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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)
STEVE YOUNG, an individual,)
)
Defendants.)

Kennewick, Washington Tuesday, September 26, 2017

EXCERPT OF
TRANSCRIPT OF THE VERBATIM
REPORT OF PROCEEDINGS

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

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APPEARANCES:

FOR THE PLAINTIFF: JACK SHERIDAN
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FOR THE DEFENDANTS: DENISE L. ASHBAUGH &
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September 26, 2017

Kennewick, WA

(The following discussion was held outside the presence of the jury.)

THE COURT: Good morning, everyone.

MR. SHERIDAN: Good morning.

THE COURT: Go ahead and have a seat. So I did a calculations to date through the end of the court session last night. So far the plaintiff has used 16 hours, and the defense has used 6.75 hours, or in other words, six hours and 45 minutes. I'll try and get the jury in, as soon as possible this morning, and at an appropriate time, maybe after lunch, we can talk about how to use the remaining portion of this week and next, some thoughts on that.

Any issues to take up before we bring the jury in?

MR. SHERIDAN: Just to let you know, I contacted Ms. Fowler about coming in tomorrow and that's problematic for her because of training, so she would rather come in on Thursday. So with the court's permission, even though we'll probably stop tomorrow, we'll call her out of order on the defense case.

1 THE COURT: Did you have somebody coming in
2 on Thursday?

3 MS. ASHBAUGH: Uh-huh. We have our out of
4 local -- he's in Seattle, but an expect for Thursday
5 morning.

6 THE COURT: Okay. Would that work then
7 if --

8 MS. ASHBAUGH: If she went afterwards?

9 THE COURT: After?

10 MS. ASHBAUGH: That's fine.

11 MR. SHERIDAN: Okay, thanks, Judge.

12 THE COURT: Good. Let's bring the jury in,
13 then.

14 MS. ASHBAUGH: Your Honor, we have printed
15 off the final version of your order.

16 THE COURT: Thanks so much. I appreciate
17 that.

18 MR. SHERIDAN: Does this exist
19 electronically also?

20 THE COURT: I sent it out to both --

21 MS. ASHBAUGH: Yeah.

22 THE COURT: -- you and MSA's counsel.

23 MR. SHERIDAN: Okay.

24 Could I just ask counsel to forward a copy to
25 my staff?

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MS. ASHBAUGH: It went to you, Jack.

THE COURT: Yes, I sent it directly to you.

MR. SHERIDAN: Oh, yesterday?

(Whereupon the jury
was brought into
the courtroom.)

THE COURT: Good morning, everyone. Go
ahead and make yourselves comfortable.

Mr. Sheridan.

MR. SHERIDAN: We would like to continue
our cross-examination of Mr. Young.

THE COURT: Good morning, Mr. Young.

THE WITNESS: Good morning, thank you.

THE COURT: Just a remainder you are still
under oath.

Mr. Sheridan.

MR. SHERIDAN: Yes, thank you.

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STEVEN YOUNG,

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

DIRECT EXAMINATION (Cont.)

BY MR. SHERIDAN:

Q So Mr. Young, we were talking last time that in 2012 you gave Julie Atwood a very good performance evaluation; right?

A That is correct.

Q We'd like to put that up on the screen now and follow along. It's Exhibit 7 of your book in front of you there.

While we're waiting for it to come up on the screen, Mr. Young, can you tell me whether you authored this?

A Authored it.

MR. SHERIDAN: It's not admitted. We would offer Exhibit 7.

THE COURT: It's admitted by stipulation.

(Exhibit No. 7 was admitted.)

Q (By Mr. Sheridan) Did you author this?

1 A Our system for pulling these together isn't a
2 single author. What we do is we sit down each year and
3 identify the objective for that year. You'll notice in
4 the document there is an Objective 1 -- on the first page
5 you'll see Objective 1, Objective 2. So we agree to what
6 the objective is for the year.

7 Q Uh-huh.

8 A The next part of the process is at the end of
9 the year, the employee fills in how they accomplished that
10 objective for the year. Then I sit down with the employee
11 and we go through what they've written in there. If
12 there's any contradictions or something we don't agree on,
13 we talk about that.

14 Q All right. You're the one who picks the rating;
15 right?

16 A That's correct.

17 Q So for Objective Number 1, which is to ensure
18 2011 performance incentives and contract deliverables are
19 met, and the 2012 PLSs are implemented and status with DOE
20 is closely tracked and documented, you said she exceeds
21 expectations; right?

22 A I did.

23 Q Now let's go down to the next objective, which
24 is two. And that's to set an effective and positive
25 leadership example. And you said, for that period, she

1 exceeds expectations; right?

2 A I did.

3 Q And then for the third objective, she continues
4 to expand expertise to support Portfolio Management and
5 support DOE in achieving their goals to achieve baseline
6 optimization, you said she was exceptional; right?

7 A Correct.

8 Q And then for Objective 4, to ensure effective
9 use of technical resources in strategic tool
10 implementation and continuous improvement, and this is of
11 the toolbox, you said she exceeds expectations; right?

12 A Correct.

13 Q And then Objective 5, you said provides
14 leadership to PMG and recruit and facilitate DOE's
15 participation in customer base. Lean Six Sigma
16 initiatives that result in cost saving and cost
17 avoidances, exceeds expectations; right?

18 A Correct.

19 Q And so you gave her an average rating of 1.8.
20 That's pretty good; right?

21 A It's very good.

22 Q Now let's go over to performance attributes for
23 all employees. Now this identifies -- let's look at A
24 first. And this identifies manager comments, did you
25 write these manager comments?

1 A I did not.

2 Q It says Ms. Atwood's an excellent safety leader.
3 Did you basically adopt them as your own?

4 A I agreed to them, yes.

5 Q And you said exceeds expectations; right?

6 A Correct.

7 Q And then under responsibility, accountability,
8 maintains appropriate level of responsibility for assigned
9 duties, et cetera. You said Ms. Atwood is effective at
10 owning her responsibilities, duties and also willing to
11 pitch in and help.

12 A couple lines down you said, she has, she has a
13 questioning attitude when not sure of expectations and is
14 candid and open about observations in an effort to have
15 open, honest communications. You agreed with that and
16 gave her exceptional; right?

17 A I did.

18 Q And then at the bottom it says, she works long
19 hours, if needed, and takes her role as a lead senior
20 level person and PFM, MSA representative seriously. You
21 confirmed that she worked long hours; right?

22 A I agreed to what was written there, absolutely.

23 Q And then exceeds expectations in the next one.
24 Demonstration effective written and oral communication.

25 And then there is an example under C, it says an

1 example of this is her current role is that she has
2 demonstrated this by significant amount of interviewing
3 and elicitation of requirements for multiple DOE customers
4 and then channeling that back through IT and ITD team
5 members to assure we are all on the same page; or if not,
6 that it's documented and constructively communicated. So
7 one of her roles was that she was basically to make sure
8 that the customer was satisfied and the people who were
9 serving the customer knew what they needed to do?

10 A Correct.

11 Q And she exceeded expectations on that; right?

12 A Correct.

13 Q And then going down to the next page under D.
14 Fosters a respectful communicate -- fosters respectful
15 communication and trust, contributes towards team goals.
16 About three lines down it's written, she is respectful and
17 very much a supporter of our mission. Ms. Atwood takes
18 time to talk to and be aware of an individual's needs
19 while keeping an eye on the overall team's progress, et
20 cetera. Ms. Atwood leads the development -- a little
21 further down -- leads the development of their
22 communications and briefing products using PFM
23 geo-visualization and ITD. And in this section you said
24 she exceeds expectations; right?

25 A Correct.

1 Q The last two sentences it says, she worked
2 closely and respectfully with -- respectfully with --
3 respectively with PFM team members as well as multiple
4 FPDs and senior staff. She's trusted with important and
5 sensitive information and has effectively helped PFM
6 communicate technical communication. And you gave her,
7 again, exceeds expectations; right?

8 A Correct.

9 Q And then we'll skip down past awareness or
10 cause. Priority to internal and external.

11 And under customer service onto the next page,
12 third line down, it says she also understands the
13 sometimes urgent needs as evidenced by her responsiveness
14 to requests on weekends and evenings, working as long as
15 it takes on scope that she may or may not be the lead on
16 in an effort to help the team. That's a true statement
17 when you wrote it; right?

18 A I didn't --

19 MS. ASHBAUGH: Objection, Your Honor,
20 mischaracterizes his testimony.

21 MR. SHERIDAN: I'll ask that again.

22 THE COURT: Sustained.

23 Q (By Mr. Sheridan) That was a true statement as
24 you adopted it; right?

25 A I agreed to that paragraph, yes.

1 Q You agreed it was true; true?

2 A I agreed to that paragraph, yes.

3 Q Exceptional you said; right?

4 A I did.

5 Q And then a couple lines down it says she enjoys
6 accomplishing the work with the team, likes working with
7 people and making them successful; and you agreed with
8 that, right?

9 A I did.

10 Q Now let's come down a little bit to the
11 signature page and let's see when you wrote this. You
12 wrote this -- you acknowledged it and signed your name on
13 July 31st, 2012; right?

14 A That's correct.

15 Q Now yesterday we went through the September
16 through November investigation of Ms. Atwood, and it's
17 true, is it not, just to confirm, you never told Ms.
18 Atwood that she was being investigated.

19 MS. ASHBAUGH: Objection, asked and
20 answered.

21 THE COURT: I will allow some leeway.
22 Overruled.

23 Q (By Mr. Sheridan) Go ahead.

24 A I did not.

25 Q And when the investigation closed in November

1 2012, you left the impression that she was creating a
2 hostile work environment; correct?

3 A The answers that I gave were in response to the
4 questions that were asked.

5 Q But it's true, is it not, that had she actually
6 been investigated for hostile work environment, that Ms.
7 DeVere would have been brought into the loop to conduct
8 the investigation as the head of EEO back then.

9 MS. ASHBAUGH: Objection, calls for
10 speculation.

11 THE COURT: Overruled.

12 A I have no idea how that process worked. It was
13 never explained to me at that time.

14 Q (By Mr. Sheridan) Well in 2013, you understood
15 that Ms. DeVere was investigating a hostile work
16 environment; right?

17 A After some time I learned about it, yes.

18 Q Now you've been sitting in the courtroom through
19 this trial; have you not?

20 A I have.

21 Q And so you are aware that Ms. DeVere's testified
22 that in December of the year, 2012, Todd Beyers accused
23 her of timecard fraud.

24 A I heard that in this trial, yes.

25 Q Is it your testimony that you didn't know this

1 was happening when it was happening?

2 A Had no idea.

3 Q Now you also -- it was hard to understand
4 yesterday. You acknowledged that Ms. Delannoy, in her
5 meeting with Ms. DeVere and Ms. Robbins, discussed the
6 fact that you had turned off your calendar to all but a
7 few people; right?

8 MS. ASHBAUGH: Objection, calls for
9 speculation.

10 THE COURT: Sustained.

11 Q (By Mr. Sheridan) I'm just actually trying to
12 bring you back to yesterday.

13 MR. SHERIDAN: Let's put Exhibit 20 up on
14 the screen and go to number two, Page Number 2.

15 Q (By Mr. Sheridan) Sir, would you turn to
16 Exhibit 20?

17 A You mean section two?

18 Q Yes, please.

19 A Okay. These are the org charts?

20 Q Yeah.

21 A Okay.

22 Q They're not the org charts, they're the
23 handwritten notes.

24 A On two I have an org chart.

25 Q No, no, I said 20. It's a 9-17 entry?

1 A Top of the page says 9-16. Is that what you're
2 talking about?

3 Q No, would you turn the page to one that says,
4 interview with Linda continued? He wants to know.

5 MR. SHERIDAN: Go to Page 2 of that,
6 please. Page 2 of DeVere, please?

7 A I'm on, let's see, I'm on 9-17. Which one of
8 the 9-17s?

9 Q (By Mr. Sheridan) It should be the second page
10 of the Delannoy interview.

11 A I got you.

12 Q Okay. You see the paragraph that begins with
13 the word "now?"

14 MR. SHERIDAN: Greg, could you go ahead and
15 highlight that for us?

16 A I don't think I'm on the right page. Just a
17 minute.

18 Q (By Mr. Sheridan) Yeah, that one. Look up on
19 the screen.

20 A Yeah.

21 Q It might --

22 A Yeah, let me just use one of those screens.

23 Q Sure, that's fine. This is Ms. DeVere's notes
24 of Ms. Delannoy's interviews. And she says, now only
25 Linda, Dru and Jenna have the access for Steve's calendar.

1 Previously everyone had access and DOE was noting that
2 they heard Steve has, something, of city of events on the
3 calendar. Maybe lots of city events.

4 So it's still your position that you didn't know
5 that DOE was asking questions about your calendar?

6 A They hadn't said anything to me and nobody else
7 had.

8 Q And it's still your position that you didn't
9 know that other people had been locked out of your --
10 access to your calendar other than Linda, Dru and Jenna?

11 A I do remember, I think it was either Lynn did or
12 Jenna came to me and said, are you aware that people have
13 been locked out. And I said, well, fix it.

14 Q I see, I see. That's actually not in here
15 anywhere. Okay. Let see.

16 Now you acknowledge, do you not, that if you
17 were doing -- let's say, let's say an employee is getting
18 paid by Uncle Sam to work a 40-hour week, but half of the
19 time they're really working on other business. You accept
20 that that would be a violation of your code of conduct;
21 right?

22 A If they're doing that work at the office, yes.

23 Q Let's go to Exhibit 43, please? And this is the
24 standards of conduct for MSA, is it not?

25 MS. ASHBAUGH: Your Honor?

1 A That was the one that was --

2 MS. ASHBAUGH: This actually has not yet
3 been admitted. But we would have no objection to its
4 admission.

5 MR. SHERIDAN: Oh, yeah, be careful.

6 THE COURT: It --

7 MR. SHERIDAN: It's not objected to.

8 THE COURT: It looks like 43 there was a
9 stipulation to admissibility in the 904 submissions.

10 MS. ASHBAUGH: I agree, it just has not yet
11 been admitted.

12 THE COURT: Okay.

13 MS. ASHBAUGH: We have no objection.

14 MR. SHERIDAN: That is true, our mistake,
15 sorry. So we offer it.

16 THE COURT: It's admitted.

17 (Exhibit No. 43
18 was admitted.)

19 MR. SHERIDAN: Please put up 43 now?

20 Q (By Mr. Sheridan) And this basically is sort
21 of your Bible of ethics; right?

22 A Correct, at that time, yes.

23 Q Let's turn the page, if we can, and let's look
24 at what is identified as extremely serious misconduct.

25 So it says, any of the following types of

1 actions are considered extremely serious and may result in
2 immediate discharge. That was your understanding at the
3 time; right?

4 A Correct.

5 Q Look at Number 3. Taking or receiving, without
6 authorization, property belonging to the company, fellow
7 employees, a contractor, a vendor, the government or
8 others. So you would agree that that's one of the reasons
9 for automatic termination; right?

10 A Yes, stealing is a serious offense.

11 Q How about Number 4, deliberate misuse or damage
12 of company property, government property or other property
13 of another employee? So misusing government property
14 would also be a reason; right?

15 A Correct.

16 Q And then falsification of records, Number 5,
17 that would be another reason; right?

18 A Correct.

19 Q And you were aware of that back in 2012 and
20 2013; right?

21 A I was.

22 Q Now you are -- do you consider yourself a good
23 politician?

24 MS. ASHBAUGH: Objection, Your Honor.

25 THE COURT: Overruled.

1 A Do I consider myself a good politician?

2 Q (By Mr. Sheridan) Yes.

3 A Not necessarily. I'm not sure how we define a
4 politician.

5 Q Well, you live in a political environment;
6 right?

7 A We all do, yes.

8 Q And you would agree that even as vice president
9 of MSA, you're in a political environment, right?

10 A Yeah, an employment -- political employment,
11 yeah, absolutely.

12 Q And you would also agree that as mayor of the
13 City of Kennewick, that's a political environment?

14 A Yes.

15 Q And have you -- do you consider yourself pretty
16 good at maneuvering through that political environment?

17 A I don't know how you would measure that.

18 Q Is it fair to say that what you try to do is you
19 try to think several moves ahead of your opposition?

20 A I always have.

21 Q And you're pretty good at that.

22 A If you want to say I am, I'll take it.

23 Q All right, fair enough. Well, you consider
24 yourself to be pretty good at it.

25 A I didn't say that.

1 Q Okay. And so what you do is if you see
2 something who is in your -- what you believe in your
3 opposition, you figure out what that person may do and how
4 you may react before it happens; correct?

5 A I haven't had too many in my opposition on the
6 political side.

7 Q But when it happens, you don't sit by and wait,
8 you plan.

9 A Same thing I did when I played football.

10 Q Good, okay. Now in this particular case, since
11 you joined MSA, you have been using government property
12 while doing mayor duties; right?

