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(From Audio Recording)

September 14, 2020

RYAN SANTHUFF v. STATE OF WASHINGTON

19-2-04610-4

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RYAN SANTHUFF vs STATE OF WASHINGTON
Verbatim Record of Proceedings, Vol V - September 14, 2020

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 14, 2020

VOLUME V

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 14, 2020
Seattle, Washington

Court Reporter: Terilynn Simons, CRR, RMR #2047

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1 THURSDAY, SEPTEMBER 10, 2020; SEATTLE, WASHINGTON

2 <<<<< >>>>>

3 THE COURT: Good morning. Thank you.

4 Please be seated.

5 Counsel, it is unacceptable that we are just going
6 to be getting started at 9:46.

7 My understanding is that Mary had indicated that the
8 doors would be open at 8:00 so that the setup could
9 happen.

10 It's-- I don't like having the jury waiting, and we
11 are 45 minutes late.

12 I have received some briefing from Plaintiffs. One
13 deals with the Plaintiff's notice of presentation of
14 Court's order on the party's motion in limine.

15 I think a lot of this has to do with
16 cross-examination, so I am not going to delay the jury
17 even more because I don't think we are going to get to
18 cross-examination this morning, but I do want Defense to
19 please identify for me the exhibits that Plaintiff refers
20 to with respect to Motion in Limine No. 7, so I don't
21 need that right now, you can just give me those during
22 the break.

23 With respect to the relevance of the testimony about
24 work atmosphere, is that something we need to address
25 before the jury comes out?

MR. SHERIDAN: It's something he will be doing on his direct.

THE COURT: Do you anticipate getting into that before our morning break?

MR. SHERIDAN: Probably not. It's probably okay.

THE COURT: Okay. And Plaintiff's motion in limine on evidentiary issues, it pertains to that the attorney is leading, object, and I will issue my ruling on whether it's leading or not leading.

MR. SHERIDAN: Thank you, Judge.

THE COURT: Anything else before we bring in the jury?

MR. SHERIDAN: Just to let you know that we have the-- you can't see it, but this is the emotional-harm chart we will be building during his testimony, you know, fear and all that kind of stuff, so if you want to see it--

THE COURT: No, that's fine.

Anything from Defense?

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

There are some things about tomorrow's witness that concern--

THE COURT: Let's bring in the jury.

1 Good morning for those of you that are appearing via
2 Zoom.

3 These are interesting times, and I am trying to do
4 the best with balancing the open court and our safety
5 guidelines, so that's why I have opened the Zoom, but the
6 rules that would apply if you were here apply if you are
7 watching the proceedings via Zoom.

8 That means you cannot record any of the proceedings.

9 The only record that we are to have is the official
10 record that is created by our clerk.

11 Likewise, you are prohibited from taking any kind of
12 screenshots, just like you would not be allowed to take
13 photos if you were in the courtroom.

14 **A violation of my court order could result in being
15 found in contempt and sanctions, so please do not record
16 and do not take screenshots.**

17 **Thank you.**

18 **Defense, I did not receive your response on the
19 motion that Mr. Sheridan filed last week.**

20 MR. BIGGS: Yes, Your Honor. It was
21 filed this morning. Let me just see--

22 THE COURT: Oh, okay. It's fine. I
23 will look for it.

24 COURT BAILIFF: please rise for the
25 jury.

1 (Jury enters.)

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

4 Good morning, Members of the Jury. My sincere
5 apologies for the late start.

6 Sometimes we have some delays because we're dealing
7 with some issues so that we avoid getting you in and out,
8 and we had a little bit of a difficulty this morning with
9 the setup and getting all set up with the technical
10 equipment.

11 Everything had to be removed Thursday because I had
12 matters on Friday, and so we had to-- the parties had to
13 get up everything again this morning, so my apologies.

14 We will really try to keep the delays to a minimum.

15 Mr. Sheridan, are you ready to call your next
16 witness?

17 MR. SHERIDAN: Yes. Thanks, Your
18 Honor.

19 Plaintiffs call Detective Ryan Santhuff.

20 THE COURT: The people that are in
21 Zoom, please mute your phone because we don't want to
22 have any interference with the record. Thank you.

23 /////

24 RYAN SANTHUFF, having been duly sworn
25 by the Honorable Mafe Rajul,

1 testified as follows:

DIRECT EXAMINATION

3 | BY MR. SHERIDAN:

4 Q Good morning.

5 A Good morning, sir.

6 Q All right. Let's jump right in.

Please state your full name for the record.

8 A Ryan William Santhuff.

9 Q And how do you call yourself in terms of your current
0 rank?

1 A Currently a detective with the state patrol and referred
2 to as "Detective Santhuff."

3 Q All right. Thank you.

4 Detective Santhuff, would you tell the jury a little
5 bit about your background, where you're from, where you
6 grew up?

.7 A Yes, sir.

I grew up in Olympia, Washington, went to primary school and graduated high school from Olympia High School.

I worked a number of different types of jobs growing up, warehouse jobs, restaurant business, and then ultimately landed with the state patrol.

24 Q All right. And during when you were a young person, did
25 you have an interest in flying?

1 A I did, very much so.

2 Q Why don't you tell us about that.

3 A Well, flying for me was kind of a dream as a kid, you
4 know.

5 As you grow up, you start thinking about things that
6 you want to do as an adult, and that was one of those
7 strong interests that I had as a young adult.

8 I had family members that flew. I have an uncle
9 that has his commercial pilot's license, and as a kid I
10 remember him flying to our family place out at Vashon on
11 his float plane, and I just thought that was the coolest
12 thing.

13 I rode with him a couple times in his Cessna, and I
14 just developed a very strong interest in flying at a very
15 young age.

16 I knew that's what I wanted to do when I grew up.

17 Q Okay. Did there come a time when you had the opportunity
18 to take lessons?

19 A Yes.

20 So immediately after high school-- I believe I
21 started in the year 2000.

22 I graduated high school in 1999.

23 I started flight training in 2000.

24 I took those lessons at the Olympia airport at
25 Glacier Aviation.

1 I first started with helicopters.

2 Glacier Aviation primarily is a helicopter flight
3 school, but they also have airplanes, fixed-wing.

4 I couldn't afford the helicopter training. It was
5 too expensive, so I switched to fixed-wing, and I slowly
6 worked through my training as I could afford it.

7 It was very expensive, and as a young adult, being
8 19, 20 years old, you know, I'm doing everything I can to
9 pay for this flight training out of pocket and not go
10 into a tremendous amount of debt.

11 Q Okay. And did there come a time that you worked at an
12 airport?

13 A I did, yes.

14 Q Tell us about that.

15 A Again, I worked at Glacier Aviation, and I started-- I
16 don't recall the year. It was probably around 2000,
17 2001, I started as a fueler, and I would fuel a variety
18 of different aircraft that came into the airport.

19 At that time I also worked with Northwest
20 Helicopters. They are part owners in Glacier Aviation,
21 so in my downtime I would help the mechanics at the
22 museum, at the Olympia airport, working on old warbirds
23 and taking off the cowlings and cleaning the cowlings, so
24 that was a really neat experience.

25 As a fueler, I also fuelled aircraft for state

1 patrol aviation.

2 It was pretty neat, you know, all the different
3 aircraft that came in, but then getting to know a lot of
4 the pilots that worked around the airport, the different
5 businesses, like state patrol-- I always thought to
6 myself that that would be a cool job, and at the time,
7 you know, I wanted to be an airline pilot, wanted to be a
8 captain of a 747, but I also thought that state patrol
9 aviation would be a ton of fun, just the type of work
10 that they do.

11 Again, this was as a young age, like 19, 20 years
12 old, and so I got to know some of the pilots, not very
13 well, but I got to know a few of them from fuelling those
14 aircraft, so that was my experience fuelling.

15 Q Did there come a time where you actually worked towards
16 and obtained your private pilot's license?

17 A Yes.

18 Q Tell us about that.

19 A Eventually I progressed through my training, and it took
20 some time.

21 Like I said, it was expensive and I couldn't just
22 dive into it as a young adult, so it took a number of
23 years before I finally developed enough hours and
24 experience that I could get my private pilot's license.

25 That's your first step of being able to fly by

1 yourself, is your private pilot's license, at that time.

2 Now they have a sport rating.

3 Anyway, through that process I-- you know, you
4 develop your skills, and you first get signed off to
5 solo, which means that you fly that airplane by yourself.

6 You know, it's-- I liken it to getting your driver's
7 license for the first time at 16 years old, and, you
8 know, you are so used to having your parent or an adult
9 next to you driving, telling you what to do and where you
10 are making mistakes, and "Hey, stop before you hit that."

11 Now, it's kind of like that, where now you are
12 signed off to solo, the instructor feels that your skills
13 have developed enough that you can fly by yourself, and
14 now they put you in the plane and say, "Okay. Go take it
15 around the pattern a couple of times and then come back,"
16 and so-- you know, it's a nervous experience, but
17 nevertheless, it was really neat, you know, much like
18 when you turn 16 and get your driver's license.

19 Q And then what happened next?

20 A With my pilot's license-- you know, I don't remember how
21 much timeframe passed, but eventually I get my private
22 pilot's license, am continuing to build flight time and
23 hours towards my commercial license.

24 They required 250 hours-- the FAA requires 250 hours
25 to obtain your commercial license, but you also have to

1 have your instrument rating in fixed-wing before you can
2 get your commercial license, so I continued to build
3 flight time, take friends up.

4 I did some trips. You know, I took some friends.
5 We flew down to Lake Havasu, Arizona on vacation.

6 I took a trip over to Oshkosh, which is a big flight
7 show in Wisconsin, a number of trips throughout the
8 state, build-- as I continued to build experience and
9 flight time, while also working on my instrument rating
10 and going through that training for my instrument rating
11 at Glacier Aviation.

12 Q All right. And then tell us what happened next with
13 regard to-- did anything happen that affected the
14 economic feasibility of your plan?

15 MR. BIGGS: Objection, Your Honor. I
16 have been quiet about the leading questions, but I
17 can't-- at this point I would like to please caution
18 Counsel not to lead the witness.

19 THE COURT: Overruled.

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

21 A Okay. 9/11 happened during this timeframe, and as I
22 assume everybody knows in the room, there was a huge
23 impact on the aviation industry, and I was spending
24 thousands of dollars going to flight school, and at that
25 time I was also enrolled at Embry-Riddle Aeronautical

1 University taking classes towards my professional
2 aeronautics degree.

3 Meanwhile, I am working at a restaurant trying to
4 earn enough money to pay for all of these things without
5 going into a tremendous amount of debt.

6 I really had to re-evaluate what I was doing and
7 pursuing this dream of mine of being a commercial airline
8 pilot.

9 It just-- at that time it didn't make a lot of
10 sense, so I started to kind of think about different
11 paths that I could go-- direction I could go and a
12 career.

13 Q Did there come a time that you met somebody that affected
14 your decision-making?

15 A Yes.

16 Q Tell us about that.

17 A Okay. During this timeframe, you know, it was probably
18 over a number of months where I really was really
19 questioning how much money I was going to spend on my
20 commercial pilot's license and building all this flight
21 time, like I said, and the career when I got done.

22 I went to a birthday party, and for whatever reason
23 I show up a little bit late.

24 It was at a restaurant in a banquet room.

25 It was a long table, and, you know how these things

1 kind of work. I was like a 22-year-old-- I think 22, 25,
2 somewhere in there.

3 I show up late, and how these things work typically
4 is you get all the kids or the young adults on one end
5 and all the parents and grandparents on the other end,
6 and so because I show up late, the only seats available
7 are down with the grandparents and the parents.

8 I sit down, and I am having just casual dinner
9 conversation with the older adults at the party.

10 One-- the person that was sitting across from me was
11 the birthday person's father. His name is Tim Ericson,
12 and he's a retired captain of the state patrol.

13 Over the years I have gotten to know Tim Ericson
14 very well, but at that time I knew him but not as well as
15 I do now, and as a young adult, I don't know if I-- we
16 connected early on, being very good friends with his
17 daughter, but over the years we have really developed a
18 strong relationship.

19 Anyway, at this time I am telling him of my concerns
20 with flying and pursuing this career and not being able
21 to have a potential job after I get done and being in
22 tens and maybe a hundred thousand dollars in debt.

23 He says, "Well, have you ever thought about being a
24 police officer," and I was like, "Well, not really. I
25 want to be a pilot."

1 You know, even though-- I think most kids-- I had
2 interests in having an exciting job, and so I had
3 interest in being a police officer at a young age,
4 police, cop, firefighter, because of the excitement of
5 the job.

6 At that time, when we were having that conversation,
7 I just wasn't really interested in being a state trooper
8 when we had this conversation.

9 What he did is he planted that seed in my mind that
10 maybe I do, maybe I do want to do that, so I really
11 started to think about it after that dinner we had.

12 You know, it was maybe within a month or two, I'm
13 out at their place -- they live on a lake in Olympia --
14 and I'm big into water sports and boating, and I pull up
15 to his dock and we're talking, and I say, "Hey, I think
16 I'm-- I've been throwing around this idea about being a
17 trooper-- interested in being a trooper."

18 I was obviously thinking that I could fly for state
19 patrol aviation.

20 I asked him if he could arrange-- well, he offered
21 at dinner to set me up on a ride-along, and I turned him
22 down respectfully at that time.

23 Then I asked him at his house, on the lake that day,
24 I asked him, "Could you still set me up on that
25 ride-along," and he says, "Oh, yeah, absolutely," and he

1 was excited about me even showing any interest in it.

2 He sets me up with ride-along with a trooper in
3 Olympia, who is a detective now that I work with, and I
4 go out for a ride-along for a shift, a ten-hour shift, in
5 the Olympia area.

6 I had a ton of fun.

7 You know, it was like you zoom to one side of the
8 county to the other, handling crashes and seeing, you
9 know, just the craziest stuff.

10 I thought, "Man, this would be a lot of fun," and so
11 I made-- at that point I said, "Yeah, I really enjoy
12 this," and so I applied.

13 I applied for the state patrol. I think this is
14 around--

15 Q Can you tell us about what was necessary for your
16 application? What did you do?

17 A So the application process, you fill out a basic
18 application with your work history.

19 You have to have a clean driving record-- relatively
20 clean driving record.

21 Background information-- it's a pretty extensive
22 application, and I don't recall exactly everything that's
23 on there.

24 I fill out this application and I submit it, and
25 then you have a written test, and the state patrol has

1 changed the way they do hiring now, but at that time you
2 would go to a location and you would take a very lengthy
3 written test, which are mostly situational questions, you
4 know, "Somebody is coming at you with a knife," you know,
5 and then there are multiple choices in how you would
6 answer those questions.

7 There's memory retention on that test.

8 Anyway, there's different categories throughout the
9 test.

10 It was a long test. It took, I don't know what I
11 recall, but four or five hours to complete this test.

12 I pass the test, and after that, they scheduled me
13 for a panel interview.

14 The panel interview consists of three commissioned
15 officers, and it's mostly situational-type questions,
16 like I mentioned, the person coming at you with a knife.
17 They will give you the scenario, and they are really
18 testing your ability to kind of think on your feet and
19 make proper decisions.

20 They intentionally kind of ramp you up. They will
21 raise their voice a little bit to kind of-- you know,
22 "Okay, now what are you going. Now what are you going to
23 do?"

24 You have to answer these questions quick on your
25 feet.

1 The first time I went through the hiring process and
2 had this interview, I didn't make it past the interview
3 process.

4 It was the first time that I have ever experienced
5 anything like a panel interview, and I left there knowing
6 that I could definitely do better.

7 I knew that I struggled with some of those
8 questions.

9 At that time you had to wait six months before you
10 could re-apply, and I did. I waited six months, almost
11 to the day, and I re-applied.

12 I went through this process again, and then this
13 time I made it past the interview process, and I was
14 placed on an eligibility list.

15 I am trying to remember the timeframe that I was on
16 the eligibility list, but it was a number of months.

17 What the eligibility list is, is people go through
18 the hiring process, they're put on a scored list,
19 statistically T-scored list, and when an academy is about
20 to start, they will call people off the list and hire
21 employees or hire cadets, is what we were.

22 I didn't know where I was on the list. I just knew
23 that I was on that list, and I was hoping that when the
24 next academy class came, I was going to get that call,
25 and I eventually did.

