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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF BENTON

COURTROOM D HON. DOUG FEDERSPIEL, JUDGE

JULIE ATWOOD,)
)
 Plaintiff,)
)
 vs.) NO. 15-2-01914-4
)
 MISSION SUPPORT ALLIANCE, LLC, and) TESTIMONY OF:
 STEVE YOUNG, an individual,) DOUG SHOOP
) J.D. DOWELL
 Defendants.) GREG JONES
) MIKE SPILLANE

Kennewick, Washington Tuesday, September 19, 2017

EXCERPT OF
TRANSCRIPT OF THE VERBATIM
REPORT OF PROCEEDINGS

Reported by: CHERYL A. PELLETIER, RPR, CCR 2344

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APPEARANCES:

FOR THE PLAINTIFF: JACK SHERIDAN
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705 Second Ave., #1200
Seattle, WA 98104-1745

FOR THE DEFENDANTS: DENISE L. ASHBAUGH &
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Attorney at Law
1420 Fifth Ave., #1400
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FOR THE DEPARTMENT
OF ENERGY: MARLA MARVIN
Attorney at Law
P.O. Box 550, A4-52
Richland, WA 99352

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September 19, 2017
Kennewick, WA

(Whereupon the jury
was brought into
the courtroom.)

THE COURT: Afternoon everybody. Go ahead
and make yourselves comfortable.

Mr. Sheridan, is the plaintiff prepared to call
her next witness?

MR. SHERIDAN: Yes, the plaintiff calls
Doug Shoop.

THE COURT: Afternoon, sir.

THE WITNESS: Good afternoon.

DOUGLAS SHOOP,
a witness called on behalf of the Plaintiff
herein, after having been first duly and
regularly sworn, testifies as hereinafter
follows:

THE COURT: Could I have you state your
full name for the court record?

THE WITNESS: Yes, it's Douglas Scott
Shoop.

THE COURT: Could I ask you to spell your
last name for our court reporter, please?

THE WITNESS: Yes, S-H-O-O-P.

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THE COURT: Thank you. Counsel.

MR. SHERIDAN: Thank you.

DIRECT EXAMINATION

BY MR. SHERIDAN:

Q Good afternoon.

A Good afternoon.

Q So, Mr. Shoop, what position do you currently hold?

A I'm the manager of the DOE Richland operations office.

MR. SHERIDAN: Let's put Exhibit 2 up on the screen, which has been admitted.

Q (By Mr. Sheridan) And so you can see it on the screen, the jury can see it over here. So you hold the position -- are you the office of the manager?

A I believe that's an old organizational chart and doesn't reflect our current organization.

Q What's --

A I am the manager of the Richland Operations Office. I was previously the deputy manager.

Q In 2013, which position did you have?

A I was the deputy manager.

Q So do you have occasion to interact with -- in

1 2013, did you have occasion to interact with senior
2 managers at MSA?

3 A Yes, I do.

4 Q I'm going to show you an organizational chart
5 for MSA. This has not been admitted yet, Exhibit 1. And
6 if you would, tell me if it seems to be your --

7 MR. SHERIDAN: If you could blow it up just
8 a bit?

9 Q (By Mr. Sheridan) For the time period, 2013,
10 is that a fair and accurate representation of the
11 organization at MSA when you held the position of deputy
12 manager?

13 A Yes, I believe it does.

14 MR. SHERIDAN: Plaintiff offers Exhibit 1.

15 MS. ASHBAUGH: No objection.

16 THE COURT: It's admitted.

17 (Exhibit No. 1
18 was admitted.)

19 MR. SHERIDAN: Let's put Exhibit 1 up.

20 Q (By Mr. Sheridan) Now you know -- I suppose you
21 had interacted with Frank Armijo during the time he was
22 the CEO?

23 A Yes, on a regular basis.

24 Q And how about Dave Ruscitto?

25 A Yes, also.

1 Q And did you have occasion to attend meetings
2 where they would make various reports to you on a regular
3 basis during that time frame, 2013?

4 A Yes. We met on a weekly or bi-weekly basis as I
5 do with all our contractors.

6 Q And at that time in the 2013 time frame,
7 approximately how many contractors were there that you had
8 to have those meetings with?

9 A We have four prime contractors on the Hanford
10 site for which I'm responsible for. Three of those we
11 would have met on a weekly or bi-weekly basis.

12 Q Very good. So I want to take your attention to
13 the September 2013 time frame. And we know that the date
14 is going to be the ninth, but you may not know.

15 So did there come a time -- oh, and let me ask a
16 background question. You know who Julie Atwood is;
17 correct?

18 A Yes, I do.

19 Q Did there come a time, at a meeting with Mr.
20 Ruscitto, where he told you, words to the effect, that
21 Julie Atwood was under investigation for timecard fraud?

22 A I remember a discussion that Mr. Ruscitto had
23 with me briefly at the end of one of those meetings. I do
24 not recall whether he said Ms. Atwood was being
25 investigated or whether an employee was being

1 investigated. I later learned Ms. Atwood was being
2 investigated.

3 Q And who did you learn that from?

4 A I believe I learned it from the media.

5 Q Oh, you mean after the lawsuit was filed.

6 A I believe so.

7 Q All right. So let's stick in that time frame.

8 Isn't it true that you told some people that Ms. Atwood
9 was being investigated?

10 MS. ASHBAUGH: Objection, leading.

11 MR. SHERIDAN: It was leading. Let me try
12 it without leading.

13 Q (By Mr. Sheridan) Did you, did you tell
14 anyone, at any point in this time frame, whether or not
15 Ms. Atwood was being investigated for timecard fraud?

16 A I don't recall. I can give you some background
17 information --

18 Q Please.

19 A -- that might help. So during this time frame,
20 one of our Hanford contractors had been under a lot of
21 scrutiny for timecard fraud. And so when Mr. Ruscitto
22 mentioned this to me at the end of that meeting, I said
23 all contractors need to ensure that they're meeting the
24 appropriate standards for reporting time.

25 Q You mean one of your other prime contractors was

1 under investigation?

2 A Yes. It was actually a different office at the
3 Hanford site, the Office of River Protection.

4 Q And would you tell the jury, again, what you
5 said in response? What did you say to Mr. Ruscitto?

6 A I told him that all contractors needed to ensure
7 that their employees are following appropriate timekeeping
8 practices.

9 Q Did you pass on Julie Atwood's name to J.D.
10 Dowell?

11 A I don't recall.

12 Q How about Greg Jones?

13 A I don't recall; but I will say Mr. Jones has
14 responsibility for overseeing contractors to ensure that
15 all employees have appropriate timekeeping practices?

16 Q So in 2013, did Mr. Jones have the main
17 responsibility at the Department of Energy for ensuring
18 that contractors engage in appropriate time billing?

19 A Yes.

20 Q So Greg Jones would have been sort of the -- he
21 would have been the central person one would go to if they
22 had, as a prime contractor, if they had the need to talk
23 about timecard fraud within their organization?

24 MS. ASHBAUGH: Objection, leading.

25 THE COURT: Overruled.

1 A Mr. Jones was responsible for providing
2 oversight of the contractors to ensure they met
3 timekeeping practices.

4 Q (By Mr. Sheridan) In 2013, was he responsible
5 for overseeing MSA in that regard?

6 A Yes, he was.

7 MR. SHERIDAN: That's all I have. Thank
8 you.

9 THE COURT: Any cross-examination?

10 MS. ASHBAUGH: Good afternoon, Mr. Shoop.
11 My name is Denise Ashbaugh. I'm here on behalf of
12 MSA and Steve Young. I just wanted to introduce
13 myself because we have not met. I have no questions.

