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

MICHAEL J. MCQUEARY

: NO. 2012-1804
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VS

THE PENNSYLVANIA STATE UNIVERSITY



ORIGINAL

TRANSCRIPT OF PROCEEDINGS
(JURY TRIAL P.M. DAY 6)

BEFORE: THOMAS G. GAVIN, SENIOR JUDGE
SPECIALLY PRESIDING
15TH JUDICIAL DISTRICT

DATE: OCTOBER 24, 2016

PLACE: CENTRE COUNTY COURTHOUSE ANNEX
ANNEX COURTROOM
108 SOUTH ALLEGHENY STREET
BELLEFONTE, PA 16823

APPEARANCES:

FOR THE PLAINTIFF:
ELLIOTT STROKOFF, ESQUIRE
WILLIAM T. FLEMING, ESQUIRE

FOR THE DEFENDANT:
NANCY CONRAD, ESQUIRE
GEORGE MORRISON, ESQUIRE
KIMBERLY HAVEAR, ESQUIRE

2016 OCT 24 11:12:57
PROthonotary
CENTRE COUNTY, PA



ORIGINAL

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	Direct	Cross	Redirect	Recross
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For Plaintiff:

Rodney Erickson

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John C. Parry

54, 85	65, 101	77, 136	79, 142
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For Defendant:

(None)

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Admitted:

Plaintiff:

(None)

Defendant:

Exhibit 44

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Exhibit 137

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P R O C E E D I N G S

THE COURT: Mr. Erickson, come back up,
please.

CROSS EXAMINATION

BY MS. CONRAD:

Q. Good afternoon, Dr. Erickson.

A. Good afternoon.

Q. As you know, my name is Nancy Conrad. I represent The Pennsylvania State University. I'm going to ask you just a few additional questions about your background, areas that counsel did not cover during his examination. I believe you testified that you came to Penn State in what year?

A. 1977.

Q. And what was your first position at Penn State?

A. I was assistant professor, jointly appointed in geography and regional planning.

Q. And what was your academic background with respect to that position?

A. I have a background in economic geography.

Q. What does that mean?

A. Well, deals with the location of economic activity and factors of production and basically what is where and why and what does it mean in terms

1 of the societal impacts.

2 Q. And in your first position with the
3 University, what areas were you teaching?

4 A. I was teaching in urban and economic
5 geography and regional planning.

6 Q. And without going through every step along
7 the way, could you briefly summarize your positions
8 leading up to your position as provost?

9 A. I was promoted to associate professor in 1979
10 to professor in 1984. I served as an administrator
11 in several different capacities. I served as the
12 director of the Pennsylvania Economic Analysis
13 Program that was later renamed The Center for
14 Regional Business Analysis for 14 years from 1981 to
15 1995. Served as department head in geography from
16 1990 to 1995 as I recall. And became dean of the
17 graduate school in 1995 and vice president for
18 research in 1997, the executive vice president
19 provost in 1999.

20 Q. And what exactly a provost?

21 A. Provost is the chief academic officer of the
22 University.

23 Q. And what are your primary duties -- what were
24 your primary duties and responsibilities as the
25 chief academic officer at Penn State?

1 A. To make sure that our students get the best
2 and possible quality of research, or rather,
3 education in terms of the instruction, support the
4 research enterprise in terms of discovery and
5 innovation. And to also promote service activities
6 across the University that have an academic base.

7 Q. And how long did you hold the position at
8 provost?

9 A. Twelve years and four months.

10 Q. And in conjunction with your position as
11 provost, the chief academic officer, as well as your
12 other positions, did you have occasion to work with
13 Gary Schultz?

14 A. I did.

15 Q. And in connection with your working
16 relationship with Gary Schultz, did you consider to
17 have -- strike that. Did you consider him to have
18 honesty, integrity, and compassion?

19 MR. STROKOFF: Objection, Your Honor. She's
20 leading her own witness.

21 THE COURT: It's cross-examination, she gets
22 to do that. He's your witness. Go ahead.

23 BY MS. CONRAD:

24 Q. And did you -- based on your working
25 experience, did you form an opinion as to Gary

1 Schultz's honesty, integrity, and compassion?

2 A. He was always honest, showed integrity and
3 compassion when we worked together.

4 Q. And how about Mr. Curley? Did you have
5 occasion to work with Mr. Curley as the chief
6 academic officer as well as in your other positions
7 with Penn State?

8 A. We intersected rather little because my
9 portfolio was academics rather than athletics.

10 Q. Were you in a position to form an opinion as
11 to Mr. Curley's honesty, integrity, and compassion?

12 A. I had never seen anything specific that
13 caused me to question it.

14 Q. Now, I want to direct your attention to
15 November 2011. There was a meeting which actually
16 took place at the very end of October that year.
17 And in that meeting there's been testimony about Dr.
18 Spanier working on a draft statement related to the
19 presentments. Did you participate in that meeting?

20 A. No, I did not.

21 Q. But I believe you testified that some time in
22 early November, you were informed about the
23 presentments by Dr. Spanier?

24 A. That's correct, on November 4th.

25 Q. And did there come a period in time that you

1 read the presentment?

2 A. It came up briefly on the internet on the --
3 or when I was looking at it on the evening of
4 November 4th, so I had a quick scan of it. But then
5 it went down, and it went down for some time.

6 Q. And did there come a point in time that you
7 did access it or learn that it was accessible?

8 A. Yes.

9 Q. And when was that, sir?

10 A. I don't remember exactly whenever it came up
11 again, either a day or two later.

12 Q. Did you read it on November 5th?

13 A. On November 6th?

14 Q. I'm sorry, on November 6th.

15 A. I don't remember which day I read it, but it
16 probably was about then.

17 Q. Did you receive calls around that time that
18 the presentment had been officially re leased?

19 A. I don't remember how I was notified that it
20 was available.

21 Q. And at the time the presentment was released,
22 were you at the University or were you at home? If
23 you remember.

24 A. When I read the presentment?

25 Q. When the presentment was released, do you

1 recall whether you were at home or at Penn State?

2 A. The first or the second --

3 Q. The second time.

4 A. I think I was at home.

5 Q. Okay. And did you get to it right away?

6 A. I think quite early after it came out.

7 Q. Okay. And were you doing other things that
8 day?

9 A. Well, on Saturday I was.

10 Q. Okay. And what were you doing on that
11 Saturday?

12 A. Well, it was early November, I was cleaning
13 up some of my things I was doing at the farm.

14 Q. What do you mean at the farm?

15 A. Where I live.

16 Q. Are you a farmer?

17 A. Yes.

18 Q. And you do that -- are you currently working
19 at that farm?

20 A. Yes, I do.

21 Q. And briefly tell us what is the nature of
22 your farming activities?

23 A. It's castor, corn, and soybeans.

24 Q. And how long had you been working at the
25 farm?

1 A. Thirty years.

2 Q. Now, directing your attention again to that
3 time, there came a point where a statement was
4 released by President Spanier. Were you aware of
5 that statement being released?

6 A. When I received the statement?

7 Q. Yes, sir.

8 A. Yes. It either had been released or was
9 being released.

10 Q. I'd like you to locate the binder that's
11 marked Defendant's exhibits. Then we're going to
12 Volume 1, Tab 20.

13 MS. CONRAD: And permission to publish, sir?
14 This has been admitted. Judge, permission to
15 publish? It's been admitted.

16 THE COURT: Yeah.

17 MS. CONRAD: Thank you.

18 BY MS. CONRAD:

19 Q. Directing your attention to Defendant's
20 Exhibit 20. Are you familiar with this statement?

21 A. Yes, I've seen it.

22 Q. Directing your attention to the first
23 paragraph of the statement from Dr. Spanier, "It
24 provides that the allegations about a former coach
25 are troubling. It is appropriate that they be

1 investigated thoroughly. Protecting children
2 requires the utmost vigilance." Do you see that
3 statement?

4 A. Yes.

5 Q. And you expressed that you agreed with that
6 statement; is that correct?

7 A. Yes.

8 Q. And moving onto the next paragraph. It makes
9 reference to the other presentments. Do you see
10 that reference? With regard to the other
11 presentments.

12 A. Yes. Yes.

13 Q. Now at the time you reviewed this statement
14 from Dr. Spanier, had you reviewed the presentment?

15 A. I only seen it when it came out briefly on
16 the internet the first time.

17 Q. So you had not yet had the opportunity to do
18 your thorough read of the presentment; is that
19 correct?

20 A. That's correct.

21 Q. Okay. It goes on to -- the President Spanier
22 goes on to say, "I wish to say that Tim Curley and
23 Gary Schultz have my unconditional support." Do you
24 see that statement?

25 A. Yes.

1 Q. And do you agree with that -- or strike that.
2 Do you have any knowledge or information about what
3 Dr. Spanier based that opinion upon?

4 A. That would be a question best left to him.

5 Q. Right. Well, let's go on and read the next
6 sentence. "I have known and worked daily with Tim
7 and Gary for more than 16 years." Do you see that
8 statement?

9 A. Yes.

10 Q. Do you know that to be an accurate statement,
11 that is that Dr. Spanier had worked with Tim Curley
12 and Gary Schultz for more than 16 years?

13 A. Yes. That would be correct.

14 Q. Dr. Spanier then goes onto state his opinion
15 that he has complete confidence in how they have
16 handled the allegations about a former University
17 employee. Do you see that statement by Dr. Spanier?

18 A. I do.

19 Q. And do you -- you have to say yes. Or did I
20 miss it? Are you familiar with that statement?

21 A. Yes. I see it.

22 Q. And do you have any firsthand knowledge or
23 information about which Dr. Spanier based his
24 opinion about his complete confidence in how they
25 handled the allegations?

1 A. Well, again, I think that's -- I don't
2 propose to answer what's in President Spanier's
3 mind.

4 Q. Okay. We already covered the honesty,
5 integrity, and compassion that Dr. Spanier states
6 with respect to Tim Curley and Gary Schultz. And
7 you had a similar working experience, at least with
8 Mr. Schultz; is that correct?

9 A. Yes.

10 Q. He goes onto then state, "I am confident the
11 record will show that these charges are groundless
12 and they conducted themselves professionally and
13 appropriately." Did you possess any information
14 about which Dr. Spanier based his opinion that the
15 record will show that these charges are groundless
16 and they conducted themselves professionally?

17 A. No. I did not have information.

18 Q. Now at the time you read the statement,
19 Doctor -- or the presentment, Dr. Erickson, it made
20 reference to a graduate assistant, didn't it?

21 A. Yes.

22 Q. And at the time you read the presentment, did
23 you know the identity of the graduate assistant?

24 A. No, I didn't.

25 Q. After you read the presentment, what was your

1 reaction?

2 A. Well, initially it was shock. It was -- how
3 could something like this have happened? I thought
4 about all the victims that were identified and what
5 they must be living through. It was a terrible
6 situation.

7 Q. At the time you read the presentment, while I
8 understand you did not know the identity of the
9 graduate assistant, did you at any time connect the
10 information in the presentment to Mike McQueary?

11 A. Well, at some point either in the media or
12 someone else who knew, and the University indicated
13 -- so indicated that it was Mike.

14 Q. Do you recall when you learned the identity
15 that -- of Mr. McQueary in conjunction with his
16 position as the graduate assistant referenced in the
17 presentment?

18 A. It would have been some time, either Sunday,
19 November 6th or Monday, November 7th.

20 Q. Okay. And after you learned that Mr.
21 McQueary was the graduate assistant referenced in
22 the presentment, going back to D20. In conjunction
23 with the Spanier statement, did you at any time
24 connect the statement from Dr. Spanier to Mike
25 McQueary?

1 A. No, I didn't.

2 Q. And you'll agree with me, won't you, that in
3 that statement, there's no reference -- direct
4 reference to Mr. McQueary, is there?

5 A. No, there's not.

6 Q. Did you -- once you learned the identity of
7 Mr. McQueary as the graduate assistant, did you
8 consider that this opinion expressed by Dr. Spanier
9 suggested that Mr. McQueary had been lying in his
10 reports or testimonies?

11 A. I didn't make that connection, no.

12 Q. Did you consider after reading the
13 presentment, learning the identity of Mr. McQueary,
14 did you view the opinion of Dr. Spanier as
15 suggesting that Mr. McQueary had committed perjury?

16 A. No.

17 Q. Did you, based on the opinions of Dr. Spanier
18 set forth in this statement, form any conclusion
19 that the opinions expressed in the statement would
20 negatively impact Mr. McQueary?

21 A. No, I didn't make that connection.

22 Q. Did you make any connection to the statement
23 and the alleged harm that Mr. McQueary is now
24 alleging?

25 A. I'm sorry?

1 Q. Did you make any connection between the
2 opinions expressed by President Spanier in the
3 statement from from the president as causing harm to
4 Mr. McQueary?

5 A. No, I didn't.

6 Q. And in connection with your position at the
7 University at the time, did you hear any members of
8 the Penn State community make any reference that
9 they connected the opinions expressed by Dr. Spanier
10 in his statement to Michael McQueary?

11 A. I didn't hear that.

12 Q. On Monday, November 7th, 2011, Dr. Spanier
13 held meetings with the head coaches at athletics and
14 with the staff of intercollegiate athletics. Did
15 you attend those meetings?

16 A. No, I didn't.

17 Q. Now, on or about this time, that is the start
18 of the week in November 2011, were you receiving any
19 communications in your office or were you being
20 informed of any communications related to Jerry
21 Sandusky?

22 A. I'm not sure what you mean by communications.

23 Q. Were you receiving any emails, voicemail
24 messages within your office that related to the
25 information contained in the presentment about

1 Sandusky?

2 A. Yes. There was -- there was kind of a media
3 room that had been set up on the fourth floor of Old
4 Main to collect information that was coming in.

5 Q. And in that early part of the week, what was
6 the nature of the information coming in?

7 A. Well, it was a huge amount of information,
8 but I was told that at some point during that week
9 that seven of the top twenty Google hits, Google key
10 words related to Penn State or Penn State football,
11 seven out of the twenty in the world. So there a
12 huge, huge amount of information circling about Penn
13 State, about Sandusky. And there was, of course,
14 virtually every major newspaper had coverage, there
15 were a couple hundred media trucks parked in State
16 College. And it was -- it was literally a flood of
17 media.

18 Q. And that was my next question. The media
19 descended upon State College that week in November,
20 didn't they?

21 A. That's correct. Yes.

22 Q. Now later in that day, some decisions were
23 announced, weren't they?

24 A. That was November 9th you're talking about --

25 Q. Moving onto Wednesday.

1 A. -- decisions with respect to Coach Paterno
2 and Spanier?

3 Q. Yes, sir.

4 A. Yeah.

5 Q. So starting first with President Spanier,
6 what was the decision that was made with respect to
7 Dr. Spanier on Wednesday, November 9th?

8 A. That he wouldn't be retained as president.

9 Q. And the decision with respect to Coach
10 Paterno?

11 A. That he wouldn't be retained as head coach --
12 football coach.

13 Q. And in conjunction with the head coach
14 position, was an announcement made with respect to
15 an interim head coach?

16 A. Yes, it was.

17 Q. Did you participate in that decision?

18 A. No.

19 Q. With respect to the appointment of an interim
20 president with respect to the removal of Dr.
21 Spanier, while you might not have participated in
22 that decision, were you asked about that position?

23 A. The vice chair of the Board, John Serna,
24 called me out of a meeting to talk with him on
25 Tuesday afternoon about if it became necessary to

1 make a leadership change, would I be willing to step
2 in as interim.

3 Q. Now, this is a time I think you've described
4 as turmoil, extreme turmoil. Would you agree,
5 chaos?

6 A. (The witness indicated affirmatively.)

7 Q. And you're being asked to assume the position
8 of interim president; is that correct?

9 A. Yeah. Asked if there was a possibility.

10 Q. Okay. And what was your response?

11 A. I said I hoped it didn't come to that.

12 Q. You were hoping that there wouldn't be a need
13 to name an interim president; is that correct?

14 A. That's correct.

15 Q. But did there come a point in time that, in
16 fact, you were asked to assume the position?

17 A. Well, the following day, yes. Evening.

18 Q. And how did that take place?

19 A. I received a phone call from the vice chair
20 of the Board, John Serna, and he said the Board is
21 making a leadership change, will you be -- I'm
22 asking you formally now, will you be willing to take
23 over.

24 Q. And what was your response?

25 A. I said I'd do it for the good of the

1 University.

2 Q. Thursday, November 10th, 2011. Coach
3 Bradley, now Interim Head Coach Bradley, holds a
4 press conference. Are you at attendance at that
5 press conference?

6 A. No. I was at a meeting with the Board of
7 Trustees on the morning of the 10th.

8 Q. Did there come a point in time that you
9 learned that Coach Bradley had been asked whether
10 Mike would be coaching in the Saturday game?

11 A. Some time later that morning.

12 Q. And in terms of the communications then that
13 were now being received from your office, what were
14 the nature of the communications at that time?

15 A. They were vile, hateful, threatening. And
16 really, the worst communications I had ever seen
17 coming into the University.

18 Q. And were they in reference to anyone in
19 particular?

20 A. They were in reference to several things.
21 But Mike McQueary really was the focus of a lot of
22 what came in that day.

23 Q. And what were the nature of the
24 communications that were coming in that day with
25 respect to Mr. McQueary?

1 A. Well, many of them were directed at him and
2 threatening him. And "We're going to take the house
3 down if he's there at the game."