1 Q Tell us what happened after you got the call.

2 A After you get the call, you go through a psychological
3 evaluation.

4 The first part is a written, I believe, and if you
5 get through the written, then you sit down with the state
6 psychologist and have an interview with the state
7 psychologist.

8 After-- once you-- that's part of your background
9 process, so that background process started, the
10 psychological evaluation, and then after that, you're
11 offered the job as a trooper cadet.

12 Q All right. And did there come a time that you were
13 offered the job?

14 A Yes.

15 Q Do you remember roughly what years we're talking about
16 here?

17 A I was hired in December of 2006. December 5th, to be
18 exact.

19 Q And when you say "hired," was that as a cadet?

20 A Yes, sir.

21 Q All right. And tell us, where were you assigned as a
22 cadet and what did you do?

23 A My initial assignment was vessel internal security, which
24 they refer to as VATS (phonetic) in Seattle, for the
25 ferry system.

1 The state patrol, at the time, had a number of
2 cadets. I think there was four or five of us that worked
3 in the office they called video monitoring.

4 The ferry system and the terminals throughout not
5 just Seattle but Bremerton and all the different ferry
6 terminals have surveillance cameras all over them, and
7 all the doors are monitored because after 9/11 there was
8 major concern of a potential terrorist attack to our
9 ferry systems.

10 I worked in video monitoring, mostly looking at
11 different alarms that would come up, and then we would go
12 back and pull the video footage and make sure that there
13 was no suspicious activity.

14 I was there for-- I don't recall the timeframe, but
15 it was probably around five, maybe six months.

16 Q Okay. And were you armed at the time?

17 A No, sir, I was not.

18 Q Okay. And-- all right. Tell us what happened next.

19 A After video monitoring, our academy-- the state patrol
20 academy is split into two different phases: you have an
21 arming course and then you have trooper basic.

22 The arming course is basically just what it means.
23 You develop mostly firearm skills, mostly with your
24 handgun, and some defensive-tactics-type work.

25 After arming-- it is about six weeks.

1 After arming, half-- well, I shouldn't say "half"
2 because it depends on how many cadets they have in the
3 field, but they select a number of cadets out of arming,
4 and they take a number of the cadets that are already out
5 in the field doing different security jobs, and those get
6 moved through to trooper basic.

7 Some of the cadets in arming get put back out in the
8 field throughout the state in different jobs to more
9 provide, like, security.

10 After arming, you have a limited commission. You
11 don't have arrest powers, but you have a commission where
12 you can train and do things with a field training
13 officer.

14 I was-- after arming, I was sent to Labor &
15 Industries to work the front desk of Labor & Industries
16 as mostly security-type work, and I was there for about
17 three or four months, from what I recall.

18 Q All right. And then what happened next?

19 A So after Labor & Industries, I was selected to go to
20 trooper basic.

21 The time you are in the field depends on the
22 academy's schedule, and it just so happened that my time
23 in the field as a cadet was rather short, just because we
24 were having back-to-back academy classes to fill
25 vacancies.

1 I went to trooper basic training, which is about
2 four months at the academy in Shelton, and then about--
3 well, it was about six or seven weeks as field training
4 where you are out doing the job of a trooper under close
5 surveillance of a field training officer.

6 Eventually you build your skills, and then you have
7 to make a decision whether you are going to graduate or
8 not.

9 Some people end up getting extended for training.
10 Some people don't.

11 They felt that I developed my skills enough as a
12 trooper where I could go out and work the job on my own,
13 and I was selected to graduate from the academy at that
14 point.

15 Q All right. And tell us about your first assignment.

16 A My first assignment was in Shelton in the same location
17 as our state patrol academy.

18 I worked in Shelton for about maybe ten or 11
19 months, and it was a challenging location to work as a
20 brand new trooper.

21 There was one detachment there. What that means is
22 there's one group of troopers underneath one sergeant,
23 and we covered all of Mason County, primarily state
24 highways and state routes.

25 When I say it was kind of a challenging area to

1 work-- because of the limited amount of people, that one
2 detachment of eight to ten people had to cover nightshift
3 and dayshift, and so there was times where I would go to
4 work as a brand new trooper, and I had-- I was the only
5 one working in Mason County, and so I had to learn the
6 job rather quickly.

7 I tried to use whatever resources I could from other
8 cadets that I knew. I would call them if I ran into a
9 situation I wasn't quite sure how to handle and leaned on
10 some senior troopers as well that I knew, and I kept in
11 good contact with my coach down in Vancouver where I
12 trained.

13 Anyway, the first eight months to a year, it was
14 like jumping in the water headfirst. It was a lot of
15 fun.

16 Mason County, there's a lot of rural areas and a lot
17 of very interesting people in those rural areas, and you
18 had to learn how to kind of talk your way out of some
19 very difficult situations too.

20 Q All right. And did you have any unusual events occur
21 while you were there?

22 A I did, yeah.

23 I mean, we had forest fires.

24 We had a float plane crash where a father and son
25 had crashed in the forest, and that caused a forest fire

1 too, so we are trying to find this airplane out in the
2 woods and trying to deal with a forest fire.

3 You know, there was-- like I said, it's a rural
4 beat, rural patrol area, which we refer to as "beats"
5 sometimes.

6 Yeah, there was a lot of just unique situations that
7 I didn't experience later on in different locations that
8 I've worked.

9 Q Where did you go next?

10 A Again, I worked Shelton for about eight months, and then
11 I transferred to Olympia where I'm from.

12 I worked Olympia until I went to aviation, and that
13 was probably about five or six years I worked patrol in
14 the Olympia area.

15 Q Okay. Tell us-- please explain to the jury the
16 circuitous route that took you to aviation.

17 A Yes.

18 So while a young trooper in Olympia, I made it very
19 clear that my desire was to be a pilot.

20 I knew that those jobs didn't come around very
21 often.

22 Aviation was a very coveted position in the patrol.
23 At that time it was very desirable and very difficult to
24 get into.

25 Again, I didn't have the qualifications to get into

1 aviation at the time. I only had my private pilot's
2 license, and I had stopped flying.

3 I was having a lot of fun being a trooper, and I
4 really enjoyed a lot of things about the job of being on
5 patrol.

6 I was fortunate enough to work in a detachment where
7 there was a very experienced canine officer named Jeff
8 Kershaw (phonetic).

9 He's an outstanding guy, and I was a young trooper
10 who respected him a lot, his ability to get into
11 situations that I would have never thought were possible.

12 What I mean by that is he would stop a car, and it
13 would be just a simple speed stop, and the next thing you
14 know, he has five kilos of cocaine sitting on the trunk.

15 I mean, it was just all these different types of
16 situations, right?

17 I was blown away as a new trooper that-- this was
18 like the coolest thing.

19 I was really fortunate to be able to work underneath
20 him and learn from him, the way he talked to people, the
21 way he interviewed people, and just solicited information
22 from people voluntarily. Even though they knew that what
23 they were doing was a felony crime, they would just hand
24 over the drugs. It was unbelievable.

25 I thought that was really cool, and I wanted to

1 learn everything I could about that.

2 Every time he would ask for another unit-- when
3 you're doing a search on a car for safety reasons, it's
4 really weren't to have another unit there, and I would be
5 the first person to answer.

6 Eventually-- well, at first Trooper Kershaw didn't
7 want to give me the time of day because I was a brand new
8 trooper and I was taking away from his business.

9 Eventually we developed a bond, and I learned a lot
10 from him.

11 He eventually kind of took me under his wing and
12 taught me the ropes.

13 I started to do some training on my own.

14 The state patrol doesn't do a lot of narcotic
15 interdiction training.

16 Their primary focus is on speed, DUI, seatbelts,
17 aggressive drivers, reckless driving, and that's really
18 where their focused training is.

19 Narcotics interdiction, even though there's some
20 training out there for that, you have to specifically ask
21 for it.

22 I asked for that training.

23 I also started taking some classes online.

24 There is an online college for law enforcement that
25 offered drug trafficking, narcotic interdiction training,

1 so on my off time I was taking college online classes
2 through this website.

3 I developed my skills, and I started to find myself
4 in these situations that Jeff Kershaw would get into.

5 I still don't think I ever-- will ever be as good as
6 he was, but I started to really see and perceive things
7 that I never saw before on traffic stops.

8 I became very good at it.

9 The state patrol recognized me a few years later for
10 those things.

11 I-- in 2011 and 2012 I was selected for a couple
12 state-wide awards--

13 MR. BIGGS: Objection; Your Honor.

14 We have gone over this in motions in limine.

15 MR. SHERIDAN: Your Honor, this is in
16 direct line to his getting employed in aviation, and it's
17 part of his application to aviation.

18 THE COURT: Sustained-- sustained.

19 Q (By Mr. Sheridan) All right. Well, tell us, did there
20 come a time that you-- and just say "yes" or "no" to this
21 question:

22 Did there come a time where you received a benefit
23 owing to your work doing drug interdiction that allowed
24 you time off so you could become a pilot?

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

1 Q All right. So tell us, how much time did you get off,
2 and without telling us the name of the thing, just tell
3 us how much time you got off as a result and what you did
4 with that time.

5 If you would, tell us what you could have done with
6 that time and what you actually did with that time.

7 A **The time off allowed for me to cross-train with our**
8 criminal investigation division for detective type of
9 work.

10 **The time off was--**

11 Q Tell us, how much time off did you take?

12 A **I was allotted three months, but I took about seven to**
13 eight weeks-- about two months.

14 Q All right. And what could you have done with that time,
15 if you did want--

16 A **I could have cross-trained with detectives.**

17 **What I mean by "cross-train" is I would be away from**
18 **patrol work and filling that job on patrol, and I would**
19 **be working with detectives doing detective type of work,**
20 **working cases, you know-- whatever the case may be,**
21 **surveillance, interviews.**

22 **That is what that time off away from patrol was**
23 **going to be for.**

24 Q Tell us now, what did you-- who did you talk to and what
25 did you do that was different than that?

1 A That's tough.

2 Because I was going to be gone from patrol, and I
3 wasn't going to be part of that detachment in Olympia, my
4 normal detachment that I worked, I was allowed to take
5 the time off of work unpaid, used vacation time and comp
6 time, to go back to flight school to work on my
7 instrument rating and my commercial pilot's license,
8 knowing that there was an opening in aviation to be a
9 pilot coming up.

10 Q Okay. And tell us about those six weeks.

11 What did you do?

12 A I-- this is kind of a busy time.

13 I first found out about this potential opening in
14 aviation, and I had-- I went over-- I don't even know if
15 I could call it cross-training, but it kind of was.

16 I went over to aviation, hearing that there was
17 potentially going to be an opening, and I rode with a
18 pilot for a few days, maybe a week, and of course that--
19 I was hooked. I wanted it more than anything.

20 I contacted my sergeant, and I said, "Hey, since I'm
21 going to be gone for this timeframe, would you be willing
22 to let me-- instead of cross-train as a detective, would
23 you be willing to let me go to flight school? I will use
24 my own vacation, use my own comp time, but I want to get
25 my ratings done. I want to see"-- I didn't even know if

1 I could do it, but I was willing to do whatever I could
2 to try to make it before this job was posted.

3 They granted me the leave away from work.

4 Typically the vacation schedule as a trooper, you
5 are only allowed to take four weeks off, so that was the
6 concern, I didn't think I could do it within four weeks.
7 That's a tremendous amount of work.

8 I hadn't flown for almost seven years in that
9 timeframe.

10 They said, "Well, just take whatever you need. Just
11 get it done," but I only had like eight weeks or
12 something before this job was supposed to be posted, so I
13 was really under the gun to make this work.

14 I ended up making it work.

15 I ended up calling around-- and this is last minute,
16 mind you, so I-- these businesses, these flight schools,
17 they have calendars, they have schedules, they have other
18 students that they have to accommodate to, so here I am
19 last minute calling around to flight schools trying to
20 find a school that can accommodate my last-minute
21 request.

22 My plan was to train twice a day and study
23 throughout the day -- morning, in the middle of the day,
24 and all evening -- while actually training in the
25 aircraft in the morning and in the afternoon.

1 I trained twice a day with an instructor, and I
2 would basically study all day long.

3 I found a place at Boeing field that could
4 accommodate my instrument training, and I immediately got
5 on their calendar, and I was up there every day until I
6 finished my instrument rating.

7 That was, I recall, maybe-- maybe two to three
8 weeks.

9 Again-- I mean, it was a steep learning curve
10 because, again, I had to knock the rust off. I hadn't
11 flown in like seven years.

12 Anyway, it was a crazy time in my life.

13 Q Did you go to Boeing field and did you get your
14 instrument rating there?

15 A Yes, sir, I did.

16 Q Then what happened?

17 A I ended up getting close to the point where I knew that I
18 was going to have a check ride with the FAA for my
19 instrument rating.

20 Once you progress through your training, the
21 instructor then feels confident that you could pass a
22 check ride with the FAA and you could meet their minimum
23 standards, and then they sign you off to have that check
24 ride, that test with the FAA.

25 There's a ground portion and a flying portion.

1 That was coming up, and I knew that if I could pass
2 this check ride, now I need to find a school that can
3 accommodate my commercial license and my commercial
4 training.

5 You have to have a certain aircraft for that, a
6 complex aircraft.

7 Where I was doing the training at Boeing field, they
8 didn't have that.

9 I started making calls, called all over Washington,
10 started calling all over Idaho-- I'm sorry, Oregon first,
11 but I couldn't find anybody that could accommodate my
12 needs.

13 Then I called a place in Boise, Idaho eventually
14 that said, "Come on over here. We'll take care of you.
15 We'll make it work."

16 I ended up in Boise, Idaho.

17 I passed my instrument check ride, packed my car,
18 went to Boise, Idaho, stayed in a hotel, and worked on my
19 commercial rating until I finished that.

20 I think it probably took me about a couple weeks
21 maybe.

22 At this timeframe it was probably about five weeks
23 I'd been off of work, and the instructor felt confident
24 that I could pass a check ride with the FAA.

25 Q What happened next?

1 A Well, we kind of had a little bit of a speed bump.

2 I got signed off by the instructor, and then the day
3 of my check ride with the FAA, the aircraft had one of
4 the primary instruments go bad, so then I had to go back
5 to Boeing field and do my check ride out at Boeing field
6 with an FAA examiner.

7 Q Did you get it done?

8 A I did, and I passed the check ride.

9 Q All right. So now did you have the qualifications to
10 apply for a job as a pilot in the state trooper's-- for
11 the state troopers?

12 A Yes, sir, I did.

13 Q All right. Tell us, what were the requirements that you
14 needed to have?

15 A At that time they required four years of commission time.

16 Q Please explain, in layperson's term, what commission time
17 is.

18 A Yes, sir.

19 So after you graduate the academy, the state patrol
20 academy, then you receive your state commission as a law
21 enforcement officer. That's what commission time is.

22 I graduated the academy in April of 2008, and I
23 had-- so I had met those requirements for aviation at
24 that time, is-- four years of commission time.

25 Back then, when I applied for this position, the

1 requirements were you had to have your commercial and
2 instrument rating in fixed-wing aircraft.

3 Q Okay. All right. And did you apply?

4 A Yes, sir, I did.

5 Q So a job became open, and tell us what happened next.

6 A The first part of applying is you put together this
7 application packet, and you receive recommendations from
8 supervisors, you put-- I think it was two or three years
9 of your job performance appraisals, everything that--
10 everything is looked at in these positions.

11 It's-- like I mentioned earlier, it's a very coveted
12 position within the state patrol. You are around
13 different executives employed in the state. We fly the
14 governor's office. We are around their staff.

15 They really do select people for these positions
16 that are top-notch employees, not troublemakers, that
17 have good reputations, so all of that is considered when
18 you apply for a position like this.

19 In my application packet I had these things, my
20 recommendations from my supervisors in patrol and my
21 captain.

22 There was, like I said, my job performance
23 appraisals.

24 my flight training records were in that packet as
25 well.

