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September 15, 2020

RYAN SANTHUFF v. STATE OF WASHINGTON

19-2-04610-4

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STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

RYAN SANTHUFF, an individual,)	
)	
Plaintiff,)	
)	
vs.)	No. 19-2-04610-4
)	
STATE OF WASHINGTON, and DAVID)	
JAMES NOBACH, an individual,)	
)	
Defendants.)	
)	

VERBATIM RECORD OF PROCEEDINGS

SEPTEMBER 15, 2020

VOLUME VI

APPEARANCES:

FOR THE PLAINTIFF:	JACK SHERIDAN
	MARK ROSE
	Attorneys at Law

FOR THE DEFENDANTS:	ANDREW BIGGS
	SCOTT MARLOW
	Attorneys at Law

Before the Honorable Mafe Rajul

September 15, 2020
Seattle, Washington

Court Reporter: Terilynn Simons, CRR, RMR #2047

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1 TUESDAY, SEPTEMBER 15, 2020; SEATTLE, WASHINGTON

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5 THE COURT: I just want to make sure
6 that you are all aware that the rules that apply to Zoom
7 are the same rules that would apply if you were in court.

8 That means that you are prohibited from recording
9 the proceedings.

10 We only have one official record, which is the
11 record that is set by our court reporter.

12 Likewise, you are precluded from taking screenshots,
13 just like you would not be able to take photos in the
14 courtroom.

15 A violation of these court orders will be basis for
16 a finding of contempt and sanctions.

17 All right. So we have an issue that we need to
18 address, which is Plaintiff's motion for relief based on
19 lack of pretrial disclosure to complaint made to Captain
20 Alexander about the plaintiff, and really what this deals
21 with is Captain Alexander testified during his, I think
22 it was direct, and then at cross-- well, he testified
23 that everybody in the group engaged in this kind of
24 behavior, including the plaintiff, Detective Santhuff,
25 and specifically he had made some comments about

1 Ms. Biscay's teenage daughters.

2 I received the defense response.

3 Is there anything that you would like to add to your
4 brief, Mr. Sheridan, and what is your response to the
5 fact that the information that Captain Alexander
6 testified about was in the discovery and was part of
7 Exhibit No. 607, which I have looked at?

8 It was the investigation to Captain Dreck
9 (phonetic).

10 MR. SHERIDAN: That's right.

11 The issue here is whether or not Ms. Biscay
12 disclosed that information to Captain Alexander in March
13 of 2016, so the only way-- remember, I deposed him. He
14 never said a word about it.

15 In interrogatories, that's where they should have
16 told us.

17 We showed you Interrogatory No. 1.

18 They should have told us if it were true-- I mean,
19 we think it's made up for trial, but if it were true,
20 they would have disclosed it or should have disclosed it
21 in response to Interrogatory No. 1--

22 THE COURT: What do you think is made
23 up for trial?

24 MR. SHERIDAN: Because it --

25 THE COURT: No. What? That he made

1 the comment about the daughters?

2 MR. SHERIDAN: No, that he made the
3 comment to Alexander about the daughters.

4 THE COURT: I see.

5 MR. SHERIDAN: See, that's why the
6 095-- he's claiming now at trial that's why that line in
7 the 095 says that there was this problem that was bigger
8 than just those two, but that's what we're saying is made
9 up because had that really been the case, there would
10 have been something about that in 2016.

11 What they did is they took-- what I think they did
12 is they looked at a separate investigation after the
13 litigation began and they realized that they had a hole,
14 so they had to-- in trial prep they had to figure it out.

15 What they figured out is "Hey, look, in 2017 she
16 gives this statement"-- Ms. Biscay gives this statement
17 to a different investigator who is investigating the
18 e-mail, the PRA e-mail issue, and so what-- and then
19 remember when the Court ordered them to produce all the
20 documents? They basically just dumped everything and
21 said, "It's in there," when we were looking at documents.

22 What they say is now that statement to an
23 investigator in 2017 was actually made to Alexander in
24 2016, and there's no evidence that it was, and they
25 should have-- if it was true, if it's not a lie, it

1 should have been in response to this exhibit, and if it
2 was documented-- he says he doesn't write anything down.

3 If it was documented, it should have been documented
4 in our request for production.

5 We should have got it.

6 It does not exist in 2016. It does not-- there's no
7 evidence that anything that she-- that she ever said that
8 to him, and she was deposed, and she does not say, "I
9 said that to him in 2016."

10 This is all-- this is all made up, and we ought to
11 be able to tell the jury that this is something that they
12 should have provided to us and did not, and you should
13 say "willfully" did not because that's what all the case
14 law says.

15 THE COURT: Mr. Biggs?

16 MR. BIGGS: Your Honor, I want to go
17 on the record right now as saying if Counsel one more
18 time accuses me of ethical violations, I expect him to
19 put on the record all of the facts on which he relies
20 because I will take it to the bar association, and I will
21 have them decide whether or not that's happened because
22 he just now said that I coached a witness to lie.

23 That is an ethical violation, and I will not stand
24 for that, Your Honor.

25 That is not something that I will stand for.

1 As far as a motion, there is no evidence of that.

2 There is no evidence that that happened.

3 They asked us a generic question and now he says,
4 "Because I got surprised at trial of something I didn't
5 anticipate, you must have done something wrong."

6 That is incorrect, and I will stand on my response,
7 Your Honor.

8 THE COURT: Thank you.

9 All right. There are a lot of accusations going
10 back and forth, and I don't think it's appropriate to be
11 making accusations of unethical behavior without really
12 any basis.

13 I can understand why Mr. Sheridan thinks that maybe
14 the witness is making things up, but to accuse somebody
15 of just engaging in unethical behavior without any real
16 basis is just not okay.

17 The purpose of cross-examination of witnesses and
18 impeachment is to point out exactly those
19 inconsistencies, and you did do that, Mr. Sheridan.

20 I mean, you really impeached or pointed out a lot of
21 things that Captain Alexander had not said, and you
22 certainly-- because I actually went back yesterday to
23 listen to the testimony because the issue is, from my
24 perspective, when I was looking at this, is I thought,
25 did "She file an actual complaint," which is what the

1 interrogatory requested, complaints that-- involving
2 Detective Santhuff.

3 I went back because I couldn't remember if he had
4 said that she just mentioned it or if she had actually
5 filed a complaint about it.

6 I went back and listened, and you cross-examine him
7 at length as to what he had not said, the fact that these
8 were not-- it had not been brought up, and you can
9 certainly do the same when you have the other witnesses.
10 You can cross-examine them.

11 You were aware of these statements because they were
12 a part of Captain Dreck's investigation.

13 This comment about the daughters was not-- when it
14 came from Captain Alexander, was not the first time that
15 it was mentioned in this litigation, from what I gather.

16 As to who knew what and when, that's-- I suppose
17 that's what advocacy is for at trial, to point those
18 holes and when it comes to credibility of witnesses, so I
19 am going to deny the plaintiff's motions.

20 MR. SHERIDAN: Okay. Thanks, Your
21 Honor.

22 I think-- I sent over a list this morning of what
23 we're hoping will be the witness order, but I also put on
24 there, in parentheses, the witnesses that the defense has
25 agreed to produce, so that-- the only one that's iffy for

1 today, that I just haven't received confirmation on, is
2 the civilian-- I don't have her name right in front of
3 me, the civilian who is over at the college.

4 UNIDENTIFIED SPEAKER: Kaiser?

5 MR. SHERIDAN: Yeah, so the goal is--
6 because we have that gap that happened because one of the
7 witnesses isn't responding, we thought we could maybe
8 tuck her in at the end, just to get her done because
9 she's a short witness.

10 Then the ones set up for tomorrow are basically what
11 we hope we'll be able to get to.

12 MR. MARLOW: Are you depending upon us
13 to get Ms. Kaiser here because when we talked yesterday,
14 that's not what you told us-- told me.

15 MR. SHERIDAN: This is between staff,
16 so I don't get involved in that.

17 It's my understanding that the defense was talking
18 to the witness.

19 If that's not the case, I can contact my staff
20 immediately.

21 MR. MARLOW: It's not the case.

22 MR. SHERIDAN: It's not the case,
23 okay.

24 THE COURT: So with respect to
25 Merrill, you said you were not able to get ahold of

1 Merrill?

2 MR. SHERIDAN: Right.

3 THE COURT: All right. So I need to
4 see if-- is it a he or a she?

5 MR. SHERIDAN: A he.

6 THE COURT: Was he personally served
7 with a subpoena?

8 MR. SHERIDAN: Yes. Yeah, we have
9 her-- I think we filed the acknowledgment-- the affidavit
10 of service.

11 THE COURT: All right. I think-- the
12 only thing I can do-- I mean, in criminal cases we issue
13 witness warrants, but I'm not going to do that.

14 I think that the only thing I can do is just set a
15 show-cause hearing for him to say why is he not
16 responding and coming to testify.

17 MR. SHERIDAN: Okay. Does that get
18 served by us or by the sheriff.

19 THE COURT: I'm sorry?

20 MR. SHERIDAN: Does that get served on
21 him by us or by the sheriff?

22 THE COURT: I don't know. I need to
23 check.

24 MR. SHERIDAN: I think Mark may be
25 working on that angle, and I think we could give the

1 Court some information later today.

2 THE COURT: Okay. But you said that
3 he had originally responded and then he just didn't?

4 MR. SHERIDAN: He did-- he called us,
5 but he did not say he was happy to testify, and then he
6 said he was in quarantine, so that's where we are.

7 THE COURT: Okay. Anything else?

8 UNIDENTIFIED SPEAKER: Not that I know
9 of, your honor.

10 MR. SHERIDAN: So you know we have the
11 1:30 expert, so we are going to break for that.

12 The other thing is the guy at the end of the day at
13 3:15, he is-- he's the Zoom guy, but his name is
14 Hendrickson (phonetic), and he is-- he's the one that
15 has-- that did the PRA request that produced the
16 embarrassing e-mails for the lieutenant, so I didn't
17 know-- it occurred to me this morning that this part of
18 the story you may not have heard before and you may want
19 me to do an offer of proof after lunch or before lunch or
20 something like that on him.

21 THE COURT: Is there any issue with
22 his testimony?

23 MR. BIGGS: There is, Your Honor.

24 He's going to say that he did a public records
25 request that revealed some embarrassing e-mails for the

1 lieutenant, which, again, have nothing to do with this
2 case; I mean, truly nothing to do with this case.

3 I thought you were calling him to say he did a PRA
4 in 2014, which we acknowledge. I think it was him.

5 THE COURT: Yeah, we'll do an offer of
6 proof then.

7 MR. SHERIDAN: Okay.

8 MR. BIGGS: Are we clear, Your Honor,
9 that we are not going to break the plaintiff's testimony
10 into three or four pieces? We are going to batch the
11 witness's expert, immediately into Zooms, get that done
12 so that we're not a half an hour here, half an hour
13 there?

14 THE COURT: Yeah, that is what I was
15 anticipating.

16 MR. SHERIDAN: My plan is to fill the
17 day with witnesses, but I figured if we have a gap, we
18 could put him up, rather than have dead time.

19 THE COURT: Well, when I asked if that
20 was okay was just because of the Zoom issue and the
21 expert issue, but I don't want to, every time we have a
22 gap, having-- I don't think that's fair for either party,
23 frankly, and it's just confusing for the jury to be going
24 back and forth.

25 MR. SHERIDAN: I have had judges say,

1 "I don't want any dead time," so we usually use the
2 plaintiff for dead time.

3 THE COURT: It's a balance, like with
4 everything.

5 MR. SHERIDAN: Thanks, Judge.

6 Shall I put him up on the witness stand or--

7 THE COURT: Sure.

8 (Inaudible crosstalk.)

9 THE COURT: You are not planning on
10 admitting as an exhibit the hood, right?

11 MR. SHERIDAN: No, no. It was just a
12 prop.

13 THE COURT: Okay. I'm just making
14 sure.

15 MR. SHERIDAN: Thank you.

16 THE COURT: We can be off the record.

17 (Recess 8:57 to 8:58 a.m.)

18 MR. SHERIDAN: Your Honor, I am going
19 to-- with the court's permission, because it's really
20 hard to see this thing, I'm going to put it up in its
21 current state on the screen, just to ask the client, "Is
22 that what you said? Right," and then I still have to
23 build it on here.

24 I can't put it on the screen, but I figured since
25 it's such weird seating for the jury, I would just put it

1 up for a couple of minutes so that he can verify that I
2 got it right, because he can't see it either.

3 Then we'll just turn that off and move forward on
4 the chart.

5 THE COURT: All right. See, this is
6 the reason I don't like when attorneys are the ones that
7 are writing things on boards, but--

8 MR. SHERIDAN: I don't like it either,
9 but I don't know how else to do it.

10 THE COURT: Do you have an issue with
11 that.

12 MR. BIGGS: Not at this point, Your
13 Honor.

14 THE COURT: Okay.

15 MR. SHERIDAN: And we'll take it down
16 once he's verified, and then we'll go back to the board.

17 THE COURT: All right. I think it
18 really crosses the line, from my perspective, when it's
19 the attorney writing things down versus the witness, but
20 that's just a personal thing.

21 MR. SHERIDAN: It's actually-- I've
22 tried the other way, and it's messier, but then they
23 don't know what-- (inaudible crosstalk.)

24 COURT BAILIFF: Can we go off?

25 THE COURT: Yeah.

(Recess 9:00 to 9:04 a.m.)

MR. SHERIDAN: Is that a rain flood
outside?

THE COURT: I'm sorry?

MR. SHERIDAN: Was that a hole in the
ceiling that caused the rain-- the hallway is all wet out
there.

THE COURT: I don't know. There was a
leak.

(Inaudible crosstalk.)

MR. SHERIDAN: Do you get those leaks.

UNIDENTIFIED SPEAKER: It's over
across-- I noticed it was across the hallway too in front
of 3 or 4 (inaudible).

MR. SHERIDAN: And that's not even a
heavy rain.

COURT BAILIFF: Yeah.

THE COURT: When we had our first
criminal trial, recently, they were doing something on
the roof, so we kept hearing the banging, and it's like,
"Can something work, please?"

MR. SHERIDAN: Yeah.

THE COURT: Yeah, that wasn't heavy
rain.

I was hoping it would at least eliminate the smoke,

1 which it didn't.

2 MR. SHERIDAN: Yeah.

3 COURT BAILIFF: All rise for the jury.

4 (Jury enters.)

5 THE COURT: I think Mary already
6 reached out.

7 Thank you. Please be seated.

8 Good morning, Members of the Jury.

9 All right. Detective Santhuff, you are still under
10 oath.

11 THE WITNESS: Yes, Your Honor. Thank
12 you.

13 THE COURT: Mr. Sheridan?

14 MR. SHERIDAN: Thanks, Your Honor.

15 DIRECT EXAMINATION (CONTINUED)

16 BY MR. SHERIDAN:

17 Q All right. Good morning.

18 A Good morning.

19 Q So we finished off the day with you having gone through
20 the May and June timeframe, an issue in July, and I think
21 the last thing we talked about was the sexual harassment
22 training on July 16th.

23 Does that sound about right for you?

24 A Yes, sir.

25 Q And you had-- up to that point you had outlined your

1 emotional-harm chart for us.

2 We are going to put it up on the screen in case
3 anybody is at an angle where they can't see it.

4 Then I'm going to ask you to update it for through
5 July, okay?

6 **A Okay.**

7 **Q** Okay. All right. Can you see it now?

8 **A Yes, sir.**

9 **Q** Does that appear to be about right, and the "F" is fear,
10 "S" is stress in blue-- fear is in red, stress is in
11 blue, humiliation is in black, anxiety is in purple,
12 anguish is in green, and loss of enjoyment of life is in
13 blue.

14 Does that appear to be right?

15 **A Yes, sir.**

16 **Q** Okay. All right. So now we're going to take the chart
17 forward through July, and let me ask you, what would you
18 say your fear level was up through that time?

19 **A An eight.**

20 **Q** Okay. And how about stress?

21 **A An eight as well.**

22 **Q** And how about humiliation?

23 **A It was a seven.**

24 **Q** And how about anxiety?

25 **A A nine.**

1 Q Okay. And how about anguish?

2 A **Probably a seven.**

3 Q And how about loss of enjoyment of life?

4 A **Probably a six.**

5 Q All right. So you've gone through the testimony about
6 how the lieutenant was saying you would get worse and
7 worse.

8 Tell me, did you get to go to school in August, King
9 air school?

10 A **Yes, sir, I did.**

11 **I went to King air again for the third time.**

12 Q All right. And did you-- when you went to school, was
13 that during vacation?

14 A **Yes, sir, that was the time during vacation.**

15 Q All right. Let's take a look at Exhibit No. 7, if we
16 can-- I'm sorry, 207.

17 You don't have it, huh?

18 A **No, sir.**

19 Q Page 60-- is it behind you?

20 A **Nope, nothing.**

21 Q What is over here?

22 A **227 to 245.**

23 Q 226, 246-- got it.

24 All right. And do you recognize 207?

25 A **Yes, sir, I do.**

1 Q And what is it?

2 A These are my FlightSafety training records for the King
3 air training.

4 Q And do they become a part of your training record within
5 the Washington State Patrol?

6 A Yes, sir.

7 After I complete training at FlightSafety, they
8 provide me a training packet with the outlined training,
9 and I provide that to state patrol aviation, which goes
10 into my permanent training file.

11 Q And you have personal knowledge that 207 are pages from
12 that file?

13 A Yes, sir, that's correct.

14 MR. SHERIDAN: Plaintiff offers 207.

15 MR. BIGGS: We have voir dire, Your
16 Honor, please.

17 THE COURT: Go ahead.

18 MR. BIGGS: Detective Santhuff, just
19 one thing:

20 At the very bottom of the last page on that
21 document--

22 THE WITNESS: Give me the Bates stamp,
23 please, sir. Which--

24 MR. BIGGS: 5332.

25 THE WITNESS: 332?

1 THE COURT: What page are you
2 referring to?

3 MR. BIGGS: 5332, Your Honor.

4 THE COURT: Okay. Yeah.

5 MR. BIGGS: Do you have that,
6 Detective?

7 It's a multi-page document, right?

8 THE WITNESS: Yes, sir, I have it.
9 It's the last page.

10 MR. BIGGS: Okay. Great.
11 Whose signature is that at the bottom? Do you know?

12 THE WITNESS: That's Lieutenant
13 Nobach's.

14 MR. BIGGS: Great.
15 No objection, Your Honor.

16 THE COURT: All right. Exhibit
17 No. 207 is admitted.

18 (Exhibit No. 207 admitted into
19 evidence.)

20 MR. SHERIDAN: All right. Let's get
21 that back on the screen, if we can.

22 May we publish, Your Honor?

23 THE COURT: You may.

24 MR. SHERIDAN: Thank you.

25 And, Greg, that's a little out of focus.

(Inaudible crosstalk.)

Q (By Mr. Sheridan) Can you tell us, what does the first page represent?

A It represents the curriculum that I was trained on in the August timeframe, August 15th, 2016 through August 17th, 2016.

Q All right. And can you tell us, does it outline your proficiency and document what you did?

A Yes, sir.

It lists the different ground training curriculum, for example aircraft general instruction, power plant, electrical, hydraulics, and then also has listed flight simulator time-- the training curriculum and the time I spent in the flight simulator, which was six hours.

Q All right. Can you tell us, during that time did you receive any special awards?

A Well, after this training, they-- if you meet a certain proficiency standard, they give you-- they call it a ProCard, and that means that you met their airline transport pilot certificate requirements.

It would be more than just a commercial pilot's license, so if you're a pilot for an airline, and you transport passengers, you are required to have an airline transport pilot certificate, which is referred to as an ATP.

1 **These ProCards are given to pilots who meet that**
2 **higher standard as a pilot.**

3 Q And could you turn-- is it Page 7? Is that the right
4 page?

5 The seventh page of your file.

6 If you would, just turn to the ProCard.

7 A **Yes, sir.**

8 MR. SHERIDAN: Greg, would you-- I
9 think it's the seventh page-- Page 7 (inaudible
10 crosstalk).

11 Keep going.

12 **THE WITNESS: It appears to be Bates**
13 **stamped 5318.**

14 Q (By Mr. Sheridan) All right. And take a look at the
15 screen.

16 Is that the right card?

17 A **Yes, sir, that's correct.**

18 Q Tell us about that card.

19 A **This is the ProCard that they give if you meet the**
20 **standard, and it's provided in your packet at the end of**
21 **the training, if, again, you meet that standard and the**
22 **instructor-- the certified instructor providing the**
23 **training believes that you qualify to that level.**

24 Q So this level then, is it higher than average?

25 A **Yes, but it's also expected of a pilot that is flying for**

1 the airlines.

2 You know, there's a higher standard-- the
3 requirements and the tolerances within your deviation
4 from your altitude and headings are much narrower.
5 Instead of a ten degree-- just to give you an example,
6 instead of a ten degree variation within heading, it's
7 narrowed down to a five degree variation when you fly.

8 It's a much higher standard than just a
9 commercial-rated pilot.

10 Q All right. And if we look at the back of the card, which
11 I think is the next slide, will that tell us the date
12 that you got the card?

13 A Yes, sir.

14 Q And so when did you get the card?

15 A August 17th, 2016.

16 Q All right. Okay. And did that become a part of your
17 training record?

18 A Yes, sir.

19 Q Okay. And did you receive any other cards?

20 A Yes, sir.

21 The second time I attended FlightSafety in
22 February-- I'm sorry, it was in October of 2015, I
23 received a ProCard at that time as well.

24 Q And is that in this file?

25 A Yes, sir.

1 Q All right. Let's turn to that page.

2 There's one that we just looked at.

3 Does this one say, "Elite"?

4 A **Yes, sir, it did.**

5 Q Okay. So let's look at the other one, the one that you
6 got-- was it October of 2015?

7 A **I'm sorry--**

8 Q Is it not in there?

9 A **The date is incorrect.**

10 **It's February-- it's February of 2016. I'm sorry.**

11 Q Okay. February.

12 Okay. Let's put that one up on the screen.

13 What Bates stamp number is that?

14 A **5324.**

15 MR. SHERIDAN: Okay. Is that the
16 right one, Greg?

17 Yeah, it looks like it's February 24.

18 (Inaudible crosstalk.)

19 Q (By Mr. Sheridan) Is that the right card?

20 A **Yes, sir, it is.**

21 Q (Inaudible.)

22 A **Yes.**

23 Q And tell us, what's the difference between this card and
24 the one you got in August of 2016?

25 A **The elite proficiency is the only difference within these**

1 cards.

2 It's still a ProCard, but I don't know-- I don't
3 know what the difference is between just the proficiency
4 card and an elite card, but in order to receive this
5 card, you have to meet that-- in order to receive a
6 ProCard, I should say, you have to meet that ATP
7 standard.

8 Q Okay. Got it.

9 So did Lieutenant Nobach talk to you about your
10 success at school in August?

11 A No, sir, I don't recall that he did.

12 Q Okay. Now, in August, around the 8th, did you and
13 Lieutenant Nobach talk about renewing your driver's
14 license-- I'm sorry, did you communicate about--

15 A Not directly, but there was communications with my direct
16 supervisors, the sergeants, regarding the renewal of a
17 driver's license.

18 Q Did you get approval from the sergeants to use work time
19 to get your driver's license?

20 A Yes, sir, I did.

21 Q Have you done that in the past?

22 A I had not, but other employees, including the sergeants,
23 had been authorized to get their driver's license--

24 MR. BIGGS: Objection; Your Honor,
25 this is hearsay.

1 THE COURT: Overruled.

2 Q (By Mr. Sheridan) And so tell us, what happened in that
3 regard?

4 A Well, July is when my birthday is, and that is when my
5 driver's license was expiring.

6 We were extremely busy.

7 Chris Noll was either out on FMLA or he was out
8 doing vacation.

9 He might have been on vocation during this
10 timeframe.

11 Anyway, I was the only pilot in the daytime that was
12 really filling a lot of the missions, and so it was
13 really difficult for me to get away and go do this.

14 At the end of my shift he said, "Just take a couple
15 hours. Go get your license," and I've been asking all
16 week, "Hey, I need to get this done. My birthday is
17 coming up. I need to go get my license."

18 Finally he just said, "Okay. We've got a window
19 here. Why don't you go do this day to go get it done."

20 I did that.

21 I didn't hear anything of it for-- my birthday is on
22 July 24th, so I didn't hear anything about it for, I
23 don't know, maybe a couple weeks, and then Sergeant
24 Hatteberg asked me if I went and obtained my driver's
25 license at work, and I said, "Well, yeah. Sergeant

1 Sweeney approved it," who was my-- who was the sergeant
2 that was working that day that told me to go get my
3 license.

4 Hatteberg directed me that Lieutenant Nobach said
5 that I need to take vacation time for that time I went to
6 renew my driver's license.

7 I basically said, "What? Sweeney's driver's license
8 photo is him wearing a flight suit. It's-- okay," and I
9 didn't make much of a big deal about it, but Nobach must
10 have been going through my timesheets because I noted it
11 on my timesheet that I left the office to go obtain my
12 driver's license, so that's what happened with the
13 license issue.

14 Q All right. Okay. And then that's-- and that's in
15 August?

16 A Yes, sir.

17 Q Okay. All right. So then did there come a time that you
18 received a negative 095 from Hatteberg?

19 A Yes, sir, I did.

20 Q All right. Let's take a look at Exhibit No. 83.

21 Do you need the book?

22 A Yes, sir.

23 Q Sorry.

24 THE COURT: Which exhibit number is
25 that ?

1 MR. SHERIDAN: It's 83, Your Honor.

2 Q (By Mr. Sheridan) All right. And do you recognize this
3 document?

4 A Yes, sir. This is the 095 I received from Sergeant
5 Hatteberg.

6 MR. SHERIDAN: All right. And
7 Plaintiff offers Exhibit No. 83.

8 THE COURT: Any objection?

9 MR. BIGGS: No, Your Honor, no
10 objection.

11 THE COURT: Plaintiff's Exhibit No. 83
12 is admitted.

13 (Exhibit No. 83 admitted into
14 evidence.)

15 Q (By Mr. Sheridan) All right. This outlines-- it says
16 it's-- employee status is permanent, and it's counseling.
17 Since-- can you tell us what this was about?

18 A In September 14th state patrol aviation was tasked with
19 providing Department of Natural Resources Commissioner
20 Goldmark and his assistant, Sandra Kaiser-- and I don't
21 recall what her role was with the Department of Natural
22 Resources at that time, but we were asked to provide a
23 transportation flight for Commissioner Goldmark to a
24 couple different locations.

25 I think Bellingham was the drop-off in the morning

1 and in the afternoon the pickup was at Darrington, if I
2 recall correctly.

3 Q Okay. And were you assigned to do that flight, to your
4 knowledge?

5 A Well, to my knowledge, I was assigned the day before that
6 flight.

7 Q Okay. Tell us what accusation was made in that regard
8 about your knowledge.

9 A The accusation was that I inadequately preplanned for
10 this transportation flight and that I was assigned this
11 flight for at least two weeks.

12 Q And was that accurate?

13 A No, sir.

14 Q All right. Tell us the events that occurred that led to
15 this 095.

16 A I was-- I was doing a lot of different transportation
17 flights in the Cessna and King air during this timeframe,
18 and I had flown Commissioner Goldmark and Ms. Kaiser, I
19 think, on the 6th of September, and-- anyway, it was a
20 very busy time, and so things were constantly changing,
21 so I was doing the best to check the schedule and keep my
22 calendar-- the calendar that I kept, so I had access to
23 it on my phone, the best I could.

24 I had-- for the week of the 14th I had all the
25 flights that were on the calendar in my phone, and-- I

1 need to take a minute to explain how flights get
2 scheduled and the process of that.

3 Q Please do.

4 A Okay. So a flight-- a request for a flight would come
5 in, and typically it would be with Brenda Biscay or one
6 of the sergeants, and sometimes Lieutenant Nobach, and
7 they would put it on the calendar.

