 Q. And when is that you wrote these
2 notes?

3 A. There, at the meeting.

4 Q. Let me direct your attention to 47.

5 A. Yes

6 Q. You were asked about the reference in
7 the first paragraph --

8 A. Yes.

9 Q. -- that any matters for which you were
10 contacted concerning the position from which
11 you were on administrative leave must be
12 referred to Tom Bradley. Do you see that
13 reference?

14 A. Yes, ma'am.

15 Q. Now, you will agree with me, won't
16 you, that there are other references to Ms.
17 Runkle, aren't there?

18 A. Yes, down below I see a reference.

19 Q. For example, arrangements for return
20 of personal items you would coordinate through
21 Ms. Runkle, wouldn't you?

22 A. Yes.

23 Q. And arrangements for return of
24 university items would be made through Ms.
25 Runkle, correct?

1 A. Yes.

2 Q. And then finally, at the end of the
3 document, you may also discuss employee
4 assistance programs with your human resource
5 manager. Do you see that?

6 A. I'm sorry. What paragraph, ma'am?

7 Q. The last sentence of the last --

8 A. Yes, I do see that.

9 Q. And who was your human resources
10 manager at the time?

11 A. Erikka Runkle, as far as I know.

12 Q. So Ms. Runkle is referenced three
13 times in this document, isn't she?

14 A. Yes.

15 Q. And you knew you could reach out to
16 Ms. Runkle if you had any questions, didn't
17 you?

18 A. If I had questions, yes.

19 Q. And even after Coach Bradley no longer
20 was employed at Penn State, you knew you could
21 reach out to Ms. Runkle if you had a question,
22 didn't you?

23 A. That's -- yes.

24 Q. And did you ever reach out to Ms.
25 Runkle?

1 A. I did not. I did not trust Penn State
2 at the time. My attorneys reached out to other
3 people at Penn State.

4 Q. My question is did you ever reach out
5 to Ms. Runkle with respect to any personnel-
6 related matter when you were on administrative
7 leave?

8 A. I don't believe I did, no.

9 Q. Now, directing your attention to the
10 first page of that document, you were asked
11 about the second paragraph.

12 A. Yes, ma'am.

13 Q. And that paragraph, which was read to
14 you, said your fixed-term contract is scheduled
15 to end on June 30, 2012. Do you see that
16 reference?

17 A. Yes, I do.

18 Q. And it goes on to say it has not been
19 determined whether there will be a new contract
20 at this time, doesn't it?

21 A. It does.

22 Q. So you learned during that meeting on
23 Thursday -- on that -- right -- that Sunday
24 night, that your fixed-term contract was
25 scheduled to end on June 30, 2012?

1 A. That's what they said, yes.

2 Q. And do your notes or anywhere does it
3 reflect that you raised a question about your
4 status as a fixed-term employee?

5 A. No.

6 Q. Did you ask Ms. Runkle, who was there
7 in that meeting, your human resources manager,
8 about your status as a fixed-term employee?

9 A. No.

10 Q. Did you ask anyone about your fixed-
11 term appointment that was scheduled to end on
12 June 30, 2012?

13 A. Did I personally ask them a=at that
14 meeting?

15 Q. Yes. Yes.

16 A. No.

17 Q. After that meeting, did you contact
18 anyone while you were on administrative leave
19 and ask about the nature of your appointment?

20 A. I believe my counsel did. I did not.

21 Q. I'm asking if you did. Did you reach
22 out to anyone at the university and ask whether
23 your appointment was going to end on June 30,
24 2012?

25 A. Me, personally, no.

1 Q. Yes. Did you reach out to anyone at
2 the university to ask them whether or not there
3 would be a new appointment after June 30, 2012?

4 A. No. Same answer.

5 Q. But you knew Erikka Runkle could be
6 contacted with any question you had about
7 personnel-related matters, didn't you?

8 A. Yes, that's what it says.

9 Q. And that's what you understood?

10 A. Yes. I didn't think much of it, but
11 yes.

12 Q. I want to direct your attention to Tab
13 29.

14 A. Okay.

15 Q. You were asked about this media guide,
16 weren't you?

17 A. Yes, ma'am.

18 Q. And I believe you testified that this
19 media guide contains many of what I will
20 characterize as your statistics. Is that fair?

21 A. Yeah, or -- yeah. I think they call
22 them coaching accomplishments, but it's pretty
23 embarrassing, to be frank with you.

24 Q. Well, let's use your word. It
25 contains your coaching accomplishments, doesn't

1 it?

2 A. Yes.

3 Q. Now, were you aware, when Bill O'Brien
4 was appointed as the new head coach, he
5 reviewed the media guide, these coaching
6 accomplishments of every single assistant
7 coach?

8 A. Was I aware then or am I now?

9 Q. Were you aware then?

10 A. No, I wasn't aware then.

11 Q. And are you aware now that Coach
12 O'Brien reviewed your coaching accomplishments
13 as contained in this media guide?

14 A. Am I allowed to talk about his
15 deposition or no?

16 Q. Are you aware?

17 A. Yes.

18 Q. I want to direct your attention to
19 Plaintiff's 56. Well, strike that. Let's go
20 back to Plaintiff's 29, and you're aware,
21 aren't you, that after Coach O'Brien reviewed
22 your coaching accomplishments at Tab 29, he
23 made a decision that he wouldn't be hiring you?

24 A. Am I aware now?

25 Q. Yes, sir.

1 A. The way you phrased it, I'm not sure
2 that's exactly accurate, but, I mean --

3 Q. You understand, don't you, that Coach
4 O'Brien reviewed your coaching accomplishments
5 as contained at Plaintiff's 29, didn't he?

6 A. That's a yes.

7 Q. And you are aware, aren't you, that
8 after reviewing your coaching accomplishments,
9 he did not offer you a position, correct?

10 A. My answer to that, I'm sorry, is no.
11 Sorry.

12 Q. Well, Coach O'Brien will be testifying
13 in this proceeding, won't he?

14 A. Yes, I think so.

15 Q. Let's direct your attention to
16 Plaintiff's 56. Now, your counsel asked you
17 about these job postings that are contained in
18 Plaintiff's 56, didn't he?

19 A. Yes, ma'am.

20 Q. Now, the first one is an assistant
21 professor or instructor of human development
22 and family studies. Do you see that job title?

23 A. Oh, you mean -- yes, the very first
24 one on the whole document?

25 Q. Yes, sir.

1 A. Yes.

2 Q. Are you qualified for the position of
3 assistant professor or instructor of human
4 development and family studies?

5 A. Without reading the qualifications, I
6 would think absolutely not.

7 Q. Do you think you need to read the
8 qualifications to make that determination?

9 A. I would guess I don't, but I don't
10 know for sure.

11 Q. I don't want you to guess, sir, so if
12 you want to take the time to read --

13 A. I don't really, but -- I don't really.
14 My answer is no.

15 Q. And directing your attention to the
16 next page, that job title is assistant or
17 associate professor of communication sciences
18 and disorders?

19 MR. STROKOFF: Objection to relevance,
20 Your Honor. We didn't cite any of these
21 professorial positions as being available to
22 the plaintiff. There's several hundred here.

23 THE COURT: I thought we had agreed
24 that counsel would only reference certain
25 items, and to the extent that you did so, your

1 cross is limited to those. He did not
2 represent he was interested in any of these
3 other positions.

4 BY MS. CONRAD:

5 Q. Then let's focus on the positions that
6 were referenced. Directing your attention to
7 530 --

8 A. Yes.

9 Q. -- that position posting is for an
10 administrative support assistant in
11 intercollegiate athletics; is that correct?

12 A. Yes.

13 Q. Did you submit an application for that
14 position?

15 A. No, I did not.

16 Q. Did you submit a letter of interest
17 for that position?

18 A. No, I did not.

19 Q. Did you take any action with respect
20 to that position?

21 A. No.

22 Q. I believe the next one counsel
23 referred you to was on page 552.

24 A. Okay.

25 Q. I believe that was for the head men's

1 golf coach position; is that correct?

2 A. Yes, ma'am.

3 Q. That was the one at Penn State
4 Harrisburg, wasn't it?

5 A. Correct.

6 Q. Did you submit an application for that
7 position?

8 A. No, ma'am.

9 Q. Did you submit a letter of interest
10 for that position?

11 A. No, ma'am.

12 Q. Did you express any interest at all
13 for that position?

14 A. No.

15 Q. Did you take any action with respect
16 to that position?

17 A. No, I did not.

18 Q. I believe there was another one at
19 540. This was a position for an administrative
20 support assistant also in intercollegiate
21 athletics, wasn't it?

22 A. Yes.

23 Q. Did you submit an application for that
24 position of an administrative support assistant
25 in intercollegiate athletics?

1 A. No, I did not.

2 Q. Did you submit a letter of interest
3 for that position?

4 A. No.

5 Q. Did you take any action with regard to
6 that position?

7 A. No, I did not.

8 Q. At any time while you were on
9 administrative leave, did you submit a letter
10 of interest with respect to any open position
11 at Penn State?

12 A. No, ma'am.

13 Q. Did you submit a letter saying that
14 you would like to be considered for an
15 alternative position at Penn State?

16 A. No, ma'am.

17 Q. I would direct your attention to 59,
18 please.

19 A. Fifty-nine. Okay.

20 Q. This is a document that addresses the
21 continuation of health care coverage under
22 COBRA, isn't it?

23 A. Yes, ma'am.

24 Q. And you were able to continue health
25 care coverage through COBRA after your

1 appointment ended, correct?

2 A. At a later date, I believe. Yes,
3 ma'am.

4 Q. Well, this is a letter from the
5 carrier that provides the medical insurance
6 isn't it?

7 A. Yes.

8 Q. And you made reference to not
9 receiving timely notification, didn't you?

10 A. Yes. Yes.

11 Q. And wasn't that notification that you
12 received from the administrator who coordinates
13 the health insurance through COBRA at Penn
14 State?

15 A. I'm sorry. You've lost me. Can you
16 repeat that?

17 Q. Let me direct your attention to Tab
18 69.

19 A. Okay.

20 Q. That relates to the continuation of
21 your medical benefits under COBRA, doesn't it?

22 A. Oh, yes, ma'am.

23 Q. And isn't it from the Department of
24 COBRA Administration?

25 A. Yes, it is.

1 Q. And that's not a university office, is
2 it?

3 A. I don't believe it is.

4 Q. In fact, it's titled at the top, "A
5 company with respect to employee benefit
6 solutions," correct?

7 A. Yes, ma'am.

8 Q. Nowhere in this document does it refer
9 to Penn State University, does it?

10 A. No.

11 Q. And you --

12 A. I'm sorry. Yes, it does, ma'am.

13 Q. And you're right, in that second line,
14 doesn't it? It refers to Penn State
15 University?

16 A. I see third line, not to be picky.

17 Q. Thank you for your correction.

18 A. I'm sorry. No, I'm not trying to
19 correct you.

20 Q. But you will agree with me that the
21 letter is not from the university, is it?

22 A. No. No, I think it's from that
23 company --

24 Q. Right.

25 A. -- you referenced.

1 Q. And could you read the second
2 paragraph into the record, please?

3 A. The second paragraph.

4 Q. Yes.

5 A. "I apologize for the confusion
6 regarding the letter sent to Mr. McQueary,
7 dated 9/17/12. If you or Mr. McQueary have any
8 further concerns, please contact me directly at
9 31 --" Should I say the number?

10 Q. No, that's all right. Don't read
11 that.

12 A. Okay. I didn't --

13 Q. Were you aware of the confusion that
14 was referenced in this letter?

15 A. I don't know about the confusion on
16 that end. I knew that there was definitely not
17 health insurance for me for a while.

18 Q. My question, though, sir, was do you
19 have any information related to the confusion
20 that is referenced in the document marked 69?

21 A. I don't think I do.

22 Q. And the first paragraph provides
23 information to you that is confirming that the
24 coverage will continue through COBRA, correct?

25 A. Yes.

1 Q. And in that second sentence or third
2 sentence that you pointed out to me, it
3 provides that Penn State University will be
4 invoiced for any premiums due for this
5 coverage, correct?

6 A. It does say that. Yes, ma'am.

7 Q. And you will agree with me that you
8 received that coverage for the time period of
9 your severance, didn't you?

10 A. Yes, I think I did. Yes.

11 Q. And you made reference to the end of
12 your appointment, June 30, correct?

13 A. As I understood it, that's when it
14 ended. Yes.

15 Q. And I believe you have already
16 testified that you didn't contact anyone at the
17 university to ask any question about your
18 appointment status; is that correct?

19 A. Yeah, that's what I said -- is I did
20 not. My counsel did. Yes.

21 Q. And then, with respect to the
22 severance benefits that you believed you were
23 entitled, did you contact anyone at the
24 university to ask about the status of those
25 severance benefits?

