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A P P E A R A N C E S

For the Plaintiff:

John P. Sheridan
Justin Abassi
The Sheridan Law Firm, P.S.
705 Second Avenue, Suite 1200
Seattle, Washington 98104
jack@sheridanlawfirm.com
justin@sheridanlawfirm.com

For the Defendants:

Andrew Biggs
Assistant Attorney General
Office of the Attorney General
800 Fifth Avenue, Suite 2000
Seattle, Washington 98104-73188
andrew.biggs@atg.wa.gov

The Videographer:

Alison Borgida
SRS|Premier Realtime & Legal Video
2200 Sixth Avenue, Suite 425
Seattle, Washington 98121

Also Present:

Trooper Ryan Santhuff

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EXHIBITS FOR IDENTIFICATION:

Number		PAGE
Exhibit 1	2010 Rules of Conduct, 8.00.300, "Whistleblower - Improper Governmental Action"	9
Exhibit 2	2017 Rules of Conduct, 8.00.300, "Whistleblower - Improper Governmental Action".	21

* * * *

1 SEATTLE, WASHINGTON; FRIDAY, SEPTEMBER 27, 2019

2 11:24 A.M.

3 --oOo--

4 THE VIDEOGRAPHER: We are now on the record at
5 11:24 a.m., on Friday, September 27, 2019. This is Volume 1,
6 Media Unit 1 of the video recorded deposition of Travis
7 Matheson.

8 All parties have agreed to waive the read on.
9 So we will skip to counsel noting their appearances and
10 affiliations for the record, and then the court reporter may
11 swear in the witness.

12 MR. SHERIDAN: This is Jack Sheridan,
13 representing the plaintiff. And in the room with me is
14 Justin Abbasi, who is an attorney in our office.

15 MR. BIGGS: Andrew Biggs, the State of
16 Washington and Lieutenant Nobach.

17
18 CAPTAIN TRAVIS MATHESON, deponent herein, having been.
19 first duly sworn on oath, was
20 examined and testified as
21 follows:

22
23 E X A M I N A T I O N

24 BY MR. SHERIDAN:

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

1 **A. Travis Matheson.**

2 Q. And, Mr. Matheson, with whom are you employed?

3 **A. With the Washington State Patrol.**

4 Q. And how long have you been there?

5 **A. About 27 years.**

6 Q. Okay. Are you retiring in the next year or two?

7 **A. Maybe.**

8 Q. All right. Where do you currently live?

9 **A. In Olympia.**

10 MR. SHERIDAN: Is this an ER 43 witness? Is
11 this a CR 43 witness? I'm asking about managing agent.

12 MR. BIGGS: You didn't ask for that, no.

13 MR. SHERIDAN: No, no, I'm just thinking
14 subpoena.

15 Q. I'll take your home address just in case.

16 What's your home address?

17

19 Q. How long have you lived there?

20 **A. Five or six years.**

21 Q. What do you currently do for the Washington State
22 Patrol?

23 **A. I'm a captain in charge of our Property Management
24 division.**

25 Q. Before you had that job, what did you do?

1 **A. I was a captain in charge of our Human Resource**
2 **division.**

3 Q. How long did you have that job?

4 **A. About 4 1/2 years.**

5 Q. Who hired you into that job?

6 **A. Chief Batiste.**

7 Q. All right. And were you a direct report to Chief
8 Batiste at the time?

9 **A. No.**

10 Q. To whom did you report during that time?

11 **A. There were two or three different assistant chiefs.**
12 **Among them, Assistant Chief Shawn Berry, and, most recently,**
13 **Assistant Chief Mark Lamoreaux, L-a-m-o-r-e-a-u-x.**

14 Q. What did Assistant Chief Lamoreaux do, as far as
15 you know? What were his main duties?

16 **A. So, as assistant chief, he's responsible for**
17 **several other districts and divisions. In his case, he was**
18 **responsible for the Technical Services Bureau, which included**
19 **Electronic Services division, technical -- or Information**
20 **Technology division, the Training Academy, the Communications**
21 **division, and the Human Resource department.**

22 Q. Did you leave Human Resources on your own volition?

23 **A. No.**

24 Q. How did that come about?

25 **A. The chief asked six captains to switch spots, about**

1 **three months ago, on July 1st.**

2 Q. When you say the captain, do you mean Batiste?

3 **A. No, the chief.**

4 Q. Oh, the chief.

5 **A. Chief Batiste, yes. And I was one of the six**
6 **captains that was switching spots.**