13 A I have not been performing city work at MSA.

14 Q Well --

15 A I have been receive emails.

16 Q Well, you send emails, too, right?

17 A I have sent emails -- I have responded to
18 emails.

19 Q And you've sent emails for mayor business.
20 You've sent them during the work hours.

21 A Okay.

22 Q Using your RL, your government email; right?

23 A I have.

24 Q And you would agree that that's not appropriate.

25 A I don't know that I would agree to that, but,

1 but, let's go with it.

2 Q Well, you're not doing it anymore; right?

3 A No.

4 Q Since 2015 you stopped --

5 A Correct.

6 Q -- using government computers for mayor
7 business; right?

8 A Correct.

9 Q You stopped using your government email for
10 mayor business; right?

11 A Correct.

12 Q But back then you used it all the time; right?

13 A I would get a couple of emails a day; correct.

14 Q And you would send emails during the workday.

15 A Sometimes.

16 Q And also it's true that you would take Ms.
17 Delannoy, from time to time, on trips that had to do with
18 government business -- I should say that city business.

19 A Trips?

20 Q Yeah, like take her to a function with you
21 during the workday?

22 A There were three times that Ms. Delannoy went.
23 One time was for the state of the cities. And if I
24 remember correctly, she sat at the MSA table. There was
25 another time we had a charity event for the cancer center.

1 She asked if she could go. She rode with me over there.
2 There was another situation where she went and picked up
3 flowers. She went off the clock and went and picked up a
4 plant for the clerk at city hall.

5 Q Now when you say she went off the clock, there
6 was no way of tracking that back in those days; right?

7 A Well, you have to remember that you couldn't put
8 down a partial day on your timecard.

9 Q Okay.

10 A You had to put all or nothing.

11 Q So back in those days, if you -- so 2012, 2013,
12 if you went -- say you spent an hour doing mayor business,
13 you still had to bill 40 hours. It was all or nothing?

14 A If you showed up for work, you were paid for the
15 whole day whether you worked an hour or you worked 12
16 hours.

17 Q Got it. And it's your testimony that through
18 2012 and 2013, no one from DOE ever challenged that?

19 A No one from DOE challenged it.

20 Q And no one from MSA challenged that?

21 A No one from MSA challenged it. In fact, there
22 were several audits and reviews done of my time.

23 Q All right. By MSA?

24 A By MSA.

25 Q So let's take a look at Exhibit 155. And

1 Exhibit 155, you might want to look at that in the book.

2 Does the book go all the way to 155?

3 A No.

4 Q Better get another. Do you have that in front
5 of you, sir?

6 A I do.

7 Q And these are basically just a grouping of a
8 bunch of emails that you sent and received to your
9 government email address; right?

10 A Correct.

11 Q And they cover a period of many months and
12 years. So you've seen this before; right?

13 A I'm sure I have, yeah.

14 Q And you helped assemble these particular emails
15 in response to a request in another matter; right?

16 A Correct.

17 Q So you recognize these as being emails to and
18 from you using your government email address; right?

19 A Correct.

20 MR. SHERIDAN: Plaintiff offers Exhibit
21 155.

22 MS. ASHBAUGH: Your Honor, we'd object as
23 the culmination of emails and the representations
24 that these were documents that Mr. Young collected.

25 MR. SHERIDAN: I think he's already

1 answered the question.

2 MS. ASHBAUGH: These documents would be
3 better served as separate exhibits.

4 THE COURT: That Mr. Young collected. I
5 thought the question was that he had either authored
6 or received.

7 MS. ASHBAUGH: If he authored or received.
8 I thought he asked if he collected them for some
9 specific reason.

10 THE COURT: So if that was the question,
11 I'll sustain and ask for a little bit more
12 foundation.

13 MR. SHERIDAN: Sure.

14 Q (By Mr. Sheridan) You sent and received these
15 emails; right?

16 A Yes. This one on top. I haven't looked at all
17 of them.

18 Q Well, just page through, let's -- you've seen
19 them before at your deposition. But satisfy yourself. We
20 want you to satisfy yourself that these are emails that
21 you sent and received.

22 A The first group I've looked at it appear to be
23 mine.

24 MR. SHERIDAN: All right. Plaintiff
25 reoffers.

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MS. ASHBAUGH: Same objection as to
culmination of exhibits within one.

THE COURT: And -- what?

MS. ASHBAUGH: Within one exhibit. If they
were separate exhibits, I would have no objection.

THE COURT: The purposes of the submission
is a collection of emails that you're going to claim
are related to mayoral work?

MR. SHERIDAN: That's right, and they were
assembled for that purpose.

THE COURT: Okay. I'll --

MS. ASHBAUGH: Your Honor, they weren't.
They were -- can we have a side bar?

(Whereupon a side
bar was conducted.)

MS. ASHBAUGH: Mr. Sheridan is indicating
that these were assembled for purposes of a public
disclosure request. That is not these documents.

MR. SHERIDAN: I have not asked that
question.

MS. ASHBAUGH: And Mr. Young did not
assemble these documents for any purposes to show
that he was doing mayoral work.

It appears what the plaintiff has done is take
a bunch of documents, thrown them all into one

1 exhibit and wants to admit them for that purpose. If
2 they were submitted as a separate exhibits, I think
3 that's appropriate. But taking a bunch of documents,
4 putting them together and saying here is one exhibit,
5 I think is not appropriate.

6 MR. SHERIDAN: These were exhibits at his
7 deposition. He identified them and he thinks that he
8 sent and received them is true. And he recognizes
9 these as his exhibits.

10 THE COURT: Well, there wasn't any
11 testimony that these were the result of a Public
12 Records Request that encapsulates the entirety of
13 what he was doing. There is no representation that
14 they constitute the entirety.

15 MR. SHERIDAN: They're just emails.

16 MS. ASHBAUGH: Stuck all in one exhibit.

17 MR. SHERIDAN: It would be a mess if we had
18 to submit them separately.

19 MS. ASHBAUGH: That's the proper way to
20 submit documents.

21 THE COURT: Well, we've had a number of
22 exhibits where there have been multiple documents
23 within an exhibit.

24 I'll allow it for the purpose that you're
25 proposing it, but it's not to be reflective of, I

1 don't know, a Public Records Request or all of what
2 he has.

3 MR. SHERIDAN: Right.

4 THE COURT: It's just, I'm assuming,
5 samples or examples.

6 MR. SHERIDAN: That's right.

7 (Whereupon the side
8 bar was concluded.)

9 THE COURT: I will over the objection.
10 I'll overrule the objection, 1 -- is it 155?

11 MR. SHERIDAN: Yes.

12 THE COURT: It's admitted.

13 (Exhibit No. 155
14 was admitted.)

15 MS. ASHBAUGH: Thank you, Your Honor.

16 MR. SHERIDAN: All right. Thanks, Your
17 Honor.

18 Q (By Mr. Sheridan) So basically these are just
19 some examples of the emails you sent and received, many
20 during the workday from your government email address;
21 right?

22 A Correct.

23 Q And you don't do that anymore since 2015; right?

24 A Correct.

25 Q Let's look at Exhibit 95, what's that?

1 A It's not in this book.

2 Q Oh, I'll find it for you.

3 A Okay. This is your favorite email.

4 Q My favorite?

5 A 95?

6 Q Yes, sir, please. This represents an email that
7 you received and then forwarded in October of 2012 using
8 your government computer and your government email
9 address; right?

10 A That's correct.

11 Q And you recognize this as being one of those
12 emails; right?

13 A Correct.

14 MR. SHERIDAN: Plaintiff offers Exhibit 95.

15 MS. ASHBAUGH: No objection.

16 THE COURT: Basis of the objection?

17 MS. ASHBAUGH: No objection, Your Honor.

18 THE COURT: Oh, it's admitted. I'm sorry.

19 (Exhibit No. 95
20 was admitted.)

21 MR. SHERIDAN: Let's put that up on the
22 screen.

23 Q (By Mr. Sheridan) So this is, the first email
24 is coming from Eileen Webb, and who is she?

25 A In all honesty, I'm not quite sure. I think it

1 was a lady that had worked for me at one time.

2 Q So she sends an email to you and Ms. Delannoy;
3 is that right?

4 A Yes.

5 Q And it's various versions of, purported versions
6 of a Barbie doll; is that right?

7 A Correct.

8 Q And it links by neighborhood within your region?

9 A Correct.

10 Q Where is Canyon Lakes?

11 A South part of town.

12 Q How about the next one?

13 A I don't know with that is.

14 Q Okay. Polo Club. Pasco?

15 A Yeah, Pasco.

16 Q And this was something -- let's go back up to
17 the top.

18 A Yeah.

19 Q Did you find this offensive?

20 A I did.

21 Q And you forwarded it to other mayors; is that
22 right?

23 A I forwarded it to the mayor of Richland and to
24 Donna Noskey, who was the mayor of West Richland.

25 Q And when did you forward it? Let's look at the

1 top, please?

2 A October 4th, 2012.

3 Q All right. And whenever we see Steve Young,
4 vice president, that means that's a government email;
5 right?

6 A That's correct.

7 Q And October 2012 and you have -- you write, you
8 have got to see this; right?

9 A Correct.

10 Q But yet you say it was offensive; is that right?

11 A It was. It bothered me because we had been
12 going through a number of challenges and issues which
13 started, actually started back in 2010, culminating in a
14 real bad situation in 2016.

15 Q This mayor was from a different city; right?

16 A Correct. Both mayors were from Benton County.

17 Q I see. So, you were never in any way counseled
18 by anyone for receiving and forwarding this; right?

19 A In 2016 the new president of Johnson -- or not
20 Johnson Controls -- of Mission Support Alliance and I had
21 a long talk about it.

22 Q 2016?

23 A I believe it was 2016.

24 Q What about 2012 when you did it?

25 A No, nobody did.

1 Q How about 2013?

2 A Nothing.

3 Q Now you would agree with me that you treat women
4 and men differently at work; correct?

5 A I do not.

6 Q Well, it's true, is it not, for example Mr.
7 Santo, you had asked Mr. Santo to do some work on behalf
8 of the City of Kennewick; right?

9 A I did not.

10 Q Well, you heard him testify; right?

11 A I did.

12 Q And you disagree with his testimony?

13 A Absolutely.

14 Q All right. And when you told -- so he says that
15 you told him to do work and he felt uncomfortable, went to
16 the first meeting and not the second; that's not your
17 understanding?

18 A That's not it at all.

19 Q It's true, is it not, that with regard to him,
20 you concluded that he might be happier somewhere else;
21 right?

22 A He actually came to me.

23 Q He concluded he may be happier somewhere else;
24 right?

25 A That is correct.

1 Q And you didn't seek to fire him or hurt him;
2 right?

3 A Oh, no.

4 Q You simply allowed him to transfer.

5 A He actually ended up with a better job.

6 Q And it's true, is it not, that with regard to
7 women, you take the position that, oh, you know, women cry
8 and I fall apart. There is nothing I can do. That's how
9 you view a woman employee; right?

10 A Pardon me?

11 Q You take the position that at work if a woman
12 cries, you basically can't do anything. You can't
13 discipline or counsel them.

14 A I take the position that when anybody cries I
15 get uneasy.

16 Q Well, you didn't -- you've been deposed on this;
17 right?

18 A Yes, I have.

19 Q You didn't say anybody, you said women; right?

20 A Context of what we were talking about, I did.

21 MR. SHERIDAN: Let's go to that excerpt, I
22 think it's Page 135 to 139.

23 (Whereupon the video
24 was played.)

25 THE COURT: Just one second. I've got

1 jurors indicating that they can't hear.

2 MR. SHERIDAN: They can't hear. Can you
3 turn that up, Greg?

4 MS. ASHBAUGH: And this doesn't appear to
5 be rebuttal testimony -- I mean, impeachment.

6 MR. SHERIDAN: This is simply a designated
7 portion of the testimony.

8 MS. ASHBAUGH: I understood he was trying
9 to impeachment Mr. -- I apologize, Your Honor. I
10 thought he was trying to impeach Mr. Young. He's
11 just playing a dep --

12 MR. SHERIDAN: Designated portion.

13 MS. ASHBAUGH: -- of his testimony. I have
14 no objection.

15 THE COURT: Okay.

16 (Whereupon the video
17 continued to play.)

18 MR. GLOVER: That's it.

19 Q (By Mr. Sheridan) So you did say that with
20 regard to women --

21 A I did.

22 Q -- you're a push over; right?

23 A I did.

24 Q So you see women as sort of different in the
25 workplace in that regard; right?

1 A I'm having a hard time with your question. I
2 see women as women and men as men; but I don't treat them
3 differently.

4 Q Julie Atwood was a threat to you, was she not?

5 A She was not.

6 Q She was a threat -- she actually -- she knew
7 more than you; right?

8 A Pardon me?

9 Q She knew more than you.

10 A About what?

11 Q The business.

12 A She knew a lot more than me about waste
13 management.

14 Q All right. And you thought that she might turn
15 you in for your activities regarding being mayor; right?

16 A I never said that nor did I ever think that.

17 Q 16 to 20 hours a week you testified yesterday;
18 right?

19 A Correct.

20 Q As mayor; right?

21 A Correct.

22 Q You're making, what, over 240,000 a year in this
23 job?

24 A Possibly.

25 Q Paid for by the United States taxpayers; is that

1 right?

2 A Correct.

3 Q Now it's true is it also -- it's true also, is
4 it not, that with regard to Julie Atwood's time, you
5 approved every one of her timecards.

6 A All of --

7 Q Every one.

8 A All of her timecards were approved either by me
9 or Morris Legler; correct.

10 Q So the allegation that she engaged in timecard
11 fraud was always -- it was all one had to do was to look
12 to see that you approved her time; right?

13 A Correct.

14 Q And you did.

15 A Correct.

16 Q So there was never a real reason to investigate
17 her for timecard fraud, would you agree?

18 A I don't know if I would agree to that. I don't
19 know why the investigation was done, other than later on I
20 found out there was an employee concern.

21 Q Okay. So it's true, is it not, that you said to
22 the investigator in 2013 -- because she was investigated
23 in September 2013 -- it's true, is it not, that you had
24 basically complained that Ms. Atwood went away to Malaysia
25 improperly; right?

1 A That's correct.

2 Q Let's take a look at some of the exhibits that
3 focus around that time frame.

4 Now it's true, is it not, in May of 2013, Julie
5 Atwood was out on short-term disability owing to foot
6 surgery?

7 A I can't tell you the dates, but she was out due
8 to foot surgery.

9 Q All right. And then during that same time frame
10 -- do you have 165 in front of you there? Could you pull
11 that up?

12 MR. SHERIDAN: I believe this is not
13 admitted.

14 THE COURT: Which, counsel? I'm sorry.

15 MR. SHERIDAN: 165, Your Honor?

16 A Yes, I have.

17 Q (By Mr. Sheridan) And you recognize 165 as
18 being an email?

19 A Yes.

20 Q And it's an email to you from Jeffrey Dennison?

21 A Jeff Dennison; correct.

22 Q And it was just a -- it was basically an email
23 that was congratulating you on the work that Ms. Atwood
24 had done with her team.

25 A It was actually thanking -- letting me know how

1 much he thanked Julie for what she had done.

2 Q And that's -- that was dated September -- I'm
3 sorry, July 25th, 2013?

4 A Correct.

5 MR. SHERIDAN: Plaintiff offers Exhibit
6 165.

7 MS. ASHBAUGH: No objection.

8 THE COURT: It's admitted.

9 (Exhibit No. 165
10 was admitted.)

11 Q (By Mr. Sheridan) And that email is fairly
12 representative of the kind of accolades that she got
13 working for you; right?

14 MS. ASHBAUGH: Objection as to time.

15 THE COURT: Sustained as to time frame.

16 Q (By Mr. Sheridan) Oh, well, certainly in 2013
17 and 2012; right?

18 A Well, this is definitely an accolade she got
19 from Jeff Dennison, yes.

20 Q Okay. But, I mean, this wasn't the only --

21 A And that was in 2013.

22 Q Right. But you would agree with me that this is
23 not atypical. You received very positive feedback for the
24 work she was doing.

25 A I -- many times I've got comments for her and

1 many of the team members, yes.

2 Q Let's look at Exhibit 213. This is short enough
3 that you might be able to just look at it on the screen.
4 I'm not sure you have the book.

5 A Okay. I am familiar with this.

6 MR. SHERIDAN: Has 213 been admitted?

7 THE COURT: Yes, it's admitted.

8 MR. SHERIDAN: All right, good.

9 Q (By Mr. Sheridan) This is the email that Lynn
10 Tanasse sent on August 1st giving you the information
11 about Ms. Atwood's trip to Malaysia; right?

12 A Correct.

13 Q It's true, is it not, that you were aware that
14 she needed to take -- what's that called when you have to
15 take time off? Furlough?

16 A Furlough or PTB, yeah.

17 Q You actually met with her before this time to
18 sort of pin her down as to when she wanted to take her six
19 weeks of furlough; right?

20 A I actually met with the entire organization and
21 let them know that we were facing potential sequestration,
22 yes.