14 THE COURT: And may the witness -- no.
15 Ladies and gentlemen of the jury, I'll get this yet.
16 You have an opportunity, if you would like, to ask
17 Mr. Shoop any questions. If you do, raise your hand
18 and Mr. Rutseugger will provide you with a form that
19 you can write your question or questions down on.

20 Do any of you have a question for Mr. Shoop?
21 No. All right. Then may Mr. Shoop be released this
22 afternoon?

23 MR. SHERIDAN: Yes, Your Honor, thank you.

24 THE COURT: I take that as a yes. Thank
25 you, sir. Please watch your step on the way out of

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the witness box.

THE WITNESS: Thank you very much. And thank you all.

THE COURT: Is plaintiff prepared to call her next witness?

MR. SHERIDAN: Yes. I'm going to see who is out there.

THE COURT: Okay.

MR. SHERIDAN: My intent is to call J.D. Dowell.

MS. MARVIN: He's out there.

MR. SHERIDAN: He's out there? Okay.

MS. MARVIN: And if you'd like me to get him, I would be happy to.

MR. SHERIDAN: That's fine.

JONATHAN ANDREW DOWELL,

a witness called on behalf of the Plaintiff herein, after having been first duly and regularly sworn, testifies as hereinafter follows:

THE COURT: Go ahead and make yourself comfortable. As you heard the bailiff say there is a pitcher of water there. But if you want to pour yourself a glass, make sure that the lid goes all the

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way up.

THE WITNESS: Okay.

THE COURT: Otherwise it all pours out.

THE WITNESS: Okay. Thank you.

THE COURT: Can I have you state your full name for the court record, please?

THE WITNESS: Jonathan Andrew Dowell.

THE COURT: And Mr. Dowell, could I please ask you to spell your last name for our court reporter?

THE WITNESS: D-O-W-E-L-L.

THE COURT: Thank you. Counsel.

DIRECT EXAMINATION

BY MR. SHERIDAN:

Q All right. Mr. Dowell, with whom are you employed?

A Fluor Enterprises.

Q And how long have you been there?

A Ten months.

Q And what's your job title there?

A Senior project director.

Q And you're at Hanford?

A No, actually not. Fluor does not have contracts

1 at Hanford right now.

2 Q Oh.

3 A I do reside in the Tri-Cities.

4 Q Before you joined Fluor 10 months ago, with whom
5 were you employed?

6 A Department of Energy.

7 Q And what did you do there?

8 A Various jobs as a senior executive. My last
9 position was the deputy manager at the Office of River
10 Protection.

11 MR. SHERIDAN: Go ahead and put up Exhibit
12 2, if you would.

13 THE COURT: Sir, the exhibit will either
14 come to you on the screen or on the large overhead,
15 whichever is easier for you.

16 Q (By Mr. Sheridan) Right, and --

17 A This is pretty blurry, but I think I can see it
18 well enough.

19 Q We can blow it up up here and on your screen.
20 And we are -- we're going to be talking about the 2013
21 time frame.

22 A Okay.

23 Q So if you look over on the left side here, you
24 won't see your name, but I think you'll see people you
25 know.

1 MR. SHERIDAN: So blow that up if you
2 would.

3 Q (By Mr. Sheridan) See where Jon Peshong is --

4 A I do.

5 Q -- assistant?

6 A I do, yes.

7 Q Were you in that position at any time?

8 A Yes, I was the assistant manager for River
9 Plateau from April 2011 until October of 2013.

10 Q And did Mr. Peshong report to you?

11 A He did.

12 Q Do you know Julie Atwood?

13 A Yes, I do.

14 Q And she -- were you one of her customers?

15 A Yes, we were a client for MSA and Julie was
16 assigned to our business.

17 Q When was that?

18 A I would have to say it was shortly after I
19 started there. It had to do with work that we developed
20 while I was there with Jon.

21 Q And did she provide services to you that were
22 valuable?

23 A Yes.

24 Q And what was her focus with you?

25 A So the focus that Julie had was on a Lean Six

1 Sigma Program that we initiated at the Richland office,
2 specifically for projects. Our contractors were using
3 Lean Six Sigma, which is basically an efficiency tool.
4 And so we asked for service provided by the Portfolio
5 Management services at MSA, of which Julie was assigned.

6 Q All right. During the time that she worked for
7 you, did you observe any issues pertaining to her being
8 tardy or uninvolved, or not worried about quality?

9 A I never had any worries about quality or her
10 performance.

11 Bear in mind I was on the sixth floor of the
12 federal building, and she was in the basement. Whenever
13 we needed Julie's services, she seemed to always be there,
14 so she was very reliable from that standpoint. And we
15 never had any problems with her work.

16 Q All right. Did there come a time that you heard
17 that Ms. Atwood was under investigation for timecard
18 fraud?

19 A There was -- yes, there was a period of time.
20 You know, I don't remember the day. A meeting was held up
21 on the seventh floor with a deputy manager, I believe, at
22 the time.

23 MS. ARAGON: Objection. I want to make
24 sure we're not getting into hearsay, Your Honor.

25 Q (By Mr. Sheridan) Well, deputy manager of MSA;

1 right?

2 A No. deputy manager of the Department of Energy,
3 Richland office.

4 Q Okay, so --

5 THE COURT: Sustained.

6 Q (By Mr. Sheridan) Yeah. So I'm not going to
7 ask you questions about what the deputy manager of DOE
8 said --

9 A Okay.

10 Q -- I'm going to ask you questions about what was
11 said regarding any MSA manager. Okay? Fair enough? Does
12 that cause problems?

13 A No. I guess I'm not understanding the direction
14 of the question. Are you asking --

15 THE COURT: Just one second. I think he
16 misstated that. Why don't you restate that.

17 MR. SHERIDAN: Did I say it wrong?

18 THE COURT: I think that's the confusion.

19 Q (By Mr. Sheridan) So did you attend the
20 meeting?

21 A I did not attend a meeting concerning the
22 discussion of her investigation or performance.

23 Q Did somebody make a statement to you regarding
24 what was said at the meeting by a MSA manager?

25 MS. ARAGON: Objection, hearsay.

1 THE COURT: Overruled.

2 A Yes.

3 Q (By Mr. Sheridan) Who was that person?

4 A That was Doug Shoop.

5 Q What did Mr. Shoop say to you?

6 MS. ARAGON: Okay, hearsay.

7 MR. SHERIDAN: This is the prior
8 inconsistent statement.

9 MS. ARAGON: The hearsay rule allows the
10 prior inconsistent statements by the declarant, i.e.,
11 the witness on the stand, not by a different witness.

12 MR. SHERIDAN: No, this is --

13 THE COURT: Overruled. I will allow it.

14 Q (By Mr. Sheridan) What did Mr. Shoop say to
15 you?

16 A You know this is, what now, it's four years?

17 Q Right.

18 A A little bit about four years ago. The exact
19 details, it had to do with we're investigating Julie
20 Atwood, or that they talked about an investigation with
21 Julie Atwood that morning. Very scant details, there
22 wasn't a lot about it.