1 A. Same answer. I did not, but my
2 counsel did, I believe.

3 Q. You knew Ms. Runkle, didn't you?

4 A. Oh, yes, absolutely. I knew Ms.
5 Runkle. She's a nice lady.

6 Q. But you didn't reach out to Ms. Runkle
7 to ask about the status of your appointment,
8 correct?

9 A. Not -- no, I did not reach out to Ms.
10 Runkle about that.

11 Q. And you didn't reach out to Ms. Runkle
12 to ask about the status of the severance
13 payments, did you?

14 A. No, I did not, ma'am.

15 Q. And you received full pay and benefits
16 during your administrative leave, didn't you?

17 A. Yes, I did.

18 Q. And you received them from the
19 university, didn't you?

20 A. Yes.

21 Q. And you received full COBRA and
22 severance payments for 18 months, didn't you?

23 A. Yeah, for a time period of 18 months.

24 Q. And the university provided them
25 retroactive to July 1, didn't they?

1 A. Yes, I think they did. Yes, ma'am.

2 Q. You think they did?

3 A. Well, yes. Again, yes, they did. I'm
4 sorry.

5 Q. Now, counsel asked you about the key
6 factors for obtaining a job in football, didn't
7 he?

8 A. Yes, the ways to go about it, you
9 mean?

10 Q. Yes.

11 A. Yes, ma'am.

12 Q. And I believe you testified that one
13 of the key factors is to reach out to your
14 contacts; is that correct?

15 A. Yes, ma'am.

16 Q. I believe you testified it's all about
17 who you know; is that correct?

18 A. Yes, that's another way of saying it,
19 yes, your contacts, who you've come across,
20 people you know. Yes, ma'am.

21 Q. And I believe you testified that what
22 is critical is that it's a good fit between a
23 head coach and an assistant coach; is that
24 correct?

25 A. Yeah, I think that's one of the things

1 that a head coach looks for. Yes, ma'am.

2 Q. Now, you testified that, when your
3 appointment ended on June 30, 2012, you had
4 missed the high season for hiring; is that
5 correct?

6 A. When my appointment ended --

7 Q. Well, let me ask that a different way.
8 When your appointment ended on June 30, 2012,
9 that wasn't the high season for hiring?

10 A. Oh, no. That's the very down season.

11 Q. That was the very down season.

12 A. Yeah. That right there, yes.

13 Q. But during that down season, you were
14 receiving your severance payments, weren't you?

15 MR. STROKOFF: Objection, Your Honor.
16 That's not what the record reflects. He did
17 not get his severance payment till mid-
18 September.

19 THE COURT: Members of the jury, it's
20 your recollection that controls.

21 Go ahead. Answer the question if you
22 can, sir.

23 THE WITNESS: And could you repeat the
24 question for me?

25 BY MS. CONRAD:

1 Q. You ultimately received your severance
2 payments retroactive to July 1, 2012, didn't
3 you?

4 A. Yes, ma'am.

5 Q. And then, when the high season came
6 about in November or December of 2012, you were
7 still receiving your full salary, weren't you?

8 A. Yes.

9 Q. And you were receiving your full
10 benefits, weren't you?

11 A. Yes.

12 Q. So you were able to conduct a job
13 search while you were still receiving full
14 salary and benefits, correct?

15 A. Yes.

16 Q. Now, you were asked some questions
17 about Coach Wilson and the position at Savannah
18 State, correct?

19 A. Yes.

20 Q. And I believe you testified that you
21 were able to reach out to Coach Wilson because
22 you had known coach from his days at Penn
23 State; is that correct?

24 A. I'm not sure if we discussed that
25 particular reference, but that's a true

1 statement, yes. I just don't know if we
2 covered that earlier today.

3 Q. All right. Well, then let's cover it
4 now.

5 A. Yes, ma'am.

6 Q. You knew Coach Wilson because he had
7 been a graduate assistant at Penn State while
8 you were there, correct?

9 A. Yes, absolutely, as a player, just so
10 we're clear.

11 Q. Understood, but you still developed a
12 contact with him, one of those contacts that
13 you said is critical in terms of trying to find
14 a position; is that correct?

15 A. Yes.

16 Q. And I believe you testified that Coach
17 Wilson withdrew the offer at Savannah State,
18 didn't he?

19 A. Yes, I think he did. Yes.

20 Q. And the reason he withdrew the offer
21 was because Savannah State was concerned about
22 distractions to the football program, correct?

23 A. Yes. I don't know if that's how he
24 termed it to me. I'd have to look at the
25 actual language, but definitely the higher-ups

1 came in and said, you know, we don't want you
2 to hire him right now.

3 Q. Well, you heard Coach Wilson testify
4 in this case, didn't you?

5 A. Yes, I think we read it the other day.

6 Q. That's right. And didn't Coach Wilson
7 say the reason he couldn't hire you was because
8 the school didn't want distractions and in
9 particular because the media would focus all of
10 its attention on you and not on him?

11 A. Yes, I think that is what he said.

12 Q. I'm going to switch binders now, and
13 if you can locate Defendant's Binder No. 5?

14 A. Volume 5?

15 THE COURT: I think it's behind you
16 there.

17 THE WITNESS: Yes, sir.

18 BY MS. CONRAD:

19 Q. Now, let me represent to you, Mr.
20 McQueary, this is a binder that contains the
21 documents that you produced in this litigation
22 related to your job search. We have organized
23 them a bit differently than what they were
24 organized in your binder, so we will walk
25 through them.

1 A. Ma'am, just wait one second. I'm not
2 sure I have the right binder. Did you say
3 Volume 5?

4 Q. Oh, I'm sorry. It's Volume 2.

5 A. Got it.

6 Q. Now, directing your attention to Tab
7 81, that is a copy of your resume, isn't it?

8 A. Yes, one of them, I think.

9 Q. Okay. And which one is it?

10 A. I think it's the one that was -- I was
11 using in that 2012 area.

12 Q. Was this the one that you asked to
13 obtain off of the desktop at Penn State shortly
14 after you were placed on administrative leave?

15 A. Yeah, I think so. I think there's
16 maybe some minor changes to it, but this is
17 definitely the frame of it, I think.

18 Q. And why did you ask at that point in
19 time for a copy of your resume?

20 A. I wanted to make sure I had it so I
21 could go get a job.

22 Q. So while you were on paid
23 administrative leave, you were going to start
24 your job search?

25 A. Yes, as I have previously testified

1 to. I mean, the writing was pretty clear on
2 the wall. I mean, it may have been not saying
3 the right things, but I definitely knew where
4 this was going, and I'm a coach. I want to
5 coach. I want to work.

6 Q. I understand that, but you had been
7 told in that meeting that your status hadn't
8 yet been determined; is that correct?

9 A. That's what they said. Yes, ma'am.

10 Q. And you were continuing to receive
11 full salary and benefits while you were on paid
12 administrative leave, correct?

13 A. Yes, we've -- yes, I've stated that.

14 Q. And directing your attention to this
15 resume, it lists a bachelor of science in
16 health policy administration, doesn't it?

17 A. Yes.

18 Q. And a master of education
19 administration. Do you see that?

20 A. It says I did not earn a degree. I
21 just don't want you to misrepresent my resume.
22 I did work, 30 credit hours, and I did not earn
23 a degree.

24 Q. I understand that, but it says master
25 of education administration, doesn't it?

1 A. Yes.

2 Q. And, in fact, you only completed 30
3 credit hours without receiving that degree; is
4 that correct?

5 A. That's an accurate statement. Yes,
6 ma'am.

7 Q. Now, looking at your coaching
8 experience, you agree with me that all of your
9 coaching experience was at one institution,
10 wasn't it?

11 A. Absolutely.

12 Q. And that one institution was Penn
13 State?

14 A. Yes.

15 Q. And you will agree with me, won't you,
16 that your entire coaching experience was under
17 one head coach, wasn't it?

18 A. Absolutely.

19 Q. And you will also agree with me that,
20 in terms of the assistant coaches at Penn
21 State, there was minimal turnover, wasn't
22 there?

23 A. Yes, minimal turnover is correct.

24 Q. So in terms of developing contacts,
25 you were limited to those you had worked with

1 at Penn State; is that correct? And I'm
2 talking about your Penn State contacts.

3 A. Say that again.

4 Q. With respect to contacts with a head
5 coach and assistant coaches, you only had that
6 head coach and assistant coaches that you had
7 worked with at Penn State; is that correct?

8 A. I don't think that's correct entirely,
9 ma'am.

10 Q. Did you work under any other head
11 coach?

12 A. No, but you meet people while you are
13 coaching. Like, for instance, there are other
14 Penn Staters at other areas coaching and you
15 know them. They're contacts for you.

16 Q. I understand.

17 A. Maybe I'm not answering your question
18 correctly.

19 Q. I understand they are contacts, but
20 they're not contacts that worked with you in a
21 coaching capacity, are they?

22 A. No. No.

23 Q. I want to direct your attention then
24 to Tab 82.

25 A. Okay.

1 Q. This is another version of your
2 resume, isn't it?

3 A. Yes.

4 Q. And it states at the top, "Current
5 Resume." Did you write that in?

6 A. Yes, that's my handwriting, ma'am.

7 Q. And is this your current resume?

8 A. I think I used the one I'm still
9 currently using, I think.

10 Q. Have you used it lately?

11 A. The last time I used a resume was for
12 the Mount Ida job in August, and again, I think
13 this is it, but I would have to look at that
14 application.

15 Q. Well, let me direct your attention now
16 to the second category under work experience.
17 Do you see that?

18 A. Yes, starting with recruiting
19 coordinator.

20 Q. Well, what is the first entry under
21 work experience?

22 A. Independent consultant.

23 Q. And that's at Senior Sports Management
24 Group?

25 A. Yes.

1 Q. And who did you work with at Senior
2 Sports Management Group?

3 A. You mean who was my contact?

4 Q. Yes.

5 A. Brett Senior and Casey Muir.

6 Q. And I believe you testified that you
7 provided as-needed coaching and training to
8 certain prospects; is that correct?

9 A. Yes, ma'am. That's correct.

10 Q. And I believe you talked about one
11 individual whom you provided -- was it 15
12 sessions?

13 A. I think we said 15 hours.

14 Q. Fifteen hours, and you were paid for
15 those 15 hours; is that correct?

16 A. Correct.

17 Q. Did you provide all 15 hours to that
18 individual?

19 A. I believe so, yes. Let me correct
20 that. There was a booklet that I prepared for
21 him to teach him football, so part of those
22 hours weren't spent directly in front of him.
23 They were spent preparing that booklet.

24 Q. And is it your testimony that Brett
25 Senior understood that you would be directing

1 some of those hours to that booklet and not to
2 actual sessions?

3 A. I think Ross and Brett -- certainly
4 Ross knows that I prepared that booklet, and I
5 think Brett knows that I prepared that booklet,
6 if that's what you're asking.

7 Q. I'm asking if Mr. Senior knew that
8 those 15 hours did not include 15 hours working
9 one-on-one with that player.

10 A. That, I don't know.

11 Q. You also list recruiting coordinator
12 and wide receiver coach as the next entry,
13 don't you?

14 A. Yes, ma'am.

15 Q. Why do you put recruiting coordinator
16 first as opposed to wide receiver coach?

17 A. No reason. No idea.

18 Q. The next entry is recruiting
19 coordinator and public relations assistant. Do
20 you see that entry?

21 A. Yes, ma'am.

22 Q. And that time period is 2003 to 2004?

23 A. Yes, ma'am.

24 Q. Now, that entry is not contained on
25 the resume at Tab 81, is it?

1 A. No.

2 Q. How is your position listed for 2003-
3 2004 on the resume at 81?

4 A. Administrative assistant, football and
5 video operations.

6 Q. Can you explain for me how it became
7 in the current resume recruiting coordinator
8 and public relations assistant?

9 A. I think that's more in -- I think
10 that's more explanatory in terms of what I
11 actually did in that role.

12 Q. What was your actual position in 2003
13 and 2004?

14 A. It was an invented position. I'm not
15 sure it even had a title. Coach Paterno said
16 we need to keep you around and we're going to
17 make a job for you, and I'm not sure I had a
18 title.

19 Q. So did you invent the title?

20 A. Did I?

21 Q. Yes.

22 A. Well, I have tried to explain it, what
23 I did.

24 Q. Well, did you invent the title in the
25 first resume as administrative assistant,

1 football and video operations?

2 A. Again, my answer is I tried to explain
3 what I did.

4 Q. But you have two different
5 explanations.

6 A. Yes, and I have said I think it's more
7 explanatory in the second resume, what I
8 actually did. I did almost all of the
9 recruiting coordinator behind the scenes for
10 that year.

11 Q. I now want to direct your attention to
12 the time period 1999 to 2000.

13 A. '99 to 2000. Yes, ma'am.

14 Q. Let's start on the current resume.

15 A. Okay.

16 Q. How do you list it on the current
17 resume?

18 A. Recruiting assistant.

19 Q. And then on the resume at Tab 81, how
20 do you list it?

21 A. Administrative assistant.

22 Q. So did you have a job title in 1999 to
23 2000?

24 A. Again, I'd have to look, but I don't
25 think I had a title, per se. It was a wage

1 payroll, we'll give you a job.

2 Q. So on one resume you have
3 characterized it as administrative assistant
4 and on another resume you characterize it as
5 recruiting assistant; is that fair?

6 A. Yes, I think so.

7 Q. Now I want to direct your attention to
8 Tab 85.

9 A. Sorry. Okay.

10 Q. This is an e-mail that you sent to
11 Matt Rhule in December of 2012?

12 A. Yes, ma'am.

13 Q. And in it you state, "I'm very hungry
14 to coach. I want to be on your staff at
15 Temple." Do you see that reference?