8 Sometimes it would be put on a hold--

9 MR. SHERIDAN: I'm sorry, I guess we
10 didn't move to publish.

11 THE COURT: No objection. You may
12 publish.

13 MR. SHERIDAN: Thanks.

14 Let me just put-- (Inaudible crosstalk.)

15 Q (By Mr. Sheridan) Go ahead. I'm sorry.

16 A Okay. So sometimes flights would be put on a hold where
17 we just kind of put "Reserve" on the calendar, so that
18 way a plane would be available if the flight indeed ends
19 up being confirmed by the passenger, the person making
20 the request.

21 Throughout the week I had put all these other
22 flights in my calendar, and I was aware of these.

23 Well, the other thing that happens when a flight
24 comes into aviation, is what's called a flight itinerary,
25 and it was simply an e-mail that was sent out to the

1 passengers and the pilots.

2 What was also required to be done is the pilot's
3 supervisors were supposed to be CC'd and Lieutenant
4 Nobach CC'd on any flight itinerary that was sent out to
5 the passengers.

6 This was a standard procedure in aviation, and that
7 wasn't done on this flight or on this scheduled flight on
8 the 14th, but-- so what happened with this flight on the
9 14th and the scheduling of this flight is the day before,
10 Sergeant Sweeney and I flew Chief Batiste and a couple
11 other passengers over to Spokane for an event, and we--
12 for whatever reason, there was a delay with Chief
13 Batiste, so we are extended about five to six hours over
14 there, and I don't know what the reason was, but we were
15 waiting for the chief to come back so we could transport
16 him back to Tacoma or Olympia.

17 We get back a lot later than anticipated, and it's
18 about 10:30, 11:00 at night.

19 I walk into the office area of the hangar after we
20 put the King air back in the hangar, and I realize that I
21 haven't scheduled a flight the next day.

22 I walked out in the hangar, and I told Sergeant
23 Sweeney that "I guess I have a flight tomorrow morning
24 at"-- which I think-- I think the flight was at 8 a.m.,
25 which would have required me to come to the hangar at

1 like 6:30 in the morning, so there was some issues with
2 that with pilot scheduling time.

3 He says, "Well, how long have you been on the
4 schedule," and I'm like, "I have no idea. It's not in my
5 calendar," and I couldn't tell him.

6 I couldn't tell him like when indeed that I was
7 scheduled with that flight.

8 He grabs his phone, and he starts going through his
9 phone looking for e-mails for a flight itinerary, and he
10 says, "Well, that's weird. I don't have a flight
11 itinerary for this either."

12 He was my sergeant at the time, so he would have
13 been CC'd on any flight itinerary that was sent out.

14 Q Typically a flight itinerary originates from which
15 organization?

16 A From state patrol aviation.

17 Typically it was Brenda Biscay that would send it
18 out.

19 Q And in a typical situation, when it was sent out, how was
20 it sent out, via--

21 A Via e-mail.

22 Q Okay. And typically the pilot that was the one who was
23 going to fly that flight, could you tell us whether it
24 was typical to CC that pilot?

25 A Yes, sir, that was always done.

1 Q How about the sergeants? Would they typically be CC'd?

2 A Yes, sir, that was required as well.

3 Q Was that done in this case?

4 A No, sir.

5 Q All right. Tell us what happened next.

6 A So Hatteberg is, like I said, looking through his phone.
7 He doesn't see a flight itinerary, so I pull out my
8 phone, I'm going through my e-mail, and I say, "I don't
9 have one either."

10 He keeps asking me, "When were you assigned the
11 flight," and I'm like-- you know, at that time I couldn't
12 tell him.

13 "I don't know."

14 I checked the calendar routinely. It's right where
15 we sign in and out of work--

16 Q Could you refresh the jury's knowledge of who maintains
17 that calendar and where it sits?

18 A Oh, yes, sir.

19 I don't think I talked about this yet, but in
20 aviation there's a master-- they call it a master
21 calendar, and it's a big desk calendar.

22 You don't really see them a lot anymore in offices,
23 but, you know, it's couple feet by a couple feet.

24 It's a large desk calendar, and our schedule is
25 maintained on that large desk calendar for flights, and

1 it's written in pencil so it can be easily changed at any
2 time, but that was-- that was kind of the-- that was
3 where everything that aviation was involved in would be
4 scheduled or was supposed to be scheduled and written on
5 that calendar.

6 Our requirement as pilots was to check that daily
7 and check that before we went home in the evenings to
8 make sure that-- you know, if there was any changes for
9 that next coming day, and so that's what happened that
10 day, is I checked the calendar and noticed I had this
11 flight.

12 So after we had this conversation about no flight
13 itinerary, Hatteberg and I walked inside to check the
14 weather for the next morning because, again, I had
15 limitations on my Cessna transport flights, which
16 restricted me from transporting non state patrol
17 employees in instrument conditions.

18 If there was fog at the Olympia airport, which
19 oftentimes there was, I could not take off from the
20 Olympia airport with those non state patrol, Department
21 of Natural Resources employees.

22 We went upstairs and checked the weather real quick,
23 and sure enough it was forecasted to have a VFR-- IFR
24 conditions. I think it was either fog or low ceilings
25 that day.

1 We had to call-- for whatever reason, Hatteberg
2 couldn't adjust to do the flight, so he had to call
3 Sergeant Sweeney at night and ask him to come in at 6:15
4 or 6:30 in the morning, and he wasn't very happy at all.

5 He's on the phone talking to Hatteberg explaining
6 that "Ryan has been on that calendar for two weeks. I
7 scheduled him two weeks ago for that flight," and I'm
8 like, "No way have I been on that calendar for two
9 weeks," because there's no way, because all the other
10 flights that were scheduled for that week were in my
11 calendar.

12 I would enter them into my calendar with sometimes
13 even reminders, and I don't have it, and there's no
14 flight itinerary.

15 It didn't quite make sense.

16 The other thing-- and I missed a piece about the
17 scheduling of a flight.

18 Brenda, once it goes on the master calendar, she
19 puts together a document, a flight sheet, for the pilot
20 to take with him on the flight, and that flight sheet is
21 stored in an organizer not far from her desk, so when we
22 go to do a flight that day, we grab that flight sheet, so
23 we would log our departure times and our arrival times at
24 the airport, and our passengers would be listed on that
25 flight sheet.

1 There was a flight sheet in that organizer, but
2 there was no pilot assigned, which means when that flight
3 got scheduled, there was no pilot assigned to that
4 flight, so the flight itinerary was made, but there was
5 no pilot assigned.

6 Q Do you know how far in advance of the flight that flight
7 itinerary was made?

8 A I do not.

9 Q Okay. Go ahead.

10 A So Sergeant Sweeney comes in, in the morning, and does
11 the flight.

12 Again, he's not happy because his belief is that I
13 was on the schedule for two weeks.

14 Hatteberg-- Sweeney does the morning portion of the
15 flight or this IFR conditions forecasted, and then I did
16 the afternoon portion where I picked up the passengers at
17 Darrington-- I believe it was Darrington airport and flew
18 them back to Olympia.

19 Then I believe it was maybe the following-- that
20 upcoming Monday-- I think it was on the 19th-- let me
21 refer to this.

22 Yeah, it was on the 19th, I get called into Sergeant
23 Hatteberg's office, and "Hey, Ryan, why don't you come in
24 my office here and shut the door."

25 "Okay."

1 Then he slides me this 095, and I'm reading this,
2 and I'm like, "Uh, Jeff, this is-- I can't believe you're
3 writing me up for this because things-- this is muddy.
4 There was mistakes made during the scheduling of this
5 flight that don't make sense, and how can you tell me
6 that I was scheduled this flight two weeks ago when
7 there's no flight itinerary?"

8 Just nothing added up.

9 Jeff agreed, but he says, "You know, well, Sweeney
10 says that you were scheduled this two weeks ago."

11 I'm like, "Jeff, you're my sergeant. You know what
12 my schedule is. You would have a flight itinerary also,"
13 granted everybody looks at the master calendar routinely.

14 I'm like-- I'm trying to explain to him, "This is
15 not an accurate record of what happened."

16 So I verbally told him, "I strongly disagree with
17 this."

18 I signed it, which doesn't admit guilt in any way,
19 it just means that you received it, and I immediately
20 said, "Can I go make a copy of this," and he's like,
21 "Yeah, whatever."

22 So I walk downstairs to make a copy, and I walked
23 over to Brenda, and I was polite, and I just said, "Hey,
24 Brenda, could you do me a favor and pull up the e-mail
25 communication that you had with Department of Natural

1 Resources? I have some questions about this flight on
2 the 14th."

3 She's like, "Yeah," so she pulls it up, and where I
4 was-- I was standing next to her desk on the other side
5 of the master calendar, where I could see her monitor, so
6 she pulls it up, and she says, "Well, the flight"-- I was
7 taking notes, and so I'm writing this down.

8 She says, "Well, the request came in on the 6th, but
9 then they changed-- made some changes throughout that
10 scheduling," and I look down at the calendar, and there's
11 a hold written next to this flight.

12 Q What do you mean "a hold"?

13 A I mentioned a minute ago, sometimes when we get a request
14 for a flight from Department of Natural Resources, for
15 example, sometimes the state patrol, we would put a hold
16 on the calendar just to reserve that airplane for that
17 flight, so maybe we just got an initial request that
18 says, "hey, we are still in final stages of confirming
19 this event or this travel, but we want to make sure a
20 plane is going to be available," so we would put a hold
21 on the schedule in that circumstance.

22 And so I see the hold, and I said, "When did it come
23 off a hold," and she couldn't tell me.

24 Q Let me stop you there for a second.

25 MR. SHERIDAN: Greg, would you go to

1 the second paragraph at the bottom?

2 MR. GLOVER: Second from the bottom?

3 MR. SHERIDAN: (Inaudible crosstalk.)

4 Q (By Mr. Sheridan) Will you just read the last sentence,
5 Detective, of the second--

6 A **The last--**

7 Q --sentence of the second paragraph.

8 "Sweeney advised"--

9 A **Yes, sir.**

10 "Sergeant Sweeney advised he assigned and placed
11 this DNR transport flight to you on the master calendar
12 approximately two weeks prior."

13 Q Okay. All right. Now, can we take a look at 213,
14 Exhibit No. 213, please?

15 Is that in your book, Detective?

16 All right. Open to 213 and tell me if you recognize
17 that.

18 A **Yes, sir, I do.**

19 Q And what is it?

20 A **These are some pictures that I took with my phone of the
21 master calendar of the scheduling of the flight on the
22 15th.**

23 Q And do you recognize this to be the calendar page in
24 question?

25 A **Yes, sir, it is.**

1 MR. SHERIDAN: All right. Plaintiff
2 offers Exhibit No. 213.

3 THE COURT: Any objection?

4 MR. BIGGS: Just when these were
5 taken, if I may, Your Honor.

6 THE COURT: Go ahead.

7 MR. BIGGS: Yes. Can you tell us,
8 please, Detective, when was this photograph taken on your
9 phone? What is the actual date.

10 THE WITNESS: Probably the 19th when I
11 was talking to Brenda.

12 MR. BIGGS: September 19?

13 THE WITNESS: Yes, sir.

14 MR. BIGGS: And when was the flight?

15 THE WITNESS: According to this
16 calendar, September 15th.

17 MR. BIGGS: Okay. No objection, Your
18 Honor.

19 THE COURT: All right. Plaintiff's
20 Exhibit No. 213 is admitted.

21 (Exhibit No. 213 admitted into
22 evidence.)

23 MR. SHERIDAN: And we would like to
24 publish.

25 Q (By Mr. Sheridan) Okay. So now, I had-- I had that you

1 started to talk about your interactions with Brenda that
2 day, and could you tell us what this calendar means and
3 where we should be looking?

4 A Yes. So under Thursday, the 15th, the third entry down,
5 it says, "Cessna DNR," and right next to "DNR" there's an
6 erased-- well, it looks like a smudge mark probably, but
7 it's an erased word "Hold" on the calendar.

8 Q Okay. And-- okay, and what do you make of that?

9 A It tells me that there was most likely a pilot not
10 assigned that flight, but there was a plane reserved for
11 a period of time after receiving the request on the 6th
12 from DNR, but, again, there was no-- there was nothing to
13 show when I was assigned that flight, and so that's what
14 I was trying to determine because my belief was that I
15 wasn't assigned the flight until the day before when I
16 was in Spokane with the chief extended over hours.

17 I was trying to figure this out, but I couldn't--
18 you know, with this conversation with Brenda, I couldn't
19 completely determine that there was enough to show that
20 my belief was true and accurate.

21 She-- the last e-mail that she pulled up-- there
22 was, I think, four e-mails with Department of Natural
23 Resources, but the last e-mail that she pulled up was an
24 e-mail to Department of Natural Resources at 3:50
25 something, and she leaves at 4:00 in the afternoon,

1 saying that "Ryan Santhuff is going to be your pilot
2 tomorrow morning," with my cell phone number.

3 Q What day is that? Do you know?

4 A This would have been on the 13th before she left work.

5 Q Will you explain to the jury-- you said "pulled it up."

6 Where were you standing or sitting where you could
7 see her screen?

8 A Well, I was standing just off to her side, but there's a
9 desk in-between us that had the master calendar on it.

10 If Brenda was sitting at her computer, I was
11 standing right here on her left side, and her monitor is
12 angled so I could see the e-mails that she was pulling
13 up, you know, at a slight angle, but I could see what she
14 was referencing as she pulled them up.

15 Q Okay. And tell us, did you see-- the e-mail that said
16 your name, you said it was just before the end of the
17 day, right?

18 A Well, it didn't have my-- it had my name as the pilot,
19 but, again, I wasn't on that e-mail.

20 Q That's what I wanted to ask.

21 Who was copied on the e-mail?

22 A There was no one copied on this e-mail.

23 Q So who did it go to?

24 A To Department of Natural Resources, I believe
25 Commissioner Goldmark and Sandra Kaiser.

1 I would have to reference the e-mail to be certain.

2 Q Have you ever seen a copy of that e-mail since?

3 A No, sir.

4 Q Okay. So did you raise concerns about the 095 through
5 your chain of command?

6 A Yes, I did.

7 Immediately after I met with Brenda, I walked
8 upstairs to Jeff's office, and I asked him if he looked
9 into this, did he actually do his due diligence to figure
10 out when indeed I was assigned that flight, and he said,
11 "No. I didn't need to because Sweeney said you were
12 assigned this flight two weeks ago," and I said, "I don't
13 think so, Jeff. I just talked to Brenda, and she sent an
14 e-mail to Department of Natural Resources when we were
15 sitting in Spokane waiting for the chief, that I was
16 assigned this flight."

17 I was explaining this to him, and he says,
18 basically, "Well, it is what it is, you know. I am not
19 going to do anything about it, and take it as
20 constructive criticism that you need to start checking
21 the calendar and doing an adequate flight assessment
22 before last minute."

23 I'm like-- I'm explaining to Jeff, "Jeff, I'm
24 telling you, man, I wasn't assigned this flight."

25 He just wouldn't-- he wasn't listening to what I was

1 saying.

2 I said, "Go ask Brenda for yourself," and he
3 wouldn't do it.

4 I said, "Jeff, I hope to God"-- you know, I'm just--
5 in the back of my mind, I'm like, "There's something
6 underlining here that he just doesn't want to listen to,"
7 and that's how I felt.

8 I just said, "Jeff, I hope to God you wrote me up
9 because you honestly believe that I didn't adequately do
10 this-- that you honestly believe that I deserve to be
11 written up and Lieutenant Nobach had nothing to do with
12 this," and he wouldn't answer me.

13 MR. BIGGS: I am going to object, Your
14 Honor. If we're getting ready to talk about what the
15 plaintiff's own thoughts were about whether or not
16 somebody else was involved, that's not admissible.

17 MR. SHERIDAN: It's responsive--

18 MR. BIGGS: It's responsive to your
19 question. It's not admissible, Your Honor.

20 THE COURT: I am going to sustain the
21 objection.

22 The jury will disregard the last comment.

23 I have just been informed that some new people have
24 joined us via Zoom.

25 I just need to admonish you that you are to comply

1 with the same orders as if you were in the courtroom.

2 That means that you cannot record the proceedings.
3 We only have one official record, and that is the record
4 that our clerk keeps.

5 Likewise, you are prohibited from taking any
6 screenshots, just like you would not be able to take
7 photos if you are in the courtroom.

8 **A violation of these court orders will be basis for**
9 **being held in contempt and sanctions.**

10 **Mr. Sheridan?**

11 MR. SHERIDAN: Thanks.

12 Q (By Mr. Sheridan) During your conversation with Jeff
13 Hatteberg, did he tell you one way or the other whether
14 or not Nobach was involved in this?

15 **A He refused to answer that question.**

16 Q All right. So what happens next?

17 We get to around the 19th of September.

18 Did you have occasion to talk to your union
19 representative?

20 **A Yes, sir, I did.**

21 Q Tell us about that.

22 MR. BIGGS: Objection; Your Honor.

23 Once again, we are getting ready to talk about
24 hearsay.

25 What he told somebody else is hearsay.

1 MR. SHERIDAN: This is--

2 THE COURT: Ask a specific question.

3 MR. SHERIDAN: Your Honor, this is
4 offered for notice because it is Kenyon Wiley who goes up
5 the chain to report--

6 THE COURT: Ask the question,
7 Mr. Sheridan.

8 Q (By Mr. Sheridan) Can you tell us, did you convey your
9 concerns to him?

10 MR. BIGGS: Objection; Your Honor.

11 THE COURT: Overruled.

12 MR. BIGGS: Your Honor, if I may, what
13 Kenyon Wiley testifies may not be hearsay for notice of
14 what--

15 THE COURT: I don't want to hear
16 argument in front of the jury.

17 MR. BIGGS: Thank you, Your Honor.

18 THE COURT: Overruled.

19 Q (By Mr. Sheridan) Did you communicate your concerns to
20 him?

21 A Yes, sir, I did.

22 Q And was the subject matter bigger than the 095?

23 A Much larger than the 095, yes, sir.

24 Q What subject matter did you convey to him?

25 A I reported to Kenyon Wiley my concern with the 095 and

1 why my belief was that this 095 was part of the
2 retaliation towards me and the hostile work environment
3 that I experienced in aviation and that this 095 was a
4 result of that.

5 Q What else?

6 A And I explained to him that why I believe that I'm being
7 retaliated against and this hostile work environment
8 exists is because of the reporting of the breast-rubbing
9 incident.

10 I explained to Kenyon that I reported this-- I
11 explained to him in detail how that was reported, how
12 that-- that Captain Alexander received the report, how
13 Captain Alexander handled the sexual harassment complaint
14 with an 095.

15 What that 095 did is stop any investigation from
16 happening.

17 Q Which 095?

18 A The 095 that Lieutenant Nobach and Brenda Biscay
19 received, and I think this was touched a little bit on
20 during early testimony, but that 095 protected them.

21 By issuing them that 095, even though it is a very
22 low level of discipline, it stopped any further
23 investigation from occurring because as a union-protected
24 employee, that was an act of discipline towards them, so
25 the agency could no longer go back and investigate that

1 **and discipline them for their acts.**

2 Q Okay. So you communicated that to Kenyon?

3 A **Yes, sir.**

4 Q Did you communicate anything else to him?

5 A **Yes, sir.**

6 I explained to him that there was some other very
7 **concerning things that had happened years past--**

8 Q Like what?

9 A **--in aviation, and one being ordered to delete e-mails to**
10 **prevent disclosure in a public records request.**

11 Q And what year did that happen?

12 A **I believe 2014.**

13 Q All right. And did you tell him who you-- who you
14 alleged was behind that?

15 A **Yes, sir, I did, and I explained at that time what I**
16 **recalled of that event in the best detail that I could**
17 **provide to him.**

18 Q All right. And then could you tell us-- did you tell him
19 about any other things that concerned you at the time?

20 A **Yes, sir.**

21 As I explained the retaliation and the hostile work
22 environment that I observed over the-- towards me and the
23 acts of hostile-type work environment that I observed
24 over the years that I was there, I explained those
25 events, and I said that based on those observations and

1 how I had been treated, that Nobach-- he's retaliatory at
2 times.

3 I--

4 MR. BIGGS: Objection, Your Honor.

5 Now we're talking about "over the years"--

6 THE COURT: Sustained.

7 The jury will disregard that last comment.

8 Q (By Mr. Sheridan) Let me get you back on track.

9 A Okay. Sorry.

10 Q Did you tell him anything about a King air incident?

11 A Yes, sir, I did.

12 Q Tell us what you communicated with him about the King
13 air.

14 A I explained to him-- at some point early on in my career
15 in aviation the governor's office staff called aviation
16 to request a flight, and I was downstairs talking to
17 Brenda for something.

18 Early in my career in aviation, if I wasn't
19 training, I would oftentimes help Brenda with different
20 tasks. Sometimes I would be out in the hangar helping
21 the mechanics.

22 Early on I always had to have an instructor-- a
23 sergeant or a senior pilot to fly with me, and so if I
24 didn't have someone to fly with me and train me that day,
25 then I would often be helping out around the hangar.

1 This day in particular, I was down helping Brenda
2 with something, and I don't recall exactly what that was,
3 but we were talking down at her desk, and I'm standing on
4 the other side of this master calendar.

5 Like I explained earlier, her desk, it kind of wraps
6 around, but on the left side where she sits is the master
7 calendar, and you can see it from the other side.

8 I am standing over there, and we are having a
9 conversation about whatever task I am working on, and the
10 phone rings, and it's the governor's office, and she asks
11 for a specific date, and Brenda identifies that date on
12 the calendar, which shows that there's nothing there as
13 a--

14 Q How do you know it shows the-- (inaudible).

15 A Like you saw the calendar earlier, Exhibit No. 213, if
16 you were to look at the calendar and there was
17 maintenance scheduled or an aircraft was down for
18 maintenance, it would be-- there would be a line through
19 the dates that the maintenance was scheduled, and it
20 would say what the maintenance was and the aircraft that
21 was down for maintenance.

22 Q Did you observe the date with your own eyes?

23 A Yes, sir.

24 She opened up the calendar to the day, and she
25 identified the date, and I could hear the conversation--

1 the one side of her conversation, so she identified the
2 date.

3 Then she put the governor's office on hold.

4 She yelled into Nobach's office, which is just
5 around the wall, and his door is open, and she says,
6 "Hey, boss, Governor's office is on the phone and is
7 asking for a flight on"-- whatever date this was.

8 He said, "Tell him it's down for maintenance," and
9 words to that effect.

10 I-- she-- this is what she does, she looks at the
11 calendar, she says, "Uh, tell them it's down for
12 maintenance? There's nothing here. There's nothing on
13 the calendar," and he says, "Tell them it's down for
14 maintenance."

15 She's on the phone, she's got her phone like this,
16 and she looks at me, and she's like, "Okay."

17 She is kind of shaking her head and whispers, "Okay"
18 to me, and I'm like, "What in the heck is going on?"

19 Nobach comes out of his office and basically says,
20 "You know what"-- other words, but "Screw him."

21 We were dealing with some budget issues at the time,
22 from what I recall, and he says this, that "He needs to
23 feel the hit when we don't have a plane available for him
24 for these last-minute flights."

25 I was blown away.

1 I remember walking up the stairs like, "Unreal,"
2 like we-- I remember thinking to myself how much of an
3 impact this could have on aviation and the state patrol
4 if something like this got out to the governor's office.

5 Q So can you tell us what year that happened, and how much
6 tenure did you have in the organization?

7 A What I recall is it was sometime in 2014, and I don't
8 recall exactly the month.

9 I started in 2014, and it's my belief that it
10 happened in that first six months because that's when I
11 was in the training program and I had the most
12 limitations, which would prevent me from being out flying
13 most of the days I was available to fly.

14 Q Okay. And now, this is September 2016, right, so
15 presumably a couple years later?

16 Can you tell us why you didn't report it beforehand
17 and why you reported it now?

18 A I was in a position in 2016, September 2016, where I was
19 really contemplating if I could stay working in aviation.

20 Anyway, I guess-- back then, in 2014, I had landed
21 my-- what I felt like was my dream job-- man-- so I
22 didn't want to create waves, and I was very concerned
23 about melding with this small group of people and not
24 wanting to-- not wanting to create waves and affect those
25 relationships.

1 In September of 2019 (sic.), I had been dealing with
2 this environment for so long, that I knew that things had
3 to change soon, very soon, or I needed to get out of
4 there.

5 When I called Kenyon Wiley, you know, that was me
6 reaching out for help, and I just felt like those
7 relationships had already been so severely impacted by
8 the reporting of the sexual harassment situation, that
9 what did I have to lose, you know?

10 Anyway, that's why.

11 Q So you communicated what you just told us to Mr. Wiley?

12 A To who? I'm sorry.

13 Q Mr. Wiley, Kenyon Wiley.

14 A Regarding the King air flight, yes, sir, I did.

15 Q Okay. So now tell us-- just tell us what happened back
16 in 2014 regarding the e-mail destruction incident.

17 A I'm sorry, can you say the question again?

18 Q Yeah.

19 Tell us what happened back in 2014 regarding the
20 e-mail destruction incident.

21 A Okay. So what I recall is in 2014 Chris Noll and I were
22 assigned -- well, every year I was in aviation, we were
23 assigned to assist with a May Day event. That's a big
24 deal, and oftentimes it involves the state capitol or a
25 large protest in Seattle.

1 We would typically use the Cessna 206 that had the
2 fleet air camera with tremendous zoom capabilities and
3 also has downlink abilities so we can downlink that video
4 feed from the airplane to people on the ground, so it's a
5 tremendous asset for officers that are doing riot control
6 or, you know, if they work in a command center, we would
7 downlink that image to the commander so we could-- it was
8 instant feedback for them where we could watch the riots
9 or property damage take place.

10 In 2014 there was a protest at the capitol campus,
11 and Chris Noll and I were tasked to assist with that
12 event, if needed.

13 In 2014 state patrol aviation received a public
14 records request for that event and e-mails pertaining to
15 the planning of that event.

16 It turns out that Chris Noll and I didn't actually
17 fly that year, but we-- it was-- you know, what I recall,
18 it was like-- that Monday after May 4th that Chris Noll
19 and I are sitting at the computer upstairs-- there's two
20 desktop computers that look out to the runway.

21 Lieutenant Nobach and Brenda Biscay came upstairs,
22 and they're sitting behind us.

23 We turn around, we are talking with them, and
24 Lieutenant Nobach says, "Hey, we got wind that there's
25 this public records request coming into aviation. I need

1 you guys to go in and delete the e-mails pertaining to
2 this event," and, you know, at first I'm-- I remember
3 thinking like, "Uh, okay. This is unusual," strange that
4 this request would even be happening, for one.

5 So Chris Noll had his computer e-mail up.
6 Lieutenant Nobach identified which e-mail in the inbox
7 that he wanted removed, and this is Outlook is the e-mail
8 program that we use.

9 He identified which e-mail that he wanted deleted.
10 Christ Noll deleted it.

11 Nobach instructed him to delete everything in the
12 "deleted" file, and he said, "Okay. Now go to your
13 'recovery' folder and delete everything in there too."

14 Chris Noll-- we were never instructed on a
15 "recovery" folder from the state patrol. I didn't even
16 know it existed. I had never even heard of it up to this
17 point.

18 He says, "Okay. Check that box up here on the
19 heading somewhere," and "Okay, this is your 'recovery'
20 folder," so when you delete items out of your 'deleted'
21 folder, they go into this recovery folder, apparently,
22 and I don't know how long they're retained in there, but
23 he wanted everything-- there's a whole-- just like your
24 "deleted" folder, it's a whole bunch of e-mails that you
25 deleted out of your inbox, that's what this "recovery"

1 folder looked like.

2 He wanted everything deleted out of there.

3 Essentially there was no way for us to pull up these
4 e-mails again. They were gone.

5 At that time I thought, like, "He's wiping them off
6 the server. How is he doing that or why are we doing
7 this," but that was that event.