4 Q. And who were you receiving information about
5 these communications from? I believe you made
6 reference to at least three individuals during your
7 direct examination.

8 A. The individuals that were -- that I was
9 working closely with at that time were Tom Poole,
10 the VP for administration; Cynthia Baldwin, AP and
11 general counsel, and Bill Mahon, the VP for
12 University relations.

13 Q. Were you receiving any information from Steve
14 Shilo at this time?

15 A. Yes, I was.

16 Q. And who is Steve Shilo?

17 A. Steve Shilo's the assistant vice president
18 for University security.

19 Q. And what type of information were you
20 receiving from Mr. Shilo at this time, Thursday,
21 November 10th?

22 A. That things were very chaotic. There was a
23 lot of concern. They were really trying to put
24 things back together from the riots that had been
25 the previous evening. And there were a lot of

1 threats against Mr. McQueary, and that there was --
2 there was -- he was going to get additional security
3 from outside the limited scope of our University
4 police force.

5 Q. So as I understand your testimony, you were
6 receiving information that raised concern about Mr.
7 McQueary from Steve Shilo at University police; is
8 that correct?

9 A. Yes.

10 Q. You were receiving information that raised
11 concern about Mr. McQueary from Bill Mahon, the
12 Department of Public Information; is that correct?

13 A. Yes.

14 Q. And you were receiving information from Tom
15 Poole. And who is Tom Poole?

16 A. Tom Poole's the vice president for
17 administration.

18 Q. And was that information messages that were
19 coming into the president's office?

20 A. That was information that was coming into an
21 email an office of the president at P-S-U dot E-D-U.

22 Q. And do you remember anything specific about
23 those emails that were coming into the president's
24 office?

25 A. Well, as I said, they were threatening. I

1 received many myself on -- many emails on my own
2 private email account that were very threatening.

3 Q. Did that cause you concern?

4 A. Absolutely.

5 Q. What kind of concern?

6 A. The security of people who come to Penn State
7 is really an importance. We've always taken the
8 issue very, very seriously about student safety,
9 about the safety of the thousands of guests who are
10 on campus at any given time.

11 Q. And were any of those messages of concern to
12 you specific to Mike McQueary?

13 A. Yes.

14 Q. And again, the nature of those messages?

15 A. Threatening.

16 Q. How did you assess those threats, did you --
17 let me just ask that question. How did you assess
18 those threats?

19 A. Well, first of all, I rely on the
20 professionals, University police, and so forth to
21 help make those determinations. But certainly we
22 take them seriously, whether it's a bomb threat at a
23 campus or -- one of our campuses or whatever, we've
24 always taken that -- I don't know of any case over
25 the years where we ever said oh, that's not a

1 serious bomb threat. I never wanted to be the
2 person after the bomb went off who said I didn't
3 think they were serious.

4 Q. And what about the threats you were receiving
5 and being informed about with respect to Michael
6 McQueary? How did you assess those threats?

7 A. Well, they were certainly serious to in terms
8 of the sound and the intent and so forth, and I'd
9 say the ferocity of the way in which they were
10 spoken.

11 Q. There's been testimony during this trial that
12 at least two members from the Office of Attorney
13 General did not view these threats, at least the
14 ones that Mr. McQueary had forwarded to them, as
15 credible. But did you view them as credible?

16 A. Absolutely.

17 Q. There's been testimony in this case that a
18 member from the Office of Attorney General
19 considered certain messages to be from kooks. Did
20 you assess these messaged to be from kooks?

21 A. You don't know who the messages are coming
22 from. And kooks often just do bombs and hurt people
23 as well.

24 Q. So based on all of this information that you
25 were receiving, from the president's office, from

1 public information, from University police, as well
2 as Ms. Baldwin, you're reviewing and considering
3 this information carefully; is that correct?

4 A. Yes.

5 Q. I want to direct your attention to tab 32 of
6 that binder.

7 MS. CONRAD: And permission to publish? It
8 has been moved into evidence, D32.

9 THE COURT: D32?

10 MS. CONRAD: Yes, sir.

11 THE COURT: It's been admitted before I
12 thought.

13 MS. CONRAD: Permission to publish, sir?

14 THE COURT: Yes.

15 BY MS. CONRAD:

16 Q. Directing your attention to the first entry,
17 it makes reference to a wireless caller. Were these
18 messages brought to your attention?

19 A. Yes. Many of them were.

20 Q. Okay. And this particular wireless caller
21 who left a message makes reference, I believe, to
22 what you testified to, "If you are so stupid as to
23 flaunt him," referring to Mr. McQueary, "in our
24 faces, we will bring the house down." Do you see
25 that reference?

1 A. Yes.

2 Q. And is this the email that was brought to
3 your attention with respect to Mr. McQueary on that
4 Thursday afternoon?

5 A. Yes, I remember seeing it.

6 Q. And then moving onto the second message that
7 was left. This is a voicemail -- are you familiar
8 with this voicemail message?

9 A. Yes.

10 Q. And was this one of the messages that was
11 brought to your attention?

12 A. Yes, I remember seeing it.

13 Q. And again, this as referenced on the messages
14 from a Penn State alum and current attorney; is that
15 correct?

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

17 Q. And he goes -- and he makes certain
18 statements about Mr. McQueary in this message,
19 doesn't he?

20 A. Yes.

21 Q. And he goes onto offer his advice if Mr.
22 McQueary was his client, wasn't he? Or didn't he?

23 A. Yes, he does.

24 Q. And he makes specific reference that this man
25 is a target and we need to realize that. Do you see

1 that reference?

2 A. Yes, I do.

3 Q. Did that type of information enter into your
4 decisionmaking process with respect to whether Mr.
5 McQueary would be coaching on that Saturday game?

6 A. Yes. He was clearly a target.

7 Q. What do you mean he was clearly a target?

8 A. The clips that you just identified here, the
9 paragraphs speak directly to Mr. McQueary.

10 Q. And based on this information that you were
11 receiving, did there come a point in time that you
12 made a decision about whether or not Mr. McQueary
13 would be coaching in the Saturday game?

14 A. Yes, that's correct.

15 Q. And what was that decision?

16 A. That we would not have Mike coaching that
17 day.

18 Q. And why did you make that decision?

19 A. Again, back to the kinds of threats that we
20 were receiving.

21 Q. Did you give any consideration to any other
22 alternatives that would have allowed Mike McQueary
23 to have coached that day?

24 A. I don't recall any particular discussion
25 around that, but anything that we would have done

1 would have involved Coach McQueary in the stadium
2 somewhere, and I don't know where, that he was
3 clearly visible.

4 Q. You then, as I understand from your
5 testimony, communicated that Mr. Sherburne should
6 deliver this message to Mr. McQueary; correct?

7 A. Yes.

8 Q. And in fact, later that night, a statement
9 was released by Penn State Athletics. If I could
10 direct your attention to D40.

11 MS. CONRAD: Permission to publish.

12 THE WITNESS: Yes.

13 BY MS. CONRAD:

14 Q. Now, are you familiar with this statement?

15 A. Yes, I've seen it.

16 Q. And this statement provides that due to
17 multiple threats against Assistant Coach McQueary,
18 Mike McQueary, the University has decided it would
19 be in the best interest of all who are assisting
20 Coach McQueary not to be in attendance at Saturday's
21 Nebraska game. Do you see that statement?

22 A. Yes.

23 Q. And is that statement consistent with your
24 decision that Mr. McQueary would not be coaching?

25 A. It was.

1 Q. Directing your attention now to Friday,
2 November 11th. Did there come a point in time on
3 Friday that a decision was made about placement of
4 Mr. McQueary on administrative leave with pay?

5 A. I don't remember the exact time. It was
6 probably some time in the afternoon.

7 Q. There was a lot going on at that time, wasn't
8 there?

9 A. Well, on Friday morning there was a Board of
10 Trustees meeting that was going on.

11 Q. Media presence still everywhere?

12 A. I'm sorry?

13 Q. Was the media presence still everywhere in
14 State College?

15 A. Oh, yes. Everywhere.

16 Q. Messages still coming into the president's
17 office?

18 A. Yes.

19 Q. Still being updated about messages being
20 received at other offices?

21 A. That's correct.

22 Q. Did there come a point in time where you made
23 a decision about Mr. McQueary being placed on
24 administrative leave with pay?

25 A. Yes, I did.

1 Q. And were you then in a press conference where
2 you were asked about that decision?

3 A. There was a press conference after the
4 trustees meeting.

5 Q. And what information, if any, did you provide
6 about that decision?

7 A. I just indicated the fact of the matter, and
8 that was pretty much it.

9 Q. Let me direct your attention to tab 42.

10 MS. CONRAD: If we could publish that. It's
11 an exhibit that's already been admitted.

12 BY MS. CONRAD:

13 Q. I want to direct your attention to the first
14 page, the second paragraph.

15 A. I see it.

16 Q. And that provides that Penn State announced a
17 move a day after it said assigned football coach
18 Mike McQueary had received multiple threats and it
19 would be in the best interest of all if he did not
20 attend the season's final game on Saturday. Do you
21 see that announce -- that reference?

22 A. I see that.

23 Q. And is that consistent with the reasoning
24 behind your decision that he would not coach in that
25 Saturday game?

1 A. Yes, it was.

2 Q. And directing your attention to the second
3 page. There's a quote from you on that second page
4 when you were asked by the press. Would you read
5 that into the record? The first line.

6 A. "Erickson said that McQueary's leave is
7 indefinite and being subject to further
8 determination."

9 Q. And right before that, the quote that is
10 attributable to you.

11 A. "It became clear that Coach McQueary could
12 not function in this role under these
13 circumstances."

14 Q. And was that your determination, that Coach
15 McQueary could not function in this role under these
16 circumstances?

17 A. It was certainly consistent with my thinking
18 and what I was hearing from those that I was in
19 contact with.

20 Q. When you said under these circumstances, what
21 did you mean by that?

22 A. The chaos. The -- just the terribly
23 difficult time that it was then in those few days
24 when we had, you know, just surrounded by media. We
25 had an ongoing investigation that was still taking

1 place even after the presentments were issued. And
2 of course the security was still an issue. The
3 threats continued to come in, really, through the
4 remainder of the football season. And the knowledge
5 that we had facilities, too, that would be very
6 difficult to protect in some cases.

7 Q. Now during Coach Bradley's press conference
8 that had been held the previous day, he had said
9 that at that time, it was his understanding that
10 Coach McQueary would be coaching, that it would be a
11 game day decision he would be on the sidelines or up
12 in the box. Coach Bradley was also asked if
13 McQueary was going to be fired. Did you at any time
14 fire Mike McQueary?

15 A. No.

16 Q. Now, I believe you referenced that there were
17 continued safety concerns on that Friday, November
18 11th?

19 A. Yes.

20 Q. Is that the day of a bomb threat?

21 A. It -- I think it was about that time.

22 Q. Let me direct your attention to tab 48.

23 MS. CONRAD: This exhibit has been admitted.
24 Permission to publish?

25 THE COURT: Go ahead.

1 BY MS. CONRAD:

2 Q. Are you familiar with this message?

3 A. Yes.

4 Q. And in fact, is it an email message from Bill
5 Mahon who you previously referenced forwarded to a
6 number of individuals that includes you?

7 A. That's correct.

8 Q. And what does this message provide you with
9 in terms of a bomb threat?

10 A. Well, it certainly was being taken seriously.
11 The caller's phone number was blocked, so there
12 wasn't a way to track back. And the police and the
13 FBI were investigating.

14 Q. So you took this bomb threat as a credible
15 threat?

16 A. Yes.

17 Q. And you investigated it thoroughly?

18 A. I didn't personally.

19 Q. Understood. You had University police
20 security investigate it?

21 A. Yes.

22 Q. And take whatever precautions were necessary
23 in order to be certain that the stadium would be
24 safe and secure; is that correct?

25 A. Yes.

1 Q. Now during this time, were continued threats
2 being received by you or University police with
3 respect to Mr. McQueary?

4 A. Yes, they were.

5 Q. I'm going to direct your attention to tab 44.

6 MS. CONRAD: This has not yet been admitted
7 yet so please do not publish.

8 BY MS. CONRAD:

9 Q. Now, I would ask you to review the first page
10 and then turn to the second page.

11 A. (The witness complied.)

12 Q. Are you familiar with the document that's at
13 tab 44?

14 A. I haven't seen the actual document before.

15 Q. Are you familiar with the information
16 contained in the document at tab 44?

17 A. I was told that we --

18 MR. STROKOFF: Objection, Your Honor.
19 Getting into hearsay.

20 BY MS. CONRAD:

21 Q. Let me ask this. Did you receive any
22 information from anyone at the University -- strike
23 this. Were you continuing to be updated by
24 University police about threats with respect to Mr.
25 McQueary?

1 A. Yes.

2 Q. And were you -- did you receive information
3 about a threat against Mr. McQueary that was
4 submitted on or about November 11, 2011?

5 A. Yes.

6 Q. And what do you remember about the nature of
7 that threat as it was communicated to you?

8 A. It was particularly a vile threat.

9 Q. And what was particularly vile about it?

10 A. Well, the first paragraph of the second page,
11 really, "He needs to be shot. He's surely in my
12 sight, so I only hope that someone shoots him before
13 I get a chance.

14 MS. CONRAD: Permission to publish -- or move
15 for admission of D44.

16 MR. STROKOFF: Your Honor, I believe they're
17 going to have somebody who actually wrote this
18 report testifying later. He's not in a position to
19 authenticate anything.

20 MS. CONRAD: He has testified that he
21 received the information contained in this report.

22 MR. STROKOFF: But he didn't receive the
23 report. And he's not somebody who, during the
24 course of business, would receive the report.

25 MS. CONRAD: He received this information --

1 THE COURT: Again, what's the point of
2 publishing it? He's aware of it and that played
3 part of his decision. And again, it's another one
4 of those exhibits that simply is showing what's out
5 there and they have a hundred of them already.
6 Okay? So it's admitted, but it's not going to be
7 published.

8 MS. CONRAD: Thank you, sir.

9 BY MS. CONRAD:

10 Q. And I believe -- and following receipt of the
11 information contained in the exhibit, did the
12 University continue to take security measures with
13 respect to the game on Saturday?

14 A. Yes, that's correct.

15 Q. And did the game proceed in a safe and secure
16 way?

17 A. It did.

18 Q. And was Coach McQueary present at the game
19 that day?

20 A. No, he was not.

21 Q. And that was because you had made the
22 decision that he would not coach because of the
23 multiple threats; is that correct?

24 A. We had taken lots of precautions that day to
25 make sure -- and to make sure Coach McQueary would

1 be safe away from there.

2 Q. And did you -- were you provided any
3 information as to whether or not Coach McQueary's
4 residence was being monitored during that time
5 period?

6 A. I had been told by Mr. Shilo that there
7 were --

8 MR. STROKOFF: Again, Your Honor, hearsay.

9 MS. CONRAD: Again, this is information that
10 he is receiving in his role as president as he's
11 making decisions on how to secure the University.

12 MR. STROKOFF: By this point in time, Mr.
13 McQueary's already on administrative leave, Your
14 Honor. Mr. Shilo is listed as a witness.

15 THE COURT: Objection is sustained.

16 BY MS. CONRAD:

17 Q. I'd like to direct your attention now to
18 December 2012. December 2012, there's a search
19 under way for a new head football coach; correct?

20 A. Yes.

21 Q. Did you participate in the search for a new
22 head football coach?

23 A. As is customary, the AD, the athletic
24 director is the person who hires. But the way the
25 process works is that the appointment is made with

1 the approval one step up, in other words to the
2 president, because the AD reports the president.
3 Dr. Joyner came to me with a list of prospective
4 candidates for the search committee. And I thought
5 it was a very good representative search committee.
6 I recall making one or two additional suggestions
7 for the committee, and then the committee went to
8 work.

9 Q. And did the committee then deliver a
10 recommendation to you or consult with you about
11 their selection for a new head coach?

12 A. Dr. Joyner did, yes.

13 Q. And who was that recommendation?

14 A. Bill O'Brien.

15 Q. Did you concur with that recommendation with
16 respect to Bill O'Brien?

17 A. Yes, I did.

18 Q. Did you meet with Bill O'Brien in conjunction
19 with the interviewing process?

20 A. Yes. I met him on one occasion.

21 Q. And at the time you met with Coach O'Brien,
22 did you receive any information about his plans for
23 coaching at Penn State?

24 A. When Bill O'Brien came to dinner that
25 evening, he had a list of all of the individuals

1 that he will bring or was aspiring to bring onto his
2 coaching staff when he came.

3 Q. And this was before he was even offered the
4 position?

5 A. Yes.

6 Q. He had his list of coaches who he would bring
7 or he aspired to bring with him?

8 A. Yes.

9 Q. Coach O'Brien was selected as the new head
10 coach of Penn State, wasn't he?

11 A. Yes, he was.

12 Q. And was it your understanding that Coach
13 O'Brien had full discretion in hiring his assistant
14 coaches, his staff?

15 A. Yes. He had full discretion to hire his own
16 staff. That would be typical of any head football
17 coach coming in.

18 Q. At some point in time, I believe you
19 testified that you had an exchange with Coach
20 O'Brien where you referenced Coach Johnson and Coach
21 Vanderlinden?

22 A. Yes.

23 Q. And Coach Johnson and Coach Vanderlinden were
24 coaches under Coach -- assistant coaches under Coach
25 Paterno; correct?