16 A. Yes.

17 Q. What was Coach Rhule's position in
18 December of 2012?

19 A. I believe he had just served as
20 assistant to the assistant offensive line --
21 no. That's wording it wrong. He is the
22 assistant to the O-line coach at the New York
23 Giants.

24 Q. And you referenced that you want to be
25 on his staff at Temple?

1 A. Yes, ma'am.

2 Q. What was his status with Temple in
3 December 2012?

4 A. He interviewed and ended up getting
5 the job at Temple, the head coaching job at
6 Temple.

7 Q. So Coach Rhule was named head coach at
8 Temple in or around December 2012; is that
9 correct?

10 A. Yes.

11 Q. Now, you knew Coach Rhule, didn't you?

12 A. Yes, knew him well.

13 Q. You had played with Coach Rhule in
14 high school?

15 A. Yes, ma'am.

16 Q. And you had played with Coach Rhule at
17 Penn State?

18 A. Yes.

19 Q. And had you kept contact with Coach
20 Rhule over the years?

21 A. Yes.

22 Q. And so when it was announced that he
23 was the new head coach at Temple, you reached
24 out to him to pursue a potential position,
25 didn't you?

1 A. I did. Absolutely.

2 Q. And in addition to this e-mail, you
3 sent a series of text messages to him, didn't
4 you?

5 A. Yes, ma'am.

6 Q. And I want to direct your attention to
7 Tab 84.

8 A. Okay.

9 Q. If you move forward to MM257, I
10 believe you will find some text messages that
11 you exchanged with Matt Rhule.

12 A. Got it.

13 Q. Now, when did you start exchanging
14 text messages with Matt Rhule?

15 A. Right around the time period we have
16 already mentioned.

17 Q. Which would have been in or around
18 December 2012?

19 A. Yes, ma'am, I think.

20 Q. And you had not been in contact with
21 Matt Rhule prior to that, were you?

22 A. Can you give me -- I mean, certainly I
23 have talked to him before that, probably -- I
24 think we talked -- because I -- maybe a couple
25 months before that, just catching up, you know.

1 I wanted to see how he liked the pros. He had
2 never been in the pros before, but not like a
3 week before that, but certainly before that I
4 had talked to him.

5 Q. You had kept that contact?

6 A. Oh, yeah. I mean, not every day, but
7 certainly irregularly we talked once in a
8 while.

9 Q. So now, while you are exchanging text
10 messages and e-mails with him in December 2012,
11 you let him know that you're in a meeting with
12 the Attorney General, don't you?

13 A. Yes, ma'am.

14 Q. Directing your attention to 260 --

15 A. Okay.

16 Q. -- what do you say in the text message
17 that starts at the second exchange?

18 A. "In meeting with Attorney General's
19 office. They said again they would love to
20 talk with people at Temple." I'm not sure what
21 that next little mark is.

22 Q. "I am ready to go, Matt."

23 A. Okay. Got it. "I am ready to go,
24 Matt. Let me know what needs to be done."

25 Q. So let me understand this. You are

1 connecting with Matt Rhule because you have an
2 interest in being considered for an assistant
3 coach on his staff; is that correct?

4 A. Absolutely.

5 Q. And while you are exchanging messages
6 with him, you let him know that you are in a
7 meeting with the Attorney General's office; is
8 that correct?

9 A. Yes, ma'am.

10 Q. Why did you do that?

11 A. Because I wanted him to know that if
12 the people at Temple needed questions answered
13 about my status or what I was going through,
14 that the people who headed up the investigation
15 would be happy to help them clear up any
16 questions.

17 Q. So let me turn -- direct your
18 attention to page 262.

19 A. Yes.

20 Q. And Coach Rhule replies to you in the
21 message that starts in the second part of the
22 exchange, doesn't he?

23 A. The second one.

24 Q. Yes.

25 A. Yes.

1 Q. And what does he provide to you in
2 that message?

3 A. I want to make sure I'm on the same
4 message you are. Are you talking about the top
5 block on that page or the bottom block?

6 Q. I said the second block.

7 A. Oh, I'm sorry. I'm at 261. My fault.
8 Okay. Starting at the top?

9 Q. Yes, starting with, "You're not
10 bugging me."

11 A. Yep. "You're not bugging me. I have
12 known you for a long time and know you would do
13 a good job and need a break. Unfortunately, I
14 have retained, hired the guys on offense. It
15 is not going to work out right now."

16 Q. Coach Rhule tells you that it's not
17 going to work out; that is, a position on his
18 staff, correct?

19 A. Yes.

20 Q. And then on the next page -- or on
21 264, you raise a question to Coach Rhule, don't
22 you?

23 A. Hold on. Yes.

24 Q. And what is that question?

25 A. Did you really lose OC?

1 Q. And moving down to the second section

2 --

3 A. Where I say S-H-I-T?

4 Q. No.

5 A. Oh. Sorry.

6 Q. The next question that you asked.

7 MR. STROKOFF: Excuse me. What page
8 are we on?

9 MS. CONRAD: 264.

10 MR. STROKOFF: 264.

11 THE WITNESS: Ready?

12 BY MS. CONRAD:

13 Q. Yes, sir.

14 A. "Well, if you need a guy again, I am
15 ready, able, and very loyal."

16 Q. I'm asking about the statement you
17 made before that statement.

18 A. "Is the problem with me
19 administration? You can tell me, Matt." That
20 one?

21 Q. That one, sir.

22 A. Okay.

23 Q. You were asking Coach Rhule whether or
24 not the reason he didn't hire you -- if it was
25 a problem with administration; is that correct?

1 A. Yes.

2 Q. And do you recall, when I asked you in
3 your deposition about what answer, if any, you
4 obtained to that question, what did you
5 provide?

6 A. Well, I can't recall without seeing
7 the deposition, but I know we had a phone call,
8 and I want to say it was right around new year,
9 right before new year or right after new year.
10 We talked on the phone, and he said, and I kind
11 of brushed it off, that there was some kind of
12 problem with me having a lawsuit going and he
13 didn't want to get involved in that or the
14 administration didn't want to be involved in
15 that. So he asked questions. He didn't say
16 that's the reason I'm not going to hire you,
17 but he alluded to it.

18 Q. Didn't you testify that Matt Rhule
19 told you the reason he couldn't hire you was
20 because the administration wouldn't let him?

21 A. Yeah, what I just referred to.

22 Q. And Coach Rhule will be testifying in
23 this proceeding?

24 A. Yeah, he will.

25 Q. Let me direct your attention now to

1 Tab 85.

2 A. Yes, ma'am.

3 Q. And you know now, don't you, that the
4 reason Coach Rhule didn't hire you was because
5 he determined you weren't qualified?

6 A. Yeah, it's -- frankly, it's -- well, I
7 won't get into that, but that's what he says.

8 Q. Directing your attention to 623,
9 please --

10 A. 623.

11 Q. Yes.

12 A. In Tab 85?

13 Q. Yes, sir.

14 A. I have 622 and then it goes to 629.

15 Q. I have a 623.

16 MR. STROKOFF: I don't have a 623.

17 THE COURT: And I don't have it.

18 MS. CONRAD: Can we take a moment,
19 please, and provide a 623?

20 THE WITNESS: Judge, may I stand for a
21 minute?

22 MS. CONRAD: Let me ask you questions
23 while -- oh, I'm sorry. Go ahead.

24 THE WITNESS: No. Go ahead. I'm
25 fine. I don't need to stand. You're good.

1 THE COURT: Go ahead.

2 (The witness stood and then resumed
3 his seat.)

4 BY MS. CONRAD:

5 Q. Let me ask you questions while we're
6 waiting. Did there come a point in time that
7 you were exchanging e-mails for a position at
8 Duke?

9 A. Yes, ma'am.

10 Q. And who was the head coach at Duke?

11 A. David Cutcliffe is the head coach at
12 Duke.

13 Q. And did you submit a resume to Duke?

14 A. Yeah, as far as I can remember. I
15 think maybe even a couple different times.

16 Q. And at the time in December of 2015
17 that you submitted a resume, was there an open
18 position?

19 A. I'm going off of memory. I think the
20 wide receiver coach and maybe slash offensive
21 coordinator had just left for East Carolina. I
22 think this is the second time I applied to
23 Duke.

24 Q. Well, let me represent to you that on
25 December 13, 2015, there was an e-mail from a

1 Kevin Lehman at Duke. Do you recollect that
2 name?

3 A. Yeah, I think that was a person who
4 was like a booster or a fan maybe. Again, I'm
5 going off of memory.

6 Q. Executive Director of Football
7 Administration/Chief of Staff?

8 A. Okay. Yeah, I must have the wrong guy
9 I'm thinking of.

10 Q. And does Mr. Lehman inform you that,
11 as of now, Coach Cutcliffe is not working to
12 fill a position on our staff, but is focusing
13 for preparations for our bowl game later this
14 month?

15 A. Yes, I do remember that e-mail.
16 Absolutely.

17 Q. And typically a team would be
18 preparing for a bowl game in December, wouldn't
19 they?

20 A. Yes, if they're going to a bowl game,
21 absolutely.

22 Q. And he goes on to say, when he does
23 begin to focus on staff transitions, we will
24 post any available job on the Duke University
25 HR portal, and he would recommend that, if you

1 are interested at that point, you may apply
2 through the website. Do you remember that
3 direction?

4 A. Is it in here?

5 Q. This is the missing document.

6 Q. Okay.

7 A. That's why I'm asking you about it.

8 A. Sure. I will take your word for it.

9 No doubt.

10 Q. All right. And did you apply -- or
11 strike that. Was there an available position
12 after December 2015 that you applied?

13 A. After December 2015 that I applied? I
14 think so. I think that's when Coach Montgomery
15 had left to be the head coach at East Carolina.

16 Q. And did you apply for that position?

17 A. I think through the same way I always
18 do, through an e-mail and an attached resume.
19 I think so. Yes, ma'am.

20 Q. And did you have a contact at Duke?

21 A. We had -- well, again, going back --
22 and I think everyone has already heard -- we
23 had connections with Duke University in my
24 family, and there was another gentleman who
25 reached out, who I think was a fan or a

1 booster, trying to put in a word for me with
2 the AD, who I think is Mr. White down there, so
3 we had some connections. I think that was your
4 question.

5 Q. Yes, sir.

6 A. Yes.

7 Q. Did you have a connection with any of
8 the assistant coaches at Duke?

9 A. No, I did not know any assistant
10 coaches personally at Duke University.

11 Q. And had you ever worked for the head
12 coach at Duke?

13 A. No. Coach Cutcliffe, he'd be a great
14 coach to work for, but no.

15 Q. And had you worked with any of the
16 assistant coaches at Duke?

17 A. Not to my knowledge. I don't know
18 their whole entire staff right now, but I don't
19 think so, ma'am.

20 Q. I want to direct your attention now to
21 334.

22 A. 334.

23 Q. And let me represent to you that these
24 documents are not in numerical order. They
25 have been organized by category, so it's

1 important that you stay with me as we proceed
2 through this.

3 A. Same tab?

4 Q. Same tab.

5 A. I'm sorry, ma'am. I don't have 334.
6 I go 333 to 335.

7 MR. STROKOFF: And I don't have 334,
8 either.

9 MS. CONRAD: Let me assure you that
10 you do have them, but you have not located
11 them. So if you locate a document that is 196
12 --

13 THE WITNESS: Same tab?

14 MS. CONRAD: Yes, towards the front of
15 the tab.

16 THE COURT: I don't have 334, either.
17 So now we are looking for 196?

18 MS. CONRAD: Yes, because 334 is
19 behind it.

20 MR. STROKOFF: 334 is behind 196?

21 MS. CONRAD: Yes, sir.

22 THE WITNESS: I go 169 to 342. I'm
23 sorry.

24 MS. CONRAD: May I approach?

25 (No response)

1 MS. CONRAD: May I approach?

2 THE COURT: Yes.

3 (Pause)

4 THE WITNESS: Thank you.

5 MR. STROKOFF: And could counsel show
6 me where 334 is?

7 THE COURT: 334? Is that what we're
8 looking at now?

9 MS. CONRAD: Yes, sir.

10 MR. STROKOFF: Apparently.

11 THE WITNESS: I do have it, sir.

12 THE COURT: Okay. I don't have it.
13 What is the page in front of 334?

14 THE WITNESS: 196.

15 MR. STROKOFF: Apparently, this
16 exhibit is not organized in any kind of
17 numerical order.

18 MS. CONRAD: That's correct. It's
19 organized by category as opposed to by
20 chronology.

21 THE COURT: That's okay, but I still
22 haven't found the exhibit that you're talking
23 about, so I'm going to look at Mr. McQueary's
24 exhibit for a second, if I can, to find myself
25 in my exhibit.

1 MS. CONRAD: We are going to continue
2 through the binder if it would be helpful for
3 me to assist.

4 THE COURT: I go from 169 to 342 to
5 619, so just go ahead and ask your questions.
6 I have no idea where you're at.

7 BY MS. CONRAD:

8 Q. Mr. McQueary, are you at 334?

9 A. Yes, ma'am.

10 Q. This was an e-mail that you sent to --
11 I believe it was Florida Atlantic University
12 football?

13 A. That's right.

14 Q. And you state in the first page,
15 "Please accept this resume for consideration
16 for an assistant coach position in football."
17 Do you see that?