1 **I went for an interview, panel interview--**

2 Q Do you recall who was on the panel?

3 A **Yes, sir.**

4 **It was the captain at the time of special
operations, which is Roger Wilbur, Lieutenant Jim Nobach,
and there was one other person that I don't recall.**

7 **I believe it was one of the other pilots, either
Scotts Sporoff (phonetic) or Jeff Hatteberg at the time.**

9 Q Okay. Can you tell us, were your application materials
10 present during that panel interview?

11 A **Yes, sir.**

12 **I had prepared an application packet for myself and
then every person on the board, the three people that
were on the board, and I handed those out at the end.**

15 Q Was the application packet discussed during this panel
16 interview?

17 A **Yes, sir. It was referenced throughout the interview.**

18 Q All right. Tell us what happened next.

19 A **The hiring process in aviation, you have the panel
interview, and if you pass that, then you move to a check
ride, an applicant check ride.**

22 **You know, and I don't recall who completed my check
ride, but after my interview, you go out and you fly.**

24 **You do a complete pre-flight inspection on the
airplane, make sure the aircraft is safe to fly.**

1 **They're examining everything that you do, everything**
2 **that you check.**

3 You are using the checklist in your preparation of
4 getting the airplane ready, and then they examine your
5 flying acts.

6 You go up for a flight.

7 I believe we flew to Bremerton airport, maybe Tacoma
8 Narrows, and then back to Olympia.

9 The flight was maybe an hour, hour and a half.

10 They evaluate your instrument flying skills, your
11 basic operation of the aircraft, and that was it.

12 Q Which plane did you fly?

13 A **It was in a Cessna 182.**

14 Q All right. And that was a state patrol plane, was it?

15 A **Yes, sir.**

16 Q Okay. All right. And after you did that, what happened
17 next?

18 A **I went back to patrol, and then I got the call offering**
19 **me the job.**

20 Q All right. How much time passed, if you recall?

21 A **Maybe three to four weeks.**

22 **It was only days before I was offered the position.**

23 Q Okay. All right.

24 When you were offered the position, what did you
25 say?

1 A I gladly accepted the position.

2 Q All right. What happened next?

3 A It was probably about three or four weeks before my start
4 date in state patrol aviation, which was January--
5 officially I transferred January 1st of 2014.

6 My report date was on January 2nd.

7 Q All right. And once you got there, can you tell us, what
8 was your first responsibility?

9 A As a new pilot, you have to complete a 90-day training
10 program, and so your first 90 days you're being evaluated
11 of your flying abilities and your ability to progress in
12 the section as a pilot, and you're primarily just
13 building yourself as a pilot, your knowledge and your
14 flying ability.

15 A trooper pilot -- at that time he was a trooper --
16 Jeff Hatteberg, was assigned as my instructor.

17 He wasn't a certified flight instructor, but he was
18 assigned to build my skills in that 90-day training
19 program.

20 That's kind of like-- it's kind of like a test.

21 If you can get through that, then they'll continue
22 to build you as a pilot, but it's kind of like a
23 probation, I should say, but not a test.

24 It's a probationary period for the first 90 days to
25 ensure that you are a safe pilot and you can continue to

1 progress and learn in the section.

2 Q Did there come a time when you completed that?

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

4 Q Tell us what happened next.

5 A Off memory, it would be tough to recall how long this
6 timeframe took, but I progressed pretty quickly in the
7 section to the point where I was signed off to conduct
8 solo flight and go work traffic missions.

9 What I mean by "traffic missions" is-- there's a
10 number of different traffic courses throughout the state
11 that have surveyed markings on the highway that are in
12 half-mile increments.

13 They alternate. You will see either a V painted on
14 the shoulder or a line, and so those alternate every half
15 mile.

16 When you're flying, you can see the shoulders, these
17 painted markings, and we work with stopwatches that were
18 calibrated for half-mile increments, and we would fly
19 circles over these traffic courses, is what we called
20 them.

21 You could clearly pick out which vehicle is going
22 faster than all the others, and we would time those
23 vehicles with our stopwatches.

24 We would note the make-- well, not make-- you
25 couldn't really tell makes from up there, but you'd note

1 the type of vehicle, whether it was a passenger car, SUV,
2 or a truck, and then the color of the vehicle, their
3 speeds, which lane they were in, and then you would relay
4 that information down to a patrol officer on the ground.

5 My initial responsibility, within aviation, was a
6 traffic pilot, and that's primarily what I did after the
7 90-day training program.

8 Q You had mentioned passengers.

9 Can you describe for the jury what passengers you
10 could take up and what passengers you could not?

11 A Yeah. So initially-- as you work through your training
12 in the section, you were given more responsibility.

13 The safer you became or the more proficient you
14 became as a pilot, the more experience you had, you had
15 limitations on your ability in the section that were
16 removed.

17 My first limitation removed was to be able to go fly
18 traffic on my own.

19 Then eventually I was approved to fly passengers.

20 That initial-- I mean, I couldn't even tell you-- it
21 was within that first year I believe I was signed off to
22 start transporting personnel, and VFR or conditions where
23 I wouldn't encounter clouds or obstructed visibility.

24 Q And can you tell us, what licenses did you hold at this
25 time?

1 A I had my commercial instrument rating.

2 Q Okay. All right. And then did there come a time that
3 you had-- you worked at getting qualified for the Cessna
4 206?

5 A Yes, sir.

6 I began the training in the Cessna 206 pretty early
7 on.

8 If I recall correctly, it was within the first five
9 months that I started in the aviation section.

10 Q All right. And did there come a time that you got signed
11 off on 206 as well?

12 A Yes, sir.

13 It was within that first year, I believe.

14 Q All right. And then so can you tell us, towards the end
15 of 2014, what limitations did you have on flying?

16 A Sometime around that timeframe the only limitation that I
17 had was I could not transport non state patrol employees
18 in instrument conditions.

19 What I mean by "non state patrol employees," is, you
20 know-- for example, Department of Natural Resources flew
21 with us a lot, but if it was a state patrol employee,
22 like our Head Chief Batiste or different captains or
23 assistant chiefs, I could fly them in all different
24 weather conditions.

25 Q And what planes did you fly them in?

1 A In the Cessna 182s and Cessna 206.

2 | Q All right.

3 THE COURT: Mr. Sheridan, hold on just
4 a second, please.

5 We have new people that have joined our proceeding
6 via Zoom.

7 For those of you who have just joined us, I just
8 want to make sure that you are aware that the rules via
9 Zoom are the same as if you are in the courtroom.

That means you are prohibited from recording the proceedings.

12 We only have one official record, and that is a
13 record that's being kept by our clerk, and you are
14 prohibited from taking screenshots, just like you would
15 be prohibited from taking photos in the courtroom.

16 Any violation of my court order will be basis for
17 being held in contempt and sanctions.

18 Thank you.

19 Mr. Sheridan?

20 MR. SHERIDAN: Thank you.

21 Q (By Mr. Sheridan) Okay. So that's 2014. Let's talk now
22 about 2015.

23 Tell us, in 2015 did you get to go to any schools?

24 A Yes.

25 Q Tell us about that.

1 A I-- in 2015, I believe in February, state patrol aviation
2 sent me to Renton to obtain my multi-engine license.

3 I was there every day for, I believe, about a week.

4 I think I trained five or six days in Renton before
5 the instructor felt confident that I could pass a check
6 ride in multi-engine aircraft, and I was signed off to
7 have a check ride with an FAA examiner at that point.

8 Q All right. And I assume you have to pass or fail.

9 Did you pass?

10 A Yes, sir, I passed.

11 Q Tell us, when you say "multi-engine plane," what types of
12 planes are you talking about?

13 A There's a Piper PA-30. I think it's a Comanche, but it's
14 a small, I believe, four-passenger, multi-engine
15 airplane.

16 They're often used as trainers nowadays, but it's a
17 slightly underpowered multi-engine airplane, and it's a
18 cheaper multi-engine aircraft to operate, so that's why
19 they're often used as trainers.

20 Q Okay. So now that-- now that you've passed your
21 multi-engine school training, what doors did that open
22 for you with aviation?

23 A So the purpose of sending me to multi-engine school, was
24 to put me on a fast-track program to be trained in our
25 King air, which is the larger aircraft that was shown in

1 a photo last week.

2 It's a multi-engine aircraft.

3 It is a plane that we typically would transport the
4 governor in.

5 They're turbine engines.

6 A "turbo prop" is what they're referred to.

7 They are turbine engines, but they turn a propeller,
8 and it's a lot more complex than a single-engine Cessna.

9 Q Could you compare plane flights using power, for the
10 jury, between the 182 and the 206 and the-- those Cessna
11 single-engines and a twin-engine?

12 A Yes.

13 The Cessnas would cruise around 120 knots, maybe
14 around 130.

15 The King air, you're doing 250 knots maybe, cruise.

16 It's a lot faster, and it's got a tremendous amount
17 of power.

18 It's the first aircraft I ever flew where I actually
19 had to worry about speed limits in the air.

20 Different airports have different speed limits, so
21 you actually had to slow down this aircraft coming into
22 different air space.

23 It's a much heavier aircraft.

24 Like I said, it's much more complex.

25 The systems, it has full autopilot.

1 The navigational equipment is much more complex.

2 There's just a lot.

3 It's a lot of fun to fly, but it's a huge jump from
4 going from a Cessna single-engine 182, which is rather
5 simplistic, to a King air B200, is the model that we had.

6 It's a big jump.

7 I think if you asked any pilot, they would agree
8 with that.

9 Q Could you now please explain to the jury what the
10 Washington State Patrol did to help you make that jump?

11 A Yeah, so, like I said, I was on a fast-track program in
12 aviation because of attrition with pilots, and so they're
13 in a pinch. Aviation was in a pinch.

14 We had a lot of people retire.

15 We had a lot of people that left the section to go
16 to other positions within the state patrol, very
17 experienced pilots who had been there for years, Paul
18 Speckmaier being one of them. He retired.

19 So I-- the plan was to get Chris Noll, another
20 pilot, and I trained as soon as possible so we could
21 become command pilots and be very proficient in flying
22 the King airs.

23 The standard-- I can't-- I think it was three
24 winters, is what the standard was, and you had to have a
25 minimum of 2000 hours.

1 Well, they waved those standards for Chris Noll and
2 I to get us progressed.

3 The patrol felt that Chris Noll and I had the
4 aptitude and the experience to take on that
5 responsibility and quickly progress into that command
6 pilot role, and so they sent Chris Noll and I to
7 FlightSafety International, which is a training facility
8 down in Long Beach, California

9 Q Okay.

10 A They have different locations all throughout the world,
11 but Long Beach is where they had a full-motion flight
12 simulator for the Beechcraft King Air B200.

13 The cockpit-- it's-- the simulator is pretty cool.

14 It is a full-motion simulator that has-- the cockpit
15 is outlined or laid out just like our aircraft.

16 There was some very subtle differences with the GPS
17 autopilot system, but other than that, it was almost
18 identical, and it felt almost identical from actually
19 flying a real plane.

20 As you're in the simulator, you turn the airplane,
21 and it feels like you are turning an airplane, and when
22 you pull up, it feels like you're pulling up.

23 It's-- you know, to kill an engine on it-- typically
24 all you did down at FlightSafety is run through the
25 emergency procedures, instrument flying, night

1 procedures, and they throw all kinds of emergencies at
2 you, icing. This plane is built for ice, but working the
3 icing system while you are flying.

4 This is all done single-pilot, mind you.

5 State patrol aviation and the King air always flew
6 with two pilots, a command pilot and a co-pilot.

7 Down in FlightSafety, you are doing everything on
8 your own, so you are dealing with these emergencies,
9 handling all these situations by yourself, and it was--
10 man, like I said, it was a huge jump from going from a
11 Cessna 182 where-- a thousand hours more of a thousand
12 hours in a Cessna 182-- going from a Beechcraft King Air
13 B200 turbine aircraft is a huge jump, but these--

14 Q After you did the February-- I'm sorry, multi-engine
15 training, do you remember what month it was that you went
16 to FlightSafety's King air school?

17 A Yes. I went to King air initially in October of 2015,
18 and the initial training was-- I think it was a little
19 over a week, maybe a week and a half, if I recall
20 correctly.

21 Q Okay. And can you tell us how you did?

22 Did you pass?

23 A I did, yes.

24 Q So then you came back, and could you tell-- before we get
25 into what you did, could you tell the jury-- based on

1 what you said was acceleration, did that require or give
2 you the opportunity to go to King air school more than
3 had been done in the past, and if so, please explain?

4 A Yes, sir, it did.

5 So this fast track for me was-- the standard that a
6 pilot would train down in FlightSafety is once every six
7 months.

8 Chris Noll and I were put on this fast-track program
9 where we were sent every four months, and that kind of
10 varied a little because of schedules, but that was the
11 plan.

12 We were going three times a year instead of two
13 times a year to get us trained and experienced to take on
14 the responsibilities as a command pilot.

15 Q Okay. All right. Now, you come back from your King air
16 school, and what-- on a daily basis, what were you
17 typically doing?

18 A I was still mostly doing traffic-related missions in the
19 Cessna 182, but after King air initial, I was approved to
20 be a co-pilot for transportation flights in the King air.

21 That meant I would assist the command pilot.

22 I could not fly passengers in the King air, but I
23 could fill that role as a co-pilot and start to build
24 that experience flying and operating that aircraft,
25 primarily during passenger-type flights.

1 Q And typically who did you fly with in the King air?

2 A It varied.

3 Typically it was Sergeant Sweeney or Sergeant
4 Hatteberg who were the two command pilots in the section
5 at the time.

6 Q All right. And did they provide you with any training?

7 A They did.

8 Every time we went up, I was learning. I was
9 learning the different systems, different functions of
10 the autopilot and navigational equipment, but I did do
11 maybe two or three just training flights in the King air
12 where I flew from the left seat, the pilot position seat,
13 where we took off from the Olympia airport and went up
14 and flew some maneuvers.

15 I think we flew over to Ephrata, landed in Ephrata,
16 and flew back.

17 Anyway--

18 Q All right. And so we go through 2016-- I'm sorry, go
19 through 2014.

20 Would you just list again the schools that you
21 attended in 2014?

22 A In 2014, again, I went to Renton for my multi-engine
23 license, and King air initial down at FlightSafety
24 International in Long Beach, California for King air
25 initial.

1 Q And then 2015, what schools did you--

2 A In 2015 I went to King air training again down at
FlightSafety-- well, let me correct the record.

3 In 2014 I didn't go to FlightSafety. That was in
4 2015, so-- FlightSafety was in October of 2015 and so
5 was-- I confused the years.

6 So 2014 I primarily focused on the 90-day training
7 program in aviation and progressed through the 182 and
8 the Cessna 206.

9 In 2015 is when I went to multi-engine school in
10 February of 2015, and then October I went to FlightSafety
11 for King air initial training.

12 Q Okay. So now we're at the end of 2015.

13 A Did there come a time that there was a change in
14 your salary? If so, please explain.

15 A Yes, sir.

16 Once I passed King air initial, I was put in for a
17 pay raise within the state patrol for a multi-engine-- as
18 a multi-engine pilot.

19 They had different pay scale ratings, so when you
20 first come in the section, there's a five percent pay
21 increase for being a commercial pilot, Cessna pilot.

22 Once you become a King air pilot, co-pilot, it's ten
23 percent, and that's-- so that's not on top of the five to
24 make it 15. That would just be a ten percent pay

incentive.

Once you develop your skills in the King air and you're accepted as a command pilot within the section, that would be a 15 percent pay increase over your base pay as a trooper.

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

MR. SHERIDAN: Yes, Your Honor.

We will be back at 11:05.

(Jury exits.)

(Recess 10:51 to 11:05 a.m.)

16 THE COURT: Thank you. Please be
17 seated.

18 All right. Is there anything that we need to
19 address before the jury comes in?

20 MR. BIGGS: Your Honor, you asked me
21 to respond about the exhibits for Motion in Limine No. 7?

THE COURT: Yes.

23 MR. BIGGS: We are not going to do
24 anything on that.

25 THE COURT: Oh, okay.

1 MR. SHERIDAN: Just to give you a
2 heads-up, we have a prop.

We have the defense approval for its use.

4 this is the hood that they wear when they do
5 instruments.

6 THE COURT: Okay.

7 COURT BAILIFF: All rise.

8 (Jury enters.)

9 THE COURT: Thank you. Please be
10 seated.

11 You are still under oath.

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

14 THE COURT: Mr. Sheridan?

15 MR. SHERIDAN: Thanks, ma'am.

16 Q (By Mr. Sheridan) Do you know, who had to sign off on
17 your pay raise in 2015?

18 A I believe any pay raise would need to be signed off by
19 my-- well, my chain of command, primarily my lieutenant
20 and the captain of the division.