7 Q. Who took your job?

8 **A. Captain Monica Alexander.**

9 Q. And is she related to Johnny Alexander?

10 **A. Yes.**

11 Q. And by marriage?

12 **A. Yes.**

13 Q. And how long -- if you know -- how long was she in
14 the position?

15 **A. In the Human Resource division?**

16 Q. Yes.

17 **A. Just a couple of months. She recently retired. So**
18 **all of captains reported July 1st. Well, I take that back.**
19 **I think a few reported -- around July.**

20 Q. In 2016 and 2017, when you were HR director, who
21 were your customers?

22 **A. My customers were primarily the employees of the**
23 **State of Washington.**

24 Q. Okay. And were you the highest ranking Human
25 Resources director in the State Patrol?

1 **A. Yes.**

2 Q. And were you responsible for all policies and
3 procedures related to Human Resources?

4 **A. Yes.**

5 Q. And all applicable statutes, like discrimination,
6 retaliation, whistleblower, and all that?

7 **A. Yes.**

8 Q. And is it true that, in 2016 and 2017, you were a
9 public official within the meaning of the whistleblower
10 statute?

11 **A. I'd have to look at the definition of public**
12 **official within that statute.**

13 Q. Sure. Sure. And under 42.40.020(7), the statute
14 says, "A public official means the attorney general's
15 designee or designees; the director, or equivalent thereof in
16 the agency where the employee works; an appropriate number of
17 individuals designated to receive whistleblower reports by
18 the head of each agency; or the executive ethics board."

19 MR. BIGGS: If that's a question, I object to
20 the form of the question.

21 Q. Yeah. And so, as you sit here today, do you recall
22 if you were?

23 **A. There is language in the State Patrol's regulation**
24 **manual that talks about the whistleblower public officials, I**
25 **believe. And I think it's actually the Technical Services**

1 **Bureau assistant chief.**

2 MR. SHERIDAN: Okay. Let me take a look at --
3 so we have here a copy of the 2010 regulation manual that's
4 applicable, and we also have the 2017 one. We couldn't find
5 any between. So we're thinking that it's likely that this
6 section hasn't changed.

7 So let's have the 2010 one marked first.

8 THE REPORTER: Are we going to go with one?

9 MR. SHERIDAN: One is fine, yeah.

10 THE REPORTER: Can we go off the record for a
11 second?

12 MR. SHERIDAN: Yeah, let's go off the record a
13 second.

14 THE VIDEOGRAPHER: We are now going off the
15 record. The time is 11:30 a.m.

16 (Exhibit 1 marked for
17 identification.)

18 (A brief recess was taken.)

19 THE VIDEOGRAPHER: We are back on record. The
20 time is 11:31 a.m.

21 Q. I am handing the witness what's been marked as
22 Exhibit 1. And this purports to be Rules of Conduct from the
23 2010 version of the regulation manual. I'd like to direct
24 you over to -- the first two pages, addressed, "Whistleblower
25 and Improper Governmental Action." And, if you need to make

1 reference to them, go ahead. I'd like to direct your
2 attention to the third page, under Subsection C, about
3 halfway down, less than halfway down. And it says that
4 the -- actually, I have to go back and start on the page
5 before. It says, "Referral to Washington State Auditor's
6 Office." And it says, "The following," at the bottom of page
7 2, "are methods of reporting or submitting a whistleblower
8 complaint," and then it has A, B, C, and it goes on.

9 Under Subsection D, it says, "Directly to any state
10 government public official to receive and document
11 whistleblower complaints," and then it defines a public
12 official.

13 And then if you look at No. 3 it says,
14 "Whistleblower complaints received by the deputy chief,
15 Office of Professional Standards commander, or the Human
16 Resources division commander shall be forwarded to the State
17 Auditor's Office in 15 days."

18 Would you agree that the Human Resource division
19 commander in 2016 and 2017 was you?

20 MR. BIGGS: Objection. Objection to form of
21 the question.

22 Q. You can answer.

23 **A. Yes, I was the Human Resource division commander in**
24 **2016 and 2017.**

25 Q. Okay. Great. All right.

1 Did there come a time that you learned that Trooper
2 Santhuff was complaining that he was being retaliated
3 against?

4 **A. Yes.**

5 Q. And is it fair to say that was in 2016?

6 **A. I don't remember exactly.**

7 Q. Do you remember how the information came to you?

8 **A. I don't specifically remember at this time, no.**

9 Q. Okay. And is it fair to say that -- you're aware
10 that he actually transferred, right?

11 **A. Can you clarify that?**

12 Q. Yeah. I'll say it a different way.

13 It's true, is it not, that you met with Trooper
14 Santhuff at his exit interview? It was you and I think
15 Lieutenant Matagi.