23 Q Did Mr. Shoop tell you who from MSA gave him
24 that information?

25 A It was David Ruscitto.

1 Q Yeah. Let's go to Exhibit 1 and just maybe you
2 can point him out.

3 A You want me to point him?

4 Q I'll do it for you. Is this this gentleman
5 hear?

6 A Yes.

7 Q So you've identified the chief operating
8 officer. So Mr. Shoop told -- and realizing that many
9 years have passed, but Mr. Shoop told you that. Did you
10 do anything with that information?

11 MS. ARAGON: Objection, leading.

12 THE COURT: Overruled.

13 Q (By Mr. Sheridan) Did you tell anybody?

14 A I had a meeting -- I was indisposed from
15 attending that meeting. I got a call later on. I think
16 it was that morning. It might have been the next day, I
17 can't -- memory doesn't serve well enough for that. I
18 talked to my deputy manager about it.

19 Q Who is that?

20 A Jon Peshong.

21 Q Did you tell Mr. Peshong what Mr. Ruscitto had
22 said at the meeting?

23 A Yes.

24 Q Did you have any conversations with Julie Atwood
25 regarding what Mr. Ruscitto had said at the meeting?

1 A Yes, I think shortly after that John brought
2 Julie in, and we actually discussed it. I didn't have
3 very many details. And it didn't really -- to me it was a
4 preliminary discussion, it wasn't an accusation at that
5 point.

6 Q All right. And I know this is really making you
7 reach back, but do you recall if it was -- you are aware
8 that she resigned or was terminated; right?

9 A I'm aware of that, yes.

10 Q Could you tell us whether it was days, weeks or
11 months before she left the company?

12 A Weeks.

13 Q Weeks. All right.

14 MR. SHERIDAN: Is Exhibit 270 admitted?

15 MR. GLOVER: Is not.

16 MR. SHERIDAN: It is not?

17 MR. GLOVER: No.

18 MR. SHERIDAN: Let me make sure it's the
19 right one. Could you, very quick, put it up on our
20 screen? That's not the right one.

21 Your Honor, may I have one moment.

22 THE COURT: Yes, you may. 270?

23 MR. SHERIDAN: It wasn't, it was 240.

24 THE COURT: 240.

25 Q (By Mr. Sheridan) Would you look at Exhibit

1 240, please?

2 MR. GLOVER: It is -- it has been admitted.

3 MR. SHERIDAN: It has been. All right,
4 then go ahead and put it up on the screen.

5 Q (By Mr. Sheridan) All right. And so this is
6 dated September 20th, 2013 from Julie Atwood to you. Take
7 a moment and review it. Do you recall that document?

8 A You know not until I saw it just today; but I
9 believe I do recall it, yes.

10 Q Fair enough. So in this email she announces
11 that she has resigned. Did you ever learn whether or not
12 there were circumstances beyond a simple resignation?

13 A The best way to answer that is that there were
14 rumors about that just from various sources in the
15 building. So there was no direct contact or direct
16 observation on my part of any of those activities.

17 Q All right. And did anyone ever come to you from
18 MSA to give you a briefing on why she left?

19 A No.

20 Q Was the last information you heard as to whether
21 she was being investigated, that she was being
22 investigated for timecard fraud?

23 A Can you ask that question again? You know,
24 you're asking me was the last I heard that she was being?

25 Q Yeah, it's a poor question, let me ask it again.

1 So when you learned what had been said at that
2 meeting and you brought Ms. Atwood in to -- and you met
3 with her and Jon Peshong, did you believe that the
4 allegation against her at that moment was timecard fraud?

5 A I believe it was work and time accountability is
6 the way it was, was the way it was communicated.

7 Q What is time accountability mean to you in your
8 business?

9 A It could be a number of things. It can be
10 fraud, it can be work hours, it could be a number of
11 different categories of, you know -- over time. You know
12 there is a broad swathe of things that could fall
13 underneath those types of areas.

14 Q When you hear there is an investigation within
15 your business, what does that mean? What are the
16 implications?

17 A Typically -- and you're asking my impressions,
18 or are you asking --

19 Q Yes.

20 A My impressions of an investigation are usually
21 that it's preliminary. Unless there has been evidence
22 that's already been brought forward, it really doesn't
23 have much bearing because it's, at that point, there is
24 no, there is nothing that's been brought forward. There
25 is no actions that have been taken. So when I heard of

1 that meeting on that first morning, I thought it was
2 uncharacteristic.

3 Q Why?

4 A Because Julie's work has always been dependable
5 and excellent worker. And it didn't change my opinion of
6 that at that point.

7 Q So what I'm trying to understand is that then
8 she's gone; right? Did anybody come to you to clear up
9 any possible conclusions that she was terminated regarding
10 timecard issues?

11 A There was never a formal report given to the
12 Department of Energy, as far as I know, about conclusions
13 of an investigation or any of the details of her
14 resignation.

15 Q And so I gather you never saw or heard of any
16 vindication of her.

17 A No.

18 MR. SHERIDAN: Thank you.

19 THE COURT: Cross-examination.

20

21 CROSS EXAMINATION

22

23 BY MS. ARAGON:

24 Q Good afternoon Mr. Dowell, my name is Cristin
25 Aragon. I am one of the lawyers representing the

1 defendants, Steve Young and Mission Support Alliance.

2 So I want to ask you first about the meeting
3 that you heard about with Mr. Ruscitto and Mr. Shoop. You
4 weren't actually in that meeting; right?

5 A Correct, I was not in the meeting and I don't
6 recall what I was predisposed with.

7 Q Okay. And you mentioned that you had heard that
8 there may be an investigation related to Julie Atwood, but
9 you understood it to be a preliminary investigation;
10 right?

11 A Correct.

12 Q In other words, no conclusions had been made at
13 that point; right?

14 A That's correct.

15 Q And no one from MSA told you, at any point, that
16 Ms. Atwood had been fired for timecard fraud; right?

17 A Correct.

18 Q In fact, MSA didn't tell you anything about the
19 reasons Ms. Atwood doesn't work there anymore; right?

20 A That's correct.

21 Q Okay. If the timecard finding -- timecard fraud
22 finding had been sustained against Ms. Atwood, it's true
23 that MSA would have been required to notify DOE of that
24 fact in writing; right?

25 A I'm not familiar with the actual requirements

1 that we have for that; but I would expect that as a
2 client. I wouldn't be surprised if it is a requirement, I
3 just don't know all the requirements --

4 Q Fair enough.

5 A -- off the top of my head.

6 Q And as you sit here today, you would recommend
7 Ms. Atwood for a job; right?

8 A I would, yes.

9 Q And you have agreed to serve as one of her
10 personal references; right?

11 A That's correct.

12 Q Not one employer has contacted you to serve as a
13 reference for her since she left MSA, have they?

14 A That's a good question. Trying to think.

15 She asked me to be a reference on a position
16 with the Department of Ecology, I believe. There was a
17 couple of things. I don't recall ever getting a call to
18 check her references.

19 MS. ARAGON: That's all I have. Thank you
20 very much.

21 THE WITNESS: All right.

22 THE COURT: Any redirect?

23 MR. SHERIDAN: No, Your Honor.

24 THE COURT: Ladies and gentlemen of the
25 jury, if you have a question for Mr. Dowell, please

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raise your hand and we can arrange for a form to be given to you to write down your question or questions.

