



ORIGINAL

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

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

Transcript of Proceedings  
(Day 8 of jury trial - a.m. only)

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

Date: October 26, 2016

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

Appearances:

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

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

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

2016 OCT 26 12:57  
PROthonotary  
CENTRE COUNTY, PA

ORIGINAL

1	Index to the Witnesses				
2		Direct	Cross	Redirect	Recross
3	Plaintiff:				
4	Peter Roussel	4	--		
5		19	47		
6	Samuel Kursh	60	--		
7		67	84	96	--
8					
9	Defendant:				
10	[None]				
11					
12	Index to the Exhibits				
13					Admitted:
14	Plaintiff:				
15	[None]				
16					
17	Defendant:				
18	No. 110				59
19	No. 111				68
20					
21					
22					
23					
24					
25					

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

2 The Court: Good morning, everyone.  
3 Have a seat please.

4 At the conclusion of events yesterday,  
5 members of the jury, I indicated that while the  
6 video would be played counsel and I would  
7 multitask and step out. I have reconsidered  
8 that. I think it's important that counsel and I  
9 be present for all of the testimony, including  
10 the playing of the videotape, and it's not going  
11 to impact the orderly movement of the case  
12 because we will multitask on our lunch hour. So  
13 instead of stepping out we will watch the video  
14 with you and then we will do what we need to do  
15 over the lunch hour and we will be right on track  
16 with where we need to be to I believe reasonably  
17 conclude the testimony today so that we will be  
18 ready to charge and close tomorrow.

19 So go ahead, Ms. Conrad.

20 Ms. Conrad: Judge, based on the  
21 availability of witnesses we are going to present  
22 our two experts first thing this morning. The  
23 video is this afternoon.

24 Peter Roussel please.

25 Whereupon,

1 Peter Roussel  
2 was called as a witness and having been duly  
3 sworn, was examined and testified as follows:

4 The Court: You can adjust the  
5 microphone to suit yourself, sir.

6 Voir Dire as to Qualifications

7 By Ms. Conrad:

8 Q. Good morning.

9 A. Good morning.

10 Q. Will you please state your name for the  
11 record, sir?

12 A. Peter Roussel.

13 Q. And can you kindly spell your last name  
14 for the court reporter?

15 A. R-o-u-s-s-e-l.

16 Q. Mr. Roussel, I am going to start today's  
17 examination with some questions about your --  
18 your education and your professional background  
19 and let me start by asking do you have experience  
20 in the field of college football?

21 A. I do. Yes.

22 Q. And how did you start your experience in  
23 the area of football?

24 A. Well I think it goes back to high  
25 school. I played high school football at Newman

1 School in New, Orleans, Louisiana, and after  
2 graduating from Newman --

3 Q. Well before we get to that where is  
4 Newman located?

5 A. In uptown New Orleans.

6 Q. And is that your hometown growing up?

7 A. It is.

8 Q. Now while you were at Newman did you  
9 play football?

10 A. Yes. I was a wide receiver.

11 Q. And who was your quarterback?

12 A. Quarterback was he Eli Manning, who is  
13 now the quarterback for the New York Giants.

14 Q. And while you are in high school playing  
15 football Eli Manning did you develop a  
16 relationship with him?

17 A. Yes. I did.

18 Q. And did you maintain that relationship  
19 throughout your professional career?

20 A. Yes.

21 Q. Now while you were -- after you finished  
22 high school where did you attend college?

23 A. Old Miss.

24 Q. And Old Miss is the University of  
25 Mississippi?

1 A. Correct.

2 Q. Located where, sir?

3 A. In Oxford, Mississippi.

4 Q. And did you play football at Old Miss?

5 A. I did not but I worked for the coaching  
6 staff as a student assistant on a daily basis  
7 throughout the year.

8 Q. And what were your general duties and  
9 responsibilities as a student assistant with the  
10 football program at Old Miss?

11 A. Yeah. The duties grew every year as the  
12 coaching saw my work ethic and what not but it  
13 could have been in anything from helping put  
14 together scouting reports, assisting the coaches  
15 in breaking down film. By my senior year I  
16 actually coached the scout team as a student  
17 assistant.

18 Q. What's the scout team?

19 A. The scout team is primarily the walk on  
20 players that run the opponent team plays against  
21 your first and second team defense to get them  
22 prepared for the game each week.

23 Q. Now while you were a student involved in  
24 the football program at Old Miss did you engage  
25 in any other activities with respect to football?

1           A.    I did.

2           Q.    And what were those activities?

3           A.    While I worked the Manning Passing  
4 Academy each summer, which is a four day summer  
5 football camp in South Louisiana. I participated  
6 in a prominent golf tournament golf outing three  
7 day deal in Memphis, Tennessee, that  
8 approximately 20 to 30 college football head  
9 coaches would play in that tournament each year.  
10 It was good for me to network with those coaches.  
11 I also -- even as a student at Old Miss I  
12 attended the big college football coaches  
13 convention each January, which is called the AFCA  
14 Coaches Convention.

15          Q.    And as why as a student were you engaged  
16 in these activities with Manning Passing Academy,  
17 with the convention, and the golf tournaments?

18          A.    Yeah. Well I knew from an early age  
19 that I wanted to coach and I absolutely knew the  
20 value of networking and the Old Miss coaches had  
21 stressed to me, hey, if you want to coach you  
22 better start networking now and those were all  
23 opportunities for me to meet coaches around the  
24 country, head coaches, people with the ability to  
25 hire me down the line, and I want to let them

1 know -- I wanted to expose my personality to them  
2 and I wanted to start developing meaningful  
3 relationships.

4 Q. Did you graduate from Old Miss?

5 A. I did.

6 Q. What is your degree in, sir?

7 A. Recreation management.

8 Q. Followed graduation from Old Miss did  
9 you stay in the field of college football?

10 A. I did.

11 Q. What was your first position out of  
12 school?

13 A. I was the defensive assistant. I got  
14 hired by a guy named Buddy Teevens in Stanford  
15 University in Palo Alto, California.

16 Q. And what were your job duties and  
17 responsibilities as a defensive assistant as  
18 Stanford?

19 A. I'd break down the opponent offensive  
20 film to help our assistant coaches prepare for  
21 our weekly opponent, coached our offensive scout  
22 team and our scout special teams, again the walk  
23 on players that would run the opponents team's  
24 plays to help us prepare for the game each week.

25 Q. And did there come a point in time that

1       you left Stanford University?

2           A.   I did.  I returned to Old Miss after  
3       leaving Stanford.

4           Q.   Your alma mater?

5           A.   Correct.

6           Q.   And what did you do when you returned to  
7       Old Miss?

8           A.   I was hired as the offensive quality  
9       control, which is basically the same thing.  You  
10      are breaking down the film, putting together  
11      scouting reports, you know, assisting with the  
12      walk-on players, that kind of thing.

13          Q.   And did there come a point in time that  
14      you moved on to a new position following your  
15      position at Old Miss?

16          A.   Yes.

17          Q.   And where did you move on to, sir?

18          A.   University of Memphis.

19          Q.   And is that in Memphis, Tennessee?

20          A.   Yes.

21          Q.   Okay.  What was your position at the  
22      University of Memphis?

23          A.   I was the offensive graduate assistant.

24          Q.   Now graduate assistant is not the same  
25      as a coach, is it?

1           A.   It's not but I actually coached the wide  
2 receivers as a graduate assistant at the  
3 University of Memphis.

4           Q.   And why did you take the position at  
5 Memphis an offensive graduate assistant?

6           A.   Well very, very unexpectedly the head  
7 coach at Old Miss was fired after the season when  
8 I was working for him. He had just won 10 games  
9 the year before. He was the SCC coach of the  
10 year and the team I think we went -- I think Old  
11 Miss went four and eight that year and he was  
12 actually let go and so when new head coach comes  
13 in like it's kind of known -- or when your head  
14 coach gets let go it's like, hey, man, you --  
15 everybody on the staff knows you better start  
16 looking for another job because it's very rare in  
17 college football the you get retained by new head  
18 coach. And so myself and all of my colleagues,  
19 you know, as soon as Coach Cutcliffe was let go  
20 -- I mean, I started calling everybody I knew  
21 saying, hey, I am probably -- you know, I am  
22 looking for a job.

23          Q.   So you used your network then to help  
24 land that next position at University of Memphis?

25          A.   Yes. I had developed a relationship

1 primarily from playing in that golf tournament  
2 with the Memphis head coach and I reached out to  
3 him I think maybe the day even Coach Cutcliffe  
4 was let go saying, hey, I am going to be looking  
5 for a job.

6 Q. How long were you at Memphis?

7 A. Two seasons.

8 Q. And did there come a point in time you  
9 left Memphis for another position?

10 A. I did.

11 Q. What was that next position?

12 A. I became special teams coordinator at  
13 Samford University in Birmingham, Alabama.

14 Q. And what were your job duties and  
15 responsibilities as special teams coordinator at  
16 Samford?

17 A. Well I called all of the special teams  
18 plays. I was in charge of our personnel from a  
19 special teams standpoint. I recruited -- the  
20 State of Louisiana recruited Nashville,  
21 Tennessee, recruited all of northwest Alabama,  
22 and, I mean, I was a full-time coach.

23 Q. Following -- how long were you at  
24 Samford then, sir?

25 A. One season.

1           Q.   And following that season did you decide  
2   to start a new position?

3           A.   I did.  I had moved -- as you can see in  
4   the coaching profession that you may have to move  
5   often, sometimes not by choice, and I just made a  
6   decision I didn't want to for the next 15, 20, 30  
7   years of my life always chase the next job and  
8   wanted to have more control over where I lived so  
9   I decided to get out of the profession.

10          Q.   When you say get out of the profession  
11   what profession are you speaking of?

12          A.   Well the coaching profession.

13          Q.   All right.  And what did you decide to  
14   do once you decided to get out of the coaching  
15   profession?

16          A.   I bought the website called  
17   footballscoop.com.

18          Q.   What is footballscoop.com?

19          A.   Footballscoop.com was -- even back then  
20   it was viewed as the -- it was kind of industry  
21   hub.  All of the coaches, athletic directors  
22   around the country would use that website to find  
23   out what jobs are open, who got hired today, who  
24   got fired today, who left one college or NFL  
25   organization to go to another, and it also served

1 as a resource for coaches and athletic directors  
2 to find out who got salary increases, or  
3 decreases, or information regarding the coaches'  
4 contracts.

5 Q. And based on your work with  
6 footballscoop.com did you develop a knowledge of  
7 employment opportunities in the field of college  
8 and professional football?

9 A. Yes. Absolutely.

10 Q. Did you go on to develop or work with  
11 any other websites?

12 A. Yes. I later founded a westbound called  
13 coachingsearch.com, which is now the industry  
14 standard, and it's based on providing coaches all  
15 around the country, athletic directors, with the  
16 most timely and accurate information regarding  
17 who is interviewing where, who got hired today,  
18 who got fired today, who left one college or NFL  
19 organization to go to another, and the same with  
20 the salary information as well.

21 Q. And in line with your work with  
22 coachingsearch.com did you further develop your  
23 knowledge with respect to employment  
24 opportunities in the field of college and  
25 professional football?

1           A.   Yes.  Absolutely.

2           Q.   Now while you were working on  
3   coachingsearch.com did you have occasion to  
4   publish articles or information on that website?

5           A.   Yes.  We did that on a daily basis.

6           Q.   And what was the nature of the articles  
7   that you would publish?

8           A.   Really to keep coaches and directors  
9   informed of just the trends in the industry.  We  
10   wanted to have the eyes of coaches and athletic  
11   directors on our sight every day multiple times a  
12   day just providing fresh information.  Just even  
13   the general public is so enamored by coaches.  A  
14   lot of these coaches now are celebrities that are  
15   making millions of dollars and for a lot of  
16   people it's very enjoyable to read about.