1 A. Yes. Under Paterno and Bradley.

2 Q. And what was the nature of that exchange with
3 Coach O'Brien?

4 A. I just suggested that -- because he had a
5 full list of all of his personnel that he had
6 already filled out, I suggested that it might be a
7 good idea to have one or two coaches from the
8 current staff who could provide continuity for the
9 players.

10 Q. And I believe you've already testified that
11 that recommendation in part was based on their
12 national reputation; is that correct?

13 A. That's correct.

14 Q. Did that recommendation include any other
15 factors? Had you received any other information or
16 requests with respect to Coach Johnson and Coach
17 Vanderlinden?

18 A. No, I hadn't received any requests from
19 anyone.

20 Q. From any of the players?

21 A. No.

22 Q. Now, you were asked a question from counsel
23 about whether you recommended to Bill O'Brien to
24 consider Mike McQueary. Do you recall that
25 testimony?

1 A. Yes.

2 Q. Did you recommend Mike McQueary?

3 A. Bradley and -- I'm sorry, not Bradley.

4 Vanderlinden and Johnson were the only two names
5 that I mentioned.

6 Q. So it would be fair to conclude then that you
7 did not recommend Assistant Coach Bradley, did you?

8 A. No. I didn't recommend anyone other than
9 Vanderlinden and --

10 Q. You didn't recommend --

11 A. Johnson.

12 Q. -- Assistant Coach Jay Paterno, did you?

13 A. No.

14 Q. You didn't recommend Assistant Coach
15 Anderson, did you?

16 A. No.

17 Q. You didn't recommend Assistant Coach Hall,
18 did you?

19 A. No.

20 Q. You didn't recommend Assistant Coach Boggs,
21 did you?

22 A. No.

23 Q. Or Assistant Coach Kenney?

24 A. No.

25 Q. At any time, did you receive information that

1 Mike McQueary was asking to meet with Coach O'Brien?

2 A. No, I didn't receive such information.

3 Q. Did you receive any information from Coach
4 Bradley that Mike McQueary was interested in meeting
5 with Coach O'Brien?

6 A. No, I did not.

7 Q. Now, directing your attention to another
8 binder. I need you to locate Volume 3 of
9 Defendant's exhibits.

10 A. (The witness complied.) Okay.

11 Q. And during this period of time, from November
12 2011 to December 2012, for that entire year, were
13 you initiating any programs with respect to child
14 abuse?

15 A. Yes.

16 Q. And if you could direct your attention,
17 please, to D137. Are you familiar with the document
18 at D137?

19 A. Yes, I am.

20 Q. What is it?

21 A. It's a letter to Senator Casey, Pennsylvania
22 Senator Casey.

23 Q. And before we get into the specifics of it,
24 is it a letter to Senator Casey from you?

25 A. It's to Casey from me.

1 MS. CONRAD: Move for the admission of D137.

2 MR. STROKOFF: Objection as to relevance,
3 Your Honor.

4 THE COURT: What is the relevance of it?

5 MS. CONRAD: It is to show that the
6 University was responding to the issues on campus by
7 instituting certain programs.

8 THE COURT: I will admit it over objection.

9 MS. CONRAD: Permission to publish, sir?

10 THE COURT: Yes. Go ahead.

11 BY MS. CONRAD:

12 Q. Dr. Erickson, could you briefly describe for
13 us the information contained in the paragraphs of
14 this letter?

15 A. Well, I'm expressing to Senator Casey our
16 support for the Senate's subcommittee on children
17 and families hearing and really saying that we share
18 Senator Casey's and the subcommittee's concern about
19 child abuse and the victims of child abuse, and that
20 we're doing a lot at Penn State to help combat child
21 abuse.

22 Q. In fact, you make reference to a renewed
23 focus on how to confront the problem with abuse,
24 don't you?

25 A. Yes.

1 Q. And then in the third paragraph you make
2 reference to an announcement that Penn State made
3 with respect to the establishment of a program.
4 What is that program?

5 A. The Center for the Protection of Children
6 that was established to be based at Penn State
7 Hershey within the children's hospital. And the
8 focus of that center was really to help prevent and
9 to identify to prevent and to treat child abuse.
10 And it was a major effort that really brought
11 together a lot of different facilities and
12 individuals with expertise in that area to launch a
13 major initiative.

14 Q. And then you note also that Penn State is
15 partnering with the Pennsylvania Coalition Against
16 Rape and the National Sexual Violence Center, don't
17 you?

18 A. Yes.

19 Q. And then is there a reference to a University
20 commitment to these programs?

21 A. Right. We took the bowl revenue -- as in all
22 years, the policy of the Big 10 conference has been
23 to pull all of the bowl revenues and to divide those
24 revenues up equally among the teams. And Penn State
25 received something in excess of \$2 million that year

1 of revenue, and we put a million and a half of that
2 revenue, I believe it was 750,000 a piece to PCAR
3 and the national -- the center. And the remainder
4 went to the Center for the Protection of Children.

5 Q. When you say PCAR, what does that --

6 A. Pennsylvania Coalition Against Rape.

7 Q. And this commitment was made in December
8 2011, wasn't it?

9 A. It was, yes.

10 Q. And has the University continued its
11 commitment?

12 A. We have actually continued and strengthened.
13 The Center for the Protection of Children is a very
14 well established center with national reputation
15 now. In addition to that, we put long term funding
16 into a network that includes more than 100 faculty
17 who have expertise in the area of child abuse
18 identification, prevention and treatment.

19 Q. And when you say long term funding, what do
20 you mean that?

21 A. It's recurring funding.

22 Q. And what kind of amounts are we talking about
23 in conjunction --

24 THE COURT: Counselor, I think we've gone far
25 enough.

1 MS. CONRAD: Yes, sir.

2 BY MS. CONRAD:

3 Q. I'm going to direct your attention now to
4 June of 2012. At or about this time, Mr. McQueary
5 had received notice that his fixed-term appointment
6 would end on June 30th, 2012?

7 MR. STROKOFF: Objection, Your Honor, unless
8 she's referring to the script of November 2011.

9 MS. CONRAD: Mr. McQueary received notice at
10 that time that his fixed-term appointment would be
11 ending on June 30th, 2012.

12 THE COURT: So are you referring to the
13 meeting he had with the athletic director, is that
14 what you're directing the witness's attention to?

15 MS. CONRAD: Let me ask a new question, sir.

16 BY MS. CONRAD:

17 Q. Dr. Erickson, were you aware that Mr.
18 McQueary's fixed-term appointment ended on June
19 30th, 2012?

20 A. I was, yes.

21 Q. And how were you aware of that?

22 A. Ms. Baldwin told me that it was a fixed-term
23 appointment in early January.

24 Q. And did you consult with anyone in athletics
25 about whether his fixed-term appointment, he would

1 receive a new appointment?

2 A. No, I didn't.

3 Q. Did Dr. Joyner at any time consult with you
4 about whether Mr. McQueary would be reappointed?

5 A. I believe some time in the -- in the spring,
6 perhaps about the April timeframe, Dr. Joyner
7 indicated that there weren't any openings in
8 athletics.

9 Q. And did Dr. Joyner state to you on that basis
10 then there would be -- Mr. McQueary's contract would
11 end?

12 A. Well, we both were aware that it was a
13 fixed-term contract ending on June 30th, 2012.

14 Q. And did you concur with Dr. Joyner's decision
15 that the appointment would end and that there would
16 be no new appointment?

17 A. Well, he indicated there was no opening in
18 athletics.

19 Q. And on that basis, you agreed with that
20 decision?

21 A. Yes.

22 Q. There's been testimony here about severance
23 that was paid in conjunction with the assistant
24 coaches. Are you familiar with the letter agreement
25 that addressed that severance?

1 A. Am I now? Yes.

2 Q. Were you at the time, sir?

3 A. At the time? No.

4 Q. Did there come a point in time that anyone
5 consulted with you as to whether or not Mr. McQueary
6 should receive severance as contained in that
7 agreement?

8 A. There wasn't until some time after July 1st,
9 2012.

10 Q. And when the issue was brought to your
11 attention as to whether or not Mr. McQueary should
12 receive his severance payments, what was your
13 decision?

14 A. My decision was that he should be paid
15 severance.

16 Q. And what was the basis for that decision?

17 A. I had a discussion with our new general
18 counsel.

19 Q. And why did you make the decision that Mr.
20 McQueary should receive his severance?

21 A. Because the other assistant coaches had
22 received severance. And while there were some
23 technical issues as to the way the contract was
24 written whether or not he qualified, I thought it
25 was the fair thing to do.

1 Q. Did there come a point -- and did Mr.
2 McQueary receive his severance?

3 A. Yes, he did.

4 Q. Did there come a point in time that Coach
5 O'Brien resigned from his position at Penn State?

6 A. Yes, he did.

7 Q. When was that?

8 A. It would have been at the end of the 2013
9 season, probably around the 1st of January of 2014.

10 Q. And after Coach O'Brien resigned and left
11 Penn State, was there a search for a new head
12 football coach?

13 A. There was.

14 Q. And was a new head football coach named?

15 A. Yes. James Franklin.

16 Q. And do you know what, if anything, Coach
17 Franklin did in terms of his staffing decisions?

18 A. He had the same blank slate that Bill O'Brien
19 had.

20 Q. And did he retain any of the existing coaches
21 under Coach O'Brien?

22 A. Not that I'm aware of.

23 Q. Did he bring in a whole new crew of assistant
24 coaches?

25 A. He did.

1 MS. CONRAD: Thank you, sir. I have no
2 further questions.

3 REDIRECT EXAMINATION

4 BY MR. STROKOFF:

5 Q. And how many of Coach O'Brien's assistant
6 coaches wanted to coach under Coach Franklin?

7 A. I didn't understand the question, sir.

8 Q. Well, you just testified that none of Coach
9 O'Brien's assistants were retained by Coach
10 Franklin. And my question is, how many of Coach
11 O'Brien's assistants wanted to work for Coach
12 Franklin?

13 A. Well, many of them left with Coach O'Brien or
14 went other places.

15 Q. Do you know how many wanted to work for Coach
16 Franklin?

17 A. I don't have an exact number for you.

18 Q. Sir, you testified that in your opinion you
19 never -- not in your opinion, that you never
20 connected Mike McQueary with President Spanier's
21 statement that was posted on Penn State Live?

22 A. That's correct.

23 Q. Okay. That is set forth, that is President
24 Spanier's statement, set forth in Defense Exhibit
25 20. So I would ask you to open that up. And then

1 I'm going to ask you to open something else up as
2 well. First we go to Defense Exhibit 20?

3 A. You said 20?

4 Q. 20, yes.

5 A. (The witness complied.)

6 Q. Okay. Is that President Spanier's statement
7 that you have there?

8 A. Yes.

9 Q. Okay. Now I'm going to ask you to go to the
10 binder that says Exhibits Witness Copy and turn to
11 Plaintiff's Exhibit 35.

12 THE COURT: What are we looking for?

13 MR. STROKOFF: Plaintiff's Exhibit 35. It
14 should be in the binder that says Witness Copy.

15 THE COURT: Just use mine for the time being.
16 BY MR. STROKOFF:

17 Q. Sir, Plaintiff's Exhibit 35 is several pages.
18 Begins with a copy of --

19 THE COURT: Let him find it first.

20 THE WITNESS: Okay.

21 BY MR. STROKOFF:

22 Q. It begins with four pages of a police
23 complaint followed by the presentment. And I would
24 like you to turn to page 12 of the presentment.

25 A. Okay.

1 Q. Sir, do you see on page 12 the second
2 paragraph that says, "The grand jury finds that Tim
3 Curley made a materially false statement under oath
4 in an official proceeding on January 12, 2011, when
5 he testified before the 30th state wide
6 investigating grand jury related to the 2002
7 incident that he was not told by the graduate
8 assistant that Sandusky was engaged in sexual
9 conduct or anal sex with a boy in the Lasch Building
10 showers." Now, that's in the presentment, right?

11 A. It's here, yes.

12 Q. And you read the presentment?

13 A. Yes.

14 Q. Okay. And you say you don't remember when,
15 but some time shortly thereafter, you found out that
16 the graduate assistant was Mike McQueary, right?

17 A. Yes.

18 Q. So looking at this language, it's that the
19 grand jury finds that Tim Curley made a materially
20 false statement when he testified he was not told by
21 Mike McQueary that Sandusky was engaged in this
22 conduct. So that's -- you never picked up if Mike
23 McQueary was the grad student that Curley and
24 Schultz lied about what Mike McQueary told them?

25 MS. CONRAD: Objection as to the

1 characterization.

2 THE COURT: If you can answer the question,
3 sir, answer it.

4 THE WITNESS: There's a lot in the
5 presentment about things said that Mike McQueary
6 testified to. I never viewed this as an all or
7 nothing one person tells all the truth, the other
8 person tells no truth. You know, I obviously wasn't
9 there when this occurred so I really can't say.

10 BY MR. STROKOFF:

11 Q. Sir, you said you never connected Mike
12 McQueary with the Spanier statement. Surely you
13 connected Mike McQueary with the presentment?

14 A. Yes. Later.

15 Q. Okay. And the significant charge against Mr.
16 Curley and Mr. Schultz -- well, two charges, failure
17 to report and perjury. Right?

18 A. Yeah.

19 Q. And the perjury was that they perjured
20 themselves when they said Mike McQueary didn't tell
21 them that Sandusky was engaged in sexual misconduct.
22 That's the charge of perjury, right?

23 A. Yes.

24 Q. Okay. So let's go to Spanier's statement.
25 The last sentence of Spanier's statement says, "I am

1 confident that the record will show that these
2 charges are groundless and that they conducted
3 themselves professionally and appropriately." Sir,
4 could you tell me how the charges could be
5 groundless if Mike McQueary didn't lie about what he
6 told Curley and Schultz?

7 A. It's not my statement.

8 Q. You said you never connected Mike McQueary to
9 Spanier's statement?

10 A. I made no judgment at that time.

11 Q. You said you never connected Mike McQueary
12 with the statement?

13 A. Well, if it's a matter of connection, it
14 would be only very, very tenuous. In other words, I
15 didn't view that as Mike McQueary was dishonest. I
16 wasn't making a judgment at that point.

17 MR. STROKOFF: Pass the witness, Your Honor.

18 MS. CONRAD: I have no further questions,
19 sir.

20 THE COURT: Thank you, sir. You're free to
21 go about your business. Who's going to be next, Mr.
22 Strokoff?

23 MR. STROKOFF: John Parry, Your Honor.

24 THE COURT: This would be a good time to take
25 a break?

1 MR. STROKOFF: Probably a good idea, yes.

2 THE COURT: We'll make up for the late break
3 this morning, we'll take an early break this
4 afternoon. So why don't we take ten minutes,
5 members of the jury, and we'll pick it up at 25 of.

6 (Whereupon, a recess was taken.)

7 MR. STROKOFF: We'll call athletic director
8 John C. Parry to the stand, Your Honor.

9 JOHN C. PARRY

10 Was called as a witness and having been duly sworn,
11 was examined and testified as follows:

12 THE COURT: Thank you. Have a seat. Adjust
13 the mic to suit yourself.

14 THE WITNESS: Thank you.

15 DIRECT EXAMINATION ON QUALIFICATIONS

16 BY MR. STROKOFF:

17 Q. Please state for the record your full name.

18 A. John Carl Parry, IV.

19 Q. And could you spell the last name for the
20 court reporter?

21 A. Yes. P as in Paul, A-R-R-Y.

22 Q. And sir, what is your current occupation?

23 A. I'm the athletic director at Cleveland State
24 University.

25 Q. And for how long have you been an athletic

1 director?

2 A. Overall, 33 years.

3 Q. Sir, could you tell us when it was you got
4 your start in the sports administration field?

5 A. Well, in sports administration, I had an
6 opportunity to return to my alma mater, Brown
7 University, in 1975 as an assistant athletic
8 director and part-time football coach, part-time
9 lacrosse coach.

10 Q. And so, that was in '75?

11 A. Correct.

12 Q. When did you next have an athletic
13 administration position?

14 A. After three years, I was promoted to
15 associate athletic director. And then after a year,
16 I had an opportunity to become the athletic director
17 at Brown University.

18 Q. And that's where?

19 A. Brown University, 1979, January 2nd.

20 Q. And that's -- where is Brown located for the
21 record?

22 A. Providence, Rhode Island.

23 Q. Okay. And that's Joe Paterno's alma mater,
24 is it not?

25 A. It is. Class of '49.

1 Q. Okay. While you were athletic director, did
2 Brown University play Penn State in football?

3 A. Brown played Penn State at Penn State, Beaver
4 Stadium, in 1983 when it still held 87,000 people.

5 Q. And while you were at Brown, did you have any
6 communications with Coach Paterno?

7 MS. CONRAD: Objection.

8 THE COURT: He can answer yes or no and se
9 where we're going.

10 THE WITNESS: Yes.

11 BY MR. STROKOFF:

12 Q. Communications concerning hiring one of his
13 staff?

14 A. Yes. In 1984 Brown replaced John Anderson
15 with an assistant from Penn State named John
16 Rosenberg.

17 Q. And that was your hire?

18 A. Yes, it was.

19 Q. Okay. And in vetting this assistant coach
20 from Penn State, who did you contact, if anybody, at
21 Penn State?

22 A. I talked with Joe Paterno.

23 Q. Okay. After your time at Brown, did you move
24 onto another university?

25 A. Yes. Brown changed presidents in April of

1 1989 and it became obvious he wanted to put his own
2 staff together. And I left in January of 1990, went
3 to Butler University as athletic director. Butler's
4 Indianapolis, Indiana.