21 In this case it would have been Lieutenant Nobach
22 and Captain Johnny Alexander at that time.

23 Q Can you tell us, during those first two years, 2014 and
24 2015, how was your work relationship with Lieutenant
25 Nobach?

1 A It was very good.

2 We got along very well.

3 We would joke around at work.

4 We developed, I felt like, a very good friendship.

5 You know, we were both project-type guys. We both
6 liked to work on our houses and stayed busy with
7 different types of projects.

8 I am remodeling my house, and I help friends work on
9 their houses, and Nobach was in the middle of a number of
10 different projects, and he came over, borrowed tools, so
11 we-- you know, we had a great relationship.

12 Even though I was a trooper and he was a lieutenant,
13 we still had a strong relationship, I felt.

14 Q Now let's go to-- oh, can you tell us whether you were
15 signed up to go to King air school again in 2016?

16 A Yes, sir, I was.

17 I went twice in 2016.

18 Q Let's just talk about the first time.

19 When was that?

20 A I believe it was in February.

21 Q Okay.

22 A I believe it was in February of 2016.

23 Q 2016, all right.

24 And can you tell us when you got-- do you remember
25 approximately when you got back from that?

1 **A I believe the 24th or 25th of February.**

2 Q Okay. All right. And then did there come a time that
3 you met with Lieutenant Nobach concerning a flight you
4 took towards the end of February?

5 **A Yes, sir.**

6 Q What flight was that?

7 **A I had been asked to come in on what was a scheduled day**
8 **off to conduct a transport flight for Assistant Chief**
9 **Mark Lamoreaux to Walla Walla to attend a work function**
10 **so that-- on the 26th of February I came in to work**
11 **overtime to conduct that mission for the section.**

12 Q All right. And did you do so?

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

14 Q All right. And can you tell us, where did you meet the
15 lieutenant to talk about this?

16 **A After the flight, we met in his office.**

17 Q All right. And his office is in the hangar?

18 **A Yes, sir.**

19 Q Okay. And during that discussion, was there any
20 discussion to suggest that that flight was a serious
21 problem?

22 **A A serious problem? We discussed an icing encounter**
23 **flying over the Cascades on the way back from Walla**
24 **Walla.**

25 Q And was there any discipline involved?

1 A No, sir.

2 | Q And had you reviewed your training record?

3 A Yes, sir, I had.

4 Q And to your knowledge, any mention of that flight in the
5 training records--

MR. SHERIDAN: Objection; Your Honor.

7 This is hearsay.

THE COURT: Overruled.

12 Q (By Mr. Sheridan) Okay. So during this meeting, tell us
13 what happened.

14 Tell us where people were seated and then tell us
15 what happened.

16 A So in this meeting, after this flight on February 26th--
17 Lieutenant Nobach's office is, again, in the hangar, and
18 our hangar is split into kind of two parts: You have the
19 office section and then the actual hangar portion where
20 the aircraft are all stored, and then the maintenance
21 office is out there in the hangar as well.

22 Nobach's office was in the office portion of the
23 hanqar.

He has an office desk in the back of his room and
some bookshelves off-- if you walk in the room, his desk

1 would be in the back of the room on the right-hand side.
2 There's some bookshelves on the right, and there's a
3 round table in the center of his office with three or
4 four chairs around the round table in the office, about
5 five feet in diameter or something like that.

6 Q Okay. And tell us, were you seated? standing?

7 A We were seated at the round table in his office having a
8 meeting.

9 Q All right. And tell us what happens during these
10 discussions.

11 A We were talking about the flight back from Walla Walla
12 and the icing encounter going over the Cascades, and I'm
13 telling him about the flight and how it went.

14 It was a casual-type meeting, you know. It was just
15 a regular conversation.

16 I think it's been alleged that there was an argument
17 or-- I don't know, but there was nothing like that of any
18 sort. It was just a regular conversation about the
19 flight.

20 This was kind of standard.

21 When we flew the chief or flew the assistant chief,
22 it was pretty common that Nobach would ask us how the
23 flight went and want just kind of a debrief on how the
24 day went with the chief.

25 Q Okay. All right. Did there come a time that another

1 person came into the office?

2 A Yes, sir.

3 Q Tell us about that.

4 Who came in?

5 A Well, Nobach and I are having a conversation, and he's
6 sitting across from me at this round table, and Secretary
7 Brenda Biscay's desk is just outside the door, within
8 ten, 15 feet away, and she had walked out from around her
9 cubicle or her desk area, over by the copy machine, and
10 Nobach made a comment to her outside the door, and she
11 came into the office.

12 Q Okay. What happened next?

13 A So she walks behind Lieutenant Nobach, and she starts
14 just kind of massaging his shoulders and the sides of his
15 arm and his neck, and he makes another comment to Brenda,
16 more of like a derogatory type comment.

17 I wish I-- I don't remember exactly what it was.

18 Q Okay. And then what happened next?

19 A Brenda says-- Brenda replies, "I know what you really
20 want," and she leans forwards, and she places her breast
21 cleavage in-- basically in the center of the back of his
22 head.

23 She starts moving her shoulders back and forth like
24 this, and Nobach is sitting in the chair just-- I mean,
25 making eye contact with me, smirking at me as this is

1 going on.

2 | Q What did you do, if anything?

3 A I was in complete disbelief that this was happening, of
4 course, and I said-- what I recall that I said was-- it's
5 like, "Uh, wow. Okay. Good talk."

I got up and walked out of the room, like, "Holy
smokes. Did that really just happen?"

8 Q What happened next?

9 A So, yeah, I walk upstairs, and, you know, I-- I'm in
10 total shock that this just happened in front of me, and
11 I'm thinking to myself, "There's clearly more to this
12 relationship"--

13 MR. SHERIDAN: Your Honor, I am going
14 to object at this point on several grounds.

15 One is we are now getting, again, into motion in
16 limine areas, and we are also talking about-- he is
17 testifying about his own thoughts and words. That's
18 hearsay.

19 THE COURT: Members of the Jury, I am
20 going to ask you to please leave the room for a few
21 minutes, so if you could-- for maybe five minutes, and
22 then we'll be back.

COURT BAILIFF: All rise.

24 (Jury exits.)

25 THE COURT: Thank you. Please be

1 seated.

2 Okay, Detective Santhuff's thoughts are not hearsay.

3 What motion in limine are you referring to?

4 MR. BIGGS: Your Honor, they are
5 getting ready to say that they thought there was an
6 affair.

7 MR. SHERIDAN: Oh, well, if he
8 actually tells him that during one of the meetings--

9 THE COURT: Hold on a second. This
10 was not addressed in motions in limine.

11 MR. BIGGS: No. The idea of bad
12 character was addressed, and that's all they're trying to
13 do is they're trying to say "This guy was having an
14 affair. He's a bad guy."

15 THE COURT: All right. Mr. Sheridan?

16 MR. SHERIDAN: This is-- these are the
17 facts of the case.

18 He tells him, in one of the subsequent meetings,
19 that-- and he says at this point he thinks that "There's
20 more going on than I understood with these two" because
21 he's already been approached by a barista saying that "He
22 keeps coming here with his girlfriend, but he comes with
23 his wife on the weekend," and he says all of this stuff
24 to Lieutenant Nobach during, I think, the second or third
25 meeting.

1 All of this is-- it's part of the case, and it's not
2 character evidence. It's an accusation that causes
3 retaliation.

4 THE COURT: Didn't somebody already
5 testify about the belief that they were having an affair?

6 I thought somebody had already testified about that.

7 I think Chief Alexander testified about that.

8 MR. BIGGS: I don't think anybody did,
9 Your Honor, but nonetheless, they have the barista teed
10 up for tomorrow, and we have the same objection.

11 Her testimony is absolutely irrelevant to this case.

12 Whether or not she thought they were having an
13 affair, whether or not he came in there with his wife or
14 somebody else, is totally irrelevant.

15 It's the exact same issue-- they would not be
16 pressing this if they didn't think it was going to hurt
17 him.

18 That's the whole point.

19 THE COURT: How is the fact that
20 Lieutenant Nobach and Ms. Biscay were having an affair,
21 how is that relevant to sexual harassment and
22 retaliation?

23 MR. SHERIDAN: It's relevant to a
24 hostile work environment, right?

25 Remember that what Alexander testified to was if

1 somebody is offended, then it's a hostile work
2 environment.

3 THE COURT: I know, but how is having
4 an affair relevant to the issues?

5 The issue is Ms. Biscay came into the room and
6 Detective Santhuff observed inappropriate behavior, and
7 he reported that inappropriate behavior.

8 MR. SHERIDAN: Right.

9 THE COURT: Then he was retaliated
10 against.

11 MR. SHERIDAN: Right.

12 THE COURT: What does the affair have
13 to do with that?

14 MR. SHERIDAN: If you may remember
15 this, all this is about Nobach denies-- in a subsequent
16 meeting with him, he denies he's having an affair, but he
17 does not deny that the breast incident happened.

18 He denies-- in court he will deny that the
19 breast-rubbing incident happened, so--

20 THE COURT: How is the affair
21 relevant?

22 MR. SHERIDAN: It's relevant because
23 it's one of the things that he was-- that Trooper
24 Santhuff confronted him with when they had sort of that
25 heart-to-heart meeting after Hatteberg cried. He hasn't

1 testified to it yet, but he will testify to what happens
2 when he meets with Nobach.

3 What's important is that he is confronting a person
4 who is engaging in misconduct, so misconduct-- if it's
5 not sexual harassment at the moment, because there's
6 nobody physically present who says, "I'm offended," it is
7 inappropriate behavior with a subordinate, and he's
8 confronting that person, so that is the improper
9 governmental action that is the pore of the case.

10 THE COURT: How is the affair
11 relevant?

12 Whatever he does--

13 MR. SHERIDAN: It doesn't matter if
14 he's having one or not.

15 What matters is that he is reporting improper
16 governmental behavior, and he's actually confronting the
17 person who he says is engaging in it.

18 THE COURT: Which is the incident with
19 the breasts?

20 MR. SHERIDAN: No, no, because the
21 incident with the breasts is what Alexander reacts to,
22 but if you remember, Alexander says that-- he makes
23 actually some terrible comments about Detective Santhuff,
24 but he says it's because that this environment is sort of
25 like out of control, right, everybody is engaging in

1 improper behavior.

2 So the improper behavior that he's confronting
3 Nobach with is the improper behavior that supports the
4 conclusion that it's improper governmental action if it's
5 not sexual harassment, which remember that's what
6 Alexander says, and it doesn't matter if it's true.

7 What matters is he's going to tell-- he's going to
8 confront Nobach with that, and that whole speech that he
9 gives to Nobach in the coming weeks is what's relevant.

10 We are not-- at this point all we're saying is he's
11 thinking-- he's connecting the dots because people have
12 already come to him and said-- Sweeney says, "This isn't
13 the first time somebody has complained about Nobach."

14 Remember, they're trying to-- their pitch is that
15 there's a hostile work environment that involves
16 everybody, right?

17 It's our pitch that the hostile work environment is
18 created by him and Brenda Biscay alone, so we have to be
19 able to say the counter to what they're saying, which is
20 "It's all of you, and it's certainly you, Detective
21 Santhuff," and we have to be able to say the other side
22 of that story, which is, "No. It's you, and everybody
23 has seen it and everybody is concerned about it," and
24 he's being honest with him saying, "This is my concern."

25 THE COURT: All right. Mr. Biggs?

1 MR. BIGGS: Well, Your Honor, I think
2 you have already sort of identified what the problem is
3 here.

4 It's absolutely irrelevant.

5 There's no evidence of an affair.

6 There's a bunch of speculation by various people,
7 and we've already properly limited the evidence where
8 witnesses want to come in here and throw mud at a
9 defendant, and it's improper to do that when it's
10 irrelevant or it's just character evidence, and there's
11 no doubt why the plaintiff wants to get into this and why
12 he wants to have Sergeant Sweeney say, "Oh, yeah, this
13 goes on all the time."

14 That is not proper evidence.

15 The question here, as you identified, is what
16 evidence do they have that there was retaliation? That's
17 what this case is about.

18 This case is not about whether there was an affair
19 and whether or not some other pilots had their own beef
20 for various reasons.

21 That's not what this case is about.

22 THE COURT: All right. I think that
23 if Detective Santhuff would have said, "This incident
24 happened and they're having an affair, and that's the
25 reason there was some retaliation," the fact that he

1 believed there was an affair would be relevant, but the
2 fact that he believes they were having an affair is not
3 relevant to the issue--

4 MR. SHERIDAN: He tells it all the way
5 up the chain of command, and the story is they disappear
6 for hours at a time, so all of this stuff goes all the
7 way up the chain of command, and his reward for being
8 honest is retaliation.

9 How can-- so it wouldn't be fair that he doesn't get
10 to tell his side of the story and they get to tell what's
11 a made-up story about him being involved in sexual
12 harassment as well.

13 THE COURT: I just don't think that--
14 I just don't think that whether or not anybody believed
15 that Lieutenant Nobach was having an affair is relevant
16 to the issues as being presented, as what was observed
17 and what was complained about.

18 If Detective Santhuff had complained about the fact
19 of the affair, that would be relevant, but he didn't, did
20 he?

21 MR. SHERIDAN: He did. He did.

22 And he complains about it over and over again.

23 THE COURT: The affair?

24 MR. SHERIDAN: Yes, the fact of the
25 affair, but also, Judge, I don't want to make this

1 about-- the affair is one of the things-- these are--
2 like what he's thinking is, "I have known for a while
3 that there's something going on, and I guess I've had my
4 blinders on. This breast-rubbing incident makes me
5 realize that all of my concerns are valid"--

6 THE COURT: That's irrelevant though.

7 His concerns about "valid or not" are irrelevant.

8 MR. SHERIDAN: But he takes those
9 concerns up the chain of command, so those concerns that
10 they disappear for hours at a time-- remember, that's
11 stealing time, right, so disappearing together for hours
12 at a time, that they get complaints of their behavior--
13 he's received complaints of their behavior from the
14 barista where they all go, which is, again, part of their
15 ethics requirement, they're not supposed to put
16 themselves in a position that makes them look bad to the
17 public, and all of these things are part of the
18 investigation, but his reward for saying all of these
19 things is retaliation by Nobach.

20 THE COURT: So are all of these things
21 that you are saying, they're gone for a long period of
22 time and all of those things, are those things that
23 Detective Santhuff reported?

24 MR. SHERIDAN: Yes, and can I just--

25 THE COURT: No, just tell me, are

1 these things that he reported?

2 MR. SHERIDAN: Yes. Yes.

3 MR. BIGGS: No, Your Honor, that is
4 not correct.

5 Sergeant Sweeney was the person who heard from this
6 detective-- Sergeant Sweeney, and passed it up the chain
7 of command, and included in that is not what Mr. Sheridan
8 is suggesting.

9 THE COURT: Okay. You can only ask
10 what things he reported about what he observed.

11 MR. SHERIDAN: Right.

12 THE COURT: And that's it.

13 Whether he believed that there was an affair or not
14 is irrelevant.

15 MR. SHERIDAN: I understand.

16 And let me say we are a little premature here
17 because what Counsel just said is the beginning of the
18 story.

19 The part where this becomes relevant, we'll give you
20 a heads-up, it's coming, and we'll tell you-- and he's
21 going to recount what he specifically said--

22 THE COURT: Mr. Sheridan, I am not the
23 jury. I am not here to determine what the side of the
24 story is, what's really happening.

25 I am only going to limit questions as to what

1 Detective Santhuff observed himself and reported himself
2 without any speculation as to what he believed was
3 happening or not.

4 MR. SHERIDAN: That's fine. That's
5 fine.

6 THE COURT: All right.

7 MR. BIGGS: Thank you, Your Honor.

8 THE COURT: Please bring in the jury.

9 (Jury enters.)

10 THE COURT: Thank you. Please be
11 seated.

12 All right. That last objection is sustained.

13 Mr. Sheridan, you can rephrase your question.

14 MR. SHERIDAN: Sure.

15 Q (By Mr. Sheridan) And for record purposes, can I just
16 say that you were moving your chest left to right during
17 that demonstration?