18 A. Yes.

19 Q. And what do you go on to say?

20 A. Coach Partridge will be aware of who I
21 am.

22 Q. And what did you mean by that
23 statement?

24 A. We played against Coach Partridge --
25 again, they all run together. I think he was

1 at -- he was at a school we played and knew of
2 me. It's not coming to my mind right now.

3 Q. Isn't it true that you bumped into
4 each other at a recruiting event?

5 A. Coach Partridge?

6 Q. Yes.

7 A. That may be true. You bump into a lot
8 of guys at recruiting, but I don't specifically
9 remember that. I mean, I'm not saying it's not
10 true.

11 Q. But Coach Partridge wasn't someone you
12 had worked under, was he?

13 A. No, I had never been on the same staff
14 with him. No, ma'am.

15 Q. And his assistant coaches, you had not
16 coached with any of them, did you?

17 A. No, I don't believe so.

18 Q. Now I would like you to turn three
19 pages to 333.

20 A. Got it.

21 Q. And this is an e-mail that you sent to
22 University of Connecticut?

23 A. Yes, ma'am.

24 Q. And could you read to me, please, the
25 dear sir?

1 A. "Dear sir, please accept my resume as
2 a --" Sorry. "Dear sir, please accept my
3 resume for an assistant --" I misspelled coach
4 -- "position in football."

5 Q. So you sent out a letter with a typo?

6 A. Yes, ma'am, just human error.

7 Q. And then on the third -- continuing to
8 the third page, 336, Coach Foley -- is that the
9 head coach at University of Connecticut?

10 A. What page are we on, ma'am? I'm
11 sorry.

12 Q. If you turn one, two, three pages, you
13 will be at 336.

14 A. Got it.

15 Q. Coach Foley, who is that?

16 A. I want to say his name. It's -- I
17 don't know. It's a coach we met. I remember
18 meeting him on the road, recruiting, but again,
19 you meet a ton of guys when you are recruiting.
20 I think Coach Bradley even said that, so it's
21 just not coming to me right now.

22 Q. But Coach Foley wasn't someone you had
23 coached with, was he?

24 A. Oh, no. No, I don't think so.

25 Q. Next page.

1 A. Got it.

2 Q. 337, are you with me?

3 A. Yes, I am.

4 Q. And this is a resume you submitted to
5 who?

6 A. James Madison University.

7 Q. And the cover letter is, "Please see
8 attached a resume for assistant coach within
9 your football program," correct?

10 A. Yes.

11 Q. Did you have any follow-up at James
12 Madison?

13 A. Yeah, I think they said -- and I'm
14 going off of memory. I think they said
15 something like their coach would be considering
16 coaches for his staff in the near future or
17 something to that effect.

18 Q. Let me direct your attention to the
19 third page, 339,

20 A. Okay.

21 Q. And doesn't it provide that, after the
22 new head coach is hired, all assistant coaches
23 will be hired at his discretion?

24 A. Yes, it does. My memory is not so
25 bad. Yes.

1 Q. And that's common practice in the
2 industry, isn't it?

3 A. That the head coach picks his staff?

4 Q. Yes.

5 A. Yeah, I'd say it's fairly common.
6 Yes, ma'am.

7 Q. It goes on to state that all
8 applications will be submitted electronically
9 by an interested person, doesn't it?

10 A. I believe so.

11 Q. Did you include in this packet any
12 application that you submitted to James
13 Madison?

14 A. Boy, I have submitted so much to you
15 over the last four years. I would have to look
16 through it. I don't remember submitting that.
17 I'm pretty certain what I have submitted, so I
18 don't think so, ma'am.

19 Q. Directing your attention to 344, the
20 next page --

21 A. Okay.

22 Q. -- this is an exchange you had with
23 Brett Senior, isn't it?

24 A. Yes. Yes.

25 Q. And in the first -- well, let's start

1 it with you're asking Brett Senior to put your
2 name in with Al. Do you see that?

3 A. Down on the bottom?

4 Q. Yes, sir.

5 A. Yep.

6 Q. And what does that reference?

7 A. Let me look at a day and time. Okay.
8 So the reference is Al Golden, who was the head
9 coach at Miami University down in Miami,
10 Florida. His name was starting to appear as
11 one of the candidates for the Penn State job.

12 Q. So you reached out to Brett Senior and
13 asked him to put your name in with Al; is that
14 correct?

15 A. Yes. Brett was Al's agent.

16 Q. And what does Mr. Senior provide to
17 you?

18 A. Can I read it word-for-word?

19 Q. I would ask you to read the first two
20 sentences.

21 A. "I agree 100 percent." Sorry.
22 "However, Al has not taken, offered, or even
23 been contacted directly by PSU."

24 Q. And what does it go on to say next?

25 A. "As you know, the press distorts so

1 many things," which I definitely know.

2 Q. And did Al Golden go on to take a
3 position at Penn State?

4 A. No. No. No.

5 Q. I want to direct your attention then
6 to three pages, 348. Turn three pages.

7 A. Yes, ma'am.

8 Q. And this is a rather lengthy exchange
9 with an individual by the name of Paul Wallace,
10 isn't it?

11 A. Yes, I think that's the gentleman I
12 was referring to about the Duke University
13 connection.

14 Q. And this starts at 348 and runs
15 through to 377, doesn't it?

16 A. Yes.

17 Q. And the pages contained in 348 to 377,
18 they're not job applications, are they?

19 A. No, I think we talked, you know,
20 through a couple different e-mails about
21 possible coaching opportunities.

22 Q. And it goes on to say, "Have you
23 contacted Doug Marrone with the Bills?" Do you
24 see that reference?

25 A. Yep.

1 Q. And did you contact Doug Marrone with
2 the Bills?

3 A. I do believe I did. Yes, ma'am.

4 Q. And directing your attention to 350 --

5 A. 350. That's in this -- okay. Got it.

6 Q. -- and there is reference from Mr.
7 Wallace that, "I shared your situation in
8 confidence with an attorney friend of mine, who
9 is also a Duke athletics alum," correct?

10 A. 350?

11 Q. "Mike, have you had any feedback from
12 Cutcliffe." Do you see that?

13 A. Got it. Yep.

14 Q. He goes on to say, "I shared your
15 situation in confidence with an attorney friend
16 of mine, who is also a Duke athletics alum."
17 Do you see that?

18 A. Yep. Yep.

19 Q. "Was a varsity athlete at Duke when I
20 was there and maintains status as a booster.
21 Bright guy." Do you see that?

22 A. Yep. Absolutely.

23 Q. "Really to get his input, because he
24 also knows, has met AD, Coach K, et cetera."
25 Do you see that?

1 A. Yes.

2 Q. And he goes on to provide a text
3 message. Do you know who that's from?

4 A. I think it's an e-mail or a text from
5 the guy he is referring to. I don't know who
6 it's.

7 Q. And is that the attorney friend of
8 his?

9 A. I'm guessing that.

10 Q. Who is a Duke athletics alum?

11 A. I'm guessing that.

12 Q. And what does the Duke athletics alum
13 provide in the first paragraph that starts with
14 my guess?

15 A. "Got the father's bio, not the kid's.
16 My guess is that he is radioactive. While
17 reading some stuff in response to your e-mail,
18 it seems he was forthright in his testimony and
19 did a fair amount about the issue, but he is
20 lambasted for not doing more, in my mind,
21 unfairly so. His distinctive appearance does
22 not help. He is quickly remembered as the guy
23 that did not call the cops."

24 Q. So he is providing information about
25 his view with respect to the incident that

1 occurred back in February of 2001, isn't he?

2 A. Yes.

3 Q. And he states, "He is quickly
4 remembered as the guy that did not call the
5 cops," correct?

6 A. Yes, that's his opinion. Yes, ma'am.

7 Q. And that's referring to you, isn't it,
8 Mr. McQueary?

9 A. I would imagine that.

10 Q. Okay. And in the next paragraph,
11 about the fourth sentence, it states, "I also
12 imagine that, if the media sees him
13 interviewing at Duke, it is an instant story,
14 perhaps not a positive one. If he signs on at
15 Duke, there will be media attention." Do you
16 see that statement?

17 A. Yes.

18 Q. And that's very similar to what Ernest
19 Wilson testified to happened at Savannah State,
20 isn't it?

21 A. Yes. Yes.

22 Q. I then want to direct your attention
23 to 355.

24 A. Okay.

25 Q. The next paragraph that starts with

1 another idea, do you see that?

2 A. I see it.

3 Q. Okay. It says, "Another idea I had is
4 that you might reach out to Mike Pressler." Do
5 you see that reference?

6 A. Yes.

7 Q. Who is Mike Pressler?

8 A. As far as I know -- I've never met him
9 or talked to him -- but he is the fellow that
10 was the head coach of the Duke lacrosse team
11 when they had an issue at Duke.

12 Q. And when you say an issue, it was a
13 rather newsworthy scandal, wasn't it?

14 A. I believe so, yes.

15 Q. And Paul W. goes on to say, referring
16 to Mike Pressler, "He is head lacrosse coach at
17 Bryant in Rhode Island." Do you see that?

18 A. Yes.

19 Q. "They also have an FCS football team."
20 Do you see that?

21 A. Yes.

22 Q. "He might be receptive to your
23 predicament, having himself suffered a stigma,
24 unfairly so, due to false allegations in the
25 Duke lacs hoax (phonetic)." Do you see that

1 reference?

2 A. Yes.

3 Q. "The AD at Bryant hired him anyway,
4 and the school is quite glad they did." Do you
5 see that reference?

6 A. Yes.

7 Q. Did you reach out to Mike Pressler as
8 Mr. Wallace suggested to you?

9 A. No, I did not.

10 Q. Directing your attention to the next
11 page, 356, Mr. Wallace goes on to provide other
12 suggestions and comments for you, doesn't he?

13 A. Yes.

14 Q. In about the fourth paragraph that
15 begins with my response to Kevin, do you see
16 that?

17 A. Yes.

18 Q. And he says, "My response to Kevin was
19 that part of the challenge for you at this
20 point was that your long-standing contacts in
21 coaching were among Penn State staff, current
22 and past, as well as within the Penn State
23 football alumni network." Do you see that?

24 A. Yes.

25 Q. And what he's referring to is that

1 your entire coaching career was at Penn State,
2 isn't he?

3 A. Yes, which I'm proud of.

4 Q. Now I would like to direct your
5 attention, if you continue in that packet, to
6 377.

7 A. Okay.

8 Q. And there appears to be an e-mail from
9 John?

10 A. John. Okay.

11 Q. Who is John?

12 A. My brother, I think. I think that's
13 who that is. I mean, I have a brother named
14 John.

15 Q. Okay. And what is the nature of this
16 e-mail exchange?

17 A. Can I have a sec to read it?

18 Q. Please.

19 A. (Witness perusing document) Okay.

20 Q. There's a reference there that, "I
21 think Mike thought Duke was a dead-end." Do
22 you see that?

23 A. Yes.

24 Q. Did you think Duke was a dead-end?

25 A. Yeah. Like I said, I think I talked

1 to Duke or submitted stuff to Duke on more than
2 one occasion, so I think -- you know, at some
3 time I thought, "Okay. This isn't going to
4 work out," but then I re-opened it and thought
5 again, "Hey, maybe I would have a shot here."

6 Q. But then John raises a question, "Is
7 Mike out of his head going down to spring
8 practice? Mike has nothing to lose at this
9 point." Do you see that reference?

10 A. Yes.

11 Q. Did you ever go down to spring
12 practice at Duke?

13 A. No.

14 Q. Why not?

15 A. You just don't -- I think out of
16 respect you just don't show up at someone's
17 door and go to spring practice. You know, we
18 wouldn't accept just random people at Penn
19 State's spring practice and just would be
20 uncomfortable doing that. That's all.

21 Q. There was a point in time that you
22 asked Coach Rhule to go to one of his
23 practices, didn't you?

24 A. Yes.

25 Q. And he said, "Sure. Stop by," didn't

1 he?

2 A. Yes.

3 Q. And you never went to that practice,
4 did you?

5 A. No, and now I'm glad I did not.

6 Q. Directing your attention to 353 --

7 A. Yes, ma'am.

8 Q. -- you submitted a letter of interest
9 to Georgetown?

10 A. Yes.

11 Q. Did you do any follow-up at
12 Georgetown?

13 A. I don't think so. As a matter of
14 fact, about a week later that coach that I
15 submitted to, I think, left for -- or a couple
16 weeks later left for a different job, and I
17 think I may have resubmitted.

18 Q. Can you show me anywhere in this
19 packet where you resubmitted?

20 A. Well, maybe -- I don't think so, but
21 it's just ringing my bell. Maybe I did.

22 Q. Let me represent to you this was the
23 only document that we located with respect to
24 Georgetown in your packet.