17          Q.   So what type of information would you  
18   post?

19          A.   Well in addition to the coaching  
20   transaction news we would summarize maybe like  
21   when a new coach got hired here are the nine guys  
22   that he just hired for his staff and here are  
23   their backgrounds.  Just things like that.  
24   Things about -- a lot of times I would put in  
25   prospective because I had such good feel for it

1       -- in my office I actually had a chart of every  
2 coach in the country by staff by school and as  
3 soon as that staff was let go I knew all of --  
4 those nine guys on that staff were obviously  
5 looking for work and so I would figured out well  
6 who do those guys have connections to, who have  
7 they worked with in the past, where would they  
8 try to get their next job. And so I just -- I  
9 literally woke up everyday and I love it. It's  
10 my passion and I breathe it, and so, one, by  
11 going to the convention every year and by  
12 coaching and just by talking to coaches on a  
13 daily basis I truly came to understand who knows  
14 who, who has worked with each other. I mean, I  
15 have spent an inordinate amount of time of just  
16 reading the timelines of every coach in the  
17 country so I knew their backgrounds.

18       Q. And as you were doing -- collecting all  
19 of that data did you also collect data on  
20 openings for assisting coaches in the field of  
21 college and professional ball?

22       A. Oh, yeah. We always had a page on the  
23 website that would list each of the job openings  
24 and the current time and then once that job was  
25 filled we would update the page and so that all

1 of the coaches who were looking for jobs or --  
2 which honestly is almost -- I mean, it's almost  
3 everybody because people are always -- they want  
4 to make more money. So even if they have a job  
5 they want to know what else is out there. What  
6 else is available.

7 Q. So you regularly update the openings for  
8 assistant coaches?

9 A. I mean, we did that on a daily basis but  
10 right after the season, you know, starting in  
11 December, January, February, first two weeks in  
12 March, I mean, that page is updated multiple  
13 times a day.

14 Q. And with respect to those articles that  
15 you published do you recall one in 2015 that  
16 totally unprecedented year for the coaching  
17 carousel?

18 A. I mean, that seems like an article that  
19 we would have written. Yes.

20 Q. And do you recall reporting that 26  
21 programs have new head coaches in the new season?

22 A. I mean, I know that there has been an  
23 average of 27 new head coaches per year since  
24 2010. So that seems correct.

25 Q. Now in 2014 did you join a consulting

1 group?

2 A. Yes.

3 Q. And what is that -- the name of that  
4 consulting group?

5 A. It's called Coaches Consulting Group.

6 Q. And what is your position with Coaches  
7 Consulting Group?

8 A. I am the vice president of coaching  
9 operations. So I actually lead the coaches  
10 division of a major full service agency.

11 Q. And what do you do in leading this full  
12 service agency for coaches?

13 A. Well I am an agent now and so I handle  
14 the marketing and the contract negotiations of a  
15 number of college football coaches. I also  
16 determine who we offer contracts to in terms of  
17 which college football and NFL coaches we want to  
18 sign as clients. So those are my primary  
19 responsibilities.

20 Q. And do you assist those clients to the  
21 extent they want to change positions or seek to  
22 explore other opportunities in the field of  
23 college and professional football?

24 A. Yes. Absolutely.

25 Q. And without referencing any names for

1 confidentiality purposes how many college  
2 football coaches do you represent at this  
3 particular time?

4 A. More than 20.

5 Q. And any head coaches in that mix?

6 A. Yes. I have several head coaches.

7 Q. And in your current position as vice  
8 president of Coaches Consulting Group have you  
9 developed -- further developed knowledge and  
10 expertise in the area of employment opportunities  
11 in the field of college and professional  
12 football?

13 A. Yes. Absolutely.

14 Ms. Conrad: I would move for admission  
15 of Mr. Roussel as an expert in the area of  
16 employment related to football coaching.

17 Mr. Strokoff: No objection, Your Honor.

18 The Court: Okay. Again, members of the  
19 jury, this witness, as with the other expert  
20 witnesses, I am going to permit him to testify  
21 but you are making your own independent  
22 determination, education, training, and  
23 experience. If he has it then you ask yourself  
24 with relevant information out there what access  
25 and what use of that information did he make and

1 to the extent that he offers an opinion on even  
2 an ultimate issue in the case that is something  
3 you can accept or reject as you can accept or  
4 reject the testimony of any other witness.

5 Go ahead.

6 Ms. Conrad: Thank you, sir.

7 Direct Examination

8 By Ms. Conrad:

9 Q. With respect to this particular matter  
10 in litigation were you asked to render a report  
11 with respect to the claims of Michael McQueary  
12 and in particular his job search efforts to  
13 obtain a position in college or professional  
14 football?

15 A. Yes.

16 Q. And what did you rely upon as you  
17 prepared that report?

18 A. Well I had read some information of  
19 coach and just my overall feel and knowing, you  
20 know, the profession and the trends and -- I  
21 mean, that's --

22 Q. Did you use your knowledge that you  
23 gained as a coach as you reviewed these materials  
24 and prepared this report?

25 A. Yes. That's where I gained my feel

1 for --

2 Q. Did you use your knowledge as a reporter  
3 in the area of football and in the area of  
4 college and professional football as you reviewed  
5 these materials and prepared this report?

6 A. Yes.

7 Q. Did you use your knowledge and  
8 experience that you gained as an employment  
9 consultant for college and professional coaches  
10 as you prepared -- reviewed these materials and  
11 prepared this report?

12 A. Yes.

13 Q. And did you review -- and did you  
14 utilize your knowledge and experience as an agent  
15 as someone who represents coaches in the fields  
16 of college and football as you review these  
17 materials and prepared this report?

18 A. Yes. I think that was very beneficial.

19 Q. And did you use data that you had  
20 accumulated over the past -- I don't know -- 10  
21 to 15 years as you reviewed the materials and  
22 prepare this report?

23 A. Yes. Very much so.

24 Q. And in particular to this lawsuit did  
25 you review certain documents that have been filed

1 or exchanged in connection with this lawsuit?

2 A. Yes. A number of documents.

3 Q. Okay. Do you remember those documents  
4 sitting here today?

5 A. Yes. I know one was obviously the  
6 complaint. I read information from Tom Bradley,  
7 from Matt Rhule, from Earnest Wilson, from John  
8 Parry. There was a number of documents.

9 Q. And you have your report with you, don't  
10 you?

11 A. I do.

12 Q. Could you check your report at page four  
13 where you list all of the documents that you  
14 reviewed just to refresh your recollection as to  
15 whether there were any additional documents that  
16 you reviewed?

17 A. There is two more. Brett Senior and  
18 James Stavros.

19 Q. Who is Brett Senior?

20 A. It says he assisted Mike McQueary in  
21 connection with his coaching activities. I don't  
22 recall specifically what his job title was.

23 Q. Are you familiar with Brett Senior?

24 A. I do not know him personally, no.

25 Q. Have you heard of him in the industry of

1 college and professional football?

2 A. No.

3 Q. Do you know of him as an agent in the  
4 area of college and professional football?

5 A. Never heard of him.

6 Q. Now directing your attention to the  
7 knowledge that you obtained as a coach, a  
8 reporter, and employment consultant, and an  
9 agent, are you familiar with the hiring process  
10 that takes place in college football with respect  
11 to coaches?

12 A. Yes. Absolutely.

13 Q. Can you describe for us based on your  
14 years of experience in college and professional  
15 ball how that system works?

16 A. Sure. When a new coach is hired he  
17 comes in and typically it takes a new head coach  
18 anywhere from two weeks to maybe as much as six  
19 weeks to fill out his nine full -time assistant  
20 coaching slots. So each head coach gets to hire  
21 nine guys and they vastly rely upon their  
22 network, including guys that they have worked  
23 with in the past, guys that they know. I think  
24 you would start there. You know, if they have a  
25 position that they don't quite have a guy that

1       they certainly already know that they want to  
2       hire maybe they will confer with some of the  
3       assistants that he has already hired that he has  
4       brought on board -- hey, I have one slot left, it  
5       has got to be a running back coach, do you have  
6       anybody, and then they will cross check that way,  
7       but honestly guys that become head coaches --  
8       they have been thinking about becoming head  
9       coaches for several years and that's the dream of  
10      most of these coaches. They work there tails off  
11      for years, and work a lot of hours, and put their  
12      families through a lot to hopefully have that  
13      opportunity to one day and so you think about if  
14      I ever become a head coach who would I hire and  
15      most head -- most guys have a list of -- I don't  
16      know. I mean, it could be anywhere from 15 to 25  
17      guys. Sometimes fewer. If i ever get a head  
18      coaching job these are the guys I am really going  
19      to target.

20           Q.   So even prior to becoming a head coach  
21      is it your experience that someone who is looking  
22      to become a head coach already has what I will  
23      call preselected list of those coaches he wants  
24      to bring with him?

25           A.   Yeah. I mean, no question. I mean,

1 every coach in the country will tell you that.

2 Q. And in terms of making those selections  
3 I believe you referenced that if there is an open  
4 slot he may retain one or two coaches that are  
5 with -- currently with the program?

6 A. Yeah. I mean, that is correct.  
7 Obviously you have nine -- you can hire nine  
8 coaches and there are coaches around the country  
9 that decide to keep one guy, maybe two guys, for  
10 different reasons but by and large when you get a  
11 head coaching job you want to bring your own  
12 guys. There is a reason there was a coaching  
13 change. Usually it's because the team had not  
14 been winning and so it's time to get new blood in  
15 the program, get new coaches who inspire players  
16 differently, who have a different level of  
17 expertise, who do things different from a  
18 philosophical standpoint.

19 Q. And based on your experience with  
20 working with coaches, coaching yourself, what  
21 would be the reasons that a new head coach from  
22 the outside might retain one or two of the  
23 coaches you referenced who are with the current  
24 program?

25 A. Yeah. Typically when that occurs, when

1 a coach or two is retained, it gets -- I don't  
2 want to say it's obvious but those coaches have a  
3 tremendous track record. It's almost like why  
4 would you not retain that guy. They have got a  
5 great track record as recruiters, which is just  
6 absolutely critical to coaching in the college  
7 level. You have to be a great recruiter. It  
8 could be because that particular coach has a  
9 great track record of developing all conference  
10 players or all Americans. He does a great job  
11 teaching, and molding, and leading the young men  
12 that he is coaching. It could be that it's a  
13 combination of those two things and some of the  
14 players right away -- they meet the new head  
15 coach and they are like, hey, coach whatever you  
16 do don't get rid of this guy. Everybody on our  
17 team responds to this guy. Sometimes it's the  
18 athletic director. The word gets back to the new  
19 head coach and sometimes it's just nationally  
20 known. Like that guy is a great recruiter it  
21 would not make sense to not keep him.

22 Q. That guy has a great national  
23 reputation. Would that be a factor?

24 A. Yes.

25 Q. And then you mentioned that if the head

1 coach had received information that the players  
2 had expressed an interest in a particular coach  
3 being retained?

4 A. Yes. But honestly just because players  
5 walk into a new head coach's office and they say,  
6 man, we love this guy doesn't necessarily mean he  
7 is going to be retained.

8 Q. And is that because in your experience  
9 the new head coach has complete discretion to hire  
10 his own staff?

11 A. Yes. Absolutely.

12 Q. Now in terms of that selection based on  
13 your experience as a coach, as an agent working  
14 and representing coaches, what is the criteria  
15 that a new head coach from the outside coming  
16 into a new program uses to select his assistant  
17 coaches?

18 A. Well I think a proven track record as a  
19 recruiter is a very important component. A track  
20 record of developing players, especially if you  
21 have got a resume of all conference guys on a  
22 consistent basis or all Americans, who guys who  
23 were high picks in the NFL draft that you coached  
24 for three or four years and that's one of the  
25 reason why they became a first, or second, or

1     third round draft choice because he was very well  
2     coached. Expertise -- just your overall  
3     expertise at the position that you are coaching  
4     and, you know, on that side of the ball. So, for  
5     example, if you are a running back coach you will  
6     have a great expertise of offensive football, how  
7     to coach offense, and then I would say -- I mean,  
8     maybe the most important would be fit. You know,  
9     how does -- that's a common phrase in --

10        Q. And before we get to fit may I interrupt  
11     you for one moment please?

12        A. Sure.

13        Q. Thank you. I apologize. You said there  
14     is nine I believe assistant coaches to be hired?

15        A. Yes.

16        Q. Out of those nine how many offensive  
17     coordinators are there within that staff?

18        A. There is one offensive coordinator.

19        Q. Now going back to fit -- and again I  
20     apologize for interrupting -- what is the most  
21     important criteria? And I think that's where you  
22     were getting of these four criteria that you  
23     listed.