16 **A. Matagi.**

17 Q. Okay. Thank you.

18 And it's true, is it not, that, at that time, he
19 explained to you facts about the sexual misconduct incident
20 involving Lieutenant Nobach?

21 **A. Nobach.**

22 Q. Nobach, yes.

23 MR. BIGGS: Objection to form of the question.

24 Go ahead.

25 Q. You can answer.

1 **A. I vaguely remember that, yes.**

2 Q. Okay. And before he told you about that, had you
3 been aware of it?

4 **A. I don't remember.**

5 Q. Okay. Did you have any conversations with -- is it
6 captain or chief -- Captain Alexander about Santhuff and his
7 retaliation complaints in 2016?

8 **A. I had conversations with at the time Captain Johnny
9 Alexander, yes.**

10 Q. Okay.

11 **A. I don't recall the conversation I had with Trooper
12 Santhuff very well and whether those conversations with
13 Captain Alexander were before or after that.**

14 Q. Can you tell us, what did Captain Alexander say to
15 you?

16 **A. I don't recall those conversations specifically
17 either, yeah.**

18 Q. Okay. Is it fair to say you understood, in talking
19 to Captain Alexander, that Trooper Santhuff had made various
20 claims about improper actions?

21 **A. Yes, it's fair to say that.**

22 Q. All right. Did you ever do a whistleblower intake
23 for him?

24 **A. I'm not sure what that term "whistleblower intake"
25 means.**

1 Q. Okay. So let's take a look at the exhibit again.
2 So looking at the third page.

3 **A. Yes.**

4 Q. It says that, "Whistleblower complaints received by
5 the deputy chief or the Human Resource division commander
6 shall be forwarded to the State Auditor's Office within 15
7 days." Did you ever forward any information about complaints
8 made by Trooper Santhuff -- whether or not they came to you
9 from Captain Alexander -- did you ever forward anything to
10 the State Auditor's Office?

11 **A. Not that I recall, no.**

12 Q. Okay. Would you agree that if -- do you have an
13 understanding of the definition of improper governmental
14 action?

15 MR. BIGGS: Objection to form of the question.

16 **A. That's a particularly relevant question these days.
17 It's pretty broad, too.**

18 Q. It is. So take a look at page 1 of the exhibit,
19 under subsection policy, and then Item No. A-4. It says,
20 "Improper governmental action is defined as any action by an
21 employee undertaken in the performance of the employee's
22 official duties that is a gross waste of public funds, a
23 violation of federal or state law or rules, is of substantial
24 and specific danger to the public health, gross
25 mismanagement," and then there's a section about scientific

1 opinions that doesn't apply.

2 But during the time that you were in charge of
3 Human Resources, to your knowledge, did any such
4 whistleblower complaint -- any complaints of improper
5 governmental action reach your desk and get forwarded?

6 **A. Sure.**

7 **Not that I recall, to the level that's described**
8 **here.**

9 Q. Okay. Would you agree that a claim of sexual
10 harassment might be considered a violation of federal and
11 state law under 4(b)?

12 MR. BIGGS: Objection to form of the question.

13 **A. Could you ask that again, please. I was trying to**
14 **read at the same time.**

15 Q. Sure. Would you agree that a claim of sexual
16 harassment at work by a state employee would be considered to
17 fall under 4(b), that it would be in violation of federal or
18 state law?

19 MR. BIGGS: Same objection.

20 **A. Yeah, so a claim of sexual harassment, not**
21 **necessarily.**

22 Q. Okay. And that would be -- have you had to address
23 that issue in the whistleblower context during the time
24 you've been HR manager?

25 **A. What do you mean?**

1 Q. Have you had to make any decisions about whether or
2 not a particular claim that's come to you sort of rose to the
3 level of a whistleblower claim?

4 **A. Not that I recall, no.**

5 Q. Fair enough. All right.

6 So I know this is pushing the time of barrier quite
7 a bit, but could you tell us everything that you remember
8 that Captain Alexander told you about Santhuff's complaints.