18 A **Yes, sir.**

19 Q Okay. All right. And tell us, what did you decide to
20 do?

21 A **I decided to report it to my sergeant, Scott Sweeney.**

22 Q All right. And tell us about that.

23 A **There was a time where Sweeney and I were alone in the
24 pilots' office, upstairs in the hangar, and I had asked
25 Sweeney about what he's observed with the lieutenant and**

1 **his secretary.**

2 MR. BIGGS: Objection, Your Honor.

3 Q (By Mr. Sheridan) What did he say to you?

4 MR. BIGGS: We are back in the exact
5 same area, what somebody else observed.

6 It's hearsay.

7 THE COURT: Sustained.

8 MR. SHERIDAN: Your Honor, he is--

9 THE COURT: Sustained, Mr. Sheridan.

10 MR. SHERIDAN: All right. I
11 understand. I understand.

12 Q (By Mr. Sheridan) All right. Without telling us what
13 Sergeant Sweeney said, tell us what happened next.

14 A **I talked to Sweeney about my observations over the last
15 six months, maybe a year.**

16 Q What did you tell Sweeney?

17 MR. BIGGS: This is it, Your Honor.

18 **THE WITNESS: Prior to this meeting,
19 Sweeney and I had had numerous conversations about my
20 observations.**

21 MR. BIGGS: Objection, Your Honor.

22 This answer is nonresponsive.

23 He was asked what he said to Sergeant Sweeney.

24 THE COURT: Overruled.

25 Q (By Mr. Sheridan) Go ahead.

1 A And so during this meeting with Sweeney, we talked about
2 some of those observations that we had-- observations
3 that I've had previously between Lieutenant Nobach and
4 Secretary Brenda Biscay.

5 We talked about how they would leave routinely
6 during the middle of the day, during their shift.

7 There was times where I would run out quickly to go
8 get a cup of coffee between flights in Tumwater, where
9 the hangar is located, and I would run into town and get
10 a cup of coffee at the coffee shop, and I would see
11 Nobach's car in the back of a parking lot, so I talked to
12 Sweeney about that previously.

13 We are talking about these observations, and I ask
14 Sweeney, "Well"--

15 MR. BIGGS: Your Honor, we are going
16 to get into hearsay again.

17 MR. SHERIDAN: Your Honor, this is a
18 managing agent, by stipulation--

19 UNIDENTIFIED SPEAKER: That is not--

20 THE COURT: Mr. Sheridan, I already
21 issued my ruling.

22 MR. SHERIDAN: All right.

23 Q (By Mr. Sheridan) Okay. So what did you tell Sweeney?

24 A I told Sweeney about being in the meeting with Lieutenant
25 Nobach and Brenda Biscay, and I explained what-- in

1 detail what happened during that meeting with Brenda
2 Biscay coming into the room and rubbing her breasts on
3 the back of Lieutenant's head and I bolted out of that
4 room.

5 I explained in detail that meeting.

6 Q All right. And then what happened next?

7 Oh, did you describe any other events to Sweeney
8 that you had observed regarding Nobach and Biscay, at
9 that time?

10 A Again, we talked about their behavior in the office and
11 flirtatious behavior and disappearing during their shifts
12 multiple times a week and sometimes for like two hours.

13 You know-- and we talked about there were times
14 where they would be out of the office-- they would put on
15 the outboard-- we had an outboard, a whiteboard, that we
16 would put on like if we went out for coffee and the time
17 we returned.

18 And they just put, "Coffee" and "Cell phone."

19 We are required to put down a time when we respond
20 or we were supposed to be back to the office, and they
21 just put down, "Coffee" and "Available on cell phone,"
22 but they-- anyway, we talked-- so during this
23 conversation we talked about my observations over the
24 last year or so, my belief about what was going on--

25 MR. BIGGS: Your Honor, objection.

1 His belief is irrelevant.

2 You just ruled.

3 THE COURT: Sustained as to what his
4 belief is.

5 MR. SHERIDAN: Okay. Oh, I see.

6 Q (By Mr. Sheridan) All right. And so you told Sweeney
7 all of that, and then what happened next?

8 A **Sweeney got pissed.**

9 Q Okay.

10 A **Sweeney got very angry.**

11 MR. SHERIDAN: And, Your Honor, can we
12 elicit what he said in response?

13 UNIDENTIFIED SPEAKER: Objection--

14 MR. SHERIDAN: Sergeant Sweeney--

15 THE COURT: Lay the foundation.

16 Q (By Mr. Sheridan) Okay. So Sergeant Sweeney was, at
17 the time-- can you tell us whether he was your immediate
18 supervisor?

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

20 Q All right. And to your knowledge was he authorized to
21 speak to you about matters of discipline?

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

23 **He would be-- as my first-line supervisor, he would**
24 **be the person that would administer low-level discipline,**
25 **counseling sessions, and things like that.**

1 Q All right. And when you were talking with him about this
2 subject matter, was this, to your knowledge, a subject
3 matter that he was the appropriate person to go to?

4 A Yes, sir.

5 He was in my direct line for my chain of command for
6 reporting things like this.

7 MR. SHERIDAN: All right. So he's an
8 801(d)(2) witness, Your Honor.

9 THE COURT: I am going to sustain your
10 objection on that basis-- well, the defense objection on
11 that basis.

12 MR. SHERIDAN: Okay. All right.

13 Q (By Mr. Sheridan) So don't tell us what Sweeney said to
14 you. Tell us what happened next.

15 Tell us what you asked him to do.

16 A I asked him to, in other words, not disclose who I am or
17 not disclose this reporting of this incident because I
18 was in fear that it would impact my career and my
19 relationships in this small unit in aviation.

20 I asked him, "Don't screw me here. Don't burn me,"
21 you know, and I used other words, but that's what I told
22 him.

23 Q All right. And when you left the room, did you have an
24 understanding as to whether or not he would burn you?

25 A He told me he wouldn't.

1 Q You are not allowed to say what he told you.

2 A Oh.

3 It is my understanding that reporting this to him
4 would not be disclosed.

5 Q All right. What happened next?

6 A The next thing that happened was within days Sweeney came
7 to the pilots' office again, and I was on the computer
8 doing some admin work or something, and the door was off
9 to the right, so he comes in, and he just says, "Hey,
10 Ryan, when was that flight with Chief Lamoreaux?"

11 I think he asked me, "When did that happen with
12 Brenda and Jim," and I replied, "It was when I flew Chief
13 Lamoreaux back from Walla Walla."

14 He said, "Can you tell me when that happened?"

15 I said, "Yeah. It was on February 26th when I got
16 back. Why?"

17 I knew right away, by the way he was asking me,
18 there was something more to those questions than just
19 wanting to know the date and time.

20 I was concerned that he was going to, like I said,
21 disclose who-- the reporting of this incident.

22 I told him, I said, "Dude, don't burn me here, man.

23 Don't"-- so--

24 Q Did you come to learn whether or not this had been
25 reported up the chain of command?

1 A Yes.

2 Q And what did you learn?

3 A So there was a time where I was working with Lieutenant
4 Nobach on a project, and specifically a video
5 transcript-- he wanted me to do a King air briefing video
6 for passengers that would come and fly in the King air
7 aircraft.

8 I was working with the state patrol video person and
9 putting together the transcript, a briefing video
10 transcript, and working with Lieutenant Nobach to make
11 sure that the proper information was going to be in the
12 video, and I walked down to his office to get his
13 approval on the transcript I put together.

14 I knocked on his door frame, and he's sitting at his
15 desk.

16 I just said, "Hey, LT" or "Hey, Lieutenant, I
17 finished this transcript. Do you have a minute to review
18 it?"

19 He stands up from his desk--

20 Q Please stand up and show us.

21 A So he stands up from his desk immediately, and he's kind
22 of bladed, and he says, "What do you want, Ryan?"

23 Q Can you tell us-- just describe for the record how you're
24 standing and what it means.

25 A Well, this like stance is what we would call or when we

1 go through the academy they call like the ready position
2 or the violator stance, so when you're on a traffic stop
3 or like out of the car doing like a DUI investigation,
4 they-- it's almost like you're in a defensive stance but
5 not really doing a hands-up and aggressive-type stance.

6 You are just in a ready position, so if you need to
7 defend yourself, you could do that, and that's what the
8 stance was.

9 He was like, "What do you want, Ryan," and I'm
10 like-- I walk in the door, and I am standing there like,
11 "Uh"--

12 Q You can sit down now.

13 A Okay. So I knew-- based on how strange and unusual this
14 was, I'm sitting there like, "Oh, man, Sweeney clearly
15 had to have said something about this incident."

16 Q What did you do next?

17 A So he told me to send the transcript to Brenda, his
18 secretary, and then-- you know, which is totally
19 abnormal.

20 It didn't work like that ever before, right?

21 This was totally abnormal.

22 He tells me to send it to Brenda and he'll get back
23 to me or something along those lines.

24 I knew-- my gut-- I mean, everything-- I knew that
25 Sweeney had to have said something because there's

1 **nothing else that would have invoked that type of**
2 **response from Nobach.**

3 Q What did you do next?

4 A **I immediately walked upstairs to Sergeant Sweeney's**
5 **office, and I said, "Dude, did you say something about**
6 **Brenda and Jim?"**

7 MR. SHERIDAN: Your Honor, may I
8 elicit this answer from Sweeney at this point?

9 THE COURT: I don't know what the
10 answer is, but if it's contradictory to my prior ruling,
11 no.

12 If it's not, go ahead.

13 Q (By Mr. Sheridan) All right. Well, without telling us
14 what Sweeney said, did you ultimately leave that meeting?

15 A **Yes, sir.**

16 Q And at the time you left the meeting, did you have an
17 understanding whether the chain of command had become
18 involved?

19 A **The chain of command and Lieutenant Nobach.**

20 Q Okay. All right. And so now that you had an
21 understanding as to what Lieutenant Nobach knew, can you
22 tell us, how did that make you feel?

23 On a scale of one to ten-- we have certain steps so
24 we can look at this a certain way.

25 Can you tell us--

1 THE COURT: Mr. Sheridan, please make
2 sure that you keep your distance from the jurors. Sorry.

3 MR. SHERIDAN: With the Court's
4 permission I am going to be right here, if that's okay.

5 Is that all right?

6 THE COURT: That's fine. I just want
7 to make sure that you are maintaining the distance.

8 MR. SHERIDAN: Yes, Your Honor.

9 Q (By Mr. Sheridan) I have to ask you this a certain way.

10 I am going to ask you about certain nonmedical
11 conditions that-- and I want you to only answer under
12 this analysis that these are fear and other things caused
13 by the actions of the defendant, okay?

14 A **Okay.**

15 Q Not other things, just caused by the wrongful actions of
16 the defendant--

17 MR. BIGGS: Objection, Your Honor.

18 THE COURT: Sustained.

19 The jury will disregard the last comment.

20 Q (By Mr. Sheridan) Okay. So tell us-- now we are at--
21 the end of April?

22 A **This would have been the end of March timeframe, I
23 believe.**

24 Q End of March, all right.

25 Can you tell us, at this time, after you had the

1 discussion with Nobach and the discussion with Sweeney,
2 on a scale of one to ten, what would you say your fear
3 level was?

4 **A I would like-- I just answered "the end of March."**

5 **What I remember is that this happened somewhere near**
6 **the middle of March, this meeting with Sweeney.**

7 **Q Fair enough.**

8 Okay. On a scale of one to ten, what was your fear
9 level?

10 **A After the meeting with Sweeney, in that timeframe,**
11 **probably an eight.**

12 **Q Okay. And I'm going to put an "F" right there for**
13 **"fear."**

14 All right, and can you tell us, at that time, what
15 was your stress level?

16 **A Probably a six or seven-- seven.**

17 **Q Okay. And on a scale of one to ten, could you tell us**
18 **your level for humiliation?**

19 **A Maybe-- I didn't really feel humiliated necessarily at**
20 **that point, so maybe a one. I don't know.**

21 **Q Okay. All right. And how about your anxiety?**

22 This is not a medical term-- I should ask for the
23 jury, how did you go about defining these terms?

24 **A I Googled the answer, the definition for those terms.**

25 **Q Okay. All right. What was your level of anxiety at this**

1 time?

2 A After that meeting, probably a nine or a ten.

3 Q Okay. And how about anguish or grieving?

4 A Again, it would probably be a one or-- a one.

5 Q Okay. And did you look up loss of enjoyment of life?

6 A I did.

7 Q Could you tell us, just in layperson terms, what you
8 understand that to mean?

9 A Loss of enjoyment of life, according to Google, it was a
10 claim for damages for certain acts, something along those
11 lines, like how different things have affected your
12 enjoyment of daily activities and your life.

13 Q Okay. And at this time, mid March, what was that level,
14 on a scale of one to ten?

15 A Maybe a four or five, due to the stress and anxiety.

16 Q Okay. All right. So now you've spoken with Nobach,
17 you've spoken with Sweeney.

18 What happened next?

19 A Well, there came a time where Nobach-- well, let me back
20 up.

21 At some point I end up talking to Sergeant
22 Hatteberg, and Hatteberg had promoted, in 2015, to a
23 sergeant. He was a trooper pilot and then he promoted,
24 and now he was a sergeant in aviation.

25 I talked to Sergeant Hatteberg about this reporting,

1 and he tells me that Alexander is handling it.

2 There was some times where Alexander was coming and
3 going, and then there was closed-door meetings happening
4 with Alexander with Nobach and Biscay, both of them at
5 times.

6 Q Are you observing these?

7 A **Yes, sir.**

8 Q Okay. All right. And is this-- how much time passed
9 before you observed that there were meetings with
10 Alexander, Nobach, and Biscay?

11 A **Within-- I would say within days after I knew that this
12 had been reported.**

13 Q Okay. All right. And tell us what happened next.

14 A **Again, Hatteberg tells me it's being dealt with by
15 Alexander, and-- you know, during this timeframe I was in
16 and out of the hangar a lot on flights and doing a
17 variety of different missions.**

18 Eventually-- well, around April 1st, Nobach, during
19 our daily morning briefing meeting, has a paper that he's
20 reading during this morning meeting, and it was an
21 all-section meeting, so the pilots were there, sergeants
22 were there, the mechanics, Secretary Brenda Biscay was
23 there.

24 Anyway, everyone employed with aviation section was
25 at this meeting.

1 Nobach had a piece of paper that he's reading from,
2 and he is-- it was like he's staring directly at me in
3 this meeting--

4 Q Can you tell us the subject matter that he read out loud?

5 A It had to do with inappropriate behavior in the workplace
6 and sexual harassment.

7 Q As he was reading that to the group, what was he doing
8 with his eyes?

9 A He was staring directly at me, as he's reading this
10 paper.

11 He would read and look straight at me, and you could
12 tell he was pissed.

13 I mean, he wasn't yelling or-- but you could tell he
14 was very stern, and he's staring directly at me while
15 reading this document, and it was like nobody else was in
16 the room.

17 I'm just-- you know, we are making eye contact as
18 he's reading this, and I'm in complete disbelief that
19 this is happening.

20 MR. SHERIDAN: Your Honor, because
21 they are semi-military, there are some orders that he's
22 given, that Sweeney gives him.

23 It might be worthwhile to dismiss the jury a few
24 minutes early so we can resolve whether I can--

25 THE COURT: If it's an order, it's--

1 ask the question, Mr. Sheridan.

2 MR. SHERIDAN: All right.

3 Q (By Mr. Sheridan) So did Sweeney tell you what to do if
4 anything else happens with Nobach?

5 A Yes, sir.

6 He told me that if I experienced anything more like
7 what happened in that meeting when I walked into his
8 office and he stood up in the violator stance, if I
9 experienced anything-- any adverse action by Nobach, that
10 he wanted me to report that to him immediately.

11 Q Okay. And soon after that, did there come a time that
12 Sweeney gave you an order about talking outside aviation?

13 A Yes, sir, he did.

14 Q Tell us, what did he tell you?

15 A Sweeney pulled me-- he asked me to come in the office and
16 close the door, and he said, "I've been told to tell you
17 that you're not to talk about the incident with
18 Lieutenant Nobach and Brenda Biscay outside of aviation
19 at all."

20 Q All right. And did he explain where that information
21 came from?

22 A He did.

23 He said it was from then Captain Alexander.

24 Q All right. Did you have any understanding as to whether
25 or not that was a valid direction or order?

1 A I did, I questioned it, and I said, "Who does he think
2 I'm going to talk to," and he's like, "I don't know. I'm
3 just the messenger."