5 Q. And how long were you athletic director at
6 Butler?

7 A. 16 years.

8 Q. And what years were they, sir?

9 A. 1990 to 2006.

10 Q. And you say you're currently athletic
11 director at Cleveland State?

12 A. Yes.

13 Q. And when did you become athletic director
14 there?

15 A. I was the interim in 2010. Hired full-time
16 with a contract in 2011.

17 Q. Okay. In addition to serving as director of
18 athletics at Brown, did you have any other athletic
19 administration responsibilities outside of the
20 University?

21 A. There were two areas I was active in. One
22 was something called the Eastern Collegiate Athletic
23 Conference, which at the time was based in Hyannis,
24 Massachusetts. It's a consortium of two hundred and
25 -- at that time 249 schools, Division 1, 2, and 3.

1 And they conducted a number of championships in all
2 three divisions. I was able to serve on their
3 executive committee and then was elected president
4 in 1985.

5 Q. And was Penn State a member of ECAC at that
6 time?

7 A. Penn State participated in a handful of
8 sports. The ones I'm sure of is women's indoor and
9 outdoor track. There wasn't a lot of opportunities
10 for regional competition for women during the '80s,
11 and the ECAC provided that competition. And Penn
12 State -- there may have been other sports, but
13 definitely indoor and outdoor track.

14 Q. Okay. Any other professional affiliations
15 outside of Brown during that time period?

16 A. Yes. I served seven years on the men's
17 lacrosse committee, the last year as chair. It's an
18 NCAA committee that selects the field for the
19 lacrosse championship. And at that time we did the
20 rules in addition to the selecting the teams and
21 conducting the championship.

22 Q. Okay. Moving onto your tenure at Butler.
23 Aside from being athletic director, did you have any
24 responsibilities in athletic administration outside
25 of the University?

1 MS. CONRAD: Your Honor, I would request
2 counsel to point out where this information is
3 contained in the four corners of the report.

4 MR. STROKOFF: Which information?

5 MS. CONRAD: The information that the witness
6 is now testifying to.

7 MR. STROKOFF: Pages 11 and 12. I guess
8 mainly 12 right now.

9 MS. CONRAD: It's contained on his resume?

10 MR. STROKOFF: Yes. At the top, beginning at
11 the top of page 12.

12 MS. CONRAD: Thank you.

13 THE WITNESS: During my time at Butler, I
14 actually served another term on the lacrosse
15 committee, the last year as chair. I also
16 represented the Horizon League and the NCAA
17 Management Council, which was the first time
18 representative government. Prior to 1997, the NCAA
19 had one institution, one vote. After 1997, they
20 established that each conference would have a seat
21 at the table to discuss possible legislation. So it
22 became representative government, and I represented
23 what's now called the Horizon League, which was our
24 athletic league.

25 Q. And that was -- you represented them as part

1 of what?

2 A. As part of the NCAA Management Council. I
3 was the representative for the Horizon League. Each
4 conference had a representative. For example, the
5 Big 10 was represented by Bob Bowlsby, at the time
6 the athletic director at Iowa. He subsequently
7 moved down and is the commissioner of the Big 12.

8 Q. And for how long did you represent the
9 Horizon League on the NCAA Division 1 Management
10 Council?

11 A. I think seven years, but I'm not a hundred
12 percent sure on that.

13 Q. Okay. Any other NCAA positions?

14 A. Again, I mentioned lacrosse as a second tour
15 of duty. We also, at Butler, were fortunate to host
16 a number of NCAA championshipss, particularly in
17 mens basketball. So I was part of the host
18 committee in the city of Indianapolis.

19 Q. And what is the NCAA Division 1 Men's
20 Basketball Issues committee?

21 A. I put together a committee, a combination of
22 coaches and administrators, and we were primarily in
23 charge with trying to understand site selection,
24 whether we should be playing the tournament in domes
25 or traditional stadiums. The whole RPI, which

1 stands for Ratings Percentage Index, how teams get
2 selected, strength of schedule, in addition to
3 officiating, which the officials are all
4 self-employed, so trying to get consistency across
5 the country is an issue that this group tried to
6 deal with.

7 Q. Okay. What is the NACDA?

8 A. It's called NACDA. It's the National
9 Association of Collegiate Directors of Athletics.

10 Q. And what is that organization?

11 A. It's an organization that started out as just
12 athletic directors and has since expanded to
13 marketing directors, sports information directors.
14 It's a professional organization for development of
15 administrators. And I belonged -- you automatically
16 belong, essentially, if you pay your dues. And I
17 belonged ever since I was an athletic director all
18 the way back at Brown.

19 Q. And have you ever served in a leadership
20 capacity in that organization?

21 A. Yeah. Somewhere around 2000 or '99, I was
22 asked to be on their executive committee, which was
23 a three or four-year term. Primary focus of the
24 executive committee was to plan the annual
25 convention.

1 Q. And sir, were you ever involved with the NCAA
2 certification of any universities in this country?

3 A. Yes. For a period of time from the late '90s
4 to two years ago, the NCAA ran a certification
5 program. It was in an effort to self-regulate and
6 self-study each school. And there is an NCAA
7 compliance of student/athlete welfare Title 9, so
8 they put together a group of athletic directors,
9 presidents, senior women's administrators who would
10 go after a school did their self-study and reviewed
11 it, so a test whether that self-study was authentic
12 and then make a report back at the end of that
13 visit.

14 Q. Sir, during your time as athletic director at
15 Brown, were you involved with any searches for head
16 football coaches?

17 A. Yes. As I mentioned a few minutes ago, we
18 changed coaches the year after we played at Penn
19 State. John Anderson stepped down and we ran a full
20 search for the next head football coach at Brown
21 University.

22 Q. And when you say full search, what do you
23 mean by that?

24 A. That we would open it up beyond just internal
25 candidates. So, in fact, it was publicized in

1 various from The Chronicle of Higher Education to
2 other coaching searches to identify candidates. And
3 them we had an internal search committee who
4 interviewed probably five candidates.

5 Q. How many of those searches did you have while
6 you were at Brown?

7 A. My very last year in the fall of 1989, we
8 conducted a second search which resulted in hiring a
9 head coach from Hofstra, Mickey Kwiatkowski.

10 Q. Another Brown connection is with Bill
11 O'Brien?

12 A. Bill O'Brien played for two years at Brown
13 when I was still the athletic director for John
14 Rosenberg who was, again, a former Penn State
15 assistant who was Brown's head coach. And then he
16 played for two more years for Mickey Kwiatkowski.
17 And then he coached for Mickey as a grad assistant.

18 Q. And while you were at Butler, were you ever
19 involved in the hiring of football coaches?

20 A. Yeah I've been there for two month when the
21 head coach moved to become a, I think, the offensive
22 coordinator at Ball State. So we promoted -- it was
23 a terrible time of year, it was May, and we promoted
24 from within. We had a strong candidate who had some
25 success.

1 Q. Were there any other searches while you were
2 at Butler, or hiring?

3 A. Yes. That coach was frustrated with the fact
4 that we moved from -- we actually were -- when I
5 first got there we were Division 2 scholarships, we
6 moved into Division 1 Double A. The coach was
7 frustrated and he left to go to I think to Central
8 Michigan and we promoted, again, within. And then
9 when that coach decided to step down, we ran a
10 search.

11 Q. And when you say ran a search, what do you
12 mean?

13 A. Opened it up to outside candidates. Hired a
14 man named Jim Morris in 2006, and he's still the
15 head coach of the University.

16 Q. Now, Cleveland State, where you are now, they
17 don't have a football program?

18 A. Correct. They do not have football.

19 Q. How many other sports do they have?

20 A. We just started men's lacrosse and women's
21 indoor track and outdoor track. So we now have 18
22 sports.

23 Q. And while you were at Butler, how many sports
24 were there?

25 A. 21 sports.

1 Q. And at Brown?

2 A. Depending how many times you count track by
3 the way.

4 Q. And at Brown?

5 A. At Brown they had 30 sports. And when the
6 president came in, he said we had too many, wanted
7 to cut sports, which wasn't real smart in my
8 judgment.

9 MR. STROKOFF: Your Honor, we'd offer Mr.
10 Parry as an expert with respect to the hiring
11 process of football coaches.

12 MS. CONRAD: Request the opportunity to
13 examine on qualifications.

14 THE COURT: Yes.

15 CROSS EXAMINATION ON QUALIFICATIONS

16 BY MS. CONRAD:

17 Q. Mr. Parry, your MBA is in the area of finance
18 and commerce; is that correct?

19 A. I believe it's marketing and international
20 business.

21 Q. Well, on your resume it's listed as in
22 marketing with an emphasis in promotion,
23 international marketing, and the legal aspects of
24 free enterprise; is that correct?

25 A. Yes.

1 Q. And your BA is a degree in economics; is that
2 correct?

3 A. Correct.

4 Q. You're currently director of athletics at
5 Cleveland State; is that correct?

6 A. Yes.

7 Q. You've been there six years?

8 A. Yes.

9 Q. And your resume indicates that you're
10 responsible for administering 18 intercollegiate
11 sports; is that correct?

12 A. Yes.

13 Q. You note significant assignments and
14 accomplishments on your resume, don't you?

15 A. I'm sorry, what?

16 Q. You list significant assignments and
17 accomplishments at Cleveland State University on
18 your resume, don't you?

19 A. Yes.

20 Q. And that includes a win in the Horizon League
21 for the all sports trophy; correct?

22 A. 2012, yes.

23 Q. You list it as 2013 on your resume.

24 A. Okay. It was '12, 13. We won most of the
25 championships in the fall, but the actual award was

1 in '13, you're correct.

2 Q. And one of your significant assignments and
3 accomplishments at Cleveland State is the
4 installation of a new all weather turf field;
5 correct?

6 A. Yes.

7 Q. And that new all weather turf field is for
8 some soccer and lacrosse; is that correct?

9 A. Yes.

10 Q. You also list as a significant assignment and
11 accomplishment the opening of a new six-court indoor
12 tennis facility; is that correct?

13 A. Yes.

14 Q. And you note the addition of men's lacrosse
15 and women's track; is that correct?

16 A. Yes.

17 Q. You'll agree with me that nowhere on your
18 resume does it make any reference to your current
19 position that you've held for six years at Cleveland
20 State with respect to the assignment regarding a
21 head coach, does it?

22 A. Yes. You're saying did we hire any head
23 coaches?

24 Q. No, sir. I'm asking on your resume, do you
25 list --

1 A. Correct. No.

2 Q. -- under specific assignments and
3 accomplishments any reference with respect to the
4 hiring of a head coach?

5 A. That's correct.

6 Q. And you make no reference to any work related
7 to the hiring of a head coach in football; correct?

8 A. Correct.

9 Q. And in fact, for the past six years at
10 Cleveland State, you've had no connection to college
11 football at Cleveland State; is that correct?

12 A. Correct.

13 Q. And that's because Cleveland State does not
14 have a football program?

15 A. That is correct.

16 Q. So for six years, you have not worked within
17 the area of college football; is that correct?

18 A. Yes.

19 Q. Now, prior to your six years at Cleveland
20 State, you spent one year as the president of
21 Collegiate Sports Plus, Inc.; isn't that correct?

22 A. Yes.

23 Q. And your resume notes you provided consulting
24 services in intercollegiate athletics; is that
25 correct?

1 A. Yes.

2 Q. And emphasis on marketing, sponsorships,
3 strategic planning, and the student athlete
4 experience; is that correct?

5 A. Yes.

6 Q. During that year that you were president of
7 Collegiate Sports Plus, Inc., there was no reference
8 on your resume to any actions with respect to the
9 hiring of a head coach; is that correct?

10 A. Yes.

11 Q. And in fact, there's no reference to the
12 hiring of a head coach in football; isn't that
13 correct?

14 A. Yes.

15 Q. So, is it fair to say that for the past seven
16 years, you have not had any work experience related
17 to the hiring of a head coach in the area of
18 football?

19 A. That is correct.

20 Q. And as a result, you've had no work
21 experience or any experience of any type for the
22 past seven years in the hiring of assistant coaches
23 in football?

24 A. Yes.

25 Q. Now prior to those seven years, you held a

1 position of deputy commissioner branch operations
2 for the Indiana Bureau of Motor Vehicles; is that
3 correct?

4 A. Yes.

5 Q. What was that job?

6 A. We had 140 branches, nine regional managers,
7 sixteen hundred employees in the branches, so it was
8 a fascinating job quite frankly. There are a lot of
9 concerns about real ID and registration for cars.
10 It's amazing the passion people have for license
11 plates. But it was a --

12 Q. So it was work related to a motor vehicle
13 license?

14 A. Absolutely. Yes.

15 Q. And you held that position for three years?

16 A. Two and a half, but pretty close to three,
17 yes.

18 Q. All right. And during -- and in that
19 position, you had no duties or responsibilities
20 related to the hiring or retaining of head coaches,
21 did you?

22 A. That's correct.

23 Q. And you had no experience related to the
24 hiring of head coaches in football, did you?

25 A. Correct.

1 Q. And you, in fact, had no reference to
2 football with respect to your work experience at the
3 Indiana Bureau of Motor Vehicles from December 2006
4 to March of 2009; is that correct?

5 A. Yes.

6 Q. So is it fair to say then for the past --
7 approximate past ten years, you have had no job
8 duties or responsibilities related to the hiring of
9 a head coach in football?

10 A. Yes.

11 Q. And you've had no job duties or experiences
12 related to the hiring of assistant coaches in
13 college football?

14 A. Correct.

15 Q. Now, you list Butler University for the time
16 period 1990 to 2006; is that correct?

17 A. Yes.

18 Q. You held that position for approximately how
19 many years?

20 A. 16.

21 Q. And in your resume, you mention certain
22 sports and teams, don't you?

23 A. Yes.

24 Q. And you include a reference to men's
25 basketball, don't you?

1 A. Yes.

2 Q. And a reference to men's lacrosse, don't you?

3 A. Yes.

4 Q. A reference to women's golf?

5 A. Yes.

6 Q. You include a reference on your resume to the
7 women's Final Four?

8 A. Correct.

9 Q. And what sport is that in?

10 A. Women's basketball.

11 Q. Nowhere on your resume do you list any
12 reference to football with respect to Butler
13 University, do you?

14 A. I do not.

15 Q. But you do make reference to increasing the
16 athletic sponsorship income twentyfold, don't you?

17 A. Yes.

18 Q. And you increased annual fundraising results
19 by 500 percent; correct?

20 A. Yes.

21 Q. So that took a lot of your time at Butler,
22 didn't it?

23 A. It started a pretty low number, so it didn't
24 take as much time as you might think.

25 Q. But it took some time to get to those

1 numbers, didn't it?

2 A. Sure.

3 Q. I'm sorry, I didn't hear that.

4 A. Yes.

5 Q. I believe you testified that Butler does have
6 a football program?

7 A. Yes, they do.

8 Q. That's the Pioneer League?

9 A. Yes, it is.

10 Q. Now, you'll agree that the Pioneer League is
11 not at a tier with respect to the league that Penn
12 State is at?

13 A. I would agree.

14 Q. They're different tiers?

15 A. Yes.

16 Q. And Butler hadn't ever gone to a bowl game,
17 had they?

18 A. Not in a recent memory. They might have in
19 30s, but I --

20 Q. While you were employed at Butler, they never
21 went to a bowl game, did they?

22 A. No.

23 Q. And you make no reference in your resume to
24 any of your job -- any job duties or
25 responsibilities related to the hiring of a head

1 coach in football, do you?

2 A. I think in the addendum I do for Butler.
3 There was an addendum that was included.

4 Q. "I was employed as the athletic director at
5 two universities, Brown and Butler, that sponsor
6 intercollegiate football at the football
7 championship series." Is that the reference that
8 you're referring to?

9 A. Yes.

10 Q. Excuse me?

11 A. Yes.

12 Q. But it doesn't reference any work that you
13 did in the hiring of head coaches, does it?

14 A. I thought that it did. It went onto say that
15 we ran searches.

16 Q. I'm just asking, on your resume, it doesn't
17 relate any information with respect to working with
18 a hire -- working on the hiring of head coaches?

19 A. I don't think it's a standard resume. But I
20 did put it in the addendum.

21 Q. It doesn't make any reference to the hiring
22 of assistant coaches while -- in football while you
23 were at Butler, does it?

24 A. No. The head coach would be the primary
25 person to hire the assistants.

1 Q. Directing your attention then to Brown
2 University. You were there from 1979 to 1990?

3 A. Yes.

4 Q. That's the Ivy League, isn't it?

5 A. Yes, it is.

6 Q. And you make reference to certain sports on
7 your resume with respect to Brown University, don't
8 you?

9 A. Yes, I do.

10 Q. You include men's crew?

11 A. Yes.

12 Q. Cross country?

13 A. Yes.

14 Q. Track?

15 A. Yep.

16 Q. Wrestling?

17 A. Yes. And football.

18 Q. Men's lacrosse?

19 A. Yes.

20 Q. And then in your resume, do you make
21 reference to football?

22 A. Thought I did. In terms of what the record
23 was during the '80s.

24 Q. Not seeing it on the resume that I'm looking
25 at. But you'll agree with me, won't you, regardless

1 that you don't make any reference to hiring head
2 coaches at Brown, do you?

