

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
KING COUNTY

MARIA LUISA JOHNSON, CARMELIA)	
DAVIS-RAINES, CHERYL MUSKELLY,)	No. 15-2-03013-2 SEA
PAULINE ROBINSON, ELAINE)	
SEAY-DAVIS and TONI WILLIAMSON,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
SEATTLE PUBLIC UTILITIES, a)	
department of the CITY OF SEATTLE,)	
a municipality, RAY HOFFMAN,)	
individually, SUSAN SANCHEZ,)	
individually, DEBRA RUSSELL,)	
individually, and GUILLEMETTE)	
REGAN, individually,)	
)	
Defendants.)	

VIDEO

DEPOSITION UPON ORAL EXAMINATION OF

RAY HOFFMAN

(VOLUME II)

Thursday, May 26, 2016

2:07 p.m.

The Sheridan Law Firm, P.S.

705 Second Avenue, Suite 1200

Seattle, Washington

Laurie E. Heckel, CCR, RPR
Court Reporter
CCR License No. 2616

Thursday, May 26, 2016
Seattle, Washington

A P P E A R A N C E S

For the Plaintiffs:

JOHN P. SHERIDAN
Attorney at Law
The Sheridan Law Firm, P.S.
705 Second Avenue, Suite 1200
Seattle, Washington 98104

For the Defendant:

PORTIA R. MOORE
Attorney at Law
Davis Wright Tremaine, LLP
1201 Third Avenue, Suite 2200
Seattle, Washington 98101-3045

The Videographer:

ED BURKE
Videographer
Royal Video Productions
950 Northwest Firwood Boulevard
Issaquah, Washington 98027

Thursday, May 26, 2016
Seattle, Washington

I N D E X

Witness:	RAY HOFFMAN (VOLUME II)	Page
	Examination by Mr. Sheridan	172
	Examination by Ms. Moore	192

E X H I B I T S

No.	Description	Marked/ID'd
10	Employee list	172
11	E-mail string, Subject: RE: Safety Loudermills	183
12	12 E-mail string, Subject: RE: State Auditors - monitoring of utility account adjustments	185
13	13 E-mail string, Subject: RE: My doctors appointment	186
14	14 E-mail, Attachments: Final NP settlement.pdf	187
15	15 E-mail, Subject: My doctors appointment	191
16	16 Letter to Mr. Hoffman from Nick Pealy, 4/8/11	191

1 02:07p THE VIDEOGRAPHER: Today is May 26th, 2016. The time on
2 02:07p the monitor is 2:07 p.m. This is Volume II, DVD 1 in the
3 02:07p deposition of Ray Hoffman in the Superior Court of the State
4 02:07p of Washington King County in the matter of Maria Luisa
5 02:07p Johnson, et al, plaintiffs, vs. Seattle Public Utilities, et
6 02:07p al, defendants, Cause No. 15-2-03013-2 SEA.

7 02:07p We are at the Sheridan Law Firm. The address is 705
8 02:07p Second Avenue, Suite 1200, Seattle Washington. The
9 02:07p deposition was noticed by the attorney, John Sheridan.

10 02:08p My name is Ed Burke. I am contracted by Royal Video
11 02:08p Productions, Incorporated, whose principal place of business
12 02:08p is 950 Northwest Firwood Boulevard, Issaquah, Washington
13 02:08p 98027. Today's court reporter is Laurie Heckel.

14 02:08p At this time, I would like to ask all persons except for
15 02:08p the witness and court reporter to introduce themselves for
16 02:08p the record. Please state your name, the firm you're working
17 02:08p for, and who you're representing in this matter. Start from
18 02:08p my right.

19 02:08p MR. SHERIDAN: This is Jack Sheridan, representing the
20 02:08p plaintiffs.

21 02:08p MS. MOORE: The name is Portia Moore. The law firm is
22 02:08p Davis Wright Tremaine, and I represent Ray Hoffman and the
23 02:08p defendant, Seattle Public Utilities.

24 02:08p It's my understanding that the purpose of this
25 02:08p deposition today is to question Mr. Hoffman on the limited

1 02:08p topic of an individual by the name of Ray Pealy.

2 02:08p MR. SHERIDAN: Agreed. Okay.

3 02:09p RAY HOFFMAN

4 02:09p having been called as a witness, was duly sworn and testified
5 02:09p as follows:

6 02:09p MR. SHERIDAN: All right. Let's have this marked as
7 02:09p Exhibit 10.

8 02:09p (Exhibit 10 marked for identification.)

9 02:09p E X A M I N A T I O N

10 02:09p BY MR. SHERIDAN:

11 02:09p Q All right. Mr. Hoffman, I've handed you what's been marked
12 02:09p as Exhibit 10, and it's a printout. I had wonder if you
13 02:09p could make any sense of this. Do you recognize what this is?

14 02:09p MS. MOORE: I'm going to instruct you not the guess. If
15 02:09p you know.

16 02:09p THE WITNESS: I do not.

17 02:09p Q (By Mr. Sheridan) Okay. It -- so it appears to be a printout
18 02:09p of -- of employees and perhaps their direct reports and its
19 02:09p Bate stamped JOHNSON150729 and 763, so I guess this must be
20 02:09p different pages in it. I'd like you to -- to look at the
21 02:10p second page of the exhibit and -- and look at line 830. And
22 02:10p do you see that is basically -- that row contains the name,
23 02:10p Nick Pealy?

24 02:10p A Yes, it does.

25 02:10p Q All right. And do you see to the right of that -- well,

1 02:10p let's start with column A. Do you folks all each have
2 02:10p employee numbers?
3 02:10p A I believe so.
4 02:10p Q All right. And do they tend to be numbers like the one next
5 02:10p to Nick Pealy's, several digits long?
6 02:10p A I know --
7 02:10p MS. MOORE: Vague and ambiguous.
8 02:10p THE WITNESS: Mine is several digits long.
9 02:10p Q (By Mr. Sheridan) All right. Okay. And then look to the
10 02:10p right, Column C, it says WS610. Do you know what that means?
11 02:10p MS. MOORE: Calls for speculation, lacks foundation.
12 02:10p THE WITNESS: It's an organizational number.
13 02:10p Q (By Mr. Sheridan) Is it a department within your
14 02:10p organization, or if you know?
15 02:10p A It would be -- if -- if these are all SPU employees --
16 02:10p Q Okay.
17 02:10p A -- which I'm -- there's many names I don't recognize here,
18 02:11p but it could be a branch or a division within our
19 02:11p organization.
20 02:11p Q Okay. And then is it an accurate statement that during the
21 02:11p time that Nick Pealy worked for you he was an Executive 3?
22 02:11p A During the time that Nick reported to me, he was an Executive
23 02:11p 3.
24 02:11p Q Executive 3. Okay, got it. All right. So when we talked
25 02:11p last time there was some issues about a settlement agreement.

1 02:11p I guess they've all been worked out. So -- so I want to ask
2 02:11p you just questions about Mr. Pealy. And first of all, when
3 02:11p did you first meet him?

4 02:11p A I met Mr, Pealy I believe in my first job in the City, which
5 02:11p would have been back in 1990.

6 02:11p Q All right. And what was your first job with the City?

7 02:11p A I was a recycling planner.

8 02:11p Q All right. And do you remember what job he had way back in
9 02:12p 1990?

10 02:12p A I think it was in Finance.

11 02:12p Q Okay. So different organization.

12 02:12p A Same department, different responsibilities.

13 02:12p Q All right. Did you bump into him again over time?

14 02:12p MS. MOORE: Vague and ambiguous.

15 02:12p THE WITNESS: Mr. Pealy and I worked in the same
16 02:12p department for extended periods of time. I don't think we
17 02:12p were always in the same department at the same time, but Nick
18 02:12p and I worked in the Solid Waste Department together, and then
19 02:12p we worked in Seattle Public Utilities. I mean, we were both
20 02:12p working for that department.

21 02:12p Q All right. And Mr. Pealy -- what's his race?

22 02:12p A He is Caucasian.

23 02:12p Q All right. And was he -- do you -- you may or may not be
24 02:12p able to answer this. Is he older or younger than you?

25 02:12p MS. MOORE: Calls for speculation.

1 02:12p THE WITNESS: I think Nick is around the same age.

2 02:13p Q (By Mr. Sheridan) Okay. Did you ever socialize with him?

3 02:13p A I may have. Over the 20 or so years that we worked in the

4 02:13p City, there may have been an occasion when we socialized.