4 He is like, "Hey"-- he tells me-- I question, I
5 said, "Well, who does he think I'm going to go talk to,
6 my union?"

7 He says, "Anybody outside of aviation, that's what I
8 was told," and I said, "He can't tell me that. He can't
9 tell me that I can't go talk to my union about anything,
10 for that matter."

11 Q Okay. All right. Next, we are at the end of March, and
12 you had said that you saw Alexander and Nobach and Biscay
13 meet.

14 During this time can you tell us what the work
15 environment was between you and them?

16 A Yes.

17 Immediately after this report of-- well, it was
18 reported by Sweeney.

19 Once Nobach became aware, the work environment in
20 aviation completely changed.

21 There was only-- you know, it's a very small group
22 of people.

23 Like I said, at this time, I think there was an
24 average of probably ten people.

25 It became very, very tense.

Most of this was directed at Sergeant Sweeney and I.

Nobach looked very angry. He looked pissed every day.

He was avoiding me. He was avoiding Sweeney.

You know, he would walk by, wouldn't acknowledge us.
Brenda was the same.

At first Brenda-- I felt Brenda appeared mostly embarrassed, and then after some time, it appeared-- you know, my observations of Brenda is that she appeared to be more angry than embarrassed after some days passed, so there was-- you know, there was a sudden change in just how everybody communicated, how everybody got along.

13 There was immediate impact for everyone, and
14 primarily focused on Sergeant Sweeney and I.

15 THE COURT: Is this a good time to
16 break for lunch, Mr. Sheridan?

MR. SHERIDAN: Yes, it is, Your Honor.

18 THE COURT: Members of the Jury, we
19 are going to take our lunch.

It is noon, almost noon.

We are going to be back at 1:30.

Please rise for the jury.

(Jury exits.)

24 THE COURT: All right. Please be
25 seated.

1 All right. So Mr. Sheridan, I don't think that
2 Sergeant Sweeney falls under speaking agent for purposes
3 of admission by party-opponent, but there is a case that
4 I want to read from Teglund (phonetic), so I am going to
5 read that case, and then I will let you know, and if I'm
6 persuaded by reading that case, that he falls under that,
7 then you can ask the questions.

8 I'm just giving you a heads-up so you can figure out
9 how to ask the questions.

10 MR. SHERIDAN: Thanks, Judge.

11 The other thing is I think he falls under Sub 3 of
12 admission of party-opponent, "A statement by a person
13 authorized by the party to make a statement." I think
14 that's how he fits in.

15 THE COURT: Well, I don't think he
16 does, but there is a case in Teglund that talks about a
17 supervisor-- I think it was a supervisor, that statements
18 by the defendant's managers were admissible as admission
19 by party-opponent, so I just want to read that case.

20 MR. SHERIDAN: Thanks, Judge. Thank
21 you.

22 Can I just take notice that if it turns out I can
23 ask him anything that Sweeney said, I would like to have
24 Sweeney come tomorrow because it changes the whole case--

25 THE COURT: Well, isn't Sweeney

1 testifying?

2 MR. SHERIDAN: Say again.

3 THE COURT: Isn't Sweeney coming to
4 testify?

5 MR. SHERIDAN: He is not coming
6 tomorrow, but I feel like we need him--

7 THE COURT: So there was this motion
8 or this Plaintiff's memorandum regarding relevance of
9 testimony about work atmosphere.

10 Did you get a chance to look at that?

11 MR. BIGGS: Your Honor, we did look at
12 it.

13 It came in yesterday afternoon while we were busy
14 doing other things.

15 I don't think it's well placed.

16 I mean, from what I can-- we haven't done,
17 obviously, any briefing response to that, but this is not
18 a hostile work environment case.

19 The plaintiff has waived that case.

20 They sued under that theory at one time, but they
21 have waived that.

22 They are not claiming that this man was subjected to
23 a hostile work environment.

24 THE COURT: I am not ready for
25 argument right now.

1 I have-- I mean, I just saw it this morning, but I
2 haven't really looked much into it.

3 I was wondering if you had received it and if you
4 were ready-- well, when you would be ready to answer
5 because I'm guessing this is something that-- would this
6 need to be addressed this afternoon, Mr. Sheridan?

7 MR. SHERIDAN: Yes, Your Honor, and
8 the other thing is the whole "Poke the bear" thing.

9 His fear is based on what he knows from working--

10 THE COURT: See, these are things that
11 should have been brought up before now because Mary
12 doesn't work over the weekend.

13 I get this the morning before the jury comes here.

14 The other party doesn't have the opportunity to
15 respond.

16 It's just not-- I mean, it's not like this is
17 something you had not anticipated.

18 MR. SHERIDAN: It's in our trial
19 brief, and we've addressed it.

20 It may be in the motion in limine, but--

21 THE COURT: I don't think this was
22 addressed in the motion in limine about the work
23 atmosphere.

24 All right. Let me look at this, and I will hear
25 argument from you, if you have one, this afternoon, and

1 hopefully we can address it before Detective Santhuff
2 retakes the stand.

3 I don't want to keep the jury delayed again, so
4 let's resume at 1:15.

5 Does that work for you?

6 All right. Okay. We'll be back at 1:15.

7 ALL: Thank you, Your Honor.

8 (Recess 12:00 to 1:13 p.m.)

9 THE COURT: Thank you. Please be
10 seated.

11 All right. So first of all, I just want to make
12 sure that everybody understands that the record and what
13 the Court considers is the pleadings that are filed with
14 the Court and arguments by Counsel.

15 I am not going to be considering e-mails from
16 anybody.

17 Mr. Row (phonetic) sent an e-mail to Mary at some
18 point while we were in our morning session on the issue
19 of my ruling on the hearsay as to Sergeant Sweeney. That
20 is just not appropriate, and I did not consider it, so I
21 have no idea what it says, but that is just not how the
22 record is kept and how the Court operates.

23 I don't want to be receiving any argument or law or
24 anything via e-mail.

25 UNIDENTIFIED SPEAKER: Sure. Our

1 apologies, Your Honor.

2 THE COURT: With respect to the
3 statements by Sergeant Sweeney, I did say that I was
4 going to look to a case based on-- I didn't think that
5 his statements would fall under admission by
6 party-opponent because I didn't think that he was an
7 agent.

8 Before-- and I did read a case that was cited by
9 Teglund, Panel (phonetic) versus Food Services of
10 America, so before I rule, could you please tell me what
11 specific statements you're seeking to admit through
12 Detective Santhuff before I can determine whether or not
13 they do fall under--

14 MR. SHERIDAN: Yes, Your Honor.

15 So the first statement-- keeping in mind who he is,
16 right?

17 Sweeney is his immediate supervisor, and you will
18 recall, maybe from the opening, is that these guys are
19 allowed to give 095s, the lowest form of discipline.

20 Hatteberg, who is a sergeant, gives the discipline,
21 so these guys have that power.

22 They have the authority to do what's in their power.

23 THE COURT: What are the statements,
24 Mr. Sheridan.

25 MR. SHERIDAN: So Sweeney says-- he

1 says, in-- so we have to go back to the first meeting.

2 He tells-- Detective Santhuff makes the report to
3 Sweeney.

4 Sweeney and he had talked in the coming prior six
5 months about the fact that the barista had complained
6 about them looking inappropriate, like they're having an
7 affair, and so this is an ongoing conversation, and when
8 he reports the breast rubbing to Sweeney, Sweeney says,
9 "You know, this isn't the first time I've heard this kind
10 of stuff," right?

11 THE COURT: That's not an admission by
12 party-opponent because that is not Sweeney saying, "I am
13 going to do this because of this behavior."

14 That is just not-- "It's not the first time I heard
15 that stuff" is 404(a) really.

16 MR. SHERIDAN: Keep in mind the
17 framework we're in.

18 We're in the framework of is his report reasonable.

19 Remember, that's their whole defense, that he's not
20 acting reasonable, right?

21 As part of what is reasonable, it is all of the
22 baggage that he carries in when he makes his report, and
23 the other--

24 THE COURT: Mr. Sheridan, give me the
25 statements you are trying to elicit from Sweeney.

1 One is "It's not the first time I have heard about
2 this." That's not admissible.

3 MR. SHERIDAN: All right. Okay.

4 Well, then, the next one we have already got in is the
5 one about-- well, they talk about "Don't poke the bear."

6 Everybody talks about, "Don't poke the bear."

7 Sweeney says in his deposition that things changed
8 for him at that time and that it took years before things
9 seemed to be more back to normal.

10 He also says-- he tells Ryan Santhuff that he's
11 going to protect him, and he tells him-- he tells Ryan
12 what he did in order to report up the chain of command,
13 and he tells Ryan not to go outside of the group, which
14 you've already--

15 THE COURT: He has already testified--

16 MR. SHERIDAN: Yes.

17 Over time he is-- he's part of the group that is
18 retaliating against him, so--

19 THE COURT: Hold on a second.

20 So the statement that things changed for him, again,
21 he can testify about that. That is not Sweeney talking
22 as an agent to Detective Santhuff.

23 That is just-- it's more of a personal thing of
24 "Things changed for me."

25 It is very different from-- the issue-- the reason

1 why on that case that I mentioned, Panel versus Food
2 Services of America, the Court found that the statements
3 by the managers were admissions by party-opponent because
4 the managers were telling the people that were being
5 fired why they were being fired, which is different than
6 "Things just changed for me."

7 He can testify about that. That is not an admission
8 by party-opponent.

9 I am not going to admit that from Detective
10 Santhuff, and Sweeney can testify about that.

11 "He's going to protect Santhuff," that's admissible.

12 MR. SHERIDAN: I think that's already
13 in.

14 THE COURT: Sorry?

15 MR. SHERIDAN: I think that's already
16 in too, isn't it?

17 THE COURT: I don't remember.

18 I don't remember hearing that.

19 What he did do go up the chain of command, I mean,
20 that's not-- that's not really hearsay.

21 MR. BIGGS: Right, I don't think
22 that-- if he just says-- he only gave it to one person,
23 and the rest is not from his personal knowledge--

24 THE COURT: All right. So what other
25 statements?

1 MR. SHERIDAN: I think that's about
2 it, in terms of the conversation with Sweeney.

3 THE COURT: Okay. All right. So the
4 only thing that really would be admissible is that he is
5 going to protect-- that Sweeney is going to protect
6 Santhuff, and you said that that was already testified
7 to.

8 I don't remember that, but if you said that it was,
9 then that's fine.

10 UNIDENTIFIED SPEAKER: It was.

11 THE COURT: So any other statements
12 that we need to worry about from--

13 MR. SHERIDAN: From the Sweeney level?

14 THE COURT: Yes.

15 MR. SHERIDAN: Jeff Hatteberg makes
16 statements.

17 He says-- He's the one-- we haven't gotten to this
18 meeting yet where Hatteberg cries, and that's when-- so
19 there's the three of them talking during the meeting
20 about the problem, right?

21 He says-- he tells Ryan, "I just want you to
22 apologize to the lieutenant," and Ryan says, "I didn't do
23 anything wrong," so there's that interaction.

24 That's a sergeant talking to him--

25 THE COURT: Well, wanting him to

1 apologize is not hearsay.

2 It's not a statement-- I mean, it's not being
3 offered for the truth of the matter asserted.

4 "I want him to apologize"--

5 MR. SHERIDAN: Got it.

6 There's a back and forth between the three of them,
7 and then that's when he decides, "I'm just going to go
8 talk to the lieutenant," and that's when he goes down and
9 tells the lieutenant.

10 I think that stuff with Hatteberg comes along
11 periodically where he says, "It's been handles. It's
12 been handles. I think that it's been handled," has
13 already gotten in once.

14 That's pretty much it for Hatteberg.

15 After that, it's comments by higher-level people,
16 for the most part.

17 Then when we get into the retaliation-- you know,
18 there is retaliation by Hatteberg and by Sweeney, so we
19 will be back to, "Hey, this is what he told me to do.
20 This is what he told me to do," so--

21 THE COURT: All right. Mr. Biggs,
22 anything that you would like to add?

23 MR. BIGGS: Yes, Your Honor.

24 THE COURT: You are the one who knows
25 what are the statements.

1 I know the case, but I'm very limited as to what I
2 know.

3 MR. BIGGS: We haven't addressed, Your
4 Honor, "Don't poke the bear"--

5 THE COURT: We haven't addressed that
6 yet.

7 I am just taking one thing at a time.

8 I just--

9 MR. BIGGS: That's one of the things
10 that Sweeney is going to say.

11 THE COURT: Okay. We'll get to that.

12 I just want to make sure any statements-- so
13 Mr. Sheridan just referenced statements with the three of
14 them in a meeting.

15 Are there any statements that you're concerned
16 about, other than what he has indicated that I have
17 already ruled on?

18 MR. BIGGS: I don't think so.

19 THE COURT: Okay.

20 MR. BIGGS: If someone gives an 095
21 and they explain to you why they did it, that's perfectly
22 fine.

23 THE COURT: So let's get to the poking
24 of the bear, which is relevant from testimony about work
25 atmosphere.

1 Mr. Sheridan, I have read your brief.

2 Mr. Biggs, what is your response?

3 MR. BIGGS: Well, Your Honor, first of
4 all, I would like to make sure the Court understands this
5 is an important area because several of their witnesses
6 that they've got teed up are coming in for just that
7 purpose, to basically throw mud at Lieutenant Nobach, so
8 the barista, and there are a couple others, Chris Noll,
9 and these-- we need to have a ruling that's consistent
10 with what we've been doing so far, which is this case is
11 not about somebody's character.

12 This case is about whether or not he did certain
13 acts.

14 The idea of "Don't poke the bear," we have to do a
15 balancing test.

16 I think if we say that, you know, maybe there's some
17 moderate-- relevance to the plaintiff's testimony.

18 THE COURT: Well, before we get to
19 403, what's-- is Nobach's character at issue here? Is
20 it?

21 MR. BIGGS: No, his character is not
22 at issue, no.

23 They would like to put it at issue.

24 No.

25 The question of whether or not Santhuff chose not to

1 go report something, because somebody else told him,
2 "Don't poke the bear," that's not admissible, Your Honor.

3 First of all, it's not consistent with other aspects
4 of the case.

5 We know that he can do these things anonymously, but
6 it's different from what Mr. Sheridan is trying to do
7 with this.

8 It's there specifically to say, "Anybody gets a free
9 pass. You don't have to turn anybody in, despite
10 whatever the procedures say, because Nobach is such a bad
11 person, and he retaliates against everybody for
12 everything."

13 If we remember what the case law is kind of on this
14 area, the kind of evidence that might come in, in this
15 context, is the same evidence of the same kind of
16 treatment of the same sort of chain of command.

17 Rundridge (phonetic), for example, where you've
18 got-- if it's a safety issue, other people with safety
19 issues, that can be admissible.

20 Here, this is just "Don't ever do anything to piss
21 off the lieutenant because he will retaliate against
22 you."

23 That's way, way, way too broad, way outside of kind
24 of a Rundridge analysis.

25 THE COURT: All right. Mr. Sheridan,

1 why is Lieutenant Nobach's character relevant?

2 MR. SHERIDAN: His character is not.

3 His management style is.

4 We are not saying he's good or bad.

5 We are simply saying-- you know that different
6 managers have different management styles.

7 His management style is if he believes that you have
8 crossed him, he will seek retribution.

9 If that's the case, if that's the atmosphere, it
10 explains a lot of things.

11 Why is nobody talking to him? Because they're
12 afraid of retaliation.

13 Why is Ryan afraid? Because he's heard all of these
14 stories about retaliation.

15 All of these are well said, right?

16 The thing you didn't let me get in with Speckmaier
17 is him saying in an earlier phase of his life that he
18 can't wait to get in and destroy people.

19 This is not about his character. This is about his
20 management style, and that kind of atmosphere gets in
21 employment cases all the time, if it's a retaliatory
22 atmosphere.

23 What's worse is the defense has gotten in their
24 theory of the case, which is that there's a sexual
25 harassment atmosphere, right? It permeates the whole

1 place.

2 If they get it in, we get ours in, and we get to
3 explain that-- you know, that explains why he delays in
4 reporting things, because he doesn't want to lose his
5 career.