3 A. I do not.

4 Q. You do make reference to -- that you oversaw
5 the planing and funding and building of a \$7 million
6 student recreation center; correct?

7 A. Yes.

8 Q. That must have taken a lot of time?

9 A. Depends on how you define a lot of time.
10 Weekly meetings.

11 Q. Raising funds of \$7 million?

12 A. That was actually raised by the development
13 office. I just worked on the design of the
14 building.

15 Q. And then you make reference to that you
16 oversaw the planning and funding and building of a
17 \$9 million intercollegiate athletic complex; is that
18 correct?

19 A. Yes.

20 MS. CONRAD: At this time, I would like to
21 approach for a motion.

22 THE COURT: Make it right there.

23 MR. STROKOFF: Your Honor, may I have just
24 two or three clarifying questions?

25 THE COURT: Sure. Go ahead.

REDIRECT EXAMINATION ON QUALIFICATIONS

BY MR. STROKOFF:

Q. Sir, do you have your resume in front of you that's attached to your report?

A. Actually I don't. I have the report in front of me, I don't have my resume in front of you.

THE COURT: Is it attached as an exhibit some place?

MR. STROKOFF: It is, Your Honor.

BY MR. STROKOFF:

Q. Sir, Exhibit 80.

THE COURT: In the plaintiff's book?

MR. STROKOFF: Yes. Plaintiff's Exhibit 80.

THE COURT: There's a book there in front of you, sir, that has Exhibits on the front.

THE WITNESS: What number are we looking for?

MR. STROKOFF: 80. The one underneath that maybe. It should say Witness Exhibits on the binder.

THE WITNESS: Yep. It's this one.

BY MR. STROKOFF:

Q. Is that your report there?

A. Yep. Okay.

Q. Okay. Sir, go to page 12, if you would, please, of your report.

1 A. Yep.

2 Q. The last bullet point under director of
3 athletics for Brown University says what, sir?

4 A. Yes. It says, "Brown produced seven winning
5 football in my 11 years as AD."

6 Q. So you do have a reference to football on
7 your Brown resume?

8 A. Correct.

9 Q. Now, go to the addendum, if you would,
10 please.

11 A. (The witness complied.)

12 Q. Page 13 makes references to your various
13 hirings?

14 A. Yep.

15 Q. At Brown and Butler; is that correct?

16 A. Yes.

17 Q. And then the last page, sir.

18 A. Yep.

19 Q. What is that sentence that says during my
20 career?

21 A. "Well essentially, I have hired hundreds of
22 coaches, four of them were subsequently honored as
23 national coach of the year in their respective
24 sports."

25 MR. STROKOFF: That's all I have on

1 clarifying questions.

2 THE COURT: Any further questions before the
3 motion?

4 MS. CONRAD: Yes, sir.

5 RECROSS EXAMINATION ON QUALIFICATIONS

6 BY MS. CONRAD:

7 Q. The two head football coach searches you did
8 at Brown, what were those years?

9 A. 1984 and right at the tail end, 1989.

10 Q. Any other searches for head football coaches?

11 A. Not at Brown.

12 MS. CONRAD: No further questions.

13 THE COURT: Do you have a motion?

14 MS. CONRAD: I do, sir. But I would request
15 that it be made --

16 THE COURT: You can make it.

17 MS. CONRAD: Mr. Parry has been offered -- do
18 you want me to stand? Mr. Parry has been offered to
19 render an opinion on certain actions, statements,
20 that he alleges harmed McQueary's opportunity to be
21 employed as a college football coach. Based on his
22 qualifications, he does not qualify as an expert in
23 this area, and that he lacks specialized knowledge.
24 He's had no coaching experience since 1989. His
25 participation in the selection of head football

1 coaches has been limited and dates back to, I
2 believe, he said 1992. And he specifically has
3 stated that he relies on the opinions -- and there's
4 no reference in his report that he has relied on
5 obtaining the opinions of head coaches.

6 Moreover, his opinion should be limited
7 because it improperly invades the province of the
8 jury. As a result, it is not permissible for him to
9 offer an opinion as to the entire case. He should
10 not be permitted to offer such an opinion because
11 it's based on contradictory evidence. He makes
12 credibility determinations within his report that
13 are clearly within the province of the jury. And he
14 relies on evidence that's not in the record.

15 THE COURT: Attorney Strokoff.

16 MR. STROKOFF: Well, right now my main
17 concern, Your Honor, is qualifying him as an expert.
18 And I think that Ms. Conrad's objections go to
19 weight, not to basic competency.

20 THE COURT: Okay. Objection is overruled.
21 Members of the jury, there are two kinds of
22 witnesses. We have a fact witness, and a person
23 comes in and just tells you what they know, I heard
24 this, I saw this, whatever, that's your basic fact
25 witness. Then we have what is known as an expert

1 witness. And we permit expert witnesses because
2 they're going to tell us about something that is
3 outside the ordinary realm of knowledge of the
4 average layperson.

5 So if we're talking about a broken arm, a fact
6 witness could come in and say you know what, my bone
7 was sticking out through my skin, I had a broken
8 arm. That's a fact. You might want a medical
9 doctor to come in to define the exact bone and
10 whether it's a compound fracture or whatever.

11 So, I'm going to permit this gentleman to testify
12 as an expert witness. My determination is not
13 binding on you. You make your own independent
14 determination. So the first thing you do is you ask
15 yourself, does the person have the requisite,
16 education, training, and experience to be considered
17 an expert in whatever area he's going to testify to?
18 So if we're talking about hiring coaches, does he
19 have the requisite, training, education, and
20 experience in that area? Or whatever other area
21 he's going to be asked about.

22 Then you say to yourself, of all of the
23 relevant information that was out there, what amount
24 of that information did he have access to? So if
25 you determine, first of all, he has the requisite,

1 education, training, and experience and secondly,
2 that he has the relevant knowledge, in other words,
3 the proper information upon which to make an
4 opinion.

5 Then he's going to be asked does he have an
6 opinion to a reasonable degree of certainty in his
7 area of expertise? So he's being offered as an
8 expert in the hiring of coaching, so you ask
9 yourself whether he has an opinion to a reasonable
10 degree of certainty within that field of learning to
11 render an opinion.

12 The fact that he renders an opinion may, in
13 fact, be an invasion of your function as a juror
14 because you're supposed to come to your own opinions
15 and your own conclusions. The fact that he holds an
16 opinion is not binding or controlling on you. The
17 fact that he's an expert and holds an opinion is not
18 binding or controlling upon you. You make your own
19 independent determination.

20 However, the fact that he, as an expert, holds
21 an opinion that might be on an issue that you have
22 to decide, you can say hey, like any other fact
23 witness in the case, I'm accepting what that witness
24 has to say and that's part of my ultimate opinion
25 and decision in the case. You can say the same

1 thing with regard to the expert.

2 He's not violating your province as jurors.
3 He is rendering his opinion. If you happen to agree
4 with his opinion, fine. You don't like his opinion,
5 fine, you don't apply it. So ask yourself, does he
6 have the requisite, education, training, and
7 experience in the area that he's talking about of
8 the information that would be out there and be
9 considered relevant to making a conclusion or an
10 opinion? How much of it did he have? And what did
11 he rely upon? And then whether or not he holds the
12 opinion to a reasonable degree of certainty within
13 his area of expertise.

14 And of course, with expert witnesses, one of
15 the important things is, what's the basis of the
16 opinion? You know, I could say it's going to rain
17 tomorrow and you'd say well, why do you say that?
18 And I would say well, I looked at the newscast and
19 the forecaster told me it's going to rain tomorrow.
20 So you might want to weigh that in assessing my
21 recommendation to you.

22 So again, my decision is not controlling. You
23 make up your own mind. Everybody clear with me on
24 that? Go ahead.

25 MS. CONRAD: May I approach, sir?

1 THE COURT: Yes.

2 (Whereupon, the following discussion was held
3 at sidebar:)

4 MS. CONRAD: I'd like to hand up a trial memo
5 that limiting his testimony based on the issues that
6 I just raised. That's your copy.

7 THE COURT: And is this a motion in limine or
8 what?

9 MS. CONRAD: This is a trial memo in support,
10 I would just like it to be on the record. Oh, I'm
11 sorry, it's the wrong one. Thank you, sir.

12 THE COURT: You know what? Over the lunch
13 hour you knew this witness was coming. And I'm
14 looking at a seven-page memo, and I doubt that you
15 prepared it over the lunch hour, and you could have
16 provided it to the Court to look at in advance. So
17 it gets the attention it deserves when it's handed
18 to me after I rule. When the witness is asked a
19 question, if you have an objection you can object as
20 to lack of foundation, whatever objection you might
21 make.

22 MS. CONRAD: And Your Honor, just so the
23 record is clear, we literally printed this over the
24 lunch hour. It was our understanding that this
25 witness was being presented on Tuesday. And I just

1 wanted to relate that to you.

2 MR. STROKOFF: I just -- excuse me.

3 THE COURT: And then the nonsuit, don't hand
4 me that two minutes before the motion. So if you
5 have something, anything, I want them today.

6 MS. CONRAD: Yes, sir. They're ready.

7 (End of sidebar.)

8 THE COURT: Now, what exhibit am I looking at
9 for his report?

10 MR. STROKOFF: Plaintiff's Exhibit 80, Your
11 Honor.

12 THE COURT: Thank you.

13 DIRECT EXAMINATION

14 BY MR. STROKOFF:

15 Q. Sir, are you able to identify Plaintiff's
16 Exhibit 80?

17 A. Do you want to give me a number? Or is it by
18 --

19 Q. Plaintiff's Exhibit 80.

20 A. Is it my report? What is it? Look at what?

21 Q. You got to open it up again.

22 A. It doesn't have anywhere what number it is.

23 Q. 80.

24 A. Back to 80 again? Okay. We got it.

25 Q. And what is 80, sir, if you could identify

1 it?

2 A. 80 is the expert witness report in the matter
3 of McQueary versus Penn State University.

4 Q. Authored by who?

5 A. Authored by myself.

6 Q. Okay. Sir, in preparing your report, what
7 documents, if any, did you review?

8 A. I reviewed a number of them. I reviewed the
9 basic McQueary's complaint against Penn State filed
10 on 10/2/12 along with Penn State's answer, his
11 personnel file which included his annual staff
12 review, a biography of McQueary published in the
13 2011 Penn State Football Media Guide, the November
14 5th, 2011 statement from President Spanier where he
15 provided his unconditional support for Tim Curley
16 and Gary Schultz and said that the charges against
17 them, quote, are groundless. I reviewed a
18 transcript of Coach -- Interim Coach Bradley's press
19 conference held on November 10th, 2011, during which
20 he stated that he expected Mike McQueary to coach
21 when Penn State played at home that Saturday against
22 Nebraska on November 12th. I saw the -- I reviewed
23 the document that McQueary was presented on November
24 4th -- 14th, 2011, notifying him that he was being
25 placed on administrative leave retroactive to the

1 prior Friday with pay by acting athletic director
2 Mark Sherburne. Terms of that administrative leave
3 included provisions that he perform no work for Penn
4 State and that all athletics facilities associated
5 with Penn State football program were off limits. I
6 read through correspondence via emails and texts and
7 letters starting in December 2012 through August 3rd
8 of 2016 documenting McQueary's contact with over 25
9 colleges and the head coach regarding openings for
10 football assistants. And also correspondence with
11 four professional teams about possible openings and
12 over 15 companies about opportunities for employment
13 in fields other than coaching. I also read a number
14 of depositions Andy Talley, Graham Spanier, Mat
15 Rhule, and Brett Senior. And in addition, I met
16 with McQueary in Cleveland, Ohio on May 3rd, 2016.

17 Q. Sir, could you go to page three of
18 Plaintiff's Exhibit 80.

19 A. I'm there.

20 Q. Okay. You list the deposition that you read
21 but we don't see -- you mentioned Talley, and he's
22 not on this list.

23 A. Okay. Well, I thought I read a deposition
24 from Andy Talley but I don't -- which list? I took
25 it off? Okay.

1 Q. I'm just saying on your report. Do you think
2 you read it or you don't know if you read it?

3 A. I'll go back and look. If I took it off, I
4 took it off.

5 Q. Just from the report.

6 A. Yep. Okay. Correct. It's not there.

7 Q. And did you do anything else with respect to
8 preparing for your report?

9 A. I tried to search literature to see what
10 there was about the hiring football coaches.

11 Q. Did you meet with the plaintiff in this
12 matter?

13 A. Yes. I met with Mike, which I mentioned, on
14 May 3rd.

15 Q. Okay. Could you explain to the jury what the
16 normal hiring process is in college football?

17 A. Okay.

18 MS. CONRAD: Objection as to what is meant by
19 the term normal.

20 THE COURT: Do you understand the question,
21 sir?

22 THE WITNESS: Yeah. What's normal? I think
23 I would use the word usual rather than normal. Is
24 that okay?

25 BY MR. STROKOFF:

1 Q. What's the usual process?

2 A. The usual process, in my experience, is when
3 a school either loses their head coach or decides to
4 fire or replace their head coach, that they appoint
5 an interim coach, particularly if it's still during
6 -- late in the season. And even if it's not,
7 they'll appoint an interim because somebody has to
8 kind of hold the program together, hold the recruits
9 together, hold the players together.

10 There's then discussion among the assistant
11 coaches to essentially ask if any of them are
12 interested in being the head coach. And they're
13 either encouraged to apply or they could be
14 discouraged, but they're told they have a perfect
15 right to apply.

16 The process, again, if the University's
17 decided to conduct a full search, they're going to
18 advertise, they're going to make the word that it's
19 an open position. The alternative would be to say
20 we have a logical successor and we're going to
21 promote from within. So if the determination is to
22 run a full search, then internal candidates may or
23 may not choose to be a candidate.

24 At the end of the search process, it's common
25 practice to inform the head coach to interview all

1 the assistants if it's not one of them that's hired,
2 so that it's the expectation that the new head coach
3 could at the very least interview all the
4 assistants.

5 And all the studies I've read, all the
6 experiences myself, there's usually one or two
7 assistants that are retained for the purposes of
8 continuity of understanding the players,
9 understanding the contents with the potential
10 recruits, understand how the University works, how
11 to get things purchased, how do you buy supplies,
12 how do you arrange for meals. So oftentimes, one or
13 two assistant coaches are retained for that purpose.

14 So at that point, there's a new staff in
15 place. It's assumed that every assistant would get
16 an interview, but not every assistant will get a
17 job.

18 Q. Okay. With respect to the hiring of
19 assistant coaches, typically, does the athletic
20 director have any role in it?

21 A. The athletic director, again, in my
22 experience, does not hire the assistant coaches but
23 would reserve the right to veto a choice. It's very
24 hard to tell somebody you have to work with so and
25 so, but if a head coach were about to hire an

1 assistant who you felt would be problematic for any
2 number of reasons, he would reserve the right to
3 veto that hire.

4 Q. Okay. You refer in your report to a book
5 about human resource management in sport and
6 recreation?

7 A. Right.

8 Q. Is your opinion consistent with the parts of
9 the book you quote?

10 A. You know, the strongest thing in this book
11 by, I can't say his name very well, Packianathan
12 Chelladurai, as you talked about in the hiring
13 process in sport that the key is a fit beyond the
14 job descriptions, the same -- does the person have
15 the same values and fit the culture of the
16 institution. It's not enough to be a specific
17 position coach, it's what is a person's value and
18 how well do they fit the school.

19 Beyond that, it's very -- you know, it's easy
20 to look at a resume and say whether or not the
21 person meets those criteria. But then how do you
22 evaluate the fit? And that starts to be from
23 references, personal interviews, contact not only
24 with other coaches but maybe other people in the
25 athletic department. I've always felt talking to

1 trainers, talking to strength coaches, talking to
2 academic advisors gives you an idea of how this
3 person fits into the institution.

4 Q. So the head coach has to make an evaluation
5 as to whether or not a prospective assistant coach
6 is the right fit?

7 A. Correct.

8 Q. And what qualities does the head coach look
9 for in making that determination as to fit?

10 A. The number one thing overall is loyalty, how
11 loyal has this coach been in his prior experience.
12 And I really don't like the terms military, but
13 you're going to battle, and it's a group of coaches
14 that have to circle the wagons and stand up for each
15 other, loyal to the head coach. So loyalty is
16 probably the number one criteria that a head coach
17 is looking from his assistants.

18 The second is the whole issue of honesty and
19 integrity. How honest is the coaches? How well can
20 he communicate with prospective players? Is he
21 direct explaining to them what their experience --
22 if you misrepresent, that will end up being a
23 disaster in terms of your ability to recruit and in
24 terms of your ability to motivate players. So
25 honesty, integrity become key values to assess in

1 determining whether or not the person's a good fit.

2 Q. All right. Are there any other factors?

3 A. Well, at some point they do have references
4 and reference checks. As I mentioned a few minutes
5 ago, it goes way beyond the coaching fraternity. It
6 goes, at least in my judgment and my experience and
7 my opinion, it's wise to check beyond just the
8 coaches, to check, again, with academic advisors,
9 athletic trainers, as well as strength coaches.
10 Those three people work very closely with the
11 athletes on campus and they will tell you what kind
12 of a person this coach is. Does he really care
13 about the players? Is he really committed? Is he
14 loyal? Is he honest? Does have he integrity? And
15 that's a good place to go for reference checks.