5 02:13p Q Okay. All right. As I understand it, when you came into the

6 02:13p position -- or state for the record if you would what

7 02:13p position you hold.

8 02:13p A So I am Director of Seattle Public Utilities.

9 02:13p Q All right. And -- and you became director what year?

10 02:13p A I was an interim director starting in 2009, and I was

11 02:13p appointed permanent I believe it was in May of 2010.

12 02:13p Q All right. In 2009, when you became interim, was Mr. Pealy

13 02:13p already there?

14 02:13p A Yes, he was.

15 02:13p Q And did he report to you?

16 02:13p A Yes, he did.

17 02:13p Q And what was his job title at the time?

18 02:13p A At the time, Nick was director of field operations and

19 02:13p maintenance.

20 02:13p Q All right. You know that we have talked about this CCSS

21 02:13p investigation that -- that is relevant to my clients. Do you

22 02:14p recall that?

23 02:14p A I do.

24 02:14p Q To your knowledge, did Mr. Pealy have any role to play in

25 02:14p that, in any part of that investigation?

1 02:14p A Not to my knowledge.

2 02:14p Q All right. Did there come a time that you learned that

3 02:14p Mr. Pealy had engaged in some improper behavior?

4 02:14p A There came a time when I felt I needed to explore Nick's

5 02:14p activities --

6 02:14p Q All right.

7 02:14p A -- in the department.

8 02:14p Q What was your concern?

9 02:14p A As I recall, and this is five -- five or more years ago now,

10 02:14p the issue first arose with a group of employees who were

11 02:14p upset with a job reassignment that had occurred, and it was

12 02:15p the -- the person was moved from one branch to another

13 02:15p branch, and this individual was moved to Mr. Pealy's branch.

14 02:15p And other employees objected to the lack of following the

15 02:15p process. And at that point in time, I became aware that

16 02:15p there may have been a procedural issue with the reassignment

17 02:15p of this employee.

18 02:15p And as that issue was being debated, it also came to my

19 02:15p attention that there were some e-mails flying around between

20 02:15p employees at lower levels of the organization about this

21 02:15p reassignment, and I -- I recall that they brought up issues

22 02:15p of favoritism and things along those lines.

23 02:15p Q Okay.

24 02:15p A So as I recall it, there was an inappropriate reassignment.

25 02:16p I don't know what labor union it was, but the labor union got

1 02:16p involved.

2 02:16p Q Okay. Can you tell us who was it that -- that did the

3 02:16p reassignment.

4 02:16p A You know, I quite frankly don't remember for sure. I don't

5 02:16p know if it was the branch that they came from or the branch

6 02:16p that received them.

7 02:16p Q And who was the person being reassigned?

8 02:16p A Her name was Ndidi or -- I'm not sure I'm pronouncing it

9 02:16p correctly -- Ndidi or Ndidi.

10 02:16p Q Can you spell it?

11 02:16p A I think it's N-d-i-d-i.

12 02:16p Q Okay.

13 02:16p A And --

14 02:16p Q Last name?

15 02:16p A Last name, I don't recall.

16 02:16p Q All right. And was this a person of color?

17 02:16p A Yes, it was.

18 02:16p Q All right. Do you happen to know the race of the person?

19 02:16p A I would guess that she was African American.

20 02:16p Q All right.

21 02:16p MS. MOORE: I'm going to instruct you to guess.

22 02:16p THE WITNESS: All right.

23 02:16p MS. MOORE: If you don't know, you don't know.

24 02:16p Q (By Mr. Sheridan) Can -- can you tell us, what did you

25 02:16p conclude was inappropriate about the transfer? Oh, first

1 02:16p tell us where the transfer came from and where she was
2 02:17p transferred to.

3 02:17p A I -- I believe it came from -- as I recall, I believe it was
4 02:17p from the project delivery branch to field operations and
5 02:17p maintenance.

6 02:17p Q Okay. And field operations and maintenance was Mr. Pealy's
7 02:17p organization, right?

8 02:17p A That is correct.

9 02:17p Q All right. And tell us, after you learned that -- that this
10 02:17p transfer had happened, what led you to conclude it was
11 02:17p inappropriate?

12 02:17p A So there is a process called out-of-class assignments for
13 02:17p opportunities in the City and within the department, and the
14 02:17p requirements are that those be advertised and that people
15 02:17p have an opportunity to put their name in. And as I recall,
16 02:17p this was -- did not go through the out-of-class process. It
17 02:17p was just a reassignment.

18 02:17p Q All right. And did you conclude that Mr. Pealy was behind
19 02:17p that?

20 02:17p A I concluded that there was a strong possibility that he was
21 02:18p behind it. I don't recall having tangible evidence.

22 02:18p Q All right. Did you learn whether she had any relationship
23 02:18p with Mr. Pealy?

24 02:18p A So at the time, no. But the e-mails that were flying back
25 02:18p and forth between lower level employees hinted at -- they did

1 02:18p two things. They -- some of them were directed directly at
2 02:18p the employee who had been transferred by other employees who
3 02:18p did not have favorable things to say about the process or
4 02:18p lack thereof nor that employee. And there was innuendos or
5 02:18p whatever that there may have been a relationship between
6 02:18p Mr. Pealy and this employee.

7 02:18p Q All right. Did you -- did there come a time -- strike that.
8 02:18p He was your direct report at the time, was he not?

9 02:18p A Yes.

10 02:18p Q Did there come a time that you confronted him with this?

11 02:19p A The time when I confronted Mr. Pealy with this was down the
12 02:19p line after other things had come to light as well.

13 02:19p Q An investigation?

14 02:19p A I wouldn't call it an investigation in the formal sense, but
15 02:19p I made inquiries and asked staff to look into various things.

16 02:19p Q And what did you learn?

17 02:19p A One of the things that I learned was as more of this banter
18 02:19p took place, it appeared that my direct report, Nick Pealy,
19 02:19p had a reputation for establishing relationships,
20 02:19p relationships, and by that I don't mean sexual, but working
21 02:19p relationships with young women, and it was referred to as
22 02:19p Nick's chicks. And when I learned of this, I tried to take
23 02:19p discrete measures, I did not confront Mr. Pealy at this point
24 02:20p in time, to explore what was behind that, because I found it
25 02:20p very troubling.

1 02:20p You have to understand that Nick was at the highest
2 02:20p levels of management in the organization, and I wasn't used
3 02:20p to having the rumor mill and unproductive and derisive gossip
4 02:20p flying around that includes, you know, a lead management
5 02:20p person. So I looked into it because I was troubled by what I
6 02:20p was hearing and -- and seeing.

7 02:20p And I forget how this occurred, but it came to light
8 02:20p that Mr. Pealy had engaged in a practice of donating
9 02:20p significant quantities of sick leave to various women in
10 02:20p various parts of the organization, and --

11 02:20p Q Let me stop you there. It's fair to say that during that
12 02:20p time frame it was okay for one SPU employee or city employee
13 02:20p to -- if they've had accumulated sick leave, to donate it to
14 02:21p another person who may have run out so that that person could
15 02:21p use -- basically borrow their sick leave; is that right?

16 02:21p A Yes. There is a policy in the department, and I believe in
17 02:21p the city, that an employee is allowed to redirect their sick
18 02:21p leave to assist another employee in times of trouble or when
19 02:21p they have run out of their own sick leave as long as they
20 02:21p maintained a minimum balance.

21 02:21p Q Okay. And so what else did you learn regarding his donation
22 02:21p of sick leave to young women?

23 02:21p A Well, I learned that it was -- I was taken aback by the
24 02:21p amount of sick leave that had been donated, the period of
25 02:21p time over which it had been donated, and the number of people

1 02:21p to whom it had been donated to.

2 02:21p Q Did you learn that -- that he basically focused his donations
3 02:21p on young women?

4 02:21p A I did because when I requested the records, the names were --
5 02:22p I don't remember if they were all female, but they were
6 02:22p predominantly female.

7 02:22p Q And you could tell the ages.

8 02:22p A I knew many of employees' names, and so I knew their relative
9 02:22p ages.

10 02:22p Q Right.

11 02:22p A And so when I talk about this, at the time Mr. Pealy would be
12 02:22p probably in his late 40s or early 50s, and I believe many of
13 02:22p these employees were probably in their early 30s or their
14 02:22p late 20s.