6 If his boss was a Mother Teresa, he wouldn't worry
7 about it because Mother Teresa is going to forgive him.

8 The reputation of him is not to forgive people, so
9 that's why it matters.

10 Also, it shows that it's more likely-- if there's an
11 atmosphere of retaliation, it's more likely that he will
12 be retaliated against, so that's a 402 issue, and it's
13 admissible to show that.

14 The other thing is we have to be able to rebut their
15 case, which is that this is all about sexual harassment,
16 right? That's what's permeating it.

17 It's not. It's all about retaliation. That's
18 what's permeating the environment.

19 THE COURT: Well, 404(a) precludes
20 exactly what you're trying to do, which is to show that
21 "This is the way that he behaved in the past, and so this
22 is the way that he behaved now," so I don't see how
23 that's admissible.

24 MR. SHERIDAN: Then if we follow that
25 line of reasoning, then how is their "Sexual harassment

1 permeates this organization"-- because it's all about
2 character under that analysis, right?

3 So they shouldn't be allowed to put that in.

4 THE COURT: All right. I am not going
5 to allow-- I find that testimony that people told
6 Detective Santhuff-- pilots told him that he needed to
7 document everything because Nobach has a history of being
8 retaliatory towards employees, that is precisely what the
9 rule seeks to exclude, and any statements about "Don't
10 poke the bear," that is not admissible.

11 MR. SHERIDAN: How will we prove good
12 faith then?

13 THE COURT: Mr. Sheridan, I have
14 issued my ruling. I am not going to get into an argument
15 with you.

16 MR. SHERIDAN: Fair enough.

17 Can I make-- I need to make a record of something,
18 just for appellate purposes, if that's okay with the
19 Court.

20 THE COURT: Go ahead.

21 MR. SHERIDAN: Thanks.

22 Okay. So this is what we want to be able to present
23 to the jury, and it's found in his deposition on Page 85.

24 He says-- oh, I'm sorry, at the bottom of 86.

25 I also want to tell you this so we can talk about

1 what he's going to say, if the Court lets us.

2 So he says, "And I sit down and I explain to him"--
3 this is Lieutenant Nobach --"how the reporting of sexual
4 harassment went down. I explained to him that months--
5 for months people in the aviation division believed that
6 him and-- him and his secretary, Brenda, were having an
7 inappropriate relationship in the workplace. I explained
8 to him"-- and so this is--

9 THE COURT: I'm sorry who is this?

10 MR. SHERIDAN: This is from his
11 deposition. This is from the stance of--

12 THE COURT: Whose deposition?

13 MR. SHERIDAN: Ryan Santhuff's
14 deposition, and he's telling us what he said to Nobach in
15 a face-to-face meeting.

16 He says, "For months people in aviation division
17 believed that him"-- him and Secretary Biscay --"were
18 having an inappropriate relationship in the workplace."
19 He tells him that.

20 "I explained to him that months before the sexual
21 harassment reporting I went through Capital Perks
22 Espresso in Olympia, which was on the way to work, and
23 the owner, who we got to know over the years, asked me,
24 'what's the deal between your boss and that gal who he
25 comes in here with,' and I'm like, 'Uh, nothing, you

1 know, just stopping for coffee,' and she's like-- she's
2 basically saying, 'yeah, are you sure?' She's like,
3 'Because a number of girls have brought it to my
4 attention"-- a number of her employees have brought it to
5 her attention that she believes that they believe that
6 Nobach is having an inappropriate relationship--

7 THE COURT: Didn't I already rule on
8 this earlier about the affair?

9 MR. SHERIDAN: I'm not sure, Your
10 Honor.

11 THE COURT: I'm pretty sure I already
12 ruled that any testimony about an affair was not
13 relevant, and that Detective Santhuff could testify about
14 anything that he observed and what he reported as to his
15 observations.

16 MR. SHERIDAN: Oh, perhaps I
17 misunderstood.

18 So he's allowed to tell the jury that he reported to
19 Nobach that-- all of this stuff about believing that he's
20 having an affair?

21 THE COURT: Not the affair.

22 The things that-- I said that he could testify as to
23 anything that he observed, and he has testified about
24 some of the things that he observed already, but that his
25 belief as to whether or not they were having an affair

1 was not coming in.

2 MR. SHERIDAN: Right.

3 I just want this to come in to say that this is what
4 he told Nobach.

5 So Nobach gets notice of this and retaliation
6 begins, right?

7 The thing I wanted to also get in the record is that
8 you kept asking, quite rightly, "Is this about an affair?
9 Is it about that," because we had presented the sexual
10 harassment piece.

11 The reason that-- the thing that you don't know and
12 won't know until we're further down the road, is that he
13 keeps raising the affair from day one to every management
14 up the chain, all the people he talks to, and they say,
15 "We are not going to talk about it," right?

16 You remember when I tried to get in that Exhibit
17 No. 222, which was the example of another person-- with
18 Saunders?

19 Saunders-- Saunders heavily disciplined another
20 lieutenant for lying about an affair, right?

21 This is like-- this affair thing, it's not that it
22 didn't happen, it's not that he didn't say it.

23 It's that they cut him off and refused to talk about
24 it.

25 There's a May 20th meeting where he starts talking

1 about it, and Captain Alexander shuts him down and says,
2 "We are not going to talk about this."

3 Just because that's their game doesn't mean that we
4 don't get to put on the stuff about it.

5 That's the record I wanted to make.

6 I guess I can also say that the reading of the
7 deposition that I was doing goes to Page 89, Line No. 16,
8 and we can supplement that later.

9 I wanted the Court to understand that this business
10 about the affair is coming out of his lips all the way
11 along.

12 THE COURT: If Detective Santhuff
13 reported to anybody, "Lieutenant Nobach and Brenda Biscay
14 are having an affair," and that's what caused further
15 retaliation, yes, it's admissible.

16 MR. SHERIDAN: Thank you.

17 THE COURT: But if he did not report
18 it, "Does he believe there was an affair, people were
19 talking about an affair"-- it's irrelevant.

20 MR. SHERIDAN: Thank you, Judge. I
21 understand your ruling. Forgive me for-- I'm a little
22 slow on that one. Thank you.

23 THE COURT: Now, with the Plaintiff's
24 notice-- I'm sorry, have-- on the motions in limine.

25 Motion in Limine No. 6, I already ruled on this as

1 well, on whether or not Defense could address the medical
2 privacy.

3 I spent a significant amount of time explaining my
4 ruling, but apparently I wasn't very clear.

5 Defense is precluded from cross-examining Detective
6 Santhuff as to whether he went to the doctor, didn't go
7 to the doctor, whether he had a diagnosis of depression
8 or whatever, but Defense has leeway to argue during
9 closing argument, "You have no corroborating evidence as
10 to the damages."

11 MR. SHERIDAN: Okay.

12 THE COURT: With respect to Motion in
13 Limine No. 7, regarding WSP's hearsay reports, Defense
14 has indicated they are not going to use any of those
15 exhibits, so that's, I guess, granted.

16 MR. SHERIDAN: Yes. Thank you.

17 THE COURT: And then I have not had
18 the time to read the response and everything on the issue
19 of Motion in Limine No. 12, which has to do with the
20 discovery dispute, so I don't think you're going to bring
21 that up today with your client, are you.

22 MR. SHERIDAN: No.

23 So as to the "Poke the bear," in terms of his
24 reasonable belief, that's not coming in?

25 THE COURT: No.

MR. SHERIDAN: That's not coming in, okay.

THE COURT: No.

It's improper for character evidence. It's hearsay.

It's not coming in.

MR. SHERIDAN: Okay. Can we say why I was afraid? Can he say, "I was afraid because of what I've heard" or because of something, without describing it?

I mean, how will I show that he has a reasonable basis for his damages either?

You know, "Why is he afraid? Nobody has taken any action against him." He's afraid because of what he knows.

THE COURT: Your client cannot testify about what other people had indicated about Lieutenant Nobach's reputation for retaliation, for poking the bear.

I mean, I don't know how much more clear I can be.

MR. SHERIDAN: I appreciate it, and thanks for your patience, Judge, but also you've already ruled that we can't bring in other witnesses to talk about it either, right, for their personal experiences, or we can?

THE COURT: It depends what you're going-- if you're going-- if it's going to go to 404(b)

1 that I already excluded, no.

2 If you have specific instances that you want
3 admitted to 404(b), you need to bring that before the
4 Court.

5 MR. SHERIDAN: Should I accept that
6 the retaliatory atmosphere is excluded in whole?

7 THE COURT: Yes, because the purpose
8 of you bringing that in is that "Because Lieutenant
9 Nobach was retaliatory with other people in other
10 circumstances, he was acting that exact same way here,"
11 and that is what the rule precludes.

12 MR. SHERIDAN: I understand.

13 Okay. All right. Thanks.

14 THE COURT: Anything else?

15 MR. SHERIDAN: No. Thank you, Judge.

16 THE COURT: Defense?

17 MR. BIGGS: No. Thank you, Your
18 Honor.

19 THE COURT: We are only five minutes
20 late to bring in the jury.

21 COURT BAILIFF: We have admitted two
22 more people into--

23 THE COURT: My understanding is that
24 there are several people participating via Zoom.

25 I just want to make sure that those of you that are

1 watching the proceedings or watching the witness here in
2 the proceedings via Zoom, you are aware that the rules
3 that you are bound by are the same as if you were here.

4 That means that you cannot record the proceedings.
5 We only have one official record, and that is the record
6 that our court clerk keeps, and you are not allowed to
7 take screenshots either, just like you would not be
8 allowed to take photos while you are in the courtroom.

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

11 **Thank you.**

12 COURT BAILIFF: All rise.

13 (Jury enters.)

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

16 Detective Santhuff, you are still under oath.

17 **THE WITNESS: Yes, Your Honor.**

18 THE COURT: Mr. Sheridan?

19 Q (By Mr. Sheridan) Okay. So where we left off, we were
20 talking about your conversation with Lieutenant Nobach
21 and how your workplace changed towards you.

22 I want to take your attention to the beginning of
23 April in the pilots' office with you and Lieutenant
24 Sweeney talking about progression charts.

25 Would you tell us what happened?

1 A Yes.

2 I think just a second ago you mentioned my
3 conversation with Lieutenant Nobach.

4 We left off with the conversation with Sergeant
5 Sweeney, just to correct the record.

6 Yes, so on April 1st, after the meeting where Nobach
7 singles me out for the-- while reading the sexual
8 harassment complaint, I receive an e-mail from Lieutenant
9 Nobach that has a pilot progression chart attached.

10 The progression chart lists all the different
11 employees and their advancement within the section, lists
12 their current status, and then it has a date for which--
13 this particular chart showed where I would be eligible to
14 reach command pilot status in the King air.

15 Again, it came with a pay raise, but it showed my
16 first opportunity to reach that command pilot status.

17 Q Okay. And what did you learn, based on your conversation
18 with Lieutenant Sweeney?

19 A Sweeney came in the pilots' office, and he mentioned-- he
20 asked if I had seen an e-mail that Nobach has sent with a
21 progression chart, and I hadn't-- hadn't seen it yet.

22 I open it up, and he said that he noticed a change
23 in the progression chart from the original one.

24 Mind you, this is immediately after the meeting, and
25 the sexual harassment environment was blowing up in the

1 **section.**

2 Sweeney had noticed that my progress outlook in the
3 section was now moved further out in the future.

4 I didn't even catch it at first because I didn't
5 have the original progression chart to compare it to, but
6 Sweeney caught it.

7 He says, "I think Nobach is messing with you."

8 Q Okay. What happens next?

9 A Sweeney went and talked to Nobach about it.

10 Nothing changed, but--

11 Q So did you communicate with Sergeant Sweeney about going
12 to talk about this change in your progression rate?

13 A Yes, we had that conversation.

14 Q And did you learn that he would do that?

15 A Yes, he did.

16 Q And when he came back, was there any change made?

17 A No, none.

18 Q Okay. All right. Now, so that's the beginning of April?

19 A Yes, sir.

20 That was on April 1st.

21 Q All right. And so let me nail this down now for the
22 April, May timeframe.

23 Can you tell me, during this period of time, what's
24 your level of stress?

25 A An eight.

1 Q Okay. And what's your level of fear?

2 A An eight, probably around an eight also.

3 Q How about your level of anxiety?

4 A It's up there as well.

5 I would say probably an eight or nine.

6 Q Okay. And how about your loss of enjoyment of life?

7 A It's definitely being impacted by now.

8 I would say--

9 Q Sorry, I didn't hear that.

10 A I said it's definitely being impacted by now, and I would
11 say probably a seven.

12 Q Okay. And how about anguish and humiliation?

13 A I don't know if I was really experiencing any grief or
14 anguish during that timeframe, so it would probably be
15 fairly low, a one.

16 Humiliation, fairly low as well, a one.

17 Q Okay. So did you notice anything different, during this
18 timeframe, the April timeframe, regarding how the
19 mechanics were acting?

20 A Yes.

21 Not long after the reporting of the breast-rubbing
22 incident with Biscay and Nobach, I feel a barrier wall
23 between the mechanics and I who I used to get along with
24 great.

25 You know, in the morning we would meet and go down

1 to the hangar and have a cup of coffee.

2 All of a sudden it became kind of like I was getting
3 a cold shoulder from them.

4 They didn't want to engage in conversation with me.

5 I later find out, through Hatteberg, that--

6 MR. BIGGS: Objection, Your Honor. We
7 are now in hearsay again.

8 THE COURT: Sustained.

9 MR. SHERIDAN: "Sergeant Hatteberg,"
10 for the record.

11 Q (By Mr. Sheridan) Did that change, in the coming
12 months?

13 A Yes, sir.

14 It continued to get worse, and that barrier, how I
15 felt like I was being ostracized within the unit, with
16 the mechanics as well, continued to get worse as time
17 went on.

18 Q All right. And in the April timeframe, did you talk to
19 Hatteberg about any discipline regarding Nobach and
20 Biscay?

21 A In the April timeframe?

22 Q Yes.

23 A Yes.

24 You know, I had conversations with him all the time.
25 We flew together a lot, but in that April timeframe

1 **Hatteberg had mentioned that Nobach and Biscay-- I had**
2 **asked what was going on with the sexual harassment--**

3 MR. BIGGS: Objection, Your Honor.

4 I believe this witness should be instructed to
5 answer what he said, not what he was told by others,
6 unless it's clear otherwise.

7 THE COURT: So the question is what
8 Hatteberg had said? So based on my earlier ruling-- I
9 don't know-- again, I don't know what the statement is.

10 Q (By Mr. Sheridan) Well, did Hatteberg provide you with
11 information regarding whether or not there had been any
12 discipline to Lieutenant Nobach and Ms. Biscay?

13 A **Yes, sir, he did.**

14 Q And what did he tell you?

15 A **He said they both received 095 counseling documents.**

16 Q Can you tell the jury what a 095 is?

17 A **Yes.**

18 An 095 can either be positive or negative in the
19 state patrol.

20 An 095, in this instance, was used in a negative
21 way, as a disciplinary-type document.

22 An 095 will lay out in detail what the disciplinary
23 measure was.

24 The 095, the agency says, is just a counseling
25 document.

1 Well, it's more than that because it impacts your
2 job performance appraisal, and it reduces your score on
3 your job performance appraisal, which can impact your
4 ability to-- for promotion or a specialty position, like
5 a detective position, or any position where they use your
6 job performance appraisal to determine a hiring decision.

7 An 095 can have a significant impact on someone's
8 career because it automatically docks that job
9 performance appraisal.

10 Q Okay. Did you-- how did you feel about that when you
11 heard that they received that?

12 A I actually felt some relief that since the discipline was
13 so low for something-- as a sexual harassment complaint--
14 this is-- an 095 is such low discipline, that it only
15 stays in your file until the end of the calendar year, so
16 if you received-- let's say you received a disciplinary
17 action in December.

18 At any time in December you receive a disciplinary
19 action, it goes in your supervisor file, and at the end
20 of that year, calendar year, it's gone.

21 The employer gives it back to you in your supervisor
22 file, and it's gone.

23 There is an exception to that.

24 If an 095 is a recurring problem, then a supervisor
25 can keep that 095 and use that for future disciplinary

1 measures, if necessary, but-- so this 095 that they
2 received was such a small discipline.