9 **A. I don't remember much. They were consulting-type
10 of meetings.**

11 Q. Okay. So he was asking you for advice?

12 **A. Yeah, I think that's fair.**

13 Q. All right. Did he bring to your attention that at
14 any time that Trooper Santhuff had alleged that his immediate
15 boss, Lieutenant Nobach, was retaliating against him for
16 having spoken out about sexual harassment?

17 **A. Did Captain Alexander tell me that?**

18 Q. Yeah.

19 **A. I believe so, yes.**

20 Q. Okay. All right. And is it fair to say that that
21 happened in 2016?

22 **A. I don't recall.**

23 Q. You don't recall what month it was?

24 **A. Correct.**

25 Q. And was that more than one meeting or one meeting?

1 **A. There was more than one.**

2 Q. Okay. Do you document any of those type of
3 meetings?

4 **A. Sometimes, yes.**

5 Q. If you did document the meeting, where would you
6 have documented it?

7 **A. I would have documented that in a computer program
8 that we refer to as Remedy.**

9 Q. Okay.

10 **A. And we have a harassment file within there.**

11 Q. Okay. And so who had the authority to start a
12 particular file?

13 **A. Myself, Lieutenant Matagi, Dr. Lastimato, and Deb
14 Tindall.**

15 Q. And are those all Human Resource personnel?

16 **A. Correct.**

17 Q. Are any of them civilians, as opposed to State
18 Patrol?

19 **A. Yes.**

20 Q. Which ones?

21 **A. Myself and Lieutenant Matagi are commissioned, and
22 Dr. Lastimato and Deb Tindall are civilians.**

23 Q. In this case, do you recall whether or not you
24 started a harassment file?

25 **A. There was a file created, yes.**

1 Q. Pertaining to Santhuff?

2 A. Correct.

3 Q. Did you create it?

4 A. I don't remember.

5 Q. So having created the file, under your policies and
6 procedures, is there any obligation to investigate?

7 A. So the Human Resource division doesn't do
8 investigations into policy violations. Our role is to ensure
9 the employees are safe. The Office of Professional Standards
10 is the entity within the Washington State Patrol that
11 conducts investigations, looking for or determining if
12 there's a policy violation.

13 Q. Is there any requirement that HR have any oversight
14 of their investigations?

15 A. There's no requirement that there's oversight by
16 HR. There is certainly coordination and communication.

17 Q. Okay. All right. I wanted to show you -- we don't
18 need to mark them as exhibits because they're already
19 exhibits, but -- so we've deposed Captain Alexander, and this
20 is Exhibits 4 and 3 from that deposition. These things are
21 referred to as 095s. Does that have meaning for you, an 095?

22 A. Yes.

23 Q. Okay. Let me give you a chance to read both of
24 them. It's fairly quick, and then let me know when you've
25 had a chance to look.

1 **A. Okay.**

2 Q. All right. Have you ever seen these documents
3 before?

4 **A. Yes.**

5 Q. Okay. Could you tell us when.

6 **A. Well, shortly after they were issued, so to speak,**
7 **I think they were provided to the Human Resource division to**
8 **include in the file that I referred to in Remedy.**

9 Q. Okay. So, basically, is it fair to say that the
10 harassment file you've been discussing was probably created
11 way back in March of 2016?

12 **A. Yes, it's fair to say that.**

13 Q. Do these files have names on them?

14 **A. They have names within them. They have a tracking**
15 **number. Yes.**

16 Q. So what I'm trying to understand --

17 **A. Yes.**

18 Q. Was it created identifying Trooper Santhuff as the
19 person who is allegedly the victim?

20 **A. I don't recall. There are different roles for**
21 **individuals within each file. It's a computer dropdown. And**
22 **I don't recall the role that was given to Trooper Santhuff in**
23 **this particular incident.**

24 Q. Do you also get involved in labor-related issues as
25 the Human Resource director?

1 **A. Yes.**

2 Q. So one of the questions I have is: Did you have an
3 understanding that it was Captain Alexander who made the
4 decision to provide these 095s to Ms. Biscay and to
5 Lieutenant Nobach?

6 **A. I don't remember that specifically.**

7 Q. Is it true, based on your understanding of the
8 contracts with the various unions, that, once Alexander gave
9 Nobach this 095, Nobach could not be further disciplined?