25 A. Okay.

1 Q. Directing your attention then to 434 -
2 -

3 A. Okay.

4 Q. -- there was a series of exchanges
5 with University of Pittsburgh, wasn't there?

6 A. Yes.

7 Q. And at any time did you submit an
8 application to Pitt?

9 A. No.

10 Q. Directing your attention to 604, which
11 is about seven pages back?

12 A. Yes.

13 Q. This is for a position at Maryland,
14 isn't it?

15 A. Yes, it is.

16 Q. And you submitted a resume for a
17 position, didn't you?

18 A. Yes.

19 Q. Did you submit any additional
20 materials?

21 A. To Maryland, not that I can think of.

22 Q. Did you take any further action with
23 respect to Maryland?

24 A. This was for Coach Durkin, so Coach
25 Durkin coached with Mike Zordich at Michigan,

1 and I reached out to Mike, Jr. and Mike, Sr. to
2 put in a word with Coach Durkin, but that's it.

3 Q. Contained in this packet, is there any
4 other document that shows that you took any
5 further action with respect to Maryland?

6 A. No. I'll take your word for it there
7 isn't, but that's what I did.

8 Q. Okay. Now I want to direct your
9 attention to several pages back -- it's going
10 to be 657. I would say it's about 10, 15
11 pages.

12 A. Okay.

13 THE COURT: What page are we at?

14 THE WITNESS: 657, I think, is what
15 we're looking for.

16 MS. CONRAD: It's behind 656.

17 THE WITNESS: You said about 10 or 15
18 pages?

19 MS. CONRAD: Yes, sir. It is after
20 639.

21 THE WITNESS: Okay. I'm sorry. I
22 just can't find it.

23 THE COURT: What page are we looking
24 for?

25 MS. CONRAD: We are looking for 657.

1 Would you like me to approach?

2 THE COURT: I have got 657. If you
3 don't, you can read on my book.

4 THE WITNESS: Thank you.

5 BY MS. CONRAD:

6 Q. 657 is an e-mail that you sent, I
7 believe, to -- or an exchange with Bucknell,
8 isn't it?

9 A. Yes.

10 Q. And you receive a response from Joseph
11 Susan, don't you?

12 A. Yes.

13 Q. And that's the head coach at Bucknell,
14 isn't it?

15 A. Yes, it is.

16 Q. And he informs you, "We are in the
17 early stages of the search for our next
18 receivers coach." Do you see that?

19 A. Yes.

20 Q. And he states that, "The biggest
21 consideration in the makeup of our staff is the
22 fit as a person." Do you see that?

23 A. Yes.

24 Q. And you will agree with me that was
25 one of the characteristics that you described

1 as being important with a head coach's
2 selection of his staff, isn't it?

3 A. Yes, ma'am.

4 Q. You also applied to University of
5 Massachusetts, didn't you?

6 A. I mean, I've got a pretty good mind.
7 That one is not ringing a bell, but if it's in
8 there, it's in there.

9 Q. It's in there. On January 27, 2016,
10 you sent an e-mail that said, "Please accept my
11 resume for a position on your staff at Mass."
12 I'm at 680, which is several pages back.

13 THE COURT: Just keep it.

14 THE WITNESS: Okay. 680.

15 BY MS. CONRAD:

16 Q. You have to continue in the binder,
17 sir, that we left, the Bucknell, at 657. If
18 you keep turning, you will get to 6--

19 MR. STROKOFF: Six what?

20 THE WITNESS: Coach Whipple, yep.
21 He's the head coach at UMass. I got it

22 BY MS. CONRAD:

23 Q. And doesn't he inform you that he
24 filled the position with a former captain at
25 UMass? Do you see that?

1 A. Yes.

2 Q. All right. Now I want to direct your
3 attention to Tab 86.

4 A. Eighty-six. Got it.

5 Q. These are positions related to resumes
6 that you submitted in professional football,
7 aren't they?

8 A. Coach Flaherty is with the Giants or
9 was with the Giants -- New England Patriots,
10 yes.

11 Q. Sir, you submitted a resume to the
12 Giants, correct?

13 A. Yes.

14 Q. And if you flip several pages to 171,
15 you submitted a letter of interest to the
16 Patriots, didn't you?

17 A. Yes, I had extensive talks with the
18 Patriots.

19 Q. And I want to direct your attention to
20 that next page, 172?

21 A. Yep.

22 Q. Do you see the handwritten notes
23 there?

24 A. Yep.

25 Q. And could you read those notes into

1 the record, please?

2 A. "Pats called O'Brien in summer of '13,
3 said great coach, wasn't allowed to hire."

4 Q. Now, who did you obtain this
5 information from?

6 A. I saw Larry Johnson, who was an
7 assistant coach at PSU, and he was actually
8 outside the south end of the end zone one day
9 with his wife, and they was getting on bikes,
10 getting ready to ride a bike. I was going over
11 to walk my dogs, and He said, "Hey, did you
12 know the Pats called O'Brien?" And I said,
13 "Well, I was talking to the Pats." And he
14 said, you know, "He walked down the hall and
15 asked about you, and, you know, we told him
16 you're a great coach," and that's about it.

17 Q. But you say that here Larry Johnson
18 told you that Coach O'Brien said he wasn't
19 allowed to hire?

20 A. Well, I don't say it here that Coach
21 Johnson told me that. I knew that Coach
22 O'Brien, through my contacts in the football
23 program, was hired (sic) a sheet of paper with
24 the list of assistant coaches name on it to
25 interview, and my name was not on it. So

1 that's what that is referring to. You know,
2 they're just handwritten notes to myself, so I
3 probably worded it wrong.

4 Q. But you also know now that Coach
5 O'Brien didn't have a position on his staff for
6 you, did he?

7 A. Well, he had a position, I think. I
8 don't think he wanted to hire me, but the
9 essence is I wasn't going to be hired anyway no
10 matter what.

11 Q. The essence is Coach O'Brien hired
12 Stan Hixon, didn't he, as his wide receivers
13 coach?

14 A. Yes, he did.

15 Q. And Coach O'Brien had coached with
16 Stan Hixon, hadn't he?

17 A. Yes, I believe so, at Georgia Tech,
18 ma'am.

19 Q. And that was the reason he hired him,
20 because he knew him, didn't he?

21 A. I think so.

22 Q. Now I want to direct your attention to
23 Tab 87.

24 A. Eighty-seven?

25 Q. Yes, sir.

1 A. Going forward? Flipping forward?

2 Q. Tab 87.

3 A. Oh, I'm sorry. Okay.

4 Q. I believe these were the positions
5 that you testified to that you applied in
6 connection with some golf openings and summer
7 camps.

8 A. Golf, yes.

9 Q. And I believe you testified that you
10 had obtained some certification in golf?

11 A. Yes, it's sort of a certification, if
12 you will.

13 Q. What is that certification?

14 A. It's called a PAT.

15 Q. And what does that stand for?

16 A. I think it is Player Assessment Test -
17 - or I think that's what it is.

18 Q. And how did you earn that player
19 assessment test?

20 A. How did I earn it, you ask?

21 Q. Yes.

22 A. So the test is, and I think I
23 explained this before, if you want to become a
24 golf professional, meaning like a teaching
25 professional, one of the criteria is to pass

1 your PAT, and the PAT is held. It's an
2 official test, and you go to a golf course --
3 not just any golf course. It's held at a
4 specific golf course on a specific day, and
5 it's more or less a tournament. I think the
6 tournament I was in was 46 people. Most of
7 them are students in the professional golf
8 management degree program at Penn State, and
9 you play 36 holes, and it's a tournament, and
10 you have to come in within a certain score over
11 par.

12 Q. What was your score?

13 A. Minus one for 36 holes.

14 Q. A pretty good score?

15 A. I don't want to brag, but I'm pretty
16 proud of that.

17 Q. In fact, your handicap has improved in
18 the past couple years, hasn't it?

19 A. Yes, a lot of time on my hands.

20 Q. So you have been spending a lot of
21 time golfing, haven't you?

22 A. Once in a while, yeah.

23 Q. Well, you're a regular at the Penn
24 State golf course, aren't you?

25 A. Depends what you call regular. During

1 the spring, when my daughter is in D.C., I'm
2 there more, but during the summer, I spend the
3 bulk of my summers with her, so I don't get to
4 golf as much, and in the fall again it picks
5 up.

6 Q. And when you are there, you're often
7 there for two rounds a day, aren't you?

8 A. Sometimes, yes.

9 Q. And you use the driving range a lot,
10 don't you?

11 A. I wouldn't say a lot, but some.

12 Q. And, in fact, you golfed the day after
13 jury selection, didn't you?

14 A. Golfed the day of my jury selection.

15 Q. The day after --

16 A. On Tuesday?

17 Q. The Wednesday after the jury was
18 selected in this case, you were out on the golf
19 course, weren't you?

20 A. Sure. It sounds like you have got
21 people following me, spies. I'm a little
22 embarrassed, but, yeah, I went to the golf
23 course.

24 Q. Mr. McQueary, please be assured we
25 don't have people following you.

1 A. Well, --

2 Q. And you've only applied for, what, two
3 positions related in the field of golf?

4 A. Yes.

5 Q. Directing your attention to Tab 88 --

6 A. Okay.

7 Q. -- these are positions in the field of
8 business. What is your background in business?

9 A. Nothing, but a health policy
10 administration major has a core component of
11 business courses.

12 Q. And directing your attention to the
13 third page, 207 --

14 A. 207, yes.

15 Q. And this is a position you applied for
16 through Monster, correct?

17 A. Yes, ma'am.

18 Q. Vice president of operations/global?

19 A. Yes.

20 Q. What are your qualifications for a
21 position as vice president operations/global?

22 A. Other than my transferable skills I
23 think I have, you know, I don't have any
24 background in business operations. I was a
25 football coach, but you're trying to get a job,

1 so you're picking up anything you can and
2 trying to apply it.

3 Q. Directing your attention then to Tab
4 89 --

5 A. Yes.

6 Q. -- these are positions in the
7 insurance industry?

8 A. Yes.

9 Q. Do you have any experience in the
10 insurance industry?

11 A. No.

12 Q. Directing your attention to Tab 90 --

13 A. Yes.

14 Q. -- these are positions in the area of
15 sales, non-medical positions. Do you have any
16 experience in sales?

17 A. Yeah, recruiting is sales. When
18 you're recruiting coordinator at Penn State,
19 you're selling every day.

20 Q. Do you have any experience in selling
21 non-medical type items?

22 A. Selling non-medical type items? Yes,
23 I sold Penn State football to recruits.

24 Q. Let me direct your attention to Tab
25 91.

1 A. Okay.

2 Q. Let me represent to you that these are
3 positions that you submitted resumes in the
4 area of pharmaceutical sales.

5 A. Yes, ma'am.

6 Q. Do you have any experience in
7 pharmaceutical sales?

8 A. No, no, no jobs in pharmaceutical
9 sales.

10 Q. Directing your attention to Tab 92 --

11 A. Yes.

12 Q. -- there are a couple positions here
13 that you submitted resumes for in the area of
14 orthopedic sales.

15 A. Yes.

16 Q. Do you have any experience in the area
17 of orthopedic sales?

18 A. No, I have never had a job in
19 orthopedic sales.

20 Q. And let me direct your attention to
21 the first page after Tab 92.

22 A. Yes.

23 Q. This was the resume you submitted
24 through Monster for an orthopedic sales
25 representative position. Do you see that?

1 A. Yes.

2 Q. Now, it says cover letter. Do you see
3 that reference?

4 A. Yes.

5 Q. And what does it provide there?

6 A. "You didn't include a cover letter."

7 Q. So you sent your resume off, but you
8 didn't include a cover letter with it?

9 A. No, ma'am.

10 Q. And then it goes on to say, "Jobs you
11 might like." Do you see that reference there?

12 A. I do.

13 Q. How many jobs are listed here?

14 A. One, two, three, five -- or six.

15 Q. And did you submit your resume to any
16 of those positions?

17 A. AstraZeneca, maybe, in Baltimore, but
18 I don't know that for sure. I definitely
19 submitted my stuff to AstraZeneca at some time.

20 Q. How about the rest of the ones that
21 are listed there? Did you follow up on any of
22 those possibilities?

23 A. No, they're not ringing a bell with
24 me.

25 Q. And then to Tab 93 --

1 A. Okay.

2 Q. -- these are miscellaneous-type
3 applications, and I would like you to skip the
4 first four pages and turn to 425.

5 A. Okay.

6 Q. This is a resume that you submitted
7 with respect to Ernst & Young, isn't it?

8 A. Yes.

9 Q. And let me represent to you that your
10 exchanges related to this particular position
11 run from 425 through to 503, don't they?

12 A. Yes, this gentlemen we referred to
13 before, we did quite a bit of correspondence.

14 Q. Okay. So this entire stack of
15 documents from 425 through 503 are not all
16 separate and different applications, are they?

17 A. They are about -- I want to say three
18 different jobs that we talked about.

19 Q. And what kind of jobs were they?

20 A. Well, I'm going off of memory. He
21 worked for Ernst & Young, which I believe, if
22 I'm not wrong, is an accounting/consulting,
23 very large outfit, I believe. So we talked
24 about that for a minute, and when I say a
25 minute, we talked about that position over

1 correspondence, and then he referred me to two
2 smaller boutique sort of consultant places, and
3 again, going off of memory, it's tough to
4 remember, but I know I spoke to one lady on the
5 phone. I had a phone interview. She was in
6 Alexandria, Virginia, but that's about all I
7 can remember right now.