24        A. Yeah. I think fit and I think most  
25     coaches would tell you that.

1           Q.   What do you mean by fit?

2           A.   Well because coaches work so many hours  
3   -- I mean, the typical schedule today -- today is  
4   a Wednesday. Most coaches around the country  
5   that are playing Saturday, today they are in the  
6   office before seven a.m. and they are going to  
7   leave tonight roughly around 10 p.m. I mean, you  
8   -- and you -- I mean, you're working over  
9   Christmas. You are working over New Year. I  
10   mean, it's a grind and so the personalities of  
11   the nine assistant coaches -- they have got to  
12   mesh and just from a philosophical standpoint do  
13   we all -- are we all on board. Do we believe in  
14   the same thing. I have been on a staff where  
15   just one guy didn't fit and it really creates a  
16   major issue.

17          Q.   So is it fair to say that the fit  
18   relates to the assistant coach matching the  
19   chemistry of the head coach along the other  
20   assistant coaches?

21          A.   Yeah. I mean, you do your best as a  
22   head coach to figure out not only -- you don't  
23   just want to just pick the nine best assistant  
24   coaches but you want to figure out is this as a  
25   group the best nine. Is it going to come

1       together. Are we all going to really enjoy  
2       working together. Do we see things the same way.  
3       That kind of thing.

4           Q. And how does a head coach then determine  
5       whether this prospective assistant coach he wants  
6       to bring on to his staff is going to fit? Is  
7       going to be part of that chemistry?

8           A. Well, I mean, that's why head coaches --  
9       so often they hire guys that they have worked  
10      with in the past so that they know what's this  
11      guy like 365 days a year. You know, is he a high  
12      maintenance guy, is he a high energy guy, how  
13      does he inspire players, is he a negative guy  
14      when things don't go right, that kind of thing.  
15      So they rely -- I mean, coaches all over the  
16      country -- you know, they go back to their  
17      network and so it's like almost every coach  
18      starts with who have I worked with, are they  
19      available, can I get them, do we have enough  
20      money to pay them, and then its if you haven't  
21      worked with a particular coach --

22           Q. Right.

23           A. -- it's almost like, okay, who do I know  
24      or who have I coached with that knows that guy so  
25      that I can get a real, you know, trusted opinion

1 on what am I getting. So, for example -- I don't  
2 know. Did I explain that well enough?

3 Q. Why don't you give the example.

4 A. Okay. So, you know, I am the new head  
5 coach -- I am the new head coach at Tennessee and  
6 there is a guy on the staff at Tulane University  
7 who is applying to get on my staff. I have never  
8 worked with this guy before. Okay. So when  
9 coaches around the country -- what they do is  
10 they are going to pull up the Tulane website, see  
11 who are the nine assistant coaches on that staff,  
12 oh, I coached with their tight ends coach in  
13 2004, let me call that guy to get an opinion on  
14 this guy who is applying to be on my job. So you  
15 talk to people that you know, that you trust.  
16 You know that they are going to shoot you  
17 straight so that you have a great feel for what  
18 you are getting. The worst thing you can do --  
19 I mean, the most -- every coach will tell you the  
20 most important thing you do as a college football  
21 head coach -- you got to hire the right guys.

22 Q. It seems to be from what you are  
23 describing in the field of hirings of assistant  
24 coaches it's all about who you know?

25 A. Very much so it's about who you know.

1 Your resume. Yeah. It's important. I mean, it  
2 can't just be -- it's not you have got a great  
3 resume, you get hired. That's not how it works.  
4 In college football and the NFL, I mean, the  
5 importance of a network can -- I mean, it is  
6 absolutely critical.

7 Q. Mr. Roussel, where does talent fit in?

8 A. I mean, talent is important. You are  
9 not going to hire a guy because a good guy but he  
10 can't coach and he can't recruit but you want to  
11 hire guys -- you may take a guy who might not be  
12 as good of a coach and as good of a recruiter,  
13 but you have worked with him before, and you know  
14 what you are getting, and you know what he is  
15 going to be like with the players, and you know  
16 his intangibles, his character, and you just have  
17 a great feel for who he is that -- I mean, that's  
18 just common in the profession.

19 Q. It gets back to the network?

20 A. Yes. Absolutely.

21 Q. I am going to direct your attention now  
22 to the review of -- that you completed on  
23 Mr. McQueary's job search efforts. Did you have  
24 the opportunity to review Mr. McQueary's resume?

25 A. I did.

1           Q.   And did you have the opportunity to  
2   review the profile of Mr. McQueary that was on  
3   the Penn State media guide?

4           A.   I did.

5           Q.   And what, if anything, did you note from  
6   your review of his resume and that media guide?

7           A.   Well, number one, coach had been at Penn  
8   State his entire career. Started as a graduate  
9   assistant and then transitioned into the  
10   full-time role and it's very rare in college  
11   football that you work for the same head coach  
12   for more than a decade. There are -- as we  
13   talked about earlier there is 27 on average head  
14   coaches changes a year since 2010. I mean, this  
15   year there will be another 20 something at least.  
16   Last year I think it was 31 if I am not mistaken.  
17   And so he had been at the same place the entire  
18   time and then just knowing the profession -- I  
19   didn't even have to look it up but Penn State --  
20   they had very, very, very little staff turnover.  
21   Coach Paterno wasn't a guy who fired a lot of  
22   coaches. Personally I can't -- and maybe he  
23   fired a coach or two. I can't remember one but  
24   they also didn't have guy that left Penn State  
25   for other jobs. So it just stands out that Mike

1 McQueary was at Penn State his entire career.  
2 From a resume standpoint, you know, coached some  
3 good players, was a recruiting coordinator, but  
4 nothing just jumps out at you like, oh, my --  
5 wow. That would be my evaluation.

6 Q. Was it a two-page resume that you  
7 reviewed of Mr. McQueary?

8 A. I don't remember any references.

9 Q. There were no references listed on the  
10 resume that you reviewed or --

11 A. No. I don't believe so.

12 Q. Now when you are working with an  
13 assistant coach who is looking to find a new  
14 position what is the type of advice or counsel  
15 you provide to that assistant coach with respect  
16 to a resume?

17 A. Well as an agent what we do is -- for  
18 all of our clients we put together what we call a  
19 marketing profile. You got to get the attention  
20 of head coaches. We use graphic design. We use  
21 -- I mean, it's sharp. We have a full-time  
22 graphic designer and it's usually a 10 to 14 page  
23 -- it shows your track record of developing  
24 players, what you have done as a recruiter, your  
25 team success, your side of the ball success,

1 meaning if you are a wide receivers coach what  
2 has the offense that you have been coaching --  
3 what has that offense done. What are your  
4 achievements from an offensive standpoint over  
5 the years. You want to highlight the best of the  
6 best. And then certainly your team success,  
7 sometimes an individual coach -- some coaches  
8 have more to do with the team success. I mean,  
9 certainly all nine guys have something to do with  
10 it but it's basically a -- you got to get  
11 people's attention. I think the day now of just  
12 a black-and-white resume -- we don't send that  
13 out to anybody. I know that.

14 Q. You put together this high graphic  
15 marketing profile with respect to the coaches you  
16 represent?

17 A. Here is one of the reasons. I mean,  
18 when a job comes open there are so many coaches  
19 that try to get that job. So say it's -- the  
20 wide receivers job Arizona State comes open, I  
21 mean, the head coach at Arizona State -- he is  
22 going to get more faxes, just more information  
23 sent to him than you can imagine. I mean, it  
24 would be over 100 guys and so it's like what we  
25 found is you have to somehow distinguish yourself

1 and people don't have time of just reading  
2 resumes. So like it's got to jump out. It's why  
3 -- you do graphic design stuff well, bam, wow,  
4 that has got my attention. Next page, wow,  
5 interesting. I didn't realize he developed those  
6 four guys that are now in the NFL and you have  
7 got a photo of those four players. And so it's  
8 -- guys are so pressed for time that that's what  
9 we try to do to give our clients an advantage.

10 Q. So you are suggesting that in addition  
11 to this network that is so critical it's  
12 important that you also -- that you need to be  
13 noticed?

14 A. It comes down to this. This is the term  
15 I use with all of our guys. We have got to make  
16 sure we illustrate how you are different and why  
17 you are valuable. How you are different and why  
18 you are valuable and it has got to pop. I mean,  
19 you got -- I always tell our guys have an  
20 elevator pitch. I mean, if you meet Les Miles in  
21 an elevator and you have got 20 seconds to  
22 introduce yourself, give him your background  
23 really quickly, and then follow up with a  
24 handwritten note and develop the relationship.

25 Q. I want to direct your attention now to

1 January 2012. January 2012 Coach Bill O'Brien  
2 was named the new head coach of Penn State. Are  
3 you familiar with that appointment?

4 A. Yes.

5 Q. In conjunction with Mr. McQueary what  
6 position did he coach while he was a coach under  
7 Jose Paterno?

8 A. Wide receivers.

9 Q. And did you obtain any knowledge or  
10 information as you were proceeding in your role  
11 as a reporter, consultant, and agent about how  
12 Coach O'Brien went about selecting his coaching  
13 staff?

14 A. Well I assumed Bill O'Brien was going to  
15 do what most head coaches do and he was going to  
16 rely upon --

17 Mr. Strokoff: Objection, Your Honor.  
18 Now he is speculating. The question was did he  
19 have knowledge.

20 The Court: She will rephrase the  
21 question.

22 By Ms. Conrad:

23 Q. Based on your years of experience as a  
24 coach, reporter, employment consultant, and agent  
25 would it be your understanding that Coach O'Brien

1 would have had a --

2 Mr. Strokoff: Again she is leading this  
3 expert witness, Your Honor.

4 By Ms. Conrad:

5 Q. What do most head coaches have -- strike  
6 that. Bill O'Brien wasn't a head coach prior to  
7 coming to Penn State, was he?

8 A. No.

9 Q. And I believe you testified that someone  
10 that had the dream of becoming a head coach would  
11 plan for that opportunity if, in fact, it  
12 occurred, is that correct?

13 A. Yeah. I mean, Bill O'Brien was the  
14 offensive coordinator for the New England  
15 Patriots. I mean, the guy new at some point in  
16 time he was going to have an opportunity to be a  
17 head coach. Bill O'Brien -- I mean, I can assure  
18 you he had thought long and hard about when that  
19 day comes who am I going to hire.

20 Q. And with respect to the wide receivers  
21 coach do you have knowledge or information about  
22 who Bill O'Brien hired?

23 A. Yes. He hired a guy named Stan Hixon.

24 Q. What do you know about Stan Hixon?

25 A. Stan Hixon was a guy who had vast amount

1 of experience not only the college level -- I  
2 mean, I believe he had coached over two decades  
3 but he also coached in the National Football  
4 League with the Washington Redskins as the wide  
5 receivers coach. He coached with the Buffalo  
6 Bills. I mean, he had been at the highest level.  
7 I am almost certain that he coached on Nick  
8 Saban's staff at LSU back in the early 2000's  
9 which is -- I mean, Coach Saban is the best coach  
10 in college football. That's pretty much  
11 undisputed. I mean, the guy had a great track  
12 record and from a recruiting standpoint he would  
13 be a great asset because he just brings a level  
14 of credibility that -- I mean, wow.

15 Q. Did you know if Coach Hixon had coached  
16 at any colleges or universities?

17 A. Well he did. He had coached with Bill  
18 O'Brien before.

19 Q. Where did he coach with Bill O'Brien?

20 A. Georgia Tech.

21 Q. Okay. So is it your understanding then  
22 that Coach O'Brien would have had a connection  
23 with Coach Hixon prior to Bill O'Brien being  
24 appointed at Penn State?