Do any of you wish to pose a question to Mr. Dowell? If you do, just raise your hand. All right. No questions.

May he be released from any obligation to be here?

MR. SHERIDAN: Yes, Your Honor.

MS. ARAGON: Yes, Your Honor.

THE COURT: Mr. Dowell, thank you, you can step down. Watch your step on your way out of that witness box.

THE WITNESS: Thank you. Thank you, Judge.

MR. SHERIDAN: Thank you.

THE COURT: Mr. Sheridan?

MR. SHERIDAN: Yes, our next witness is Greg Jones.

THE COURT: Greg Jones.

THE WITNESS: Good afternoon.

THE COURT: Good afternoon, sir.

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GREGORY JONES,

a witness called on behalf of the Plaintiff herein, after having been first duly and regularly sworn, testifies as hereinafter follows:

THE COURT: Mr. Jones, there is a pitcher of water there and you're free --

THE WITNESS: Oh, thank you.

THE COURT: -- to help yourself to a glass of water. I caution you, only because I've made the mistake, go ahead and lift the lid up --

THE WITNESS: So it doesn't pour down?

THE COURT: It pours out, right.

THE WITNESS: Thank you.

THE COURT: Sir, could I have you state your full name for the court record, please?

THE WITNESS: Gregory Allen Jones.

THE COURT: And could I ask you to spell your first and last names for our court reporter?

THE WITNESS: Okay. G-R-E-G-O-R-Y,
J-O-N-E-S.

THE COURT: Thank you. Counsel.

1 DIRECT EXAMINATION

2
3 BY MR. SHERIDAN:

4 Q Good afternoon, Mr. Jones.

5 A Afternoon.

6 Q Mr. Jones, with whom are you currently employed?

7 A United States Department of Energy.

8 Q And how long have you been there?

9 A 23 years.

10 Q And what's your current job title?

11 A Assistant manager for business and financial
12 operations and Hanford site chief financial officer.

13 Q I'm going to show you Exhibit 2, just to give
14 you an org chart to look at. And we're going to be
15 focusing on the years 2013, even though this chart --

16 A Okay.

17 Q -- is 2014.

18 A Okay.

19 Q So you're over on this side of the chart; is
20 that right?

21 A Yes, sir.

22 Q And could you tell us, in broad strokes, what is
23 it that your organization is responsible for?

24 A Okay. I have finance, financial oversight in
25 accounting. I have budget for both ORP, Office of River

1 Protection, and the Richland Operations Office. So we
2 formulate the budget, which means ask for the money. When
3 we get the money, we execute the budget. We have to
4 account for the funds. I'm also responsible for the
5 procurement division, which does contracting. And at the
6 time I also have industrial relations, which is
7 responsible for contractor, human resources and labor
8 relations. So, basically policy stuff.

9 Q And in 2013, those were also your duties?

10 A Yes, sir.

11 Q Are they your duties today?

12 A Yes.

13 Q And at the time you were a direct report to
14 whom?

15 A At the time I was a direct report to the deputy
16 manager, Doug Shoop.

17 Q All right. And let's go back to the larger
18 scene if we can. And tell us, who is Karen Flynn? Was
19 she a peer of yours in 2013?

20 A Yes.

21 Q And what was she responsible for?

22 A She was responsible for oversight of the Mission
23 Support Organization, which primarily was overseeing the
24 Mission Support Alliance contract.

25 Q So she was the one who basically was the main

1 point of contact for MSA managers in terms of the DOE's
2 oversight; right?

3 MS. ASHBAUGH: Objection, leading.

4 MR. SHERIDAN: It's preliminary.

5 THE COURT: I will allow it, that's fine at
6 this stage.

7 Q (By Mr. Sheridan) Go ahead.

8 A Can you repeat the question? I'm not sure I
9 understand.

10 Q Go back to the large one. So if you're a MSA
11 manager, basically she would be your main point of
12 contact. She's your overseer. Did I say that right?

13 A I'm not sure I understand the question, I
14 apologize.

15 Q Let me do it --

16 A I'm not a MSA manager.

17 Q Let me do it a different way. The next person
18 over, what was that person's responsibility?

19 A Assistant manager for safety environment, set
20 the overall safety policy and had facility representatives
21 that did safety oversight for all of the Richland
22 Operations Office contracts.

23 Q All right. And was it a contractor assigned to
24 that particular person?

25 A No, sir.

1 Q So MSA -- in this organizational chart, MSA was
2 the only contractor that was a direct report to Ms. Frye
3 (sic) as a person doing oversight?

4 MS. ASHBAUGH: Object to the form. I think
5 the name was wrong.

6 MR. SHERIDAN: Did I say it wrong?

7 THE COURT: Sustained.

8 MR. SHERIDAN: Yeah, let me try again.

9 Q (By Mr. Sheridan) Oh, Ms. Flynn. Was Ms.
10 Flynn, was she in charge of contracts other than MSA?

11 A No, sir.

12 Q That was the easy way.

13 A All right.

14 Q Were there other persons who were her peers that
15 were in charge of other contractor oversights?

16 A Yeah, if you go back to the org chart.

17 Q Okay.

18 A Ray Cory was responsible for both Washington
19 Closure Hanford contract and the CH2 -- 2M Hill Plateau
20 Remediation Contract oversight.

21 Q Got it. And were you in charge of budget for
22 all of those contracts?

23 A Yes, sir.

24 Q So if I was a MSA person and I wanted to
25 negotiate the details of my front office overhead, would

1 you be the person I would come to?

2 A No, sir.

3 Q Why not?

4 A It would go to my finance director, Tom Toon --

5 Q Okay, and let's find that --

6 A -- to negotiate that.

7 Q Let's find that person on here.

8 So Tom Toon was the person who -- if you were a
9 MSA manager and you wanted to negotiate either keeping or
10 changing the focus of your front office budget, he would
11 be the person you'd go to; right?

12 A Yes, sir.

13 Q And then Mr. Toon was a direct report to you;
14 right?

15 A Yes.

16 Q All right. In 2012, did you become aware of a
17 statement by Mr. Peshong that Mr. -- to Mr. Young that his
18 front office budget needed to be adjusted?

19 A No, sir.

20 Q All right. And it's true, is it not, that in
21 2012 and 2013 you were very good friends with Mr. Young;

22 is that right?

23 A Yes, sir.

24 Q That you -- I mean, you've talked on the phone,
25 both socially and professionally, during that time;

1 correct?

2 A Sometimes, yes.

3 Q And with regard to -- oh, did you use a
4 cellphone at that time?

5 A Yes.

6 Q And could you tell us what your cellphone number
7 was at that time?

8 A 509-539-1530.

9 Q All right. And you were also family friends;
10 correct?

11 A Yes.

12 Q And your families hung out together?

13 A Oh, at times, yeah.

14 Q And Mr. Young also -- did he encourage you to
15 run for political office?

16 A No, sir.

17 Q But you and he are both on the city council
18 together; is that right?

19 A Yes, sir.

20 Q And he's the mayor and you're a city council
21 person?

22 A Yes. Mr. Sheridan?

23 Q Sir.

24 A I was independently elected by the residence of
25 the City of Kennewick.

1 Q I would hope so.

2 A Thank you.

3 Q Did you hear that Ms. Atwood was being
4 investigated for timecard fraud in the September 2013 time
5 frame?

6 A No, sir.

7 Q Did you attend any meetings at which any senior
8 MSA managers indicated that Ms. Atwood was being
9 investigated for timecard fraud?