8 Q. Tab 94.

9 A. Yes.

10 Q. Documents 599 through 305 all relate
11 to a single position in the area of the
12 financial industry?

13 A. Yes.

14 Q. Do you recall those exchanges?

15 A. Yes, absolutely.

16 Q. Did you have any experience in the
17 financial industry?

18 A. Well, I think, to -- you are on Tab
19 94, correct? Robert Haff (phonetic) and --

20 Q. Yes. Correct.

21 A. So these jobs are within the financial
22 industry, but recruitment of prospective
23 employees coming out of college, so designated
24 in the recruiting department, and I certainly
25 have experience in recruiting. Now, it's not

1 the same as football, high school kid
2 recruiting, but certainly it's recruiting.

3 Q. Tab 95, these are positions, sales
4 positions in medical devices, aren't they?

5 A. Yes.

6 Q. And they include a number of resumes
7 that you submitted through Monster again,
8 correct?

9 A. Yes, ma'am, I think.

10 Q. And each of them contains a listing of
11 jobs you may like. Do you see that?

12 A. Yes. Yes, as referred before. Yes,
13 the list after.

14 Q. And did you follow up with the
15 potential jobs that are listed there?

16 A. I think a couple of them, but not all
17 of them, for sure.

18 Q. Tab 96.

19 A. Okay.

20 Q. These are sales in the veterinary
21 field?

22 A. Yes.

23 Q. Did you have any experience in sales
24 in the veterinary field?

25 A. Not in veterinary sales, but again the

1 same answer, sales, branding, marketing,
2 recruiting.

3 Q. Tab 97.

4 A. Okay.

5 Q. These are resumes that you submitted
6 in the area of risk management?

7 A. Yes

8 Q. Did you have any experience in the
9 field of risk management?

10 A. No.

11 Q. And then Tab 98, these are positions
12 that you submitted resumes for in the area of
13 human resources. Did you have any experience
14 in the area of human resources?

15 A. Ninety-eight, again, it's referring to
16 that same gentleman that I referred to before,
17 and this is the woman in Alexandria, and again,
18 they were looking at me for recruitment of
19 potential employees.

20 Q. Were you successful in any of those
21 positions in recruitment?

22 A. No, I don't have a job. No.

23 Q. Putting the binder aside for now --

24 A. Okay.

25 Q. -- I want to direct your attention now

1 to February of 2000. I believe that's when you
2 held the position of graduate assistant?

3 A. That's when I got my position as
4 graduate assistant. Yes, ma'am.

5 Q. And in February of 2001, that was the
6 night that you returned to the Lasch football
7 building, isn't it?

8 A. Yes, it is.

9 Q. Now, the complaint that you filed in
10 this action, you reviewed and verified all the
11 information contained in that complaint, didn't
12 you?

13 A. Yes.

14 Q. And in that complaint you state that,
15 at approximately 9 p.m. on February 9, 2001,
16 that you witnessed an adult male engaging in
17 highly inappropriate and illegal sexual conduct
18 with a boy who appeared to be about 10 to 12
19 years old. Do you remember using that
20 language?

21 A. Yes.

22 Q. And is that a true and accurate
23 statement; that you saw an adult male engaging
24 in highly inappropriate and illegal sexual
25 conduct with a boy?

1 A. Is it true?

2 Q. That's not my question.

3 A. Okay.

4 Q. Is that what you saw, inappropriate
5 and illegal sexual conduct with a boy?

6 A. Yes.

7 Q. Did you use that term, illegal sexual
8 conduct, when you met with Coach Paterno?

9 A. Oh, gosh. That's 16 years ago.
10 Illegal, I don't think I said, certainly
11 sexual, for sure.

12 Q. And you will agree with me that, when
13 you provided this statement to the
14 investigators at the Office of Attorney
15 General, you didn't use that term, illegal
16 sexual conduct, did you?

17 A. No.

18 Q. And the presentment, it didn't use the
19 term illegal sexual conduct, did it?

20 A. To be frank with you, I don't know if
21 I've ever read the presentment.

22 Q. And then how about that e-mail that
23 you sent to the Attorney General's office after
24 the presentment? Did you use that term,
25 illegal sexual conduct?

1 A. Without looking at the e-mail, I don't
2 think so.

3 Q. D36 -- if you pull the Volume 1
4 binder, D36.

5 THE COURT: The top one there.

6 THE WITNESS: Is that your copy, D36,
7 Defendant's?

8 MS. CONRAD: D36.

9 THE WITNESS: Got it.

10 BY MS. CONRAD:

11 Q. This is the e-mail that you sent on
12 November 10, 2011, isn't it?

13 A. Yes. Sorry. I'm making a mess. Yes.

14 Q. And anywhere in that e-mail, did you
15 use the term illegal sexual conduct?

16 A. No. It was a sexual act. No, not
17 illegal.

18 Q. Now, that night that you entered the
19 Lasch building, that you entered the locker
20 room --

21 A. Yes.

22 Q. -- I believe you testified that you
23 saw in the shower a young boy with Jerry
24 Sandusky; is that correct?

25 A. Yes.

1 Q. And I believe that you testified that
2 at no time did you ask the boy if he was okay;
3 is that correct?

4 A. I did not.

5 Q. And that night did you ask the boy if
6 he needed assistance?

7 A. I did not.

8 Q. Did you ask the boy if he wanted you
9 to call his family?

10 A. I did not. There was no speaking to
11 the boy.

12 Q. Excuse me?

13 A. There was no speaking to the boy.

14 Q. You did not speak to the boy?

15 A. Right.

16 Q. You left the locker room and went up
17 to your office, didn't you?

18 A. Yes, ma'am.

19 Q. And you did place a phone call and
20 speak to your father, didn't you?

21 A. I did. Absolutely.

22 Q. Did you place a phone call to
23 University Police that night?

24 A. No, I did not call any police force
25 that night.

1 Q. You didn't call the State College
2 police?

3 A. That's what I just said, ma'am. Yes,
4 ma'am.

5 Q. And your father asked if you were
6 okay, didn't he?

7 A. Yes.

8 Q. Did your father tell you to call the
9 police?

10 A. No.

11 Q. Your father told you to come to his
12 house?

13 A. Yes.

14 Q. And when you left the Lasch building
15 that night, on your way out, did you stop to
16 check on the young boy?

17 A. No.

18 Q. So when you left the building, you
19 didn't know whether or not he was still in the
20 shower with Jerry Sandusky, did you?

21 A. No. For a fact, no. I assumed that
22 they saw me and they knew they had been seen,
23 especially Jerry, and left.

24 Q. But you didn't know if they left?

25 A. No, I said I did not know for a fact.

1 Q. So you went home to your father,
2 didn't you?

3 A. Yes.

4 Q. And you met with him and Dr. Dranov,
5 didn't you?

6 A. Yes.

7 Q. Dr. Dranov is a physician?

8 A. Yes, he is a physician, yes.

9 Q. A mandated reporter.

10 A. I think Dr. Dranov can speak for
11 himself in terms of being a mandated reporter.
12 I'm not familiar with mandated reporter laws.

13 Q. And you provided information to him,
14 didn't you?

15 A. Yes.

16 Q. To both of them?

17 A. Yes.

18 Q. Now, you were here when Dr. Dranov was
19 present, weren't you?

20 A. Yes.

21 Q. You heard Dr. Dranov say that you
22 didn't tell him anything?

23 A. That's not what I heard.

24 Q. What did you hear?

25 A. You would have to get his testimony

1 back out. I think he said that -- he said that
2 I told him that I saw Jerry Sandusky around the
3 corner, up against the wall, and my arms --
4 that Jerry -- not my arms -- Jerry's arm came
5 back around the child, and I think that's
6 exactly what Dr. Dranov said.

7 Q. It's your testimony that you provided
8 that information to Dr. Dranov?

9 A. Hold on. You just asked me two
10 different questions, I believe.

11 Q. No, sir.

12 A. You said what did Dr. Dranov say in
13 his testimony, and now you are asking me what I
14 said to Dr. Dranov?

15 Q. No, I'm asking you what did you say,
16 if anything, to Dr. Dranov that night?

17 A. I told him that I just witnessed Jerry
18 Sandusky doing terrible things -- or at least
19 let me qualify it. I tried to tell him.

20 Q. And after he received information from
21 you, he didn't call the police, did he?

22 A. Not that I know of, no.

23 Q. He didn't tell you to call the police,
24 did he?

25 A. No.

1 Q. And neither your father nor Dr. Dranov
2 told you to go back to check on the child, did
3 they?

4 A. No.

5 Q. And you didn't go back to check to see
6 if that child was okay, did you?

7 A. No, not an hour later, after I assume
8 they had left. No, ma'am.

9 Q. But you didn't know if they had left,
10 did you?

11 A. No, I said that. I did not know that.

12 Q. What your father and Dr. Dranov did
13 tell you is to call Coach Paterno, correct?

14 A. Yes.

15 Q. And you didn't do it that night, did
16 you?

17 A. No, I did not.

18 Q. You did it the next day?

19 A. Yes, ma'am, early in the morning.

20 Q. And when you met with Coach Paterno,
21 he told you that he would tell some people and
22 get back to you, correct?

23 A. Yes, that's roughly what he said.

24 Q. And you understood that Coach Paterno
25 was going to tell Tim Curley and Gary Schultz?

1 A. No, he never used those names.

2 Q. I'm asking what you understood.

3 A. Some people.

4 Q. All you knew is some people?

5 A. Yes.

6 Q. Well, in paragraph 13 of your
7 complaint, you state that based upon
8 information and belief, you aver that Coach
9 Paterno reported what you had seen to Athletic
10 Director Curley. Did you come to understand
11 that Coach Paterno was going to speak to Mr.
12 Curley?

13 A. Eventually, I understood he spoke to
14 Mr. Curley right then and there, Coach Paterno,
15 and I'm not putting words in his mouth. He
16 said, "I'm going to tell some people." I'm not
17 sure if that's what you're asking.

18 Q. I'm asking did you come to learn --

19 A. Yes.

20 Q. -- that Coach Paterno spoke with Mr.
21 Curley?

22 A. Yes.

23 Q. Now, directing your attention to the
24 date of your hiring, I'd like to take you back
25 to 2004 now.

1 A. Okay, when I started full-time as a
2 football coach.

3 Q. Yes, sir.

4 A. Okay.

5 Q. I would like to direct your attention
6 to D2.

7 A. Yes.

8 Q. You are familiar with the document
9 marked D2?

10 A. Yes.

11 Q. And what is this?

12 A. That's my first -- it's when I got
13 hired, my first appointment letter.

14 Q. And you will agree with me that
15 initial appointment letter provides that, "We
16 are pleased to offer you a position as
17 assistant football coach, effective March 1,
18 2004," correct?

19 A. Yes, ma'am.

20 Q. It then provides your salary, doesn't
21 it?

22 A. Yes, it does.

23 Q. And then it goes on to say, "This is a
24 fixed-term one appointment through December 1
25 (sic), 2004, with all university benefits,"

1 doesn't it?

2 A. Yes.

3 Q. What was your understanding of a
4 fixed-term one appointment?

5 A. No understanding.

6 Q. Did you ask anybody when you received
7 this letter --

8 A. No, I was --

9 Q. -- "What is a fixed-term appointment?"

10 A. I'm sorry for interrupting you. No, I
11 was just ecstatic to be hired as a coach.

12 Q. But you understood that there was a
13 term of employment that ran through December
14 31, 2004, didn't you?

15 A. Yes, it says that in the letter.

16 Q. And I want to direct your attention
17 now to D5.

18 A. Got it.

19 Q. This is the severance letter that you
20 received while you were employed as an
21 assistant coach, isn't it?

22 A. Yes, it is.

23 Q. And it was provided to you on December
24 17, 2008?

25 A. Yes, that's the date.

1 Q. And it provides in paragraph two that
2 you are entitled to certain severance benefits,
3 doesn't it?

4 A. Yes, it does.

5 Q. And could you read paragraph two into
6 the record, please?

7 A. Just two?

8 Q. Just up until letter A.

9 A. Got it. "If you are employed as
10 assistant football coach at the time of Joseph
11 V. Paterno's departure as head coach, and in
12 the event you are terminated by the university,
13 other than for cause, as a consequence of the
14 decision of the new head coach to not continue
15 your employment as assistant football coach,
16 you will be entitled to the following severance
17 benefits:"

18 Q. And you received those severance
19 benefits that are described in D5?

20 A. Yes. Eventually, I did.

21 Q. And that was the 18 months of salary?

22 A. Yes.

23 Q. As well as the 18 months of health
24 benefits?

25 A. Yes.

1 Q. Let me direct your attention now to
2 November of 2010.

3 A. Yes, ma'am.

4 Q. That is when, I believe, you said you
5 were contacted by an investigator from the
6 Pennsylvania Office of Attorney General; is
7 that correct?

8 A. Yes.

9 Q. Now, up until that point, that is,
10 November 2010, had you taken any action to
11 contact University Police?

12 A. Regarding this incident?

13 Q. Yes.

14 A. No.

15 Q. So --

16 A. Well, let me backtrack. It was my
17 understanding, when I talked to Mr. Schultz,
18 that the law enforcement department, the police
19 department, definitely fell under him, and he
20 had access and knew about certain police
21 matters back when this originally came up, but
22 after that, no, I had never contacted the
23 university police department about it.