23 Q But you actually met with her one on one, did
24 you not?

25 A I met with all my direct reports one on one.

1 Q So -- I'm just asking a simple question. You
2 met with Julie Atwood one on one; right?

3 A Yes.

4 Q Thank you. And you basically tried to pin her
5 down to when she was going to take her six-week furlough;
6 right?

7 A I believe what I asked her, the same thing I
8 asked everybody, let me know what your plans are and what
9 time you may be wanting to take off.

10 Q And she, she asked you if she could just sort of
11 bracket out a time because of her sick mother-in-law;
12 right?

13 A I don't recall that.

14 Q Isn't it true that you had agreed that she could
15 take her furlough during some bracketed time, rather than
16 on a specific start date in part to accommodate her
17 mother-in-law?

18 A No, I don't think that's what I agreed to.

19 Q Then what did you agree to?

20 A I asked them, each of them, to let me know when
21 they thought they might be taking time off.

22 Q And did she?

23 A She did not.

24 Q So then was she in violation -- was she being
25 insubordinate?

1 A Well, where are you in the system? When she got
2 to this trip she was, yes.

3 Q She was insubordinate, so that means she could
4 be subject to discipline, right, if she's insubordinate?

5 A Absolutely.

6 Q That's what you said?

7 A Absolutely.

8 Q August 1st. So it was your position on August
9 1st that she was insubordinate; right?

10 A Yeah, the email from Lynn Tanasse was on August
11 1st. I believe the -- what we learned was from the last
12 day of the previous month, which would have been July.
13 But August 1st, yes, when I got this information.

14 Q Okay, I'm trying to actually go to this step
15 further. You would agree with me that in your view, as of
16 August 1st, she was insubordinate?

17 A Correct.

18 Q Going on vacation without permission; right?

19 A Leaving the site, not reporting in; correct.

20 Q One would think if you thought she was
21 insubordinate you would have written that down somewhere;
22 right?

23 A I had it right here.

24 Q Where did you write she's being insubordinate?

25 A In fact, that was the reason I scheduled the

1 meeting with HR.

2 Q Actually I'm asking where you wrote it down.

3 A I didn't need to write it down, I had it right
4 here.

5 Q You had what?

6 A I had the fact that she was gone without
7 authorization right here in this email.

8 Q So it's your testimony that this was not part of
9 the time frame that she had bracketed with your okay to be
10 gone on furlough.

11 A We did not have a bracketed time frame for her
12 to be gone on furlough.

13 Q Fair enough. That was Exhibit 213; right? 213.
14 Okay, that's all right.

15 Let's go to 171 now. Again this is another
16 shorty, I don't think you're going to need the book.

17 A Okay.

18 MR. SHERIDAN: I believe this has not been
19 admitted yet.

20 Q (By Mr. Sheridan) 171. Okay. This is an
21 email from you to Paul Pak, who is that?

22 A Paul Pak was a DOE person.

23 Q And this is on August 1st as well; right?

24 A Correct.

25 MR. SHERIDAN: And Plaintiff offers this

1 email.

2 MS. ASHBAUGH: No objection.

3 THE COURT: 171 is admitted.

4 (Exhibit No. 171
5 was admitted.)

6 Q (By Mr. Sheridan) 171, on August 1st. What
7 did you tell them about Julie's status?

8 A I told DOE that she was out on furlough.

9 Q And that was a true statement when you said it;
10 right?

11 A Well, it was then. She was gone.

12 Q Well, wait. There's two ways of being gone.
13 One way to be gone is that you are gone without
14 permission; and the other is to be out on furlough or
15 vacation, right?

16 A No, it's the same thing.

17 Q Okay. So you tell, you tell DOE on the same day
18 that you're claiming she was insubordinate, that in fact
19 she's out on furlough; right?

20 A I was not going to tell DOE she was
21 insubordinate.

22 Q Because you wanted to protect her?

23 A I wanted to protect the organization.

24 Q All right. So in fact you're thinking she's
25 insubordinate on August 1st; right?

1 A The fact that she had left without notification
2 was insubordinate.

3 Q And so you would want to communicate that to her
4 as soon as possible; right?

5 A When she came back.

6 Q Well, it's true, is it not, that in fact you
7 communicated with her on the first?

8 A I finally sent an email back to her, not from
9 one that I received from her, but to let her know I knew
10 she was gone, enjoy the trip.

11 Q 166, please, let's take a look at this.

12 A That's correct.

13 MR. SHERIDAN: Plaintiff offers 166.

14 MS. ASHBAUGH: No objection.

15 THE COURT: It's admitted.

16 (Exhibit No. 166
17 was admitted.)

18 Q (By Mr. Sheridan) Let's take a look at this.
19 So this is now -- it's your testimony that at this time
20 you believed she was insubordinate; right?

21 A I believed she was insubordinate, yes.

22 Q And you are writing to her, this is your only
23 communication with her on the first; right?

24 A Right.

25 Q And then you write, Julie, I read your message

1 to Lynn. That's that text one that you said; right?

2 A Correct.

3 Q We will use this time from the office as
4 furlough time and charge it to PTB, what's that?

5 A Vacation.

6 Q Just a reminder, you cannot work remotely
7 because we have no policy. Also, since you are on
8 furlough, please don't perform work. You told her don't
9 do any work; right?

10 A While she's gone on furlough, that's correct.

11 Q So you've complained, I believe, in deposition
12 that other people had to step in and help because she was
13 gone; right?

14 A Absolutely.

15 Q But you've told her not to do any work; right?

16 A It was against company policy.

17 Q And you said, have a good trip and come and see
18 me when you get back; right?

19 A You bet.

20 Q So you never said anything to her about the
21 impropriety that you've now said; and you never asked her
22 if she told anybody, did you?

23 A Never asked her if what?

24 Q You don't use your communication with her to
25 explore why she left. You say without permission; right?

1 A Well, yeah. She had left, she hadn't told me a
2 word. What I've got is a message from Lynn Tanasse.

3 Q Well, let's see. It's true, is it not, you
4 never tried to call her?

5 A Of course not, she was in Europe -- or Asia, or
6 wherever.

7 Q You didn't know that until Lynn Tanasse sent you
8 the text; right?

9 A We had no idea where she was until Lynn Tanasse
10 sent me the text.

11 Q Why didn't you pick up the phone and call her?

12 A It was not uncommon for her to come in late.

13 Q That's not the question. If you had concerns as
14 her manager where she was, why didn't you pick up the
15 phone and call her?

16 A I didn't have too many concerns. It's not
17 unusual for her to be late. It didn't become a concern
18 until Lynn showed me she had left the country.

19 Q I see, I see, okay. Now the truth is -- strike
20 that.

21 It's true, is it not, that at this time on
22 August 1st, you really had no concerns about Ms. Atwood,
23 none.

24 A I had no idea where she was until I saw the text
25 message.

1 Q If you had concerns about Ms. Atwood that were
2 genuine, you would have contacted HR, Todd Beyers,
3 immediately; right?

4 A If you take a close look at this email, you'll
5 see I did copy HR on it.

6 Q Cindy Protsman; right?

7 A She was our HR person.

8 Q Cindy Protsman was -- let's see. Was she a peer
9 of Mr. Beyers?

10 A No.

11 Q She was basically a person who was at a lower
12 level; right?

13 A She's the one that supported Portfolio
14 Management.

15 Q She was loyal to you, personally, was she not?

16 A She worked for Mr. Beyers. I don't know who
17 she's loyal to.

18 Q Well, okay. Let's explore that.

19 So it's true, is it not, that sometime around
20 the 27th of August, 2013, you attended a meeting that
21 included Ms. -- we've called her DeVere even though she's
22 subsequently changed her name, but we'll call her DeVere
23 for clarity; okay?

24 You attended a meeting that included Ms. DeVere;
25 right?

1 MS. ASHBAUGH: Object as to time.
2 THE COURT: August 21st?
3 MR. SHERIDAN: I think I said August 27th.
4 THE COURT: 27th.
5 MR. SHERIDAN: Yeah.
6 THE COURT: Overruled.
7 Q (By Mr. Sheridan) Go ahead.
8 A Which? There were two meetings Ms. DeVere.
9 Which meeting are we talking about?
10 Q Well, the first -- there was a first --
11 A The first meeting?
12 Q And I think it's been called the HR meeting.
13 A Okay.
14 Q That meeting, Ms. DeVere wasn't there at the
15 beginning of the meeting.
16 A That's correct.
17 Q In fact, you were having a meeting with Ms.
18 Cindy Bence; right?
19 A Kadi Bence.
20 Q Kadi Bence, I'm sorry. And Ms. Hiller?
21 A Susan Hiller.
22 Q Hiller. And you; right?
23 A And Cindy Protsman.
24 Q Protsman was there also?
25 A Correct.

1 Q And this is the meeting at which Ms. DeVere
2 came; right?

3 A At the end of the meeting, yes.

4 Q Right. Okay. And it's at this meeting that
5 then you and Ms. DeVere and Ms. Protsman stayed in the
6 room and everyone else left; right?

7 A Not true.

8 Q Everyone stayed in the room?

9 A I left first.

10 Q You left first?

11 A I did.

12 Q Okay. All right. So let's hear -- so you say
13 you left first. At this meeting, you were notified that
14 there was a complaint against you; correct?

15 A Not true.

16 Q You were not notified that there was a complaint
17 against you?

18 A I was never told there was a complaint against
19 me.

20 Q You didn't know there was a complaint against
21 you?

22 A Did not.

23 Q All right. Let's just to make sure we're on the
24 same page here.

25 MR. SHERIDAN: Could you put up 414,

1 please, Greg. 414. All right blow that up to the
2 top.

3 Q (By Mr. Sheridan) Now you heard testimony that
4 some people have claimed that this was the anonymous
5 complaint; right?

6 A I've heard some strange testimony about
7 complaints.

8 Q But you never saw this until this litigation;
9 correct?

10 A That is correct.

11 Q So no one ever showed this document to you;
12 correct?

13 A That is correct.

14 Q But it's now your testimony that during the HR
15 meeting on the 27th, you were not shown any type of a
16 complaint.

17 MS. ASHBAUGH: Your Honor --

18 A That is --

19 MS. ASHBAUGH: Your Honor, objection.

20 Argumentative as to the day. He's not testified as
21 to the date, Mr. Sheridan has.

22 THE COURT: I'll sustain, and rephrase it
23 in the context of to date.

24 Q (By Mr. Sheridan) Sure. Well, the meeting was
25 on or about the 27th, was it not?

1 A That sounds about right.

2 Q And it's true, is it not, so now you're
3 testifying that everybody stayed in the room; right?

4 A I left the room first, yes.

5 Q And is it true that during this meeting, you
6 acknowledge that Ms. -- that Ms. DeVere asked you some
7 questions.

8 A Not true.

9 Q She just sat there and didn't ask a thing.

10 A She came into the meeting probably five or ten
11 minutes before the end of the meeting and she sat there.

12 Q And she didn't even say anything?

13 A She didn't say anything.

14 Q All right, that's your testimony. Got it. All
15 right, fair enough.

16 A Well, she didn't say anything until just before
17 I got ready to leave.

18 Q Oh, I see. And then did you ask her a question?

19 A I did not.

20 Q She just said something?

21 A I had made a comment about some of the issues we
22 were dealing with at Portfolio, and she looked at me and
23 she says, I think this is a manager problem.

24 Q Oh.

25 A At which time I let everybody in the room know I

1 had another meeting to go to and I left.

2 Q So those were the only words out of her mouth in
3 your testimony, I think this is a manager problem --

4 A That's what she said, yes.

5 Q Seven words; that's it?

6 A That was it.

7 Q And you were not in any way disturbed after this
8 HR meeting; right?

9 A I was a little confused but not disturbed.

10 Q So is it your testimony that you never saw an
11 anonymous complaint?

12 A I've repeated that several times. I did not see
13 an anonymous complaint.

14 Q All right. So -- got it. So if you didn't see
15 an anonymous complaint, can you tell us -- do we agree
16 that on the 5th of September you met with Ms. DeVere;
17 right?

18 A There was a meeting scheduled. I'm not sure of
19 the date. The fifth could be correct. Where Cindy
20 Protsman, DeVere and myself were to meet.

21 Q Now at this meeting you admit that you said I
22 know this is -- where this is going and I'm going to
23 resign; right?

24 A The comment I made was, I'll retire -- I'll
25 resign before I allow you to investigate me.

1 Q Okay. You said that to who?

2 A Ms. DeVere and Ms. Protsman.

3 Q So your testimony is you learned that there was
4 going to be an investigation of you; right?

5 A Ms. DeVere said I have some questions for you,
6 I'm doing an investigation.

7 Q So the word "investigation" was used in that
8 meeting.

9 A Correct.

10 Q Okay. And you basically heard her say she's
11 going to start an investigation because of an anonymous
12 complaint; right?

13 A No.

14 Q So you thought she was going to start an
15 investigation with no basis?

16 A I did.

17 Q Well, that doesn't make sense, does it?

18 A Nobody had said any complaint had been filed.

19 Q So you mean, the way that you -- this is your
20 version, let me make sure I got this right. Your version
21 is you come to a meeting and you're told you're going to
22 be investigated without being told that there was any kind
23 of complaint against you.

24 A Yes.

25 Q Now that makes no sense, does it?

1 MS. ASHBAUGH: Objection, argumentative.

2 THE COURT: Sustained.

3 Q (By Mr. Sheridan) Well, can you think of any
4 business reason why the head of EEO would come and tell
5 you she's starting an investigation if there was no
6 complaint?

7 A I can tell you that between the first meeting
8 and this meeting there was a lot of confusion going on.
9 And I was told that there was going to be an
10 investigation, and I said what's the purpose? And nobody
11 had an answer.

12 Q I see.

13 A So when I walked into the room and the first
14 thing she started talking about was an investigation, I
15 told her, you're not going to investigate me.

16 Q And you don't know her from a hole in the wall;
17 right?

18 A That's pretty fair.

19 Q So basically you know that she's the head of
20 EEO, but you don't know her personally; correct?

21 A Correct.

22 Q So why were you -- it sounds like you were
23 upset; is that right?

24 A Yeah, I was concerned about the fact that you
25 had an individual who had a relationship with both Julie

1 Atwood and with Jon Peshong, who all of a sudden is going
2 to do an investigation on me and nobody's told me what I'm
3 being investigated for.

4 Q Now you didn't tell us that somebody told you
5 that she had a relationship with Jon Peshong.

6 A Well, in fact I saw them together twice.

7 Q Okay. Well, I mean people are together all the
8 time; right?

9 A That's true.

10 Q And you said you saw them together?

11 A I did.

12 Q Tell us this -- let's hear it. So, oh, you saw
13 them where?

14 A One was a hockey game and another instance they
15 were at a pizza place in West Richland?

16 Q All right. And so by the fact that you saw this
17 person at one -- two moments in time you say, that was
18 enough for you to say you're disqualified for
19 investigating me?

20 A I felt it was inappropriate, yes.

21 Q All right.

22 A It was a conflict of interest.

23 Q And how did Julie Atwood come into your
24 calculation that that was a problem?

25 A I had been informed on a number of occasions

1 that -- well, she and Julie were friends; but more
2 importantly I knew Julie and Jon were friends and were in
3 fact meeting together, periodically, away from the office.

4 Q So, what, are you spying on them?

5 A No, I don't have to spy on people. It's a small
6 community.

7 Q So --

8 A I told you, I've seen the two of them twice.

9 Q So can you explain for us -- now you're a top --
10 you're vice president; right? Right?

11 A Okay.

12 Q And you've already told us that you are good
13 friends with top people at DOE and MSA; right?

14 A Yes.

15 Q You were invited to be hired by Armijo, right,
16 the CEO? He recruited you.

17 A That's partially correct.

18 Q So you're saying that when somebody comes in --
19 you're claiming nobody tells you that there's a complaint
20 against you --

21 A Correct.

22 Q -- but you're going to fight back rather than
23 take a reasonable -- make a reasonable inquiry about what
24 is this about? Please explain. That didn't happen, it
25 sounds like you're saying; right?

1 MS. ASHBAUGH: Objection, argumentative.

2 THE COURT: Overruled.

3 A I had no problem with a person that did not have
4 a conflict of interest investigating me. But I was not
5 going to allow Christine DeVere to do an investigation.

6 Q (By Mr. Sheridan) You heard -- you said you saw
7 her twice and that was enough to say she's disqualified;
8 right?

9 A Along with all the gossip in the building, you
10 bet.

11 Q Isn't it true that in the first meeting the end
12 of August, you learned that there was an anonymous
13 complaint.

14 A Not true.

15 Q All right.

16 MR. SHERIDAN: Let's play the excerpt at
17 the 42, 1 to 48, 24 from your depositions.

18 THE COURT: 42, 1 through?

19 MR. SHERIDAN: 48, 24, yes.

20 THE COURT: 48, 24.

21 (Whereupon the video
22 was played.)