8 Then I had these e-mails as well. I had to delete
9 them the same way, same fashion, and I had to be shown
10 where this "recovery" folder was again, and then what I
11 recall is that later Paul Speckmaier came into the office
12 upstairs, he was required to delete these e-mails,
13 Sborov, and I don't specifically remember Hatteberg
14 deleting the e-mails or being there when Hatteberg had to
15 delete the e-mails, but I would-- it's my belief that
16 they-- we had an e-mail account set up that went to all
17 pilots, and that's why-- since-- since Speckmaier had to
18 delete the e-mails too, yet Chris Noll and I were the
19 ones that were assigned this flight, it's my belief that
20 that e-mail was--

21 MR. BIGGS: Objection, Your Honor.

22 What the complainant's belief is, is immaterial.

23 MR. SHERIDAN: Let me re-ask that
24 question.

25 THE COURT: Yeah.

THE WITNESS: Sorry.

Q (By Mr. Sheridan) What was your understanding about the existence of any larger files?

Was there something called a pilots' file?

A I don't believe so.

Q We are going to move on then.

A Okay.

Q So did you consider this to be a serious thing in 2014?

A Yes, I did.

Q And you did it anyway?

A I did.

Q Why?

A You know, the same reason that I explained with the governor's thing.

This was early on, May of 2014. I was new in the section. I had been there for five months, and, you know, again, I didn't want to-- I didn't want to ruin my relationship with people in the section and it affect my career in the unit, so--

Q But in September of 2016 why did you pass that information on to Union Representative Wiley?

A My relationships with those people in the unit and that environment that I had when I first started in aviation was completely different.

Q Okay. Looking back, was it the right thing to do to

1 withhold-- to not report the King air event or the e-mail
2 destruction event in 2014?

3 **A It was the wrong thing to do, yes.**

4 **Q** And can you tell us, what did you put over doing the
5 right thing back in 2014?

6 **A My career, my livelihood, my ability to provide for my**
7 **family, my relationships with people.**

8 **Q** All right. So did there come a time that you learned
9 that there had been, on your behalf, a complaint filed
10 that contained the information you just described?

11 **A Can you say that question again?**

12 **Q** Yes.

13 Did there come a time, in September 2016, where you
14 learned that a complaint had been filed on your behalf
15 containing this information we're discussing?

16 **A Yes, sir, there was.**

17 On the 19th of September, when I had this
18 conversation with Kenyon Wiley, it was on the way home
19 from work after being written up by Hatteberg, and I
20 reported these things to him.

21 I was still very concerned about reporting to the
22 chain of command and internal affairs intentionally
23 refusing the governor's service and the deletion of
24 e-mails.

25 I said, "Let me sleep on this, man," so I slept on

1 it.

2 I woke up the next day thinking that this-- it
3 needed to be reported, and so the next day, on the 20th,
4 the morning of the 20th, I said, "Go ahead and report it,
5 Kenyon."

6 He went down to internal affairs, met with
7 Lieutenant Dan Sharp and Sergeant Bruce Maier, and
8 reported the sexual harassment incident, the retaliation,
9 hostile work environment, the intentional deletion of
10 e-mails on a public records request, and intentionally
11 refusing the governor a flight for financial purposes.

12 Q All right. And to whom did he report it?

13 A To Lieutenant, which would be-- the assistant commander
14 of internal affairs is the person that would be directly
15 underneath Captain Saunders.

16 Q And his name again?

17 A Lieutenant Dan Sharp.

18 Q Okay. All right. Take a look at Exhibit No. 89, and let
19 me know if you need the book.

20 All right. What is Exhibit No. 89?

21 A Exhibit No. 89 is an internal incident report, also
22 referred to as an IIR, that would initiate an
23 investigation within the state patrol.

24 MR. SHERIDAN: Plaintiff offers
25 Exhibit No. 89.

1 THE COURT: It has already been
2 admitted.

3 MR. SHERIDAN: It's already admitted.

4 THE COURT: Yes.

5 MR. SHERIDAN: Thank you.

6 All right. Let's publish if we can.

7 Q (By Mr. Sheridan) All right. Great. Let's start at the
8 top.

9 And this document is created by whom?

10 A On the heading it shows the complaint (inaudible) as
11 Johnny Alexander and "Received by Johnny Alexander," so
12 I'm assuming this was filled out by Captain Alexander.

13 Q All right. Let's look at the summary of allegations.

14 It says that "It's alleged on March 30th, 2016 the
15 lieutenant allegedly told Trooper Ryan Santhuff he may
16 retaliate against him because of counseling the
17 lieutenant received in an 095 from Captain Alexander."

18 Is that an accurate statement of your concern?

19 A Not at all.

20 Q Okay. Can you tell us what your concern was?

21 A Well, let me clarify that again.

22 That was a concern that retaliation stemmed from
23 that, but I did not know for certain that an 095 even
24 existed at that point, for Lieutenant Nobach and Biscay,
25 other than what I was told.

1 Q And could you remind the jury who told you that there was
2 an 095?

3 A **Sergeant Hatteberg.**

4 Q All right. And so you weren't sure there was one, so
5 what was your understanding of what should happen?

6 A **Well, my concern regarding the retaliation was the report**
7 **of the sexual harassment complaint, but what's**
8 **interesting is that's not listed here at all, and so**
9 **it's-- Alexander covered that up.**

10 Q What?

11 A **The sexual harassment complaint, and he did not want to**
12 **indicate that here, so that's-- that's why this was**
13 **written the way it was.**

14 Q Okay. And then Captain Alexander writes, "It's further
15 alleged that on September 19th, 2016, the lieutenant
16 retaliated against Trooper Santhuff by ordering Sergeant
17 Hatteberg to negatively counsel Trooper Santhuff for not
18 reviewing the master flight schedule."

19 Is that accurate?

20 A **Not completely.**

21 Q How so?

22 A **Well, because I didn't know for certain that Nobach**
23 **ordered Sergeant Hatteberg to do this, but that was--**
24 **that's how I felt that that happened.**

25 Q And then it says-- the last line is, "It's further

1 alleged that Lieutenant manipulated the aircraft
2 maintenance schedule to purposefully ground the King air
3 aircraft for political reasons, making it unavailable for
4 certain executive missions."

5 Is that an accurate statement?

6 **A That's fairly accurate, yes.**

7 Q Now, is anything missing from this summary?

8 **A The public records report, which Alexander mentioned**
9 **during his testimony.**

10 Q The e-mail destruction?

11 **A Yes, sir.**

12 Q Okay. And after this IIR was issued, did Captain
13 Alexander talk to you?

14 **A No, sir.**

15 Q Before it was issued did he talk to you?

16 **A No, sir, he did not.**

17 Q All right.

18 THE COURT: Mr. Sheridan, is this a
19 good time to take our morning break.

20 MR. SHERIDAN: This is, yes.

21 THE COURT: All right. Members of the
22 Jury, let's take our 15-minute recess.

23 COURT BAILIFF: All rise.

24 (Jury exits.)

25 THE COURT: Thank you. We will be in

1 recess for 15 minutes.

2 (Recess 10:12 to 10:29 a.m.)

3 THE COURT: Thank you. Please be
4 seated.

5 Can you please bring in the jury?

6 All right, and we're back on the record, and we have
7 some additional people that have joined the Zoom session,
8 and I just want to make sure that you are all aware that
9 you are prohibited from recording the proceeding.

10 The rules, whether-- even though you are watching
11 via Zoom, are the same rules as if you were in the
12 courtroom.

13 We only have one official record, and that's the
14 record kept by our clerk.

15 Likewise, you are prohibited from taking any
16 screenshots, just like you would not be able to take any
17 photos in the courtroom.

18 **A violation of my court order could be basis for**
19 **sanctions and being held in contempt.**

20 COURT BAILIFF: All rise.

21 (Jury enters.)

22 THE COURT: Thank you. Please be
23 seated.

24 Mr. Sheridan?

25 MR. SHERIDAN: Greg, could you put up

207 again?

We made a presentation error. The card that we showed initially was not the one that shows "Elite" on it, so I just wanted to put it up.

Q (By Mr. Sheridan) Can you tell us-- okay. There it is.

All right. Is that the right picture of the card, the elite card?

A Yes, sir, it is.

Q Okay. Thanks.

All right. So we were just talking about the IIR that Alexander created, and that was-- was that on or about the 21st?

A The date on the IIR is--

Q Without putting it up--

A The date on the IIR is September 21st, yes, sir.

Q About that time, maybe a day later, did there come a time that there was a morning meeting that you had issues with?

A Well, yes, there was.

Q Tell us about the morning meeting around September 22nd.

A That morning-- we would meet and have these daily morning briefings in the pilots' office, and it would include typically the entire staff.

Again, there's only about ten people, plus or minus a couple for attrition or if we hire some, but on average

1 it's about ten people in 2016.

2 There was myself, Sergeant Hatteberg, Jared Elliott,
3 and Anson Statema were waiting for the morning meeting to
4 begin.

5 Q Could you tell us the status of the last two persons?

6 A They were both fairly new pilots.

7 Jared Elliott was hired in 2016, and so was Anson
8 Statema.

9 Q All right. What happened next?

10 A We're waiting for Lieutenant Nobach and Brenda Biscay to
11 come upstairs, and the phone rings.

12 I answer the phone. It's Lieutenant Nobach, and he
13 asks to speak to Sergeant Hatteberg who was sitting right
14 next to me, so I said, "Hey, Lieutenant wants to talk to
15 you," and I can hear the conversation, and he says, "Hey,
16 why don't you, Jared, and Anson come down to my office,"
17 and he says-- so he's like, "Uh, okay. We'll be right
18 down."

19 He gets off the phone. He says, "Hey, Jared and
20 Anson, we are going to go down to Lieutenant's office,"
21 and they walk out the door.

22 I'm sitting there like-- and I had just reported
23 this to OPS, internal affairs-- these allegations
24 reported to Kenyon went to internal affairs the day
25 before this happened, and I'm sitting there, and everyone

1 goes down to Lieutenant's office for a meeting, leaving
2 me in the pilots' office by myself.

3 Q Had you ever missed a morning meeting-- had you ever been
4 excluded from a morning meeting before?

5 A No, sir, not like this, no.

6 Q All right. And then you'd already received the 095,
7 right?

8 A Yes, sir, I had.

9 Q All right. Around this same time as the morning meeting
10 exclusion, did you have any interactions with the
11 mechanics in the hangar?

12 A Yes, sir.

13 Q Tell us about that.

14 A That same morning I walk into the hangar a little earlier
15 than 8 a.m., my start time, and the mechanics are
16 standing around talking, which was a normal event.

17 We would start the morning off, talk Seahawks, just
18 casual conversation in the hangar.

19 I walk up to the mechanics who are standing there
20 talking, and as soon as I walk up and kind of get into
21 the circle of the communication, they look at each other,
22 and they all-- the three of them split, disperse.

23 I am standing there with my coffee, like, "Did that
24 really just happen? Okay."

25 That happened-- I believe that was on the 22nd, as

1 **well, of September.**

2 Q All right. Okay. Let's take a look at the September
3 timeframe on the chart.

4 Can you tell us-- the August, September timeframe,
5 what was your stress level at this time-- fear level?
6 I'm sorry.

7 A **Probably a ten.**

8 Q Okay. All right. And how about stress?

9 A **A ten.**

10 Q And how about humiliation?

11 A **Probably an eight.**

12 Q And how about anxiety?

13 A **A ten.**

14 Q Okay. How about anguish?

15 A **Probably a nine.**

16 Q And how about loss of enjoyment of life?

17 A **Probably a nine.**

18 Q Okay. All right. So now we're through September.

19 In October did you attend-- were you interviewed by
20 an investigator?

21 A **Yes, sir.**

22 The IIR that Alexander had produced started an
23 investigation-- well, if you want to call it that.

24 It started a review of what happened with an
25 investigator, Bruce Maier with internal affairs.

1 Q All right. Can you tell us, what-- were you asked all
2 the questions that covered all the topics that had been
3 raised?

4 A Well, not initially, no.

5 Q Okay. Tell us, what was covered in your interview with
6 Maier?

7 A Well, eventually everything was covered that I had
8 reported to Kenyon Wiley, so the sexual harassment
9 report, I gave him numerous acts of retaliation and
10 hostile work environment against me as examples.

11 I reported the intentional deletion of e-mails to
12 avoid a public records request and intentionally refusing
13 to provide the governor service to push him to fund the
14 aviation section.

15 Q All right. And let's take a look at Exhibit No. 91.

16 A I have it. I have it.

17 Q Oh, you have it?

18 A Yes.

19 Q Great.

20 What is 91?

21 THE COURT: That has not been-- oh, it
22 has? Okay.

23 (Inaudible crosstalk.)

24 THE COURT: Sorry.

25 THE WITNESS: Exhibit No. 91 is an

investigator's case log, which is supposed to be filled out on any complaint received by a supervisor, but it also, as an investigation, is navigated by a detective, so I fill these out during my course of business in my current role, and also internal affairs detectives as they investigate a complaint, they would fill this out.

Q (By Mr. Sheridan) Okay. Now-- okay.

MR. SHERIDAN: Plaintiff offers Exhibit No. 91.

MR. GLOVER: That's already in.

MR. SHERIDAN: That's already in?

Okay. Great.

All right. Please publish.

THE COURT: It's already published.

MR. SHERIDAN: Sorry.

Q (By Mr. Sheridan) Okay. And were you shown this during that timeframe?

A During the investigation I was not.

I received this through a public records request later.

Q Okay. And on the entry that's dated October 3rd, 2016, if you'll go to the next page, is this a list of the complaints that you had raised in terms of retaliation?

A This is a summary from Bruce Maier of what-- he summarizes what I reported, but I will have to go through

1 them all to verify.

2 It might take me some time.

3 If you would like me to do that, I can.

4 Q I guess let's just summarize each one.

5 The first one begins, "Shortly after the office
6 meeting, during an all-sections meeting with all staff,
7 Nobach was conducting sexual harassment training and
8 reading regulations. According to Santhuff, Nobach
9 stared him down."

10 Is that one of the things you reported?

11 A Yes, sir, it is.

12 Q Okay. And the next one?

13 A "Nobach extended his pilot progress timeline for no
14 apparent reason. Santhuff said Nobach told him it was
15 just a timeline thing and nothing more, and Santhuff
16 accepted it and moved on."

17 Q Okay. And was that one of the things you reported?

18 A Not to-- not exactly, but we did discuss the extension of
19 the pilot progression chart, and that's what that's
20 referring to.

21 Q Next?

22 A "In April 2016, after an evaluation flight for his
23 right-seat instructor qualification, Nobach failed him
24 for something he had been told no other pilot had been
25 required to do.

1 "Nobach then stopped his right-seat training.

2 Santhuff said he believed he was again getting singled
3 out."

4 Q Okay. Is that an accurate summary of what you told him?

5 A Not exactly, but it hits on the point, yes.

6 Q Okay. And how about the next one?

7 A "April, May 2016, after a training flight with Nobach
8 practicing ILS approaches under the hood, Santhuff
9 requested a debriefing, but Nobach had no time because he
10 was late for a meeting.

11 "According to Santhuff, Nobach told him there was
12 nothing significant to discuss, only minor issues to work
13 on.

14 "Santhuff said later that day Sweeney told him
15 Nobach told Sweeney that Santhuff almost flew the plane
16 into the trees on an approach.

17 "Santhuff stated that did not happen and he had
18 never been told that by Nobach."

19 Q Okay. And was that an accurate summary?

20 A Yes, but there was a lot more detail provided too.

21 Q Let's go to the next one.

22 A "May of 2016, on another training flight with Nobach,
23 Nobach failed him on several things he did not do and
24 told him it was a check flight.

25 "According to Santhuff, he had not been aware it was

1 a check flight and had little to no communication with
2 Nobach.

3 "Santhuff believed he was again being singled out in
4 retaliation for reporting the incident in Nobach's office
5 in March of 2016."

6 Q All right. And what's the next one-- oh, was that an
7 accurate summary?

8 A I'd say so, yes.

9 Q Okay. And how about the next one?

10 A "Santhuff had been scheduled for King air training in
11 California during the summer of 2016. They cancelled the
12 training for coverage since another pilot was on FMLA
13 leave.

14 "According to Santhuff, he was still denied the
15 training after the other pilot returned to work, and
16 Santhuff volunteered to attend the training on his own
17 time during leave but was not allowed to adjust his
18 vacation time.

19 "Santhuff said he found out later that other pilots
20 had been allowed to adjust his vacation time to
21 accommodate his FMLA training.

22 "Santhuff believed he again had been singled out."

23 Q And was that an accurate summary?

24 A Yes.

25 Q Okay. And is that the last one?

1 **A I believe so.**

2 Q Okay. All right. Now, I want you to just look up at the
3 upper left-hand corner of any page.

4 What do you see there?

5 **A This is an OPS case number.**

6 Q Okay. And what does "PRELIM" mean to you?

7 **A "PRELIM" is an abbreviation for "preliminary," for**
8 **"preliminary investigation."**

9 Q When you were being interviewed, did you know this was a
10 preliminary investigation?

11 **A Not when this interview took place, no.**

12 Q All right. Did you have an understanding-- you heard the
13 testimony of Chief-- of Captain Saunders, retired Captain
14 Saunders, in court where he said it's really sort of the
15 beginning to decide if you do an investigation.

16 Do you recall that?

17 **A Yes, sir.**

18 Q Did anybody tell you that Sergeant Maier was not doing a
19 full-blown investigation?

20 **A No, sir.**

21 Q And do you know if this case was dismissed at the
22 preliminary investigation phase?

23 **A Yes, sir, it was.**

24 Q By whom?

25 **A By Captain Alexander at the time.**

1 Q So to your knowledge, did Maier make any findings of fact
2 or assess credibility?

3 A He-- the-- he did assess credibility.

4 As he conducts these interviews, and he had met with
5 chief, at that time, Captain Alexander, regarding his
6 belief of what occurred-- but his ability to assess
7 credibility was a little bit challenged because he
8 conducted some of these interviews over the phone and not
9 in-person.

10 Q I see.

11 Okay. So during this time did you have a meeting
12 with regard-- your chain of command regarding whether or
13 not you were due an investigation and what you should do?

14 A I did.

15 Q Tell us what happened in October 2016.

16 A Can I make one point about this document here?

17 Q Please, go ahead.

18 A Okay. So in Maier's timeline, after he interviewed me
19 and Hatteberg, he met with Captain Alexander to discuss
20 what I had reported.

21 At that timeframe he interviewed two people--

22 MR. BIGGS: Objection, Your Honor.

23 That was well outside of his knowledge.

24 MR. SHERIDAN: Let's pull up a
25 document again, please.

1 THE COURT: Hold on a second.

2 Yeah, that's good.

3 Q (By Mr. Sheridan) All right. What page are you looking
4 at?

5 A The bottom of Page 4.

6 It's Bates stamped 1268.

7 Q All right. Let's look at that.

8 It says-- this is Maier's report.

9 "He said he briefed Captain Alexander on the status
10 of the investigation," and that's at 1630.

11 Oh, and in nonmilitary time, is that 4:30?

12 A Yes, sir, it is.

13 Q All right. "And went over the detailed summary of the
14 Santhuff and Sergeant Hatteberg interviews.

15 "At this time Captain Alexander requested the
16 preliminary investigation be completed with the addition
17 of Sergeant Sweeney as a witness.

18 "E-mailed and advised Captain"--

19 MR. SHERIDAN: I think it's the one
20 above, Greg. "Saunders."

21 MR. GLOVER: Oh, okay.

22 MR. SHERIDAN: Right there. Yeah.

23 Okay.

24 Q (By Mr. Sheridan) All right. Did that concern you?

25 A Very much, so.

1 Q Why, sir?

2 Why, sir?

3 A Because investigations by the state patrol are required
4 to-- investigators are required to interview all
5 witnesses to any investigation.

6 Captain Alexander was considered the appointing
7 authority to this investigation.

8 What that does is he has the ability to make a
9 decision on the direction to take an investigation, and
10 Captain Alexander was completely involved in the handling
11 of the sexual harassment situation, which was outside of
12 policy.

13 The-- which I had just told Bruce Maier that how the
14 sexual harassment situation was handled and how I was
15 ordered not to talk about it outside of aviation,
16 including my union-- so he was aware of these things.

17 According to this document, it appears that he
18 presented my concerns and my reports to Captain
19 Alexander.

20 At that timeframe Captain Alexander orders this
21 investigation to be stopped with two more witnesses to be
22 interviewed, so the orders to stop this investigation
23 came before those two witnesses were ever even
24 interviewed or that information was put on the record.

25 When I met with Bruce Maier, for each one of those

1 allegations that I brought forward, those reports of
2 misconduct, I told him exactly who the witnesses were,
3 exactly who to bring in and talk to, so for the public
4 records request-- the public records misconduct, I told
5 him exactly who was involved or what I remembered was
6 involved and what I observed, same with the governor's--
7 intentionally refusing the governor's service, and all
8 these acts of retaliatory acts, that I provided to him,
9 which doesn't even touch on all of them.

10 I told him who he needed to call in and interview,
11 and they didn't bring in any of the other pilots-- any of
12 the other pilots to talk about the retaliation and the
13 hostile work environment or the mistreatment towards me
14 by Lieutenant Nobach.

15 This was no investigation at all. This was a
16 manufactured investigation by Captain Alexander.

17 Q All right. And did you get notice that the investigation
18 had concluded?

19 A I did, but that was on-- during Captain Alexander--
20 before that, I had sent an e-mail to Investigator Bruce
21 Maier.

22 Q Is that Exhibit No. 98?

23 A Yes, sir, it is.

24 Q All right. Let's take a look at 98.

25 All right. And this is already admitted and

1 published.

2 Okay. And so tell us, why did you write this?

3 A I had heard that the witnesses that I'd requested to be
4 talked to about my complaints and about the hostile work
5 environment, retaliation, were not being called in for an
6 interview.

7 My meeting with Bruce Maier was on October 3rd, and
8 at that time I was notified that this was a preliminary--
9 you know, I was a pretty naive trooper in regards to how
10 investigations are supposed to take place in the
11 administrative investigation manual.

12 I had never really taken the time to review that.

13 I had never been in trouble, other than some minor
14 095 counseling-type things as a young trooper.

15 So I didn't know how things were supposed to really
16 work in regards to investigations and internal affairs.

17 What my major concern was is that they weren't
18 calling any of these witnesses in for an interview.

19 I did know that that was required, and so I started
20 to become very, very concerned.

21 There's a couple other things that raised major
22 alarm here during this interview with Bruce Maier, is
23 when I walked into the interview, he was the only person.

24 Investigations in the state patrol, down at internal
25 affairs, requires more than one person.

1 MR. BIGGS: Objection, Your Honor.

2 Detective Santhuff just said he didn't know at the
3 time what was involved.

4 THE COURT: Overruled.

5 Q (By Mr. Sheridan) Go ahead.

6 A Bruce Maier was the only person in this room.

7 Now, I had been interviewed as a witness in past
8 cases, misconduct with other employees, and there was
9 three people in the room for those.

10 He's the only person in the room.

11 You know, at this time I had trust in the state
12 patrol, and I believed that things were going to be
13 addressed appropriately by our internal affairs section.

14 I fully believed that, and I felt a lot of relief
15 that I was actually down there having this conversation
16 and finally I was going to have some relief at work.

17 The other big red flag here is that this
18 investigation was not recorded, which is a standard
19 procedure with all internal affairs investigations. They
20 record the-- they record the interviews and they send
21 them out for transcription, and so about ten minutes into
22 this interview with Bruce Maier, I ask him, "Are you not
23 going to record this?"

24 He replies, "Oh, oh, we can. Do you want me to go
25 get the recorder out of my desk?"

1 Again, I trusted him.

2 I trusted that things were going to happen.

3 I said, "Well, you know"-- I felt like this was kind
4 of an inconvenience for him, and I said, "I guess it's
5 fine. We can continue."

6 I wish I would have said, "Let's record this."

7 I wish I would have stuck to my gut on that one.

8 Those are some big concerns.

9 As I was-- as time went on, after my interview on
10 October 3rd, I became more and more concerned because I
11 knew they weren't calling anybody else in who witnessed
12 this stuff against me, and I knew that it wasn't on
13 permanent record, and I-- that's what this e-mail is.

14 This e-mail is a summary of what was reported to OPS
15 so that I had some sort of proof of permanent record of
16 what was reported to protect me and my career.

17 You know, these are pretty serious allegations that
18 I reported to internal affairs and state patrol, and I
19 felt like this was going to all come back on me in some
20 way, and this was to protect myself and ask them to
21 please investigate.

22 I still have never got a response to this e-mail.

23 Q Okay. Did you-- tell us who you sent the e-mail to.

24 A I sent it to Bruce Maier on October 20th.

25 Q Okay. And we-- during the testimony of retired Captain

1 Saunders, we showed him that document, and he admitted
2 that he received it and reviewed it.

3 Did he ever tell you that he had received and
4 reviewed it?

5 **A No, sir.**

6 **I had never had conversation with Captain Saunders**
7 **regarding this issue at all.**

8 **Q All right. So let's take a quick look at this Exhibit**
9 **No. 98.**

10 On the second paragraph you write, "At the beginning
11 of our meeting on October 3rd, you asked me if I knew why
12 we were having the meeting, and I told you I believed it
13 was regarding the deletion of e-mails to avoid pending
14 public disclosure.

15 "You advised I was incorrect and the meeting was
16 about two issues filed in the IIR. The first was
17 indicating that Nobach retaliated against me, and the
18 second about Lieutenant Nobach intentionally refusing to
19 provide the governor with transport," et cetera.

20 Did you believe that this investigation would
21 include the e-mail analysis, e-mail destruction analysis?

22 **A Absolutely.**

23 **Just because the IIR that was initially filed didn't**
24 **include these items-- at any time during an investigation**
25 **they can amend what they investigate and expand the scope**

1 of an investigation.

2 That's exactly what I expected to be done.

3 Q Okay. And were you thinking still that it was-- it was a
4 real investigation as opposed to preliminary?

5 A Well, I believe Maier may have told me, during this
6 interview, that it was a preliminary, but I didn't quite
7 understand at that timeframe what that really meant
8 because of my naiveness in regards to what occurred
9 regarding how investigations are supposed to be
10 conducted.

11 Q All right. And you heard retired Captain Saunders say
12 that you don't typically interview people during a
13 preliminary.

14 Did you know that at the time?

15 A No. No, I didn't.

16 I didn't-- again, at the time I didn't really know
17 what a preliminary was compared to a full administrative
18 investigation, and I thought, based on the--

19 Q Let's go to the first whole paragraph on the second page.

20 Here you write, "Although not associated with the
21 IIR, we also discussed further unethical and potentially
22 criminal behavior regarding deletion of e-mail to avoid
23 pending public disclosure request."

24 You say, "I explained an incident," and then you go
25 on to explain.

1 Did you get-- did anybody contact you in 2016
2 regarding this allegation?

3 **A 2016? No.**

4 Q Okay. Let's go to the last paragraph, if we can.

5 **A Well, there's an exception to that.**

6 **There was a meeting with Captain Alexander at**
7 **aviation regarding that.**

8 Q Okay. We'll get to that.

9 **A Okay.**

10 Q Okay. Let's look at the last paragraph.

11 And you write, "Yesterday my union representative
12 advised me he spoke to Captain Saunders, and he didn't
13 believe any of the topics we discussed were going to be
14 addressed.

15 "If true, why? Unethical, dishonest, and
16 potentially criminal behavior needs to be addressed to
17 uphold the reputation of you, me, and the rest of the
18 employees in the agency."

19 Did Sergeant Maier talk to you about this?

20 **A I have never talked to him regarding this e-mail or**
21 **received a response.**

22 Q All right. You wrote, "I do understand a couple of these
23 topics are very sensitive in nature and could be very
24 damaging to the agency's reputation.

25 "It is not my intention to create damage, as I love

1 this agency and the aviation section, but my conscience
2 is weighed by"-- (inaudible).

3 Then you write, "I respectfully request the office
4 of professional standards to investigate why the sexual
5 harassment complaint was not handled per policy, hostile
6 work environment, retaliation, intentionally refusing of
7 Governor flight for political reasons, and the public
8 disclosure violation."

9 Do you know whether or not this line resulted in
10 another investigation?

11 **A Yes, it did.**

12 **Q** And what investigation was that?