15 02:22p Q Did you have any concern that this might be a quid pro quo
16 02:22p arrangement, that he was expecting something in return?

17 02:22p MS. MOORE: Calls for speculation, lacks foundation.

18 02:22p THE WITNESS: I -- I was -- I was concerned that there
19 02:22p was a -- I was concerned about two things: One, again, I
20 02:22p just found the activity, the practice in terms of the volume
21 02:22p to be a bit troubling. I found the fact that it seemed to be
22 02:22p directed at a certain portion of the workforce troubling, and
23 02:23p I found the fact that Nick is at a very high level in the
24 02:23p organization, and I was concerned that it was establishing
25 02:23p either a dependent or an expectation between a high level

1 02:23p manager and line employees in various aspects of the
2 02:23p organization. So it struck me as not a good use of personal
3 02:23p judgment to be engaging in this, and I don't know Mr. Pealy's
4 02:23p motivation for doing so.

5 02:23p Q (By Mr. Sheridan) Okay. And so after you gathered this
6 02:23p information what happened next?

7 02:23p A I don't remember exactly when it happened, but I remember I
8 02:23p checked in with legal counsel.

9 02:23p Q And, obviously, you won't tell me what was discussed, but
10 02:23p tell me what happened after that.

11 02:23p A What ultimately happened after that is I had a meeting with
12 02:23p Mr. Pealy. I had representation from the City's department
13 02:24p of personnel there with me, and I let Nick know what I had
14 02:24p discovered, what I thought about it. And I let him know that
15 02:24p I felt that his further employment with the organization was
16 02:24p untenable.

17 02:24p Q Okay. Did you tell him that you intended to impose some
18 02:24p level of discipline?

19 02:24p A Yes, I -- I told him that he needed to be gone.

20 02:24p Q Did you tell him what it was that he allegedly did wrong in
21 02:24p terms of a personnel rule or a more general --

22 02:24p A As I recall, I -- I mentioned three things. I mentioned the
23 02:24p reassignment. I mentioned the appearance and the perceptual
24 02:24p belief on the part of many employees that there was an
25 02:24p awkward relationship going on between him and this

1 02:25p subordinate employee, and I mentioned the fact that I had
2 02:25p discovered his use of his sick leave to a variety of
3 02:25p employees over time.

4 02:25p Q All right. And what did he say in response, if anything?

5 02:25p A I think Nick was pretty much in shock at the time. I don't
6 02:25p recall specifically what he said. I told him he needed to
7 02:25p think about this, and I gave him I believe a very short
8 02:25p period of time to think about it. But I let him know that,
9 02:25p you know, his situation with the utility was no longer
10 02:25p tenable, that I needed to let him go in one way, shape or
11 02:25p form.

12 02:25p Q Did you talk to him about a suspension?

13 02:25p A No, I didn't talk to him about a suspension. This was him
14 02:25p leaving the organization.

15 02:25p Q All right. And did -- did he disagree?

16 02:25p A I -- I remember Mr. Pealy talking about various things, like
17 02:26p maybe I could go out on family medical leave; maybe I could
18 02:26p do this. And if I remember my response correctly, I tried to
19 02:26p nip the idea in the bud that he would continue to be employed
20 02:26p by Seattle Public Utilities.

21 02:26p MR. SHERIDAN: Okay. All right. Let's take a look at
22 02:26p this.

23 02:26p (Exhibit 11 marked for identification.)

24 02:26p MR. SHERIDAN: This will be 11, I guess.

25 02:26p THE COURT REPORTER: Yes.

1 02:26p Q All right. This is an e-mail string. So you read it from
2 02:26p the bottom up, and just go ahead and take a minute to look at
3 02:26p it and we'll talk about it. For record purposes it's Bate
4 02:26p stamped Johnson 1323.

5 02:27p A Okay.

6 02:27p Q All right. Can you -- so this -- basically, it's an e-mail
7 02:27p string that begins on December 31st, 2010, from to you
8 02:27p Mr. Pealy. The subject is, safety Loudermills. Do you
9 02:27p remember this e-mail?

10 02:27p A I don't.

11 02:27p Q Do you remember the general subject matter?

12 02:27p A Well, I know Loudermills --

13 02:27p Q Okay.

14 02:27p A -- because I conduct those in my -- in my position.

15 02:27p Q Okay. And could you tell us what -- was there a time that
16 02:27p Mr. Pealy or someone else had a safety Loudermill?

17 02:27p A Um --

18 02:27p MS. MOORE: If you recall.

19 02:27p THE WITNESS: Yeah.

20 02:27p MS. MOORE: I would instruct you not to guess.

21 02:27p THE WITNESS: Yeah. He -- he may have. This is what it
22 02:28p references. He -- he may have, but this is now five and a
23 02:28p half years back.

24 02:28p Q (By Mr. Sheridan) Okay. All right. Is this unrelated to
25 02:28p the -- the information that you've just given us about him

1 02:28p giving sick leave?

2 02:28p A Yeah, I don't -- I don't see any relationship between the two

3 02:28p of them.

4 02:28p Q All right.

5 02:28p (Exhibit 12 marked for identification.)

6 02:28p Q All right. I'm handing you what's been marked as Exhibit 12

7 02:28p Bate stamp Johnson 148687, and it's an e-mail from Ms. Regan

8 02:28p to you and others, cc: Dan Potapenko, dated April 5th, 2011.

9 02:28p Take a minute and take a look at that.

10 02:28p A Okay.

11 02:28p Q And so I note Nick Pealy is listed on this e-mail, and I'd

12 02:28p like if you can tell us, look at the -- the recipient list

13 02:29p and tell us if you can -- if you can glean why he would have

14 02:29p been on this particular e-mail string.

15 02:29p A It appears --

16 02:29p MS. MOORE: Calls for speculation. You can answer if

17 02:29p you know.

18 02:29p THE WITNESS: It appears these were all members of the

19 02:29p executive team.

20 02:29p Q (By Mr. Sheridan) Okay. Are these your direct reports

21 02:29p essentially?

22 02:29p A At the time, they were all members of the E team except for

23 02:29p Phuong, who was my executive assistant.

24 02:29p Q All right. And that's P-h-u-o-n-g.

25 02:29p A Yes.

1 02:29p Q All right. And was Guillemette Regan a direct report of
2 02:29p yours at that time?

3 02:29p A I don't believe she was.

4 02:29p Q Do you know where she reported at the time of this?

5 02:29p A Not without looking at the org charts.

6 02:29p Q Fair enough. Okay.

7 02:29p (Exhibit 13 marked for identification.)

8 02:29p Q All right. I've handed you what's been marked as Exhibit 13,
9 02:30p and it's Bate stamped Johnson 1335, and this is just a e-mail
10 02:30p string between you and Mr. Pealy, and the bottom one from
11 02:30p Mr. Pealy to you is dated April 5th. Go ahead and take a
12 02:30p look at that.

13 02:30p A Okay.

14 02:30p Q All right. And in the bottom e-mail from you to him, he's
15 02:30p saying, I met with my doctor today and I'll be sending you a
16 02:30p letter about my need to be absent.

17 02:30p Do you have any recollection about Mr. Pealy taking some
18 02:30p leave of absence during this period of time when you were
19 02:30p evaluating his behavior?

20 02:30p A I don't recall.

21 02:30p Q Okay. You wrote back saying, Hi, Nick, I left voicemails at
22 02:30p your home. I'd like to arrange a time to talk by phone
23 02:31p tomorrow for 15 to 30 minutes to discuss primary elements of
24 02:31p the settlement agreement.

25 02:31p So did there a come a time -- so it can be finalized.

1 02:31p Did there come a time that you offered him a settlement?

2 02:31p A During my conversations with Mr. Pealy, I also actively
3 02:31p engaged with legal counsel.

4 02:31p Q Okay. And, again, don't tell me what was discussed.

5 02:31p A And there came a point in time on advice of counsel that I
6 02:31p offered Mr. Pealy a settlement.

7 02:31p Q All right. And let's take a look at the next exhibit.

8 02:31p (Exhibit 14 marked for identification.)

9 02:31p MR. SHERIDAN: And this is 14, right?

10 02:31p THE COURT REPORTER: (Nods head up and down.)

11 02:31p Q I've handed you what's been marked as Exhibit 14, which is an
12 02:31p e-mail from you to Mr. Pealy saying, please review the
13 02:31p attached, and the attachment is a settlement agreement and
14 02:32p release. So take a minute to look at this, because it's --
15 02:32p it's unsigned, and my -- my hope is you can tell us whether
16 02:32p this is the final and whether it got signed.