24 Q. Other than Mr. Schultz, from the time
25 period of February 2001 to November 2010, you

1 did not contact or report to anyone any
2 information about the incident that occurred in
3 February of 2001?

4 A. No, not that I can remember, no.

5 Q. And, in fact, in November 2010, the
6 investigator contacted you, correct?

7 A. Yes.

8 Q. And didn't you meet with the
9 investigator and that other individual at a
10 park bench?

11 A. Yes, eventually -- not a bench. We
12 were standing up in the parking lot.

13 Q. Didn't he question you at that time
14 about the incident?

15 A. No, absolutely not.

16 Q. You didn't provide any information to
17 him at that time?

18 A. None.

19 Q. And that was when you completed the
20 statement that I believe is contained at D9,
21 isn't it?

22 A. D9. No, that's not correct, ma'am.

23 Q. I understand, Mr. McQueary. A few
24 days later, when you met with them in the
25 office of Mr. Fleming?

1 A. About a week later, yes, ma'am.

2 Q. And that is when you completed --
3 there's no date on D9?

4 A. Yes, that's -- that's when I did it.

5 Q. So was it sometime in November,
6 December 2010?

7 A. No, it was a week later. It was the
8 Tuesday or Wednesday before the Ohio State game
9 in 2010.

10 Q. I'm sorry. I missed that.

11 A. It was the Tuesday or Wednesday, right
12 at the lunch time, of the week of the Ohio
13 State game in 2010.

14 Q. And I'm trying to determine the time
15 period from when you first met at the park to
16 when you met with Mr. Fleming. How many days
17 was that, sir?

18 A. About a week.

19 Q. Okay. And the documents contained at
20 D9, is that a true and accurate statement of
21 the incident that occurred in 2001?

22 A. Yes. They questioned me for about an
23 hour, an hour and a half, and they said just
24 write down quickly what you just said. So I
25 wrote it down really fast and gave it to Tim.

1 It took me about five minutes, and I had to get
2 back to the office.

3 Q. I want to take you now to October
4 2011.

5 A. October. Okay.

6 Q. Did you have any exchanges with anyone
7 in late October 2011 about your appointment
8 status?

9 A. With the university?

10 Q. Anyone at all.

11 A. I don't believe so.

12 Q. Did you have any exchanges with anyone
13 about a salary increase that you believed might
14 be coming from Penn State?

15 A. Not that I remember.

16 Q. Did you ever tell anyone, "My life is
17 disintegrating," at or about that time in
18 October, late October 2011?

19 A. I may have. I don't know.

20 Q. Who did you tell?

21 A. That's --

22 MR. STROKOFF: Objection, Your Honor.
23 May we approach?

24 THE COURT: Yes.

25 (Whereupon, the following discussion

1 was held at sidebar:)

2 MR. STROKOFF: Counsel is getting into
3 communications between Mr. McQueary and his
4 wife, who were undergoing some marital
5 difficulties at the time.

6 MS. CONRAD: And counsel permitted Mr.
7 McQueary to answer preliminary questions about
8 this issue, in particular with respect to --

9 THE COURT: What issue?

10 MS. CONRAD: That his life was
11 disintegrating and certain representations he
12 was making about Penn State.

13 MR. STROKOFF: At the deposition, I
14 was raising the marital privilege, and I only
15 let it go so far. It has no relevance. It has
16 no relevance to this.

17 THE COURT: It is my clear
18 understanding that none of the damages that Mr.
19 McQueary is asserting include the dissolution
20 of his marriage, and this area is totally
21 improper.

22 MS. CONRAD: I understand, Judge. I
23 will move on.

24 THE COURT: And I didn't appreciate
25 your comment about him going golfing. I don't

1 understand -- what relevance does that have?

2 MS. CONRAD: The fact that he is
3 spending much of his time golfing instead of
4 engaged in job search efforts.

5 THE COURT: So in the days leading up
6 to the trial, he should be out there getting a
7 job?

8 MS. CONRAD: Well, he hasn't --

9 THE COURT: Step back.

10 MS. CONRAD: And, Your Honor --

11 THE COURT: Step back.

12 MS. CONRAD: Your Honor, I have --

13 THE COURT: Step back.

14 (End of sidebar discussion)

15 THE COURT: Ask another question.

16 MS. CONRAD: Yes, sir.

17 BY MS. CONRAD:

18 Q. On November 4, 2011, the presentment
19 was issued?

20 A. Yes. What date is that, ma'am?

21 Q. I believe it was leaked on a Friday?

22 A. Yeah, I think the charges were leaked
23 and then the presentment was Saturday, I think.
24 I don't know. I'll take your word for it.

25 Q. When did you read the presentment?

1 A. I don't know if I've ever read the
2 full presentment. I don't think I have.

3 Q. Well, were you aware that in the
4 presentment your identity was not revealed?

5 A. Yes, I do know that.

6 Q. You were referred to as the graduate
7 assistant?

8 A. Yes, ma'am.

9 Q. Also, on or about November 5, a
10 statement was released by Dr. Spanier?

11 A. Yes.

12 Q. Would you put up D20, please? Are you
13 familiar with the statement from President
14 Spanier that was issued on November 5, 2011?

15 A. Yes, I am familiar. I'm sorry. Yes,
16 I am familiar.

17 Q. You will agree with, won't you, that
18 nowhere in the statement is your name
19 referenced, is it?

20 A. No, my name is not in there.

21 Q. And nowhere in the statement does it
22 make an express reference to you, does it?

23 A. Express reference? My name is not in
24 there.

25 Q. Let's move on now to --

1 MS. CONRAD: One moment, please.

2 BY MS. CONRAD:

3 Q. -- November 7, 2011, now, which is a
4 Monday.

5 A. Okay.

6 Q. Dr. Spanier meets with the head
7 coaches.

8 A. Okay.

9 Q. Were you present for that meeting?

10 A. No.

11 Q. Dr. Spanier also meets with the staff
12 members of the intercollegiate athletics staff.
13 Were you present during that meeting?

14 A. No.

15 Q. So you don't know what Dr. Spanier
16 stated during those meetings, do you?

17 A. Only paraphrased. When my buddies
18 came back from lunch, they reported -- you
19 know, again, not quote-for-quote, but
20 paraphrased.

21 Q. And who were those buddies?

22 A. The same buddies as before mentioned,
23 the guys I went to lunch with.

24 Q. And who were they?

25 A. I think Tommy Venturino was there,

1 Brad Caldwell, and Curt Gill (phonetic), I
2 believe.

3 Q. Directing your attention to
4 Defendant's 23 -- or I'm sorry, 22 --

5 A. Yes.

6 Q. -- this is an e-mail that you received
7 from Brett Senior?

8 A. Yes.

9 Q. And it was on or about November 7,
10 2011; is that correct?

11 A. Yes, that's what it says.

12 Q. And then to the next page, Tab 23.

13 A. Got it.

14 Q. Are you familiar with this document?

15 A. When you say familiar --

16 Q. Strike that. Is this an e-mail that
17 was directed to you?

18 A. Yes.

19 Q. And when was it directed to you?

20 A. It says Tuesday, 11/8.

21 Q. In what year?

22 A. 2011.

23 Q. And what is the subject line?

24 A. You deserve to die.

25 Q. And what does it go on and state in

1 this e-mail that you received on November 8,
2 2011?

3 A. "How could you watch a young boy get
4 raped? How could you do nothing to stop it?
5 What is wrong with you?"

6 Q. If I may excuse you for one minute, I
7 failed to move for the admission of D23. I
8 apologize.

9 THE COURT: Any objection?

10 MR. STROKOFF: D23, Your Honor?

11 THE COURT: Yes.

12 MR. STROKOFF: No.

13 THE COURT: It's admitted.

14 THE WITNESS: Continue?

15 BY MS. CONRAD:

16 Q. Yes, please.

17 A. "What is wrong with you? You aren't a
18 Nittany Lion. You are just a cowardly lion.
19 What should I expect from a loser named Mike
20 McQueery? Your career is over. I hope you
21 enjoy being an unemployed pariah."

22 Q. And contained at D23 is a series of e-
23 mails. Could you take a moment and just review
24 them, please?

25 A. Okay.

1 Q. Are these e-mails that you received
2 during that November 2011 period?

3 A. They have my e-mail on it, yes.

4 Q. Directing your attention to 434, is
5 this an e-mail that begins with, "God pray for
6 your evil soul"?

7 A. Yes.

8 Q. The next page, 435, what is the
9 subject line on that page

10 A. There is honor in suicide.

11 Q. Next page, 436?

12 A. Yes, ma'am.

13 Q. What is the information contained on
14 the e-mail? Did you receive the e-mail at 436?

15 A. It's to me. Whether I received it,
16 saw it, read it, I don't know.

17 Q. And what does it provide?

18 A. Provide? There's a message to me on
19 there.

20 Q. And what does that message provide?

21 A. Read it?

22 Q. Yes, sir.

23 A. "Based on your own words, you are a
24 cowardly, self-serving sycophant, a vile,
25 despicable person. The world would be better

1 served were you to hang yourself in a garage --
2 in your garage. You didn't even try to stop
3 him. Put a gun in your mouth, coward. I hope
4 you end up in prison so someone can watch you
5 get raped and do nothing to help. Con --" I'm
6 not sure I can read that word.

7 THE COURT: Contemptible scum.

8 THE WITNESS: Thank you, Your Honor.
9 I'm sorry. Contemptible scum.

10 BY MS. CONRAD:

11 Q. Directing your attention to the next
12 page, is this an e-mail that was sent to your
13 e-mail address at the university?

14 A. It looks like it, ma'am.

15 Q. And what is the subject line?

16 A. It says, "You're next."

17 Q. Turning the page to 438, is this an e-
18 mail that you received at your Penn State e-
19 mail address?

20 A. It says so, yes.

21 Q. And what is the subject line here?

22 A. You better not be on the field this
23 weekend.

24 Q. And the text provides?

25 A. "Do everyone a favor, your (sic) piece

1 of S-H-I-T, and quit. You should have stopped
2 that rape, you --" I think everyone can see
3 that word. "I can't believe you walked away
4 and let that tiny little boy get butt -- by
5 your buddy. I hope you -- nothing but a life
6 in Hell."

7 Q. And directing your attention to the
8 next page, 440, is that an e-mail that you
9 received?

10 A. Yes, ma'am.

11 Q. And directing your attention to the
12 next page, 442, is that an e-mail that you
13 received?

14 A. 442? Yes, ma'am.

15 Q. And how does the text of that message
16 begin?

17 A. "How could you watch a young boy get
18 raped?"

19 Q. Continue.

20 A. Oh, just read the whole thing?

21 Q. The first --

22 A. "How could you do nothing to stop it?
23 What is wrong with you? You aren't a Nittany
24 Lion. You are just a cowardly lion and so is
25 your father."

1 Q. All right. Turning to the next page,
2 199, is that an e-mail that you received at
3 your Penn State e-mail address?

4 A. Again, it's to my e-mail address. I
5 don't know if I received it, looked at it, read
6 it. I'm not sure.

7 Q. All right. Turning to page 432, is
8 that an e-mail that you were aware of?

9 A. I can't remember. You know, I don't
10 know if I was aware of it or not.

11 Q. Turning to page 200 --

12 MR. STROKOFF: Excuse me, Your Honor.
13 In this package of 30 e-mails or so, I didn't
14 realize that there was one that was mis-
15 addressed to Mr. Bradley, so I would object to
16 that being admitted as part of this exhibit, if
17 that's what 432 is.

18 MS. CONRAD: I will withdraw that. I
19 believe it was already admitted through Mr.
20 Bradley.

21 BY MS. CONRAD:

22 Q. Turning your attention to 200, is that
23 an e-mail that was directed to you at your e-
24 mail address at Penn State?

25 A. Yes.

1 Q. And how does that e-mail read?

2 A. "You spineless coward. You watched a
3 boy be raped and walked away. You are a piece
4 of S-H-I-T. You will rot in Hell with your
5 pedophile buddy, Sandusky, and Paterno. May
6 you die a slow, painful death."

7 Q. And turning attention your to 201, is
8 that an e-mail that was addressed to you at
9 your Penn State e-mail address?

10 A. It appears so, ma'am.

11 Q. And turning to page 202, is that an e-
12 mail that is directed to you?

13 A. Yes.

14 Q. And what is the subject line of that
15 e-mail?

16 A. You are just as guilty of all the
17 sexual assaults that were committed after you
18 did nothing to save the boy in the locker room.

19 Q. Directing your attention to 203, is
20 that an e-mail that was sent to you at your
21 Penn State address?

22 THE COURT: Counsel, how many of these
23 do you propose to go through?

24 MS. CONRAD: We're almost at the end,
25 sir, and I'm skipping the text messages.

1 THE COURT: Thank you.

2 MS. CONRAD: And I'm skipping the
3 text. I'm just putting the e-mails in.

4 BY MS. CONRAD:

5 Q. Mr. McQueary --

6 A. Yes.

7 Q. -- was 203 an e-mail that was directed
8 to you at your e-mail address?

9 A. Yes, ma'am.

10 Q. And 204, was that directed to you at
11 your e-mail address?

12 A. Yes.

13 Q. Directing your attention to 205, is
14 that an e-mail that was directed to you at your
15 Penn State e-mail address?