13 **A This e-mail was forwarded up the chain of command to**
14 **Assistant Chief Randy Drake who was Captain Alexander's**
15 **direct report supervisor.**

16 **Q** And what did you learn about how long it took him to make
17 a decision?

18 **A Well, let me finish your first question.**

19 So the investigation that stemmed from this had to
20 do with the complaint that Captain Alexander did not
21 investigate the sexual harassment complaint, so that was
22 what Assistant Chief Randy Drake initiated, was-- well, I
23 don't even know if I want to call it an investigation.

24 He wrote an investigative case log summarizing the
25 report that he received of the sexual harassment

1 complaint, who he received the report by, and the-- what
2 he believed was how the situation was handled by Captain
3 Alexander, and he completed an IIR, which, again, I know
4 we kind of beat this up a little bit during Alexander's
5 testimony, but that is what would be required to be done
6 on a complaint that comes into a supervisor, an IIR and
7 investigative case log.

8 That's what Assistant Chief Randy Drake does.

9 The IIR that he completes and he puts down the
10 summary of the allegation is just that Alexander failed
11 to investigate a sexual harassment complaint.

12 It doesn't go to preliminary investigation. It
13 doesn't go to any investigation.

14 He rejects the complaint.

15 Q Do you know how many days passed between the time that he
16 got it and he rejected it?

17 A It was within ten days.

18 Q All right. Were you interviewed on that issue?

19 A No, sir.

20 Q All right. And how did you learn that Chief Drake--
21 Assistant Chief Drake dismissed it within ten days with
22 no investigation?

23 A I received a letter from Captain Saunders in OPS or
24 internal affairs saying that the allegation was dismissed
25 or was unfounded or something along those lines.

1 I later did a public records request for this case
2 as well, and I received all of the documents that they
3 produced and the investigative case log by Assistant
4 Chief Randy Drake, and so I reviewed those.

5 There's some other review of documents that pertain
6 to that case that I received as well.

7 Q All right. And I can't remember if I asked you whether
8 anybody told you to stop doing an investigation.

9 A Yes, sir.

10 I was told to-- during this October timeframe, after
11 I met with Bruce Maier on October 3rd, Captain Alexander
12 asked my sergeants to tell me that I need to stop doing
13 my own investigation within the aviation section.

14 At that same timeframe, I was informed that Brenda
15 Biscay was ordered to lock all cabinets that we would
16 routinely access during our daily jobs where our flight
17 sheets were held, the daily schedule or where all our
18 master calendars were contained, and also our training
19 records.

20 I can't remember what I needed to access, but I went
21 to go open a drawer, and now it's locked, and in the
22 almost three years that I was there, prior to this, that
23 has never been locked, so--

24 Q Did you ask why it was locked?

25 A I did.

1 I asked her, and she just implied-- she just said
2 that they-- that she was told to lock all cabinets in the
3 office, and that was-- that was basically it.

4 She didn't give me a reason behind it.

5 Q All right. And did there come a time that you attended a
6 meeting where-- with all of the aviation employees where
7 Alexander was talking about e-mails?

8 A Yes, sir.

9 Around the same timeframe, after I met with Bruce
10 Maier, they-- Alexander comes in and holds an all-section
11 meeting, and he advises everyone that he's aware that we
12 were ordered in the past to delete e-mails, and we are
13 not to delete e-mails anymore, and it is his
14 understanding that we were instructed in the past to
15 delete the governor's schedule.

16 You know, I-- he also advises everyone that there's
17 a big investigation going on by internal affairs, which
18 he's not supposed to do that.

19 What happened is-- Anson Statema and Jared Elliott,
20 who I-- I didn't want to involve them in any of this. I
21 didn't want to talk to them about all this stuff that was
22 going on. Now they're questioning me about, "What's he
23 talking about? What's going on? What's the
24 investigation about?"

25 You know, anyway, I just took that as an act of

1 singling me out even further within the section.

2 Anyway--

3 Q Okay. All right. Towards the end of October 26th, did
4 you attend a meeting with Alexander and Hatteberg after
5 the OPS preliminary investigation was commenced?

6 A I did.

7 Q And tell us what happened at that meeting.

8 A On October 21st, I went down to Captain Alexander's
9 office, again with-- this time it was just Sergeant
10 Hatteberg, and Alexander advises me that the
11 investigation was finished, it was done, and that there
12 was things that I told internal affairs that he's not
13 happy about.

14 He proceeds to tell me that-- and he's frustrated,
15 and, you know, he wasn't yelling, he wasn't-- I could
16 tell by his tone of voice and his body language, he was
17 frustrated with me.

18 So he tells me that if I want to stay in aviation, I
19 need to stop interrogating employees, I need to stop
20 making people feel uncomfortable in the workplace, and I
21 need to let everything go that's happened in the past.

22 I'm like, "You have to be kidding me right now."

23 Nobody has ever said anything to me like that in
24 regards to interrogating employees or if I ever felt that
25 I've ever made somebody feel uncomfortable like that at

1 work.

2 I listen to Captain Alexander until he finishes, and
3 I said, "Captain, you have got me all wrong as an
4 employee, and I think it's pretty clear where this
5 information is coming from," and I turn to Sergeant
6 Hatteberg, sitting off to my left, and I said, "Sergeant
7 Hatteberg, have you ever heard of me interrogating
8 employees or making people feel uncomfortable in the
9 workplace," and he said, "No, I have not."

10 I am like, "Captain Alexander, I think you're
11 misinformed on what's really going on," and I explained
12 to him that I have tried for months to try to resolve a
13 very uncomfortable work environment between Lieutenant
14 Nobach and I.

15 I had met with him numerous times to try to resolve
16 these issues, and it hasn't worked.

17 I explained to him that every time I left those
18 meetings, including the one on May 20th at his office,
19 that I felt like something was going to be better, and it
20 wasn't days later, we were right back in the hole that I
21 thought we had dug out of.

22 I said, "I can't keep doing this."

23 I just said, "I can't keep doing this," and I
24 explained to him that "For that reason, I've got to
25 leave-- I have to-- I have to get out of this

1 environment," and so he does-- like he testified to, he
2 tries to tell me that "Well, that's not what I'm telling
3 you, Ryan. I want you to stay in aviation. We need you
4 as a pilot," and I'm thinking to myself, "Man, he just
5 doesn't get it. I've tried to explain this to him. He's
6 received numerous reports of retaliation and hostile work
7 environment on my sergeants."

8 I go to him on May 20th and I report this stuff, he
9 ignores it, he never follows up with me after that
10 meeting on May 20th, not once, and now here it is October
11 21st, and he's telling me that if I want to stay in
12 aviation, I have to let everything go that's happened in
13 the past and basically put up with it.

14 I couldn't do it. I couldn't keep doing it.

15 He said, "Take the weekend to think about it," and
16 so I did. I agreed to that.

17 I think I-- I had Monday and Tuesday off, and so I
18 told-- I think it was on Wednesday morning, the first
19 thing in the morning, I sent-- I will have to look at the
20 e-mail.

21 I sent an e-mail that I wanted an immediate transfer
22 out of aviation and an exit interview with human
23 resources.

24 Q Okay. Let's look at Exhibit No. 100 and 101.

25 Tell me what they are.

1 **A Well, 100 first.**

2 **Exhibit No. 100 is the e-mail that I sent to Jeff**
3 **Hatteberg, and that was on Monday, October 24th.**

4 MR. SHERIDAN: All right. Let's offer
5 Exhibit No. 100.

6 THE COURT: Did you say 100 or 101?

7 MR. SHERIDAN: Say again.

8 THE COURT: Did you say 100 or 101.

9 MR. SHERIDAN: 100. We are going to
10 go to 101 next.

11 MR. BIGGS: 100, no objection, Your
12 Honor.

13 THE COURT: All right. Exhibit
14 No. 100 is admitted.

15 (Exhibit No. 100 admitted into
16 evidence.)

17 (Inaudible crosstalk.)

18 Q (By Mr. Sheridan) Go ahead and read to the jury what you
19 wrote.

20 **A "Sergeant Hatteberg, I request to be transferred out of**
21 **the aviation section to FOB"-- which stands for "field**
22 **operations bureau" --"as soon as possible. I also**
23 **request an exit interview/meeting with human resources."**

24 Q All right. And now take a look at Exhibit No. 101 and
25 tell me what that is.

1 A This is an outline that I quickly tried to draft before I
2 met with human resources, Captain Travis Mathesen, and
3 Lieutenant Matagi, during the exit interview.

4 Q Okay. And did you hand this to anyone at the meeting?

5 A No. I read some of this and referenced it, and I checked
6 it off as I went through.

7 I never did finish it because I tried to draft this
8 before our meeting.

9 I think it was at like 10 a.m. in the morning or
10 something, so I tried to--

11 MR. SHERIDAN: Okay. We'll accept it
12 as a work in progress and still offer Exhibit No. 101.

13 MR. BIGGS: Your Honor, this exhibit
14 is hearsay.

15 MR. SHERIDAN: Your Honor, this
16 exhibit is--

17 THE COURT: I don't want to hear
18 argument in front of the jury.

19 Members of the Jury, I am going to excuse you for a
20 few minutes while we address this.

21 COURT BAILIFF: All rise.

22 (Jury exits.)

23 THE COURT: Thank you. Please be
24 seated.

25 All right. This is self-serving hearsay.

1 What are you--

2 MR. SHERIDAN: On the judge's
3 statement of evidence, it was not objected to. That's
4 why I was offering it.

5 THE COURT: I did notice that it was
6 not objected to.

7 MR. SHERIDAN: If they don't object,
8 that's it.

9 That's where you make your objections--

10 MR. BIGGS: That's not accurate, Your
11 Honor. We can still make an objection (inaudible). If
12 it was an oversight through hundreds of exhibits, I think
13 it's still not admissible.

14 MR. SHERIDAN: I shouldn't have the
15 burden after they've said it's not-- they weren't
16 objecting.

17 I've been following the joint statement throughout,
18 and so have they, as far as I know.

19 MR. BIGGS: Your Honor, you have
20 authority to correct the record and to handle things such
21 as this if you choose to do so.

22 THE COURT: I am going to-- we are not
23 going to be done with Detective Santhuff this morning,
24 so-- and I don't think you are even going to be done with
25 him this morning.

1 I am going to reserve ruling on that because I do
2 think it's self-serving hearsay, but I was also-- I did
3 notice that Defense had not objected, so let me think
4 about that.

5 MR. SHERIDAN: Okay. All right. Is
6 it all right if he refers to it.

7 THE COURT: That's fine, as long as
8 it's not referring to statements that-- for instance-- so
9 it starts with "I am an honest, hard worker. My
10 integrity is beyond reproach." That's not something that
11 he should be testifying about--

12 MR. SHERIDAN: All right. Okay.

13 THE COURT: So I don't know exactly
14 what you are talking about-- (inaudible crosstalk).

15 MR. SHERIDAN: With the Court's
16 permission, I will just have-- if you'll just tell that
17 you are reserving on the objection.

18 THE COURT: Yes.

19 MR. SHERIDAN: And I'll just make a
20 quick reference to this, and then we'll go on to the
21 meeting because what he says at the meeting is what
22 really counts, right.

23 THE COURT: --(inaudible) you were
24 going to go to a meeting. Okay.

25 MR. BIGGS: Your Honor, he should not

1 be referring to documents unless he needs recollection
2 refreshed.

3 THE COURT: Well, Mr. Sheridan is
4 saying that he's not going to be addressing this at all.

5 MR. BIGGS: He just said he's going to
6 ask him to refer to it a little bit.

7 MR. SHERIDAN: Well, I--

8 THE COURT: If he needs to refresh his
9 recollection, he can.

10 He's not going to be able to testify about things
11 that are-- he's not going to read from it.

12 MR. BIGGS: That's what I--

13 MR. SHERIDAN: Of course.

14 MR. BIGGS: He has to lay a foundation
15 for recollection refreshed.

16 THE COURT: Right.

17 Mr. Sheridan, I didn't want to say this in front of
18 the jury, but try to not move.

19 I know that it's very difficult for attorneys to not
20 move, but please pretend you're in federal court.

21 MR. SHERIDAN: Sure.

22 Am I getting in the way of the screen.

23 THE COURT: No.

24 I'm just worried about you getting to close to some
25 of the jurors, especially Juror No. 12.

1 MR. SHERIDAN: Oh, certainly.

2 THE COURT: That's why.

3 MR. SHERIDAN: It's actually when I'm
4 on the emotional-harm chart--

5 THE COURT: A couple of times you have
6 moved.

7 Anyway, please be cognizant of that.

8 MR. SHERIDAN: Yes, of course.

9 THE COURT: Okay. We can bring in the
10 jury.

11 COURT BAILIFF: All rise.

12 (Jury enters.)

13 THE COURT: Thank you. Please be
14 seated.

15 I am reserving on my ruling to Exhibit No. 101.

16 MR. SHERIDAN: Fair enough.

17 Q (By Mr. Sheridan) Okay. Let's go ahead and talk about
18 your exit interview.

19 Approximately when was it?

20 A It was the Wednesday of that week after I sent the
21 e-mail, so it was just within days after I asked for the
22 exit interview with human resources.

23 Q All right. And did you bring 101 with you to the exit
24 interview?

25 A Yes, sir, I did.

1 Q All right. Okay. And who was present when you were at
2 the exit interview?

3 A Captain Travis Mathesen and Lieutenant John Matagi.

4 Q And you?

5 A Yes, sir.

6 Q And where did the exit interview occur?

7 A In Captain Mathesen's office in human resources in our
8 old headquarters building.

9 Q All right. And can you tell us, what happened?

10 Who spoke first and what was said?

11 A Well, Mathesen first was telling me how unusual it is
12 that a current employee would ask for an exit interview.

13 He said, "That doesn't happen," and this was the
14 first time that this had happened.

15 Typically the exit interviews would be for an
16 employee that would be leaving the state patrol.

17 I said, "Well"-- I thanked him, and I explained,
18 "well, there's obviously a reason why I'm here," and I
19 reported to him how the last year had gone in aviation or
20 the last six months, I guess, after February 26th.

21 I explained to him the report of the sexual
22 harassment incident with Jim and Brenda.

23 I explained to him--

24 Q Hang on.

25 What kind of detail did you give him?

1 A As much detail as I provided here in this testimony in
2 this trial.

3 Q So you actually sort of reenacted the event?

4 A Yes, I demonstrated it.

5 I typically do because I have a hard time, I guess,
6 putting into words on what exactly happened.

7 Q What, if anything, did he do after you explained to him
8 the incident?

9 A He was extremely shocked actually.

10 When I first brought up the fact that there was a
11 sexual harassment report, he said, "When did that
12 happen," like he was unaware.

13 He was unaware.

14 There's no question in my mind, he was understand
15 aware that there was a sexual harassment report.

16 Q Did he do anything?

17 A He got up from his desk or this table in his office, and
18 he walked over to his desk by his computer and grabs a
19 yellow notepad, and he said, "When did that happen?"

20 He starts taking notes about when the sexual
21 harassment incident took place and who was there and, you
22 know--

23 Q Did you mention Nobach and Biscay by name?

24 A Yes, sir, I did.

25 Q Do you know if he wrote it down?

1 **A He did.**

2 Well, I assume he did because he was taking notes as
3 I was talking this whole time.

4 **Q Do you have any sense that he had heard this before?**

5 **A I fully believed he had not based on his reaction that**
6 **day.**

7 **Q Okay. All right. And after you described the first--**
8 the breast-rubbing event, tell us what happened next.

9 **A I explained the retaliation, the environment in aviation.**

10 I listed off a number of different examples of
11 retaliatory events I experienced.

12 I talked about how I'd reported the public records
13 misconduct, the intentional deletion of e-mails on a
14 public records request.

15 I also talked about intentionally refusing the
16 governor service.

17 **Q Was he writing while you were doing this?**

18 **A Yes, sir, he was.**

19 **Q All right. Did you talk to him in detail about how**
20 Nobach and Biscay treated you after it became obvious
21 that you made that report of the breast rubbing?

22 **A Yes, sir, I did.**

23 **Q What did you tell him?**

24 **A I talked about the uncomfortable environment.**

25 I talked about meeting with Lieutenant Nobach, and

1 Sergeant Hatteberg having an emotional breakdown that
2 day.

3 Q Did you talk about whether or not-- strike that.

4 Did you talk about initiating a meeting with Nobach?

5 A Yes, sir, I did.

6 Q What did you tell him?

7 A I told him about meeting with Lieutenant Nobach and
8 putting everything out on the table that day, and I
9 talked-- I tell him how angry Nobach got and threatened
10 me and others in the aviation section, to hold us
11 accountable for this if he's going to be held accountable
12 for it, that comment that he made in the meeting.

13 Q Did you talk to him about your work environment and how
14 it changed?

15 A Yes, sir, I did.

16 Q And what did you tell him?

17 A I talked to him about how the training had changed, the
18 relationship between Lieutenant Nobach and I became very
19 tense, uncomfortable.

20 I talked to him about the nonstandard flight
21 training.

22 I mean, I talked to him about almost every-- in
23 regards to the environment, everything that I've
24 explained here in my testimony.

25 Q Okay. Now, you heard him testify-- he was the first

1 witness.

2 You heard him testify that HR's job is to protect
3 the employee.

4 Did he do anything to protect you?

5 **A Not at all.**

6 That is their responsibility and their requirement,
7 specifically a person named Debb Tindall. She is
8 retired, but back then it was her responsibility.

9 They are supposed to reach out to an employee that
10 reported a hostile work environment or retaliation
11 routinely, and at a minimum-- if I recall, the policy
12 says that at a minimum once a month, and they're required
13 to put that into a log, a case log basically, that is now
14 electronic-- at some point between 2016 and now, it
15 became electronic.

16 I believe it was in 2016 as well.

17 That never happened.

18 I never received any follow-up. I never talked to
19 Debb Tindall.

20 I never talked to anybody at human resources after
21 making the complaints of retaliation, hostile work
22 environment, and after I met with Captain Matheson, I
23 never heard another word from him again about this
24 either.

25 **Q** And you saw during his testimony we showed him that

1 Exhibit No. 225 that had the case number on it.

2 Was it your understanding he was going to open a
3 case or not?

4 **A He told me-- well, he told me in this meeting that he was**
5 **unaware of the sexual harassment report, and he said-- he**
6 **said, "You know, there's always two sides to a story."**

7 **True story.**

8 **He said he's going to look into this and he's going**
9 **to get back to me.**

10 **Q Did that happen?**

11 **A Never.**

12 **Q All right. So when you left from your exit-- is there**
13 **anything else about your exit interview that troubled**
14 **you?**

15 **A No.**

16 **I wasn't troubled, I don't think, by that interview**
17 **at all, other than not getting any feedback after-- as he**
18 **told me he would, but during that meeting I didn't feel**
19 **like there was anything that troubled me, that I recall**
20 **anyway.**

21 **Q All right. So let's talk about through October now of**
22 **2016.**

23 **What was your fear level through October?**

24 **A Probably a ten.**

25 **Q Okay. How about stress?**

1 **A A ten.**

2 Q How about humiliation?

3 **A The humiliation really increased after I left aviation, I**
4 **guess, so-- but for the-- so it kind of changed.**

5 **I would say probably about an eight for the month.**

6 Q How about anxiety?

7 **A A ten.**

8 Q How about anguish?

9 **A I would probably say nine.**

10 Q And how about the loss of enjoyment of life?

11 **A A nine.**

12 Q All right. So what was your last day in aviation?

13 **A That Wednesday.**

14 **Right after I met with human resources for the exit**
15 **interview, I went to aviation and turned in all my gear.**

16 Q Okay. Did you talk to Sweeney?

17 **A I did.**

18 Q All right. And did he raise any concerns?

19 **A He did.**

20 **We had a conversation about me leaving, and he just**
21 **kept repeating, "This is not right. This is not right."**

22 **That's what he kept saying to me over and over**
23 **again.**

24 Q All right. Okay. Where were you assigned after you
25 left?

1 A Field operations on patrol in Olympia.

2 Q Okay. And who was in your chain of command?

3 A Well, Chris Noll, who I had flown with as a trooper pilot
4 had promoted as sergeant and left aviation around the
5 September 2016 timeframe, and he was now a sergeant in
6 Olympia.

7 There's four sergeants at the Olympia APA
8 (phonetic), area patrol.

9 When I left aviation, Sergeant Noll's detachment was
10 the only detachment they had vacancies, so I filled a
11 position in his detachment.

12 Now Sergeant Noll is my direct report or my
13 supervisor.

14 Q Did that concern you?

15 A I did have concern because Chris Noll and I were friends.
16 We were very close. We flew a lot together.

17 I was concerned more for him because of the
18 challenges it can be, especially for a new supervisor, to
19 supervise friends and potentially have to discipline a
20 friend.

21 I had actually asked to go to a different detachment
22 when I transferred out of aviation, but I was told that
23 they felt my leadership and my experience would help
24 Chris Noll as a new sergeant and learning that role.

25 Q Who told you that?

1 **A Lieutenant Tom Martin.**

2 **Q Okay. And where was he in that chain of command?**

3 **A He was Chris Noll's immediate supervisor.**

4 **Q Got it.**

5 In January 2017, did you seek to meet with anyone in
6 the chain of command coming up from aviation?

7 **A Yes, sir, I did.**

8 **I asked to meet with Chief Batiste directly.**

9 **Q What was the purpose of your request?**

10 **A I wanted him to know exactly what was going on within the**
11 **state patrol and my experiences within the agency.**

12 **Q Were you permitted to meet with him?**

13 **A Not entirely, no.**

14 **Q What happened?**

15 **A I-- Chief Batiste has always said that if it's a big**
16 **issue that you feel that it needs to be addressed to him,**
17 **that he will open his door for that meeting.**

18 Well, this was a big issue for me, and I felt like
19 these were some big issues for the state patrol, major
20 issues, and I told Lieutenant Martin that I-- I made this
21 request to Lieutenant Martin, that "I want a meeting with
22 Chief Batiste."

23 He said, "Well, you should probably go through the
24 chain of command."

25 I told him, "Well, Chief Batiste always says if it's

1 a major concern, you can go directly to him, and that's
2 what I prefer to do."

3 He says, "Well, let me talk to Captain Hall," who is
4 the current captain of Tacoma, which oversees the Tacoma
5 patrol area, Pierce County, and Thurston County patrol
6 area.

7 He was in my chain of command.

8 I hear back that Captain Hall suggests that I go
9 through the chain of command, and then I agreed.

10 I was-- I met with Captain Hall through this chain
11 of command. I met with Captain Hall.

12 Lieutenant Martin already knew a lot of the details
13 of what had happened in aviation, and so I met with
14 Captain Hall for about three and a half hours one night,
15 and I explained to him, in detail, the sexual harassment
16 situation, the retaliation, the hostile work environment.

17 I give him examples.

18 Then the public records misconduct, going and
19 intentionally deleting certain e-mails on a public
20 records request.

21 I explained to him the intentional holding --
22 refusing the governor a flight, all of this stuff.

23 You know, he's shocked.

24 I mean, this is a shock-- these events are shocking
25 to anybody, and he was shocked that this was-- this had

1 happened.

2 I don't know what he was told when I transferred out
3 of aviation underneath his chain, and I know that there's
4 conversations between him and Alexander, but certainly he
5 wasn't told what I told him that day, and so he shared
6 some experiences that he's had with the state patrol to
7 me that weren't pleasant for him, and we had a very
8 candid conversation that day.

9 Then he arranged-- well, I left that meeting, and
10 I'm driving back to Olympia where I live, and he calls
11 me, and he tells me that he talked to Captain Sass-- I'm
12 sorry, Assistant Chief Sass.

13 This is Captain Hall's supervisor, his immediate
14 boss.

15 He tells me that Sass basically doesn't want to get
16 involved in this and suggests that I meet with Assistant
17 Chief Randy Drake who, again, is in charge of the special
18 operations bureau, which oversees internal affairs and
19 state patrol aviation.

20 I explain to him on the phone that I think that--
21 well, it wasn't just a thought.

22 He was completely involved in the mishandling of the
23 sexual harassment report. He knew how that was handled
24 outside of policy.

25 He knew about these other reports.

1 I didn't-- I just-- I felt he was part of this
2 problem of how this was all covered up.

3 I'm explaining to Dan Hall on the phone that I
4 don't-- I would just rather go meet with Chief Batiste
5 then.

6 He said, "Well, you know, I think there's
7 information that he could share with you that would be--
8 you know it might make you feel better or may be
9 enlightening on what his take on this is."

10 I was like, "Well"-- finally I said, "Okay. I'll do
11 it."

12 So that meeting with Captain-- with Assistant Chief
13 Randy Drake was on January 30th of 2017 now.

14 Potentially it was the 1st of February, but it was
15 one of those two days.

16 Q All right. Did you get a negative performance evaluation
17 after this?

18 A Yes, I did.

19 Q And who signed it?

20 A Sergeant Jeff Hatteberg.

21 Q All right. And did you seek to have it changed?

22 A I did.

23 We met for an hour, maybe two, and discussed this
24 job performance appraisal. A JPA is what it's referred
25 to as.

1 Q What was the outcome?

2 A I specifically asked him to remove the 095, which had
3 docked my score from the JPA, and he refused.

4 I explained to him that it's-- I wasn't assigned
5 that flight like they are alleging happened, and that I
6 said that "This 095 should not be in my record. It
7 should not affect my JPA," and he refused to even address
8 it.

9 I asked him during that meeting if he ever asked
10 Brenda about the scheduling of that flight, and he said
11 no, he didn't.

12 He never looked into the details of that 095 ever,
13 and yeah, I was frustrated.

14 I was angry about it, and he refused to make any
15 changes to the narrative or remove the 095 from my
16 record.

17 Q All right. Did you grieve the 095?

18 A I did.

19 Q With your union?

20 A Yes, sir, I did.

21 Q All right. And did it get changed?

22 A No, sir.

23 Q Did-- your union can escalate from different levels,
24 correct?

25 A Yes, sir.

1 Q And what happened at the various levels?

2 A Step one of the grievance process-- there's three steps.

3 Step one is the initial step where I filed a
4 grievance, and typically it would be your immediate
5 captain or the appointing authority, your chain of
6 command that would handle that grievance.

7 I met with Captain Hall and discussed the parts of
8 the collective bargaining agreement, which is the
9 agreement our union has with the State, that I believed
10 were violated.

11 I think there was maybe three different sections
12 that I noted in the grievance.

13 I explained how I felt each one of those areas I had
14 grounds for a grievance.

15 That was denied.

16 Q That's level one?

17 A Yeah, that's step one.

18 Q What happened next?

19 A The denial-- we got sent an e-mail to President Merrill,
20 Jeff Merrill of the union, and we had to file step two in
21 a certain amount of timeframe. I don't know how many
22 days, 15 or 20 days, and that timeframe got missed.

23 Q By whom?

24 A Well, to move it to step two-- I mean, the union was
25 handling this with me or helping me handle this, and so I

1 wasn't aware of the timeline processes within the
2 collective bargaining agreement in this timeframe, and--
3 well, the union didn't even address it with me, or the
4 agency, the denial of step one.

5 Q All right. So procedurally--

6 A Procedurally, I missed that opportunity to move it to
7 step two.

8 Q Before you left, what was your plan?

9 What was your plan for flying?

10 Let's say you could fly to retirement.

11 What did you hope to do?

12 A I wanted to be either a corporate-- my thought was just
13 to be a corporate pilot.

14 A lot of state patrol employees, pilots, that have
15 left are-- were very, very well trained, a lot of flight
16 time, a lot of great flying experience in the northwest
17 in inclement weather, which is very valuable experience,
18 and then we have that law enforcement side to us too, the
19 security aspect.

20 There's a lot of opportunities as a pilot in the
21 corporate world that can be very lucrative, and that was
22 what my goal was.

23 That was my plan.

24 Q So let's say some billionaire has got a jet, right?

25 How hard would it be for you to go-- let's assume

1 you also made-- you kept going to King air schools and
2 made-- became a command pilot and flew the twin-engine
3 King air.