17 02:32p MS. MOORE: If you can recall. I would instruct you not
18 02:32p to guess.

19 02:32p THE WITNESS: I can't tell you if this is the final.

20 02:32p MR. SHERIDAN: Okay.

21 02:32p THE WITNESS: I can tell you that ultimately a
22 02:32p settlement agreement was signed.

23 02:32p MR. SHERIDAN: Was signed. Okay, okay.

24 02:32p And, Counsel, we'll just ask for the -- the signed
25 02:32p version when we can get it for our record. And so let's just

1 02:32p take a look at page 2 of the settlement agreement.

2 02:32p THE WITNESS: Uh-huh.

3 02:32p Q (By Mr. Sheridan) And this says -- I'm looking at paragraph
4 02:33p 2.5 at the bottom. And it says, Mr. Pealy shall tender his
5 02:33p resignation in lieu of termination to SPU by April 8th, 2011.

6 02:33p Was it your understanding that -- that -- not what this
7 02:33p document says, but from your memory, that basically he did
8 02:33p tender his resignation and it was in lieu of settlement -- of
9 02:33p termination?

10 02:33p A My memory is, is that where we ended up is we ended up with a
11 02:33p resignation in lieu of termination that was tied to the
12 02:33p settlement agreement, and that substituted for Mr. Pealy's
13 02:33p termination.

14 02:33p Q Okay. And -- and can you tell us what it was he had done
15 02:33p that caused -- unless you've already told us everything you
16 02:33p remember, what it was he did that caused you to want him
17 02:33p terminated?

18 02:33p MS. MOORE: Asked and answered.

19 02:34p THE WITNESS: Um, I -- I can basically tell you that the
20 02:34p events that I mentioned to you, the inappropriate job
21 02:34p reassignment, the strong perception of a relationship with a
22 02:34p subordinate employee that was causing a lot of unnecessary
23 02:34p distraction and chatter throughout the organization, his use
24 02:34p of sick leave donations to a portion of the employee base
25 02:34p were all troubling enough that I fundamentally felt Nick

1 02:34p wasn't showing what I want to see in a senior level manager,
2 02:34p and I actually believed he was a liability to the
3 02:34p organization.

4 02:34p Q (By Mr. Sheridan) Okay. Did there come a time where he took
5 02:34p the position that the City mistreated him?

6 02:34p A I don't recall that.

7 02:34p Q Okay. Can you tell us -- at least it says here. Is it fair
8 02:35p to say -- look paragraph 2.1. It says that the City will pay
9 02:35p him \$70,057.79 in a lump sum, and there is other things.
10 02:35p To your recollection was there such a payment made?

11 02:35p A To my recollection such a payment was made.

12 02:35p Q All right. And --

13 02:35p A I -- I don't know about the dollar amount, but to my
14 02:35p recollection a payment was made.

15 02:35p Q All right. And you would agree with us that -- that as you
16 02:35p sit here today, your view is the City did nothing wrong.

17 02:35p A Um, I --

18 02:35p MS. MOORE: Vague and ambiguous.

19 02:35p THE WITNESS: I don't have context.

20 02:35p MR. SHERIDAN: Oh.

21 02:35p THE WITNESS: Nothing wrong in relation to --

22 02:35p Q (By Mr. Sheridan) Let me ask a direct question. For a guy
23 02:35p who engaged in inappropriate behavior, who you were intending
24 02:35p to fire, why did you give him \$70,000?

25 02:35p A So on advice of counsel we entered into an exchange with

1 02:35p Mr. Pealy, and in return for the settlement, which included
2 02:35p the financial terms, he agreed not to sue the City. He also
3 02:36p agreed not to accept any monetary damages that might come up
4 02:36p from EEOC. This is not unique to Mr. Pealy in employee
5 02:36p issues where the Department director will make a business
6 02:36p decision on what's appropriate to perhaps avoid the
7 02:36p unnecessary expense of protracted litigation.

8 02:36p Q But to your knowledge -- to your recollection he had not
9 02:36p threatened to sue.

10 02:36p A I don't recall.

11 02:36p Q All right. And you may or may not be familiar with this. Do
12 02:36p you have any knowledge as to whether Seattle City employees
13 02:36p have the benefit of a personnel rule that indicates that they
14 02:36p need to be fired -- they can only be fired for cause?

15 02:36p MS. MOORE: Calls for speculation, lacks foundation.
16 02:36p I'm going to instruct you not to guess.

17 02:36p THE WITNESS: Here is -- here is what I recall, that
18 02:37p there is a small group of employees that work for the City,
19 02:37p and they are in the executive series. And those employees
20 02:37p are at will. So, for instance, in my organization, out of
21 02:37p 1400 people, there are probably less than 40 at will
22 02:37p employees. They tend to be very senior level people or
23 02:37p people in positions of specific responsibilities. And for an
24 02:37p at will employee, it is just that. It's at will.

25 02:37p Q (By Mr. Sheridan) So you can -- you can fire them for any

1 02:37p reason except a discriminatory reason.

2 02:37p MS. MOORE: Calls for a legal conclusion, calls for
3 02:37p speculation.

4 02:37p THE WITNESS: I -- I can let you know what I did with
5 02:37p Mr. Pealy.

6 02:37p MR. SHERIDAN: All right. And I think you already have.

7 02:37p (Exhibit 15 marked for identification.)

8 02:38p Q (By Mr. Sheridan) All right. I'm handing you what's been
9 02:38p marked as Exhibit 15, and it's Bate stamped Johnson 1334.
10 02:38p Take a moment to take a look at this. And do you have any
11 02:38p recollection of going through some process where Mr. Pealy
12 02:38p was making an argument that he could not be at work?

13 02:38p A Um --

14 02:38p MS. MOORE: Vague and ambiguous.

15 02:38p THE WITNESS: I -- I don't recall this directly. What
16 02:38p I -- what I do recall -- no, actually, I can't say I even
17 02:38p recall that. I'd be -- yeah.

18 02:38p MR. SHERIDAN: Fair enough. 16.

19 02:38p (Exhibit 16 marked for identification.)

20 02:38p Q Okay. This is marked as Exhibit 16, and it's Bate stamped
21 02:38p Johnson 1339, and it's an April 8th, 2011 memo from Mr. Pealy
22 02:39p saying, Mr. Hoffman, please accept my resignation from the
23 02:39p City effective today, April 8th, 2011. Do you recall getting
24 02:39p a written resignation from Mr. Pealy?

25 02:39p A I believe I do, yes.

1 02:39p Q All right. He writes, I'm leaving the City to take care of
2 02:39p my health, better manage my stress, have more time with my
3 02:39p children and recharge my batteries.

4 02:39p And do you recall any conversations with him regarding
5 02:39p this -- these subject matters?

6 02:39p A I don't.

7 02:39p MR. SHERIDAN: All right. I have no further questions.
8 02:39p Thanks for coming in.

9 02:39p THE WITNESS: Thank you.

10 02:39p E X A M I N A T I O N

11 02:39p BY MS. MOORE:

12 02:39p Q I have a question. Mr. Hoffman, was Mr. Pealy involved in
13 02:39p any way in the decision to discipline any of the named
14 02:39p plaintiffs in this lawsuit?

15 02:39p A No. Mr. Pealy would have been long gone --

16 02:39p Q Okay.

17 02:39p A -- by the time that took place.

18 02:39p MS. MOORE: Thank you. I have no other questions.

19 02:39p MR. SHERIDAN: Thanks.

20 02:39p THE WITNESS: Okay.

21 02:39p MR. SHERIDAN: All right.

22 02:39p THE VIDEOGRAPHER: We are going off the record. The
23 02:40p time is 2:40. This is the end of Disk 1.

24 (Whereupon, at 2:40 p.m. the deposition was concluded.)

25 (Signature was reserved.)

C E R T I F I C A T E

STATE OF WASHINGTON)
)
COUNTY OF KING)

I, the undersigned Court Reporter in and for the State of Washington, do hereby certify:

That the annexed transcript of Thursday, May 26, 2016 video deposition of RAY HOFFMAN (VOLUME II) was taken stenographically by me and reduced to typewriting under my direction;

I further certify that I am not a relative or employee or attorney or counsel of any of the parties to said action, and that I am not financially interested in the said action or the outcome thereof;

I further certify that the annexed Thursday, May 26, 2016 deposition of RAY HOFFMAN (VOLUME II) is a full, true and correct transcript, including all objections, motions and exceptions of counsel, made and taken at the time of the foregoing proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my signature this 31st day of May 2016.