23 THE COURT: Can we have the -- start that
24 over and get the volume up a bit?

25 MR. SHERIDAN: Can we get the volume any

1 A Oh, okay.

2 MR. SHERIDAN: Okay, go ahead.

3 (Whereupon the video
4 continued to play.)

5 MR. SHERIDAN: Let's stop there.

6 Q (By Mr. Sheridan) We agree there were only
7 three people in the room at that time; right?

8 A To the best of my recollection.

9 Q And Ms. DeVere, you and --

10 A Cindy Protsman.

11 MR. SHERIDAN: Please continue.

12 (Whereupon the video
13 continued to play.)

14 MR. SHERIDAN: Let's stop there.

15 Q (By Mr. Sheridan) Now you subsequently learned
16 that Ms. Atwood didn't know Ms. DeVere from a hole in the
17 wall at that time; right?

18 A Well, I heard that testimony.

19 Q All right. And you have no evidence that they
20 knew each other beforehand; right?

21 A That's probably true.

22 Q And as a matter of fact, your lawyers got a hold
23 of all of her phone records and they showed that there was
24 no phone calls between the two of them; right?

25 MS. ASHBAUGH: Objection, calls for

1 speculation.

2 Q (By Mr. Sheridan) If you know.

3 THE COURT: Well --

4 A I don't.

5 THE COURT: Couched with "if you know,"
6 I'll overrule the objection.

7 MR. SHERIDAN: Thanks. Go ahead and
8 continue this.

9 (Whereupon the video
10 continued to play.)

11 MR. SHERIDAN: Stop it there. Stop it
12 there.

13 Q (By Mr. Sheridan) So when you testified today
14 that when you tried to counsel her she would cry, was that
15 different than what you're telling us here?

16 A I don't think so.

17 Q So nothing too serious, no?

18 A Yeah, I don't think -- it wasn't like I'm
19 sitting putting my finger in her face and reprimanding
20 her, no.

21 MR. SHERIDAN: Please continue.

22 (Whereupon the video
23 continued to play.)

24 Q (By Mr. Sheridan) So it's true, is it not,
25 that when you were asked in 2016 why you thought you

1 should -- she should not investigate you, out of all of
2 the people that worked under your supervision, you named
3 Julie Atwood in that mix.

4 A Correct.

5 Q So Julie Atwood had a special place for you
6 regarding your concerns about her trustworthiness; right?

7 A Yeah, I think to some degree, yes.

8 Q So when it came to worrying about whether
9 somebody was going to DOE to complain about your
10 activities as mayor, she was the natural one to suspect;
11 right?

12 A I didn't know anybody had gone to DOE
13 complaining about me.

14 Q Okay, all right.

15 MR. SHERIDAN: Your Honor, is this a -- I
16 could go further or, it's up to you.

17 THE COURT: We've been going for about an
18 hour and a half. It is our normal time to take our
19 mid-morning break.

20 During the break don't discuss the case amongst
21 yourselves. Don't reach out and do any independent
22 research about any of the witnesses, parties or
23 players in the case.

24 Watch your step on the way out of the jury box
25 and follow the instructions of Mr. Ruegsegger.

1 We're going to be using this back jury room on
2 the breaks in the morning and afternoon to try and
3 use our time better. It avoids that long walk from
4 the other one.

5 (Whereupon the jury
6 was taken out of
7 the courtroom.)

8 THE COURT: Any issues to take up before
9 break?

10 MR. SHERIDAN: No.

11 THE COURT: So we'll have our break. 15
12 minutes, give or take.

13 (Recess)

14 THE COURT: Go ahead and have a seat.
15 Ready to bring the jury in?

16 MR. SHERIDAN: Yes, Your Honor.

17 (Whereupon the jury
18 was brought into
19 the courtroom.)

20 THE COURT: Mr. Sheridan.

21 MR. SHERIDAN: Yes, thanks.

22 Q (By Mr. Sheridan) Okay. So you had -- we
23 agree on the fifth you announced to both Ms. DeVere and to
24 Ms. -- is it Pence?

25 A Protsman.

 Q Protsman, yes. That you were going to resign;
 right?

1 A I announced that I would resign before I let her
2 do the investigation.

3 Q And were you agitated at the time?

4 A I was.

5 Q And did you tell that -- it's true Ms. DeVere
6 said to you, words to the effect that, well, you should
7 wait. We haven't even started our investigation yet?

8 A Nothing like that was said.

9 Q Well, did she encourage you to resign?

10 A In fact, what she said to me, the first time I
11 made the statement was, can I have your resignation.

12 Q Well, wait a minute. She's -- you're a vice
13 president; right?

14 A Absolutely.

15 Q You're not claiming that she would have the
16 ability to take your resignation, are you?

17 A She didn't get it.

18 Q Well, didn't she ask you, look, if I don't -- if
19 you're going to resign, could you let me know for sure
20 that you're going to do it before five so I can tell my
21 boss, Todd Beyers?

22 A That is not what was said.

23 Q Well, did she mention Todd Beyers?

24 A She did not.

25 Q Well, then, did you think that she had the

1 ability to force your resignation?

2 A Absolutely not.

3 Q Well, what else did you tell her, according to
4 your testimony?

5 A I told her that I would give my resignation to
6 the man that hired me.

7 Q Meaning you were going -- so basically a person
8 who you had never met before; right?

9 A Correct.

10 Q She, according to you, says she doesn't tell you
11 that there is a complaint against you. This is your
12 testimony; right?

13 A Correct.

14 Q But she tells you there's an investigation;
15 right?

16 A Correct.

17 Q Okay. And your response is to get agitated;
18 right?

19 A When she started asking the questions. There
20 were a couple of questions she asked, but almost
21 immediately I was agitated.

22 Q And so because this person who was -- did you
23 understand she was EEO by then?

24 A I knew what department she worked in, yeah.

25 Q So, so she makes those statements, and it's your

1 testimony that at the first meeting she didn't make any
2 statements; right?

3 A All she said to me was, I think this is a
4 manager problem.

5 Q And you had no communication with her up until
6 the fifth; right? That's your testimony?

7 A Not sure of the date, but up until the next time
8 I saw her.

9 Q You invited her to the meeting. You're the one
10 who set the meeting; right?

11 A At Cindy Protsman's request, yes.

12 Q So you set the meeting inviting Cindy Protsman
13 and Ms. DeVere to meet with you.

14 A Correct. Cindy contacted me and asked if I had
15 time for a meeting.

16 Q Now if you didn't believe there was anything
17 happening, why did you want to meet with Ms. DeVere?

18 A It wasn't at my request, it was at Cindy's
19 request.

20 Q Did she tell you what -- so you're saying Cindy
21 Protsman asked you, a vice president, to make a calendar
22 invite to her and someone else.

23 A Yes, that's not uncommon.

24 Q Why would you not just ask her to make it since
25 she's a subordinate, you're a vice president?

1 A Oh, I could of. But usually, in many cases when
2 I get a call like that for a meeting, they'll ask the VP
3 to find a place on their calendar for the meeting and they
4 would make themselves available.

5 Q Did she tell you, according to your testimony,
6 did she tell you why there should be a meeting involving
7 Ms. DeVere?

8 A The best of my recollection was she said it was
9 a follow-up to the previous meeting.

10 Q But nothing happened at the previous meeting;
11 right?

12 MS. ASHBAUGH: Objection, misstates his
13 testimony.

14 THE COURT: Sustained.

15 Q (By Mr. Sheridan) Well, there was no
16 investigation at the first meeting; right?

17 A No, we were talking about what kind of document
18 I needed to have to prepare for Ms. Atwood when she
19 returned from her trip.

20 Q So that doesn't involve the EEO person; does it?

21 MS. ASHBAUGH: Objection, Your Honor,
22 mischaracterizes the testimony.

23 MR. SHERIDAN: That's argument.

24 THE COURT: I'll sustain the objection to
25 that question.

1 MR. SHERIDAN: All right.

2 THE COURT: So rephrase it.

3 Q (By Mr. Sheridan) So let me get this straight.
4 So you're saying that at this meeting in August, on or
5 about the 27th, you now said that everybody's there, not
6 just, not just the three of you. Ms. DeVere says seven
7 words, right? Right?

8 A Correct.

9 Q She has nothing to do with your claim -- your
10 claim is that you're at this meeting to try to get some
11 kind of disciplinary stuff together for Ms. Atwood; right?

12 A Correct.

13 Q So she has nothing to do with that; right?

14 A Correct.

15 Q So there's no reason to meet with Ms. DeVere
16 again if there is no complaint; correct?

17 A I would agree.

18 Q So the only reason to -- so if this were the
19 real reason for your meeting on the fifth, you would have
20 met with the people you were already talking to, not Ms.
21 DeVere; right?

22 A That would have been the normal case, yes.

23 Q So you cannot tell us why you did not invite Ms.
24 Bence and Ms. Hiller as well; right?

25 A The request was from Cindy Protsman to meet with

1 her and Ms. DeVere.

2 Q So there's -- as you come out of this meeting on
3 the 27th, it's your testimony you were the first to leave;
4 right?

5 A Correct.

6 Q So all that's happened at this meeting, in your
7 testimony, is seven words from Ms. DeVere that are
8 unrelated to any complaint; right?

9 A That's not what I said.

10 Q Well, you just said it sounds like a management
11 problem.

12 A Well, there were a lot of other things that
13 happened in the meeting long before Ms. DeVere got there.

14 Q Okay. We're just talking about Ms. DeVere right
15 now, okay? Okay?

16 So that's all Ms. DeVere said.

17 A That was all Ms. DeVere said.

18 Q So now it's your testimony that somehow Cindy
19 Protsman, who is -- she is not a high level manager in HR;
20 right?

21 A I don't think any of those people were.

22 Q Okay. And it's your testimony she asked you,
23 without telling you why, that she wants you to come to a
24 meeting with her and Ms. DeVere on the fifth; right?

25 A She said it was a follow-up to the meeting that

1 we previously had, yes.

2 Q So now you're telling her that -- you're telling
3 us that she's the one who is apparently calling the
4 meeting, setting the date and picking the agenda; right,
5 vice president?

6 A Well, yes.

7 Q And that was okay with you; right?

8 A Yes.

9 Q Isn't it true that you understood the reason for
10 the meeting was because, back here you had been shown an
11 anonymous complaint.

12 A That is not true.

13 Q Okay. So let's try to understand why you're
14 agitated. You think this meeting is simply about getting
15 paperwork together for Julie Atwood; right?

16 A That was my assumption.

17 Q But the wrong people are there, you would agree
18 with that; right?

19 THE COURT: Counsel, when you say "this
20 meeting," for the record --

21 MR. SHERIDAN: I'm sorry. I'll call it the
22 9-5 meeting.

23 Q (By Mr. Sheridan) So you were agitated at the
24 9-5 meeting; right?

25 A I became agitated, yes.

1 Q But if the meeting had to do with Julie Atwood,
2 as you've testified, it would not in any way inflame your
3 emotions; right?

4 A Correct.

5 Q And in fact, Ms. Protsman has no authority over
6 Ms. DeVere, does she?

7 MS. ASHBAUGH: Objection, calls for
8 speculation.

9 Q (By Mr. Sheridan) If you know.

10 THE COURT: Sustained. Rephrase.

11 Q (By Mr. Sheridan) Yeah. Ms. Protsman, to your
12 knowledge, she's not a supervisor of Ms. DeVere; right?

13 A I don't know who's her supervisor.

14 Q You knew Ms. DeVere was EEO; right? You've said
15 that.

16 A I did know she was EEO.

17 Q You knew that if she was coming to a meeting, it
18 had to do with an EEO issue; correct?

19 A I wasn't sure.

20 Q She has nothing to do with issues like writing
21 disciplinary letters; right? You don't go to her for
22 that.

23 A I don't go to her for anything.

24 Q So it's fair to say you knew that if she was on
25 the, on the meeting list, that you were going to talk

1 about EEO; right?

2 A I did not know that.

3 Q All right. So after this meeting, after the 9-5
4 meeting, the next day -- was it the next day you tell your
5 people that there's been a complaint filed against me;
6 right?

7 A Not correct.

8 Q There's an investigation of me; right?

9 A Correct.

10 Q Because you understood you were under
11 investigation; right?

12 A Correct.

13 Q Now let's get this timeline down. At the 9-5
14 meeting, you got all upset and said I'm going to Frank
15 Armijo, or words to that effect?

16 A That's not what I said.

17 Q Well, did you say you wanted to basic -- if you
18 were going to resign, you wanted to resign to your boss?

19 A To the person that hired me.

20 Q And that's Frank Armijo.

21 A Correct.

22 Q So isn't it true that -- so you're denying that
23 Ms. DeVere said she'd give you to five; right?

24 A I am denying that; correct.

25 Q But it's true, is it not, that before you went

1 to Frank Armijo, you went running to Todd Beyers to say
2 that you were being harassed by Ms. DeVere.

3 A Not true.

4 Q When did you go to see Todd Beyers to say you
5 were being harassed?

6 A I never went to Todd Beyers and said I was being
7 harassed.

8 Q Did you ever go to Todd Beyers?

9 A Regarding that incident?

10 Q Yes.

11 A I don't recall that.

12 Q So you know nothing about a cease and desist
13 from Mr. Beyers; right?

14 A Not until this lawsuit was filed -- filed.

15 Q And it's your testimony -- so you heard Ms.
16 DeVere say that Mr. Beyers called and said you're
17 threatening -- why are you threatening him?

18 A I heard her testify to that.

19 Q You deny you went to Todd Beyers at all.

20 A I deny that.

21 Q All right. And you went, then, straight to Mr.
22 Armijo.

23 A Correct.

24 Q And you said to him, I'm resigning, or words to
25 that effect?

1 A I'd rather not say the exact words I said, but,
2 yes.

3 Q Well, why don't you tell us the exact words you
4 said.

5 A When I went into Frank's office, I was extremely
6 angry. I stormed into his office, slammed his door and I
7 said, if you're going to do an investigation on me, you
8 ought to have the balls to confront me and tell me what
9 I'm being investigated for.

10 Q So you knew there was an investigation or you
11 wouldn't have said that; right?

12 A I've never denied that.

13 Q And after the conversation with him, you found
14 out that you were not being investigated?

15 A No. Actually what I found out was that he knew
16 nothing about this whatsoever.

17 Q Huh.

18 A And at which point I decided to -- he told me to
19 go calm down, relax.

20 Q What else?

21 A So I left and went back to my office.

22 Q All right. Let's play one of the excerpts of
23 your deposition from 2016?

24 MR. SHERIDAN: Your Honor, we'd like to
25 play excerpt 42, 1 to 48 -- I think it's 24. Oh, no,

1 am I wrong? 50, Line 6 to 59, 16. Thanks, Greg.

2 THE COURT: 50, Line 6 to --

3 MR. SHERIDAN: 50, Line 6 to 59, Line 16.

4 THE COURT: Thank you.

5 (Whereupon the
6 video was played.)

7 MR. SHERIDAN: Let's stop it right there.

8 Stop that.

9 Q (By Mr. Sheridan) So actually that is a
10 excerpt that was ruled on by the court, but it's actually
11 unrelated to this. ECA is that national organization;
12 right?

13 A It stands for Energy Community Alliance.

14 Q And it's a basically a bunch of people in
15 government who meet once a year; right?

16 A It's an organization that represents communities
17 where the Department of Energy primarily in the Energy
18 Management Group has projects.

19 Q And you attend that meeting as the mayor of
20 Kennewick; right?

21 A I do.

22 Q And you were going to Doug Shoop, the head of
23 DOE, for your purposes at Hanford to ask if he wanted you
24 to put anything on the agenda for them; right?

25 A Correct.

1 Q And that was basically -- when you were asking
2 him, you were asking him with your MSA hat on; right?

3 A I was asking him with my mayor hat on.

4 Q I see, okay.

5 MR. SHERIDAN: Keep playing.

6 (Whereupon the video
7 continued to play.)

8 MR. SHERIDAN: Let's stop it there. That's
9 it.

10 Q (By Mr. Sheridan) So it's your testimony it
11 wasn't in 2016 that Mr. Armijo told you that she retired
12 or resigned; right?

13 A When? In 2016?

14 Q No, no, when you testified in 2016 your
15 testimony was --

16 A Yes.

17 Q -- that Armijo told you she retired or resigned.
18 It's your testimony, is it not, that you claimed that you
19 didn't know that she was being fired.

20 A That's absolutely correct.

21 Q And that that -- so what you're saying is that
22 you're the vice president and she was a direct report to
23 you; correct?

24 A Correct.

25 Q And you're saying that no one consulted with you

1 before deciding to fire her?

2 A Not a single person.

3 Q And so you were surprised?

4 A Oh, big time.

5 Q And so this has -- and it's your testimony this
6 has nothing to do with you being investigated.

7 A I don't know what caused it to happen. I'm
8 telling you what I know.

9 MR. SHERIDAN: All right. Let's play on.

10 (Whereupon the video
11 continued to play.)