25 A. Yeah. I mean, not only do they coach

1 together at Georgia Tech but coaches -- once you  
2 coach with a guy and then you all separate you  
3 always follow the people that you worked with. I  
4 mean, some guys reach out more, communicate more,  
5 but you also -- you are always aware of -- like I  
6 can tell you right now all of the guys I worked  
7 with at Old Miss in 2000 where they are. All of  
8 the guys I worked with at Memphis in 2005 where  
9 they are. That's what coaches do. They know  
10 where their guys are.

11 Q. And in addition to knowing where they  
12 are do you keep in contact with them?

13 A. I do. You know, with a lot of the guys.  
14 I mean, some coaches stay in more contact than  
15 others. I mean, it depends on each individual  
16 coach and how much --

17 Q. Is there importance for an assistant  
18 coach to keep that contact with the other coaches  
19 that they have worked with?

20 A. I mean, that is just critical. I mean,  
21 you are just missing -- it's a huge mistake that  
22 some coaches around the country they make and it  
23 comes back to hurt them. I mean, when you work  
24 with a guy and he branches off and goes to  
25 another university or NFL organization that's

1 your lifeline. If a job comes open where he is  
2 working and you have maintained the relationship  
3 and you are trying to get on that staff he is the  
4 guy that is going to go talk to the head coach  
5 about you when you try to get on the staff. So  
6 you better keep in contact and it's got to be a  
7 meaningful relationship.

8 Q. So is it fair to say it's not just about  
9 making the contact, developing the network? It's  
10 also critical to maintain the relationship within  
11 the network?

12 A. Absolutely.

13 Q. I want to direct your attention now to  
14 the material you reviewed with respect to  
15 Mr. McQueary's job search. All right? I believe  
16 you made reference to the number of openings for  
17 wide receivers in the 2011/2012 period, correct?

18 A. Yes.

19 Q. How many football Division 1 programs  
20 were there in 2011/2012?

21 A. About 120 just at the Division 1 level.

22 Q. And just at the Division 1 level in that  
23 time period how many changed were there in the  
24 wide receiver coaching positions?

25 A. There were more than 50.

1           Q.   And does that mean there would have been  
2   50 potential opportunities for a position as a  
3   wide receivers coach in that particular year?

4           A.   Yes.  There would have been more than  
5   50.  Maybe some of those places, you know, he  
6   wouldn't have been a candidate at just based on  
7   geography and whatever but yes, a lot.  There  
8   were a lot of opportunities.

9           Q.   And does that number take into account  
10  other divisions in college football?

11          A.   No.  It does not account for the 1AA  
12  level, which is lower level schools than the  
13  major colleges and it doesn't account for the NFL  
14  organizations either.

15          Q.   So is it fair to say that those numbers  
16  don't take into account hundreds of other  
17  openings available during that year?

18          A.   Yeah.  It does not account for that.  
19  Absolutely.

20          Q.   I want to ask you some questions now  
21  about the report of Mr. John Parry that was  
22  submitted by plaintiff.  Are you familiar with  
23  that report?

24          A.   I am.

25          Q.   Now Mr. Parry makes certain conclusions

1 and offers certain opinions and I want to take  
2 you through them and obtain your response to  
3 them. Mr. Parry offers the opinion that the  
4 actions and words of those in position of  
5 leadership have irreparably harmed Mike  
6 McQueary's ability to continue in his chosen  
7 profession as a collegiate football coach and do  
8 you recall reading that opinion?

9 A. I do.

10 Q. And he basis that opinion on several  
11 conclusions and I want to take you through them.  
12 Is it your determination based on the materials  
13 that you reviewed and your experience in college  
14 and professional football that a statement that  
15 had been issued by President Spanier irreparably  
16 harmed Mike McQueary's ability to continue his  
17 chosen profession in the area as a college  
18 collegiate football coach?

19 A. No. I do not.

20 Q. And did you have the opportunity to  
21 review the Spanier statement?

22 A. Yes.

23 Q. And you are aware -- strike that.  
24 Mr. Parry also concludes that the actions and  
25 words of those in position of leadership

1 irreparably harmed Mike McQueary in his ability  
2 to continue his profession as a collegiate  
3 football coach based on statements that  
4 Dr. Spanier made to the intercollegiate athletic  
5 department in which he expressed support for  
6 Mr. Curley and Mr. Schultz. Do you believe that  
7 those statements irreparably harmed Mr. McQueary  
8 in his ability to continue his profession as a  
9 collegiate football coach?

10 A. No. I do not.

11 Q. Mr. Parry also based his opinion on the  
12 conclusion that Mr. McQueary was not permitted to  
13 coach in the Nebraska game in November of 2011.  
14 Do you agree with the opinion that because  
15 Mr. McQueary was not permitted to coach in that  
16 Nebraska game that irreparably harmed his ability  
17 to continue in his chosen profession as  
18 collegiate football coach?

19 A. No. I do not because it's my  
20 understanding that that was for safety  
21 precautions.

22 Q. And Mr. Parry goes on to opine that the  
23 subsequent decision to place Mr. McQueary on  
24 administrative leave irreparably harmed his  
25 ability to continue in his chosen profession as a

1 collegiate football coach. Do you believe that  
2 placing Mr. McQueary on administrative leave  
3 irreparably harmed his ability to continue his  
4 chosen profession as a collegiate football coach?

5 A. No. I do not.

6 Q. Mr. Parry also opines that the failure  
7 of Coach Bill O'Brien to interview McQueary for a  
8 position on his staff irreparably harmed Mike  
9 McQueary's ability to continue in his chosen  
10 profession as a collegiate football staff. Do  
11 you agree with that opinion?

12 A. No. Absolutely not. I mean, it's --  
13 can I expand?

14 Q. Certainly.

15 A. I mean, I have been through it  
16 personally where guys -- it's almost like that's  
17 a formality a lot of times to be honest with you  
18 at universities. Like sometimes it's in a  
19 coach's contract when it will say if the current  
20 head coach is fired we will guarantee you the  
21 opportunity to interview with the next head  
22 coach. Like that's comical. Like guys and  
23 coaches all over the country know -- I mean, I  
24 have worked with guys where before they actually  
25 sit down in their chair the new head coach is

1 saying, hey, man, just being up front I am not  
2 going to have something for you and then it's a  
3 four-minute conversation, shake hands, and leave.  
4 I mean, coaches know how it works. A lot of  
5 times that's a -- it's just a formality. There  
6 is -- it's almost like to tell the public, yeah,  
7 I talked to -- new head coaches -- put it this  
8 way. When they get the job they are always asked  
9 by the media are you going to consider the  
10 current assistance on this staff for your new  
11 staff and darn near every coach says well, you  
12 know, there is some good coaches on this staff  
13 and I am going to talk to them but I do have some  
14 guys in mind. It's like, dude, you aren't  
15 keeping -- like they are not going to keep many  
16 of those guys, if any.

17 Q. So based on the materials that you  
18 reviewed in connection with this litigation,  
19 along with your years of experience as a coach, a  
20 reporter, an employment consultant, and an agent,  
21 did you form an opinion as to whether it was  
22 likely that Mike McQueary would have been  
23 retained at Penn State following the appointment  
24 of Bill O'Brien as head coach?

25 A. I did.

1 Q. And did you form an opinion to a  
2 reasonable degree of certainty?

3 A. Yes.

4 Q. And what is that opinion, Mr. Roussel?

5 A. I did not think Coach O'Brien would keep  
6 Coach McQueary.

7 Q. And based on the information that you  
8 reviewed in connection with this litigation along  
9 with your years of experience as a coach, a  
10 reporter, an employment consultant, and an agent,  
11 did you form an opinion with respect to the  
12 failure of Mike McQueary to obtain employment  
13 after the expiration of his contract with PSU?

14 A. I did.

15 Q. And do you form that opinion to a  
16 reasonable degree of certainty?

17 A. Yes.

18 Q. And what is that opinion?

19 A. Well I think coach had a very limited  
20 network because he had worked at Penn State for  
21 his entire career and I think it was  
22 significantly to his detriment that coaches  
23 didn't branch off from this staff. Sometimes  
24 it's good for you to have some of your colleagues  
25 get fired because then they go get other jobs and

1       now you have contacts at other places that are in  
2       a position to help you. Sometimes it's good for  
3       guys on your staff to get promotions, to go make  
4       more money or have a better job title at other  
5       places because you have got -- now you have got a  
6       lifeline at other places. Guys who you have  
7       worked with that are going to be able to speak up  
8       for you -- they are all over the country, and you  
9       look at coach's timeline both of those hindered  
10      him, no doubt, and when you looked at his resume  
11      -- good resume? Yeah. Good resume. Did they  
12      have a good team certain years? Yeah. They had  
13      a good team but nothing is like, wow, you have  
14      got to hire Mike McQueary, like he is available,  
15      and so when you combine all of those, yeah, I  
16      think that he was definitely hindered.

17           Q. Thank you. I have no further questions  
18      at this time. Mr. Strokoff may have some  
19      questions.

20           Mr. Strokoff: I do.

21                   Cross-Examination

22      By Mr. Strokoff:

23           Q. Sir, my name is Elliott Strokoff and I  
24      represent Michael McQueary in this action. Can  
25      you tell us, sir, what your date of birth is?

1 A. May 19, 1980.

2 Q. So you are 36 years old?

3 A. Yes.

4 Q. Okay. And what year did you graduate  
5 Old Miss?

6 A. December 2002.

7 Q. And while you were at Old Miss you were  
8 a student assistant?

9 A. Yes.

10 Q. With some growing responsibilities over  
11 the years?

12 A. Yes.

13 Q. And after you graduated Old Miss you  
14 went to Stanford University?

15 A. Correct.

16 Q. What was the position you had at  
17 Stanford?

18 A. Defensive assistant.

19 Q. Defensive assistant coach?

20 A. Defensive assistant.

21 Q. All right. Were you an assistant coach?

22 A. No. There is nine full-time assistant  
23 coaches.

24 Q. So you were somebody who was a defensive  
25 assistant, not an assistant coach?

1 A. Correct.

2 Q. And you were at Stanford for how long?

3 A. One season.

4 Q. And then you returned to Old Miss and  
5 you said offensive quality control?

6 A. Correct.

7 Q. Was that an assistant coach position?

8 A. You are not one of the nine full-time  
9 assistant coaches.

10 Q. So the answer is no?

11 A. In the coaching profession when you are  
12 a graduate assistant or a quality control  
13 assistant you refer to yourself as a coach.

14 Q. But my question is you don't refer to  
15 yourself as an assistant coach, right?

16 A. No. Legally that would not be correct.

17 Q. Okay. And how long were you at Old Miss  
18 in offensive quality control?

19 A. One season.

20 Q. And then you went to Memphis as an  
21 offensive grad assistant?

22 A. Correct.

23 Q. And as an offensive grad assistant you  
24 have to take courses?

25 A. Yes. You have to be enrolled in

1 courses.

2 Q. Okay. And did you obtain a master's  
3 degree?

4 A. I did not. I worked towards a master's  
5 degree but no I didn't finish with a master's.

6 Q. So you're offensive grad assistant for  
7 two years?

8 A. Yes.

9 Q. Then you went to Samford?

10 A. Correct.

11 Q. And where is Samford?

12 A. Birmingham, Alabama.

13 Q. Okay. And were you an assistant coach  
14 as Samford?

15 A. Yes. I was the special teams  
16 coordinator.

17 Q. So you finally -- and what year is this?

18 Ms. Conrad: Object to the  
19 characterization. Finally.

20 Mr. Strokoff: All right.

21 By Mr. Strokoff:

22 Q. What year, sir, did you become an  
23 assistant coach?

24 A. 2007.

25 Q. And that was for one season?

1 A. Yes.

2 Q. And then you decided not to be an  
3 assistant coach or head coach at that point and  
4 bought a website?

5 A. Yes.

6 Q. Now where is your business located, sir?

7 A. Our company headquarters is in Houston  
8 -- are you talking about what I do now?

9 Q. Yeah.

10 A. Houston, Texas.

11 Q. And how long have you been operating  
12 your business in Houston, Texas?

13 A. Well I joined the company in -- it's  
14 been a little over two years.

15 Q. Now, sir, you wrote a report dated  
16 October 6, 2016, is that correct?

17 A. Yes.

18 Q. Okay. When were you engaged to write  
19 this report?

20 Ms. Conrad: Objection. Relevancy.

21 The Court: It's cross-examination,  
22 counsel. He can ask whatever he wants.

23 Go ahead.

24 The Witness: Maybe a week and a half  
25 prior to that.

1 By Mr. Strokoff:

2 Q. All right. And, sir, with respect to  
3 the report which you've issued do you agree that  
4 when you set forth the nine documents that you  
5 reviewed you didn't included the hundreds of  
6 pages of documents detailing Mr. McQueary's  
7 actual job search over the years?