Laurie E. Heckel, CCR, RPR
Court Reporter in and for the State of
Washington, residing at Seatac.
CCR License No. 2616

CORRECTIONS

PLEASE MAKE ALL CORRECTIONS, CHANGES OR CLARIFICATIONS TO YOUR TESTIMONY ON THIS SHEET, NOT IN THE TRANSCRIPT ITSELF, SHOWING PAGE AND LINE NUMBER AND THE NATURE OF THE CHANGE. IF THERE ARE NO CHANGES, WRITE "NONE" ACROSS THE PAGE. PLEASE SIGN THIS SHEET AND RETURN WITHIN 30 DAYS TO THE ATTENTION OF LAURIE E. HECKEL, COURT REPORTER, 17832 50TH COURT SOUTH, SEATAC, WASHINGTON 98188 FOR FILING WITH THE ORIGINAL TRANSCRIPT.

PAGE/LINE CORRECTION

7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	

JOHNSON, ET AL V. SPU, ET AL, NO. 15-2-03013-2 SEA

RAY HOFFMAN

	A	B	C	D	E	F	G	H
1	EMPLID	NAME	DEPTID	NOVELL ID	JOBTITLE	WORK_PHONE	SUPV_NAME	HIRE_DT
2	20227666	Osborne,Carmen Linne	WS202	OSBORNCA	StratAdvsr2,Exempt	206/684-7651	Southard,Laura A	26-Sep-95
3	20016515	Hite,Mary E	WS230		Labor Relations Coord	206/684-5710		14-Dec-83
4	05641006	Menne,Gary L	WS421		Civil Engrng Spec,Sr	206/386-1839		19-Mar-68
5	20071452	Numrich,Teresa J	WS651		Apprenticeship Coord	206/233-7260	Cross,Judy	20-Oct-86
6	02123503	Dschaak,Edward	WS623		Pmp Stat Maint Lead Wkr CII	206/386-1230	Akau,Clifford W	02-Jan-69
7	09024159	Williams,Michael L	WS422		Manager3,Engrng&Plans Rev	206/684-7608		27-Apr-70
8	20162707	Von Aulock,Sylvia C	WS520		Civil Engr,Assoc	206/233-5006		25-Mar-91
9	02479103	Fellers,Duane D	WS653		Wtrworks Maint Spec,Sr	206/386-9192		16-Jul-69
10	30008316	Rosenstrom,Jon G	WS652		Wtr Pipe Wkr,Sr	206/386-1828	Numrich,Teresa J	15-Apr-96
11	02167500	Durant,Patricia Jean	WS224		Pjrt Fund&Agreemts Coord	206/684-4148		16-May-79
12	05108709	Luebke,Theodore F	WS470		Civil Engr Supv	206/684-5914		20-Sep-82
13	30007925	Lim,Ewe L	WS246		Systs Anlyst,Sr	206/233-5173		29-Jan-96
14	20117677	Dittmar,Jane Elizabeth	WS120		StratAdvsr1,General Govt	206/684-5266	Blake,Philip Joeseeph	15-Mar-89
15	30015688	Mesquit,Andrew J	WS230		Manager2,General Govt	206/684-8156		28-Oct-98
16	08087306	Strong,Richard M	WS646		Truck Drvr,Heavy	206/684-7447		31-Jul-67
17	05795158	Nielsen,Michele Mitzlaff	WS552		Wtr Treatment Op,Sr	206/615-0050	Green,Nathaniel L	15-May-79
18	00212803	Ankney,William M	WS532		Solid Wst Fid Rep Supv	206/684-0820		20-Jan-69
19	18126003	Sutherland,Elizabeth M	WS340		Util Act Rep I	206/233-2579	Otte,Jimmy L	06-Mar-72
20	18520007	Valanas,Silvia E	WS340		Util Act Rep I	206/684-3411	Del Donno,Elizabeth	23-Nov-81
21	30016975	Nguyen,Bich N T	WS440		Mgmt Systs Anlyst(E)	206/615-0863		28-Apr-99
22	30016961	Armstrong,Dennis E	WS621		Drainage&Wstwtr Coll Wkr			28-Apr-99
23	30016960	Oetting,Arthur K	WS622		Drainage&Wstwtr Coll Wkr	206/386-1800		28-Apr-99
24	20078150	Tamsky,Daniel Meyer	WS470		Civil Engr,Asst III	206/386-9787	Alfi,Aziz	23-Mar-87
25	20224374	Soukasene,David L	WS242		Systs Anlyst,Sr	206/233-7833		29-Jun-95
26	20085262	Woods,Shelia Rena	WS431		Admin Spec II-BU	206/684-7634		24-Jun-87
27	04522009	Kinsella,Joanne M	WS230		Personnel Spec	206/684-5052	Wideman-Williams,Mary E	30-Jul-75
28	30015288	Herrington,David R	WS230		Sfty&Hlth Spec,Sr	206/615-0803	Mesquit,Andrew J	01-Sep-98
29	20137790	Kamalu,Monica Sue	WS421		Civil Engr,Assoc	206/386-1577		07-Feb-90
30	20224747	Johnston,Timothy Edward	WS230		Admin Spec II	206/684-5824		10-Jul-95
31	30013525	Ramirez,Charles R	WS622		Drainage&Wstwtr Coll Wkr			04-Mar-98
32	30018315	Della,David A	WS422		Civil Engr,Assoc			02-Aug-99
33	20080925	Smith,Nora Claire	WS563		Plng&Dev Spec,Sr	206/233-7894	Kakida,Terry J	06-Dec-93
34	30008314	Itterly,Brent Lee	WS652		Wtr Pipe Wkr	206/386-1828	McNerney,James E	17-Apr-96
35	20088555	Lee,Karin M	WS225		Mgmt Systs Anlyst,Sr	206/684-5065		31-Aug-87
36	04831442	La Vergne,Cheryl J	WS230		Equal Emplmnt Coord	206/684-5364	Peterson,Joanne Marie	18-Aug-69
37	02802007	Gardner,Linda L	WS533		Civil Engrng Spec,Asst III	206/386-4024	Gustav,Richard B	05-Dec-79
38	20135752	Parente,Tony Leon	WS653		Wtr Pipe Wkr,Sr	206/386-1828		03-Jan-90
39	07213507	Hill,Lynn Yvonne	WS421		Civil Engr,Assoc	206/684-5068	Lee,Merry	25-Feb-81
40	01078500	Butler,John W	WS643		Disposal CC II	206/684-7486		03-May-61
41	00537001	Belmonte,Hermogenes	WS330		Actg Tech I-BU	206/684-5899	Madsen,Bruce A	23-Apr-80
42	02132108	Rettmmer,Leanne J	WS330		Actg Tech II-BU	206/233-8743	Madsen,Bruce A	05-Mar-75
43	16828501	Raimondi,Anthony P	WS340		Credit/Coil Supv,Asst	206/684-3412		29-Jan-68
44	05141403	Lynch,George J	WS652		Wtr Pipe Wkr,Sr	206/386-1849	McNerney,James E	28-Dec-70
45	07628704	Shults,Lee Allen	WS654		Constr&Maint Equip Op,Sr	425/255-2242		11-Aug-71
46	20196614	Putnam,Edwin Melvin	WS244		Info Technol Prof B	206/233-7804	Lombardi,Teresa M	26-Jul-93
47	00833509	Eakins,Stefanie A	WS230		Actg Tech II-BU	206/684-4622	Hunter,Natalie M	01-Oct-79
48	03207107	Habeeb Jr,Theodore R	WS552		Wtr Systs Supv	206/386-1818	Pierson,Edward F	08-Mar-71