12 THE COURT: Is this a replay?

13 MR. SHERIDAN: It seems like a replay, yes.

14 Is that okay?

15 MR. GLOVER: Hit the wrong button.

16 MR. SHERIDAN: Sorry, it's my mistake.

17 (Whereupon the video
18 continued to play.)

19 Q (By Mr. Sheridan) So anything about that
20 testimony you'd like to change?

21 A No, sir.

22 Q So let's now talk about this: Have you ever
23 been in a situation where somebody superior to you has
24 been involved in the termination of one of your direct
25 reports without telling you?

1 A Never.

2 Q So this is a first; right?

3 A Was for me.

4 Q It makes no sense that you're management would
5 not have you in the loop on the discipline of your direct
6 report; right?

7 A I agree.

8 Q You can't think of one business reason why that
9 would happen; right?

10 A I can't come up with a business reason.

11 Q Well, it gives your plausible deniability;
12 right?

13 MS. ASHBAUGH: Objection, argumentative.

14 THE COURT: Sustained.

15 Q (By Mr. Sheridan) Well, let's take a look at
16 some events that preceded that.

17 Now it's true, is it not, that before this
18 meeting on -- before this meeting on the fifth, you talked
19 to Ms. Bence, you communicated with Ms. Bence about what
20 happened in the August 27th meeting with Ms. DeVere, et
21 al.; right?

22 A I remember getting an email from Ms. Bence. I
23 can't say for certain I talked to her.

24 Q Okay. So what you've told the jury so far is
25 that at this meeting, this is the August meeting, Ms.

1 DeVere only said seven words to you; right?

2 A That's the way -- that's pretty much exactly
3 what happened, yeah.

4 Q And you deny that you were upset at this
5 meeting; right?

6 A Well, I was not upset, but it was uncomfortable.

7 Q And you claim you were the first to leave;
8 right?

9 A Correct.

10 MR. SHERIDAN: Let's take a look at Exhibit
11 22 if we can. And I don't think this has been
12 offered yet. All right.

13 MR. GLOVER: Nope.

14 MR. SHERIDAN: Take a look at -- let me
15 check to see if it's been stipulated to. Oh, it's
16 been stipulated to.

17 So Plaintiff offers Exhibit 22.

18 MS. ASHBAUGH: No objection, Your Honor.

19 THE COURT: 22 is admitted.

20 (Exhibit No. 22
21 was admitted.)

22 MR. SHERIDAN: Let's put up the Kadi Bence
23 portion at the bottom.

24 Q (By Mr. Sheridan) And so this is an August
25 27th email. So Ms. Bence, who is one of the people you

1 trust there; right?

2 A I trust Ms. Bence, yes.

3 Q So Susan is Susan Hiller; right?

4 A That's correct.

5 Q She's writing to you, and it looks like about
6 11:10 in the morning; right?

7 A That's what the email says, yes.

8 Q It's after the meeting that we've described here
9 where you met Ms. DeVere for the first time and she
10 uttered, you say, seven words; right?

11 A Are you talking about the one on your chart
12 there?

13 Q Yes. It's after that meeting; right?

14 A Correct.

15 Q So this is what she says: Susan and I wanted to
16 follow-up with you on this as we still feel terrible about
17 how this has all come about.

18 She was giving her sympathy to you for the
19 terrible things that went on at the meeting; right?

20 MS. ASHBAUGH: Objection, calls for
21 speculation.

22 THE COURT: Overruled.

23 A I'm not sure it was that or if she was concerned
24 about the fact that I was having trouble getting answers
25 from HR.

1 Q (By Mr. Sheridan) Well, I mean, giving answers
2 is small. This is, she says how terrible she feels;
3 right?

4 A That's what she writes, yes.

5 Q While we recognize you have a new -- have new
6 concerns with individuals who are involved in this
7 situation, now that another message has been received.
8 The other message is the anonymous complaint, is it not?

9 A I have never heard an anonymous complaint.

10 Q Well, she feels really terrible and she tells
11 you, we recognize there are new concerns with individuals
12 who are involved in this situation, now that another
13 message has been received.

14 It's true, is it not, that your claim is that on
15 the 27th, the only reason for the meeting was for you to
16 obtain, you say, some kind of a document you could give to
17 Ms. Atwood upon her return from Malaysia; right?

18 A Yeah, I was looking for assistance from HR.

19 Q So the context of this makes no sense if you're
20 simply asking for a form letter, does it?

21 A You're going to have to ask Susan what she means
22 by that. I don't know.

23 Q Well, she's your confidant; right? She's your
24 supporter.

25 MS. ASHBAUGH: Objection, argumentative.

1 A She works for HR --

2 Q (By Mr. Sheridan) Hang on, hang on.

3 A I'm sorry.

4 THE COURT: Overruled.

5 A She works for HR.

6 Q (By Mr. Sheridan) But she's loyal to you;

7 correct?

8 A I don't know if she's loyal to me.

9 Q Okay. Well, she's telling you how terrible they
10 both feel about what's come about and she's telling you
11 that there's new concerns with individuals involved in
12 this situation. Would you agree, in the context of the
13 letter, this situation is another message has been
14 received.

15 A Based on what that says, yes.

16 Q So there were no messages received at the
17 meeting that you have testified to; right? No messages.

18 A No messages.

19 Q So it's true, is it not, that what's really
20 going on here is you got, you got to see an anonymous
21 complaint and you concluded it was Julie Atwood that sent
22 it in.

23 MS. ASHBAUGH: Your Honor, asked and
24 answered about four times.

25 THE COURT: Overruled.

1 A I had never seen, nor had I been told there was
2 an anonymous complaint issue.

3 Q (By Mr. Sheridan) Okay. All right. Let's look
4 at the following paragraphs.

5 So this is what she says -- well, we have to
6 finish the first paragraph. She says, I want to assure
7 you that we will be very vocal if anything inappropriate
8 occurs as a result of this relationship. She tell you
9 what that means?

10 A She did not.

11 Q Wasn't she communicating to you that she was
12 going to stick up for you if anything bad happened as a
13 result of the anonymous complaint?

14 A You'll have to ask her what she meant. I didn't
15 read it that way.

16 Q Then it says, please get us in the loop
17 immediately with any specifics to demonstrate
18 inappropriateness has occurred. Is that the bottom of
19 that paragraph? Okay.

20 So she's telling you she's fully behind you and
21 she's going to help you; right?

22 A Yes, and I appreciated it.

23 Q Now let's look at the next paragraph.

24 Second, go ahead and use HR as the reason you
25 are walking down the disciplinary path with your employee.

1 This can be handled as simply as a result of the anonymous
2 complaint, HR got involved and discovered that you were --
3 HR got involved and discovered that you were in violation
4 of policy. No call, no show, per documented procedure.

5 So that paragraph is about Julie Atwood; is it
6 not?

7 A I don't believe so.

8 MR. SHERIDAN: You can unbold that for a
9 second. I think it will be clearer.

10 Q (By Mr. Sheridan) So she says that you can use
11 HR. That's HR as a cover; right?

12 A It appears to say that.

13 Q And you never said to her that's an
14 inappropriate comment, did you?

15 A No.

16 Q Okay. Because she was there to help you, was
17 she not?

18 A I'm not sure what she was trying to do.

19 Q So then she says, you can use HR as a reason we
20 are going down the disciplinary path for Julie Atwood;
21 right?

22 A That is a true statement.

23 Q Okay. Now, then she says this can be handled as
24 simply as, as a result of the anonymous complaint. Well,
25 you've told us there was no anonymous complaint; right?

1 A I had not seen an anonymous complaint.

2 Q Then can you tell us why, if the anonymous
3 complaint was not discussed at this meeting that you've
4 told us precedes this email, why she wrote the words
5 anonymous complaint in this email?

6 A I can't tell you, you'll have to ask her.

7 Q Except that you did not respond I don't
8 understand what you're talking about. That's not in your
9 response, is it?

10 A I don't know, I haven't seen it.

11 Q Let's go up and see if that's what you said. I
12 met this morning and discussed the issue again. And this
13 is about Julie Atwood; right?

14 A That is correct.

15 Q You are executing the plan that she has proposed
16 to you, are you not?

17 A I don't know what you're talking about.

18 Q All right. Let's go back down and finish that
19 paragraph about the anonymous complaint.

20 So she's telling you that you can blame HR, and
21 she says, this can be handled as simply as, as a result of
22 the anonymous complaint, HR got involved and discovered
23 that Julie Atwood was involved in violations of policy;
24 right?

25 A I don't see Julie Atwood's name on there.

1 Q But you understood that this was about Julie
2 Atwood; right?

3 A Well, the whole meeting began talking about
4 Julie Atwood.

5 Q Exactly.

6 A Absolutely.

7 Q Exactly. So in this email, this email
8 encapsulates HR's attempts to help you in your efforts to
9 rebut the anonymous complaint that was presented to you on
10 the 27th of August; right?

11 A I knew nothing about an anonymous complaint.

12 Q And you can't tell us why the words "anonymous
13 complaint" were in that email.

14 A I cannot.

15 Q You cannot tell us why, when you responded, you
16 didn't say I don't understand what you're talking about.

17 A I cannot.

18 Q And then it says, as a result of the anonymous
19 complaint, HR got involved and discovered that you were in
20 violation of policy. It is true, was it not, that what
21 she was telling you is this is what we're going to do.
22 We're going to walk down the disciplinary path where you
23 can say, and we can say, as a result of this anonymous
24 complaint, we started investigating and found that you,
25 Julie Atwood, had trouble with your times, especially in

1 Malaysia. That was the plan; right?

2 A There was no plan.

3 Q Well, you were meeting to formulate a plan.

4 A I was meeting to find out what the process was
5 for disciplinary action.

6 Q And then it says, HR got involved and discovered
7 that you were in violation of policy. No call -- no call,
8 no show, per your documented procedure. That's talking
9 about Julie Atwood in Malaysia, is it not?

10 A Correct.

11 Q And then look what she writes. And then they
12 insisted upon -- about action being taken. It can be off
13 you, so to speak, right? That's what she's telling you.
14 That you can blame HR for the disciplinary action against
15 Julie Atwood; right?

16 A Again, you need to ask her what she meant by all
17 that, but --

18 Q Well, again, in your responsive email, you did
19 not say I don't understand, did you?

20 A I did not.

21 Q Right. And the idea was to take the heat off
22 you; correct?

23 A I don't know that's true or not. That's -- I've
24 got the same words you do.

25 Q But you didn't write back and say, I don't

1 understand what you mean; right?

2 A I think I've answered that. That's correct, I
3 did not.

4 Q All right. All right. And then let's look at
5 the -- let's look at the bottom paragraph. And it says,
6 as I mentioned yesterday, Cindy has the start of an
7 expectation memo for you, you, and we will help if you
8 would like, and she could complete this and get it issued
9 as soon as possible before too much time has passed to
10 make it untimely.

11 So she's basically building with you an
12 opportunity created -- it create an expectations memo to
13 give to Julie Atwood; right?

14 A Yes, she's helping me to prepare the memo;
15 correct.

16 Q And it makes no sense that she was doing that
17 unless that was your intent, to give an expectations memo
18 to Ms. Atwood.

19 A That was the plan, yes.

20 Q All right. Now --

21 A That was the purpose of the meeting.

22 Q So you still, as you sit here today, you deny
23 that there was an anonymous complaint against you as Ms.
24 DeVere has sworn to under oath?

25 A I absolutely deny that anybody ever told me, nor

1 did I ever see an anonymous complaint against me. And I
2 have asked several times for that.

3 Q Well, so after this happened -- and let's try to
4 remember this in time.

5 The first thing that comes is the August 27th
6 meeting which you say included more people than just you,
7 Ms. DeVere and -- I never remember her name Ms. Protsman;
8 right?

9 A Correct.

10 Q Followed by this email, the one that we have
11 just been talking about on the same day; right?

12 A Correct.

13 Q And then you heard the testimony and you saw the
14 exhibit, the portion of Exhibit 245, that Ms. DeVere, when
15 she testified, said after this meeting she went and
16 interviewed Sherry Foreman in connection with her
17 investigation; right? You saw that.

18 A I remember hearing the testimony.

19 Q Okay. Can you tell us, based on anything that
20 happened at this meeting, the August meeting, was there
21 anything that happened in the August meeting that you
22 understood was a commitment by Ms. DeVere to begin an
23 investigation?

24 A No.

25 Q So as you sit here today, you can't explain to

1 us why she would have interviewed Sherry Foreman; right?

2 A Correct.

3 Q And then if we move forward here, you claim that
4 the invitation to meet with Ms. DeVere and Ms. Protsman,
5 though is in your name, was done at the request of Ms.
6 Protsman; right?

7 A Correct.

8 Q So you knew, you knew -- strike that.

9 As of August 27th, you had received this email
10 talking about the anonymous complaint; right?

11 A I had received this email; correct.

12 Q And isn't it true that at that time, that on
13 August 27th, that's where you started to meet with Armijo.

14 A No.

15 Q Right?

16 A Not correct.

17 Q That's where you started to meet with Todd
18 Beyers and Chris Jensen; right?

19 A Not correct.

20 Q And isn't it true that it was at this time that
21 there was a reset, that there was no action taken from the
22 fifth until the 12th when there is a new meeting and a new
23 document that's called an anonymous complaint that you've
24 never seen before and never saw until this litigation.

25 A You'll have to back up and ask that question.

1 It went on for awhile.

2 Q Sure. You've -- so there is testimony from
3 Wendy Robbins in this case, and you sat through it, where
4 she claims that everything that happened on the 12th has
5 to do with that anonymous complaint, Exhibit 414, that you
6 said you never saw until the litigation; right?

7 A I heard her testimony about her investigation.

8 Q And you've said it already, I'm just confirming
9 for the record. You never saw that anonymous complaint
10 throughout this time frame?

11 A I never saw an anonymous complaint. I never saw
12 an anonymous complaint issued against me; that's correct.

13 Q Yet it's true, is it not, that you understood
14 there was an investigation going on from September 12th
15 forward; right? You knew that.

16 A I did kind of know that, yeah.

17 Q But it's also true that you were never
18 interviewed in connection with the September 12th joint
19 investigation.

20 A I honestly don't remember whether I was
21 interviewed or not. I've been interviewed so many times
22 that I'm not sure which is which.

23 Q Well, you looked at Exhibit 20, the DeVere notes
24 in Exhibit 39, the Robbins notes, and there is no notes of
25 interviewing you; right?

1 MS. ASHBAUGH: Objection, speculation. I
2 don't think he's been shown either exhibit.

3 THE COURT: Sustained.

4 MR. SHERIDAN: That should be two
5 questions.

6 Q (By Mr. Sheridan) You did review Exhibit 20
7 and didn't see your name; correct?

8 MS. ASHBAUGH: Same objection.

9 THE COURT: Overruled.

10 A I would have to see it again, please.

11 Q (By Mr. Sheridan) All right. You can
12 definitely do that at your leisure.

13 So after receiving -- after the meeting and
14 after hearing Ms. Bence's suggestion that this could all
15 be done to make it look like it was HR's fault, that HR
16 was behind it, did you ever take them up on it? Did you
17 ever issue to Ms. Atwood an expectations?

18 A The only response I had with Ms. Atwood was
19 after we down and spoke. I sent her a email. And on that
20 email was the expectations.

21 Q Okay. On that email. Let's look at Exhibit 9.
22 It's both in the book and on the page. It's pretty short
23 but if you need the book, please take a look at the book?

24 A I can see it.

25 MR. SHERIDAN: See if that's admitted.

1 THE COURT: By stipulation.

2 MR. SHERIDAN: It is?

3 THE COURT: On the 904, but not in
4 evidence.

5 MR. SHERIDAN: Plaintiff offers Exhibit 9.

6 MS. ASHBAUGH: No objection.

7 THE COURT: It's admitted.

8 (Exhibit No. 9
9 was admitted.)

10 MR. SHERIDAN: Let's go ahead and put that
11 on the screen when you can. Thank you. All right,
12 let's start at the bottom. Thanks, Greg.

13 Q (By Mr. Sheridan) So this is an email from
14 Julie Atwood to you on the 6th of September; right?

15 A Correct.

16 Q So she's writing an email to you, and it says --
17 yeah, let's do the bottom one first, on the sixth. PACE
18 is that photograph of -- it's that room that people meet
19 in with regard to the work that Julie does; right?

20 A It's the work the organization does.

21 Q Okay. It says, I was in the PACE yesterday when
22 you were calling your leads. So would you agree that you
23 called your leads to tell them you were being investigated
24 on or about the fifth?

25 A It was.

1 Q Make sure I got that. Now you -- on the fifth,
2 you called your leads before or after meeting with Ms.
3 DeVere?

4 A After.

5 Q After you met with Ms. DeVere.

6 A Correct.

7 Q So before going to Mr. Armijo's office.

8 A No, after meeting with Mr. Armijo.

9 Q Okay, wait. You go to see Mr. -- your testimony
10 is you go to see Mr. Armijo and he tells you he's not
11 heard anything about it; right?