10 A With MSA managers?

11 Q Yes.

12 A No, sir.

13 Q Okay. It's true, is it not, that there came a
14 time that you learned that Ms. Atwood was let go from MSA.

15 A Yes.

16 Q And it's true, is it not, that you had a
17 conversation with Jon Peshong about that subject matter.

18 A Yes, sir.

19 Q And it's true, is it not, that Mr. Peshong
20 basically asked you if you had heard that she was let go,
21 or words to that effect?

22 MS. ASHBAUGH: Objection, leading.

23 THE COURT: Sustained.

24 Q (By Mr. Sheridan) Can you tell us what did Mr.
25 Peshong say to you and what did you say to him?

1 A Well, Jon and I have been friends for many
2 years. We worked together. I've helped him with his
3 career, he's helped me with mine. We had many mentoring
4 and discussion sessions.

5 He came in, sat down in my office and he said,
6 Greg, I don't know if I can be friends with you. I said,
7 well, why not? He says, because you're friends with Steve
8 and I don't like Steve. Said stronger words.

9 I said, John, we're mutually exclusive. You can
10 be friends -- I can be friends with you, you can be
11 friends with him, you can be friends with me, they're
12 mutually exclusive -- mutually exclusive things.

13 So we moved on from there and he said, something
14 to the tune, did you hear about Julie getting fired? And
15 I said, yeah. Did you hear why? I said, well, I heard
16 maybe timecard fraud, something to that effect. And he
17 said, did you hear how they made her leave? I said, no.
18 He said, well, they made her take her stuff out in a
19 wheelchair. I said, oh, if that's the case, that would be
20 brutal. But I don't know why she didn't ask for a cart,
21 because in the federal building, there's carts everywhere.
22 There's potlucks and everything else. So I don't know why
23 she wouldn't have asked for a cart.

24 And then we talked about other stuff and his
25 career and his executive core qualifications. It's an

1 application process for the government.

2 Q So --

3 A That was the gist of the conversation, sir.

4 Q Fair enough. So I'm interested in knowing who
5 told you that she was fired for timecard fraud?

6 A I don't know that anybody ever told me that, it
7 was more hearsay.

8 Q So you mean that, you mean that it was spreading
9 around DOE that she was fired for timecard fraud in
10 September 2013?

11 MS. ASHBAUGH: Objection.

12 A That's not what I said, sir.

13 MS. ASHBAUGH: Wait. Objection, leading.

14 THE COURT: Overruled. He's answered. So
15 go on to your next question.

16 MR. SHERIDAN: Sure.

17 Q (By Mr. Sheridan) So, so you mean the gossip
18 was that she was fired for timecard fraud?

19 MS. ASHBAUGH: Objection, leading.

20 THE COURT: Sustained.

21 Q (By Mr. Sheridan) So could you explain to us
22 how it is it came to your attention, at your level, that
23 she was fired for timecard fraud?

24 A I honestly don't recall.

25 Q Was it from your friend Mr. Young?

1 A No, sir.

2 Q Well, you knew that Mr. Young reported direct --
3 that she reported directly to him at the time; right?

4 A Yes.

5 Q And so you and he must have talked about it;
6 right?

7 MS. ASHBAUGH: Objection, leading.

8 THE COURT: Overruled.

9 A We just didn't talk about that type of stuff.

10 Q (By Mr. Sheridan) Well, did you talk about
11 when he wanted to have -- did you talk to him about his
12 statement that he told Peshong that if he had to cut his
13 front office, rather than doing that, he'd fire Julie
14 Atwood?

15 A Did I talk to him about that? No, sir.

16 Q Did you receive any reports from your direct
17 report, Mr. Toon, that Mr. Young had taken that position?

18 A No, sir.

19 Q Would you agree with me that, at the time, Julie
20 Atwood was regarded as a real asset to DOE?

21 A She did a good job working on dashboards. I
22 know she worked on a lot of the dashboard projects. These
23 were a mechanism that was utilized by the assistant
24 manager for River Plateau to consolidate a lot of
25 information about a lot of projects into sort of a

1 dashboard, in essence, a computer screen that would show
2 you costs and schedules, safety status, et cetera, and I
3 think she was leading that up for MSA.

4 MR. SHERIDAN: I have nothing further.

5 THE COURT: Cross-examine?
6

7 CROSS EXAMINATION
8

9 BY MS. ASHBAUGH:

10 Q Good afternoon, Mr. Jones.

11 A Hello.

12 Q Hi. My name's Denise Ashbaugh. I'm one of the
13 attorneys that represent both Mission Support Alliance and
14 Mr. Young.

15 On direct examination by Ms. Atwood's attorney,
16 he asked you a couple things about Mr. Young; correct?

17 A Yes.

18 Q And did he -- he asked you if you were friends
19 with Mr. Young; correct?

20 A Yes.

21 Q And Mr. Jones, did Mr. Young ever complain to
22 you about Julie Atwood?

23 A No, sir -- no, ma'am, sorry.

24 Q That's okay. And you testified a little bit
25 about a conversation that you had with Mr. Peshong about

1 the end of Ms. Atwood's employment; correct?

2 A Yes.

3 Q And that Mr. Peshong was agitated during that
4 conversation; correct?

5 A Yes.

6 Q And he seemed pretty upset about Ms. Atwood's
7 situation; correct?

8 A Yes.

9 Q Would it be fair to say that he was personally
10 invested in that situation?

11 MR. SHERIDAN: Objection, speculation.

12 THE COURT: Sustained.

13 Q (By Ms. Ashbaugh) Let me ask it in a little
14 bit different. Did it appear to you that he was
15 personally invested in this situation?

16 MR. SHERIDAN: Same objection, foundation
17 as to what he was invested in.

18 THE COURT: Overruled, I will allow that
19 question.

20 A Would you repeat the question?

21 Q (By Ms. Ashbaugh) Sure. Did it appear to you
22 that Mr. Peshong was personally invested in Ms. Atwood's
23 end of employment with Mission Support Alliance?

24 A I just know he had a lot of energy about it.

25 Q And when you say energy, what do you mean by

1 that?

2 A Pretty fired up about it.

3 Q And is it correct, Mr. Jones, that no one from
4 Mission Support Alliance has told you that Ms. Atwood was
5 fired for any issues related to timecard fraud?

6 A I didn't hear it directly from anybody from MSA.

7 Q And in fact, no one from MSA, including Mr.
8 Young, has told you why Ms. Atwood no longer works there;
9 correct?

10 A That is true.

11 Q Likewise no one from Mission Support Alliance
12 has told you that Ms. Atwood should not be hired going
13 forward; correct?

14 A Absolutely not.

15 Q And Mr. Young has not told you that either;
16 correct?

17 A No.

18 Q And Mr. Jones, is there any reason, as you sit
19 here today, why you would not hire Ms. Atwood if she
20 applied for a job within your organization?

21 A No.

22 MS. ASHBAUGH: I have no further questions.
23 Thank you for your time.

24 THE WITNESS: Yeah.

25 THE COURT: Any redirect?

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MR. SHERIDAN: Yes, just briefly.