4 You had said something about it being a turbo.

5 Does that involve being a jet?

6 **A Well, it's a turbine engine.**

7 **It's a jet-fuel-powered turbine engine that turns a**
8 **propeller.**

9 **It's referred to as a (inaudible)--**

10 **Q How big of a deal would it be to go from flying that**
11 **plane to flying corporate jets?**

12 **A Well, you have to receive specific training in that jet,**
13 **and be type rated.**

14 **Typically you would end up going to FlightSafety**
15 **typically or a company like that and get type rated in**
16 **that aircraft and learn those systems to get-- you know,**
17 **to be able to fly that aircraft.**

18 **Q Was that your plan?**

19 **A Yes, sir, that would have been my plan.**

20 **Q All right. At what age would you have begun at?**

21 **A (Inaudible) --would have retired at 51, at 25 years of**
22 **service with the state patrol.**

23 **Q And how many years to 51?**

24 **A At that timeframe?**

25 **Q Yeah.**

1 **A Make me do math.**

2 **Man, I don't know. I would have to figure it out.**

3 Q Okay.

4 **A It was--**

5 Q Okay. Let's just finish the year here.

6 On a scale-- let's get through 2016.

7 On a scale of one to ten, what was your fear level,
8 through December?

9 **A Through December? A seven.**

10 Q How about stress?

11 **A A seven as well.**

12 Q How about humiliation?

13 **A A nine.**

14 Q Okay. How about anxiety?

15 **A Probably an eight.**

16 Q Okay. How about anguish?

17 **A A nine.**

18 Q How about loss of enjoyment of life?

19 **A Probably a nine.**

20 Q All right. So I am going to carry this over.

21 In 2017 were you happy with the job you were doing?

22 **A I was.**

23 Q Where were you assigned?

24 **A Olympia patrol area as a patrol officer on the highways.**

25 Q All right. And were you still having effects in 2017

1 from what had happened to you at aviation?

2 **A I was, yeah.**

3 Q Okay. So for the months through-- from January through
4 December, how would you rate your level of fear at that
5 time?

6 **A It changed.**

7 In 2017 there was some things that happened
8 regarding the public records misconduct throughout the
9 year, so in the beginning I would say it was probably
10 maybe a seven.

11 Q How about through the year?

12 **A Maybe the second quarter of the year would be probably**
13 **about a seven.**

14 I mean, it maintained pretty close to the same--

15 Q A seven?

16 **A Yeah--**

17 Q Through the year?

18 **A I would say so. That's fair.**

19 Q How about stress; again, caused by what happened in
20 aviation, not stress in your life?

21 **A Maybe a five.**

22 Q Okay. And did that continue through the year?

23 **A I would say that's an average number, yeah, I do.**

24 Q And how about humiliation in 2017?

25 **A Probably a seven.**

1 That improved some through time.

2 You know, when I first came out of aviation,
3 everyone was asking me, "What happened," you know, "What
4 happened, Ryan," and there was rumors that I was a
5 failing pilot, and so, you know, of course I felt
6 necessary to tell the story, right?

7 Q Did you carry it-- from January through December, how
8 would you say it went?

9 Should we say-- I think you said a seven, the
10 humiliation at the start--

11 A It probably put it down to maybe a five by the end of the
12 year.

13 Q Okay. All right. How about anxiety?

14 A I would say probably a six throughout the year.

15 Q How about anguish?

16 A Probably a seven average throughout the year.

17 Q Did I just say "anguish"?

18 A Yes, "anguish."

19 Q All right. How about loss of enjoyment of life?

20 A I would say an eight.

21 Q Eight?

22 From January through December?

23 A I would say that's an average accurate number, yes.

24 Q Okay. All right. How about in 2018, the effects of
25 having worked there in terms of fear?

1 **A Maybe a four.**

2 Q And did that carry through the year?

3 **A Yeah, I would say that's an average number throughout the**
4 **year.**

5 Q All right. How about stress?

6 **A I would say probably about the same.**

7 Q How about humiliation?

8 **A Maybe a five.**

9 Q And throughout the year?

10 **A Throughout the year, yeah.**

11 Q All right. How about anxiety?

12 **A Maybe a four throughout the year.**

13 Q Okay. How about anguish?

14 **A I would say probably a five throughout the year.**

15 Q And how about loss of enjoyment of life?

16 **A Six. Six throughout the year.**

17 Q Okay. Let's do the same thing for 2019.

18 Fear in 2019?

19 **A Probably a four.**

20 Q Okay. And how about from January through December?

21 **A I would say the average throughout the year would be**
22 **four.**

23 Q Okay. How about stress?

24 **A Probably about the same.**

25 Q Okay. How about humiliation?

1 **A Probably a five throughout the year.**

2 Q Can you tell us whether people were still talking about--

3 **A Oh, yeah.**

4 At this point I changed positions, you know. I
5 changed from a trooper on the road and people already
6 knew what had happened in aviation, now I'm a detective,
7 so there's a whole bunch more people asking, "Hey, man,
8 whatever happened to you and aviation," and I have to
9 tell it all over again.

10 Q How about anxiety?

11 **A Probably a four.**

12 Q Okay. How about anguish?

13 **A Probably a five throughout the year.**

14 Q Okay. How about loss of enjoyment of life?

15 **A Probably a six.**

16 Q How about through the year?

17 **A Through the year.**

18 Q And how about in 2020, your fear rate?

19 **A Well, I would say those numbers would carry over from**
20 **2019 until-- I actually prepare for depositions and**
21 **getting those continued and--**

22 Q I don't want you to consider stress from being in
23 litigation--

24 **A Understood.**

25 Q --as opposed to stress from thinking about the particular

1 events.

2 **A I understand.**

3 **I understand--**

4 Q How about in 2020?

5 Should we run through it again?

6 **A Fear?**

7 Q Fear?

8 **A Probably a five.**

9 Q Okay. Through the year?

10 **A Yeah.**

11 Q Okay. And stress?

12 **A A four.**

13 Q Through the year?

14 **A Yeah. Yeah.**

15 Q Humiliation?

16 **A Probably a six.**

17 Q Through the year?

18 **A Yes, sir.**

19 Q Okay. Anxiety?

20 **A Maybe a four.**

21 Q Four through the year?

22 **A Yeah-- yes, sir.**

23 Q Okay. Anguish?

24 **A A six, through the year.**

25 Q Did you miss aviation?

1 Let me ask you a different way.

2 Did you miss flying?

3 **A Yes, sir, I do.**

4 **Q Do you miss it today?**

5 **A I do, very much so.**

6 **Q Are you going to miss it tomorrow?**

7 **A I will.**

8 **It's still a passion of mine.**

9 **You know, I still-- I haven't flown since I left**
10 **aviation, but I do want to continue flying again as the**
11 **financial means become available.**

12 **It's just been-- I've had a lot of large expenses**
13 **since I've left aviation that I can't--**

14 **Q You have a lot of expenses?**

15 **A Yes, sir.**

16 **Q If you could go back to aviation with protections, would**
17 **that be something you would consider?**

18 **A The question in (inaudible) would be "protection."**

19 **Q That would be up to the Court.**

20 **A I would consider that, yes, sir.**

21 **MR. BIGGS: Your Honor, this is not**
22 **proper.**

23 **THE COURT: I am going to sustain that**
24 **objection.**

25 The jury is to disregard that last question and

1 response.

2 MR. SHERIDAN: I apologize.

3 Yes, Your Honor.

4 Q (By Mr. Sheridan) Okay. If you could go back and be in
5 a safe place, would that be something you would want to
6 do, or at least consider?

7 A Yes, sir, I would consider that.

8 Q Okay. What's-- in 2020, what's your loss of enjoyment of
9 life?

10 A Probably a six.

11 Q Okay. And does that go through the year?

12 A Yes, sir.

13 Q All right. Do you anticipate that after this trial is
14 over, you will still feel some of these things?

15 A Absolutely, yes, sir.

16 Q How long do you think you'll be feeling those things?

17 A I don't know.

18 Q Okay. All right. Let's get some--

19 THE COURT: It is close to noon.

20 MR. SHERIDAN: Yeah.

21 THE COURT: All right. Members of the
22 Jury, you have an extra five minutes today for lunch, so
23 we'll be in recess until 1:30.

24 COURT BAILIFF: All rise.

25 (Jury exits.)

1 THE COURT: All right. Please be
2 seated.

3 All right, so with respect to Exhibit No. 101, how
4 did you rely on this exhibit, Mr. Sheridan?

5 I know that you said that relied on it from this
6 joint statement--

7 MR. SHERIDAN: Yeah, I used it as my
8 outline for questioning him about the meeting.

9 THE COURT: Is that it?

10 MR. SHERIDAN: Yeah.

11 THE COURT: What's the prejudice if I
12 don't allow this exhibit?

13 MR. SHERIDAN: I think this is totally
14 up to your discretion.

15 I was kind of sticking with the joint statement
16 because if we let either our side or their side be able
17 to walk away from those, then all the work we did to set
18 objections or not is gone to waste, but there's no
19 prejudice, Your Honor. I got in the testimony I wanted.

20 THE COURT: All right. And this is
21 one of the reasons why I had asked the parties to please
22 let me know which ones that we're truly objecting to and
23 not just marking everything, just so I could be prepared.

24 Based on that, that there is no prejudice and the
25 representations that this was an oversight, I will not

1 admit it, so I will sustain the objection and I will make
2 a record of that in front of the jury.

3 MR. SHERIDAN: That's fine.

4 How about we just withdraw it?

5 THE COURT: You can withdraw, that's
6 fine.

7 MR. SHERIDAN: Let me do that.

8 THE COURT: All right.

9 I have to also tell you, I just received, so maybe I
10 can ask Defense-- I just received briefing on a
11 Plaintiff's motion in limine, which I'm not going to have
12 time to look at over the lunch hour because I have other
13 things that I need to do, and I assume Defense has not
14 had a chance to look at it because--

15 MR. BIGGS: I haven't even seen it,
16 Your Honor.

17 THE COURT: It's a Plaintiff's motion
18 in limine regarding admission of Exhibit No. 19 and
19 Exhibit No. 215, so, again-- and apparently this has
20 something to do with a witness this afternoon.

21 MR. SHERIDAN: Right, we were going to
22 do our offers of proof--

23 THE COURT: He's not-- oh, that's the
24 one where you are going to do the offer of proof?

25 (Inaudible crosstalk.)

1 MR. SHERIDAN: That one.

2 THE COURT: Okay. So I just briefly
3 looked, and Defense did not object to 215, so is that
4 still an accurate-- are you still not objecting to that?

5 And so the only issue is No. 19?

6 MR. BIGGS: Just one second, Your
7 Honor.

8 Right. 215, there's no objection.

9 THE COURT: Okay. So the only issue
10 is 19?

11 MR. BIGGS: Right.

12 THE COURT: I will look at that, and I
13 will-- so since we need to do the offer of proof, then
14 let's reconvene at 1:20.

15 Is ten minutes enough?

16 MR. SHERIDAN: Yeah, and we have the
17 expert coming at 1:30, so that will be fine, yes.

18 THE COURT: Okay. Does that work for
19 defense?

20 MR. BIGGS: Yes, 1:20, Your Honor.

21 Yes, I'm sorry.

22 I was just thinking about the withdrawing it. I
23 don't think you can withdraw an exhibit once it's been
24 handled--

25 THE COURT: I think you can.

1 MR. BIGGS: I would prefer to just
2 have it denied, since that's how-- the ruling was
3 reserved.

4 THE COURT: It was reserved.

5 MR. SHERIDAN: We control our
6 exhibits.

7 We would like to withdraw it.

8 THE COURT: All right. And I do think
9 that Plaintiffs can withdraw the exhibit, and we have a
10 record, so--

11 MR. BIGGS: All right.

12 THE COURT: My only-- I would just
13 like the jury to know.

14 I want the jury--

15 MR. SHERIDAN: Yeah, I would rather--

16 THE COURT: That's fine. You can say,
17 "We withdraw Exhibit No. 101." That's fine. I just want
18 to make sure that the jury knows what happened with
19 Exhibit No. 101.

20 MR. SHERIDAN: Fair enough. Okay.

21 1:20?

22 THE COURT: Yes.

23 Does that work for Defense as well?

24 MR. BIGGS: Yes.

25 THE COURT: 1:20?

1 MR. BIGGS: That's fine. Thank you.

2 THE COURT: So we'll be back at 1:20.

3 COURT BAILIFF: All rise.

4 (Lunch recess 12:00 to 1:26 p.m.)

5 COURT BAILIFF: (Inaudible.)

6 Please be seated.

7 THE COURT: All right. So I looked at
8 Exhibit No. 19, and you were planning on offering this
9 with your 3:15 witness?

10 MR. SHERIDAN: Yes, that's correct.

11 THE COURT: What's the name of the
12 witness?

13 MR. SHERIDAN: Hendricks.

14 THE COURT: Hendricks, all right.
15 Defense, you indicated you had an objection?

16 MR. MARLOW: Yes, Your Honor.

17 Since we object to this Exhibit No. 19, it's more of
18 the dirt-throwing that we've been talking about
19 throughout this trial.

20 That's all 19 is.

21 Quite frankly, this witness, Mr. Hendricks, I kind
22 of think, you know, within the bounds of the rules, we
23 could probably just stick right to his testimony, being
24 that the admissible testimony is actually that he filed a
25 public records request in 2014 for the May Day flights,

1 maybe even 2015--

2 THE COURT: These e-mails had nothing
3 to do with that though.

4 MR. MARLOW: Well, the e-mail-- the
5 No. 215--

6 THE COURT: Oh.

7 MR. MARLOW: That does have to do with
8 that.

9 (Inaudible crosstalk.)

10 MR. MARLOW: 19, as I said, is simply
11 more of the character stuff that Your Honor has already
12 properly disallowed.

13 It's just more of the same.

14 It's more dirt-throwing at Lieutenant Nobach.

15 THE COURT: Okay.

16 MR. MARLOW: I don't think it's
17 admissible for those very reasons that we have already
18 been over ahead of (inaudible).

19 So I'll renew my objections and address it if you
20 wish for me to, but what I was thinking is we certainly
21 stipulate to Mr. Hendricks filed these public records
22 requests in 2014 and 2015 and stipulate to the
23 admissibility of 215, which is the other exhibit they
24 were planning on having through this witness, and we
25 wouldn't need this witness to come in.

1 THE COURT: Mr. Sheridan?

2 MR. SHERIDAN: Well, you know, we need
3 the testimony about Exhibit No. 19 because the whole
4 point of this exercise is that Nobach is embarrassed.

5 THE COURT: I'm sorry, what's the
6 relevance of these e-mails about some--

7 MR. SHERIDAN: For flirtacious
8 behavior with Biscay?

9 THE COURT: How is that relevant?

10 MR. SHERIDAN: Because it explains his
11 behavior after that fact.

12 Remember, that one of our claims is the e-mail
13 claim, and he says-- what he says in response to the
14 e-mail investigation in 2017, "I had no-- I had no reason
15 to care. I had no reason to hide them," but, in fact, he
16 does care because they're embarrassing and they were
17 posted on the web.

18 THE COURT: Are these e-mails from
19 Exhibit No. 19 e-mails that have to do with the public
20 disclosure request of the e-mails that he told people to
21 delete?

22 MR. SHERIDAN: These e-mails-- so what
23 happens-- so the question that Defense will ask in
24 closing, "Why in the world would he do this? Why would
25 he tell the group to delete their e-mails for this"--

1 THE COURT: Mr. Sheridan, please
2 answer my question.

3 Are these e-mails related to the e-mails that
4 Lieutenant Nobach told people to delete?

5 MR. SHERIDAN: No, they're not related
6 in the sense that these are the subject of an earlier one
7 that got put up on the web.

8 So why does he have a motive to destroy documents
9 the next time that the same guy asks? Because the last
10 time that he didn't destroy documents, he put stuff up on
11 the web that was embarrassing to him.

12 THE COURT: Again, this is 404(b)
13 evidence that should have been brought up before.

14 I mean, this is an improper bad act that-- I mean,
15 the admissibility of this, if I hear you correctly, is to
16 show that Lieutenant Nobach, from what I gather here, was
17 flirting and had so many inappropriate comments with
18 other people.

19 What is the relevance of that for the issues before
20 this trial?

21 MR. SHERIDAN: Because it shows his
22 motive at every turn.

23 Remember, we have three different investigations--
24 well, four.

25 The investigation regarding the e-mails happens in

1 2017, and in that-- in his response to that, he says, "I
2 had no motive to hide anything," but the answer is of
3 course he did. He had been burned by giving up e-mails
4 in the earlier request that wound up on the web, so these
5 flirtatious things-- it connects all the dots.

6 Why is he so nuts about denying a relationship? Why
7 is he so retaliatory when Detective Santhuff goes and
8 confronts him with all of that behavior that so far the
9 jury hasn't heard, right? Which is that-- "You know what
10 we're all talking about, how you leave for hours and how
11 you go down for coffee, and the people in the public are
12 concerned about how it looks," which is, again-- as I
13 said, it's improper governmental action for him to do
14 that, right?

15 It's wrong.

16 It's a violation of their internal processes.

17 That Exhibit No. 222 that you wouldn't let us put in
18 is an example of that exact action where somebody gets
19 fired for doing exactly what he said.

20 It helps the jury understand why he is so vicious
21 about his retaliation--

22 THE COURT: So what's your offer of
23 proof with this witness.

24 MR. SHERIDAN: So this witness will
25 take the stand to basically say that "I'm the guy who

1 released Exhibit No. 19. I'm the guy who obtained
2 Exhibit No. 19 through a Public Records Act, and I'm the
3 guy who put it up on the web, and it's up on the web."

4 Nobach, in his deposition, admitted that he knew it
5 was up on the web and there was a public records release,
6 so all of this stuff is-- it shows his mens rea, if
7 nothing else.

8 It shows that this guy has been burned and he ain't
9 going to let it happen again.

10 He has so much power, that he tells his entire group
11 to destroy the e-mails for the next time this guy
12 requests it, and, by the way, once he gets to take the
13 stand again, Detective Santhuff will testify that even
14 though they didn't fly that day, they were on standby
15 that day, so that request that was destroyed, it wasn't
16 just for the day. It was for the things related to it
17 that went back in time.

18 For whatever reason, we don't actually know why he
19 wanted it destroyed, but he did, and it makes sense, it's
20 logical, and it connects the dots that he did it because
21 he got burned once with these embarrassing e-mails that
22 are now on the web for everybody to see, like his wife,
23 and-- and keep in mind that it's connected to-- he's
24 asking-- he's saying, "I would like to date."

25 He is doing the same exact behavior in 2014 that

1 Santhuff is confronting him with and then being
2 retaliated against.

3 THE COURT: And that's the reason
4 why-- well, one of the reasons why it's improper
5 character evidence that you are trying to get in here.

6 You are trying to show that because he acted this
7 way with Ms. Biscay, this is the way that-- I'm sorry,
8 because he acted this way in the past, he's acting this
9 way with Ms. Biscay as well.

10 MR. SHERIDAN: I didn't formulate it
11 as you do, Judge, that it's character evidence, but on
12 that formulation I would agree with you that his
13 character is in play, that who he was in 2014 and got
14 burned, he doesn't want to get burned again, so he's
15 telling people to destroy e-mails.

16 When one of his subordinates dares to confront him
17 on the same problem, he retaliates viciously.

18 THE COURT: I'm sorry, did Detective
19 Santhuff confront him about the e-mails--

20 MR. SHERIDAN: He confronted him about
21 the behavior with Biscay, and that's contained in there.
22 I think we've outlined it in the brief, is he's talking
23 about dating Biscay.

24 He's talking about going out with Biscay, so-- I
25 mean, he says in his deposition he admits to all of this.

1 It connects the dots, Judge.

2 If you don't let us put this in, the jury gets to
3 argue in closing, "Well, he had no motive to destroy the
4 e-mails, so don't believe all those witnesses because he
5 had no motive."

6 This is the motive, right?

7 I mean, how many times do we see that in a case
8 where there's somebody actually going out there and
9 getting burned by allowing a Public Records Act
10 disclosure?

11 I mean, that's the connection.

12 THE COURT: All right. Mr. Marlow,
13 what's your response to the connection that because he
14 had been burned in 2013-- 2013?

15 When was this public disclosure request?

16 MR. SHERIDAN: The Public Records Act
17 request, they elicited this, I believe, early 2014.

18 THE COURT: No, no, no.

19 These-- the one-- Exhibit No. 19, when is that
20 request?

21 MR. SHERIDAN: I think-- I don't have
22 the date of the request, but I have-- if you look at the
23 e-mails on 19, they actually talk about they're being
24 assembled in early 2014, so I'm going to guess that the
25 PRA request was either late 2013 or early 2014.

1 THE COURT: So the fact that-- let me
2 ask you:

3 If the defense is or if Lieutenant Nobach has said
4 "I had no reason to ask for e-mails to be deleted," then
5 wouldn't this be admissible?

6 MR. MARLOW: That's not what
7 Lieutenant Nobach, I don't believe, will be testifying
8 to.

9 I think-- I mean, by way of foreshadowing,
10 Lieutenant Nobach will be testifying that he was not
11 advising people to delete any particular e-mail because
12 of a public records request but rather to clean their
13 e-mail out because it was backlogged and they were not
14 receiving new e-mails, so he's instructing them how to
15 clean the e-mails out.

16 Is that correct, Lieutenant?

17 LIEUTENANT NOBACH: That is correct.

18 MR. MARLOW: So essentially, Your
19 Honor, this is simply another attempt to get character
20 evidence in and to malign Lieutenant Nobach's character
21 again.

22 With regard to the public records request, whether
23 it was made in response and things like that, we have
24 offered a stipulation to stipulate to that very fact so
25 we wouldn't have to have the witness come in via Zoom,

1 and to the admissibility of 215, which is the state
2 patrol's response so that request.

3 THE COURT: Well, the issue, as I
4 understand it, is that Mr. Sheridan is anticipating that
5 your client, the defense, will say he had no reason to
6 delete these e-mails because-- "I mean, what would be the
7 incentive."

8 They are entitled to say, "Well, the reason why he
9 deleted the e-mails and the reason why this happened is
10 because he had been embarrassed in the past."

11 I mean, that's their argument.

12 MR. MARLOW: If we say that, if
13 Lieutenant Nobach says that.

14 What I'm telling you, by way of offer of proof, and
15 Lieutenant Nobach has confirmed, that's not what we're
16 going to be saying.

17 He's going to be saying the reason this e-mail
18 deletion issue-- they refer to it as the "e-mail deletion
19 in response to a public records request," which we deny,
20 was cleaning out e-mails so they could receive additional
21 e-mails.

22 They were, at that point in time, getting a lot of
23 e-mails with large attachments because of the video files
24 and things, and it was clogging their e-mail system.

25 They couldn't receive new e-mails during a period of

1 time where things were difficult.

2 They cleaned the e-mails out for that reason, so
3 that's what they're going to say.

4 If we get up there and Lieutenant Nobach says
5 something different than that, then perhaps this witness
6 might have some relevance in that aspect, but until that
7 happens, this witness does not have any relevancy and
8 isn't admissible under 404(b).

9 MR. SHERIDAN: He already said it. He
10 said it in 2017 when he was interviewed by the person who
11 was Randy Drake's brother who was doing the interview,
12 and he said to him at that time, "I had no motive," so
13 they didn't know in 2017-- when they did the interview,
14 they didn't know what we know.

15 We didn't know that the public records request
16 burned him in-- the request before this, by this guy
17 Hendricks, burned him.

18 He already said it, and so we get to cross him on
19 that.

20 He can't--

21 THE COURT: I need to know two things:
22 When was this public disclosure request made?

23 MR. SHERIDAN: Okay. I--

24 THE COURT: And when was the incident
25 where he-- where Lieutenant Nobach told people to delete

1 e-mails?

2 It's been testified sometime in February, but I
3 don't know when.

4 MR. SHERIDAN: So the first request
5 that produced Exhibit No. 19 was either the very end of
6 2013 or the very beginning of 2014, because if you look
7 at Exhibit No. 19, it has him forwarding the embarrassing
8 e-mails to Brenda, because Brenda is producing them,
9 right?

10 That's what's happening.

11 He knows it's going to be produced, but he doesn't
12 know it's going to go on the web.

13 The--

14 THE COURT: Where do you get that?

15 I don't see--

16 MR. SHERIDAN: Let me pull up 19.

17 THE COURT: So I see about 29,000
18 results-- (Inaudible crosstalk.)

19 March 16th, 2020--

20 MR. SHERIDAN: Yeah.

21 And it was published online, Hendricks will say, on
22 February 23rd, 2014.

23 And so the destroyed-the-e-mails thing--

24 THE COURT: When?

25 MR. SHERIDAN: --happens around May

1 Day of 2014, so that's the timeline.

2 THE COURT: So when-- I'm sorry, when
3 was this published?

4 MR. SHERIDAN: Exhibit No. 19 was
5 published online on February 23rd, 2014, and the request
6 to destroy e-mails was around May Day, right? Because
7 it's the May Day e-mails, so I'm going to guess the 3rd
8 or the 4th of May.

9 THE COURT: All right. So I am going
10 to reserve ruling on this until there is-- until
11 Lieutenant Nobach testifies, and then if he's going to
12 testify with what-- with the offer of proof, as presented
13 by Mr. Marlow, this is not admissible.

14 If there's any other testimony that would seem to
15 indicate that he had no reason to delete e-mails, then
16 this would be admissible.

17 MR. SHERIDAN: Okay. All right.

18 THE COURT: So what-- would you agree
19 to stipulate the other part of the testimony of-- is it
20 "Ericson"?

21 MR. SHERIDAN: "Hendricks."

22 THE COURT: "Hendricks," and to
23 Exhibit No. 215?

24 MR. SHERIDAN: I think, if I
25 understand you right-- I don't think I get to raise this

1 issue at all, do I.

2 THE COURT: What do you mean?

3 MR. SHERIDAN: I am thinking I
4 shouldn't be calling Hendricks until rebuttal.

5 There's no reason to call him because I'm not going
6 to get in-- I can't broach the subject matter, right?

7 THE COURT: Not on this, not on
8 Exhibit No. 19.

9 You can either call him for 215 or you can agree to
10 stipulate his testimony, and then depending on the
11 testimony of Lieutenant Nobach, then you can call him in
12 rebuttal, if it goes there.

13 MR. SHERIDAN: But just to make sure I
14 get this right, I'm not permitted to ask Hendricks if he
15 released the production that he got in early 2014 on the
16 web involving aviation?

17 THE COURT: Correct.

18 MR. SHERIDAN: Then I'm not going to
19 call him now.

20 I will wait until he testifies, because otherwise
21 the jury is going to wonder why I'm calling him at all.

22 THE COURT: Okay. So you don't want
23 to do the stipulation either, you just want to wait.

24 MR. SHERIDAN: No.

25 THE COURT: That's fine.

1 MR. SHERIDAN: Either we're in or
2 we're out.

3 I don't think halfway-- (inaudible).
4 The other exhibit doesn't tell us anything.

5 MR. MARLOW: Your honor, just so I'm
6 not later accused of sandbagging, you know, rebuttal
7 would not be your case in chief, so I'm just making sure
8 you understand that you won't have this witness or 215 or
9 the stipulation in your case in chief, just making
10 certain that everyone is understanding that.

11 MR. SHERIDAN: That's what it sounds
12 like, right?

13 THE COURT: Correct.

14 MR. SHERIDAN: That's the Court's
15 ruling.

16 MR. MARLOW: It's your decision.

17 THE COURT: Well, no. No.

18 If you want in your case in chief the stipulation up
19 to e-mail 215, that's fine.

20 MR. SHERIDAN: But 215 doesn't matter
21 if it's not connected to 19.

22 THE COURT: Okay. Well, that's your
23 choice.

24 MR. SHERIDAN: Yeah.

25 THE COURT: So you can call him on

1 rebuttal if you want.

2 MR. SHERIDAN: Okay.

3 Can I have a moment on 215?

4 THE COURT: That's fine.

5 Does that mean that we don't have a Zoom witness
6 then?

7 MR. SHERIDAN: That's what it means.

8 (Inaudible crosstalk.)