8 A. I didn't go through hundreds of pages of  
9 documents. No.

10 Q. And you didn't list any of those  
11 documents in your report, right? Talking about  
12 your report.

13 A. I mean, no. I didn't -- there was  
14 nothing that I looked at that was hundreds of  
15 pages long of what his job search was like.

16 Q. Now you do say in your report that you  
17 reviewed John Parry's report, right?

18 A. Correct.

19 Q. Okay. And, sir, do you agree with me  
20 that there is absolutely nothing in the report  
21 which you authored on October 6, 2016, which  
22 criticizes any part of John Parry's report?

23 A. It's not in my -- in my report. I don't  
24 believe so.

25 Q. Okay. Sir, you were paid for writing

1       this report, were you not?

2           A.    It's my understanding that experts are  
3       paid, and, yes, there is a level of compensation.

4           Q.    Okay.  And what were you paid for  
5       writing the report?

6           A.    How much?

7           Q.    Yeah.

8           A.    It's undetermined.

9           Ms. Conrad:  Objection as to relevancy.

10          The Court:  Come on up here please.

11          (Whereupon, the following conversation  
12       was held at side bar:)

13          Ms. Conrad:  This is gamesmanship.  You  
14       know, we didn't stoop to this level during our  
15       examination.

16          Mr. Strokoff:  Your Honor, there is  
17       nothing in his report that criticizes John Parry.  
18       He says the most important thing is fit.  John  
19       Parry said the most important thing is fit.

20          The Court:  So why don't you just say do  
21       you agree with Mr. Parry that fit is it?

22          Mr. Strokoff:  I understand that but now  
23       he is -- he is here today now adding things in.

24          The Court:  Gamesmanship is  
25       unfortunately part of --

1 Ms. Conrad: I understand that, sir.

2 The Court: I personally don't think you  
3 get any place by asking somebody because  
4 everybody knows nobody is here for next to  
5 nothing except for the judge. The rest of you  
6 are all very well -- so I would ask another  
7 question and I think there are a lot of other  
8 questions you can put this man that are more  
9 beneficial to your side.

10 Mr. Strokoff: But you are not  
11 sustaining the objection?

12 The Court: I am not going to sustain  
13 the objection. If you want to ask it, go ahead.

14 (End of side bar.)

15 By Mr. Strokoff:

16 Q. And, sir, I agree with you, you are  
17 entitled to charge a fee because you are an  
18 expert, but my question is what was your fee for  
19 writing this report?

20 A. Yeah. It's an undetermined amount that  
21 that is not significant and costs -- it's covers  
22 my travel and I was not doing this in no question  
23 for money.

24 Q. So are you saying that you haven't been  
25 paid yet for the report?

1           A.    I have not been paid.

2           Q.    And you don't have a contract that sets  
3    forth the terms and conditions under which you  
4    will be paid?

5           A.    There is a contract but it does not  
6    specify -- there is a range of the amount of  
7    money and it's --

8           Q.    But you say you are not doing this  
9    report for money?

10          A.    No.   I am not here grabbing money.

11          Q.    Do you know Mike McQueary?

12          A.    I basically made sure that I was  
13    compensated basically for my time for today, and  
14    yesterday, and the conversation that I had to  
15    have on the phone that I would have been  
16    focussing on all of my jobs right now with the  
17    coaching carousel season coming up.  Like I am  
18    kind of busy right now.

19          Q.    Have you ever met Mike McQueary?

20          A.    No.

21          Q.    Did you ever talk to him?

22          A.    No.

23          Q.    Sir, do you recall that John Parry said  
24    most important criteria is probably fit?  If you  
25    don't --

1           A. Yeah. I am not certain. I read the  
2 report. I read his report. I read his  
3 statements.

4           Q. You are saying you are not certain you  
5 read his report?

6           A. No. I certainly read it. I can't  
7 actually recall if he said what the exact quote  
8 was.

9           Q. Okay. So in your report which you  
10 issued you had no criticism of Mr. Parry but  
11 today you do? Testified you had some criticism  
12 today? Not even criticism. I will rephrase it.  
13 You disagree with some of Mr. Parry's opinions?

14          A. Yeah. I would have to go back -- like I  
15 would love to be able to read to dispute one  
16 thing after another. I mean, I remember reading  
17 it and I disagreed with it. I remember that.

18          Q. And it's your opinion that the key  
19 factor with obtaining a job as an assistant coach  
20 is a network?

21          A. Networking is absolutely critical. No  
22 doubt about it.

23          Q. And it's the network that enables you to  
24 get in quickly to be considered by a head coach  
25 when there is an assistant coaching vacancy?

1           A.   Yes.  You put that very well.

2           Q.   And you have to act quickly?

3           A.   No doubt.

4           Q.   Sir, will you agree with me if you do  
5 not know somebody who knows the head coach to put  
6 in a word for you there is not much sense in  
7 applying for an assistant head coach with that  
8 coach?

9           A.   No.  I would not agree.  It certainly is  
10 a detriment but that is not how I approach  
11 things.  I mean, with my guys we are going after  
12 jobs.  If a guy wants to go after a job we have  
13 got a marketing profile and I am going to make  
14 sure that that head coach understands how my  
15 client is different and why he is valuable.

16          Q.   So even if you don't have a network you  
17 still think it makes sense to apply for a  
18 position?

19          A.   Yes.  It makes sense because you never  
20 know but it certainly reduced your chances.

21          Q.   Significantly?

22          A.   Yes.  I would say significantly.

23          Q.   Now this Exhibit A to your report --  
24 it's entitled college coaching transitions wide  
25 receiver coaches 2011 to 2012.  This is something

1       you put together, right?

2           A.   Yes.  Myself and my former -- or my  
3       managing editor with coachingsearch.com.

4           Q.   And this shows that there were wide  
5       receiver changes between 2010 and 2011 season?

6           A.   Yes.  This is something I did back then.  
7       This isn't something I did this -- for this court  
8       appearance or anything.  I had this on file.  
9       Every year since I think 2008 I go through every  
10      Division 1 school in America and list every coach  
11      on that staff by position and I actually have a  
12      chart in my office so when the coaching carousel  
13      season comes I understand where everybody is, who  
14      is going to be looking for a job, who is out of a  
15      job, and that's one of the reasons why the  
16      website took off because we put the connections  
17      together.

18          Q.   And the coach carousel season begins  
19      November?

20          A.   I mean, right now there are already five  
21      jobs open for next year.  Yeah.  I mean, it's  
22      already -- I mean --

23          Q.   But with respect -- when you have your  
24      2011 to 2012 you are talking about --

25          A.   Before the 2012 season those guys were

1 hired.

2 Q. But those guys -- most of them were  
3 hired either at the end of 2011 or the beginning  
4 of 2012, right?

5 A. Right. That's the purpose of that  
6 chart.

7 Q. So we are clear with respect to  
8 Mr. Hixon he had over two decades of college  
9 coaching experience and also some pro-coaching  
10 experience?

11 A. He did but he had also worked with Bill  
12 O'Brien in the past.

13 Mr. Strokoff: Pass witness, Your Honor.

14 Ms. Conrad: Your Honor, I have no  
15 further questions for this witness. I move for  
16 the admission of D-110, the report of  
17 Mr. Roussel.

18 Mr. Strokoff: No objection, Your Honor.

19 The Court: Okay. It's admitted.

20 Ms. Conrad: Thank you, sir.

21 The Court: You can step down.

22 The Witness: Thanks.

23 Ms. Conrad: Would you like us to  
24 continue?

25 The Court: Who is next?

1                   Mr. Morrison: University calls  
2                   Dr. Samuel Kursh.

3                   Whereupon,

4                                 Samuel Kursh  
5                   was called as a witness and having been duly  
6                   sworn, was examined and testified as follows:

7                   The Witness: Good morning, Your Honor.

8                   The Court: Good morning.

9                   Voir Dire as to Qualifications

10                  By Mr. Morrison:

11                  Q. Good morning, as you know my name is  
12                  George Morrison. Can you please state your full  
13                  name for the record please?

14                  A. Samuel J. Kursh, K-u-r-s-h.

15                  Q. And, Dr. Kursh, before we get into the  
16                  relate substance here today we are going to do a  
17                  little background exploration with you starting  
18                  with your education. So I am assuming you  
19                  graduated from high school, is that correct?

20                  A. Mount Pleasant High School in  
21                  Wilmington, Delaware.

22                  Q. Okay. And then from there where did you  
23                  go?

24                  A. I went to the University of Delaware and  
25                  then graduated in 1969 with a combined degree of

1 mechanical engineering and business  
2 administration.

3 Q. And after the University of Delaware did  
4 you continue on in your education?

5 A. Yes. I went to the George Washington  
6 University in Washington D.C. and then I got a  
7 master's degree from them in 1971 in a field  
8 called engineering administration, which was  
9 management of the technical organization.

10 Q. And after receiving that master's degree  
11 did you obtain any further degrees?

12 A. Yeah. Like many politicians I couldn't  
13 leave Washington so I got a doctorate at George  
14 Washington as well.

15 Q. And can you go into a little bit more  
16 detail about that doctorate?

17 A. Yeah. I got a doctorate in business  
18 with areas of concentration in applied economics  
19 in a field called operations research, which is  
20 the use of mathematics and statistics and related  
21 disciplines in the analysis of complex problems.

22 Q. After you obtained these degrees --  
23 getting into your work experience now, can you go  
24 over the basic outline of your work experience?

25 A. Yeah. I started out with an academic

1 career and I was with the State University of New  
2 York at Stony Brook where I taught for a year and  
3 a half, almost two years, and I then decided that  
4 the academic world wasn't really for me and I  
5 moved back to Wilmington, Delaware, and became  
6 associated with our family business, which was a  
7 plumbing supply, and I ran that business for 12  
8 years and I got bored and decided to do something  
9 else and I went into -- I had gotten exposed to  
10 the litigation process and realized there was a  
11 need for economic and statistic expertise. So I  
12 decided to change careers and do that and that  
13 was 30 in years ago. So I have been doing that  
14 ever since.

15 Q. Okay. And when you switch gears are  
16 there any specific companies or organizations  
17 that you are affiliated with when you made that  
18 switch?

19 A. I started out with a company called the  
20 Center for Forensic Economic Studies.

21 Q. And what were your job duties,  
22 responsibilities at the Center for Forensic  
23 Studies?

24 A. We started out as working on a single  
25 commercial matter involving trucking and I often

1 kid that the reason I left the plumbing supply  
2 business was I hated to wait -- I hated to be  
3 conscious of when is the painter going to show up  
4 to do something and was the accountant going to  
5 be here this week, all of those little details of  
6 running a business, and it took about six months  
7 and I was running Center for Forensic Economic  
8 Studies. So I was back in the same position.

9 So I became a partner a couple years  
10 later in the center and in 2003 four of the five  
11 partners sold their business, including me, to a  
12 public company and we remained with that company  
13 -- I did until 2010 and then I went out on my own  
14 and my partners left in 2000 -- I think 2012.  
15 Now we all partners again in another company  
16 called BLDS.

17 Q. And while you were -- I have it noted  
18 you were a director from 2003 to 2010 for that  
19 organization during that time period. What were  
20 your responsibilities? Job duties? What were  
21 you doing during that time period?