16 Q. All right. What role, if any, do interviews
17 play in the process?

18 A. Well, interviews certainly give you the whole
19 concept of body language of whether the person
20 essentially brings a lot of energy, brings ideas,
21 brings imagination. Just whatever they're like as a
22 person. What kind of questions do they ask? How
23 engaged are they? How do they explain their
24 experiences, where they've been, where they've
25 coached? So a personal interview is an important

1 part of the process if there's not already a close
2 knowledge.

3 Q. Sir, going to, let's say, November 1st, 2011,
4 before stuff happened, do you have an opinion as to
5 what Mike McQueary's future as a football coach was
6 at that time?

7 A. Based on the bio in the Penn State, at that
8 time, called media guide, based on his performance
9 evaluations from the prior six years, three of which
10 were exceptional, three of which were exceeds
11 expectations, which is all high on the performance
12 chart, it appeared that it would make one think that
13 Mike had done very well, he's been well compensated.
14 They have promoted him all the way back from when he
15 was a grad assistant.

16 And I can't tell you how hard it is to be a
17 graduate assistant in school and then get kept.
18 Every year there's two or three graduate assistants
19 who are working 80 hours a week and want a full-time
20 job. And for Mike McQueary to be at Penn State as a
21 grad assistant and get hired on as full-time is
22 really quite an accomplishment. Because every year
23 there's a handful of grad assistants at every
24 program in the country trying to get hired
25 full-time. So Mike was -- could be viewed as

1 someone rising, someone who's had success, he's in
2 the top 25 program, he's coaching the wide
3 receivers, he's the special teams coach, works with
4 the kickers, and is the recruiting coordinator.

5 And my belief, he could coach quarterbacks,
6 wide receivers, tight ends, special teams, some
7 combination and/or be a recruiting coordinator. Or
8 more recently, now teams hire what's called a
9 quality control coach for offense, and quality
10 control coach for defense, and Mike could fit that
11 role, which means he's self-scouting, he's looking
12 at our own offense saying what are our tendencies,
13 every time we're on right hash mark, we're running
14 wide, and we need to change that up. So there's a
15 quality control position.

16 So I think Mike could have done any number of
17 those positions based on, again, the reading, the
18 performance reviews, and what he had done at Penn
19 State.

20 Q. So what, you know, what would you predict
21 with reasonable certainty was his future as of
22 November 1st, 2011?

23 A. Well, having hired a former Penn State
24 assistant to be the head coach at Brown University,
25 I think he would become, in the next five to seven

1 years, a candidate to be a head coach at,
2 potentially, a bowl championship series, but also a
3 playoff championship series school, a Division 1
4 school. He also could be considered of being an
5 offensive coordinator if the offense at Penn State
6 was having the success that I believe it was having
7 and would continue to have.

8 Q. Now, after -- I should say on or after
9 November 5, 2011, beginning with the publication of
10 the Spanier statement, do you have any opinion,
11 based upon reasonable certainty, as to whether any
12 of the actions or words or inactions of the
13 leadership of the University had any impact on this
14 rather rosy future that he had just a few days
15 before?

16 MS. CONRAD: I'm going to object based on the
17 issue with respect to the ultimate decision before
18 the jury.

19 THE COURT: Members of the jury, I have
20 already -- objection's overruled. I have already
21 instructed you that regardless of his opinion, which
22 he needs to hold to a degree of certainty in his
23 area of expertise, even though that ultimately
24 invades of your decision as to what the ultimate
25 opinion is, you are free to accept that or reject

1 that issue see fit. You are not bound by his
2 opinion. It is simply an aid as is every other
3 piece of evidence in the case. Go a head.

4 THE WITNESS: I think the decisions -- and I
5 fully -- I think I understand but I didn't live it
6 when Penn State was under crisis beyond anything
7 that anybody's ever dealt with. But the actions
8 that they took for the leadership to support the
9 athletic director and the vice president and at the
10 same time suspend or put on administrative leave an
11 assistant football coach I think severely damaged
12 Mike's career. And I believe that within a
13 reasonable degree of certainty.

14 I think a statement from Spanier that put him
15 on administrative leave -- and by the way, I fully
16 understand the safety question because I heard that
17 earlier, that's four hours on Saturday when they
18 played Nebraska. The rest of the week, it's a
19 70-hour week, we were worried about four hours,
20 yeah, don't have him come to the Nebraska. But how
21 about next week when they're at Ohio State? The
22 following week when they're at Wisconsin? How about
23 the bowl game? How about working in the office? I
24 don't understand the total do not come back to the
25 office. So I just think -- what I guess I would

1 have hoped is somebody stood up and supported Mike,
2 a positive statement. And I realize I'm going off
3 the script, but the fact --

4 MS. CONRAD: And Your Honor, I would object.

5 THE COURT: Wait for a question, please, sir.

6 THE WITNESS: Okay.

7 BY MR. STROKOFF:

8 Q. The question is, you know, why do you base
9 the conclusion -- on what do you base the conclusion
10 that Penn State's actions harmed him?

11 A. I base it that they sent a message by putting
12 him on administrative leave, by supporting others,
13 by not allowing him to coach, by not having the new
14 coach interview him, they sent a message to every
15 other school in the country that Mike McQueary did
16 something wrong, that he lied, that he was disloyal,
17 he had no integrity. What did he do wrong? And
18 given that climate, no one was going to hire him to
19 be a football coach.

20 Q. And what about President Spanier's statement,
21 the initial statement of November 5?

22 A. Well, again, that showed support for the
23 athletic director and the vice president and
24 essentially said the charges against them were
25 groundless, which goes right back to this, as well

1 as I can tell, McQueary wasn't truthful in his
2 testimony.

3 Q. What about, sir, if anything, the impact of
4 his not being interviewed by Mr. O'Brien?

5 A. You know, no question a new head coach wants
6 to put his own staff together. And I've always
7 encouraged the head coach, at any sport frankly, to
8 interview the assistants because they might learn
9 something, they may find out something, they may
10 decide there is a place. My understanding is Coach
11 O'Brien did interview, somewhat reluctantly, but
12 interviewed every single assistant except Mike, and
13 did end up choosing to keep two of them. So I
14 think, again, it sent a message that isolated Mike
15 and said he was -- and what I left out was, I don't
16 know the specific words, but to say the entire
17 athletic department was told by Spanier that
18 essentially they were supporting Curley and Schultz,
19 no mention of supporting Mike, sent a message to the
20 whole athletic department that Mike is not to be
21 supported.

22 Q. And you made reference to the fact that in
23 trying to determine whether or not an assistant
24 coach is a right fit, new head coaches will call
25 folks in the athletic department to get information

1 about the people, right?

2 A. That's certainly a source. And I mean, all
3 the people that played at Penn State, all the people
4 that worked at Penn State all got the message that
5 something was wrong, Mike had done something wrong.
6 So all of his network for Penn State, Penn State
7 alumni all over the state, Penn State employees was
8 all shut off.

9 Q. So this message went both to the athletic
10 department, former Penn State players, and these are
11 the folks who would be expected to be his potential
12 references for new jobs; isn't that correct?

13 A. Yes.

14 Q. So, with respect to new head coach -- or the
15 new head coach's athletic director, what does this
16 signify?

17 A. Well, again, within a reasonable degree of
18 certainty, if I was sitting as an athletic director
19 and a head coach came in and said I want to hire
20 Mike McQueary, ever since November 5th, 2011, I
21 would veto it. I think -- because of the unknown.
22 I don't know what happened. I don't know, what did
23 Mike do that put him on persona non grata? What did
24 he do? And no one's ever answered that question.
25 Mike may answer the question, but no one has said

1 why, other than the safety, which makes sense for
2 the first weekend.

3 Q. So your final conclusion, sir, in your report
4 is what? You may look at it.

5 A. That Penn State, by the actions of its
6 leadership, either actions or admissions, has
7 irreparably harmed Mike McQueary's career as a
8 football coach.

9 Q. And that's your opinion based upon reasonable
10 certainty?

11 A. Yes.

12 MR. STROKOFF: Pass the witness, Your Honor.

13 CROSS EXAMINATION

14 BY MS. CONRAD:

15 Q. Mr. Parry, do you address safety anywhere in
16 your report?

17 A. Sorry, do I address what?

18 Q. Safety. Anywhere in your report.

19 A. No, I do not.

20 Q. And although you were here today for the
21 testimony of one witness, do you have any references
22 in your report that address the actual conditions at
23 Penn State in November of 2011?

24 A. No. And I was not asked to look at that.

25 Q. So you're not aware of the bomb threats that

1 the University had received?

2 A. No, I'm not.

3 Q. And you did not review the death threats that
4 the University had received against Michael
5 McQueary?

6 A. No. That was not part of my report.

7 Q. And you did not review the death threats --
8 the threats that Mr. McQueary received, did you?

9 A. No, I did not.

10 Q. And you did not review the threats that he
11 sent to the Office of Attorney General that he had
12 received, did you?

13 A. No, I did not.

14 Q. You testified that if you were approached as
15 an athletic director, you would veto his hire; is
16 that correct?

17 A. Yes.

18 Q. And was that because you don't know what --
19 in that situation, you wouldn't know what Mike would
20 have done; is that correct?

21 A. It's because I don't know what he did.

22 Q. What he did. Nowhere in your report do you
23 reference any head coach that made that
24 determination, do you?

25 A. I'm sorry?

1 Q. Nowhere in your report do you reference any
2 head coach or athletic director that made the
3 decision that he or she would not hire Mike because
4 they didn't know what Mike did?

5 A. That's correct. It was based on my
6 experience.

7 Q. There's no reference to any athletic director
8 that made that decision, is there?

9 A. Not that I'm aware of.

10 Q. And there's no reference to any head coach
11 that made that decision, is there?

12 A. Not that I'm aware of.

13 Q. Now in your testimony, you refer to studies
14 that you have read with respect to the hiring of a
15 head coach; is that correct?

16 A. Yeah. Probably shouldn't have been plural,
17 but yes.

18 Q. Well, nowhere in your report does it refer to
19 any studies that you have read with respect to the
20 hiring of a head coach, does it?

21 A. Well, I thought the human resources hiring
22 coaches was essentially someone's work based on
23 research and putting it together.

24 Q. That's the book, Human Resources Management
25 in Sport and Recreation; is that correct?

1 A. Right.

2 Q. That's not a book directed towards college
3 football, is it?

4 A. I think the principle's the same about
5 culture and fit.

6 Q. I understand you want to express that view.
7 But my question was, is that book directed to hiring
8 in college football?

9 A. Not specifically football.

10 Q. And, in fact, that book contains 15 chapters
11 and only one discusses staffing considerations,
12 doesn't it?

13 A. Yes.

14 Q. And it discusses staffing considerations in
15 sport and recreation, doesn't it?

16 A. Primarily talking about coaches, but yes.

17 Q. And what was the year that book was
18 published?

19 A. 2006.

20 Q. Ten years ago; correct?

21 A. Yes.

22 Q. And you don't have any information in your
23 report as to whether or not the information
24 practices contained in that report are current to
25 2016, do you?

1 A. No.

2 Q. Now, you testified that you reviewed a number
3 of documents in preparation for this report, didn't
4 you?

5 A. Yes.

6 Q. And one of those documents was his personnel
7 file; correct?

8 A. Yes.

9 Q. And his annual staff review and development
10 plans; correct?

11 A. Yes.

12 Q. Now there's been testimony in this case that
13 -- or will be testimony in this case that a new head
14 coach doesn't look at performance reviews; is that
15 consistent with your understanding?

16 A. Yes.

17 Q. You also make reference to the biography of
18 McQueary in the 2011 PS football media guide, don't
19 you?

20 A. Yes.

21 Q. Are you aware that Coach O'Brien reviewed Mr.
22 McQueary's biography in the media guide?

23 A. No. I have no way of knowing that.

24 Q. But you do know that Coach O'Brien didn't
25 hire Mr. McQueary, don't you?

1 A. Yes.

2 Q. Now, I want to direct your attention to D20.

3 THE COURT: What exhibit do you want him to
4 look at, counsel?

5 MS. CONRAD: 20, please.

6 THE COURT: 20.

7 MS. CONRAD: May we post it, sir?

8 THE WITNESS: It's a statement from President
9 Spanier?

10 MS. CONRAD: Yes. May we publish it?

11 THE COURT: Yes.

12 MS. CONRAD: Thank you.

13 BY MS. CONRAD:

14 Q. Now, I want to direct your attention to your
15 report on page two, sir.

16 A. Okay. Yep.

17 Q. Paragraph D of that report.

18 A. Right.

19 Q. And could you read that into the record
20 please?

21 A. "The November 5th, 2011 statement from
22 President Spanier where he provided his
23 unconditional support in quotes for Tim Curley and
24 Gary Schultz and said the charges against them are
25 quote groundless."

1 Q. So in your report, you took from this
2 statement that President Spanier said the charges
3 against them are groundless; correct?

4 A. Correct.

5 Q. Take a look, please, at the statement in
6 front of you on D20.

7 A. Yep.

8 Q. You'll agree with me, won't you, that it says
9 in the last paragraph, second sentence, "I am
10 confident the record will show that these charges
11 are groundless and they conducted themselves
12 professionally and appropriately," doesn't it?

13 A. Yes.

14 Q. It says the record will show these charges
15 are groundless, doesn't it?

16 A. That's what it says.

17 Q. It doesn't say the charges are groundless,
18 does it?

19 A. Correct.

20 Q. So that's an error in your report, isn't it?

21 A. Yes.

22 Q. You also reviewed the deposition transcript
23 of Matt Rhule, didn't you?

24 A. Yes.

25 Q. And you learned that Matt Rhule, who was

1 Plaintiff's -- he played with Plaintiff while they
2 were at State College High School; correct?

3 A. Yes.

4 Q. You learned that Mr. McQueary played with
5 Coach Rhule when they were both players at Penn
6 State; correct?

7 A. Yes.

8 Q. You read that Mr. McQueary considered Coach
9 Rhule to be a good friend of his; correct?

10 A. Yes.

11 Q. And you considered Coach Rhule to be a
12 contact, a connection that Mr. McQueary had as a
13 result of playing with Coach Rhule; correct?

14 A. Certainly. Yes.

15 Q. And you read, didn't you, that when Coach
16 Rhule became head coach at Temple, he didn't
17 consider Mr. McQueary for a position on his staff?

18 A. Yeah. I read that he interviewed all the
19 assistants and did not end up hiring Mike.

20 Q. What do you mean he interviewed all the
21 assistants?

22 A. As I read it, he followed the same process of
23 when new head coach is named, interviewed the
24 assistants, put together his staff, did not end up
25 hiring Mike.

1 Q. But Coach Rhule said that he didn't consider
2 Mike because he didn't have the depth of experience
3 that he was looking for in his assistant coaches,
4 didn't he?

5 A. That's what the deposition said, yes.

6 Q. There was no reference in that transcript
7 that Coach Rhule based his decision to not hire Mike
8 McQueary on the Spanier statement, is there?

9 A. No.

10 Q. And you've read Coach Rhule's transcript in
11 which Mr. McQueary had asserted that Coach Rhule
12 told him that administration wouldn't let him hire;
13 correct?

14 A. Yes.

15 Q. And in fact, that wasn't true, was it?

16 A. I have no way of knowing that.

17 Q. Well, you read Coach Rhule's testimony,
18 didn't you?

19 A. Still have no way of knowing it, but if
20 that's what he said, yes.

21 Q. Well, you'll agree with me he testified under
22 oath that he never went to administration about
23 Coach McQueary; correct?

24 A. Yes.

25 Q. And administration never went to Coach Rhule

1 about Mike McQueary, did they?

2 A. Not to my knowledge.

3 Q. And the reason Coach Rhule didn't go to
4 administration was because Mike McQueary was never
5 in consideration by Coach Rhule for a position at
6 Temple; correct?

7 A. Yes. I wouldn't question the reasons, but
8 yes.

9 Q. I want to go back to this 2006 book Human
10 Resources Management in sports and recreation. You
11 focus on the issue of fit, don't you?

12 A. Yes.

13 Q. And that fit is an essential element with
14 respect to the hiring of an assistant coach; is that
15 correct?

16 A. Yes.

17 Q. And then you reference that fit is determined
18 by, let me make sure I have this right, loyalty and
19 honesty and integrity; is that correct?

20 A. Yes.

21 Q. Well, again, Coach Rhule talked about the
22 importance of fit when he testified, didn't he?

23 A. I'm not sure I could remember that, but yes.

24 Q. Well, you read his deposition transcript,
25 didn't you?

1 A. Yes.

2 Q. And you included that in your expert report,
3 didn't you?

4 A. That I had read it, yes.

5 Q. And Coach Rhule, in fact, testified that the
6 fit that was important was the fit between the
7 assistant coach and the head coach, didn't he?

8 A. Yes.

9 Q. And that was because it's critical that
10 there's chemistry, the right chemistry, between the
11 assistant coach and the head coach; correct?

12 A. Yes.

13 Q. Where do you cite that in your report?

14 A. I'm sorry, what?

15 Q. Do you reference that fit at all in your
16 report?

17 A. I put it on a broader scale of the entire
18 staff what that implied with the head coach.

19 Q. My question is though, sir, do you reference
20 that fit, that chemistry between a head coach and an
21 assistant coach in your report?

22 A. Not specifically.

23 Q. Now you make reference on page four to the
24 hiring process related to a head coach at the
25 collegiate level, don't you?