9 MR. SHERIDAN: We will take a
10 stipulation to the admission of 215.

11 THE COURT: Okay. So do you want to
12 work on that? I mean, we don't have to do that right
13 now.

14 MR. SHERIDAN: (Inaudible)-- agree to
15 the admission of 213-- 215.

16 MR. MARLOW: We'll work on it, Your
17 Honor.

18 THE COURT: All right.

19 MR. SHERIDAN: I will have my staff
20 contact Hendricks to say, "Don't come," and I guess the
21 IT guy should not come either.

22 THE COURT: Oh, so we had--

23 (Inaudible crosstalk.)

24 COURT BAILIFF: I will call off that
25 and admit three more people from the waiting room.

1 THE COURT: Any new people?

2 (Inaudible crosstalk.)

3 COURT BAILIFF: Are we ready for the
4 jury?

5 (Inaudible crosstalk.)

6 THE COURT: We are going to call--
7 you're calling Dr. Torelli?

8 MR. SHERIDAN: That's correct,

9 THE COURT: And then you are
10 re-calling your client?

11 MR. SHERIDAN: Yes.

12 Can I also point out that we thought-- you know how
13 we tried to set up that vice president at the end of the
14 day and the defense said, "We haven't talked to her"?

15 She, it turns out, is a high-level State employee.
16 She's a vice president at Evergreen, so we can't talk to
17 her, and we have-- I sent an e-mail to the other side
18 because they seem to forget that their staff was working
19 on producing her--

20 THE COURT: Who are you talking about?
21 I'm sorry.

22 MR. SHERIDAN: Say again.

23 THE COURT: Who are you talking about?
24 Which witness.

25 (Inaudible crosstalk.)

1 MR. SHERIDAN: Ms. Kaiser, she's the
2 vice president. She's the one that I'm trying to fill
3 out the bottom of the hour with at 3:00, 3:30.

4 And so she's a short witness, but it turns out that
5 she is-- that we served the subpoena, the defense
6 accepted the subpoena, and their people worked with my
7 staff on getting her produced.

8 The defense now says, "You get her," and we are,
9 under Wright versus Group Health, we are not even allowed
10 to talk to her because she's a State employee, still
11 employed.

12 Certainly we can't compel her.

13 We gave the subpoena to compel to the other side,
14 and they accepted it on her behalf.

15 MR. BIGGS: I will just ignore the
16 part again about the slight, but we accepted--

17 THE COURT: What is that.

18 MR. MARLOW: My hand. My apologies.
19 (Inaudible.)

20 MR. BIGGS: We accepted subpoenas on a
21 number of witnesses that were nonemployees, to help
22 Mr. Sheridan, and he sent a subpoena to us and a letter,
23 and the letter says, "Our office will contact you to
24 schedule your actual testimony." That is; his office
25 would make that contact and schedule it.

1 We passed that through, as we agreed to do, and then
2 if they haven't contacted the witnesses, we are not aware
3 of that.

4 I assumed that when he's talking about certain
5 people, that he has talked to them.

6 We're doing our best to keep people lined up, but
7 it's secondary to what he's told these witnesses in his
8 letter, that they would be advised of when they were
9 needed.

10 We're trying-- if we hear back from people, we have
11 said-- someone told us that they are not available on
12 certain dates and so on. We are happy to try to
13 coordinate this, but this is the first time we're hearing
14 about that we're supposed to be handling this, because
15 his letters to all these witnesses said he, his office,
16 would coordinate that.

17 THE COURT: And she's not a WSP
18 employee?

19 MR. BIGGS: She is not.

20 THE COURT: I know we talked at the
21 beginning that you were going to work on coordinating
22 those witnesses?

23 MR. BIGGS: Correct.

24 THE COURT: So can you, obviously not
25 right now-- but we are not going to have her today.

1 Can you facilitate-- can you reach out to her and
2 coordinate the testimony?

3 MR. BIGGS: Yes, we can do that. Yes.

4 MR. SHERIDAN: Thanks, Your Honor.

5 MR. BIGGS: We'll need to know when
6 they anticipate calling her so we can tell her.

7 THE COURT: Which is not going to be
8 this afternoon now, but-- okay.

9 Which that may actually work out so we can continue
10 the Detective Santhuff in one--

11 MR. SHERIDAN: Thanks, Your Honor.

12 COURT BAILIFF: Are you ready for the
13 jury?

14 THE COURT: Yes.

15 COURT BAILIFF: All rise for the jury.

16 (Jury enters.)

17 THE COURT: Thank you. Please be
18 seated.

19 (Inaudible crosstalk.)

20 THE COURT: Everyone that is on Zoom,
21 please make sure that you're muted.

22 Thank you.

23 I also wanted to inform those people that are
24 appearing or watching the proceeding via Zoom, you are
25 expected to follow the same rules that apply in the

1 courtroom.

2 That means that you cannot record the proceeding.
3 We only have one official record, and that is the record
4 kept by our clerk.

5 Likewise, you are precluded from taking any
6 screenshots, just like you are prohibited from taking
7 photos in the courtroom.

8 **A violation of my order would be basis for being**
9 **held in contempt and sanctions.**

10 **Members of the jury, we will be taking a witness out**
11 **of order.**

12 **Mr. Sheridan, could you please call your next**
13 **witness?**

14 MR. SHERIDAN: Yes. Thanks, Your
15 Honor.

16 Your Honor, we are withdrawing Exhibit No. 101 from
17 consideration, and I will go get Dr. Torelli.

18 THE COURT: Sometimes, Members of the
19 Jury, it is hard for the parties to coordinate scheduling
20 with witnesses, so that's why we are taking a witness out
21 of order, but Detective Santhuff will retake the stand
22 and continue.

23 I didn't want you thinking that you didn't have the
24 opportunity to ask any questions if you had any.

25 (Inaudible crosstalk.)

1 /////

2 PAUL TORELLI, having been duly sworn
3 by the Honorable Mafe Rajul,
4 testified as follows:

5 /////.

6 THE COURT: All right. Please have a
7 seat, and I'm going to ask you to please remove your face
8 covering so that the jury can watch you when you testify.

9 Mr. Sheridan?

10 MR. SHERIDAN: Thanks, Your Honor.

11 DIRECT EXAMINATION

12 BY MR. SHERIDAN:

13 Q Good afternoon.

14 A **Good afternoon.**

15 Q Please state your full name for the record.

16 A **Paul Andrew Torelli.**

17 Q And, sir, can you tell us with whom you're employed?

18 A **My own firm, my own consulting firm, Quantitative Social**
19 **Science.**

20 Q All right. And can you tell us what you do for a living?

21 A **I'm an economic and statistical consultant; specifically,**
22 **I'm a forensic economist.**

23 Q All right. And could you explain to the jury, what is a
24 forensic economist?

25 A **Well, it's applying economics and also some statistics to**

1 law, to litigation and lawsuits.

2 It typically involves performing valuations,
3 calculating economic loss.

4 Q Okay. And can you tell us, are you also a labor
5 economist?

6 A Yes, that's right.

7 So I'm an economics Ph.D. That's my background.

8 When I was in school, my focus was in labor
9 economics, and then once I left school in 2005, I've been
10 working as a forensic economist and testifying expert,
11 which is what I'm doing right now.

12 Q All right. Do you have a Ph.D.?

13 A I do.

14 Q And tell us about your educational background.

15 A Sure. I will just go over my background quickly.

16 I was born and raised in Seattle.

17 I started college in 1996 at the University of
18 California at Berkeley.

19 I finished in four years on time in 2000 with a
20 bachelor's degree.

21 I double majored in economics and mathematics.

22 I finished as the top student in the economics
23 department, along with one other student, Leslie, who is
24 actually a professor of economics at Occidental College
25 in L.A. now.

1 Then after graduating from college at UW Berkeley in
2 2000, I went straight to graduate school.

3 I had a full scholarship through the National
4 Science Foundation, entering the economics Ph.D. program
5 at Harvard, so I was at Harvard from 2000 to 2005.

6 I received my master's degree in economics in 2003
7 and my Ph.D. degree in economics at Harvard in 2005.

8 Q All right. And can you tell us, what was your Ph.D.
9 thesis in?

10 A It was three papers, which is typical in the economics
11 field, and I think it was entitled, "Three essays on
12 labor economics and public policy."

13 Q All right. And tell us about your work life.

14 A So since 2005, I've been a forensic economist, primarily.
15 I also have done research.

16 I've published a couple articles with co-authors as
17 well as a book on the "Economics of Globalization." The
18 first edition came out in 2013. The second edition came
19 out in 2017.

20 It's a mini textbook you can find on Amazon.

21 I've also done a bit of teaching.

22 Q And where have you taught?

23 A Seattle U, so I've done-- I taught an intro business
24 statistics course at Albers, the Seattle U business
25 school, on three different occasions.

1 Q All right. And have you been retained by our firm to do
2 some work in this case?

3 A Yes, that's correct.

4 Q And tell us what you were asked to do.

5 A I was asked to calculate a couple things, so I submitted
6 two reports.

7 The first report, I calculated Mr. Ryan Santhuff's
8 lost earnings working as a pilot, beginning in the year
9 2032 after he put in his 25 years with the Washington
10 State Patrol, so it's beginning in 2032 and going through
11 retirement at the age of 65.

12 There's a mandatory retirement age of 65 for pilots
13 now.

14 The first report was on his lost earnings, and the
15 second report I submitted calculated his lost pension.

16 Q Okay. All right. And what documents did you review?

17 A Standard case files, so the complaint.

18 I spoke with Mr. Santhuff on the phone back in
19 February, as I was putting together my first report.

20 I did some research on my own.

21 I would just say that-- the standard case files.

22 Q All right. And is this the type of information
23 considered by forensic economists on this subject matter?

24 A Yes, that's right.

25 Q All right. And if you give opinions today, will you

1 promise to do so on a more likely than not basis with a
2 reasonable degree of economic certainty?

3 **A Yes, I will.**

4 **Q** All right. Why don't you tell us, after you were
5 retained-- oh, before I get to that, what's your hourly
6 rate?

7 **A 425.**

8 **Q** And have we worked together before?

9 **A Yes.**

10 **Q** And about how many times?

11 **A Maybe about 15 different cases over the last seven years**
12 **or so.**

13 **Q** All right. In this market, is there anyone else that you
14 know of, in this labor market, that has the degrees that
15 you have up at Harvard?

16 **A So my labor market, meaning forensic economists in**
17 **Washington state, let's say, no.**

18 **There's a few other economics Ph.D.s, but I'm the**
19 **only one in Washington, and I believe Oregon too, with an**
20 **economics Ph.D. from Harvard who works as a forensic**
21 **economist.**

22 **Q** All right. Now, tell us what you did and why.

23 **A Sure.**

24 **So let me turn to the first projection here showing**
25 **Mr. Santhuff's lost earnings in front of me, but I can**

1 tell you, it's a lost earnings calculation.

2 There's two basic ingredients to start out with, two
3 scenarios, let's say.

4 The first scenario is the hypothetical but-for
5 scenario, and by "but-for," that means except for the
6 alleged retaliation that Mr. Santhuff experienced and his
7 moving to-- out of the pilot section of the Washington
8 State Patrol-- so in the but-for scenario, none of that
9 happened, there's no conflict with his superior, and no
10 demotion, et cetera.

11 In the but-for scenario, Mr. Santhuff would continue
12 working as a pilot through putting in his 25 years with
13 the Washington State Patrol, and then, starting in the
14 year 2032, he would move to the private sector and work
15 as a pilot.

16 Q Did you make any assumptions regarding whether he would
17 be a command pilot at the Navy-- at the aviation unit?

18 A I did.

19 And that actually-- that comes into play with the
20 pension calculation specifically, but-- well, first we'll
21 go over lost earnings.

22 The but-for scenario is he would have been a command
23 pilot with the Washington State Patrol.

24 He would have gained more and more experience,
25 essentially through his 40s, and that experience would

1 have been valuable in the private sector.

2 Again, it's my understanding his intention, starting
3 in the year 32, after leaving the Washington State
4 Patrol, is he would work as a pilot in the private
5 sector, potentially for an ultra-wealthy individual or
6 for an airline, such as American Airlines or Delta, and
7 then continue working through age 65.

8 Q Okay.

9 A So that's the but-for scenario, the except-for scenario.

10 And then the other scenario is the actual scenario,
11 what his actual situation is.

12 It's my understanding that he's working as a
13 detective, a narcotics detective, I believe, with the
14 Washington State Patrol, and his earnings are
15 approximately 90,000 a year.

16 The actual scenario, I'm going to project the
17 \$90,000 a year current earnings forward under an
18 appropriate earnings growth rate.

19 It's a contrast between the but-for earnings as a
20 pilot, which are higher, and a contrast between the
21 but-for earnings and the actual earnings continuing on as
22 a detective for the Washington State Patrol.

23 Q Okay. And tell us what you did in that regard.

24 A Well, so it would probably be helpful to pull up one of
25 my lost earnings projections, just to be concrete.

1 Q Sure. Let's pull up Table 2.

2 Is that the right one?

3 A You may want to start with Table No. 3.

4 Q Okay. Table No. 3.

5 MR. SHERIDAN: Greg, go ahead.

6 THE WITNESS: Yeah, Table No. 3 is, I
7 would say, more of a preliminary table, which I can
8 explain.

9 It looks a little bit blurry, but maybe that's just
10 me.

11 MR. SHERIDAN: Can you sharpen that,
12 Greg, a little?

13 THE WITNESS: Well, I'll continue.

14 So Table No. 3, you'll notice the first couple
15 columns, "year" and "age," so the loss-- lost earnings
16 cover January 2032, meaning just after Mr. Santhuff puts
17 in 25 years, and that would have happened December 6th,
18 2031-- so I'm assuming he would have become a pilot in
19 the but-for earnings column, Column 1 there, and he would
20 continue working as a pilot through age 65, which is July
21 2046.

22 Mr. Santhuff was born in July 1981.

23 I'm applying what's essentially an average earnings
24 growth rate-- well, first let me mention, I'm ignoring
25 inflation here.

1 Q (By Mr. Sheridan) And why is that?

2 A I think these earnings figures some ways into the future
3 are difficult to properly interpret when you're including
4 inflation, so really just for ease of interpretation.

5 It really doesn't affect the results too much.

6 I'm assuming in 2032 that Mr. Santhuff would have
7 been earning \$190,000 as a pilot in the private sector,
8 and that was Mr. Santhuff's estimate of what he thinks he
9 would be able to earn.

10 Q When was that made in the process of your work?

11 A At the very beginning.

12 Q Okay.

13 A So just-- I received a bunch of case files, and it
14 included a cover letter from your law office stating that
15 Mr. Santhuff's estimate is that working as a pilot post
16 his WSP career, he would be able to earn \$190,000.

17 Q Okay. And what did you do next?

18 A I projected it forward under a two percent real earnings
19 growth rate.

20 Q And why two percent?

21 A It's an average based on any number of historical
22 statistics I've looked at.

23 I will give you an example.

24 There's a study released a few years ago by a Ph.D.
25 economist who had access to millions of Social Security

1 earnings histories of Americans, and they tracked
2 earnings growth rates from 1978 to 2011.

3 The average earnings growth rate was two percent a
4 year in real terms, so what does that mean if you're
5 including inflation?

6 Well, inflation is expected to be about two percent
7 a year going forward, and that's largely due to Federal
8 Reserve policy.

9 If you include inflation at two percent on top of
10 real earnings growth at two percent, you'd have a four
11 percent overall earnings growth rate.

12 That's another way to think of it.

13 Again, you know, my reading of the historical
14 statistics -- some of them even dating back to the 1790s
15 -- is that real earnings growth rates have averaged about
16 one and a half to two percent a year.

17 I think with this plaintiff, he is a career-oriented
18 individual, so two percent a year would be appropriate.

19 That's the basis of that parameter.

20 Q All right. And what should we look at next?

21 A Sure.

22 So Column No. 2, that's his actual earnings as a
23 detective, so there's a couple rationale for that.

24 The first is what if-- I took his current earnings
25 level of about \$90,000 a year and ran it forward for

1 about 12 years at the two percent-- again, the two
2 percent real earnings growth rate.

3 That leads to earnings in the year 2032 of \$114,142.

4 About 115,000, let's say.

5 Then the other piece of information I pulled up from
6 the Bureau of Labor Statistics, and I'll discuss that a
7 bit more in a minute, so as I often do in these-- in
8 putting together these calculations and reports, I pulled
9 up the Occupational Employment Statistics, which the
10 Bureau of Labor Statistics produce. They come out every
11 year, an updated version.

12 The nice thing about the OES, Occupational
13 Employment Statistics, is that it gives you the average
14 earnings in a given geographic location for a given
15 occupation.

16 That's why it's called "Occupational Employment
17 Statistics."

18 According to the current OES data for the Seattle,
19 Tacoma, Bellevue area, among first-line supervisors of
20 police and detectives, the average earnings are \$115,850,
21 so that's-- that explains the assumption there that Ryan
22 would start-- in the year 2032 he would be at \$115,850
23 continuing on his detective work, let's say, after
24 leaving the Washington State Patrol, potentially working
25 for law enforcement or perhaps a private agency.

1 Q Okay.

2 A And then going forward, again, under the two percent real
3 earnings growth rate.

4 Q Okay. And what did you calculate next?

5 A Column 3 is lost earnings, which is straightforward.

6 It's just Column 1 minus Column 2.

7 It's a substantial loss in each year.

8 Column 4, it says, "PDV," and that stands for
9 "present discounted value."

10 So present discounted value is a reduction for all
11 future lost earnings-- and in this table they're all
12 future lost earnings, right?

13 We are going from the year 2032 through July 2046.

14 It's reducing the lost earnings under a given
15 interest rate or discount rate.

16 When I calculate present discounted value, I turn to
17 the current rates on TIPS -- treasury, inflation,
18 protected securities -- which are an inflation hedge.

19 I consider them to be the safest, most risk-free
20 investment that a plaintiff could make, and that, I would
21 say, is the industry standard for forensic economics.

22 It's typically a risk-free interest rate that we'll
23 turn to for a discount rate.

24 This was-- when I put together my report, March 4th
25 of this year, the real interest rate amongst the TIPS

1 bonds, long-term TIPS of either 10 or 30 years, was 0.5
2 percent, half a percent.

3 If you're thinking-- if you're including inflation
4 of two percent, that would be equivalent to a 2.5 percent
5 interest rate.

6 In Column 4 I reduce the lost earnings figures to
7 present value, to present discounted value, under a real
8 interest rate of 0.5 percent.

9 Let's be concrete.

10 If you-- for the year 2032, if the plaintiff were to
11 receive \$69,842, then in 12 years time, if that money is
12 invested at a 0.5 percent interest rate, he'd have
13 74,150, which is what you see in Column 3.

14 Again, it's-- a present discounted value is a
15 reduction based on an appropriate discount rate.

16 Q Okay. And using Ryan's number of 190, what did you
17 calculate to be the lost wages as a result?

18 A The total lost earnings in this Table No. 3 come to
19 \$1,128,687 in present discounted value.

20 Q All right. Now, after you did some research on salaries
21 for pilots, did you come up with a different calculation?

22 A I did.

23 Once I dug into the case files and did some research
24 on my own-- I specifically turned to the Occupational
25 Employment Statistics from the Bureau of Labor Statistics

1 for the average pilot earnings in the local area.

2 Q And what did you learn?

3 A Well, the bottom line is that they're about \$240,000 a
4 year, specifically-- well, just one second.

5 So the occupational grouping is airline pilots,
6 co-pilots, and flight engineers. That's the most
7 appropriate grouping, and it's the largest amongst the
8 Occupational Employment Statistics, but when I was
9 putting together-- sorry, can we go to Table 2 actually?

10 Q Yes, please.

11 A So Table No. 3, that's based on Mr. Santhuff's estimate
12 of 190,000 as a pilot, but Table No. 2, thank you, is
13 based on my own research and digging into Bureau of Labor
14 Statistics data.

15 The Bureau of Labor Statistics data, specifically
16 the Occupational Employment Statistics for Seattle,
17 Tacoma, Bellevue area pilots, is that they average
18 240,000-- \$240,290 per year.

19 My assumption here, in Table No. 2, is that
20 Mr. Santhuff, just after leaving the Washington State
21 Patrol in the but-for scenario, would have been able to
22 make the average for pilots in the greater Seattle area.

23 I will mention, the numbers don't differ very much
24 for Washington state.

25 The corresponding number for pilots in Washington

1 state is about-- is 234,000, so it's in line.

2 Typically Seattle area figures are a little bit
3 higher than state-wide figures.

4 That's the explanation for the but-for earnings in
5 the year 2032.

6 Then going forward, again, I applied the two percent
7 real earnings growth rate through a retirement at age 65,
8 so that's Column 1.

9 Column 2 is exactly the same as in the previous
10 table.

11 He would be at about 115,000, 116,000, just
12 continuing on his career working as a detective.

13 Q Okay. And please continue.

14 A Sure.

15 So Column 3 is the lost earnings.

16 Again, it's Column 1 minus Column 2.

17 The loss is greater in this table, given the higher
18 level of but-for earnings in 2032, and then just like in
19 the previous table, Column 4 shows the present discounted
20 value of the lost earnings under the 0.5 percent real
21 discount rate, and so the lost earnings in Table No. 2
22 here come to \$1,894,185 in present discounted value.

23 Q Okay. And those are lost earnings had he not been-- had
24 he not moved out of aviation?

25 A Yes.

1 Q Okay. All right. Did you also do a calculation
2 regarding lost retirement benefits?

3 A I did, and it's specifically his lost pension income post
4 retirement, so after age 65 and going through his life
5 expectancy.

6 His life expectancy is to age 78.4, which would be
7 December 2059, and this is a pension-- lost pension
8 calculation under a defined benefit pension system.

9 That pension system is the Washington State Patrol
10 retirement system, Plan 2.

11 Q Would it help to put up Table No. 4 at this time?

12 A I think it would, yes.

13 So I'll just continue on.

14 Q Please.

15 A It's called a defined benefit pension because the payout
16 is well defined according to a formula, and it's a rather
17 simple formula.

18 In this system, after putting in your 25 years of
19 service with the Washington State Patrol, you receive a
20 pension benefit of 50 percent of your average final
21 salary, and your average final salary, just by
22 definition, is your average earnings at the end of your
23 career, the last five years.

24 Okay. So the basis here is a comparison between
25 Ryan continuing on, going from 90,000 a year with a two

1 percent growth rate, and then getting up to about
2 115,000, let's say.

3 Now, the contrast is I'm assuming in the but-for
4 scenario Ryan would have gotten a 15 percent pilot
5 incentive pay, so his earnings in his Washington State
6 Patrol career would have been higher by 15 percent
7 working as a pilot.

8 That's the basis of it.

9 It's a rather modest contrast or earnings
10 difference.

11 In the but-for scenario, his average final
12 compensation or average final salary, sorry, towards the
13 end of his career, would have been 123,741, so half of
14 that comes to \$61,870, which is what you see at the
15 beginning of Column 1 there.

16 Now, you'll notice that the number is the same, and
17 that's because I'm ignoring inflation.

18 Under this pension system the recipient receives
19 cost-of-living adjustments, so essentially if inflation
20 is 1.5 percent, then your pension income gets bumped up
21 by 1.5 or two percent, let's say.

22 Again, I'm ignoring inflation, so I'm just keeping
23 it constant in each and every year through the end of his
24 life expectancy.

25 Column 2 is the actual pension, and that is based on

1 50 percent of his average final salary, assuming he
2 doesn't get that 15 percent pilot incentive bonus, so
3 that's why 50 percent of that 15 percent, when you're
4 107,000 or so, is about 7,000 or 8,000-- \$8,000 a year,
5 that's the loss there in Column 3, but just to explain
6 the actual pension amount, the actual scenario, when he's
7 not a pilot, his average final salary would be 107,601,
8 and half of that is 53,800.

9 Column 3 is the lost pension income in each year of
10 8,070.

11 Again, Column 4 is the present discounted value
12 reduction under a real discount rate of 0.5 percent.

13 MR. SHERIDAN: Greg, will you go
14 towards the bottom of that? Thanks.

15 Q (By Mr. Sheridan) All right. And what is your
16 calculation that that leads to?

17 A Well, the lost pension income post retirement through
18 life expectancy comes to \$199,137 in present discounted
19 value, but there's one last step to do with this
20 calculation, which is apply an offset, a reduction again.

21 The idea is with that extra 15 percent he would have
22 earned, he would have actually contributed some of it
23 into the pension system.

24 Now, individuals in this pension system contribute
25 8.45 percent of their earnings into it.

1 That's what partially funds it, of course.

2 What I did is I calculated the extra earnings he
3 would have had based on the 15 percent bonus incentive
4 pay, and then I took 8.45 percent of that.

5 To be precise, his additional earnings over the 2017
6 through 2031 period would have been about 215,000, so
7 8.45 percent of that is \$18,160.

8 That's the own-contributions offset.

9 It's money that he would have had to contribute in
10 the but-for scenario, but now he doesn't have to.

11 The lost pension income minus the uncontributions
12 offset gives you the total loss pension net of own
13 contributions, the bottom line pension loss, and that is
14 \$180,976 in present discounted value.

15 Q All right. Anything else to say?

16 A Not at this time.

17 MR. SHERIDAN: Okay. No further
18 questions. Thank you.

19 THE COURT: Any cross?

20 MR. MARLOW: Yes. Thank you, Your
21 Honor.

22 CROSS-EXAMINATION

23 BY MR. MARLOW:

24 Q Good afternoon, Doctor.

25 How are you today?

1 **A Good.**

2 **How are you?**

3 Q I'm doing well.

4 My name the Scott Marlow. I'm one of the attorneys
5 representing the defendant in this matter.

6 Pleasure to meet you.

7 **A You too.**

8 Q I am going to speak a little loud. I am not meaning to
9 yell at you, but I need to make sure the jurors in the
10 back can actually hear me, so please take no offense.

11 I have a few questions for you.

12 You indicated that you formed your own company, and
13 your company is focused on trial testimony or preparing
14 for trial testimony; is that correct?

15 Is that fair to say?

16 **A No.**

17 Q You do analysis for legal cases?

18 **A That's right, that's primarily what my consulting firm**
19 **does.**

20 Q Okay. And are you paid solely on an hourly basis, that
21 425, or do you sometimes get a percentage of the cases
22 themselves?

23 **A It's hourly.**

24 **There's no contingency fee basis.**

25 Q No contingency fees?

1 **A No.**

2 **Q Okay. And you indicated you worked with Mr. Sheridan**
3 approximately 15 or so times since the founding of your
4 company?

5 **A I would say so.**

6 **I think it dates back to 2013, so a couple times a**
7 **year he'll have a case that requires a lost earnings**
8 **and/or lost pension calculation.**

9 **Q Okay.**

10 **A And he asks me to write a report.**

11 **Q I understand.**

12 And then do you often have a chance to come in and
13 testify as well?

14 **A You know, I wouldn't say oftentimes.**

15 The vast majority, when I'm retained, I will submit
16 a report, but usually cases settle, so if the case goes
17 to trial, then yes, I will testify at trial.

18 I would estimate I work on between 50 and 100 cases
19 a year, and I will do maybe five or six trial
20 testimonies.

21 Usually under ten.

22 **Q Do you work on cases with attorneys throughout Washington**
23 state?

24 **A I do.**

25 **Q And do you go outside of Washington state?**

1 **A I do.**

2 Q Okay. Tell me about some of those that you have been on
3 outside of Washington state.

4 What state have you been hired (inaudible)--

5 **A I've been retained on Oregon cases in the past, Idaho**
6 **cases, a federal case in Colorado starting up-- the**
7 **attorneys are in Washington, DC.**

8 I testified, actually, in Washington, DC December of
9 last year in a child sex abuse case against the Mormon
10 church, and that was under West Virginia rules because
11 the plaintiff was in West Virginia, but the attorneys
12 were based in Washington, DC and Idaho.

13 I have-- most my practice is Washington state, but,
14 you know, I had a Las Vegas, Nevada case too a few years
15 ago.

16 Maybe ten percent are outside of Washington state.

17 Q But your firm is solely focused on that economic-- you
18 refer to it as "forensic economist for litigation
19 purposes"?