22 A. Over my time doing this kind of work I  
23 have concentrated on employment matters and  
24 commercial litigation. I have done the same  
25 thing for --

1           Q.    Sure.  And that includes your current  
2           position that you hold today?

3           A.    Yes.

4           Q.    And focussing in on -- you just  
5           mentioned employment related matters.  Can you  
6           expand a little bit on what type of work you did  
7           with employment related matters?

8           A.    Well most employment cases I would put  
9           them in two categories.  There is the failure to  
10          cases, failure to hire, failure to promote, and  
11          that's a whole group of cases where people feel  
12          that very have been treated unfairly, that they  
13          didn't get a job, they did not get the job they  
14          wanted, and they sue the company.  The second --

15          Q.    I am going to ask you to talk a little  
16          closer to the mic.  The acoustics in this room  
17          are not the best?

18          A.    Oh, okay.

19          Q.    Thank you.

20          A.    The second group are cases where there  
21          are some kind of dispute and it can be a  
22          Whistleblower case or some other and someone is  
23          terminated or doesn't get rehired.  Those are the  
24          two general types of cases.

25          Q.    And what was your role with those types

1 of cases?

2 A. Virtually always my role is the  
3 calculation of economic loss.

4 Q. Do you have any teaching experience  
5 besides the initial run at Stony Brook?

6 A. Yes. I taught the University of  
7 Delaware. I taught financing accounting from the  
8 construction industry. I taught a course on  
9 alternate energy utilization and then I taught  
10 the business school at Temple University where I  
11 taught operations research -- excuse me -- and  
12 production management. Same course, different  
13 title. And I've taught at Temple University Law  
14 School where two partners and I taught a course.  
15 It went by a number of different names but it was  
16 basically economics and statistics in the law.

17 Q. Publications. Are you well published?

18 A. Well, well would be your choice of a  
19 word.

20 Q. Fair enough. Can you give us just an --

21 A. I probably have 15 or 20 publications  
22 directed towards potential clients or on issues  
23 that I find particularly interesting and I want  
24 to write about it.

25 Mr. Morrison: Okay. At this time I

1 would like to move for the qualification of Dr.  
2 Kursh as an expert witness for economics.

3 Mr. Strokoff: No objection, Your Honor.

4 Mr. Morrison: Thank you.

5 The Court: Again, as with all of the  
6 others, education, training, and experience of  
7 all of the relevant information does he have --  
8 does he hold his opinion to a reasonable degree  
9 of I suppose in this instance forensic science.  
10 Again my decision is not binding on you. He is  
11 qualified.

12 Go ahead.

13 Mr. Morrison: Thank you.

14 Ms. Conrad: Your Honor, I apologize for  
15 interrupting but in light of time would this be a  
16 good opportunity for a break before we get into  
17 the heart --

18 The Court: All right. That might make  
19 sense here. Why don't we take 15 minutes,  
20 members of the jury. Go ahead and step out.

21 Counsel, want to come up here a second?

22 (Whereupon, a discussion was held off  
23 the record.)

24 (Whereupon, a break was taken.)

25 The Court: Take a seat please.

1                   Go ahead, counsel.

2                   Direct Examination

3       By Mr. Morrison:

4           Q.   Dr. Kursh, did you prepare a report with  
5       respect to the claims asserted in this particular  
6       litigation?

7           A.   I did.

8           Q.   And in front of you there is a binder  
9       which I have open to Defendant's 111 which is in  
10      volume three of defense binders. Can you take a  
11      quick look at that document?

12          A.   It is my report or a copy of it.

13          Mr. Morrison: I would like to move for  
14      the admission into evidence D-111.

15          Mr. Strokoff: No objection, Your Honor,  
16      however, I do note that the report references a  
17      page setting forth Dr. Kursh's documents that he  
18      reviewed and that's not on the copy of the  
19      exhibit, which I have been provided.

20          The Court: I am sure counsel will  
21      provided that for you.

22          Mr. Strokoff: And I am suggesting it  
23      might not be part of what he has.

24      By Mr. Morrison:

25          Q.   Dr. Kursh, do you need that --

1           The Court: Excuse me. Just a moment.

2           D-111 is admitted without objection and  
3 then we need to check to make sure everybody has  
4 the right pages.

5           The Witness: I left out the page when I  
6 sent it to him. I sent the page to you a couple  
7 days later.

8           The Court: So what exhibit book are we  
9 in? Five?

10          Mr. Morrison: Three.

11          The Court: Okay. Doctor, the exhibit  
12 that you have in front of you does that have the  
13 page that the rest of us don't have but that you  
14 sent to --

15          The Witness: No, Your Honor. It does  
16 not.

17          The Court: You don't have it either?

18          The Witness: No.

19          The Court: Well we are working at the  
20 same disadvantage. So when the page is produced  
21 we can do with it as we need to do.

22          Go ahead.

23          Mr. Morrison: D-111 is admitted?

24          The Court: Yes.

25          Mr. Morrison: Thank you.

1 By Mr. Morrison:

2 Q. Dr. Kursh, I am going to pretty much  
3 work through in chronological order of the report  
4 that's been marked as D-111. Starting off I note  
5 that in your report you make observations with  
6 respect to labor market data. Can you explain to  
7 the jury why it's important to consider labor  
8 market data?

9 A. It's always important to consider -- in  
10 an employment case it's always important to  
11 consider the state of the labor market at the  
12 time. In some cases it's very important to know.  
13 In other cases not so much. This is a case where  
14 labor market data was just included for  
15 background. It does not particularly help except  
16 with respect to the ability the get jobs in this  
17 case outside of coaching but it does not -- it is  
18 not the key thing in this particular matter.

19 Q. Okay. And moving onto the fact that you  
20 note that you did not provide an opinion as to  
21 liability. Can you explain why you did note that  
22 in your report?

23 A. Well there are one, two, three -- at  
24 least a half dozen a lawyers here who have  
25 opinions on liability. I am not a lawyer and I

1 have no opinion on it.

2 Q. Fair enough. And you also make  
3 reference --

4 The Court: You didn't count me though.

5 The Witness: No. I did actually.

6 By Mr. Morrison:

7 Q. You also make reference that it's  
8 important that one must consider Mr. McQueary's  
9 likely career path either within or in coaching.  
10 Why is that something important that must be  
11 considered in rendering your opinions?

12 A. As a general rule in an employment case  
13 you look at what the industry career path is. If  
14 you were an aerospace engineer and you're working  
15 for Boeing you can go through the progression of  
16 engineering jobs at Boeing and get a pretty good  
17 idea of what someone would earn and -- however,  
18 in that case, the Boeing example that I just gave  
19 you, knowledge of the industry plays an important  
20 role but not the dominant role because there are  
21 other jobs available in aerospace engineering,  
22 and there are many other companies who do it, and  
23 the progression of people through them is fairly  
24 well defined.

25 Now in coaching it's an entirely

1 different matter. One has to -- but in the same  
2 idea you have to understand what's going on in  
3 the industry with respect to positions in the  
4 industry and what likely career paths there are  
5 and what -- what career paths would be  
6 probabilistically most likely and that's what we  
7 try to bring to this.

8 Q. Okay. And you begin to reference  
9 coaching and I almost had a follow-up question  
10 for you. So that's fine but I note that you make  
11 the -- you reach the conclusion that coaching is  
12 an industry with incredible turnover, is that  
13 correct?

14 A. Well certainly the literature indicates  
15 that that's the case. My tangential involvement  
16 as a sports fan I probably would have said that  
17 any way but clearly the literature and the  
18 articles about coaching indicate that it is a  
19 field with incredible turnover.

20 Q. And you also provided some analysis with  
21 respect to statistics on head football coaches  
22 within your report, didn't you?

23 A. Yes.

24 Q. And can you explain to the jury why you  
25 provided that information?

1           A. As you heard with the previous witness  
2 the head football coach determines their  
3 assistants. So if there is a lot of turnover in  
4 head football coaches that would imply that there  
5 is a lot of turn over in assistant football  
6 coaches and so the two are very much related.  
7 Now what we found was in looking at the FBS, that  
8 is the 120 schools that play what I call big time  
9 college football, the average tenure is 6.4  
10 years. So that's about how long they stay at one  
11 job. However, that number is skewed upward  
12 slightly because of head football coaches at  
13 those schools who have been there many, many  
14 years. For example, Joe Paterno was at Penn  
15 State and I don't remember the number of years  
16 but I am going to say 35 or 40 and before him the  
17 coach, Rip Engle, was there for many, many years.  
18 On the other hand, there are coaches who are  
19 bouncing around all of the time.

20           So on average head football coach in an  
21 FBS level is expected to stay about 6.4 years and  
22 I think that's an important number in our  
23 analysis because it helps to define -- given what  
24 we know about the industry and what we know about  
25 jobs in the industry it helps define how long a

1 typical assistant coach or a staff member would  
2 be there as well.

3 Q. And moving from the analysis that you  
4 provided with respect to head coaches focussing  
5 on assistant coaches do assistant coaches have  
6 job security as used in your report?

7 A. Well it's even worse.

8 Q. Please explain.

9 A. Certainly you have the idea that the  
10 head coach controls the job patterns of his  
11 assistant. That's for sure but if in an  
12 offensive coordinator has sputtering offense one  
13 year he maybe looking for a job year and so there  
14 is more turn over among assistants. To give you  
15 some idea in 2015 going back to 2005, so that's a  
16 10-year period, there are 1150 -- 1152 full time  
17 assistant coaches. Of that number only 31 had  
18 been within a school for more than -- or during  
19 the entire period. So about 2.6 percent were an  
20 assistant coach for 10 years. That's a pretty  
21 small number and it says turnover is very high.

22 Q. Turning to some of the specific numbers  
23 that you use as what I refer to as an offset your  
24 report references two numbers 72,605 and 41,715.  
25 Can you explain where those numbers come from and

1       their significance?

2           A.   Right.  The calculation of economic  
3       damages is a very simple concept.  It's A minus  
4       B.  A is what the person is projected to make or  
5       could have made and B is what they actually made  
6       given what happened or what they actually can  
7       make given that's what happened.  The two numbers  
8       we picked 70,432 -- that's the average income of  
9       a college graduate in the United States between  
10      35 and 39.  \$72,605 and that's cross the United  
11      States.  And in doing this case I thought that  
12      was probably not the right number to use here.

13           So I looked at what we call the area  
14      wage survey.  Now it's called the area  
15      occupational employment and wage estimates for  
16      State College.  So right for this specific area.  
17      A lower level supervisor makes 41,715.  So in  
18      doing my A minus B calculations I used the 41,715  
19      because I thought that was about the lowest  
20      income that ought to be considered as potential B  
21      or potential offset.

22           Q.  Getting into the scenarios that you  
23      reference in your report?

24           A.  Right.

25           Q.  You provided three scenarios but before

1 we get there do you put your scenarios over a 20  
2 year time period?

3 A. No. I think that the uncertainty of  
4 jobs in this industry probably driven by the 6.4  
5 year average tenure of full -- of head coaches --  
6 I think that going past a single head coach is  
7 speculative. That you are hired and when your  
8 head coach leaves you are likely going to leave  
9 as well. So I did all of my scenarios assuming  
10 six years because I think after that you get into  
11 speculating well who is the next head coach going  
12 to be, where is he going to work, where is he  
13 going to be, and that's different -- this  
14 industry is different than my aerospace example,  
15 my Boeing example earlier, where if you are an  
16 aerospace engineer and you are working for Boeing  
17 and you are moving up the chain, you're moving up  
18 the hierarchy and you decided to leave Boeing  
19 there is that same hierarchy that exists at  
20 McDonald Douglas and so on and it's very  
21 predictable. We know what happens. Engineers  
22 have careers of -- probably the work life  
23 expectancy of an engineer just graduating college  
24 is at least 30 years, maybe more, and we do not  
25 have that kind of work life statistic for

1 coaches. It's a young man's profession. At  
2 least at the junior levels.