PENGAD 800-831-6969
 3-26-16
EXHIBIT
 10
HOFFMAN II

	A	B	C	D	E	F	G	H
817	13909809	Humburgs,Christina L	WS210	HUMBURC	Exec Asst,Sr	206/684-5256	Thung,Melina S	12-Mar-75
818	15478209	McFarland,Gregory E	WS244	MCFARLG	Info Technol Prof B-BU	206/684-4644	Smith,Garry R	20-Mar-79
819	20155107	Gates,Sara J	WS671	GATESS	Info Technol Prof B-BU	206/733-9471	Maki,Duane	01-Oct-90
820	04333779	Kapusinski,James P	WS780	KAPUSIJ	StratAdvsr2,General Govt	206/233-1514	Flagor,Suzanne C	25-Sep-80
821	20083887	Phan, Chau Quang	WS480	PHANJ	Civil Engr,Assoc	206/684-5976	Kimani,Paul M	14-Aug-95
822	06243000	Odgers,Lynnette D	WS340	ODGERSL	Cust Svc Rep	206/684-7674	Marshall,David A	16-Nov-77
823	30039003	Swenson,Daniel L	WS310	SWENSOD	StratAdvsr2,General Govt	206/733-9815	Sanchez,Susan L	19-Mar-08
824	20037610	Phillips,Mt	WS646	PHILLIMT	Truck Drvr,Heavy	206/684-7447	Leifi,Rosa O	11-Feb-85
825	20049227	Iranon,Philip A	WS340	IRANONP	Util Act Rep I	206-684-4688	Moreland,Rebra J	24-Jul-85
826	20016721	Blaser,Philip F	WS340	BLASERP	Util Act Rep Stupv II	206/233-2558	Russell,Debra A	19-Dec-83
827	30009378	Bailey,Mikal Anthony	WS671	BAILEYMI	Pmp Stat Maint Wkr	206/386-4020	Russell,Anthony	24-Jul-96
828	30033968	Chiang,Chuang-Chang	WS247	CHIANGC	Info Technol Prof B-BU	206/684-5190	Arnone,Harvey K	08-Mar-06
829	30029123	Wagner,Peter Leeds	WS655	WAGNERP	Ofc/Maint Aide	206/386-1649	Garcia,Gerardo A	19-Nov-03
830	20007399	Pealy,Nick	WS610	PEALYN	Executive3	206/684-7646	Hoffman,Raymond F	01-Jul-87
831	30041685	DeKruyf,Darren J	WS621	DEKRUYD	Maint Laborer *	N/A		29-Apr-09
832	30042994	Figuroa,Jesus G	WS622		Maint Laborer *	N/A		14-Dec-09
833	20177135	Ismael,William F	WS657	ISMAELW	Wtr Pipe Wkr	206/386-1826	Jackson,Charles Lamonn	20-Apr-92
834	30044879	Zevenbergen,Tyson J	WS691		Eled Engrng Spec,Sr	N/A	Sinitsyna,Irina Z	05-Jan-11
835	30021546	Tuomisto,Ryeann M	WS737	TUOMISR	Civil Engrng Spec,Assoc	206/386-4024	Kulzer,Louise R	09-Aug-00
836	30044487	Welzenbach,Corinna M	WS625	WELZENC	Gardener,Sr	206/733-9146	Flanagan,Kevin M	15-Sep-10
837	30013860	Miller,William Christopher	WS242	MILLERC	Info Technol Prof B-BU	206/233-3763	Fuhrman,Lance Bryan	29-Apr-98
838	20082673	Mudra,Valerie Heide	WS202	MUDRAV	Labor Relations Coord	206-386-1808	Southard,Laura A	01-Jun-87
839	30045543	Jacobs Jr,David L	WS735		Civil Engr,Sr		Schimek,Gary M	18-May-11
840	05189006	Madsen,Bruce A	WS330	MADSENB	Util Acts Supv	206/684-5893	Mar,Michael K	31-Jul-78
841	20023248	Erickson,Kenneth A	WS360	ERICKSK	Act Exec	206/684-5808	Jackson,Marcus L	14-May-84
842	05244686	Mar,Michael K	WS330	MARMK	Manager3,Fin,Bud,&Actg	206/684-5878	Sanchez,Susan L	22-Oct-80
843	30035484	Argo,Jason Peter	WS120	ARGOJ	Public Relations Spec,Sr	206/684-0367	Yeung,Elaine	01-Nov-06
844	07805708	Smith Sr,Roosevelt	WS693	SMITHRS	Wtr Pipe CC	206/733-9475	Frank,Patrice T	27-Apr-81
845	30044806	Yranela,Betty L	WS244		Info Technol Prof B-BU	206/233-3751	Smith,Garry R	08-Dec-10
846	30012600	Cortez-Quinones,Patricia	WS480	CORTEZP	Civil Engr,Assoc	206/615-1632	Paston,Cheryl Nakata	01-Oct-97
847	30032306	Stoops,Daniel Nicholas	WS222	STOOPSD	Economist	206/233-7153	Omoto,Craig Masayoshi	16-Jun-05
848	30017164	Dhlamini,Dudzile Thembisile	WS310	DHLAMID	StratAdvsr1,General Govt	206/684-5343	Sanchez,Susan L	24-May-99
849	20206926	Hancock,E L	WS680	HANCOCE	Civil Engr,Assoc	206/423-2564	Mar,Ryane Dean	18-Apr-94
850	01089200	Butterworth,Gerald K	WS671	BUTTERG	Carpenter,Sr	206/386-1846	Maki,Duane	15-Sep-81
851	30018940	Booker,Quinin	WS693	BOOKTEQ	Ofc/Maint Aide	206/233-7245	Ward,James M	20-Oct-99
852	30042865	Clark,Noel C	WS210	BINGAMN	Delivery Wkr *	206/684-7685		03-Nov-09
853	07579006	Sherwin,William A	WS621	SHERWIW	Drainage&Wstwtr Coll CC	206/733-9491	Parker,Carrie Lynn	28-Jul-80
854	30009816	Freeman,Barbara	WS247	FREEMAB	Info Technol Prof C-BU	206/233-5186	Arnone,Harvey K	06-Nov-96
855	08317406	Widhalm,Carol D	WS360	WIDHALC	Util Svc Rep		Jackson,Marcus L	17-Mar-82
856	30038251	Van Patten,John William	WS340		Util Act Rep I	206/684-3150	Russell,Debra A	07-Nov-07
857	06149504	Nicholson,Bryan T	WS421	NICHOLB	Civil Engr,Sr	206/386-9752	Summers,John H	26-Apr-78
858	30034863	Thompson,Blake	WS646	THOMP5B	Truck Drvr,Heavy		Leifi,Rosa O	19-Jul-06
859	20122321	Merz,William G	WS250	MERZB	Info Technol Prof B-BU	206/386-1312	Evans,Vicki G	05-Jun-89
860	20157004	Velasquez,Samuel Joseph	WS270	VELASQS	Warehouser,Sr-BU	206/233-2010	Manning,Willie	14-Nov-90
861	30028004	Van Leuven,Laurie Jo	WS633	VANLEUL	StratAdvsr1,Utills		Armstrong,Kenneth	02-Jun-03
862	30043743	Harwood,Robert J	WS625	HARWOOR	Maint Laborer *	206/733-9146	Macadangand,Andres Leones	09-Jun-10
863	30044575	Thompson,Steven Robert	WS480	THOMP5S	Civil Engr,Sr	206/684-5860	Woelfel,Christine Joan	13-Oct-10
864	30045957	Gillespie,Mark D	WS340		Util Act Rep Trne		Clement,Diane Kay	29-Jun-11

From: Pealy, Nick
To: Hoffman, Ray
Subject: RE: safety loudermills
Date: Friday, December 31, 2010 11:14:36 AM

I don't know why Marty changed his mind. Probably because he realized that he probably couldn't appeal to you? I will check to see what SDOT and others are doing. I don't think our numbers are low compared to SDOT...from what I know, only a subset of Bookman's staff are working weekends (on straight time). I don't know about Parks, or SC.

Nick Pealy
Deputy Director
Field Operations and Maintenance Branch
Seattle Public Utilities
Phone: 206-684-7646
Email: nick.pealy@seattle.gov

"Passion for the work, personal accountability, performance...bring it every day."

From: Hoffman, Ray
Sent: Friday, December 31, 2010 10:49 AM
To: Pealy, Nick
Subject: RE: safety loudermills

so why do you think Marty changed his mind about meeting? on another note, could you and jennifer inquire of both parks and sdot and perhaps scl as well to see how many employees each department has working weekend shifts? I believe our numbers may end up being quite low in comparison.

From: Pealy, Nick
Sent: Friday, December 31, 2010 10:23 AM
To: Hoffman, Ray
Cc: Pealy, Nick
Subject: RE: safety loudermills

Okay. I have a few things to update you on so I hope we have some time.