20 **A Not solely. That's just the majority of my work time.**

21 Q Okay. What else does your firm focus on?

22 What else does your firm do?

23 **A I've done public policy consulting in the past.**

24 Q I see.

25 **A A little bit.**

1 I may in the future.

2 It's tough to say.

3 Again, I have done some teaching in the past, but
4 I'm not doing that now.

5 Q I understand.

6 Now, the present-- "PDV" is "present daily value"?

7 A "Present discounted value."

8 Q Present discounted value, is that the same thing as
9 actual present value?

10 A I think so, or net-- there are other terminologies.

11 It's just I tend to use the one that was used in
12 school.

13 Q Okay.

14 A Economics courses.

15 Q Okay. But "present value" is a term of art in your
16 field; is that correct?

17 A Well, I've heard "present cash value," terms like that.

18 Q Okay. And in your opinion then, PDV is the same or
19 equivalent to present value?

20 A Yes.

21 Q Okay. Why don't we talk about some of the assumptions
22 you made in coming up with the numbers you have.

23 Now, you assumed that if in your but-for scenarios,
24 that if Mr. Santhuff stayed with the state patrol's
25 aviation section, he would become a command pilot; is

1 that correct?

2 **A Yes.**

3 Q Okay. And that's part of that 15 percent bump he gets
4 for a pilot?

5 **A That's correct.**

6 It's my understanding that in the Washington State
7 **Patrol aviation section, command pilot rank comes with a**
8 **15 percent specialty pay bonus.**

9 Q Okay. And that 15 percent factors into your calculations
10 for Table No. 4, the pension shortfall, as well as
11 essentially the salary that offsets, correct?

12 **A Well, it's the foundation of the pension loss calculation**
13 **in Table No. 4.**

14 **The lost earnings is different.**

15 Q Okay. But the lost earnings would be impacted by how
16 much he would be making as a command pilot, correct?

17 **A I think potentially, but I didn't-- I didn't perform lost**
18 **earnings calculations for the years prior to 2032.**

19 Q I see. Okay. That makes sense.

20 So with regard to after 2032, in your but-for
21 scenario-- I'm sorry, in your actual scenario, this is
22 the scenario where Detective Santhuff just remains a
23 detective, correct?

24 **A Yes.**

25 Q Okay. Did you ever take into consideration whether or

1 not there was any sort of promotional opportunity that he
2 might be able to take advantage of if not inside the
3 aviation section?

4 **A Well, the earnings growth rate of two percent-- real**
5 **earnings growth rate of two percent, I think it does**
6 **incorporate the occasional promotion.**

7 Q Mm-hm.

8 **A Not every year, but maybe something like once a decade,**
9 **but I did not-- I applied the two percent growth rate.**

10 I did not specifically assume he would have gotten a
11 promotion to Position X at Year Y paying Amount Z, right?

12 Q Understood, understood.

13 Are you aware of, say, how many sergeant positions
14 there inside the aviation section?

15 **A I don't know.**

16 Q Okay. So promotional-- would you think it would be fair
17 to say promotional opportunities within a very small unit
18 of, say, ten to 11 folks, would be lesser-- the
19 promotional opportunities would be lesser, than if you're
20 in a much larger group of people, say, with, you know, a
21 thousand or more people?

22 **A I think that if all is equal, I think that sounds right.**

23 Q I mean, part of your expertise is in labor economics,
24 right?

25 **A Right.**

1 Q So if you have the opportunity-- if Detective Santhuff
2 was outside of aviation, he could be potentially promoted
3 to a sergeant or promoted to a lieutenant or make captain
4 or make assistant chief.

5 He could even become chief.

6 Those opportunities probably wouldn't be afforded to
7 him within the aviation section because it's so small.

8 Do your calculations of-- take into account any of
9 those possibilities for promotion that would exist
10 outside of aviation?

11 A Not specifically.

12 Again, in the actual scenario, I have him going from
13 \$90,000 a year, currently, up to about 115,000 in the
14 year 2032, but I'm not specifically assuming one or
15 multiple promotions to, let's say, sergeant or some other
16 higher-paying positions.

17 Q Okay. So in your but-for scenario, you assume he's going
18 to progress and accelerate and become a command pilot,
19 correct?

20 A Correct.

21 Q But in your actual circumstance, you don't give him that
22 same sort of acceleration or growth of his job. He
23 doesn't get promoted to a sergeant, lieutenant, captain,
24 or anything like that?

25 A Well, no, but I'm not speculating about, say, a sergeant

1 **promotion.**

2 **Again, he's out of the pilot section now, so he's**
3 **not able to get that 15 percent incentive bonus.**

4 Q But he would only get that 15 percent incentive bonus if
5 your assumption that he would make command pilot or your
6 speculation that he would make command pilot was correct,
7 right?

8 A **I think that's right.**

9 **Again, the pension loss calculation is based on**
10 **missing out on that 15 percent pilot bonus.**

11 Q Right.

12 Now, with regard to the pension calculation, do you
13 have any idea what the potential provisions would be if
14 he made lieutenant rank or above?

15 A **Well, it's the formula that you would apply, right?**

16 Q Does that formula apply to lieutenant rank or above,
17 command rank or above?

18 A **I don't know if it's different for that group.**

19 Q Your calculations wouldn't take that into account, right?

20 A **Well, I utilized the standard formula.**

21 Q With regard to--

22 MR. MARLOW: Can you put up Table

23 No. 2, please?

24 (Inaudible crosstalk.)

25 Q (By Mr. Marlow) We are going to work through our

1 technical difficulties and have one of your tables up
2 here shortly?

3 **A Great.**

4 Q So Table No. 2 is-- I'm sorry, I'm actually on Table
5 No. 3. My apologies.

6 We'll get to Table No. 2 in a moment.

7 Table No. 3 is lost earnings when he starts off as a
8 pilot at \$190,000, correct?

9 **A Correct.**

10 Q And that's at age 51 after he retires from state patrol?

11 **A Right, starting in 2032 just after his retirement from**
12 **the Washington State Patrol.**

13 Q Okay. And that \$190,000 figure, Mr. Santhuff told you
14 that or Detective Santhuff told you that?

15 **A Right.**

16 **That's based on his opinion back as of January,**
17 **February of this year.**

18 Q Okay. And do you have any idea what went into his
19 calculations of "I could make \$190,000"?

20 Do you have any idea what his basis for that was?

21 **A I think it's based on, you know, people that he knows or**
22 **he's heard about, things like that, but I shouldn't say**
23 **more than that.**

24 **He could explain it himself.**

25 Q Sure.

1 You have no idea whether those assumptions or people
2 he knows are, frankly, and I mean no offense, but better
3 pilots than him?

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

5 Q Okay. Do you have-- did you know that prior to leaving
6 aviation, Trooper Santhuff-- at that point in time
7 Trooper Santhuff still had IFR qualifications, even on a
8 Cessna 182?

9 **A I'm sorry, what qualifications?**

10 Q IFR.

11 **A IFR, okay.**

12 Q Do you know what I mean by that?

13 **A I don't.**

14 Q Instrument ratings, flying a plane just by instruments.
15 Were you aware of that?

16 **A I was not.**

17 Q Do you think that someone that-- especially in the
18 Pacific Northwest where our weather is bad and sometimes
19 you have to fly in instruments, that someone that was not
20 even qualified to fly a Cessna 182 on instruments could
21 make \$190,000 a year?

22 MR. SHERIDAN: That's not the
23 testimony.

24 THE COURT: Overruled.

25 MR. SHERIDAN: Thank you, Your Honor.

1 **THE WITNESS:** Well, I'm a little bit
2 confused by the hypothetical because, again, the idea was
3 in this but-for scenario, is that Mr. Santhuff would have
4 continued working as a pilot, you know, in 2017, 2018,
5 2019, 2020, and then on to the next decade, and he would
6 have accumulated more flight time and just more training
7 essentially.

8 Q (By Mr. Marlow) Understood.

9 Do you know how long Trooper Santhuff was actually
10 in aviation prior to his leaving?

11 A Did he begin in 2012?

12 It's in the complaint. I forget the exact--

13 Q He was there for a couple years, maybe more?

14 A I think so.

15 Q Okay. During that period of time, if he was unable to
16 remove the IFR restrictions on a Cessna 182, what would
17 make you think he would progress to where-- continue to
18 progress to be a command pilot?

19 A Well, this is getting outside my expertise level.

20 Q Understood.

21 A That's kind of granular.

22 Q I am trying to get at your assumption that he would make
23 command pilot, and the value of that assumption is what
24 I'm trying to get at.

25 A Okay.

1 Q If he's not a good pilot, if he's an okay pilot, if he
2 plateaued at a certain level, could that impact his
3 potential to make a command pilot?

4 A I suppose it could.

5 Q Okay. And if he doesn't make command pilot, would your
6 calculations of that extra 15 percent bump, both in
7 pension as well as the financial offset, be flawed?

8 A Well, the pension calculation, as I explained, it's
9 literally derived from that 15 percent incentive bonus.

10 Q For being a command pilot?

11 A Sorry?

12 Q For being a command pilot?

13 A That's right, yeah.

14 The lost earnings in Table No. 2 and 3 is a little
15 bit different.

16 I'm just assuming he would have continued on
17 accumulating experience as a pilot for Washington State
18 Patrol and then would have been able to transition to a
19 private sector job.

20 I'm not making specific assumptions whether he would
21 have had the command pilot bonus though.

22 Q Okay. But you're assuming that he would have been able
23 to transfer out and get a job, in his ideal of 190,000,
24 in your ideal in Table No. 2, if I remember correctly, of
25 240,000.

1 He would have been able to walk out of the state
2 patrol and get that job, essentially the next day, for
3 purposes of this calculation?

4 **A I think there is a little bit of additional training,**
5 **but-- less than a few months, let's say.**

6 Q Okay.

7 **A But yes, that's right.**

8 Q So when you look at the OES, the-- can you tell me that
9 term--

10 **A "Occupational Employment Statistics."**

11 Q Thank you.

12 "Occupational Employment Statistics"?

13 **A "Statistics," yes.**

14 Q When you look at that for the pilots, co-pilots, and
15 flight engineers in this area, what sort of planes are
16 they flying?

17 **A I think there is a variety.**

18 Q Okay.

19 **A I don't know the full universe though that that would**
20 **comprise of.**

21 **The sample would cover all individuals in those**
22 **categories.**

23 Q Okay. In your training and experience as an economist,
24 something if it's more rare has greater value, right?

25 **A I think that's right.**

1 Q Okay. So if you have the skill set that would allow you
2 to fly a 747 for Delta or United, you're going to get
3 paid more than someone who can't fly a Cessna 182 in bad
4 weather?

5 A So you're getting at the skill level of the pilot as well
6 as whether they can pilot big commercial airplanes.

7 Q Correct.

8 A Right.

9 Well, you know, I'm an economist, so I didn't weigh
10 into the specifics there, but I assume that Mr. Santhuff
11 would have continued on in the pilot section and improved
12 his skills and received more training, et cetera, so that
13 he would have been able to pilot the larger twin-engine
14 aircrafts.

15 Q But that, again, is an assumption on your part that
16 despite reality that he seemed to plateau or didn't
17 progress that much while in aviation for the period of
18 time he was there, you are assuming that that would have
19 changed and now he would have progressed had he stayed,
20 correct?

21 A In my calculations, yes, and I'm not weighting into that
22 argument, whether he plateaued or not.

23 Q Okay. I understand that.

24 But your calculations assume that he did not or that
25 he wouldn't have?

1 He would have stayed and flourished?

2 **A I think that's correct, yeah.**

3 (Inaudible crosstalk.)

4 **Q** (By Mr. Marlow) So with regard to actual earnings as a
5 detective, this is Table No. 3, so the Column 2 here is
6 how much he's actually making as a detective, and this is
7 progressed forward from-- at the two percent?

8 **A Right, 90,000 a year now at the two percent real earnings**
9 **growth rate, which is a statistical average, I would say,**
10 **but that's what the Column 2 is.**

11 **Q** Right.

12 So now if he had promoted and perhaps become a
13 sergeant or become a lieutenant, that would have
14 impacted-- assuming they get paid more, that would have
15 impacted the Column 2, correct?

16 **A It could.**

17 I mean, I'm not-- again, I'm utilizing an average--
18 a statistical average earnings growth rate.

19 I'm not specifically assuming he would have made a
20 high-ranking sergeant position in the year 2040, which
21 pays, I don't know, 150,000 or whatever it would be.

22 **Q** Right.

23 **A But, again, this is standard methodology by a forensic**
24 **economist.**

25 **Q** I understand.

1 I'm just trying to point out that it's based on an
2 assumption, and your assumptions-- in your field you have
3 to make a good deal of assumptions, correct?

4 **A I think that's right.**

5 Q Okay. And I guess what I'm trying to get at is:

6 Would it be fair to say that some of your
7 assumptions that you make with regard to increasing the
8 amount of money he would make as a pilot and things,
9 those assumptions increase the value, and the assumptions
10 you are making with how much he would make as a detective
11 seem to decrease that value.

12 Does that seem like-- am I understanding that
13 correctly?

14 **A Just mathematically, the higher the but-for earnings in**
15 **Column 1, all else being actual, the higher the loss**
16 **figure is.**

17 In Column 2, the higher the actual earnings as a
18 detective or sergeant or some other position, the lower
19 the lost earnings would be.

20 Q Exactly.

21 I guess what I'm getting at is you are assuming he
22 makes command pilot, and that adds to his value for
23 purposes of Table No. 4, the pension and things.

24 You are assuming he's going to start off at 190,000
25 or, in your calculation, 240,000.

1 You are assuming he has the average skill set of
2 pilots within this OES for this area, correct?

3 **A Yes.**

4 Q All those assumptions push those numbers up in Column 1;
5 whereas your assumptions with regard to Column 2 keep
6 those numbers low.

7 You assume he doesn't get promoted, you assume just
8 his salary goes on at two percent per year.

9 If those assumptions were flipped on their head,
10 that impacts Column 3, correct, lost earnings?

11 **A Well, if you change any of the numbers in Columns 1 or 2,**
12 **that's going to affect the lost earnings in Column 3,**
13 **just mathematically.**

14 Q And then Column 4 as well?

15 **A That's correct.**

16 Q And the bottom line?

17 **A That's right.**

18 Q Okay. So if, say, he had been promoted to sergeant, and
19 we've already discussed there's much more opportunities
20 outside aviation than within aviation, and that is an
21 assumption I asked you to make, and you indicated based
22 on your labor background that would generally be a good
23 assumption--

24 **A That's fine.**

25 Q If he promotes to sergeant or he promotes to lieutenant,

1 and his salary is dramatically different, that would have
2 a dramatic impact on the bottom line, correct?

3 **A Yes, so you could make adjustments to, let's say, Column**
4 **2, and that would affect the bottom line, but, again, I**
5 **made assumptions that I thought were reasonable based on**
6 **the case files and then my research.**

7 **Q I understand.**

8 (Inaudible crosstalk.)

9 **Q (By Mr. Marlow) I want to look at Table No. 2, which is**
10 **the table you did a little research-- you came up with a**
11 **new starting salary, that being 240,000-- 240,290-- wow,**
12 **that's hard to say.**

13 So, this is based upon the average of the OES in
14 this-- is it the Seattle metropolitan area?

15 **A Seattle, Tacoma, Bellevue area.**

16 **Q Seattle, Tacoma, Bellevue area.**

17 So would you say that out of Seatac-- Seatac is in
18 that geographic area, so that the OES for pilots,
19 co-pilots, and flight engineers is impacted by the fact
20 that we have aviation, large aviation hubs, like Delta,
21 United, American, at Seatac?

22 **A Well, I would think so, but I think it's a matter of**
23 **supply and demand, so is there sufficient supply of**
24 **pilots to take care of the demand from all these airlines**
25 **and Seatac, et cetera.**

1 **I think there's a-- I think-- I don't "think."**

2 **There is a pilot shortage these days, and I think that is**
3 **contributing to, you know, high earnings of pilots--**

4 Q Okay.

5 A **--locally.**

6 Q And I didn't mean to cut you off, but the rarity equals
7 value, right?

8 A **Right.**

9 Q So there's a pilot shortage, as you just said, and that
10 is based on what?

11 Where did you find that?

12 A **A number of documents I came across when I was putting**
13 **together my report.**

14 **There was a good Forbes article actually, but there**
15 **were a few studies, I think, as well.**

16 Q And the Forbes article, those studies, when are those
17 from?

18 A **Sorry?**

19 Q When are those from, the Forbes article and the studies?

20 A **2018, 2019.**

21 Q Okay. Are you aware that there was a-- that the 911
22 event, September 11th event, had a rather dramatic impact
23 on the airline industry?

24 A **Yes.**

25 Q Okay. And it took a while for the airline industry to

1 recover after that; is that fair to say?

2 **A Yes.**

3 Q Okay. And there was a-- not a glut of pilots there for a
4 period of time after 911 because people weren't flying
5 and airlines had actually had to cut back, simply for
6 having to ground their airplanes for four days?

7 **A Right.**

8 **I think temporarily that's correct.**

9 Q Correct.

10 Now, do you have any studies post COVID-19?

11 **A You know, that's a good question, and I think it's just**
12 **too early, but the pandemic has hurt the industry.**

13 **There's less air travel, but I think that's--**
14 **drawing a parallel from 911, I think that's going to be**
15 **temporary though.**

16 Q Okay. Are you aware that the federal government, both
17 the CARES Act as well as the federal subsidies that the
18 federal government is paying to airlines currently, their
19 requirement is that those airlines do not fire or layoff
20 people?

21 Were you aware of that?

22 **A That sounds correct, I think so.**

23 Q Okay. Were you aware that airlines, such as United, are
24 indicating that--

25 MR. SHERIDAN: Your Honor, I am going

1 to object based on a motion in limine that we filed.

2 MR. MARLOW: I apologize. I don't
3 understand the objection.

4 MR. SHERIDAN: Not in evidence and
5 being referred to.

6 THE COURT: All right. Maybe right
7 now would be a good time for our afternoon break.

8 It's ten to 3, quarter to 3, so let's take our
9 afternoon break.

10 COURT BAILIFF: All rise.

11 (Jury exits.)

12 THE COURT: Thank you. Please be
13 seated.

14 What motion in limine are you referring to?

15 MR. SHERIDAN: The one--

16 THE COURT: Hold on. Sorry. I
17 thought the door was already closed.

18 MR. SHERIDAN: The one that we did on
19 evidentiary issues.

20 The second part of the motion pertained to the "Are
21 you aware" or "Did you know," that type of
22 cross-examination, so they're allowed to cross-examine on
23 issues like-- on things like publish it-- publications
24 and stuff, but when they start throwing out lesser
25 known-- I didn't object about the 911 stuff because--

1 THE COURT: What is your objection
2 though?

3 Is it form of the question?

4 MR. SHERIDAN: Yes. It's a 611
5 objection.

6 When a lawyer starts a sentence with "Did you know"
7 or "Have you heard," if it's not something already in
8 evidence, it's objectionable under 611.

9 When you are crossing an expert, you can cross an
10 expert on (inaudible) material, but we don't know if
11 there's any validity of the things he said once they are
12 not something that is obvious to all of us. That would
13 take (inaudible) judicial notice of, and it's improper.

14 THE COURT: All right. You have made
15 your objection. I am overruling the objection, and we'll
16 be back in 15 minutes.

17 (Recess 2:47 to 3:02 p.m.)

18 THE COURT: Thank you. Please be
19 seated.

20 (Inaudible crosstalk.)

21 (Jury enters.)

22 THE COURT: Thank you. Please be
23 seated.

24 We stand for you out of respect.

25 All right. That last objection is overruled.

1 MR. MARLOW: Thank you, Your Honor.

2 Q (By Mr. Marlow) Doctor, so we were speaking about the
3 impact that COVID-19 has had on the airline industries.

4 You indicated to me that you were aware,
5 essentially, that layoffs and cuts at airlines had been
6 placed on hold by the CARES Act and federal funding; is
7 that correct?

8 A Yes.

9 Q Okay. Now, that CARES Act funding and the federal
10 funding, et cetera, expires at the end of this month.

11 Is that your understanding?

12 A I think that's right.

13 Q Okay. You need to make sure to speak into the microphone
14 so everyone can hear you.

15 So would it surprise you to know that-- or had you
16 heard that airlines are announcing substantial personnel
17 cuts if the funding from the federal government or the
18 bailout money from the federal government isn't
19 continued?

20 A It would not surprise me.

21 Q So figures that, you know, have been out there in the
22 news, United is speaking of 30 percent, American, I
23 think, was actually higher than that, some of the local
24 airlines are indicating-- local regional airlines are
25 indicating that they will simply go bankrupt.

1 Does that seem logical to you, given your training
2 and experience?

3 **A I think in general it sounds logical.**

4 **Q** Okay. And that's because people aren't traveling by air
5 anymore?

6 **A Right.**

7 **I think that's the underlying issue.**

8 **Q** Now, do you have any way of knowing what the long-term
9 impact of COVID-19 would be on the airline industry?

10 I'll put it this way:

11 What if businesses get used to meeting via Zoom and,
12 you know, executives are no longer flying all over the
13 place to business meetings?

14 **A I understand your point, and I think a similar point**
15 **could be raised with respect to the commercial real**
16 **estate market, just more working at home, let's say.**

17 **Q** Yeah.

18 **A** But, again, I think the downturn and the sharp downturn
19 in air travel is ultimately going to be temporary.

20 I think the long-term trends in air travel, which
21 are essentially that there's more and more-- the volume
22 of air travel goes up every decade, let's say.

23 **Q** Right.

24 **A I think those are driven by economic factors and**
25 **increasing globalization, and I-- my personal belief is**

1 that air travel-- that the volume of air travel will
2 recover, gosh, within five or ten years, let's say.

3 Q Okay. I mean, in your research for this case, did you
4 come across the notion that airlines expected a 50
5 percent decade-over-decade increase in passengers?

6 Does that sound familiar to you?

7 A Well, is this from a pre-pandemic--

8 Q This is actually pre-911.

9 A Okay.

10 Q Does that seem reasonable to you?

11 A Well, I'd have to see it, but I think this general trend
12 would go back well before 911, and by "trend," I mean
13 increasing air travel within the country but also
14 internationally.

15 Q What exactly is a trend, Doctor?

16 A A pattern.

17 We're talking about increases-- you know,
18 year-to-year increases or could be decreases too.

19 Q Would you agree with me that a trend is, you know, an
20 observed phenomenon over time, given other things staying
21 the same, would that (inaudible) be a trend?

22 A That's a little bit different.

23 Typically if you're looking at some (inaudible)
24 series of data, such as the volume of air travel, it's
25 not an all-else-equal sort of analysis.

1 **You can perform statistical modelling that would try**
2 **to do that for you, but--**

3 Q One of your assumptions, you indicated, was it was your
4 personal opinion that you think the airlines are going to
5 bounce back.

6 One of your assumptions is that they do, right?

7 I should say "one of your assumptions in your
8 calculations."

9 A Well, "bounce back," what does that mean?

10 Is it going to be 100 percent of the pre-pandemic
11 levels or 90 percent?

12 It's tough to say, but I don't think the currently
13 depressed volume of air travel is going to persist for
14 the rest of the decade.

15 Q But when it does go down, as it's going down now-- and
16 potentially, at the end of the month, if the airlines
17 don't get additional bailout money and start laying off,
18 what impact would that have?

19 Let's say 30 percent-- United lays off 30 percent of
20 their pilots. What impact would that have on the supply
21 of pilots?

22 A Well, I don't-- the supply probably wouldn't change that
23 much.

24 It would be a diminishment of demand.

25 Q Diminishment of demand, my apologies.

1 I was not getting my economics correct, so thank you
2 for the correction, Doctor.

3 The demand would what?

4 **A Well, the demand for pilots and others on the plane,**
5 **employees, would decline.**

6 Q Would decline?

7 And if the demand for pilots and other employees on
8 the plane declines, then the salary paid to retain those
9 pilots would also decline.

10 Is that fair to say?

11 **A Well, it would put downward pressure on earnings of**
12 **pilots and others, but, again, I think this is a**
13 **temporary issue.**

14 Q Okay. Would it also put additional pilots that had been
15 rendered unemployed-- they would now be in the employment
16 market, correct?

17 **A Sorry, do you mean the laid-off pilots would be**
18 **unemployed--**

19 Q The laid-off pilots would be in the employment market,
20 correct?

21 **A Sorry?**

22 Q The laid-off pilots would then be in the employment
23 market.

24 You would no longer have a job as a pilot, so you
25 would be looking for a job as a pilot?

1 A They would be unemployed looking for work, sure, that
2 happens.

3 Q And those would be people who would be competing with
4 Detective Santhuff for pilot positions, correct?

5 A Well, if it was the year 2021 and not 2032, quite
6 possibly, but, again, my lost earnings projection is at
7 least a decade into the future.

8 I think the volume of air travel will recover by
9 then.

10 Q And you base that thought on what?

11 A The reading I've done, the research I've done in this
12 case, and just, in general, following--

13 Q You told us earlier that research and reading you'd done
14 was all pre-COVID-19 articles, correct?

15 A Well, when I was putting together my report, which is
16 dated March 4 of this year, but I have been following the
17 news a bit as well since then.

18 Q Okay. That's just your personal opinion that you think
19 things will bounce back?

20 A I do, and remember, I wrote a book on the economics of
21 globalization too.

22 Q Right. And so that makes you--

23 A I think I spent a lot of time thinking about these
24 issues.

25 You know, the pandemic is putting a hamper on

1 globalization certainly, but I don't think that's
2 necessarily going to continue forever.

3 Q Okay. As far as the other impacts of the pandemic, you
4 know, we selected this jury via Zoom.

5 I personally had never done that before. It worked
6 out pretty well.

7 That could be the new way to select juries.

8 I wouldn't need to travel to the courthouse.

9 If companies are getting used to Zoom meetings and
10 things, would that potentially decrease business travel?

11 A **It could. It could.**

12 Q How much do you think airlines-- if you know, airlines
13 make of their bottom line revenue on business travel?

14 A **I don't know.**

15 Q Okay. Would you think it would be more than vacation
16 travel, which is planned well ahead of time versus
17 last-minute business travel, which would be more
18 expensive? A plane ticket you buy six months in advance
19 or one you buy the day you're leaving?

20 A **I think business travel has better margins for the**
21 **airlines, in general.**

22 Q "Better margins" meaning they can charge more?

23 A **Yeah, more profitable.**

24 Q Are you aware of within the airline industry, how one
25 becomes a pilot, co-pilot, or flight engineer, what the

1 path is to get there?

2 **A Well, I included a bit of information on my report**
3 **concerning the 1,500-hour rule for pilots, things like**
4 **that, but the specifics, I'm not the one to ask.**

5 **Q Okay. Do you think that you-- do you think that when**
6 **Trooper Santhuff-- Detective Santhuff leaves in 2032 to**
7 **become a pilot, that he goes and becomes an American**
8 **Airlines 747 pilot?**

9 **A I think he'd first have to-- likely first have to start**
10 **as a co-pilot, not the captain in command, per se, but I**
11 **think he would be in a favorable position, at the age of**
12 **50, 51, given his experience, to move up the ranks**
13 **quickly, relatively quickly.**

14 **Q Okay. And, again, you are assuming that that experience**
15 **is positive?**

16 **A Right. Yes.**

17 **Q Okay. And you're not taking into account whether or not**
18 **his experience as a pilot, whether he plateaued or**
19 **whether he wasn't as good as other pilots?**

20 **A Yeah, again, I'm not factoring that in specifically here.**

21 **The but-for scenario is based on the assumption that**
22 **Mr. Santhuff would have continued as a pilot with the**
23 **Washington State Patrol for more than a decade.**

24 **Q Okay. Did you do any research to determine whether or**
25 **not other state patrol pilots left and walked into**

1 \$240,000-a-year jobs?

2 **A** You know, that's a good question.

3 I wish I could obtain information or a data set on
4 that issue.

5 One, the Washington State Patrol pilot group, it's
6 not that large. It's less than ten people, I believe,
7 and then beyond that, it's not feasible for me to go and
8 collect the data or call people, for a number of reasons.

9 **Q** Okay. So you don't have any access to that data?

10 **A** No.