3 Q. Let's get into scenario one.

4 A. Okay.

5 Q. Can you explain to the jury your first  
6 scenario?

7 A. My first scenario follows directly along  
8 with the idea that when a head coach leaves you  
9 are leaving as well. Joseph Paterno left the  
10 2011. Mr. McQueary still had six or seven months  
11 to run on his one year contract which expired in  
12 June of 2012 and under that scenario there would  
13 be no economic loss because without Joe Paterno  
14 it is likely that Mr. McQueary would not continue  
15 the job at Penn State. So that's scenario one.

16 Q. Did you also consider any additional  
17 factors with respect to scenario one such as  
18 networking? Anything of that effect?

19 A. Well networking is an overriding issue  
20 in this case and I will also say it's an  
21 overriding issue in virtually every employment  
22 place. Most jobs in the United State's economy  
23 are not filled by advertisements from the  
24 employers. They are filled by networking and if  
25 you read the commentary on this published by the

1 United States Labor Department they specifically  
2 say you have to network to get another job. That  
3 if you are just going to rely on monster.com or  
4 wanted ads in the newspaper -- if your newspaper  
5 still has wanted ads -- that's not how you get  
6 jobs because there is no -- there is no way of a  
7 real good selection in those jobs. And if you  
8 listen to monster ads on the radio or television  
9 they say, you know, we are going to send you the  
10 people that qualify for your position, so they  
11 are doing some skimming, the some funnel as some  
12 shape to it, as opposed to network which has very  
13 fine shape to it. Lots of people go in at one  
14 end and the network is develop and somebody comes  
15 out at the end and that person is very well  
16 defined. So networking is key in this business,  
17 more so than in other professions, but it's  
18 important in every profession.

19 Q. Did networking play as a factor in  
20 scenario two that you opine?

21 A. Scenario two is that Mr. McQueary was  
22 able to get a job but at a smaller football  
23 program. However, still an FBS program because  
24 the data I have is on FBS and so I assume that he  
25 would make -- he was making 140 which put him in

1 the 65th percentile of assistant coaches. 65th  
2 percentile simply means if there is 100 of them  
3 there would be 64 below him and 35 above him. He  
4 is in 65. I looked at salary -- wages and  
5 salaries that came from the NCAA football  
6 assistant coaches salary data for 2012 and I  
7 looked at people making in the bottom two deciles  
8 from zero to 20. So go back to the 100 people I  
9 just talked about he was 65th at one of the most  
10 successful major college programs in the country  
11 and I said well where is he going to end up and I  
12 felt that a conservative way to look at it was  
13 that he would be in the bottom 20 percent of FBS  
14 programs because they would be smaller programs,  
15 the ones not paying as much, and using the  
16 average of people in that he should have made in  
17 that situation about \$77,000 a year or 76,957,  
18 and we will look at the B. Remember I told you  
19 it's A minus B. In the first one there is no A  
20 minus B but the first one is he would have made  
21 about 77,000 and the B is the 41,000 number that  
22 I talked about as being the earnings of the first  
23 level supervisor, and you do that for one, two,  
24 three, four, five, six years at the time he would  
25 be that coach and that gives you numbers that

1 range from 35,242 -- that's arithmetic of 77  
2 minus 41 times one, one year, 211,452. So there  
3 is a \$35,000 loss every year, six times \$35,000,  
4 roughly 211. That's scenario two.

5 Q. Now I want to clarify one point. You  
6 said you felt or you concluded that he would be  
7 in the 20th percentile of that group. Can you  
8 just provide a little more of a basis for that  
9 determination?

10 A. It's clear that if you coach at a -- a  
11 school can be in FBS but not really be a football  
12 school and if you coach at one of those you're  
13 not going to make as much money and the question  
14 was where is the cut off and when I looked at the  
15 data it appeared to me that the cut off was right  
16 around the 20th percentile that if you were to  
17 look at all of the data points -- they were  
18 clustered down in the bottom 20 percent and then  
19 they were clustered up at the top and they kind  
20 of to me represented the two -- if there were  
21 only two kinds of schools -- and we know there  
22 are many more but if there were only two, one at  
23 the top are high paying jobs, and one at the  
24 bottom are lower page jobs and smaller programs  
25 and that's why I did it.

1           Q. And again you limited the scenario to  
2 six years why?

3           A. Well coaches leave after 6.4 and we know  
4 that they tend to take their assistants with them  
5 or at least hire others.

6           Q. And finally scenario three?

7           A. Scenario three is that despite all these  
8 things you have heard about networking and lack  
9 of experience and so on that Mr. McQueary was  
10 able to get a job at a school that paid the same  
11 140,000 a year and run it again for one, two,  
12 three, four, five, six years subtracting from it  
13 -- excuse me -- the 41,175, the B, so basically  
14 you are looking at 140 minus 40 or about \$100,000  
15 a year as an economic loss if you assume he could  
16 have gotten a job paying the same 140. And again  
17 it's for a six-year period because that's what  
18 the data indicates about how long you are going  
19 to stay or about how long the guy who is making  
20 the decision is going to stay. So that loss goes  
21 from 98,000 to 590,000 and one, two, three, four,  
22 five, six.

23           Q. Moving off your scenario instead have  
24 you had the opportunity review the report drafted  
25 by Mr. Stavros Plaintiff's Exhibit report?

1           A.    I have.  Yes.

2           Q.    Okay.  I am going to run through a  
3   couple of those scenarios and I want to get your  
4   feedback on them, okay?

5           A.    Sure.

6           Q.    First and foremost, will you agree with  
7   me that plaintiff exhibit report calculates  
8   future losses over the next 20 years under the  
9   various scenarios?

10          A.    Yeah.  This term of how long somebody  
11   works is called work life expectancy.  All of us  
12   have work life expectancy.  Depends on how old we  
13   are, what we do, how educated we are, in some  
14   senses where we live.  In my opinion a  
15   nonspeculative work life expectancy for a college  
16   football coach is about six years for an  
17   assistant coach.  Mr. Stavros did not do any  
18   analysis of what's going on with people in the  
19   industry and as a result he kind of pictures a  
20   work life expectancy out of the air that I don't  
21   believe is supportable.

22          Q.    Two of the scenarios that are set forth  
23   by plaintiff's economic expert calculates future  
24   losses based on the salaries of a few comparisons  
25   and those comparators are Mr. Buggs, Mr. Kenney,

1 and Mr. Vanderlinden. Do you agree with those  
2 scenarios?

3 A. No.

4 Q. Why?

5 A. Those three gentlemen were also coaches  
6 at Penn State and they were able to go out and  
7 get other positions. I believe Mr. Bus (sic)  
8 differing him from the other two has spent a  
9 large majority, if not all, of his career at Penn  
10 State. The other two had experience at more than  
11 one school and it's important to have experience  
12 in more than one school. So he is not comparing  
13 apples to apples. He is looking at people who  
14 have established coaching careers with broad  
15 experience and he is comparing them to  
16 Mr. McQueary who has a limited coaching career  
17 with limited experience and in my mind as a  
18 economist that's an improper comparison.

19 Q. Two of the scenarios in the plaintiff's  
20 report has scenarios for wide receivers in  
21 colleges where Mr. McQueary applied and those  
22 colleges and universities include Connecticut,  
23 Maryland, Rutgers, LSU, and West Virginia. Do  
24 you agree with those scenarios?

25 A. You said salaries for wide receivers?

1 Q. Correct.

2 A. I am sure Mr. McQueary would like to  
3 make what wide receivers make. Wide receiver  
4 coaches I think is what you mean.

5 Q. Correct.

6 A. I don't see why you would look at those  
7 schools. There is no network to connect you to  
8 the schools or coaches so it seems to me that's  
9 speculative. There is no reason to make that  
10 assumption.

11 Q. And the final two scenarios set forth in  
12 plaintiff's expert report is based on the  
13 assumption that Mr. McQueary will begin to earn  
14 the average earnings of a offensive coordinator  
15 starting on or about November 11, 2018, at the  
16 same institutions that we just referenced in the  
17 prior scenarios. Do you agree with those  
18 scenarios?

19 A. Again I don't see any basis to draw that  
20 conclusion. It's just pulling numbers and --  
21 the numbers are associated with the schools but  
22 they are not supported by anything we know about  
23 that industry so I would not agree with that.

24 Q. The opinions that you expressed today,  
25 have you expressed them within a reasonable

1 degree of certainty?

2 A. Yes.

3 Mr. Morrison: Thank you. No further  
4 questions.

5 Mr. Strokoff: Your Honor, I request the  
6 one-page addendum so I can properly cross  
7 Dr. Kursh.

8 Ms. Conrad: What page is it?

9 Mr. Strokoff: The page where he sets  
10 forth the documents that he reviewed in rendering  
11 his report.

12 May I pass the page on the witness, Your  
13 Honor?

14 The Court: Yes.

15 Cross-Examination

16 By Mr. Strokoff:

17 Q. Sir, the piece of paper which I just  
18 handed you, which at the top says documents  
19 reviewed, is that the document that you refer to  
20 in your report setting forth the documents you  
21 reviewed to issue this report?

22 A. Yes.

23 Q. Okay. So, sir, you did not review the  
24 specific documents that Mr. McQueary identified  
25 that he used in his various job searches?

1           A. No. The second day of his deposition  
2 was all about his job searches and I didn't feel  
3 it necessary to go through what I heard was  
4 hundreds of pages of documents to do that. I  
5 have looked at a lot of job search documents in  
6 my career. Most of the documents supporting job  
7 searches do not really support very much at all so  
8 I thought the deposition did a good job of  
9 explaining his search, what he was looking for,  
10 and what happened, and I let it sit at that.

11           Q. Okay. So the answer to the question is  
12 you did not review this Plaintiff's Exhibit 79?

13           A. Well I don't know what Plaintiff's  
14 Exhibit 79 is. If you are representing to me  
15 that that is his job search documents you are  
16 correct.

17           Q. Sir, on the first page of your report  
18 dated August 21st, 2016, at footnote two you  
19 state what your hourly rates are?

20           A. Yes.

21           Q. Why do you do that in your report?

22           A. Because I always get asked by attorneys.

23           Q. Okay. Well what does your report say  
24 your hourly rates were for preparing this report?

25           A. They range from \$395 an hour to \$495 an

1 hour.

2 Q. It says for preparation of the report?

3 A. Correct.

4 Q. Same rates for testifying today?

5 A. Yes.

6 Q. Now, sir, you were here for  
7 Mr. Roussel's testimony earlier this morning?

8 A. I was.

9 Q. And you heard him mention that the wide  
10 receivers coach who was hired by Coach O'Brien,  
11 Mr. Stan Hixon, had 20 or 30 years worth of  
12 coaching experience?

13 A. I think you posed the question with the  
14 years and I think he answered that he has  
15 substantial experience. I don't know that he  
16 gave the numbers.

17 Q. All right. With respect to your  
18 testimony about Assistant Coach Vanderlinden you  
19 said he had been at more than Penn State, right?

20 A. Yes.

21 Q. How many years of assistant coaches  
22 experience did he have?

23 A. I don't recall off the top of my head.  
24 It's certainly in my notes. I believe that of  
25 the three -- there was one with about 10, one

1 with about 20, and one with about 30, and I don't  
2 remember which is which as I sit here.

3 Q. But of the three all had more than six  
4 years of coaching experience, right?

5 A. They were successful -- well they were  
6 at Penn State and one must be little bit careful  
7 with this. Penn State has had a reputation of  
8 consistency in its program led by -- by all signs  
9 a fabulous head coach who kept his team intact  
10 over the years and I don't recall how long each  
11 one of those were at Penn State but my  
12 recollection is that they all were at Penn State  
13 for a long time.

14 Q. Well, sir, you made reference to various  
15 statistical data that you refer to. Do you have  
16 any resources which supports your position -- and  
17 I mean a published data resource -- that the  
18 average working life for an assistant football  
19 coach in FBS is six years?

20 A. No. That really wasn't my testimony.  
21 My testimony --

22 Q. Sir, I didn't say that was your  
23 testimony. I said do you have any data resource  
24 which says that the average working life for an  
25 assistant football coach in FBS is six years?