REDIRECT EXAMINATION

BY MR. SHERIDAN:

Q It's true, is it not, that the last information you heard about Ms. Atwood was that she was fired for timecard fraud?

A No.

Q Did anyone ever correct you on the idea that she was fired for timecard fraud?

A The only person I really ever talked to about it was Jon Peshong, in my office, behind closed doors.

Q And it's true, is it not, that there came a time counsel had asked you whether you would rehire her. It's true, is it not, that there came a time that Ms. Atwood applied for a procurement job that was similar to the one she had when she was employed?

A To the best of my knowledge, yes.

Q And it's true, is it not, that you stopped the procurement.

A That is not true.

Q Well, was it your contracting officer that stopped the --

A No, sir.

1 Q Well, then, who stopped the procurement?

2 A Would you like me to -- I'll explain the
3 process.

4 So what happens in DOE -- big organizations, you
5 saw all those different charts. People on the very far
6 left, the assistant manager for River Plateau --

7 THE COURT: Sir, our court reporter is
8 trying desperately to keep up with you.

9 THE WITNESS: Sorry.

10 THE COURT: So if you could -- I don't
11 want --

12 THE WITNESS: Slow down.

13 THE COURT: Just slow down a hair.

14 THE WITNESS: Okay, thanks.

15 A So different projects within DOE sometimes hire
16 support service people to help do specific tasks. I look
17 at those specific tasks, unless they're in my area -- and
18 this one would not have been, it would have been for a
19 different organization. I look at them to ensure that
20 there is sufficient budget available. Because the federal
21 government budget is a little bit quirky at times. We're
22 under continuing resolutions, we don't have full funding,
23 and we don't want the chief financial officer to have to
24 ensure that we do not have any violations of spending of
25 money that is not already authorized. So, and there is a

1 lot of different pieces to that.

2 So long story short, this particular task was
3 not followed up on by the project, and as a result, my
4 contracting officer did not award the task. It was not
5 cancelled by my organization. My organization is the
6 implementer of what the project wants for those types of
7 tasks. So we did not cancel that task. Does that explain
8 it well enough?

9 Q (By Mr. Sheridan) It does.

10 A Thank you.

11 Q But it causes me to ask a few more questions.

12 A Okay.

13 Q So who was the contractor that passed up an
14 opportunity to make some money?

15 MS. ASHBAUGH: Object to form.

16 A I don't remember.

17 THE COURT: Overruled.

18 Q (By Mr. Sheridan) Well, was there -- let's
19 see, how do you say that. Longenecker, is that a
20 contractor?

21 A Yes.

22 Q And weren't they the ones who stood to make
23 profit by hiring somebody to fill that position; right?

24 A I would assume.

25 Q That's why they're in business; right?

1 A Sure.

2 Q So there would be no good business reason to
3 suddenly withdraw that offer that you could -- that you
4 know of; correct?

5 A Let me explain. We have an open series of tasks
6 with a number of different contract. Longenecker is one
7 of them. We've got Northland, we've got Salmon Group. We
8 have a number of different contractors that we can utilize
9 for different types of tasks.

10 I didn't say Longenecker didn't do it, I said
11 the project. The DOE task owner did not want to follow
12 through on the task. As a result, it didn't come to me
13 for budget because the budget was already authorized. As
14 a result, Longenecker did not follow through with that
15 task.

16 Q So --

17 A If it was Longenecker, I don't remember, to be
18 honest. Just so we're clear.

19 Q Who was the DOE task owner?

20 A It would have been J.D. Dowell.

21 Q J.D. Dowell, the person -- oh, you don't know
22 what he just testified to. All right.

23 MR. SHERIDAN: No further questions, thank
24 you.

25 THE WITNESS: Thank you.

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THE COURT: Any follow-up cross?

RE-CROSS EXAMINATION

BY MS. ASHBAUGH:

Q Just a couple more questions, Mr. Jones. Is it my understanding your testimony is, the only person that you heard about the reasons in regards to the end of Ms. Atwood's employment came from Mr. Peshong --

MR. SHERIDAN: Objection --

Q (By Ms. Ashbaugh) -- correct?

MR. SHERIDAN: -- misleading.

THE COURT: I will allow it.

A I'm sorry, when you get into -- can you repeat the question again? I'm sorry.

Q (By Ms. Ashbaugh) I can ask you the question again. Is the only person that you heard about the reasons for the end of Ms. Atwood's employment with MSA, did that person -- was the only person that told you about that Mr. Peshong?

A Yes.

Q And opposing counsel just asked you a series of questions with regards to a procurement; correct?

A Yes.

Q And is it correct that Longenecker and

1 Associates, if that was the person who was building on
2 this issue, they didn't stop the procurement; correct?

3 A No.

4 Q And in fact I think your testimony was J.D.
5 Dowell stopped that --

6 A Well,

7 Q -- task being --

8 A He would have been the owner of the
9 organization. It might have been somebody beneath him in
10 the organization that did it.

11 Q Okay. And it's -- but for certain, Mr. Jones,
12 you didn't cancel the procurement that Ms. Atwood had
13 applied for; correct?

14 A I did not.

15 Q And you would never cancel a procurement in
16 order to punish a particular person, would you?

17 A No.

18 MS. ASHBAUGH: No further questions.

19

20 FURTHER REDIRECT EXAMINATION

21

22 BY MR. SHERIDAN:

23 Q Just want to make sure we got the record right.
24 I have in my notes here that a DOE senior manager told me
25 that they heard she had committed timecard fraud. That's

1 an accurate statement; right?

2 A No.

3 Q It's not.

4 A That's not what I said. That's not --

5 Q So tell me who -- how did you first hear?

6 Because when you met with Mr. Peshong, you confirmed that
7 you had heard that news. He wasn't the first one telling
8 you; correct?

9 A What I said, he said, did you hear why she was
10 fired, and I said I'd heard maybe it was timecard fraud.
11 I don't remember who I heard it from.

12 MR. SHERIDAN: All right. No further
13 questions.

14 MS. ASHBAUGH: No further questions, Your
15 Honor.

16 THE COURT: Ladies and gentlemen of the
17 jury, if any of you would like to pose a question to
18 this witness, Mr. Jones, please raise your hand and
19 I'll have our bailiff provide you with a form to
20 write your question or questions down on.

21 Would any of you like to pose a question to Mr.
22 Jones? If you would, just raise your hand and I'll
23 get you a form. All right.

24 May Mr. Jones be released from any obligation
25 for him to be here?

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MR. SHERIDAN: Yes, Your Honor.

MS. ASHBAUGH: Yes, Your Honor.

THE COURT: Thank you. Mr. Jones, you can step down.

THE WITNESS: Thank you.

THE COURT: Please watch your step on the way out of that witness box.

THE WITNESS: Appreciate it.

MR. SHERIDAN: Should I get another witness or should we take a --

THE COURT: Oh, let's -- in between witnesses. We're in a good spot for our afternoon break. Usually wait another eight minutes or so, but right now is a good time. So let's break.

During the break, don't talk to each other about the case. Don't reach out and do any independent research. Please watch your step on the way out of the jury box and follow the instructions of our bailiff, Mr. Rutseugger. He'll help you back to the jury room.

(Whereupon the jury was taken out of the courtroom.)

MS. ASHBAUGH: Thank you.

THE COURT: So take a recess. Just let the clerk know when you're ready.