12 A I told you that we had a meeting with Cindy
13 Protsman and Christine DeVere.

14 Q That's not my question. My question is about --
15 I thought you went to see Mr. Armijo the same day.

16 A I did.

17 Q So my question to you was, did you talk to your
18 leads before or after seeing Mr. Armijo?

19 A I misunderstood you. I thought you said Ms.
20 DeVere. No, it was after I saw Mr. Armijo.

21 Q So Mr. Armijo is telling you I don't know
22 anything about it; right?

23 A Correct.

24 Q But you still -- did he also tell you that he
25 would look into it?

1 A Yes.

2 Q Yet your testimony is you decided to tell your
3 leads that you're being investigated.

4 A Correct.

5 Q All right. And you understood it was for
6 hostile work environment; right?

7 A Did not.

8 Q Well, you understood that the person who was
9 telling you're being investigated, that's what she does
10 for a living; right, EEO?

11 A I understood the office she worked out of and
12 that she was investigating me, yes.

13 Q You understood she was investigating you and you
14 knew she came from EEO; right?

15 A Of course.

16 Q So you understood that if she's investigating
17 you and not Wendy Robbins, it's based -- it has to do with
18 EEO like hostile work environment; right?

19 MS. ASHBAUGH: Objection, calls for
20 speculation.

21 THE COURT: Sustained.

22 Q (By Mr. Sheridan) It's true, is it not, that
23 you asked two of your subordinates if you were creating a
24 hostile work environment and they said yes.

25 A I asked -- it's very possible I spoke to two of

1 my subordinates and asked them that question, it's
2 possible. I don't recall that.

3 Q All right. I'll write that down.

4 So you don't recall that.

5 A I don't.

6 Q And did you ask them before or after you went to
7 see Mr. Armijo?

8 MS. ASHBAUGH: Objection, Your Honor, he
9 just said he didn't recall asking them.

10 THE COURT: The content. Overruled.

11 Q (By Mr. Sheridan) You can answer.

12 A Repeat your question.

13 Q Yeah. You said that you think you might have
14 asked your subordinates and been told there was a hostile
15 work environment. My question is: Did that happen before
16 or after you talked to Mr. Armijo?

17 A I said it's possible I did, but I don't recall
18 it.

19 Q So then it's true, is it not, that when you met
20 with your leads you did not invite Ms. Atwood to come?

21 A I invited all the direct reports.

22 Q Well, did you invite Ms. Atwood?

23 A I invited all of them.

24 Q How did you do the invitation?

25 A I got a hold of Linda Delannoy and asked her to

1 track everybody down find them and have them come to my
2 office.

3 Q So you did not send an email at that point?

4 A I don't -- I didn't send an email. I don't
5 recall, to be honest, whether I sent an email or just sent
6 Linda to find them.

7 Q Okay. And then here's Ms. Atwood writing to you
8 back to say that no one let her know or sent an email that
9 you wanted the leads in your office. You see that?

10 A Yeah, this was an email I received the next day.

11 Q From Ms. Atwood.

12 A Correct.

13 Q Got it. Let's read up that string if we can.
14 And then here's an email dated the sixth, and this is from
15 you, and this one you forwarded -- is this the one you
16 sent out the day before, but now you're sending it to Ms.
17 Atwood?

18 A No, this is my response to Ms. Atwood.

19 Q A complaint has been filed against me, please
20 cooperate with the investigators and answer their
21 questions honestly.

22 A Correct.

23 Q So you understood as of, was it the fifth, you
24 understood the complaint was filed against you; correct?

25 A There was an investigation being performed. I

1 hadn't seen or heard anything about a complaint.

2 Q Okay, but --

3 A But that's the word I used.

4 Q Let's take a look at that. So that's on the
5 sixth you sent that to her.

6 So on the sixth, you communicate a complaint has
7 been filed against me. That's what you wrote; right?

8 A That's what I wrote.

9 Q Because that's what you believed to be the truth
10 on September 6th, 2013; right?

11 A Well, I believed there had to be a reason for an
12 investigation.

13 Q Well, you're not going to speculate something
14 that might be career ending, you had hard facts to that
15 effect; right?

16 A I did not.

17 Q So what you're saying is you wrote to Julie
18 Atwood without knowing if it was true that a complaint had
19 been filed against you?

20 A I wrote those words to Julie Atwood.

21 Q Because you're not telling us, as you sit here
22 today, you thought that that was not true, you weren't
23 trying to mislead her, were you?

24 A I was basing it on the investigation that Ms.
25 DeVere claims she was starting to conduct.

1 Q But you've never told us -- you've always denied
2 that Ms. DeVere said or showed you anything; right?

3 A She did not.

4 Q But yet you're telling Ms. Atwood that a
5 complaint has been filed against me; right?

6 A That's what it says, yes. That's what I wrote.

7 Q What is your understanding, as vice president of
8 MSA that a complaint has been filed? What does filed mean
9 to you?

10 A Well, that somebody has turned in a complaint of
11 some sort.

12 Q Against you; right?

13 A Well, that's what I said, yeah.

14 Q And you then also talked to your direct reports
15 and asked them if you were creating a hostile work
16 environment; right?

17 A I don't recall asking them that. I said it was
18 possible I did, yes.

19 Q All right. And then let's read up that. And
20 Julie Atwood writes to you, on the same day, I'm sorry
21 this is happening. Meaning you understood that she was
22 saying she was sorry a complaint has been filed against
23 you; right?

24 A Possibly.

25 Q And then she's asking you if you should tell --

1 she should tell her team. And then she says, is it
2 related to our earlier conversation about me? Do you know
3 what that's about?

4 A I don't recall.

5 Q Well, did you accuse her of doing anything at
6 that point?

7 A I think the only conversation -- to the best of
8 my recollection, the only conversation I had was about the
9 trip to Malaysia.

10 Q Okay. Got it. So after the complaint, you
11 believe the complaint had been filed against you, who did
12 you talk to in higher management to learn about the
13 details of that complaint?

14 A Could you repeat that question?

15 Q Yes. After you determined and concluded that
16 the complaint -- there was a complaint that had been filed
17 against you, who, in upper management, because you're a
18 vice president, did you talk to to find out the details of
19 that complaint?

20 A Well, any communication I had after that would
21 have been with either HR or the office of Internal Review.

22 Q What's the office?

23 A Chris Jensen's organization. I don't recall
24 what it was called.

25 Q Either Chris Jensen or Todd Beyers; right?

1 A I don't remember talking to Todd Beyers. I did
2 have some conversations with Chris Jensen. I don't
3 remember conversations with Todd Beyers.

4 Q Except that Ms. DeVere was in-- was in Todd
5 Beyers's chain of command as a HR person; right?

6 A That's correct.

7 Q So it doesn't -- would you agree with me that at
8 that moment when you knew that a complaint had been filed
9 against you, and you had talked to Ms. DeVere, Todd Beyers
10 would have been the logical person to go to; right?

11 A I wouldn't agree with you on that.

12 Q Please explain.

13 A If you remember, if you remember I went to the
14 president of the company. President of the company was
15 looking into everything. I didn't see any need to do a
16 whole lot of digging.

17 Q You -- the president of company was looking into
18 everything?

19 A He said he was going to look into it, yeah.

20 Q So that must have given you some comfort?

21 A Absolutely.

22 Q Because if the president's looking into it, you
23 have nothing to worry about, right? Correct?

24 A Well, I'm not going to respond to that. I don't
25 know what that means.

1 Q Well, I mean, it gave -- you admitted it gave
2 you comfort that the president was looking into it; right?

3 A Well, it meant that I didn't have to go looking
4 into it.

5 Q Well, as a matter of fact, under the policies,
6 you have no right to look into it, do you?

7 A That's correct.

8 Q But you knew that the president was looking into
9 it; and then isn't it true that after the president began
10 looking into it, this whole allegation against you
11 disappeared?

12 A I don't know.

13 Q No one ever interviewed you; correct? Correct?

14 A I don't recall. I don't recall.

15 Q No one ever told you that you had engaged in a
16 hostile work environment; correct?

17 A Correct.

18 Q No one ever told you that you had been
19 vindicated; correct?

20 A No.

21 Q So basically, you learned that this whole
22 investigation had, from your perspective, turned into an
23 investigation of Julie Atwood's timecard fraud; correct?

24 MS. ASHBAUGH: Objection, calls for
25 speculation.

1 THE COURT: Sustained.

2 Q (By Mr. Sheridan) When did you learn that Mr.
3 Ruscitto had gone to DOE to report that Ms. Atwood was
4 being investigated for timecard fraud?

5 A I think it was after this lawsuit was started.

6 Q You mean, Mr. -- you were a direct report to
7 whom at the time?

8 A Mr. Ruscitto.

9 Q So it's your testimony he didn't tell you that
10 he was going to DOE to report that Ms. Atwood was being
11 investigated for timecard fraud?

12 A He never told me about his meetings with DOE.

13 Q Well, it's true, is it not, that you had regular
14 meetings with Mr. Ruscitto; right?

15 A All vice presidents do.

16 Q Okay. But I mean like weekly meetings; right?

17 A Staff meetings, yes.

18 Q And is it your testimony that he never disclosed
19 to you that he had gone to DOE and said that she's being
20 investigated?

21 A That's my --

22 MS. ASHBAUGH: Objection, Your Honor, asked
23 and answered.

24 THE COURT: Overruled.

25 A That's my testimony.

1 Q (By Mr. Sheridan) So after you learned that
2 Mr. Armijo was looking into it, did he come back to you
3 and assure you that everything was taken care of?

4 A He did not.

5 Q Well, how come you didn't go -- strike that.

6 Did you go to him and ask how are we doing?

7 What's happening?

8 A I did not.

9 Q Why not. You must have been curious.

10 A Most of my questions I went back to Chris Jensen
11 on.

12 Q And did Chris Jensen tell you that everything
13 had been taken care of?

14 A He did not use those words.

15 Q It's true, is it not, that you learned that Ms.
16 Atwood was interviewed by the investigators; correct?

17 Meaning Wendy Robbins and Christine DeVere.

18 MS. ASHBAUGH: Objection as to time, Your
19 Honor.

20 THE COURT: Sustained.

21 Q (By Mr. Sheridan) Well, not during this
22 lawsuit, but around the same time. I mean, you knew your
23 people were being interviewed; right?

24 A There were so many investigations going on, I
25 can't say that I knew that.

1 Q Well, you had access to their calendars. You
2 could see Julie Atwood's calendar; correct?

3 A If I knew how to do that, I would.

4 Q Wait a minute. I thought you said when I asked
5 you about what your focus was, I thought you said you were
6 a programmer; is that true?

7 A No, I never said I was a programmer.

8 Q So you don't really -- you're not really adept
9 at using computers, are you?

10 A I'm not, I'm not a computer person.

11 Q All right. So what you're saying is you may
12 have been able to look at her calendar if you had the know
13 how.

14 A Yeah, I might have.

15 Q Okay, all right.

16 MR. SHERIDAN: Your Honor, we're a little
17 early, but I have to look something up. Would this
18 be a good time to take a break?

19 THE COURT: Two minutes before noon? Okay.

20 So ladies and gentlemen of the jury, we're
21 going to take our noon lunch recess. During the
22 lunch hour, don't talk to each other or anybody else
23 about the case, any issues in the case, parties,
24 lawyers, witnesses, anything about the case at all.

25 Don't reach out and do any independent

1 research. Avoid your Smart phone, tablet, computer,
2 any device of any kind.

3 Watch your step on the way out of the jury box.
4 Follow the directions of Mr. Ruegsegger. Try and be
5 back about quarter after. I'll have us starting
6 promptly at 1:30 this afternoon.

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

9 THE COURT: Go ahead and make yourself
10 comfortable. If counsel want to address anything now
11 or do you want until 1:15? Any issues?

12 MR. SHERIDAN: I don't think we have any
13 issues.

14 MS. ASHBAUGH: Nothing right now.

15 THE COURT: I'll be back and available at
16 1:15 if anything does come up, otherwise we'll start
17 promptly at --

18 MR. SHERIDAN: Thanks, Your Honor.

19 THE COURT: -- 1:30. Everybody have a good
20 lunch. We'll be adjourned for the lunch hour.

21 (Recess)

22 THE COURT: Good afternoon, everyone. Go
23 ahead and have a seat.

24 Are we ready to bring the jury back in?

25 MR. SHERIDAN: Ready.

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(Whereupon the jury
was brought into
the courtroom.)

THE COURT: Good afternoon, everyone. Go
ahead and make yourselves comfortable.

Mr. Sheridan.

MR. SHERIDAN: Thank you.

Q (By Mr. Sheridan) Mr. Young, MSA is paying
your salary to be here; right?

A Currently? I believe when I originally filled
out my timecards it was PTB and then PTX.

Q What does that mean?

A PTB is vacation. PTX is time off without pay.

Q So you're not being paid to be here?

A I don't know if they've changed anything, but.

Q Fair enough. Exhibit 185.

MR. SHERIDAN: Has that been admitted now?

THE CLERK: What was it?

MR. SHERIDAN: The calendar, 185?

THE COURT: No.

MR. SHERIDAN: It was not? You have yes?

THE CLERK: It was admitted yesterday.

MR. SHERIDAN: I thought it might have
been.

THE COURT: Thank you.

Q (By Mr. Sheridan) So let me retrieve that

1 exhibit. I'm showing you the portions of your calendar
2 from 2013, and it's -- for reference, it's Page 142 of the
3 calendar, Bates Stamp, it looks like 259.

4 And the date you should have in front of you
5 there is September 9th to 15th, do you have that?

6 A I have the one, 259.

7 Q So I'm going to draw your attention, if I could,
8 to Wednesday, September 11th.

9 A Okay.

10 Q And let's see. That's a, that's just a routine
11 meeting of the EJTA, what's that?

12 A Give me just a secretary. EJTA?

13 Q It's the second from the date, September 11th?

14 A Oh. EJTA's, those are employee -- essentially
15 it's what training an employee is required to have.

16 Q So now look at September 12th, if you would,
17 Thursday?

18 A Okay.

19 Q So it looks like you had a meeting with Mr. Dave
20 Ruscitto between seven and eight in the morning on a
21 personnel issue; is that correct?

22 A That's correct.

23 Q That was about Ms. Atwood, was it not?

24 A That is correct.

25 Q So September 12th, early in the morning, you're

1 meeting with Mr. Ruscitto -- it's Ruscitto; right?

2 A Ruscitto, Ruscitto. I couldn't say it either.
3 It's Ruscitto; I think.

4 Q Regarding Ms. Atwood; right?

5 A I believe that's what that meeting was.

6 Q And that is just before the meeting with Beyers,
7 Jensen, Robbins and DeVere to start the joint
8 investigation; right?

9 A Well, I'm sitting here looking at the calendar
10 and I don't see that meeting on this calendar.

11 Q Which meeting?

12 A The second one you're pointing to.

13 Q The one with Beyers, Jensen? Well, you didn't
14 go to that. You just sat through here --

15 A Oh I'm sorry, I'm sorry, I got you, wrong one,
16 sorry.

17 Q So it's true, is it not, that Mr. Ruscitto was
18 in charge of your direct report to him at that time;
19 right?

20 A That's correct.

21 Q And he was a direct report to Frank Armijo;
22 right?

23 A That's correct.

24 Q He was the number two in command; right?

25 A That's correct.

1 Q And he met to tell you what the plan forward for
2 Atwood would be; correct?

3 A That's not the meeting I remember.

4 Q Well, isn't it true that at this time he told
5 you, he updated you on the fact that he had been to DOE
6 and he had told them that she was being investigated for
7 timecard fraud.

8 A I don't recall him saying that to me.

9 Q Never?

10 A Certainly not at that meeting. But I don't
11 recall ever being told anybody went to DOE and spoke with
12 them.

13 Q And he told you that the plan forward was we
14 were going to now do a joint investigation; correct,
15 involving DeVere and Robbins.

16 A I don't, I don't recall that. That, in fact, as
17 I recall that meeting at 7 a.m. was very, very short.

18 Q Okay.

19 A And I was directed to go back through all of my
20 records regarding anything that might have to do with Ms.
21 Atwood.

22 Q Gain ammunition to use against Atwood; right,
23 that's that he told you?

24 MS. ASHBAUGH: Objection, argumentative.

25 THE COURT: Overruled.

1 Q (By Mr. Sheridan) Go ahead.

2 A No, I don't know what he was going to do with
3 them at the time.

4 Q He told you that, don't worry about the fact
5 that you thought you were being investigated, we're going
6 to stop that.