1 A. Repeat the question, please.

2 Q. Would you like me to rephrase that?

3 A. Yeah. Well, I turned to this and I didn't
4 continue to listen. I apologize.

5 Q. On page four, you described the hiring
6 process related to a head coach, don't you?

7 A. Yes.

8 Q. And the hiring process of a head coach at the
9 collegiate level, don't you?

10 A. Yes.

11 Q. Now at the time you wrote this report and
12 described this process, you were not directly
13 involved in the hiring of a head football coach in
14 your current position, were you?

15 A. Correct.

16 Q. And how many years had it been since you were
17 involved in the hiring of a head coach?

18 A. Well, as you pointed out, it had been ten
19 years. But since, I read about every single search
20 process.

21 Q. So it had been over ten years that you had
22 been involved in the hiring of a head coach at the
23 collegiate level; correct?

24 A. Correct. It hasn't changed, but correct.

25 Q. Where do you say that in your report, sir?

1 A. When you pointed out that it's been ten
2 years, I felt compelled to say I don't believe it's
3 changed.

4 Q. And do you cite any studies in your report
5 that it hasn't changed in ten years?

6 A. No, I do not.

7 Q. Now directing your attention to page five of
8 your report. There you talk about meeting the
9 published job requirements. Do you see that?

10 A. Yes.

11 Q. You'll agree with me, won't you, that there
12 are hundreds, maybe thousands of assistant coaches
13 out there that meet the basic job requirements; is
14 that correct?

15 A. Correct. Yes.

16 Q. And you have to distinguish yourself in order
17 to be the one that might get hired; correct?

18 A. Yes.

19 Q. And in fact, when you relate the lower part
20 of that page at page five, you go back to the fit of
21 the coaching candidates, don't you?

22 A. Yes.

23 Q. And an important factor of determining
24 whether or not there is that fit between the head
25 coach and the assistant coach, is if they've worked

1 together; correct?

2 A. It's also true within the subgroups of the
3 defensive staff and the offensive staff, but yes.

4 Q. So a critical element is whether or not the
5 assistant coach who's seeking a position with a new
6 head coach is -- has worked with that head coach;
7 correct?

8 A. Either worked directly or worked with someone
9 else closely that the head coach knows or worked
10 with someone else on the staff he's already putting
11 together. So some experience, connection either
12 with an assistant at a former job or a former
13 assistant or someone the head coach can trust their
14 reference.

15 Q. And that's because, again, the head coach
16 wants that right chemistry with his or her assistant
17 coach; correct?

18 A. Yeah. In this case it's just his, but yes.

19 Q. And that chemistry includes the ability to
20 work together?

21 A. Absolutely.

22 Q. To have the same game plan?

23 A. Correct.

24 Q. And therefore, to work together -- and it
25 helps a head coach in knowing that if he's worked

1 with this assistant coach whether or not there's
2 going to be that chemistry?

3 A. Correct.

4 Q. So you'll agree with me that it's very, very
5 important for assistant coaches as they're
6 developing to continue to maintain a network within
7 the football community, isn't it?

8 A. Yes.

9 Q. And that network is critical for the next
10 job; correct?

11 A. Yes.

12 Q. And any time a new head coach comes in,
13 there's the chance that the assistant coaches under
14 the former coach are at risk for losing their job;
15 correct?

16 A. Yes.

17 Q. Which, again, is an important reason why
18 those networks are so important?

19 A. Yes. If that was a question.

20 Q. Directing your attention to page seven of
21 your report. You offer a conclusion here that it
22 was reasonable to expect that within five to seven
23 years with the continued success of Penn State
24 football that Mike McQueary would have been hired as
25 an offense coordinator or head football at a

1 university in a top five conference. Do you see
2 that?

3 A. Yes.

4 Q. Mike McQueary had never served as an
5 offensive coordinator while he was at Penn State,
6 did he?

7 A. No.

8 Q. And he hadn't served as a head coach, had he?

9 A. No.

10 Q. And you'll agree with me, won't you, that in
11 football, one bad season could totally disrail a
12 coach's career, couldn't it?

13 A. Well, it depends on if it's early in their
14 career, I suppose. But if it's, you know, year
15 seven out of year ten, it's probably -- could be an
16 issue of graduate transfers. I mean, there could be
17 reasons that would be acceptable.

18 Q. But you'll agree with me, won't you, it could
19 have an impact on an assistant coach's career?

20 A. Certainly as it relates to the staff and the
21 head coach, yes. Sometimes head coaches are asked
22 to make changes of their assistants or lose the job
23 themselves.

24 Q. And nowhere in the report do you establish
25 any foundation as to what happened in that five to

1 seven years that you base your opinion, do you?

2 A. Well, I thought I said continued success at
3 Penn State. Yeah, I said continued success at Penn
4 State.

5 Q. But that's based on your speculation, isn't
6 it?

7 A. I understand.

8 Q. So the answer to that, yes?

9 A. Yes. But there's no reason to think they're
10 suddenly going to lose.

11 Q. That's based on your speculation, isn't?

12 A. Based on the history of Penn State, yes.

13 Q. Now, going back to the issue of importance of
14 networks, you'll agree with me, won't you, that Mr.
15 McQueary for his entire professional coaching career
16 stayed at one institution, didn't he?

17 A. Yes.

18 Q. That was Penn State?

19 A. Yes. But --

20 Q. And -- I'm sorry.

21 A. I'm sorry. There are camps that Penn State
22 would host, which would bring in other coaches.
23 There's camps that you could work at in other
24 schools. So and there's conventions to go to.
25 There's lots of opportunity to network outside of

1 the small, like comparison, Penn State staff.

2 Q. Anywhere in your report, do you reference
3 those conventions?

4 A. I thought I mentioned camps and clinics, but
5 maybe I didn't.

6 Q. Do you reference them specifically?

7 A. No.

8 Q. You don't reference any national conventions
9 in this report, do you?

10 A. No.

11 Q. You make no reference to any national
12 conventions that Mr. McQueary went to, do you?

13 A. I have no way to know whether he did or not.

14 Q. Well, you met with him, didn't you?

15 A. Yes.

16 Q. You didn't ask him that, did you?

17 A. No, I did not..

18 Q. And you didn't obtain any information to
19 include in your report, did you?

20 A. Not on camps and clinics and national
21 conventions.

22 Q. Now, you'll also agree with me that in
23 addition to only serving as an assistant coach at
24 one institution, Penn State, Mr. McQueary only
25 served under one head coach during his professional

1 coaching career; is that correct?

2 A. Yes.

3 Q. That was Joe Paterno, wasn't it?

4 A. Yes.

5 Q. Directing your attention to page 81A. You
6 make a conclusion that the Spanier statement stating
7 charges against Curley and Schultz are groundless
8 which openly question the truthfulness of McQueary's
9 sworn testimony that was the basis for the charges
10 against them. Do you see that?

11 A. Yes.

12 Q. Now, you'll agree with me that's not an
13 accurate statement; correct?

14 A. Well, the statement is what I said, but it's
15 -- it may not contain all the qualifications that
16 were in the Spanier statement that you pointed out
17 earlier.

18 Q. That's right, because President's Spanier
19 statement did not say the charges are groundless,
20 did he?

21 A. In the context of what you're saying, it put
22 it in some different language, yes.

23 Q. President Spanier's statement did not state
24 that the charges against Curley and Schultz are
25 groundless, did it?

1 A. It says the record will show that these
2 charges are groundless.

3 Q. It did not say that the charges are
4 groundless, did it?

5 A. I sense is you're missing words, but I
6 understand what you're saying so --

7 Q. But you understand to say that the charges
8 are groundless means that that's a final
9 determination; correct?

10 A. Yes.

11 Q. And that's not what President Spanier said,
12 did he?

13 A. Right.

14 Q. He said that the record will show that the
15 charges are groundless; correct?

16 A. Yes.

17 Q. So your conclusion that you make is based on
18 inaccurate information, isn't it?

19 A. Certainly on that particular item, yes.

20 Q. And you don't reference any head coach in
21 this report that did not hire Mr. McQueary based on
22 the Spanier statement, do you?

23 A. No, I do not.

24 Q. You go on in part B and draw the conclusion
25 that the actions and words of those in positions of

1 leadership harmed Mike McQueary because Spanier met
2 with the athletic department where he, in essence,
3 repeated his support for Curley and Schultz. Do you
4 see that?

5 A. Yes.

6 Q. You weren't at that meeting, were you?

7 A. No, I was not.

8 Q. Mr. McQueary wasn't at that meeting?

9 A. I assume he was not because he was banned
10 from the facility -- well, I don't know if he was
11 yet.

12 Q. No, he was not at that time.

13 A. Okay.

14 Q. Do you know whether Mr. McQueary was at that
15 meeting?

16 A. I do not.

17 Q. You never asked him, did you?

18 A. I did not ask him if he was at the meeting,
19 no.

20 Q. So you received no information from any
21 person about what occurred at that meeting; is that
22 correct?

23 A. I think I heard it from Mike, but I don't
24 know that for sure.

25 Q. But Mike -- you didn't know if Mike was at

1 the meeting?

2 A. I understand. But he might have heard from
3 his colleagues, right?

4 Q. But if Mike wasn't at the meeting then he
5 couldn't tell you what was said at the meeting,
6 could he?

7 A. Not from direct knowledge, that's correct.

8 Q. And did you include information about any
9 head coach that failed to hire Mr. McQueary because
10 of statements that were made in that meeting?

11 A. No, I do not.

12 Q. In part C, the decision -- you base your
13 conclusion that the actions and words of those in
14 position of leadership harmed Mike McQueary based in
15 part on the decision to not allow McQueary to coach
16 on November 12, 2011. Do you see that?

17 A. Yes.

18 Q. You're aware, aren't you, that Penn State
19 Athletics released a statement that due to multiple
20 threats, Coach McQueary would not be coaching in the
21 Nebraska game, aren't you?

22 A. Yes.

23 Q. And you're aware, aren't you, that Mr.
24 McQueary, his lawyer, and his PR guy all helped to
25 draft that statement?

1 A. I was not aware of that, no.

2 Q. Let me represent to you that Mr. McQueary has
3 testified under oath in this action that he, his
4 lawyer, and his PR guy drafted that statement and
5 added that due to multiple threats, Coach McQueary
6 will not be coaching.

7 MR. STROKOFF: Objection, Your Honor, to the
8 way she's characterizing it.

9 THE COURT: I'm sure you can clear it up on
10 redirect.

11 BY MS. CONRAD:

12 Q. You weren't aware, were you, that Mr.
13 McQueary, his lawyer, and PR guy added that
14 language, due to multiple threats; is that correct?

15 A. Correct.

16 Q. And is it your testimony that because the
17 University did not permit Coach McQueary to coach
18 based on the multiple threats that it had received
19 that has impaired his ability to continue in his
20 chosen profession of football?

21 A. Certainly not from November 12th.

22 Q. Well, you say in C, "Actions and words of
23 those in positions in leadership irreparably harmed
24 Mike's ability to continue in his chosen profession
25 as a collegiate football coach, based in part on the

1 decision to not allow McQueary to coach on November
2 12th, 2011," don't you?

3 A. Yes.

4 Q. And that conclusion doesn't take into account
5 the multiple death threats that had been submitted
6 against Coach McQueary, does it?

7 A. No, it does not.

8 Q. Excuse me?

9 A. No, it does not.

10 Q. And it doesn't take into account that Mr.
11 McQueary himself received those death threats, does
12 it?

13 A. No, it does not.

14 Q. And it doesn't take into account that Mr.
15 McQueary forwarded those threats to the Office of
16 Attorney General, does it?

17 A. No, it does not.

18 Q. And it doesn't take into account that he
19 added those words, due to multiple death threats he
20 will not be coaching?

21 A. Correct.

22 Q. And you don't cite any reference to any head
23 football coach that did not hire Mr. McQueary
24 because the University did not permit him to coach
25 because of concern for his safety, do you?

1 A. No, I do not.

2 Q. In part D of your report, you make reference
3 to the actions and words of those in positions of
4 leadership harmed Mike based on the decision to
5 place him on administrative leave. Do you see that
6 reference?

7 A. Yes.

8 Q. Now, you were here for part of the testimony
9 of Dr. Erickson, weren't you?

10 A. Yes, I was.

11 Q. And you heard Dr. Erickson testify that he
12 made the decision to place Mr. McQueary on
13 administrative leave with pay because he concluded,
14 in light of all the circumstances that was facing
15 Penn State at that time, he could not function as a
16 coach; correct?

17 A. I did hear that, yes.

18 Q. But nowhere in your report do you include
19 that rationale with respect to the administrative
20 leave, do you?

21 A. I just heard that this morning so it was hard
22 to put it in the report.

23 Q. And in fact, when you list the deposition
24 transcripts that you reviewed, you didn't bother to
25 review Dr. Erickson's transcript, did you?

1 A. I never saw it.

2 Q. Wasn't provided to you, was it?

3 A. No, it was not.

4 Q. And in your report, do you cite any head
5 coach who did not hire Mr. McQueary because he was
6 placed on administrative leave in November of 2011?

7 A. No, I do not cite any coach.

8 Q. And do you cite any head coach that came to
9 the conclusion that because Mr. McQueary was placed
10 on administrative leave, he must have done something
11 wrong?

12 A. That would certainly be the conclusion that I
13 would have, but I do not cite anybody because I --

14 Q. You do not cite any head coach that came to
15 that conclusion, do you?

16 A. No.

17 Q. You do not cite any head coach who came to
18 the conclusion that he was not to be trusted, do
19 you?

20 A. No specific head coach, that's correct.

21 Q. And with respect to job references, isn't it
22 true that Mike McQueary continued to use Fran Ganter
23 as a job reference?

24 A. My understanding is that he did. But I don't
25 necessarily know that literally. But I assume he

1 did use anybody within the Penn State staff.

2 Q. I'm sorry, I didn't understand.

3 A. I assume he would have tried to work with
4 anyone on the Penn State staff, current or former,
5 future.

6 Q. And he wasn't banned from doing that, was he?

7 A. I suppose if he stayed away from football
8 offices, he wasn't banned.

9 Q. He wasn't banned from contacting Fran Ganter
10 on his cell phone, was he?

11 A. No. I don't know that to my knowledge.

12 Q. He wasn't banned from contacting Coach
13 Johnson who was still on O'Brien's staff, was he?

14 A. No.

15 Q. He wasn't banned from contacting Coach
16 Vanderlinden who remained on Coach O'Brien's staff,
17 was he?

18 A. No.

19 Q. And he certainly wasn't banned from
20 contacting any of the other assistant coaches who
21 had not been retained and moved on, was he?

22 A. No.

23 Q. And in fact, the record shows that he made
24 those contacts, didn't he?

25 A. Yes, he did. That was his network.

1 Q. You now refer to the failure of newly hired
2 Penn State Head Football Coach O'Brien who did not
3 interview Mr. McQueary; correct?

4 A. Yes.

5 Q. And you understood, didn't you, that Mr.
6 McQueary was on administrative leave at the time
7 Coach O'Brien was hired, wasn't he?

8 A. Yes.

9 Q. And were you aware that Mr. McQueary took no
10 effort to contact anyone at the University to inform
11 them that he would be interested in meeting with
12 Coach O'Brien? Did you know that, sir?

13 A. No, I did not.

14 Q. Did you know that he had been told when he
15 started his administrative leave if he had any
16 questions, he could reach out to Coach Bradley?

17 A. Was that a question?

18 Q. Yes. Did you know that Mr. McQueary was
19 informed that while he was on administrative leave,
20 if he had any questions he could reach out to Coach
21 Bradley?

22 A. I did not know that.

23 Q. And I presume then you did not know that Mr.
24 McQueary never reached out to Coach Bradley and said
25 I have an interest in working with Coach O'Brien and

1 meeting with Coach O'Brien?

2 A. I don't know if he could if he was banned
3 from the building on administrative leave.

4 Q. He never reached out to express an interest
5 in meeting with Coach O'Brien, did he?

6 A. No, he did not.

7 Q. He never said, could I access the building on
8 this occasion to have a meeting with Coach O'Brien
9 because I'm interested in the position, did he?

10 A. No. I assume he felt he couldn't based on
11 the administrative leave document.

12 Q. Well, Coach McQueary has testified that after
13 Bill O'Brien announced he was moving onto the
14 Houston Texans, he went to his house and put a
15 letter of interest in Coach O'Brien's personal
16 mailbox. Were you aware of that?

17 A. I think I heard it earlier today, but not
18 based on prior to submitting this report.

19 Q. And Coach McQueary didn't go to Coach
20 O'Brien's house at the time of his appointment to
21 put a letter of interest in his mailbox, did he?

22 MR. STROKOFF: Objection, Your Honor. It
23 assumes he had a house. The man was just hired.

24 MS. CONRAD: Let me rephrase the question.

25 BY MS. CONRAD:

1 Q. Coach McQueary didn't take any action to get
2 any letter, any communication of any sort to Coach
3 O'Brien while he was -- while the news reports were
4 relating that he was going to be the next head
5 football coach, did he?

6 A. Well, that assumes he read the reports. But
7 he was on administrative leave so I sense is he
8 probably couldn't do anything.

9 Q. He didn't do anything to let anyone know that
10 he had an interest in a position on Coach O'Brien's
11 staff, did he?