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MR. SHERIDAN: Thank you.

MS. ASHBAUGH: Great, thank you.

(Recess)

(Whereupon the testimony of Rick Morck was taken but not ordered with this transcript.)

* * * * *

(Whereupon the jury was in the when the following testimony was had.)

THE COURT: May the witness be released this afternoon?

MR. SHERIDAN: Yes, Your Honor.

MS. ARAGON: Yes, Your Honor.

THE COURT: Thank you very much, sir. Please watch your step on the way out of the witness box.

Mr. Sheridan, is the plaintiff prepared to call her next witness?

MR. SHERIDAN: Yes. Plaintiff calls Mike Spillane.

THE COURT: Afternoon, sir.

THE WITNESS: Good afternoon.

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MICHAEL MARTIN SPILLANE,

a witness called on behalf of the Plaintiff herein, after having been first duly and regularly sworn, testifies as hereinafter follows:

THE COURT: Sir, there is some water there, but I've got to warn you, you should hold the lid up if you want to pour it, otherwise --

THE WITNESS: I'll forego for right now.

THE COURT: Okay. Could I have you state your full name for the court record.

THE WITNESS: Michael M. Spillane, Michael Martin Spillane.

THE COURT: And could I ask you to spell your last name for our court reporter?

THE WITNESS: S-P-I-L-L-A-N-E.

THE COURT: Thank you. Counsel.

MR. SHERIDAN: Yes, thanks.

DIRECT EXAMINATION

BY MR. SHERIDAN:

Q Good afternoon.

A Good afternoon.

Q Mr. Spillane, tell us, where do you make your

1 home these days?

2 A I live in Edmonds, Washington.

3 Q And did you travel from there to come here
4 today?

5 A I did in fact.

6 Q Tell us about where you currently work and what
7 position you hold.

8 A I work at Herrera Environmental Consultants.
9 H-E-R-R-E-R-A. I've worked there for 30 years. I am
10 currently the president and CEO of the company.

11 Q And what is it that -- what service does your
12 company provide?

13 A We're an A & E, engineering, planning and
14 science firm, specializing in water environmental civil
15 engineering.

16 Q And who are your customers?

17 A Mostly municipal, but we work on private entity
18 as well; but we're predominantly a municipal support,
19 engineering support company.

20 Q And what's the range of your customer base,
21 geographically?

22 A We provide primarily in Washington State,
23 however we have offices in Montana and in Oregon. Range
24 of our services, we work in Alaska to the Caribbean, but
25 primarily focus, I would say 80 percent of our work is on

1 the west coast.

2 Q And you do know Julie Atwood?

3 A I do know Julie Atwood.

4 Q Tell us how do you know her?

5 A I've known Julie for approximately 10 years.
6 She was an employee sub-consultant that I hired to work
7 with us on a couple of King County projects.

8 Q Okay. When was that?

9 A It's been about 10 years. I'm thinking it goes
10 back 2008, 2009-ish time frame.

11 Q Okay. At the time were you the president?

12 A I was at that time as well.

13 Q All right. And what did she do for you?

14 A Julie was a specialty kind of service provider
15 while I was working on a contract with King County --
16 actually I was not working yet on it, I was pursuing a
17 contract with King County Solid Waste, which is one of our
18 primary clients. We do a significant amount of work for
19 them. And we were responding to a request for proposal in
20 which I assemble a team of individuals and individual
21 staff amongst my own company to pursue that contract.

22 Q So do you bid on the contract with other
23 companies bidding, trying to outbid you?

24 A Yes, so it's an open market. You bid on
25 qualifications. You assemble a team of individuals to --

1 the best team of individuals you can to meet the
2 requirements of a contract and then you submit an
3 approach; and then you're scored on your qualifications
4 and approach, and then if you're selected then they'll sit
5 down negotiate a contract with you.

6 Q Do you, in some of the bids that we've been --
7 heard about, they talk about key personnel. Do you guys
8 use that terminology?

9 A Yeah. And that client, in particular, uses it.
10 The contracts that King County uses, they stipulate that
11 you must identify a key person in each of maybe up to five
12 different positions that is dedicated to the project,
13 usually a senior or principal level that is guaranteed to
14 work on the project.

15 And in that particular project, there were five
16 positions, and Julie was identified as one of those
17 positions, specifically in an operations and an
18 environmental permitting, planning, support role.

19 Q Did you win the bid?

20 A We did win that bid.

21 Q What did Ms. Atwood do for you after that?

22 A Exactly as the title implies. She was an
23 operations specialist. The principal person responsible
24 for coordinating, planning, evaluating operational needs
25 for that client over about a -- the contract was about a

1 five year -- it's a three year with a two year -- one-year
2 extension, so a total of five years.

3 In particular, she was assigned to work on an
4 evaluation for changing the entire operations of the
5 facility to go from -- I know this is probably down in the
6 weeds, but, big dump refuse, the big semis that have
7 walking floors, when means they extrude the waste out and
8 it dumps onto the ground. And a more -- a newer way and a
9 more efficient and more flexible way to do it is called
10 the tipper, where you actually back the trailer onto a big
11 machine and a big machine lifts it up and dumps all the
12 waste out.

13 So it was a huge operational change, millions of
14 dollars of change and a significant depart, depart from
15 what the county had been doing, and she was responsible
16 for leading that evaluation, doing -- conducting economic
17 analysis for the cost benefit, and then meeting with the
18 county operations to actually conduct that change. And
19 then worked, continued to work to facilitate that change;
20 and ultimately worked on the implementation training,
21 planning and safety program to actually have that
22 implemented.

23 So it was over a, quite a long period of time.
24 The nature of the work, though, it's not necessarily
25 everyday, it's like task based. So it would be, like work

1 for a month or two straight and then wait to get a
2 decision, and then work for a month or two straight and
3 then get a decision. So it was kind of stop and go; but
4 over about a two-year period.

5 Q Is that when she had her consulting business?

6 A Yes, that's when she started her own business
7 and we -- she was hired on as a subcontractor to our
8 company to fulfill that special niche.

9 Q Was she responsible for the thing that you just
10 described, that side dumping thing? What role did she
11 play in that process?

12 A She was the lead design team member to conduct
13 the evaluation, do the research on the type of equipment
14 that's out there, go investigate that equipment, go down
15 and meet with the venders, specify the performance
16 requirements for that what equipment need to do. To meet
17 with the operations staff, to actually be on the ground on
18 the -- in and on the landfill to talk about what changes
19 would need to be made; dealing with angry truck drivers
20 and dozer operators to find out who was going to do what
21 and how it was going to be done in a safe manner. And
22 then develop the operations plan, help write a plan, a
23 manual, on how to conduct that work, and then develop the
24 training program. And then work with me and the county
25 staff to implement that safety plan and training.

1 Q Did she do all that?

2 A She did all that.

3 Q All right. So does she continue to work for
4 your company in any respect?

5 A That contract, we called the Area 6 contract is
6 still open. And then subsequent to that contract -- it's
7 closing, it's is sunseting. But then we went after
8 another contract, another RFP, request for proposal, which
9 was another five-year contract. It's an on-call contract.
10 So they stipulate services, you assemble a team. So I
11 assembled a team again. And Julie is also on that team as
12 a specialist in a similar role as operations and planning
13 support. And so it's, it's as needed.