16 A. Yes.

17 Q. On to 206, was that an e-mail that was
18 directed to you at your Penn State e-mail
19 address?

20 A. Yes.

21 Q. Directing your attention to 207, is
22 that an e-mail --

23 THE COURT: If you're not putting them
24 up, counsel, why is your person putting them up
25 on the screen?

1 MS. CONRAD: We will just breeze
2 through them. She apologizes. Thank you.

3 BY MS. CONRAD:

4 Q. 207, is that an e-mail that was
5 directed to you at your Penn State e-mail
6 address?

7 A. Yes.

8 Q. And then finally 208, was that an e-
9 mail directed to you at your e-mail address?

10 A. Yes.

11 Q. And directing your attention to D24 --

12 A. Okay.

13 Q. -- it appears to be a letter that was
14 sent to you on November 8, 2011. Are you
15 familiar with this letter?

16 A. For some reason, it is familiar to me.
17 It's sticking in my mind.

18 Q. And is it a letter that was addressed
19 to you at your Penn State address?

20 A. Yes.

21 MS. CONRAD: Move for the admission of
22 D24.

23 MR. STROKOFF: No objection, Your
24 Honor.

25 THE COURT: It's admitted.

1 BY MS. CONRAD:

2 Q. And directing your attention to the
3 letter that was directed to your address at
4 Penn State, what does the first paragraph
5 provide?

6 A. "To the point, you failed that child.
7 You witnessed a child being raped, and you
8 failed to notify the police. Shame on you."

9 Q. Directing your attention to D25, it
10 appears to be a handwritten note. Are you
11 familiar with that handwritten note?

12 A. Again, this is sticking in my mind for
13 some reason. Yes, I think I have seen it.

14 Q. And how did you receive this
15 handwritten note?

16 A. It would be a guess.

17 Q. All right. But you do you recall
18 receiving this handwritten note?

19 A. I think so.

20 MS. CONRAD: Move for the admission of
21 D25.

22 MR. STROKOFF: I don't have a problem
23 with the handwritten note, but there is another
24 document that's stuck in my copy of D25.

25 MS. CONRAD: We'll just move for the

1 single page of MM76.

2 THE COURT: Okay. I only have that
3 single page, so D25 is admitted.

4 BY MS. CONRAD:

5 Q. Next I would like to direct your
6 attention to D26. Are you familiar with this
7 document, which I believe has been previously
8 admitted?

9 A. I don't think I ever saw this.

10 Q. Now, on November 10 -- now, following
11 receipt of those e-mail messages, handwritten
12 messages and the letter, did you take any
13 action with respect to those messages that you
14 were receiving?

15 A. I think I forwarded a couple on to the
16 AG's office.

17 Q. All right.

18 A. I'm sorry?

19 Q. I didn't want to interrupt you. Are
20 you finished?

21 A. No, that's okay. I can't remember. I
22 may have done something with them, but I can't
23 remember right now.

24 Q. Do you remember forwarding them to
25 anyone in the university?

1 A. I don't know. I may have. I can't
2 remember quite -- right now.

3 Q. And do you know whether or not the
4 university was receiving any messages about
5 you?

6 A. I think the university was receiving -
7 - everyone was receiving all kinds of messages
8 and that, you know, my name had come out and
9 probably some were about me.

10 Q. My question is do you know whether or
11 not -- let's break it down -- athletics was
12 receiving messages about you?

13 A. Did I specifically know that? No. I
14 mean, I can't remember knowing that and saying
15 I know athletics is receiving messages about
16 me.

17 Q. Do you know whether or not the
18 president's office was receiving messages about
19 you?

20 A. I can't remember knowing that at the
21 time.

22 Q. Now I want to direct your attention to
23 the press conference that Tom Bradley held on
24 November 10, 2011.

25 A. Yes.

1 Q. By that point in time, Coach Bradley
2 had been named interim head coach?

3 A. Yes. Yes.

4 Q. By that point in time, Coach Paterno
5 had been removed from head coach, correct?

6 A. Yes.

7 Q. As well as Dr. Erickson had been
8 removed from his position as president?

9 THE COURT: Dr. Spanier?

10 BY MS. CONRAD:

11 Q. I'm sorry, Dr. Spanier.

12 A. Yes, ma'am, the previous night.

13 Q. Now, were you present during that
14 press conference with Coach Bradley?

15 A. No.

16 Q. Did you hear about the answers he
17 provided in that press conference?

18 A. I have now. Back then, no.

19 Q. So you have since learned that Coach
20 Bradley represented on Thursday morning that it
21 was his understanding you would be coaching on
22 Saturday, correct?

23 A. Yes, I do know that.

24 Q. And, in fact, you were practicing that
25 Thursday morning, weren't you?

1 A. Thursday afternoon around 4 o'clock is
2 when we would have gone to the practice field.

3 Q. Okay. And during that practice --
4 strike that. And that interim period, did you
5 at that point forward information to the
6 Attorney General's office?

7 A. Yeah, I think that's when the one e-
8 mail that we have already seen at 310 -- that's
9 when I sent that. It's ringing a bell, bail
10 because I think we have already seen it today.

11 Q. Well, let me direct your attention to
12 D35.

13 A. Okay.

14 Q. Are you familiar with the document
15 marked D35?

16 A. It looks like it was to me or from me
17 -- to me and then again forwarded by me, so
18 that's my familiarity with it.

19 MS. CONRAD: And I believe it has
20 already been admitted.

21 THE COURT: Yes.

22 MS. CONRAD: Thank you.

23 BY MS. CONRAD:

24 Q. And who did you forward this e-mail
25 to?

1 A. Ms. Eshbach.

2 Q. And that's at the Office of Attorney
3 General?

4 A. Yes, ma'am.

5 Q. And what was the message that you sent
6 to her?

7 A. FYI.

8 Q. And what kind of information does it
9 contain in that message?

10 A. My message or the message I forwarded,
11 ma'am?

12 Q. The message that you forwarded.

13 A. Read it?

14 Q. Why don't you read the first two
15 paragraphs?

16 A. "We're posting your name and address
17 on our website, saying you helped cover up the
18 child rapist. You should have gone to police.
19 Were you told not to? You're as worse as
20 Paterno and others. If you have children, we
21 pray they're violently raped. You see a grown
22 man raping a child, and you don't notify
23 police? You're going to Hell, scumbag. F-you
24 and your entire F-ing family."

25 Q. That's a rather disturbing e-mail,

1 isn't it, Mr. McQueary?

2 A. Yeah, it's inaccurate and disturbing.

3 Q. And why did you forward it on to Ms.
4 Eshbach?

5 A. Just to let her know that I was
6 getting e-mails.

7 Q. To let her know you were getting very
8 disturbing e-mails?

9 A. Yeah, and inaccurate. I think this
10 one is because they're labeling me as part of
11 the cover-up, and that was the opposite of
12 truth. Again, it references back to I lost
13 support. I want someone to say, "This guy
14 tried."

15 Q. Did you forward some additional
16 messages to Ms. Eshbach?

17 A. That day? They're not listed here,
18 but something tells me I forwarded one or two
19 others.

20 Q. Well, let me direct your attention to
21 D38.

22 A. Yes

23 Q. Did you forward that message to Ms.
24 Eshbach?

25 A. Can I read it for a minute?

1 Q. Certainly.

2 A. (Witness perusing document) Yes.

3 Q. And what was the text of this message
4 that you forwarded to Ms. Eshbach?

5 A. Read it?

6 Q. No, I don't want you to read it. I
7 just want you to summarize it.

8 A. It's -- as I have already mentioned to
9 her, I'm mad that I thought, in how the
10 presentment read, that the section dealing with
11 me and my incident was slightly taken out of or
12 twisted in the way I had relayed what I saw and
13 testified to, and that I was being
14 misrepresented by people in the media, and I
15 said, you know, it has been a terrible week.

16 Q. And directing your attention to D36 --

17 A. Yes.

18 Q. -- that is another message that you
19 sent to Ms. Eshbach, isn't it?

20 A. Yes.

21 Q. And in the second page of this
22 document, that is where you inform Ms. Eshbach
23 that you feel your words were slightly twisted
24 and not totally portrayed correctly in the
25 presentment, don't you?

1 A. Yes, ma'am.

2 Q. You go on to say then in the PS, "I
3 have also re-watched the press conference from
4 Monday. Nowhere is there strong support for
5 me." That is what you said to her?

6 A. Yes, we covered that earlier. Yes,
7 ma'am.

8 Q. And turning your attention to the
9 first page of the document --

10 A. Okay.

11 Q. -- in the fifth paragraph, you point
12 out to Ms. Eshbach the words that you believe
13 were twisted and not totally portrayed
14 correctly in the presentment?

15 A. Yes

16 Q. And, in fact, you tell her, "I have
17 also said clearly I cannot say 1,000 percent
18 sure that it was sodomy," don't you?

19 A. Yes.

20 Q. And then finally, directing your
21 attention up to the first paragraph --

22 A. Okay.

23 Q. -- there you state, "My life has
24 drastically, drastically changed." Do you see
25 that reference?

1 A. Yes.

2 Q. You go on to say, "My family's life
3 has drastically changed," don't you?

4 A. Yes.

5 Q. And what do you go on to say about
6 this drastic change?

7 A. The next line, national media?

8 Q. Yes, sir.

9 A. "National media and public opinion has
10 totally, in every single way, ruined me. For
11 what?"

12 Q. What national media and public opinion
13 are you referring to in that document?

14 A. All the things they were saying.

15 Q. Including the things that you had
16 forwarded to Ms. Eshbach?

17 A. I think it was for -- yeah, public
18 opinion, probably.

19 Q. Those would be public opinion. And
20 you believed that those media articles and that
21 public opinion had totally ruined you in every
22 way?

23 A. Well, it's an emotional week, and
24 certainly I was livid. I mean, ruined, you can
25 take out of context. It was tough, and I felt

1 -- I felt abandoned. I felt alone, and -- both
2 by -- and I guess they can't do it -- but by
3 the Attorney General's office, by the
4 university, by -- I mean, I was devastated.

5 Q. And that was in large part because of
6 the national media that was being reported and
7 the public opinion as expressed in the e-mails
8 you were receiving, correct?

9 A. That certainly contributed to it, the
10 national media part, for sure. You know, when
11 you have talking heads, people talking about
12 you, stating incorrect things, that gets to
13 you.

14 Q. And those statements could ruin you,
15 couldn't they?

16 A. Sure, they could.

17 Q. Now, there came a point in time that
18 Thursday that you received information about
19 whether or not you would be coaching that
20 night, correct -- or I'm sorry, that Saturday?

21 A. That Saturday, right.

22 Q. How did you receive that information?

23 A. I can't remember if the two Tommies
24 first told me or if Mark Sherburne told me, but
25 one of those three people said, "Listen, they

1 don't want you to coach. You can't coach
2 Saturday."

3 THE COURT: Counsel, do you see
4 yourself reasonably finishing in the next 10
5 minutes?

6 MS. CONRAD: No, sir.

7 THE COURT: Okay. Then we're going to
8 break now

9 Okay. Members of the jury, we are
10 going to remind you of the admonition that you
11 not discuss this matter with anyone.
12 Obviously, the media is here. It's in the
13 newspapers. It's other places. Again, each of
14 you are keeping your own independent counsel.
15 You are going to have the opportunity to talk
16 about the case in the future, but not this
17 weekend, not with each other, not with anybody
18 else.

19 Please have a safe trip home. I don't
20 know what is happening outside, but it doesn't
21 look like it's good, so drive carefully so that
22 we can all be back here Monday morning at 9
23 o'clock, ready to go. Have a safe trip home.

24 Mr. McQueary, you are not permitted to
25 discuss your testimony with your attorneys

1 because you are still under cross-examination.

2 THE WITNESS: Yes, sir.

3 THE COURT: Okay.

4 MR. STROKOFF: Your Honor, may we have
5 a moment?

6 THE COURT: Yes.

7 You may stand down, Mr. McQueary.

8 THE WITNESS: Thank you.

9 (Whereupon, a discussion was held at
10 sidebar off the record.)

11 E N D O F P R O C E E D I N G S

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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.

10/22/16

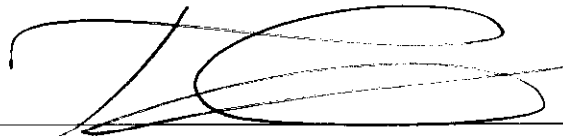


Date

Thomas C. Bitsko, CVR-CM-M
Official 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 they had until 10/27/10 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.



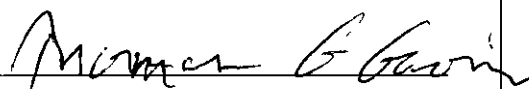
Date

Thomas C. Bitsko, CVR-CM-M
Official Reporter

A C C E P T A N C E B Y C O U R T

Upon counsel's opportunity to review and
to offer objections to the record, the
foregoing record of proceedings is hereby
accepted and directed to be filed.

11-2-16



Date

Thomas G. Gavin, Senior Judge

Specially Presiding

15th Judicial District