7 A No, none of that was said.

8 Q That was on the 12th. And that was at, what,
9 seven to eight.

10 A Seven to eight is when it was scheduled, yes.

11 Q Then let's now jump ahead if we can to the 16th.

12 A Okay.

13 Q And on the 16th, isn't there a meeting there
14 with Armijo?

15 A There is an executive staff meeting.

16 Q And that includes you; right?

17 A That's all the vice presidents and anybody else
18 Frank wanted to invite to a meeting.

19 Q So that's the 16th and that is the same day that
20 Julie Atwood's being interviewed; right?

21 MS. ASHBAUGH: Objection, calls for
22 speculation.

23 THE COURT: Sustained.

24 Q (By Mr. Sheridan) What time was that meeting?

25 A The executive staff meeting was at 1 o'clock.

1 Q And at this meeting, Julie Atwood was also
2 discussed; correct?

3 A At the executive staff meeting?

4 Q Yes.

5 A Absolutely not.

6 Q Why is that?

7 A We don't discuss personnel issues at executive
8 staff meetings.

9 Q I see, all right. Now let's take a look at your
10 phone records, Exhibit 93. Do you have that there?

11 A I don't have it.

12 Q All right. Let me grab it.

13 So you're aware, are you not, that through the
14 process of discovery, Ms. Atwood has obtained your
15 telephone records; right?

16 A I am.

17 Q So there are actually a couple of binders and
18 that's just the first one.

19 A Okay.

20 Q I want you to turn to page seven and look at the
21 affidavit there from the phone company. You got that?

22 A I do.

23 Q And you've reviewed these records and you've
24 been deposed on some of these records; right?

25 A I have not reviewed these phone records.

1 Q Okay, all right. Well, let's find out what your
2 phone number is. What's your phone number?

3 A My cellphone number is 521-5220.

4 Q And you see that on the verification sheet it's
5 -- they pulled the cellphone numbers, 521-5220?

6 A Yes.

7 Q And then the other number that they pulled is
8 551-0606, what's that?

9 A I believe that's my laptop -- or my, I'm sorry,
10 my I Pad.

11 Q Your I Pad. Your I Pad, or it's like a data?

12 A Yeah, it's my I Pad, yeah.

13 Q You don't actually make calls on it.

14 A Oh, no.

15 Q Got it, all right.

16 MR. SHERIDAN: Your Honor, with this
17 authenticating certificate -- affidavit and the
18 witness's statement that he recognizes those numbers
19 as his, Plaintiff offers Exhibit 93.

20 MS. ASHBAUGH: No objection.

21 THE CLERK: Mr. Sheridan.

22 THE COURT: We have broken it up into A, B,
23 C, D and E, premised on the binders.

24 MR. SHERIDAN: Right.

25 THE COURT: Under the 904A submissions that

1 were stipulated.

2 MR. SHERIDAN: We offer all of them.

3 THE COURT: So we'll admit 93A through --
4 93A through 93E are admitted into evidence.

5 (Exhibit Nos. 93A -
6 93E were admitted.)

7 MR. SHERIDAN: Thanks, Judge.

8 Q (By Mr. Sheridan) So what I'd like you to do,
9 they have Bates Stamp numbers on them, and I'd like you to
10 go to Bates Stamp Number 444 in the -- it's in the lower
11 right-hand corner. It's page 1100. Are you there?

12 A Nope. I'm trying to -- nope, there is no 1100
13 here.

14 Q Well, maybe it's in the second volume.

15 MS. ASHBAUGH: If I may approach, it's in
16 the binder he's looking at.

17 THE COURT: Okay, thank you, counsel.

18 MS. ASHBAUGH: Sure. It's in these
19 documents. Let me show you where it's at.

20 I apologize, Jack, it's different than the
21 binder you gave me.

22 MR. SHERIDAN: This is the second binder.

23 MS. ASHBAUGH: Okay.

24 Q (By Mr. Sheridan) So take a look at the entry
25 on the left-hand corner of the columns, there are item

1 numbers and look for 18617?

2 A I'm there. I'm there.

3 Q And this is a call between you and Mr. Armijo,
4 is it not?

5 A I don't know the phone numbers.

6 Q Frank Armijo, you don't know if his phone
7 number --

8 A I couldn't swear to you that's his phone number,
9 I'm sorry.

10 Q So just for record purposes, phone number one --
11 ending in 1090, you don't know if that's Mr. Armijo?

12 A I'm sorry, I don't.

13 Q Can you think of any reason why you would have
14 spoken to him by phone on the sixth of September?

15 A What time was that.

16 Q September 6th?

17 A What time of the day.

18 Q Oh, what time of day. It says connect time. I
19 think it was 19:19. Do you know military time?

20 A 19 would be -- see 12 is noon. 24, 18. So it
21 would be about seven something.

22 MS. ASHBAUGH: Your Honor, it's under UTC
23 time, which is seven hours ahead.

24 THE WITNESS: Yeah, that sounds about
25 right.

1 MS. ASHBAUGH: This document is --

2 A Yeah, it states UTC up above. Thank you.

3 Q (By Mr. Sheridan) And so on the sixth -- let's
4 see, on the sixth, is that when you were telling your
5 staff that a complaint had been filed against you?

6 A I would have to go back and look at that email,
7 but --

8 Q It's true, is it not, that you talked to Mr.
9 Armijo by phone about that time to raise concerns?

10 MS. ASHBAUGH: Objection, Your Honor, we
11 haven't established what time.

12 Q (By Mr. Sheridan) Oh. About the 6th of
13 September?

14 A If that's Mr. Armijo's phone number, it's
15 possible I spoke to him. I could have also spoken to one
16 of the, to one of the secretaries who would answer that
17 phone, I don't know.

18 Q But your goal, though, was to communicate your
19 concern, your continued concern that a complaint had been
20 filed against you; right?

21 A No, sir, I don't know that.

22 Q All right. And it's true, is it not, that you
23 were brought to another deposition a couple weeks ago, in
24 August?

25 A There were two depositions.

1 Q All right. And it's true, is it not, that in
2 the latest deposition you testified that there was another
3 complaint or concern that crossed your desk; right?

4 A I did.

5 Q You don't know when, you don't know what it
6 said, but you testified that there is another one out
7 there; right?

8 A I believe my testimony was that I was in my
9 office, I was standing between two federal employees and
10 we were talking about some upcoming work, to the best of
11 my recollection. An individual came into my office. I
12 don't recall who it was. Handed me a piece of paper and
13 said have you seen this? I took a glance at it, laid it
14 on my desk, face down until I was through with my meeting.

15 As soon as they left, I went back, turned it
16 over, saw that it was a complaint and there were no names
17 on it.

18 Q And you don't recall what it said?

19 A I don't.

20 MR. SHERIDAN: We're going to play for the
21 jury, with the court's permission, excerpts from
22 Pages 216, Line 6 to 221, Line 10.

23 MS. ASHBAUGH: Your Honor, we would object
24 as cumulative at this point.

25 THE COURT: I'm at a disadvantage. What is

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it 216?

MR. SHERIDAN: Line 6, to 221, Line 10. I don't recall playing this for this witness.

MS. ASHBAUGH: No, it's cumulative with what he just testified to, Your Honor.

MR. SHERIDAN: Oh, well.

MS. ASHBAUGH: It's just repeat.

MR. SHERIDAN: It's designated testimony and it is different.

THE COURT: Well, let me do this. It's not the best way to do it. Let me watch it, I'll rule on it and I can give a motion to have them disregard if you want.

MS. ASHBAUGH: Sure.

MR. SHERIDAN: This was designated, Your Honor.

THE COURT: All right.

MR. SHERIDAN: Okay, go ahead.

(Whereupon the video was played.)

Q (By Mr. Sheridan) So this complaint that you're talking about, you left it with Mr. Jensen; right?

A Actually I left it laying on his desk. Mr. Jensen wasn't sitting at his desk, so then I had to run around the building and try to find him.

1 Q I see. So wait a minute. I had to run around
2 the building to try to find him. So, I'm just -- I'm not
3 going to replay this, but, let me just. Do you have your
4 deposition with you?

5 A Not with me.

6 MR. SHERIDAN: It's the second one.

7 Q (By Mr. Sheridan) You just said Jensen wasn't
8 there?

9 A Yeah. It's slightly different than what I said
10 in my deposition. After I got to thinking about that
11 question, I remembered taking it into Mr. Jensen's office
12 and he wasn't there, which is not unusual. So when I
13 tracked him down, told him what I laid on his desk, we
14 went back to his office. To the best of my recollection
15 we went back to his office and he took a look at it. I
16 said, it's in your hands now, do you need anything from
17 me? And I left.

18 Q So you were deposed on August 17th, 2017; right?

19 A Correct.

20 Q And you were under oath; correct?

21 A Correct.

22 Q So on 221, at line, I guess it's Line 20, I
23 asked you: All right. So tell me what happened next. So
24 you had a meeting with Chris Jensen on this document that
25 you're talking about. And you said -- go ahead and read

1 what you said.

2 A That's not what I said. I took it over to Chris
3 Jensen's office.

4 Q All right, what happened next? And you said?

5 A Chris said he had seen it. That's true.

6 Q So when you were testifying in August, under
7 oath, you said you saw him and he told you he had seen it;
8 right? That was not true?

9 A Well, I had to do a lot of thinking after you
10 asked that question about exactly what happened. And I
11 remembered having to track him down.

12 Q Did you talk to Mr. Jensen --

13 A I did.

14 Q -- to try to get your story the same?

15 A No.

16 Q So then on Line 25 I asked you: All right.
17 What happened next? You said Chris, you said Chris said
18 he had seen it. And then I asked --

19 A Correct.

20 Q -- and what happened next? So you showed it to
21 him. And you said?

22 A Do you need anything else from me.

23 Q And then I said, okay, so you actually showed it
24 to him; right --

25 A Correct.

1 Q And you said?

2 A I laid it on his desk.

3 Q All right. And then when you left, did you take
4 it with you? And you said?

5 A No.

6 Q All right. So you're saying that this statement
7 you made under oath in August is not accurate?

8 MS. ASHBAUGH: Objection, misstates his
9 testimony.

10 THE COURT: I'll sustain that.

11 Q (By Mr. Sheridan) Well, you said that it's
12 different than what you believe today; right?

13 A Yeah, I'd left out the part about having to run
14 around the building and try to find him.

15 Q But it's true that -- so it's your testimony
16 that you don't know what was in this complaint; right?

17 A Like I said, it was a complaint about a hostile
18 work environment. I don't remember seeing any names.

19 Q It was about you, wasn't it?

20 A My name wasn't in it.

21 Q And how do you know if you don't remember what
22 was in it?

23 A I just said there were no names in it. It's the
24 first thing you look for.

25 MR. SHERIDAN: No further questions.

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THE COURT: Cross-examine.

CROSS EXAMINATION

BY MS. ASHBAUGH:

Q Good afternoon, Mr. Young?

A Good afternoon.

Q Mr. Young, we'll be talking to you when it's defendant's case, so I just have a few questions for you right now based on Ms. Atwood's lawyer's questions; okay?

A Okay.

Q I want to be clear, I want the jury to be clear on your testimony, in your own words, on a few topics; okay? So I'd like to first talk to you about Ms. Atwood's July or August of 2013 trip to Malaysia; okay?

A Yes.

Q Mr. Young, were you ever aware that Ms. Atwood was going on a trip to Malaysia?

A I was not.

Q Did Ms. Atwood give you any advanced notice of that trip?

A No ma'am.

Q And did Ms. Atwood tell you that she was going to be using any PTB or furlough time during that time period?

1 A She did not.

2 Q Can you please turn to Exhibit 213?

3 MS. ASHBAUGH: Does he have that in front
4 of him?

5 A I believe all I have is phone records and
6 deposition.

7 Q (By Ms. Ashbaugh) Let me help you out and take
8 some of this away so we don't have so many binders.

9 A Thank you.

10 Q Turn it so that you can see it. This is the
11 document; okay?

12 A Okay, thank you.

13 Q Sure. And looking at 213, and I want to look at
14 the top of the first email from Ms. Tanasse to you and
15 others.

16 A Yes.

17 Q And this is the email where you first learned of
18 Ms. Atwood's Malaysia trip; correct?

19 A That's correct.

20 Q What's the date on this email?

21 A July 1st.

22 Q And going up to the top of that, if you look up.

23 A Yes, ma'am.

24 Q There is an email from you back to Ms. Tanasse
25 that says, thanks, Lynn. Do you recall sending that

1 email?

2 A Yes, ma'am.

3 Q Was this the first time that you had ever seen
4 notification from Ms. Atwood with regards to her trip to
5 Malaysia?

6 A It is.

7 Q Had she ever told you about this planned trip?

8 A She had not.

9 Q Had she ever cleared this trip to be determined
10 on a date at any point in time with you?

11 A She had not.

12 Q And by that time do you know -- by August 1st of
13 2013, do you know whether or not Ms. Atwood had already
14 left for Malaysia?

15 A All I knew at that time was what was written
16 here. The note itself appears to be from Ms. Atwood to
17 Lynn Tanasse. And it says, I think it said she -- I'd
18 have to look. Give me just a moment.

19 Q Sure.

20 A Yeah, it said I'm in route to Kuala Lumpur right
21 now.

22 Q So by August 1st, had Ms. Atwood already left
23 for Malaysia?

24 A Based on this document, yes.

25 Q So you learned after the fact; is that correct?

1 A That's correct.

2 Q Is it a problem that Ms. Atwood -- was it a
3 problem for you that Ms. Atwood had not gotten
4 pre-approval for this trip?

5 A Yeah, it very quickly became a problem on the --
6 don't remember exactly which day. I believe it was this
7 particular date, but I can't swear to it.

8 Q Can you please explain to the jury why it's a
9 problem?

10 A Yeah, well, we -- part of the problem is we have
11 a lot of meetings that go on with the client. And in this
12 particular case, Ms. Tanasse came running up to my office
13 talking about the fact that DOE was waiting --

14 MR. SHERIDAN: Objection, Your Honor, 802.

15 Q (By Ms. Ashbaugh) I'll ask you, Mr. Young --

16 THE COURT: Sustained.

17 Q (By Ms. Ashbaugh) Don't state what somebody
18 else told you, just state what your understanding of why
19 it was a problem.

20 A DOE was in the PACE area --

21 MR. SHERIDAN: Same objection, Your Honor,
22 I think.

23 THE COURT: I'll overrule that.

24 A DOE was in the PACE waiting for a presentation
25 to be made by Ms. Atwood.

1 Q (By Ms. Ashbaugh) Okay.

2 A Ms. Atwood didn't show up at that meeting.

3 Q Is it a problem when people don't tell you in
4 advance of a week or longer vacations?

5 A Absolutely. It doesn't give us much of a chance
6 to prepare for covering the work that needs to be done.

7 Q Okay. And Mr. Young, did you later approve Ms.
8 Atwood's time off?

9 A I did.

10 Q And did your approval of this time off as either
11 vacation or PTB, lessen the problem that you had with what
12 we just talked about with regards to preapproval?

13 A No, the problem we had with the timekeeping
14 system is that you have to have something on the time
15 sheet. So what I was really doing was making sure she had
16 a time sheet in place. And that doesn't change anything
17 other than it gets your time sheets turned in.

18 Q It didn't change anything with regards to the
19 problems you just told the jury about?

20 A Right. Normally what would happen if a person's
21 going to take a couple weeks off, you would fill out your
22 time sheets in advance and then they would be sitting in
23 the system.

24 Q And Mr. Young, I believe you have been asked
25 about this by Mr. Sheridan before, did you have any

1 discussions with regards to the concerns you had on the
2 Malaysia trip with human resources?

3 A We did have discussions on it.

4 Q And who were those discussions with?

5 A Well, initially it was with Kadi Bence.

6 Q And Mr. Sheridan keeps pointing to his own notes
7 and keeps saying that this place took -- this meeting took
8 place on August 27th, do you recall that?

9 A Yeah, I recall it. I'm not quite sure that's
10 the correct date.

11 Q Mr. Young, can you please turn to Exhibit 185?

12 MS. ASHBAUGH: And Mr. Prutting, I'm
13 looking for the August 22nd calendar note.

14 A I don't have 185 here.

15 Q (By Ms. Ashbaugh) Let me see.

16 A What date? August 22.

17 Q August 22nd.

18 A Thursday?

19 Q Yes.

20 A Yes.

21 Q Do you see that?

22 A I do.

23 Q And do you see an entry at 2:30 p.m. on August
24 22nd?

25 A I do.

1 Q Can you tell the jury what that entry states?

2 A It says HR meeting, Cindy's office, Steve Young.

3 Q Does this refresh your recollection of when your
4 meeting was with regards to Malaysia and the human
5 resource department?

6 A I believe that's the first meeting that was held
7 with HR, what we call -- what's being called the HR
8 meeting.

9 Q Mr. Young, can you please explain to the jury
10 the meeting that's now been clarified to be on August 22nd
11 of 2013? Can you please explain to the jury that first
12 meeting with human resources?

13 A Yeah. I had been in communication with Kadi
14 Bence regarding the Malaysia trip that Ms. Atwood had
15 taken. And I -- it actually started out a request to HR
16 for some assistance. And what I was looking for is I felt
17 that I was caught between a rock and a hard place on this
18 particular issue because so many people had gotten
19 involved in it in my staff. And I need -- I wanted to at
20 least put something, some sort of letter or something to
21 Ms. Atwood to document what had occurred, what our
22 agreement was going to be going forward. So I had
23 contacted Kadi and asked if there was a form letter or a
24 form, or a special format that should be used.