14 So right now, I've had -- I think I'm on the
15 third work order. And they can be large work orders,
16 small work orders. You never know what they're going to
17 throw at you. It's as needed, but you are on deck to do
18 the work and respond to them at a moment's notice.

19 Q And has there been much work yet on that --

20 A No. So typically a work order contract like
21 that might have like 30 work orders. We're on work order
22 number three in the second year of it. So it was slow to
23 get started, and now they've got some funds and it's kind
24 of trickling out. We're seeing a little bit of action on
25 it now.

1 Q All right. And you're not subpoenaed; right?

2 A No.

3 Q So could you tell us what caused you, after all
4 these years, to come here and testify?

5 A I was asked to come down and provide
6 information, so I felt it was my obligation to do the
7 right thing to come down and answer questions to the best
8 of my ability, and so that's why I'm here.

9 MR. SHERIDAN: Thank you. Nothing further.

10 THE COURT: Cross-examine.

11

12 CROSS EXAMINATION

13

14 BY MS. ASHBAUGH:

15 Q Good afternoon. Mr. Spillane; right?

16 A Correct.

17 Q I just want to make sure I pronounce it right.
18 My name's Denise Ashbaugh. I'm one of the attorneys here
19 representing the defendants, Mission Support Alliance and
20 Steve Young.

21 A Okay.

22 Q It's nice to meet you. I want to be clear. If
23 I understood your testimony correctly, you worked first
24 with Ms. Atwood about 10 years ago; correct?

25 A I met her about 10-ish years ago, something

1 around that time frame. I'm thinking 2007, eight time
2 frame.

3 Q And when did you start working with her?

4 A I believe it was in similar time frame, 2008,
5 2009, right in that. I don't know the exact date. I know
6 the contract was a five-year contract and it's sunsetting,
7 and I was kind of backing up. It's about that time frame.

8 Q So about 2008, 2009 period; correct?

9 A I believe that's correct.

10 Q And I believe you just testified that Ms. Atwood
11 is listed as part of your team on a new contract you just
12 bid; correct?

13 A That's correct.

14 Q And so if the work becomes available, Ms. Atwood
15 would work with you; correct?

16 A That's correct.

17 Q And she would earn income doing so; correct?

18 A Absolutely.

19 Q Okay. And do you recall how much she gets paid
20 per hour by your company?

21 A The typical range in that -- for that type of
22 position range -- I don't know exact number, but I can
23 give you a kind of a --

24 Q Sure.

25 A -- professional range is anywhere from 150 to

1 \$200 per hour, that's giving benefits, fees and everything
2 inclusive.

3 Q So if she's doing work for you on this contract
4 that's a five-year contract, she'll be paid somewhere
5 around 150 to \$200 an hour for that time period.

6 A For whatever hours she works. It's like an
7 hourly basis.

8 Q And do you have any idea of how long she will be
9 working, or what the hours she might be hired to do?

10 A No. As I mentioned, it's an on-call contract,
11 so it's really the nature -- it's at the whim of the
12 clients. The client will call you up, and they may not
13 call you for a year. They may call you every week for the
14 next six weeks and say we want you here, onsite, and you
15 need to respond, so you need to be there.

16 Q So it could be that Ms. Atwood works a thousand
17 hours in one year or it could be that she works none.

18 A Correct.

19 Q It just depends on what you get?

20 A Absolutely, that's correct.

21 Q But she's -- I just want to be clear, she's on
22 your team and if you get called, you will use her?

23 A Absolutely.

24 Q Okay.

25 A If she's available. So that's the other piece

1 of it is that she calls me and says I'm not available,
2 then I would have to pick somebody else on my team.

3 Q Okay. So if you were out and asked Ms. Atwood,
4 hey, can you make sure to come and we need your help, but
5 she said, I'm on vacation, you'd go with somebody else.

6 A Correct.

7 Q And I just want to make clear, did you do any
8 work at all with Ms. Atwood from 2010 through 2013 while
9 she was working for Mission Support Alliance?

10 A I don't believe so. There was one small work
11 order contract, I believe was in 2014.

12 Q Okay.

13 A It was a follow-up to the training. It was a --
14 there was -- they wanted to modify a safety, but I believe
15 it was in 2014.

16 Q It was after she had left Mission Support
17 Alliance?

18 A I assume so, 2014.

19 Q And did you have any personal knowledge of her
20 work relationship with her boss at Mission Support
21 Alliance?

22 A No.

23 Q And did you have any personal knowledge of her
24 work relationship with her co-workers while she was at
25 Mission Support Alliance?

1 A No.

2 Q And as of today -- I think it's Herrera
3 Environmental Consultants; is that correct?

4 A That's correct.

5 Q And you're the president and the CEO; right?

6 A Correct.

7 Q And right now they have three job openings --
8 your company has three job openings; right?

9 A Maybe. Depends. We hired somebody yesterday,
10 but, yeah, we typically always will have, depending on
11 what type of position, but, yeah, normally -- mostly right
12 now it's storm water design engineers --

13 Q Okay.

14 A -- that we're looking for.

15 Q And it's my understanding from your testimony,
16 that you would hire Ms. Atwood if she applied for a
17 position with Herrera Consulting; correct?

18 A If we had a position that she fit, but right now
19 we don't, we don't have any positions. We have, I
20 believe, that all the positions that we have right now are
21 for engineers.

22 Q Okay. And Ms. Atwood is not an engineer?

23 A She's not an engineer. We typically hire master
24 PEs as a -- that's what we're looking for. That's what
25 the demand is right now.

1 Q Right. Mr. Spillane, has anyone from Mission
2 Support Alliance reached out to you and told you you
3 should not work with Ms. Atwood?

4 A Nope.

5 Q And has Mr. Young, Steve Young, reached out to
6 you and said you shouldn't work with Ms. Atwood at all?

7 A Nope.

8 MS. ASHBAUGH: I have no further questions.
9 Thank you for your time.

10 THE COURT: Redirect?

11 MR. SHERIDAN: Nothing further, Your Honor.

12 THE COURT: Ladies and gentlemen of the
13 jury, if you have any questions for Mr. Spillane, you
14 can raise your hand and I will make sure to get a
15 form to you so you can write your question down.

16 Do any of you wish to ask him a question? No.
17 May he be released this afternoon?

18 MR. SHERIDAN: Yes, of course.

19 THE COURT: Thank you, sir. Watch your
20 step off the witness box there.

21 Mr. Sheridan.

22 MR. SHERIDAN: Yes, plaintiff calls Wendy
23 Robbins.

24 (End of requested
25 proceedings.)

1 STATE OF WASHINGTON)
2 COUNTY OF BENTON) ss.

3
4 I, CHERYL A. PELLETIER, Official Court Reporter of
5 the Superior Court of the Kennewick Judicial District,
6 State of Washington, in and for the County of Benton,
7 hereby certify that the foregoing pages comprise a full,
8 true and correct transcript of the proceedings had in the
9 within-entitled matter, recorded by me in stenotype on the
10 date and at the place herein written; and that the same
11 was transcribed by computer-aided transcription.

12
13 That I am certified to report Superior Court
14 proceedings in the State of Washington.

15
16 WHEREFORE, I have affixed my official signature this
17 23rd day of September, 2017.

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21 Cheryl A. Pelletier, RPR, CCR
22 Official Court Reporter
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