1           A.   Six years -- I don't.

2           Q.   Okay.

3           The Court:  You can explain your answer  
4 if you want.

5           The Witness:  Thank you.  I recognize  
6 that assistant coaches follow head coaches and  
7 that that's a very important factor in this  
8 industry with the exception of Penn State that  
9 has one -- maybe that is not an exception.  Maybe  
10 that is exactly on point.  Where you say Joe  
11 Paterno was there for many, many years and kept  
12 his team intact and, therefore, the people that  
13 worked for Joe Paterno had long work lives at  
14 Penn State.  That's very different than what we  
15 observe in most other -- most other coaches at  
16 most other colleges.

17 By Mr. Strokoff:

18           Q.   And the six year number is the average  
19 tenure of a head coach at one school, right?

20           A.   Correct.

21           Q.   And you said the assistants follow the  
22 head coaches.  The head coaches then when they  
23 leave one school go to another school?

24           A.   Right.  But I hope Mr. McQueary does not  
25 follow Joe Paterno right now.

1 Q. I am sorry, sir?

2 A. Joe Paterno has passed and so whatever  
3 benefit Mr. McQueary got from being a part of Joe  
4 Paterno's staff -- he cannot follow him now and  
5 he has not followed for whatever reason any of  
6 the assistant coaches who he could have had  
7 relationships with.

8 Q. Sir, do you agree that head coaches go  
9 from school to school?

10 A. I do and they take their assistants with  
11 them or many of their assistants.

12 Q. Okay. So that six year number is just  
13 an average at one school, right?

14 A. Yes.

15 Q. So your scenario number one assumes that  
16 even though Mr. McQueary was an assistant coach  
17 in as you said one of the most successful college  
18 programs in the country, end quote, his career  
19 was over once -- well his career was over in  
20 2012?

21 A. Yes.

22 Q. Because you decided that he would not be  
23 able to find another job under any circumstances?

24 A. No. Because he had not built the  
25 network or done the other things necessary to do

1 to seamlessly move from one job to another and he  
2 had lost the main contact for that move. Let me  
3 give you an example. One of the contacts that  
4 Mr. McQueary apparently made was with Al Golden  
5 who at the time was at Miami. Mr. Golden left  
6 Miami and was replaced by Mark Richt, who was  
7 from Georgia, the head coach of Georgia. Of the  
8 nine people that Mark Richt hired at Miami four  
9 of them were on the Georgia staff. Now that kind  
10 of pulling power by a head coach is important.  
11 Equally important is the ability to have a  
12 network that you can contact these people.

13 Q. Sir, you said seamlessly. Are you  
14 saying in your scenario number one that your  
15 opinion because Mike McQueary did not have the  
16 network that you thought he needed to have his  
17 career was over in college football coaching?

18 A. Effectively yes.

19 Q. And you said that on the basis of your  
20 assessment the network that he had was  
21 inadequate?

22 A. I say that on -- that conclusion was  
23 reached by others in this case but I say that in  
24 my general knowledge of the importance of having  
25 a network to get another job.

1           Q. Mr. McQueary did have network, did he  
2           not?

3           A. Well, yeah, he had a network. It was  
4           not a particularly -- particularly vibrant one as  
5           far as his job prospects.

6           Q. And that network was what, sir?

7           A. Well he contacted a coach at Temple. He  
8           contacted other coaches but I didn't see any --  
9           there was no follow up. It did not appear to me  
10          that he had a broad base network, other  
11          assistants and so on, which you wouldn't expect  
12          because he wasn't exposed to them at Penn State.

13          Q. And again you didn't read all of the  
14          documents in Plaintiff's Exhibit 79, did you?

15          A. Correct.

16          Q. Okay. Let's go to scenario number two  
17          where you assume that Mr. McQueary was able to  
18          secure an assistant coaching position in a  
19          smaller football program, right?

20          A. Yes.

21          Q. And you decide that the salary break  
22          point for a smaller program would have been  
23          approximately \$77,000 a year?

24          A. Correct.

25          Q. So your assumption in predicting the

1 economic loss that he steps down to a smaller  
2 program is that he would remain there for six  
3 years, is that correct?

4 A. Right. Along with the tenure of that  
5 coach.

6 Q. He wouldn't be promoted or go to another  
7 school?

8 A. It's speculative beyond -- other than  
9 where I take him any other decisions past that is  
10 speculative. This could arguably be speculative  
11 but clearly when you look at short tenure among  
12 coaches to continue to assume that he would be  
13 able to get other jobs is highly speculative.

14 Q. Well again you know that the coaches  
15 move on to other head coaching positions and  
16 bring assistants with them?

17 A. Right. But what you do not know is how  
18 many of them fall out of the system. If there is  
19 a thousand -- excuse me. There is 100 FBS  
20 schools -- and I am just picking 100 because  
21 that's an easy number -- and nine assistants,  
22 that's 900 of them. If you have 900 at the  
23 beginning you clearly have 900 over the course of  
24 time because they all have nine assistant. What  
25 you don't know is how many of the first 900 fall

1 out, go do something else, have had it with  
2 coaching who move down to Division 2. You don't  
3 know that. Those numbers -- I was unable to find  
4 them but when you look and you see that the  
5 assistant coaches in FBS only two percent of them  
6 last 10 years at the same school that tells you  
7 there is a lot of turnover.

8 Q. But you, sir, again you have no numbers  
9 as to what the average working life is for an  
10 assistant football coach in FBS?

11 A. That is correct.

12 Q. Okay. Now just looking at your scenario  
13 number two where Mr. McQueary stays forever at a  
14 smaller program paying just \$77,000 a year  
15 without any raises your economic loss is \$35,000  
16 a year?

17 A. Yes. Assuming his alternative is B is  
18 the lower level supervisor in State College.

19 Q. And that's one --

20 A. Yes. If he has higher horizons then  
21 that then that number is too low.

22 Q. That's the one you used?

23 A. That's the one I used.

24 Q. And scenario number three is again for  
25 six years assuming that he finds a position

1       paying what he was earning at Penn State?

2           A.    Correct.

3           Q.    And that for six years is \$590,000?

4           A.    Yes.

5           Q.    And your calculations are slightly less  
6       than \$100,000 a year differential?

7           A.    Correct.

8           Q.    So that if somebody would determine that  
9       taking Mr. McQueary out to his respected working  
10      life consistent with other factors, let's say 25  
11      years, so it would be 25 times the 98,000 number  
12      you have here?

13          A.    If you assume he had a 25 year work  
14      life, yes.

15          Q.    Now the other question I have for you is  
16      you say Mr. McQueary earned \$140,000 a year at  
17      Penn State?

18          A.    Yes.

19          Q.    Are you aware also he received about 25  
20      to \$30,000 a year on average in bonuses?

21          A.    I didn't know it was on average but I am  
22      aware he received bonuses. I didn't include  
23      that. I only dealt with base salaries.

24          Q.    Okay. Now I think you said that  
25      Mr. McQueary's base salary of 140,000 put him in

1 the 65th percentile?

2 A. Of reported salaries in that group, yes.

3 Q. You also talk about the top schools in  
4 the box?

5 A. Yes. If you look at the data it seemed  
6 to me to be clustered.

7 Q. You said 65 percentile. Is that in the  
8 tier that's the top paying schools?

9 A. It was in the top cluster, yeah. If you  
10 forgot about the guys like Kerby Smart and Bill  
11 Muschamp who were making millions of dollars as  
12 assistant coaches -- there is a few of those guys  
13 at the top and then there is a bulk of the other  
14 ones and then there is a little fall off and then  
15 there is the lower tier.

16 Q. Okay. What is the low point of the bulk  
17 of the other ones? You said Mr. McQueary's 140  
18 was the 65th percentile. Where does the cluster  
19 end that cluster?

20 A. Without looking at the data I would say  
21 somewhere in that range of buck-twenty, somewhere  
22 in there.

23 Q. Buck-twenty meaning \$120,000?

24 A. Yeah. That's off the top of my head.  
25 That's just from looking at the data the few

1 times I did.

2 Q. So you also do not know what average  
3 retirement age is for assistant football coaches  
4 in FBS?

5 A. No.

6 Q. And, sir, when you make your -- or when  
7 you render your reports in more traditional  
8 occupations, like somebody who is an aerospace  
9 worker in Boeing, and you project ahead part of  
10 that projection includes a factor for certain  
11 periods of unemployment, isn't that correct?

12 A. I don't do that. There are people who  
13 do that. I do not do that. I use whatever the  
14 company -- usually company pension plans, work  
15 life analysis is -- that's usually what I do.

16 Mr. Strokoff: Pass the witness, Your  
17 Honor.

18 Redirect Examination

19 By Mr. Morrison:

20 Q. Only a few follow-up questions,  
21 Dr. Kursh. You have been an expert for quite a  
22 number of years, haven't you?

23 A. 30 plus.

24 Q. 30 plus. Are you -- the fees that  
25 Attorney Strokoff referenced in the footnote in

1 your report, number one, in full disclosure you  
2 did reference them right up in front in your  
3 report, didn't you?

4 A. Yes.

5 Q. Are those fees consistent with what  
6 other expert's charge?

7 A. Yes. And they are not what I make.  
8 That money goes to my company and we pay other  
9 people to do things.

10 Q. Understood. Noted. With that, no  
11 further questions. Thank you, sir.

12 Mr. Strokoff: That prompts nothing,  
13 Your Honor.

14 The Court: Thank you.

15 Thank you, you are free to go about your  
16 business. Leave it there.

17 Ms. Conrad: Your Honor, we would next  
18 prefer to start the video but in light of the  
19 hour do you prefer to do that after lunch?

20 The Court: Members of the jury, let me  
21 give it to you this way. If you take a somewhat  
22 reduced lunch hour we are going to be able to  
23 compress things down a little and I think if you  
24 were to say take a lunch for half an hour and  
25 come back that we can get everything in by 3:00

1     this afternoon and you would be free to go about  
2     your business for the rest of the afternoon. Is  
3     that a preference that you would like to have as  
4     opposed to take our normal lunch hour and then we  
5     go long and whatever fashion we go along?

6             Okay. Most are nodding in the  
7     affirmative so why don't we take a lunch and come  
8     back at five minutes after 12. We will all  
9     figure out what restaurant can serve in a half  
10    hour in town. Go ahead and step out.

11            (Whereupon, a lunch break was taken.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## C E R T I F I C A T E

I HEREBY CERTIFY THAT THE PROCEEDINGS AND  
EVIDENCE ARE CONTAINED FULLY AND ACCURATELY IN  
THE NOTES TAKEN BY ME UPON THE HEARING OF THE  
WITHIN MATTER AND THAT THIS COPY IS A CORRECT  
TRANSCRIPT OF THE SAME.

11/2/16

DATE



ELISE A. FITZGERALD

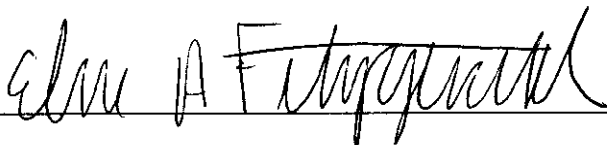
OFFICIAL COURT REPORTER

## C E R T I F I C A T E

I HEREBY CERTIFY THAT A COPY OF THIS  
TRANSCRIPT WAS MADE AVAILABLE TO COUNSEL OF  
RECORD FOR THE PARTIES, ADVISING THEM THAT THEY  
HAD UNTIL \_\_\_\_\_ IN WHICH TO FILE  
ANY OBJECTIONS OR EXCEPTIONS TO THE SAME. THAT  
TIME PERIOD HAVING ELAPSED WITHOUT RECORDING OF  
OBJECTIONS OR EXCEPTIONS, THE TRANSCRIPT IS  
THEREFORE LODGED WITH THE COURT FOR FURTHER  
ACTION.

11/2/16

DATE



ELISE A. FITZGERALD

OFFICIAL COURT REPORTER

## ACCEPTANCE BY COURT

UPON COUNSEL'S OPPORTUNITY TO REVIEW AND TO  
OFFER CORRECTIONS TO THE RECORD, THE FOREGOING  
RECORD OF PROCEEDINGS IS HEREBY ACCEPTED AND  
DIRECTED TO BE FILED.

11-2-16      Thomas G. Brown  
DATE                      JUDGE