Nick Pealy
Deputy Director
Field Operations and Maintenance Branch
Seattle Public Utilities
Phone: 206-684-7646
Email: nick.pealy@seattle.gov

"Passion for the work, personal accountability, performance...bring it every day."

From: Hoffman, Ray
Sent: Friday, December 31, 2010 10:15 AM
To: Pealy, Nick
Subject: safety loudermills

Hi Nick, I reread through all the files. I am inclined to reduce all of them down to a 1 day suspension without pay for failure to report. There is so much conflicting testimony on this coupled with delayed responses and a failure to clearly and consistently articulate what are SOP's are for confined space. Let's talk next week before I finalize.

thanks

Ray



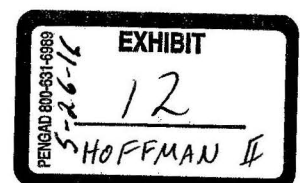
JOHNSONS001323

From: Regan, Guillemette
To: Hoffman, Ray; Ahern, Nancy; Baker, Martin; Collier, Kimberly; Deboldt, Linda; Nguyen, Phuong; Pealy, Nick; Sanchez, Susan; Thung, Melina
CC: Potapenko, Dan
Sent: 4/5/2011 2:39:32 PM
Subject: RE: State Auditors - monitoring of utility account adjustments

This briefing by the state auditor is intended to cover all elements of what the accountability for this year has found. The discussion won't be limited to utility account adjustments.

-----Original Appointment-----

From: Hoffman, Ray
Sent: Tuesday, April 05, 2011 2:38 PM
To: Ahern, Nancy; Baker, Martin; Collier, Kimberly; Deboldt, Linda; Nguyen, Phuong; Pealy, Nick; Sanchez, Susan; Thung, Melina; Potapenko, Dan; Regan, Guillemette
Subject: State Auditors - monitoring of utility account adjustments
When: Tuesday, April 12, 2011 8:15 AM-9:00 AM (GMT-08:00) Pacific Time (US & Canada).
Where: SMT 4951



From: [Nick Pealy](#)
To: [Hoffman, Ray](#)
Subject: RE: My doctors appointment
Date: Tuesday, April 05, 2011 4:47:09 PM

9am...I will be at home.

From: Hoffman, Ray [mailto:Ray.Hoffman@seattle.gov]
Sent: Tuesday, April 05, 2011 3:28 PM
To: Nick Pealy
Subject: RE: My doctors appointment

Hi Nick, I left voicemails at your home and on your cell phone. I'd like to arrange time to talk via phone tomorrow for 15-30 minutes to discuss the primary elements of the settlement agreement so we can get it finalized. I intend to have Laura in on the call as she is drafting the settlement. Best times for me are between 9am to 1pm. Please let me know what time works for you and I will call you at home.

Ray

From: Nick Pealy [mailto:pealyns@comcast.net]
Sent: Tuesday, April 05, 2011 11:47 AM
To: Hoffman, Ray
Subject: My doctors appointment

I met with my doctor today and I will be sending you a letter about my need to be absent. We did not get a chance to go through all the FML forms. I will get the letter to you in the morning. I am meeting my doctor again on Tuesday.



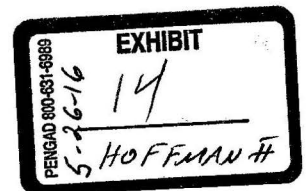
JOHNSONS001335

From: [Hoffman, Ray](#)
To: ["Nick Pealy"](#)
Subject: attachment
Date: Wednesday, April 06, 2011 4:33:00 PM
Attachments: [Final NP Settlement.pdf](#)

Hi Nick, please review the attached pdf. It would be good if we could follow up with a phone call tomorrow. 9:30-10:10 and 12 – 1 are the best times for me.

Ray

Ray Hoffman, Director
Seattle Public Utilities
(206) 684-5852
ray.hoffman@seattle.gov



SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE (“Settlement Agreement”) is made and entered into by and between:

Nick Pealy (Mr. Pealy)

City of Seattle, et al. (the City)

AGREEMENT

The Parties agree as follows:

1.0 Release and Discharge

1.1. In consideration of the terms set forth in Section 2, Mr. Pealy hereby completely releases and forever discharges the City from any demands, obligations, actions, causes of action, rights, damages, costs (including payment of attorney fees), losses of services, expenses and compensation of any nature whatsoever, whether based on a tort, contract or statutory theory of recovery, which Mr. Pealy now has, including, but not limited to, rights pursuant to the Seattle City Charter, express or implied contractual, statutory or tort claims; claims of wrongful and/or constructive discharge, and claims of discrimination, specifically including violations of the Age Discrimination in Employment Act of 1967 (ADEA), the Older Workers Benefits Protection Act, the Employee Retirement Income Security Act of 1974, the Washington Laws Against Discrimination, and any other federal, state or local civil or human rights law.

1.2 This release and discharge shall also apply to the City’s past, present and future officers, attorneys, agents, servants, employees and assigns.

1.3 This release, on the part of Mr. Pealy, shall be a fully binding and complete settlement among Mr. Pealy and the City.

1.4 Mr. Pealy expressly agrees that he will not institute, or cause to be instituted, any action lawsuit, or proceeding against the City of Seattle, and/or its past, present and future officers, attorneys, agents, servants, employees and assigns, which relates to, or arises out of, any claim, right, or cause of action of any kind, known or unknown, arising out of or related to his/his employment with and/or resignation from the City of Seattle, and will pay the City’s costs and attorney’s fees in the event that such an action is brought. Nothing in this provision shall prohibit either party from taking such steps as necessary to enforce the terms and conditions of this Agreement, including bringing a lawsuit in King County Superior Court.

1.4.1. Although Mr. Pealy retains the right to bring charges before the EEOC and/or cooperate with an EEOC investigation, he expressly waives the right to recover any monetary damages, costs or other relief personal to his arising out of any EEOC charges.

1.4.2. Although Mr. Pealy specifically releases the City from any claims, damages, costs or relief under the ADEA, he retains the right to bring an action to challenge whether this release and/or the agreement not to sue is valid and enforceable under the ADEA. In the event Mr. Pealy brings such an action to challenge this release of any ADEA claim(s) and/or the agreement not to sue under the ADEA, he will not be liable for the City's costs or attorney's fees in defending against any ADEA claim(s).

1.5 Mr. Pealy acknowledges and agrees that the release and discharge set forth above is a general release, expressly waives and assumes the risk of any and all claims for damages which exist as of this date, but of which Mr. Pealy does not know or suspect to exist, and which, if known, would materially affect Mr. Pealy's decision to enter into this Settlement Agreement. Mr. Pealy further agrees that he has accepted the consideration specified herein as a complete compromise of matters involving disputed issues of law and fact. Mr. Pealy assumes the risk that the facts or law may be other than Mr. Pealy believes. It is understood and agreed to by the Parties that this settlement is a compromise of a doubtful and disputed claim, and the payments are not to be construed as an admission of liability on the part of City, by whom liability is expressly denied.

2.0 Consideration by the City of Seattle and Mr. Pealy.

In consideration of the release set forth above, the City of Seattle, agrees to the following consideration:

2.1 The City of Seattle shall pay to Mr. Pealy as a settlement of all claims as set forth above, inclusive of any expenses, costs and/or attorney fees, the amounts as follows: seventy thousand, fifty seven dollars and seventy-nine cents (\$70,057.79) as a lump sum settlement for all claims as set forth above. These funds will be reported to the Internal Revenue Service using a 1099 form. This lump sum payment shall be due and payable within ten (10) days upon the effective date of Mr. Pealy's resignation, set forth in Section 2.5, below.

2.2 Mr. Pealy will be paid for all vacation time that has accrued as of the effective date of Mr. Pealy's resignation in accordance with normal vacation cash out practices following the effective date of Mr. Pealy's resignation.

2.3 The City will pay Mr. Pealy a lump sum of seven-thousand, one hundred, and thirteen dollars and six cents (\$7,113.06), which represents the costs of Mr. Pealy's COBRA coverage through October 2011. Mr. Pealy is responsible for ensuring that all COBRA documentation is provided to the City.

2.4 Any remaining sick leave available to Mr. Pealy may be cashed out in accordance with City Personnel Rules upon service retirement.

2.5 Mr. Pealy shall tender his resignation in lieu of termination to SPU by April 8, 2011. The City agrees to accept Mr. Pealy's resignation and to ensure that its employment records for Mr. Pealy reflect his resignation.