12 A. Would the University have lifted his
13 administrative leave?

14 Q. Sir, you're here today to answer my
15 questions. And with all due respect, I would ask
16 you to do so.

17 A. Okay. Repeat the question, please.

18 Q. Coach McQueary took no action to inform
19 anyone at the University including Coach Bradley,
20 Erika Runkle, that he had an interest in coaching on
21 Coach O'Brien's staff, did he?

22 A. Correct.

23 Q. And nowhere in your report do you make
24 reference to Mr. McQueary's failure to act, do you?

25 A. I do not.

1 Q. On page nine of your report, you make
2 reference to the message of all these actions and
3 statements also communicated to the public including
4 prospective employers. You make reference to that,
5 don't you?

6 A. Yes.

7 Q. Now, you don't make any reference to the
8 media articles that are being published about Coach
9 McQueary, do you?

10 A. I do not.

11 Q. You don't make any reference to the messages
12 that the University was receiving about safety
13 concerns with respect to Mr. McQueary, do you?

14 A. Do not, no.

15 Q. And are you aware that coach -- that Mr.
16 McQueary in his own words stated, "National media
17 and public opinion ruined me totally in every way."
18 Were you aware he made that statement?

19 A. No.

20 Q. You didn't ask him that question, did you?

21 A. Did not.

22 Q. And nowhere in your report do you reference
23 that Mike McQueary himself said it was national
24 media and public opinion that ruined him, do you?

25 A. Indirectly by saying the absence of a

1 statement by Penn State on McQueary's behalf would
2 fill that vacuum.

3 Q. Other than yourself, you don't refer to any
4 other athletic director that forms the conclusions
5 that you do on page nine; is that correct?

6 A. Correct.

7 Q. And other than yourself, you don't refer to
8 any other head coaches that form the conclusions
9 that you do; is that correct?

10 A. Correct.

11 Q. And nowhere in your report do you make any
12 reference that the University made any negative
13 statement about Mr. McQueary, do you?

14 A. No.

15 Q. And there are no negative statements that
16 you're aware of that the University made about Mr.
17 McQueary, are there?

18 A. No.

19 Q. And with respect to the opinion that you
20 reference at the bottom of page nine, you relate
21 that it was the actions and words of those in
22 position of leadership that harmed Mike McQueary;
23 correct?

24 A. Yes.

25 Q. And again, you make no reference to any head

1 coach that formed that opinion; correct?

2 A. Correct.

3 Q. And no reference to any athletic director
4 that made that opinion; correct?

5 A. Correct.

6 Q. And you're familiar with the fact that Mr.
7 McQueary had applied for a position at Savannah
8 State, aren't you?

9 A. Yes.

10 Q. And that he was working with Coach Wilson
11 with respect to that position; correct?

12 A. Yes.

13 Q. And that he ultimately did not get that
14 position; correct?

15 A. Yes.

16 Q. And you're aware, aren't you, that the
17 athletic director of Savannah State said that they
18 looked into it and just didn't want any distractions
19 to the football program? That's what he said;
20 correct?

21 A. Yes.

22 Q. And then Coach Wilson himself testified that
23 he couldn't hire Mr. McQueary because all the media
24 that would come around would be focusing on him;
25 correct?

1 A. Yes.

2 Q. And Coach Wilson wanted the media to be
3 focused on him; correct?

4 A. Yes.

5 MR. STROKOFF: Objection. That's not what
6 Coach Wilson testified, Your Honor.

7 MS. CONRAD: The witnesses said yes.

8 MR. STROKOFF: The witness did not hear Coach
9 Wilson --

10 THE COURT: He answered before the objection
11 to be ruled upon. The objection is overruled.
12 Members of the jury, it's your recollection of what
13 the coach had to say as to why he did not hire him.
14 And if you're going to ask him in the future, show
15 him deposition pages.

16 MS. CONRAD: Yes, sir.

17 THE COURT: He doesn't cite that. Go ahead.

18 BY MS. CONRAD:

19 Q. You didn't review the deposition transcript
20 of Coach Wilson?

21 A. No, I did not.

22 Q. Now in you report, you make no reference, do
23 you, to the inability of Mr. McQueary to obtain a
24 position as it relates to his network, do you?

25 A. No, I do not.

1 Q. You don't make any reference as to whether or
2 not Mr. McQueary developed a network in his -- in
3 your report, do you?

4 A. Not specifically, no.

5 Q. And that's the network that is so critical in
6 terms of making connections with head coaches to
7 obtain a position, isn't it?

8 A. Yes.

9 Q. And that's the network, the connection which
10 establishes whether or not the head coach determines
11 whether there's that fit?

12 A. Yes.

13 Q. And you don't address that issue at all in
14 your report, do you?

15 A. I think I addressed it that by their actions
16 or lack of actions Penn State blew up that network.

17 Q. My question is, though, in your report you
18 don't reference the relation between Mr. McQueary's
19 network and his alleged inability to get a job, do
20 you?

21 A. Not specifically, no.

22 MS. CONRAD: Thank you. I have no further
23 questions.

24 MR. STROKOFF: Just a few, Your Honor.

25 THE COURT: Yes.

REDIRECT EXAMINATION

BY MR. STROKOFF:

Q. Sir, let's go with Defendant's Exhibit 20.
That's the Spanier statement.

A. Yep.

Q. Now in your report on page 8A, you say that
this statement states that, and I'm quoting from
your report now, charges against Curley and Schultz
are quote within a quote, are groundless, end of
quote within a quote. Okay? That's in your report.

A. Yep.

Q. Ms. Conrad points out that even though the
statement does contain the phrase these charges are
groundless, before that, the president says I'm
confident the record will show that these charges
are groundless. My question to you is, in your
opinion, is the message that this sends to folks in
the athletic department world different between your
statement, the charges are groundless, and the
statement in the Spanier report?

MS. CONRAD: Object as to a compound,
confusing question.

THE COURT: Did you understand the question,
sir?

THE WITNESS: Just repeat it one more time.

1 MR. STROKOFF: Well, I'll phrase it
2 differently then.

3 BY MR. STROKOFF:

4 Q. Your report says that the statement from
5 President Spanier stating charges against Curley and
6 Schultz are quote -- I'm sorry, charges against
7 Curley and Schultz quote are groundless end quote,
8 openly question the truthfulness of McQueary's sworn
9 testimony. And Ms. Conrad points out, oh, this is
10 an error, what it says is, I'm confident the record
11 will show that these charges are groundless. My
12 question to you is, is there any difference in the
13 message that I am confident the record will show
14 that these charges are groundless sends to
15 prospective employers?

16 A. I certainly didn't read it any differently
17 than the statement that the charges are groundless.
18 So I don't -- I think it's parsing words.

19 Q. Okay. I'm confident the record will show
20 these charges are groundless cast the same cloud on
21 Mike McQueary, right?

22 A. Correct.

23 Q. Now, you did say truthfully you weren't at
24 the meeting on November 7th, Mike wasn't at the
25 meeting, you don't know, but President Spanier was

1 at the meeting, right?

2 A. Right.

3 Q. And you read President Spanier's testimony?

4 A. Correct.

5 Q. And President Spanier testified in his
6 deposition that he provided support, strong support
7 for Curley and probably Schultz?

8 A. Correct. I think he said, he didn't use the
9 exact same words as the statement, but, in fact, he
10 conveyed the same message.

11 Q. Now with respect to the decision not to allow
12 Mike to coach despite Coach Bradley's desire and
13 expectation that he would coach, what message does
14 that send to prospective employers?

15 A. Again, that Mike had done something wrong and
16 that he was not going to be allowed to coach.

17 Q. Now Ms. Conrad said, well, did you know that
18 the ultimately release was language suggested by
19 Mike's attorney and PR guy? You didn't know that,
20 right?

21 A. No, I did not.

22 Q. But did you know that the original proposed
23 release from Penn State was that Mike and Tom
24 Bradley agreed that he shouldn't coach, which was a
25 lie? Did you know that?

1 A. Did not know that.

2 MS. CONRAD: Objection as to the
3 characterization.

4 BY MR. STROKOFF:

5 Q. Did you know that the acting athletic
6 director told Mike the reason why he couldn't coach
7 was because of safety concerns or threats?

8 A. That's been reported to me. I think I heard
9 it again earlier this morning.

10 Q. Okay. And so that the final press release
11 reflected what Mark Sherburne had said was the
12 reason why he wasn't going to coach, multiple
13 threats?

14 A. Right.

15 Q. The administrative leave, you say in your
16 report, banning Mike from all Penn State football
17 facilities shuts him off from his network?

18 A. Right.

19 Q. What sense -- forgetting about the network
20 for a second. What does Mike being placed on
21 administrative leave, what message does that send to
22 prospective employees?

23 A. Again, it sends a message that he did
24 something wrong.

25 Q. Or that Penn State is saying he did something

1 wrong?

2 A. Correct.

3 Q. So as Ms. Conrad points out, Mike only worked
4 at Penn State, right?

5 A. Yes.

6 Q. So his primary network would be Penn State
7 folks?

8 A. Yes.

9 Q. So sending out a message to Penn State folks
10 and also cutting him off from his network and the
11 football facilities is harming him?

12 A. Absolutely. Yes.

13 Q. Failure of Bill O'Brien to interview Mike
14 sends what kind of signal?

15 A. Again, that he was persona non grata.

16 Q. There's been some testimony already about
17 assistant coaches changing a lot of positions in
18 order to work their way up the coaching chain. Do
19 people typically leave a first class program like
20 Penn State if they're wanted?

21 A. My sense is coaches are moving to try to get
22 to a Penn State. So they're trying to position
23 themselves, whether they start Division 2, Division
24 3, one double A, they're trying to enhance their
25 career to try to get to a top 25 program.

1 Q. And as Ms. Conrad pointed out, Mike McQueary
2 only worked for one coach?

3 A. He was very fortunate to have the opportunity
4 to play here, to be a grad assistant here, and as I
5 mentioned earlier, it's quite unusual to be elevated
6 at your school from a grad assistant to a full-time
7 position.

8 Q. But the one coach he played for was quite a
9 coach, wasn't he?

10 A. Well, yes, he was. But Coach Paterno had a
11 consistency of retaining his assistants. There was
12 a time I asked him when we were changing coaches at
13 Brown, why did we -- you know, what was the problem
14 with the coach at Brown, and he said too much
15 turnover of his assistants. So Coach Paterno was
16 very -- unless someone was leaving for a head job,
17 he didn't want to lose anybody, and he made sure
18 they were well compensated.

19 Q. And sir, you weren't here for -- let me
20 rephrase this. You weren't provided with any
21 information about these alleged threats that Penn
22 State says it based its decision on, right?

23 A. No. Just what I heard this morning.

24 Q. You don't know whether or not the attorney
25 general's folks thought there was any serious threat

1 against Mike McQueary?

2 A. I do not know.

3 Q. And you don't know whether or not these
4 threats were so serious that nobody provided Mike
5 with any security?

6 A. Do not, no.

7 MR. STROKOFF: Nothing further, Your Honor.

8 MS. CONRAD: A few follow up questions.

9 THE COURT: Go ahead.

10 RE CROSS EXAMINATION

11 BY MS. CONRAD:

12 Q. Mr. Parry, you spoke about Coach Paterno;
13 correct?

14 A. Yes.

15 Q. And you'll agree with me, won't you, that
16 there had been rumors prior to November 2011 about
17 Coach Paterno's retirement? Were you aware of those
18 rumors?

19 A. I heard a little bit about it this morning.
20 I thought it was several years before 2011.

21 Q. Several years before 2011 that Coach Paterno
22 might be retiring?

23 A. Yes.

24 Q. And in the event of his retirement several
25 years ago, there was a chance that a new head coach

1 from the outside would be brought in, wasn't there?

2 A. Again, I can't put myself in Athletic
3 Director Curley's mind and the Board of Trustees and
4 the president, normally it's usual, if a program is
5 successful, you look to promote from within. If the
6 program is losing, not winning, you try to run a
7 search. You don't want to say to the current
8 players if they're successful, why would you change
9 the system? So again, if they're winning, probably
10 a good chance the internal candidate gets elevated.

11 Q. But you weren't aware what the winning rate
12 was back when those rumors surfaced sitting here
13 today, are you?

14 A. I'm sorry, what?

15 Q. You weren't aware of Penn State's record at
16 the time those rumors surfaced about Coach Paterno's
17 retirement, were you?

18 A. Not specifically, no.

19 Q. So when assistant coaches hear that there's a
20 chance their head coach might be retiring, what
21 action do they usually put into play?

22 A. Probably try to understand what the
23 University might be looking for for the next coach.
24 I think I saw a document where every assistant was
25 given an 18 month, if they were still a head coach,

1 when there was a change they would have an 18-month
2 period up to the end of that academic year. I think
3 that probably was in response to trying to retain
4 assistants.

5 Q. And wasn't that 18 months that if the new
6 head coach -- if they were not retained under the
7 new head coach and were terminated, they would
8 receive 18 months of salary?

9 A. Yes. At the end of -- I assume they run it
10 year to year. So as of June 30th, 2012, those that
11 were not retained and did not get another job would
12 have the security of that 18 months.

13 Q. You're not real familiar with the 2008
14 severance agreement, are you?

15 A. I read it.

16 Q. So you know then -- do you know whether or
17 not Mr. McQueary received that 18-month severance?

18 A. I heard this morning that he eventually got
19 it two months after.

20 Q. Prior to this morning, at the time you're
21 preparing your report, did Mr. McQueary provide that
22 information to you that he received 18 months of
23 salary and benefit after his appointment ended?

24 A. Well, there was a gap, but eventually he
25 received it, yes.

1 Q. My question, though, sir, for the third time
2 is whether Mr. McQueary informed you that after his
3 appointment ended he received 18 months of salary
4 and benefits from the University?

5 A. Yes, he did.

6 Q. And did he tell you that during the duration
7 of his appointment, he received full salary and
8 benefits?

9 A. Yes, he did.

10 Q. Now, while Mr. McQueary was on administrative
11 leave, I believe you testified he was shut off from
12 his network; is that correct?

13 A. His network of essentially the support people
14 and the staff based on the meeting that President
15 Spanier had with the entire department that was
16 referenced in his deposition.

17 Q. He wasn't shut off from communicating with
18 the assistant coaches and the rest of the athletic
19 staff, was he?

20 A. What was the message to the staff?

21 Q. Again, Mr. Parry, you're here today to answer
22 my questions and with all due respect, I ask that
23 you please answer my questions.

24 A. I'm sorry.

25 THE COURT: And this is redirect examination,

1 please.

2 MS. CONRAD: Yes, sir.

3 BY MS. CONRAD:

4 Q. Mr. McQueary --

5 A. No, he was not shut off.

6 Q. And he wasn't -- was he shut off from his
7 contacts outside the University?

8 A. No. Not by -- certainly not by the
9 University.

10 Q. And finally, you named several statements
11 about a message that was sent to different
12 prospective employers, didn't you?

13 A. Yes.

14 Q. And nowhere in your report do you reference
15 any prospective employers that took that message or
16 interpreted that message from the actions, did you?

17 A. No.

18 MS. CONRAD: Thank you. I have no further
19 questions.

20 THE COURT: You can step down, sir. Next
21 witness is going to be lengthy, I assume?

22 MR. STROKOFF: Yes. And it's going to be
23 very technical, Your Honor.

24 THE COURT: Yes. Members of the jury, I
25 think we're going to give you a 25-minute break

1 today and let you go home early because there's no
2 point in getting started with a witness that we
3 can't finish today and if it's going to be
4 technical, let's eat a good breakfast tomorrow so
5 we'll be ready to deal with technical testimony.
6 Have in mind my admonition not to discuss the matter
7 with anybody, avoid the media, and we'll see you
8 back here tomorrow. Thank you.

9 (Whereupon, the jury was excused for an
10 overnight recess.)

11 THE COURT: I forget exactly what day I
12 commented about the tennis match back and forth and
13 redirect and recross, et cetera, et cetera.
14 Starting tomorrow, it's going to be strictly
15 enforced. The purpose of redirect or recross is to
16 clarify some point that the other side picked up
17 that you missed, not to restate either person's
18 position again. Have a nice evening.

19 MS. CONRAD: Thank you, sir.

20 THE COURT: Any memos on anything that you
21 have, I want tomorrow morning.

22 MS. CONRAD: Yes, sir.

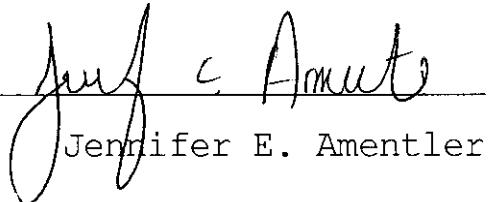
23 E N D O F P R O C E E D I N G S
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C E R T I F I C A T E

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.

11/2/16

Date

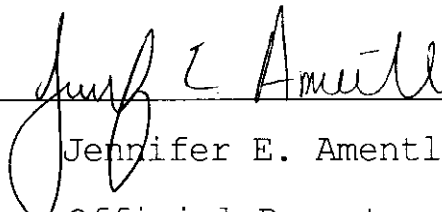

Jennifer E. Amentler
Official Reporter

C E R T I F I C A T E

I hereby certify that a copy of this transcript was furnished and made available to counsel of record for the parties, advising they had until October 31, 2016, in which to file any objections or exceptions to the same. That time period having elapsed without recording of objections or exceptions, the transcript is therefore lodged with the Court for further action.

11/21/16

Date


Jennifer E. Amentler
Official Reporter

ACCEPTANCE BY COURT

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.

Date

11-2-16Thomas G. Gavin

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