25 Kadi, I remember, called me -- I believe she

1 called me back and said --

2 MR. SHERIDAN: Objection, 802.

3 Q (By Ms. Ashbaugh) Mr. Young, don't say what
4 she said.

5 A The results of the, the result of that --

6 THE COURT: Sustained.

7 A I'm sorry.

8 Q (By Ms. Ashbaugh) Go ahead.

9 A The result of that was a meeting that was
10 called, it appears, August 22nd.

11 Q And in that meeting, did Ms. DeVere eventually
12 show up?

13 A Yeah, at the beginning of the meeting when we
14 first got together, there was Susan Hiller, Kadi Bence,
15 Cindy Protsman. I believe that was all that was there.
16 Myself.

17 Q Okay.

18 A They had asked me to walk back through the
19 history of what had happened. So the first part of the
20 meeting was talking about the Malaysia absenteeism. Then
21 they wanted to know had we had any other problems and I
22 had given them some of the concerns we had had. A lot of
23 it was what I was hearing more than what I was dealing
24 with.

25 Near the end of the meeting -- I want to say

1 maybe five, ten minutes before the end of the meeting, Ms.
2 DeVere walked into the room, down and didn't say anything.
3 Cindy Protsman introduced her to me -- I had never met her
4 -- and asked me to continue. Cindy said go ahead. So I
5 finished the last little bit of the conversation.

6 Ms. DeVere made a comment that was a little bit
7 uncomfortable. She looked up and all she said was, this
8 sounds like a problem with the manager or manager problem.
9 I'm not exactly sure what the words were.

10 Q And she just offered that out.

11 A Right.

12 Q Okay. And then how did the meeting end?

13 A Well, at that point, I was actually running
14 late. It takes awhile to drive back to the federal
15 building. So I shut my notebook and -- I was a little put
16 off by the comment, but I let everybody know I had another
17 meeting to go to and excused myself and left the room.

18 Q Why were you put off by the comment?

19 A It was just the look in her eyes and the way it
20 was kind of taking a shot at me. I felt like it was a
21 shot being taken at me.

22 Q And after this August 22nd meeting, did you meet
23 with Ms. DeVere -- I mean, sorry, Ms. Atwood. Did you
24 follow-up with Ms. Atwood after this August 22nd meeting?

25 A I believe it was after that meeting that I had

1 the telephone conversation with either Cindy or Kadi. And
2 that's when the decision was made, I would just go ahead
3 and have a conversation with Ms. Atwood, tell her what the
4 expectations were. Again, I may be getting timelines
5 messed up here. But -- and then followed up with an
6 email.

7 Q Can you please turn to Exhibit 222. Let's see
8 if you have that?

9 A It's in this one. Yes, yes, ma'am.

10 Q I believe 222 has been admitted. Do you
11 recognize what Exhibit 222 is?

12 A Yes.

13 Q Can you describe, just generally, what this is?

14 A Yeah, it's --

15 Q Is it an email between you and Ms. Atwood
16 initially?

17 A It is.

18 MS. ASHBAUGH: Your Honor, Defendants move
19 to admit Exhibit 222.

20 MR. SHERIDAN: No objection.

21 THE COURT: It's admitted.

22 (Exhibit No. 222
23 was admitted.)

24 Q (By Ms. Ashbaugh) And you recognize this
25 document?

1 A Yes, Ms. Atwood and I had had a conversation
2 that morning. I'd gone over the rules.

3 Q Let me interrupt you for one second. Can you
4 tell the jury what morning you had a conversation with Ms.
5 Atwood about?

6 A This is on Tuesday, August 27th.

7 Q And you had a conversation with Ms. Atwood. Can
8 you please explain to the jury what conversation you had?

9 A Well, you can see there, there is a few
10 paragraphs. Essentially said here's the rules: If you
11 leave the workplace during normal work hours, please send
12 me an email or you can text me at 521-5220. Please let me
13 know the time you'll leave and the approximate time of
14 your turn. If you must leave quickly due to an emergency,
15 please let me know as soon as possible.

16 Q Okay.

17 A Then there was a second item which is, all PTB
18 must be approved by me in advance. This is just a
19 reminder that only I can approve PTB.

20 Q And it indicates at the top of this email that
21 you had a meeting that morning; correct?

22 A Correct.

23 Q When you had that meeting, what was discussed?

24 A Well, pretty much what you read here. It was
25 much more lengthy than that. But it was a good

1 conversation. She understood. We had an agreement. I
2 mean, it was very cordial.

3 Q And then August 27th of 2013, did you believe in
4 any way that you were being investigated?

5 A No, I didn't.

6 Q And did you eventually advise Ms. Bence that you
7 had a meeting with Ms. Atwood?

8 MR. SHERIDAN: Objection, leading.

9 THE COURT: Sustained.

10 A I'm sorry?

11 Q (By Ms. Ashbaugh) Did you advise Ms. Bence of
12 anything with regards to this meeting?

13 A I believe, I believe so, yes.

14 MS. ASHBAUGH: Can you scroll up, Mr.
15 Prutting?

16 Q (By Ms. Ashbaugh) On Exhibit 222, did you get
17 a response from Ms. Atwood?

18 A I did.

19 Q And what was her response?

20 A She said, thanks, Steve. No questions, just
21 confirming I understand and I also emphasize the
22 importance of this policy with my team.

23 Q Now we can all agree that you had a second
24 meeting on September 5. Do you recall that meeting where
25 you had a meeting with Ms. Protsman and Ms. DeVere?

1 A Yes, I do.

2 Q And in fact, again going back to Exhibit 185, if
3 you look on September 5th --

4 A Excuse me, switch books.

5 Q 185.

6 A Okay, I'm at 185.

7 Q And if you look on Thursday, September 5th;
8 correct?

9 A Just a moment.

10 Q Are you there?

11 A Just now.

12 Q Great. At 12:30 on September 5th, what does
13 your calendar state?

14 A September 5th, excuse me. I don't have anything
15 at 12:30.

16 Q Not sure you're on the right year.

17 A Oh, I'm sorry.

18 Q That's all right.

19 A My bad.

20 Q There's lots of documents.

21 A You were talking about 2013. Sorry.

22 Q That's okay.

23 A Man, I've been busy.

24 Q Are you there now?

25 A Okay. 12:30 shows a discussion, Steve Young,

1 HR.

2 Q And is this the meeting that you had on
3 September 5th with Ms. Protsman?

4 A That sounds about right.

5 Q And can you please tell the jury, in your own
6 words, what happened on the September 5th meeting with Ms.
7 Protsman and Ms. DeVere. Just walk them through the
8 meeting.

9 A When I got to human resources, it takes a few
10 minutes to get inside the building. You have to wait to
11 have access inside the controlled area. And Ms. Protsman,
12 I believe Ms. Protsman is the one that met me and took me
13 back to the small conference room, small meeting room.

14 And walked in and Ms. DeVere was there. So it
15 was Cindy Protsman, Ms. DeVere and myself. To the best of
16 my recollection, it started out Ms. DeVere said I have a
17 few questions for you. And I was a little surprised at
18 that, but assumed we were still trying to work on the
19 other issue making sure I got my ducks in a row and the
20 organization is properly documented, per the rules.

21 And she started asking -- she had asked a couple
22 of questions that made me very uneasy. Made me a little
23 bit suspicious. She actually started out, I believe she
24 said, she used the words I'm doing an investigation and I
25 have some questions for you. That's the best of my

1 recollection.

2 Q Okay.

3 A After a couple of questions, possibly three, I
4 stood up and I said, I'll resign before I'll allow you to
5 investigate me.

6 Q And please tell the jury why you said that.

7 A Well, the first meeting we had when she walked
8 into the room, I was fully convinced she already had
9 a predetermined position on me when she said it appears to
10 me it's a manager problem. So I was uncomfortable with
11 that.

12 More importantly, from that time until this, I
13 was getting a lot of feedback, not only from a couple of
14 my own people, but from a couple of federal employees,
15 about her friendship with Jon Peshong and with Julie
16 Atwood. And I just felt like there was a conflict of
17 interest in this whole thing, that something wasn't right
18 and I felt very uncomfortable about it.

19 Q And --

20 A I will also admit -- I'm sorry, I will also
21 admit I was very frustrated at that point.

22 Q And so when you told Ms. DeVere that you were
23 going to resign, what was Ms. DeVere's response?

24 A Can we have your resignation?

25 Q And what did you say?

1 A I said, I will give my resignation to the man
2 that hired me.

3 Q Did she respond at all after that?

4 A Yeah, I headed toward the door, and she said
5 could we have it by 2:30.

6 Q At any point in time during this September 5th
7 meeting, Mr. Young, were you shown a complaint?

8 A No, ma'am.

9 Q At any point in time had you been -- up until
10 this point, had you seen a complaint that you had been
11 named in?

12 A No, ma'am.

13 Q During this meeting, Mr. Young, did you ever
14 state that you knew Ms. Atwood had filed a complaint
15 against you?

16 A No, ma'am.

17 Q Did you believe, in fact, that she had filed a
18 complaint -- Ms. Atwood had filed any complaint against
19 you?

20 A No, not at all.

21 Q And did you believe that Ms. Atwood, prior to
22 filing of this lawsuit, had any complaints against you at
23 all?

24 A No.

25 Q And was the first time that you learned it when

1 she sued you, personally, in this lawsuit?

2 MR. SHERIDAN: Objection, leading.

3 THE COURT: Sustained.

4 Q (By Ms. Ashbaugh) When was the first time you
5 learned that she had a complaint?

6 A When I received a call from the chief counsel's
7 office saying that an EEOC had come in and would like me
8 to come pick up a copy of it and review it.

9 Q Do you know if that EEOC complaint had named
10 you?

11 A It did.

12 Q Mr. Young, have you ever tried to stop any
13 investigation into a complaint?

14 A No. I've been with DOE far too many years for
15 that.

16 MS. ASHBAUGH: Given we'll call him back,
17 Your Honor, I have no further questions right now.

18 THE COURT: Any redirect?

19 MR. SHERIDAN: No redirect.

20 THE COURT: Ladies and gentlemen of the
21 jury, you have an opportunity to ask Mr. Young any
22 question or questions that you might want. If you
23 would like to ask a question, please raise your hand
24 and our bailiff will bring you the forms.

25 We have one.

1 (Whereupon a side
2 bar was conducted.)

3 MS. ASHBAUGH: That's fine.

4 MR. SHERIDAN: Okay.

5 THE COURT: Thank you.

6 (Whereupon the side
7 bar was concluded.)

8
9 EXAMINATION

10
11 BY THE COURT:

12 Q Good afternoon, Mr. Young. The jury has written
13 down two questions that they would like me to ask. The
14 first is this: On the subject of taking action, knowing
15 that Julie Atwood was endeared to DOE, why not simply talk
16 to Julie Atwood about your ideas or suggestions for
17 changes to the dashboard?

18 A That's a great question. There were
19 conversations, not necessarily one on one with Ms. Atwood,
20 more it was part of the team.

21 There were two or three critical players in the
22 dashboard process. Not just Julie, but we had a
23 programmer, we had an analyst who did the data base piece
24 and we had a lead. I don't know how far you want me to
25 take this, but you're looking for a lot of answers.

1 The entire, the entire IT group was primarily
2 made up of Lockheed Martin personnel. That's where we got
3 our IT support. There were some other smaller
4 subcontractors that provided some technical support, very
5 specialized areas. So within the group, we had a lead who
6 reported to me, as did all of those Lockheed Martin
7 people, reported to me for day-to-day work. But
8 administratively they reported to a person that worked for
9 Lockheed Martin.

10 So you had that lead, you had a -- normally had
11 at least one analyst or a data base person, and you had a
12 dashboard developer, a programmer, and we had Ms. Atwood
13 who coordinated between the two organizations.

14 And there would be conversations where all of us
15 were together. There would be conversations where I might
16 get with the lead from Lockheed Martin. She would have
17 conversations with the team. So there were a number of
18 times those conversations did occur, but not one on one
19 with Ms. Atwood.

20 Q The second question posed by the jury is this:
21 Was it common practice to try to locate an employee by
22 phone when you couldn't locate them at work?

23 A It was partially common practice. If it was a
24 critical situation, yes, we would -- I would normally
25 either ask the administrative assistant or Linda Delannoy

1 to try to track them down, they would make the phone
2 calls.

3 I have to be honest, I hate using a phone, I
4 absolutely hate it. And so for me to stop and take my
5 phone and start trying to make phone calls, it was not
6 something I really enjoyed, so I would normally pass that
7 on to try to track them down. And that would happen on
8 occasion. But, yes, if it was critical.

9 Now sometimes you can move on with a meeting
10 without having a person there and come back and brief them
11 later on what the outcome of the meeting was.

12 THE COURT: Do either of those two
13 questions spark any follow-up questions from either
14 counsel?

15 MR. SHERIDAN: Sure.

16 THE COURT: Mr. Sheridan.

17 MR. SHERIDAN: Thank you, sir.

18

19 REDIRECT EXAMINATION

20

21 BY MR. SHERIDAN:

22 Q So now we've entered your phone records, which
23 is Exhibit 93. Would you be surprised to hear that you
24 have over 3,000 phone calls with Greg Jones during that
25 time period?

1 A Would I be surprised?

2 Q Right.

3 A Nothing would surprise me today.

4 Q Because, I mean, you talked to Greg Jones on the
5 phone all the time, every single day, don't you?

6 A No, that's not true.

7 Q Well, all the time. 3,000 phone communications
8 in about four years.

9 A You got to remember, he sits on the council. At
10 one time he was the chairman of the planning commission
11 for the city. At one time he was involved in when we
12 built the convention center. There were lots of time that
13 he was involved with me, and we do play golf together.

14 Q And if you can't get him, if you don't see him,
15 you'll call him; right?

16 A I'd call him or text him, yeah.

17 Q But you didn't do that with Julie Atwood;
18 correct?

19 A She wasn't that level of friendship, no.

20 Q Well, wait. How about from a business
21 perspective? You could have called her. Any time you
22 couldn't get a hold of her you could have called her.

23 A There were times --

24 Q And you --

25 A I'm sorry.

1 Q And you didn't, right?

2 A There were times I called her and there were
3 times I texted her.

4 Q With regard to the dashboard, it's true, is it
5 not, that the dashboard was already up and running when
6 you got there; right?

7 A No.

8 Q It didn't run yet?

9 A No.

10 MR. SHERIDAN: No further questions.

11 MS. ASHBAUGH: No questions, Your Honor.

12 THE COURT: All right. Subject to recall,
13 you can step down, sir. Please watch your step on
14 the way out of the witness box there.

15 THE WITNESS: Thank you, Your Honor.

16 THE COURT: Mr. Sheridan.

17 MR. SHERIDAN: Yes plaintiff calls Julie
18 Atwood.

19 MS. ASHBAUGH: Can we take a short side
20 bar, because we have.

21 MR. SHERIDAN: Sure.

22 MS. ASHBAUGH: You have someone waiting
23 that you asked us to bring back.

24 MR. SHERIDAN: Oh, sorry.

25 (Whereupon a side
bar was conducted.)

1 MS. ASHBAUGH: Mr. Sheridan, right around
2 10 to 11 we asked if we should keep him. He's been
3 here since 10, or should he come back one or 1:30.
4 And I was told to bring him back at 1:30.

5 MR. SHERIDAN: I misunderstood. I thought,
6 because we were putting on Ms. Atwood, I thought that
7 we were releasing him for the day. My apologies, I
8 didn't know.

9 THE COURT: Can we use him now?

10 MR. SHERIDAN: Let me think. I need to
11 have to bring some things up and adjust.

12 THE COURT: Can you do it during our
13 afternoon break?

14 MR. SHERIDAN: I can do that, yes.

15 MS. ASHBAUGH: Thank you.

16 MR. SHERIDAN: Thank you.

17 MS. ASHBAUGH: We'll let him know.

18 (Whereupon the side
19 bar was concluded.)

20 MR. SHERIDAN: Your Honor, after the break,
21 Plaintiff will call Chris Jensen briefly.

22 THE COURT: All right.

23 Ladies and gentleman, we're working on some
24 scheduling around witnesses. It's a few minutes
25 early from our normal afternoon break, but it makes

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sense right now to take that afternoon break.

During the break, please don't discuss the case amongst yourselves. Please don't reach out and do any independent research.

Watch your step on the way out of the jury box and please follow the instructions of our bailiff.

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

THE COURT: Take what time you need to adjust.

MR. SHERIDAN: Thanks, Judge.

THE COURT: Let me know when you're ready.

(Recess)

(End of requested 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 1st day of October, 2017.

18
19
20
21 Cheryl A. Pelletier, RPR, CCR
22 Official Court Reporter