10 **A. So this is not considered a form of discipline in
11 the contract. So there's some granularity in that question.**

12 Q. Okay. So it's sort of like, in the law, we talk
13 about double jeopardy?

14 **A. Yes.**

15 Q. Can an 095 have a double jeopardy effect on more
16 serious punishment in your experience?

17 MR. BIGGS: Objection to form of the question.

18 **A. Yes.**

19 Q. Okay. Did Alexander talk to you about his intent
20 to give this so that no additional discipline could be given?

21 MR. BIGGS: Objection to form of the question.

22 **A. I don't recall that.**

23 Q. All right. Can you tell us whether or not you were
24 consulted before the 095s were given?

25 **A. I don't remember.**

1 Q. Do you recall whether or not the way that -- do you
2 recall whether or not Alexander presented to you a picture of
3 Ms. Biscay basically rubbing her breasts into the head of
4 Lieutenant Nobach?

5 **A. Is the question: Do I recall Captain Alexander**
6 **relaying that?**

7 Q. Yes.

8 **A. I believe so.**

9 Q. And do you recall whether or not he had suggested
10 whether there was an appropriate level of discipline that
11 ought to be applied?

12 **A. I do not recall that.**

13 Q. Does your organization do any investigations as HR?

14 **A. So, again, the term "investigation" is something**
15 **that's typically reserved for the Office of Professional**
16 **Standards in the State Patrol. Again, our role is to ensure**
17 **safety. So we will make phone calls to employees and to**
18 **people involved in that effort. So I don't know if you call**
19 **that an investigation or not.**

20 Q. Fair enough.

21 Have you ever been a whistleblower?

22 **A. I don't think so, no.**

23 Q. Okay. Fair enough. Okay.

24 Have you yourself personally witnessed any abuse of
25 power within your organization that you reported?

1 Q. So the 2017 one, it's again on page 3.

2 **A. Yes.**

3 Q. And it says at the bottom, Item 3, is,
4 "Whistleblower complaints received by the deputy chief,
5 Office of Professional Standards, or Human Resource division
6 commander shall be forwarded to the State Auditor's Office."

7 So we concluded from that that probably between
8 2010 and 2017 this regulation had not been changed.

9 Do you have any knowledge that this item that I've
10 just read to you may have fallen out of grace in 2016 or some
11 other time?

12 **A. I do not.**

13 MR. SHERIDAN: Okay. Thanks. All right.
14 Let's take a quick break.

15 MR. BIGGS: Okay.

16 THE VIDEOGRAPHER: We are going off record.
17 The time now is 11:48 a.m.

18 (A brief recess was taken.)

19 THE VIDEOGRAPHER: We are back on record.
20 The time is 11:50 a.m.

21 Q. As HR manager, have you ever had a situation where
22 a manager told an employee that they should not go outside of
23 their organization to make a complaint?

24 MR. BIGGS: Objection to form of the question.

25 **A. Can you be more specific?**

1 Q. Sure.

2 **A. Like give me an example?**

3 Q. Yeah.

4 So there's been some testimony that Trooper
5 Santhuff was basically told to sort of not repeat these
6 allegations outside of our little -- outside of Aviation.

7 **A. Okay.**

8 Q. Is there any policy or procedure that would
9 prohibit him from doing that?

10 MR. BIGGS: Objection to form of the question.

11 **A. No.**

12 Q. In fact, isn't there a duty among -- all the way up
13 through the supervisory chain -- that, if they hear about
14 sexual harassment, they need to report it?

15 **A. Yes.**

16 Q. How about, are there any policies or procedures
17 that would prohibit an employee from going to the media if
18 they wanted to, that you know of?

19 **A. We do have policies regarding employee interaction
20 with the media, yes.**

21 Q. Where would they be found?

22 **A. They're in the regulation manual at the State
23 Patrol.**

24 Q. All right.

25 **A. Not the sections we have here.**

1 Q. Are you familiar with them, that you could
2 summarize them?

3 **A. I'm not comfortable doing that. Sorry.**

4 Q. Sure.

5 **A. No, I'm not familiar enough, no.**

6 MR. SHERIDAN: That's an honest answer. Thank
7 you. All right. I have no further questions. Thanks for
8 your time.

9 MR. BIGGS: No questions. Thank you.

10 Signature is reserved.

11 THE VIDEOGRAPHER: One second. I will take us
12 off record. All right. That concludes the video deposition
13 of Travis Matheson.

14 We are now going off record at 11:52 a.m.

15 (Signature reserved.)

16 (Deposition concluded at 11:52 a.m.)
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