2.6 The City agrees that, if contacted by a prospective employer, it will respond in compliance with Personnel Rules 10.2.4 and 10.2.5.

2.7 Mr. Pealy will be available for consultation and assistance in transitioning his job duties as needed or requested by Director Hoffman, and shall cooperate in assisting Director Hoffman with any operational needs through October 31, 2011.

2.8 Should any grievances, civil service appeals, unemployment appeals, litigation, and/or other legal matters be brought concerning matters of which Mr. Pealy has knowledge, Mr. Pealy agrees to cooperate with the City of Seattle as needed to provide relevant information, appear as a witness, or otherwise assist. If Mr. Pealy is named as a party in any legal proceeding, he may pursue indemnification and defense per Seattle Municipal Code section 4.64 *et seq.*

3.0 No Future Employment of Mr. Pealy by The City of Seattle

Mr. Pealy agrees that he will not seek reemployment with Seattle Public Utilities or with any other department of the City of Seattle at any time in the future, and will not accept any position with the City of Seattle including part-time, full-time, project hire, temporary, or consultant positions if offered. If Mr. Pealy does apply for, accept and/or receive employment with the City of Seattle in breach of this Agreement, Mr. Pealy expressly agrees that his breach of this Agreement is sufficient cause in itself to terminate his employment, and that the City may terminate his employment without further showing of justifiable cause.

4.0 Attorney's Fees

4.1 Each party hereto shall bear all attorney's fees and costs.

4.2 In the event a suit is brought to enforce any provision of this Agreement, the prevailing party shall be awarded all costs incurred in prosecuting or defending the action, including attorney and paralegal fees. In the event the City of Seattle is the prevailing party, the hourly rate to be paid to the City for the work of attorneys and paralegals in the City Attorney's Office shall be the hourly rate charged by persons in downtown Seattle law firms having similar experience.

5.0 Representation of Comprehension of Document

In entering into this Settlement Agreement, Mr. Pealy represents that he has read the entire Agreement and that the terms of this Settlement Agreement are fully understood and voluntarily accepted by Mr. Pealy.

6.0 Warranty of Capacity to Execute Agreement

Mr. Pealy represents and warrants that no other person or entity has, or has had, any interest in the claims, demands, obligations, or causes of action referred to in this Settlement

Agreement, except as otherwise set forth herein; that Mr. Pealy has the sole right and exclusive authority to execute this Settlement Agreement and receive the sums specified in it; and that Mr. Pealy has not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations or causes of action referred to in this Settlement Agreement.

7.0 Governing Law

This Settlement Agreement shall be construed and interpreted in accordance with the laws of the State of Washington.

8.0 Additional Documents

All Parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Settlement Agreement.

9.0 Taxability of Settlement

The City of Seattle takes no position as to any taxes which may be due and has advised Mr. Pealy that he may be responsible for making estimated tax payments on this settlement. The City of Seattle has advised Mr. Pealy that it will report the settlement in its entirety to the Internal Revenue Service by issuance of 1099 forms, as described above in Section 2. Mr. Pealy agrees that he is solely responsible for any tax payments which may be owed as the result of the Settlement Agreement, other than those the City withholds as wage-based taxes. Mr. Pealy shall be solely responsible for the tax consequences of the Settlement Agreement any non-wage portion be characterized as wages, including, but not limited to, indemnifying the City of Seattle for any tax liabilities or penalties assessed or incurred.

10.0 Entire Agreement and Successors in Interest

This Settlement Agreement contains the entire agreement between Mr. Pealy and the City with regard to the matters set forth in it and shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, and successors and assigns of each.

11.0 Consideration, Revocation and Effective Date

Mr. Pealy acknowledges that he has carefully read and fully understands all the provisions of this Settlement Agreement and that he is entering into the Settlement Agreement freely and voluntarily. Mr. Pealy acknowledges that he has a period of 21 days within which to consider the Settlement Agreement, but may sign it in less than 21 days at his option and that City has not offered any additional inducement for taking less than the full 21 days. By signing this Settlement Agreement, Mr. Pealy acknowledges that (a) the City has advised Mr. Pealy to consult with an attorney of his choosing for review and explanation of the terms of this Agreement and (b) Mr. Pealy has either consulted an attorney or has voluntarily elected not to do so. Mr. Pealy has a period of seven days following the signing of this Settlement Agreement in which to revoke it ("Revocation Period"). The Parties agree that any revocation shall be in

writing and transmitted to the City through its counsel prior to the expiration of the Revocation Period. The Agreement shall not become effective or enforceable and no payments under this Settlement Agreement shall be due until the Revocation Period has expired.

12.0 Confidentiality

The Parties agree that neither they nor their attorneys shall reveal to anyone, other than as may be lawfully required in response to a Public Disclosure Act request, subpoena or other legal obligation, any of the terms of this settlement. Mr. Pealy may confer with his attorney, tax advisers, counselors, physicians, and immediate family.

13.0 Severability

It is further understood and agreed that if any of the provisions of this Settlement Agreement are held to be invalid or unenforceable, the remaining provisions shall nevertheless continue to be valid and enforceable. Notwithstanding the foregoing, if the release contained in paragraph 1.0 above is declared unenforceable or invalid, the City of Seattle shall have the option of rescinding this Settlement Agreement. If such a recession occurs, Mr. Pealy shall repay to City all sums paid to him/his pursuant to this Settlement Agreement

THIS AGREEMENT CONTAINS A RELEASE OF ALL KNOWN AND UNKNOWN EMPLOYMENT CLAIMS. MR. PEALY ACKNOWLEDGES THAT HE HAS CAREFULLY READ AND FULLY UNDERSTANDS ALL ASPECTS OF THIS SETTLEMENT AGREEMENT, AND THAT HE HAS NOT RELIED UPON ANY REPRESENTATIONS OR STATEMENT NOT SET FORTH HISEIN OR MADE BY THE CITY OF SEATTLE OR ITS REPRESENTATIVES.

DATED this _____ day of _____, 200__.

Nick Pealy

Ray Hoffman, Director
Seattle Public Utilities

From: Southard, Laura
To: "pealvns@comcast.net"
Subject: Agreement and letter
Date: Thursday, April 07, 2011 4:38:27 PM
Attachments: NP Settlement Final.pdf
Dear Sir or Madam.docx
Sensitivity: Private

Hello Nick;

Attached please find the final agreement and the draft letter from Ray.
As for our next telephone call, Ray is available between 11am and 1pm tomorrow. Please let us know what works for you during that time.

Thanks,

Laura Southard, MS, SPHR
Director, Human Resources
Seattle Public Utilities
Desk 206.233.5162
Cell 206.396.0531
<http://spuwebcms/SPUWEB/hr/index.htm>

Dear Sir or Madam:

I am writing this letter of reference at the request of Mr. Nick Pealy.

Mr. Pealy was employed by the City of Seattle from 1987 to 2011. During his tenure, Mr. Pealy held positions of increasing responsibility and scope including serving as the Deputy Director of Finance and Administration and most recently, the Deputy Director of Field Operations and Maintenance; both for Seattle Public Utilities (SPU).

Seattle Public Utilities provides more than 1.3 million customers in King County with a reliable water supply and garbage, recycling, yard, drainage and engineering services. The Field Operations and Maintenance branch is the largest within the utility comprised of nearly 1/3 of all employees within SPU.

In this role, Mr. Pealy demonstrated organizational and planning skills. He was quick to volunteer to lead initiatives and assist in other areas of operations within the utility. His knowledge in the domain of utility operations is very broad. He has the ability of meeting deadlines without compromising on quality of work. He has worked closely with other teams on a number of occasions and has been instrumental in completing projects.

Mr. Pealy has demonstrated a dedication to public service with nearly 24 years of service with the City of Seattle. I wish him success in his future endeavors.

Ray Hoffman

From: [Nick Pealy](#)
To: [Hoffman, Ray](#)
Subject: My doctors appointment
Date: Tuesday, April 05, 2011 11:45:58 AM

I met with my doctor today and I will be sending you a letter about my need to be absent. We did not get a chance to go through all the FML forms. I will get the letter to you in the morning. I am meeting my doctor again on Tuesday.



JOHNSONS001334

April 8, 2011

Dear Mr. Hoffman,

Please accept my resignation from the City of Seattle effective today, April 8th 2011. I am leaving the City to take care of my health, better manage my stress, have more time for my children, and recharge my batteries.

Sincerely,

Nick Pealy



JOHNSONS001339