11 **Q** And Plaintiff wasn't able to help you with access to that
12 data or anything like that?

13 **A** No.

14 The idea of having the plaintiff go and collect that
15 data, it sounds a little iffy to me.

16 **Q** Okay.

17 **A** Instead, I think he's testified on this issue.

18 **Q** Okay. And do you have any idea what the FAA requirements
19 would be to-- the difference between FAA requirements for
20 flying a Cessna 182 and flying something like a 747 would
21 be?

22 **A** Again, the specifics, I'm not the one to ask or answer.

23 **Q** With regard to Table No. 2, which we have up there,
24 essentially this applies for Table No. 2 or Table No. 3.

25 The only difference here is essentially our

1 start-off number, right, the starting earnings number?

2 **A That's right, in the but-for scenario, right.**

3 Q In the but-for scenario, right.

4 Thank you for the correction.

5 The other numbers, Column 2 is the same, and then 3
6 and 4 is influenced by Column 1, correct?

7 **A That's right.**

8 Q Okay. So one starts at 190,000, one starts at \$240,290.

9 Would you agree then that Column 2, if it went up,
10 say, promotion to sergeant or something along those
11 lines, a lieutenant or captain, that would have an impact
12 on Column 3, which then would have an impact on Column 4,
13 correct?

14 **A Well, that's exactly right.**

15 That's the hypothetical we were going through maybe
16 20 minutes ago, where the Column 2 number, if you
17 increase them, based on, I don't know, some promotion,
18 right, to sergeant, let's say-- if the numbers in Column
19 2 are larger, then the bottom line loss would be smaller.

20 Q I see. And so Column 1 then as well would be impacted by
21 things such as COVID-19, things such as the skill set of
22 Trooper Santhuff, as well as things that you weren't able
23 to take into account by just getting the OES for this
24 area, such as whether or not he's going to be a pilot,
25 co-pilot, or flight engineer?

1 A Well, again, I relied on the present-day average for
2 pilots in the local area based on the Bureau of Labor
3 Statistics data.

4 I didn't set out to perform a full model projecting
5 pilot earnings growth over the next 12 years or so.

6 I think there's a number of possibilities.

7 Another possibility would be the pandemic is going
8 to essentially scare young people away from being pilots,
9 I think for obvious reasons, but if air traffic does
10 recover, then what you would find is you have an even
11 worse pilot shortage in five or ten years, which of
12 course would put upward pressure on pilot earnings.

13 Q Okay. You bring up an interesting point.

14 Were you aware that after 911 Trooper Santhuff gave
15 up his dreams of flying for a period of time?

16 A I think that's what it says in the complaint, yes.

17 I think that's what happened to him after 911.

18 Q Okay. And essentially that was, from my understanding, a
19 financial decision on his part.

20 It was like, "If the airline industry is this
21 volatile, I don't want to be a part of it."

22 What's to keep him from saying that "COVID-19 is a
23 volatility which I'm not going to deal with"?

24 A So given the but-for scenario, let's say, you are saying
25 that he may have dropped out of being a pilot?

1 Q Right.

2 A You know, I don't know.

3 He would be the one to ask about that.

4 Q Okay. So if there's changes to these columns, like we've
5 discussed, and some of the assumptions that go into these
6 columns are wrong, that has a direct impact on the bottom
7 line, correct?

8 A Mathematically, yes, it does.

9 You know, I take issue with saying my assumptions
10 are wrong.

11 I think potentially you could make adjustments to
12 the assumptions or the numbers.

13 Q I apologize. I meant to say "if" your assumptions are
14 wrong.

15 If I said (Inaudible crosstalk.)

16 A It's just the terminology I think I'm a bit sensitive to.

17 Again, I tried to do my best in terms of making
18 reasonable assumptions for this case, but, yeah, as we've
19 been discussing, you could potentially make adjustments
20 in the Columns 1 and 2, if need be.

21 Q Okay. As we discussed previously, those assumptions you
22 made, while reasonable, were pre-COVID-19 as well as
23 assumptions that seem to bolster the numbers in Column 1
24 and deplete the numbers in Column 2, correct?

25 A Well, I did write my first report basically pre-COVID-19,

1 but I don't think I am cooking the books here, so to
2 speak, no.

3 Q With regard to Table No. 4, and that's the pension table,
4 that would, again, be dramatically impacted should he get
5 a raise or a promotion outside of-- in the actual
6 earnings as detective column, if he gets a raise to a
7 sergeant, lieutenant, captain, that would have a dramatic
8 impact on his final five years of salary, right?

9 A Yes.

10 Q Okay. Which would then have a dramatic impact on his
11 pension?

12 A Right.

13 So, again, the pension loss is based on a 15 percent
14 incentive bonus that he's not going to get.

15 That's the assumption.

16 Q Well, I understand it's based on that Column 1, if you
17 will, on Table 4-- the Column 1 in Table No. 4 is 15
18 percent higher essentially, right?

19 A Right.

20 Q So what I'm getting at is I understand that's 15 percent
21 higher, which 1 is based on the assumption he's going to
22 be a command pilot, which we don't know, but it's also
23 based on-- Column 2 is based on the idea that he is not
24 going to-- not Column 2, but his earnings would stay at
25 that 90,000 with a two percent increase, so if he gets a

1 promotion or something like that, that would have an
2 impact on his pension, correct?

3 **A Yes, a promotion would affect the earnings, which would**
4 **affect the pension.**

5 Q His pension ultimately is under the WSP 2 pension plan,
6 which we don't know whether applies for command rank or
7 lieutenant-- (inaudible)

8 You don know that, correct?

9 **A I am not aware of any specific differences.**

10 Q Okay.

11 **A It's a defined benefit pension where the formula to**
12 **calculate the pension income is straightforward.**

13 Q Okay. But if his final five years were as a sergeant or
14 as a lieutenant or a captain, if his final five years
15 were-- his highest five years were greater, then the 15
16 percent bump he would get from command pilot, he would
17 actually end up better off as far as pension from not
18 staying in aviation, correct?

19 **A That's a possibility, I suppose.**

20 Q It's a mathematical thought-- I mean, if he stays in
21 aviation, and he gets this bump of 15 percent because
22 he's command pilot versus he's not in aviation, so he has
23 a greater chance, as we've discussed already, a greater
24 chance for advancement, and gets a raise that's greater
25 than 15 percent, then his pension is better outside of

1 aviation, correct?

2 **A In that hypothetical, I think it sounds like it would be.**

3 MR. MARLOW: Okay. Doctor, thank you
4 very much. I have no further questions.

5 **THE WITNESS: Thank you.**

6 THE COURT: Mr. Sheridan?

7 MR. SHERIDAN: No questions, Your
8 Honor.

9 THE COURT: Members of the Jury, do
10 you have any questions for Dr. Torelli?

11 We do. If you could please pick them up, Madam
12 Bailiff.

13 (Inaudible crosstalk.)

14 THE COURT: All right. I have a few
15 questions for you.

16 I will ask all of the questions, and then I will
17 give the lawyers the opportunity to ask follow-up on all
18 of them rather than doing one at a time.

19 MR. SHERIDAN: Thank you.

20 THE COURT: All right. And if you
21 need me to repeat it, please let me know.

22 In the Column 2, actual earnings forecast, is there
23 any historical precedent that could impact earnings to be
24 lower, such as State budget cuts or pension reforms?

25 **THE WITNESS: I think in general the**

1 answer is yes.

2 So in Column 2, which is Mr. Santhuff's earnings
3 from the year 2032 to the year 2046, after he's left the
4 Washington State Patrol, you know, I had in mind that he
5 might be working in the private sector. He could be
6 working for local governments, et cetera, so there's
7 always some role for economic fluctuations or budget
8 cuts, et cetera.

9 It's just very hard to project those out
10 specifically when we're thinking 12 to 26 years into the
11 future, so that's why I tend to turn to averages, and not
12 just-- I am thinking of the earnings growth rate average
13 of about two percent of (inaudible) inflation, averages
14 that are calculated not just over five years or ten
15 years, but many decades and over many eras of American
16 history even, if that answers the question.

17 Again, it's difficult to project out how a
18 Washington State budget cut would affect a specific
19 individual's earnings in the year 2036, but, again,
20 that's why I typically rely on averages, as do other
21 forensic economists.

22 THE COURT: All right. Are the OES
23 tables an average or median?

24 THE WITNESS: They're an average.

25 Yeah, they're not the 50th percentile or the median,

1 which is, by definition, just based on one individual.

2 The OES numbers are averages, which are based on
3 data from all surveyed respondents.

4 THE COURT: And a follow-up to that:
5 Do they contain data on what percentage of the
6 population makes near that amount?

7 THE WITNESS: Sorry, on what percent
8 of the population makes almost that amount?

9 THE COURT: Do they contain data on
10 what percentage of the population makes near that amount?

11 THE WITNESS: No. That would be a
12 little bit too much to ask, I think, of these OES
13 statistics that are available online.

14 It would be interesting, perhaps helpful, to have
15 the full distribution of earnings for these local pilots,
16 let's say, but it's not easily available online.

17 THE COURT: Is the pilot starting
18 salary at age 51 based on certification for turbo
19 propeller planes or is jet engine certification required
20 as well?

21 THE WITNESS: I don't know the
22 specifics.

23 THE COURT: And last but not least,
24 why didn't you trend the pilot earnings from 2020 to
25 2031?

1 THE WITNESS: Well, you could.

2 So basically add some growth rate, right, of the
3 average pilot earnings locally.

4 Now, the way I did it, it just assumes that the
5 pilot earnings of about 240,000 today would just grow
6 along with inflation, not more, not less.

7 You know, I felt it was easy to comprehend the way I
8 did it, and it's a little bit-- it's not clear to me what
9 an appropriate growth rate would be for local pilots in
10 terms of their average earnings.

11 You saw the little bit of back and forth about how
12 the economic climate is going to affect pilot earnings.

13 You can make a case that there will be-- the pilot
14 shortage will get worse.

15 You can make a case that there isn't going to be
16 enough volume of flight to justify the amount of pilots
17 we already have.

18 Now, again, I think that the volume of flight will
19 get back to pre-COVID-19 levels in four or five years,
20 most likely, but, you know, on that front, one thing I
21 will say is another interpretation of Ryan Santhuff's
22 \$190,000 estimate would just be that it would be a bit
23 less than the average, let's say, coming in, and then
24 there would be some growth.

25 However, you know, when I thought about it, once the

1 case files came in and I looked at the Bureau of Labor
2 Statistics data, it did seem reasonable that
3 Mr. Santhuff, at that stage of his career, about the age
4 of 51, with all that experience, would be able to make
5 the average of pilots, more like 240,000.

6 I think the Table No. 2 number is preferable, the
7 one where I assume he would have been at the average of
8 about 240,000, but I didn't want to complicate things too
9 much already by making some model with growing pilot
10 earnings, if that answers the question.

11 THE COURT: Any follow-up,
12 Mr. Sheridan?

13 MR. SHERIDAN: None from Plaintiff,
14 Your Honor.

15 THE COURT: Mr. Marlow?

16 MR. MARLOW: No, Your Honor. Thank
17 you.

18 THE COURT: May this witness be
19 excused?

20 MR. SHERIDAN: Yes, Your Honor.

21 **THE WITNESS: Thank you.**

22 THE COURT: All right. Dr. Torelli,
23 you are excused.

24 Mr. Sheridan, there is an exhibit over there.

25 (Inaudible crosstalk.)

MR. SHERIDAN: Right here?

THE COURT: Yes.

MR. SHERIDAN: That's-- yes. That's
264, Your Honor.

THE COURT: Okay.

MR. SHERIDAN: It goes in the book.
I will go see if Ms. Kaiser has come.
We heard she's on her way.

THE COURT: Oh, okay.

(Inaudible crosstalk.)

/////

SANDRA KAISER, having been duly sworn
by the Honorable Mafe Rajul,
testified as follows:

/////

THE COURT: Please have a seat.

I am going to ask you to please remove your mask so
that the jury can see your face while you testify.

THE WITNESS: Okay.

THE COURT: Thank you.

DIRECT EXAMINATION

BY MR. SHERIDAN:

Q All right. Good afternoon.

A Good afternoon.

Q Please state your full name for the record.

1 **A My name is Sandra Kaiser.**

2 Q All right. And where do you currently work?

3 **A I am the vice president for college relations at the**
4 **Evergreen State College in Olympia, Washington.**

5 Q And how long have you been doing that?

6 **A I've been doing that since January 2017.**

7 Q And in 2016, where did you work?

8 **A I was working at the Department of Natural Resources in**
9 **Olympia.**

10 Q And what did you do there?

11 **A I was a communications director and a strategic advisor**
12 **to the commissioner for public lands.**

13 Q All right. Did you have occasion to arrange flights
14 during that time?

15 **A I did not arrange flights, but I often participated in**
16 **them and acted as trip director when I was there.**

17 MR. SHERIDAN: All right. And, Your
18 Honor, with your permission, I am going to try to find
19 Exhibit No. 217.

20 THE COURT: All right.

21 MR. SHERIDAN: Thank you.

22 Q (By Mr. Sheridan) I think this book has Exhibit No. 217
23 in it, and if you will go ahead and open to that page.

24 **A Okay.**

25 Q All right. And this purports to be an e-mail, dated

September 2nd, 2016 from you to Gene Flank, Kelly Masigi, Katrina, Osborn, and others. (All phonetic)

Do you recognize this e-mail?

A Yes.

Q All right. And is this an e-mail that was created and kept in the usual course of business over at Natural Resources?

A Yes.

MR. SHERIDAN: Plaintiff offers 217.

THE COURT: Any objection?

MR. MARLOW: No objection, Your Honor.

THE COURT: Exhibit No. 217 is admitted.

(Exhibit No. 217 admitted into evidence.)

MR. SHERIDAN: May we publish?

THE COURT: You may.

Q (By Mr. Sheridan) These e-mails tend to be reading from the bottom to the top, so I want to start there.

Okay. And can you give us an overview of what it is that is being accomplished in these e-mail communications?

A Well, the page here, it looks like a typical back and forth we may have had with a region manager about putting together the elements of official travel for the

1 **commissioner.**

2 Q All right. And who was the commissioner at that time?

3 A **That was Peter Goldmark.**

4 Q All right. And let's take a look at the e-mail that is
5 dated, it looks like, the 2nd at 8:25, and it's from
6 Kelly Masigi to (inaudible) and others.

7 A **So perhaps that's on the previous page?**

8 Q Yeah, that's on the second-- in the lower right-hand
9 corner we have Bates stamps.

10 It's 5434, in the lower right-hand corner.

11 A **I'm sorry, I'm not finding that.**

12 Q So--

13 A **I have 5433-- and 5434, is that it?**

14 Q Yes, please.

15 A **Gotcha.**

16 Q I am starting right in the middle there.

17 It says, "According to the latest list I have from
18 them, they can fly to Darrington in a Cessna."

19 Can you give us some context to that?

20 A **That would have been from the commissioner's executive**
21 **assistant who was the direct liaison with the state**
22 **patrol when there was official travel required, and she**
23 **was evidently just informing us that that was the type of**
24 **plane that we would use in that particular situation.**

25 Q All right. And can you tell us whether or not it was

1 typical for you to identify, at some point, who the pilot
2 would be?

3 **A Usually after the patrol had accepted the assignment --**
4 **of course the governor would always take precedence --**
5 **they would usually give us the name of the pilot and kind**
6 **of as a confirmation that someone has been assigned, and**
7 **this is how we understand this trip will take place.**

8 **Q Okay. And looking at 217, can you tell if there's a**
9 **pilot assigned at that time?**

10 **A From this communication? No.**

11 **Q Okay. And that's as of the 2nd of September, correct?**

12 **A Looks like it.**

13 **Q All right. Let's take a look at 218 now, if we can.**

14 **A Okay. Uh-huh.**

15 **Q All right. And would you take a look at this and tell**
16 **us, the top e-mail, what is that?**

17 **A This is an e-mail to my colleagues.**

18 **We are evidently updating the schedule that we're**
19 **planning for the commissioner, and I am indicating to my**
20 **colleagues that this particular volunteer, who would have**
21 **been someone-- a member of the public working as a**
22 **volunteer for the department, would have been honored at**
23 **an event here.**

24 **Q Okay. And can you tell me, what's the date of this**
25 **communication?**

1 **A This is September 6th, 2016, at 5:25 p.m.**

2 MR. SHERIDAN: All right. Plaintiff
3 offers Exhibit No. 218.

4 THE COURT: Any objection?

5 MR. MARLOW: No objection, Your Honor.

6 MR. SHERIDAN: May we publish?

7 THE COURT: Exhibit No. 218 is
8 admitted.

9 Yes.

10 (Exhibit No. 218 admitted into
11 evidence.)

12 MR. SHERIDAN: Yes. Okay.

13 It's late in the day.

14 Let's get that up on the screen, Greg.

15 Okay. Very good.

16 Q (By Mr. Sheridan) So this is September 6th.

17 Can we go to the second page of the exhibit that
18 begins with the red letters, "Draft"?

19 **A Mm-hm.**

20 Q Can you tell me what this represents?

21 **A This represents a notional schedule for the commissioner**
22 **of public lands, and basically what we had probably as of**
23 **that moment, 5:30 that day.**

24 Q Okay. So I notice-- I note that on your draft you are
25 putting the September 15th as the date.

1 Was that the travel date?

2 **A Yes.**

3 Q All right. And-- but the date of your e-mail was the
4 6th, right?

5 **A Yes.**

6 Q So looking at the-- I guess the third bullet or whatever
7 that is down, it says, "Wheels up via WSP Cessna from
8 Olympia to Skagit Regional airport," and then it says,
9 "Pilot TBD."

10 What does that mean to you?

11 **A That means we have not yet been told by the Washington**
12 **State Patrol who would be flying us.**

13 Q And so is it fair to say that this draft was made on or
14 about the 6th?

15 **A Yes.**

16 Q Okay. Now, let's look at 219.

17 Tell me what this is.

18 **A I'm not sure because it just says, "Latest schedule," so**
19 **I would assume it is indeed that, but the attachment is**
20 **not here.**

21 Q Okay. No attachment?

22 You don't have an attachment in yours?

23 Do you have Bates Stamp No. 5438 in the lower
24 right-hand corner?

25 **A I have 5438.**

1 I just have a cover e-mail that says, "Latest
2 schedule," but the attachment, which would have been the
3 schedule, is not here.

4 May I turn the page? It may be behind-- yeah, there
5 we go.

6 Q Oh, thank goodness.

7 A I don't want to turn any pages I'm not supposed to turn
8 here.

9 Q Okay. All right. So now what's the date of this e-mail?

10 A I would say-- if I see the previous page, it's probably
11 that it's September 12th.

12 MR. SHERIDAN: Okay. Greg-- can we
13 offer this and publish it?

14 THE COURT: Any objection?

15 MR. MARLOW: No objection to either,
16 Your Honor.

17 THE COURT: Exhibit No. 219 is
18 admitted, and you may publish.

19 (Exhibit No. 219 admitted into
20 evidence.)

21 Q (By Mr. Sheridan) All right. So this is an e-mail
22 that's dated September 12th and is, again, from you to
23 the same group of people, and it is about the travel to
24 Region 9 or 9/15, right?

25 A Yes.

1 Q And that's Exhibit No. 219.

2 MR. SHERIDAN: Now, Greg, if you will
3 go to the second page.

4 Q (By Mr. Sheridan) And this is the-- so this is as of
5 what date?

6 This draft is as of the 12th, right?

7 A Okay. I'm getting confused here.

8 There's no third page to this particular part, so
9 there's just the trip schedule and there's no page beyond
10 that.

11 Q That's quite all right.

12 A Okay.

13 Q But the e-mail that attaches the trip schedule is dated
14 the 12th?

15 A Yes.

16 Q That's three days before travel, right?

17 A Yes.

18 MR. SHERIDAN: Okay. Now, let's look
19 at that second page, Greg, if you would.

20 Q (By Mr. Sheridan) Look at the 8:35 a.m. timeframe for
21 this travel.

22 Would you just read to the jury what it says?

23 A "Wheels up via WSP Cessna from Olympia to Skagit Regional
24 airport. Pilot not yet assigned."

25 Q So what does that mean to you in terms of who would be

1 the pilot?

2 **A It means I didn't know yet who the patrol would be**
3 **assigning us.**

4 **Q All right. Now, did there come a time that you were told**
5 **who would be the pilot?**

6 **A You know, I don't remember that because that would have**
7 **been the work of my colleague, Kelly Masigi, who was the**
8 **direct liaison.**

9 **Q Fair enough.**

10 **A And I always knew the patrol would be there to help us,**
11 **if they agreed to take the trip.**

12 **I just didn't know who the pilot would be**
13 **necessarily.**

14 **Q I am going to show you Exhibit No. 220, which I hope will**
15 **be an example of when you know who the pilot is, okay?**

16 **So please take a look at 220.**

17 **A Right. The cover-- there's a cover e-mail.**

18 **Q And this is a September 7th date?**

19 **A Yes.**

20 **Q All right. And this is from you to who?**

21 **A This is to the deputy supervisor, who is the number two**
22 **ranking official at the Department of Natural Resources.**

23 **Q All right. And what's the travel date in this particular**
24 **example?**

25 **A Well, this would be for September 8th.**

1 Q Okay. So you've got a flight on the 8th and on the 15th,
2 right?

3 A Yes.

4 Q And in this particular case-- let's look at the draft--

5 MR. SHERIDAN: Oh, we didn't offer it
6 yet, right?

7 220 we would like to offer.

8 THE COURT: Any objection?

9 MR. MARLOW: No objection to admission
10 or it being published, Your Honor.

11 THE COURT: Exhibit No. 220 is
12 admitted, and you may publish.

13 (Exhibit No. 220 admitted into
14 evidence.)

15 MR. SHERIDAN: Thank you.

16 Q (By Mr. Sheridan) So look at the first page real quick.

17 A Okay.

18 Q And just to nail down the date, this is September 7th,

19 MR. SHERIDAN: And now let's go to the
20 second page, Greg.

21 Q (By Mr. Sheridan) And this is-- so this is another
22 itinerary for a flight that's going to go on the 8th, and
23 can you tell us, looking at the-- looking at the draft,
24 can you tell us if you know who the pilot is?

25 A Yes. At this point we know it's Trooper Ryan Santhuff.

1 Q All right. And is that typically how your draft
2 itineraries go, once you know that the pilot has been
3 picked, you put it in the draft?

4 A I would put-- always put as much detail as possible in
5 the trip draft, and it was always useful to have the name
6 of the pilot in case the trip needed to change at the
7 very last minute, so you could reach the pilot directly.

8 Q I note that you have a phone number too?

9 A Yes.

10 MR. SHERIDAN: No further questions.

11 THE COURT: Any cross-examination?

12 MR. MARLOW: Very brief, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. MARLOW:

15 Q Ms. Kaiser, how are you today?

16 A I'm good. Thank you.

17 Q So would it be common for you to-- for state patrol, you
18 would arrange a flight, if you are aware, for the pilots
19 to change or you to get late notice of who the pilot
20 might be?

21 A Well, yes, you know, because the governor always took
22 precedence, and his needs would be dynamic, of course.

23 Other agencies' needs would be dynamic as well, and
24 ours would be too, so we would always leave it to state
25 patrol, once they agreed to fly us, to give us a pilot,

1 so we might not know, as you saw, until the last minute
2 who that was, but sometimes we might know in advance--
3 more in advance.

4 Q So it wouldn't be uncommon to not know until the last
5 minute?

6 A Right.

7 Q Or it wouldn't be uncommon for who they told you to
8 perhaps change; is that a possibility as well?

9 A Yeah, it would not be uncommon.

10 MR. MARLOW: Thank you very much,
11 Ms. Kaiser. Have a good day.

12 **THE WITNESS: Sure.**

13 MR. SHERIDAN: Nothing further, Your
14 Honor.

15 THE COURT: Any questions from the
16 jury for this witness?

17 No.

18 THE COURT: May Ms. Kaiser be excused?

19 MR. SHERIDAN: Yes, with our thanks.

20 MR. MARLOW: No objection, Your Honor.

21 THE COURT: All right. You are
22 excused.

23 I am inclined to just let the jury go since it's 10
24 to 4.

25 MR. SHERIDAN: Okay. Thanks, Judge.

1 THE COURT: All right. Members of the
2 Jury, you are excused for today. We will see you
3 tomorrow at 9:00.

4 COURT BAILIFF: All rise.
5 Have a good afternoon.

6 (Inaudible crosstalk.)

7 THE COURT: Enjoy your evening.

8 (Jury exits.)

9 THE COURT: All right. So we'll be in
10 recess until tomorrow at 9:00-- or not.

11 Please have a seat.

12 MR. SHERIDAN: Okay.

13 THE COURT: Mr. Biggs?

14 MR. BIGGS: Yes. We have a witness
15 issue.

16 We got word that-- I have to find my note.

17 Chris Noll has notified us that he's got some kind
18 of daycare issues tomorrow and wants to be moved to
19 Thursday.

20 THE COURT: Has what?

21 MR. BIGGS: He has some kind of
22 childcare issues and wants to be moved to Thursday, which
23 given that we haven't even started cross-examination of
24 Plaintiff--

25 MR. SHERIDAN: So that's okay with us.

1 I was going to send an e-mail out as soon as I can.

2 I'm suggesting that we finish him in the morning and
3 as long as their cross goes, and then we stack our
4 witnesses in the afternoon because most of them are
5 short.

6 THE COURT: That's very optimistic of
7 you.

8 MR. SHERIDAN: Thank you.

9 THE COURT: I say that because you
10 thought that he was going to be on the stand one day, and
11 it's been now a day and a half, and we have not even
12 gotten to cross yet.

13 MR. SHERIDAN: Yes.

14 THE COURT: I mean, it's up to you if
15 you think you're going to be done tomorrow morning.

16 MR. SHERIDAN: Yeah, we are close to
17 done, and I'm going to also propose to admitting some
18 exhibits to speed it up-- I'll tell opposing counsel what
19 exhibits with him I'm trying to get in so that we can see
20 if we can just agree and just zoom through the document
21 piece of the case, and then, you know, we'll be done
22 sooner.

23 THE COURT: Okay. And along the same
24 lines, if there is any objection, if you could please let
25 me know ahead of time so that I can look at it.

1 MR. SHERIDAN: Yeah. I think Mark is
2 working on this now (inaudible).

3 And then we'll just see if we can negotiate
4 overnight so that you know.

5 THE COURT: Okay. All right.
6 Anything else?

7 MR. BIGGS: So we're going to take the
8 witnesses in the order you listed them?

9 MR. SHERIDAN: I've got to go back
10 because now we're moving people around, so I need to have
11 my staff check to see who's available and who's not, but
12 Santhuff is definitely the morning, okay?

13 THE COURT: I am guessing the
14 afternoon, but that's just me.

15 (Inaudible crosstalk.)

16 THE COURT: How long do you think your
17 cross will be?

18 MR. BIGGS: Well, I'm not sure I am
19 ever going to get to cross.

20 We are still on direct exam.

21 THE COURT: I know, but do you think
22 it's going to be five minutes or do you think it's going
23 to be half a day?

24 MR. BIGGS: I think it's going to be a
25 couple of hours.

1 MR. SHERIDAN: We could bring people
2 at 3.

3 THE COURT: I doubt that we'll have
4 anybody else tomorrow, but--

5 MR. SHERIDAN: All right.

6 THE COURT: But you could surprise me.

7 MR. SHERIDAN: Let's hope so.

8 THE COURT: So we told the jury that
9 we would be done by the 24th, so I think-- I'm hoping
10 that we're still on schedule.

11 MR. SHERIDAN: Well, we called the
12 people they probably would have called, so I think we're
13 pretty-- (Inaudible crosstalk.)

14 THE COURT: All right. All right.

15 I want to just-- we can go off the record. I just
16 want to make sure that we have all the exhibits that have
17 been--

18 (Court recessed at 3:52 p.m.)
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STATE OF WASHINGTON)
)
) ss.
COUNTY OF KING)

Tim Surr

Terilynn Simons, CCR, RMR, CRR, CLR
Certified Court Reporter No. 2047

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