3 I actually felt some relief that maybe things won't
4 be so bad.

5 Q Okay. All right. Now, let's talk about the April 4th
6 through 8th time period in 2016.

7 Did there come a time that you received nonstandard
8 training from Lieutenant Nobach?

9 A **Yes, sir.**

10 Q Can you tell us about that?

11 A **So what I received is what we were referring to as**
12 **right-seat training.**

13 What this was, was a combination of flying from the
14 right seat-- let me kind of explain.

15 When you fly a Cessna 182, the instruments in the
16 aircraft is set up to fly from the left seat, just like a
17 passenger car-- well, in the United States, a passenger
18 car.

19 Your speedometer and everything is right in front of
20 you.

21 Well, it would be like driving a vehicle in the
22 United States, where everything is set up on the left
23 side, but you're driving from the right side and you are
24 looking at the instruments across the aircraft-- or
25 across the car, and you are trying to drive and watch the

1 **speedometer all the way across the side of the car.**

2 **He does-- Nobach does this right-seat training and**
3 **combines it with instrument training on top of that.**

4 Q So would you explain, whose idea was this that you would
5 sit in the right seat?

6 A **It was Nobach's idea.**

7 Q And can you tell us-- when you say, "Two things were
8 combined," could you explain what was being combined?

9 A **Well, we-- according to the training program in aviation,**
10 **it didn't-- right-seat training didn't happen.**

11 **It wasn't part of the Cessna training program.**

12 **Other pilots before me hadn't experienced right-seat**
13 **training, but the idea was that I could get trained in**
14 **the right seat while also completing my limitations for**
15 **instrument training, combined, which was pretty**
16 **challenging, and that I could then assist training new**
17 **pilots, one in particular, Jayson Caton, who wasn't being**
18 **trained in the section currently.**

19 Q Okay. And so who proposed the combination, the idea of
20 doing it at the same time?

21 A **Lieutenant Nobach.**

22 Q All right. And when he did that, when he said that, did
23 any flags go off for you of concern at that time?

24 A **Not entirely, other than the fact that our relationship**
25 **was very uncomfortable, and the thought of flying with**

1 him in the small airplane made me somewhat nervous.

2 I enjoyed progressing in my skills. I enjoyed
3 flying, and I looked at this as a good opportunity.

4 I didn't decline it in any way, but I thought of it
5 as a perfect opportunity for me to become a better pilot,
6 and I enjoy training people. I was a field training
7 officer as a patrol officer, and so I knew that if I was
8 going to have an opportunity to train Jayson Caton, for
9 example, that I would enjoy that.

10 I didn't balk it in any way.

11 Q All right. So now you're in the plane, and tell us what
12 happens during the flight and who is in the flight with
13 you?

14 A It's just Lieutenant Nobach and I, and, again, I'm flying
15 from the right seat.

16 We adjusted our shifts to work morning hours, and
17 what I thought, which was this was just standard, you
18 know, we'd go up to train and build me as a pilot and
19 build my experience and build as a-- flying instruments
20 from the right seat, and that was my understanding, so--

21 Q Okay. So when you went up there, did you find anything
22 challenging?

23 MR. SHERIDAN: If I may approach the
24 witness, Your Honor.

25 Q (By Mr. Sheridan) I am handing you what-- a piece of

1 plastic, and I am going to ask you to explain what it is
2 and explain it to the jury.

3 **A This device is referred to as a hood.**

4 They make different types of hoods or view-limiting
5 devices for instrument training.

6 We train with this so that you can't have that
7 peripheral vision of seeing outside the aircraft, and
8 it's to simulate flying in the clouds where you're solely
9 focused on the instruments of the aircraft and
10 controlling the aircraft just off the feedback from the
11 instruments.

12 We would use this in VFR conditions or weather that
13 is-- where we are not going to encounter clouds, we would
14 use this to simulate that environment of flying in the
15 clouds.

16 Q Now, what was it that you-- what was the purpose of
17 having you wear the hood during that flight?

18 A Again, to try to limit our view outside the aircraft in
19 any way, and so to where all we could focus on is this
20 very narrow view of the instruments.

21 Q All right. And would you mind putting it on?

22 A Sure.

23 THE COURT: While you do that, I am
24 going to-- we have some new people that have joined the
25 Zoom meeting.

1 For those of you who have just joined our Zoom
2 proceedings -- it's not really a meeting -- I just need
3 to give you some information.

4 Even though you are able to watch the proceedings
5 through the Zoom function, the rules apply as if you were
6 here.

7 That means that you are precluded from recording the
8 proceedings. We only have one official record, and that
9 is a record that is kept by our clerk.

10 Likewise, you are precluded from taking any
11 screenshots, like you would not be allowed to take any
12 photos in the courtroom.

13 Any violation of my court order will be basis for
14 being held in contempt and sanctions.

15 Q (By Mr. Sheridan) All right. So is the thing that
16 you're wearing now what you would use to signal a cloud
17 cover?

18 A **Yes, sir.**

19 Q All right. And when you have that on, could you just
20 explain in layperson's terms what the purpose of it is?

21 A **Yeah. So again, the purpose is to narrow your vision so
22 you can't see outside the aircraft, or peripheral vision,
23 and so you-- you focus directly on the instruments and
24 the feedback from the instruments to control the aircraft
25 instead of-- sometimes your body can give you different**

1 **senses of turning or descending, so you are fighting**
2 **those urges to control the aircraft based on your own**
3 **personal feelings and solely focus directly on the**
4 **instruments of the aircraft and make those adjustments to**
5 **fly the aircraft safely just on the aircraft instruments**
6 **by themselves.**

7 Q Now, you are in the right seat of-- which plane is it
8 again?

9 A **A Cessna 182.**

10 Q So you just described to us basically that hood is
11 designed for you to be able to look at the instruments.
12 Were the instruments in front of you?

13 A **No, sir.**

14 Q So how did you look at the instruments in the right seat?

15 A **So I'd have to direct my attention to the left side of**
16 **the aircraft to fly the aircraft based on the instruments**
17 **over there and the input from the instruments over there.**

18 Q And who was sitting in that seat?

19 A **Lieutenant Nobach.**

20 Q So were you able to do the simulated flight with the hood
21 on with the gadgets on the left side?

22 A **Yes, I was, but, you know, it was much more challenging,**
23 **and so I did have a learning curve that I had to overcome**
24 **because, you know, there was a lot of differences too.**

25 **You're not just looking across the aircraft, but you**

1 are also manipulating the aircraft differently.

2 In the left seat you typically control what they
3 call a yoke, like in a car it would be a steering wheel,
4 but you typically are flying the plane with your left
5 hand, operating the controls of the aircraft with your
6 left hand, and now I am flying from the right seat. It's
7 different.

8 I am controlling the power with my-- it's just
9 completely different.

10 Now I am flying with the right hand and controlling
11 everything else with the left hand, so your muscle memory
12 within the aircraft is completely different. You have to
13 relearn all of that, and so doing just simple tasks,
14 where you just quickly go up and maybe change the
15 frequency or change the GPS, you have to relearn those
16 things, you know, where things are located in the
17 aircraft, where you reach up real quick-- and I had a
18 thousand hours or something in this airplane, so flying
19 in the left seat, it was-- I could make adjustments in
20 the aircraft extremely quickly, but now, you know, you
21 are kind of fumbling for things, and not just that, your
22 organization is different, so it--

23 Q You can take that off now.

24 A Okay. Thank you.

25 Q Can you tell us, during the flight-- so you've got the

1 hood on, you are looking to the left to see your
2 instruments.

3 What, if any, commands were you being given?

4 **A When we train for instruments, Lieutenant Nobach would**
5 **give instructions for direction, altitude, you know,**
6 **climb, descent.**

7 He would typically say-- we would be-- I would take
8 off out of the Olympia airport-- this is typically how it
9 would go:

10 I would take off out of the Olympia airport, and he
11 would say, "Okay. Put the hood on." I put it on, and
12 then he would give me instructions after that, "Okay.
13 "Turn right. 030. Climb. Maintain 6,000."

14 You know, I would repeat it back, just like if I was
15 talking to air traffic control, flying an instrument
16 flight.

17 **Q Okay. Now, did you-- how do you think you did during**
18 that flight?

19 **A I struggled at first, you know, just like anything doing**
20 something new.

21 You know, I was not nearly as proficient flying the
22 right seat as I was the left, like I said a minute ago,
23 but I think it went very well.

24 At no time did I think that, you know, I was in an
25 unsafe situation in any way.

1 Q All right. And after you landed, did you talk to
2 Lieutenant Nobach about how you did?

3 A Yeah-- yes-- you know, this week we ended up flying, I
4 think, four out of the five days, and I can't remember if
5 we did a debrief each one of those days or not.

6 You know, there's a lot of times we didn't do a
7 debrief.

8 Q All right. And what did he tell you about how you did?

9 A Well, after each flight, after that week, there was-- you
10 know, there was just-- I felt that there was just kind of
11 an understanding that things went pretty well, but it was
12 within days that I heard that Nobach had stated that I
13 was progressively getting worse with each flight.

14 Q And who was he telling that to?

15 A My sergeants.

16 Q Okay. And so did he ever tell that to you?

17 A He did, eventually, when I had an opportunity to review
18 my training records, he did mention that.

19 Q All right. And what exactly did he say?

20 A Well, there was some markings on my training records that
21 I had never seen before.

22 Q Okay.

23 A And he added a plus or minus on the bottom of the
24 training records, and the training records are a score
25 one through five, and "three" being an average pilot.

1 Q All right. Let's take a look at Exhibit No. 265.

2 THE COURT: Is that a new one?

3 MR. SHERIDAN: Yeah.

4 Q (By Mr. Sheridan) I am showing you Exhibit No. 265 and
5 asking if you can identify that.

6 A Yes, sir.

7 This is a document out of my training records.

8 It's one of the documents with-- the scores that I
9 mentioned are one through five, and he added plus or
10 minus symbols.

11 Q All right, sir. And I see the dates of 4/4, 4/5, 4/7.

12 Can you tell us, who is the author of those notes?

13 A Lieutenant Nobach.

14 Q Okay. And is this a document that comes from your
15 training records?

16 A Yes, sir.

17 Q All right. And kept in the usual course of business?

18 A Yes, sir.

19 MR. SHERIDAN: Plaintiff offers 265.

20 THE COURT: Any objection?

21 MR. BIGGS: No objection, Your Honor.

22 THE COURT: Exhibit No. 265 is
23 admitted.

24 (Exhibit No. 265 admitted into
25 evidence.)

1 Q (By Mr. Sheridan) Okay. And this is kind of hard to
2 read. We might have to blow it up a little bit.

3 Okay. So first of all, Ryan, would you tell us,
4 what are the columns going across the top of the page?

5 A The columns are different skills in flying, and you see
6 "Basic flight" on the top and "Instrument, night," so
7 each one of those categories have a different set of
8 skills underneath, so for like "Basic flying," the first
9 one, "Taxiing" and "Parking the aircraft" and "Power
10 plant operations," "Radio communications," "Slow
11 flight"-- and so for each one of these subcategories,
12 you'll see different scores indicated in the columns
13 below.

14 Q Okay.

15 A And-- anyway.

16 Q Okay. And when you reviewed this, did anything catch
17 your eye?

18 A Yes.

19 So as you can see-- it might be difficult to see on
20 the monitors, but you will see on the top row, on 4/4/16,
21 the first three with a minus symbol behind out under
22 "Slow flight."

23 Q Right.

24 A And then they progress as you move right across the
25 chart. You will see these three minuses, and so this is

1 **new, totally new. Never in my training records in the**
2 **previous two years had I seen this.**

3 Q Minuses?

4 A **Well, yeah, plus or minus scores.**

5 **So then he added this symbol on the bottom too of**
6 **this document, down by the grades.**

7 MR. SHERIDAN: Yeah. Can you show the
8 lower left-hand corner of this?

9 Q (By Mr. Sheridan) All right. And so this is-- so "one"
10 is "excellent" and a "five" is "unsatisfactory"?

11 A **Correct.**

12 Q And the handwritten plus and minus, is that what you were
13 referring to?

14 A **Yes, sir.**

15 Q All right. And so what flight does this represent?

16 A **The 4/4, 4/5, 4/7 were right-seat training flights.**

17 Q All right. And is there anywhere here that it's
18 documented that you were in the right seat for the first
19 time?

20 A **No, sir, not at all.**

21 Q All right. Let me ask you this:

22 Do you have an understanding, if you engage in poor
23 performance, whether or not that could affect your
24 ability to fly?

25 A **Yes, sir.**

1 Q Could you explain?

2 A Yeah.

3 According to the aviation section manual, if you
4 fail a check ride or you're an unsatisfactory performing
5 pilot, you are required to be grounded until you can pass
6 a check ride again or you're deemed to be able to operate
7 that aircraft safely again.

8 Q Did this cause you concern?

9 A Absolutely.

10 Q Had you ever received such negative remarks-- marks
11 before?

12 A No.

13 Just with the circumstance around it, being
14 right-seat training, again, after I did this, people--
15 you know--

16 Q Just can you tell us whether you had ever heard of this
17 being done before?

18 A I had not heard of this ever being done before.

19 Q All right. So you had right-seat training and instrument
20 training at the same time?

21 A Yes, sir.

22 Q Now, you had done the instrument training for many hours,
23 right?

24 A Yes.

25 Q Approximately how many hours would you say you've been on

1 instruments?

2 A Training? Probably over a hundred, maybe a hundred
3 hours, not including my initial instrument training when
4 I got my rating.

5 In the aviation section, I am guessing it would
6 probably be around maybe 30 hours. Maybe.

7 Q All right. And did there come a time that you talked to
8 Lieutenant Nobach about this?

9 A Yes, sir.

10 Q And tell us what happened.

11 A You know, again, this is-- our relationship is severely
12 damaged and things are very uncomfortable between him and
13 I, so I sit down reviewing this, and I am looking at
14 this.

15 He didn't tell me that he was adding these plus or
16 minuses, and so when I'm reviewing my flight records, I
17 see these, and I'm like, "What's the three negative" or
18 three-- I didn't even know what it was.

19 He said, "It's a minus symbol."

20 I said, "What's that for?"

21 He says, "Well, that means I feel you've degraded
22 with each flight," and I'm like, "What?"

23 Q And what month is this again?

24 A This is April of 2016, beginning of April 2016.

25 Q And had he-- in the two years that you worked there

1 before, had he ever told you that your trending was down?

2 **A No, sir.**

3 Q And during this exact time were you also still in the
4 accelerated program for King air?

5 **A Yes, sir.**

6 Q Okay. And did you and he talk about the fact that you
7 were on the right side for the first time and wearing the
8 hood?

9 **A Yes, sir, and I even said, I said, "You put right-seat--**
10 **this is right-seat training, it's nonstandard training.**
11 **You put it in my Cessna flight training records, and you**
12 **don't indicate anywhere in here that it's right-seat**
13 **training."**

14 So he ends up making a note on another document
15 during this meeting, "All right. Fine. There you go.
16 Happy," kind of thing, and I'm like, "Man."

17 Q Okay. And that's the beginning of April.

18 All right. So now sometime past that timeframe,
19 between the 4th and the 8th, did there come a time that
20 you met with Hatteberg and Caton and perhaps Sweeney to
21 talk about what was going on?

22 **A Regarding the right-seat training or--**

23 Q Regarding Hatteberg's concerns.

24 **A Okay. Yes, sir.**

25 I think you are referring to a meeting that happened

1 in the pilots' office.

2 It wasn't long after this, where Hatteberg came into
3 the pilots' office, and it was Trooper Pilot Chris Noll
4 and Jayson Caton, who was new in the section.

5 Hatteberg is asking me-- saying that I need to go
6 apologize to Lieutenant for reporting him and Brenda.

7 Q He said that to you?

8 A Yes, sir.

9 Q And what did you say to him?

10 A I said, "Apologize for what, Jeff"-- "Jeff Hatteberg,"
11 and I called him by his first name.

12 I said, "Apologize for what, Jeff? I've done
13 nothing wrong."

14 Q What happened next?

15 A I'm kind of taken aback that he's even asking me to go
16 apologize.

17 I'm like, "What?"

18 I'm kind of taken off guard too, like, "What? Jeff,
19 tell me what I've done wrong to go apologize for," and he
20 is like, "Man, just go apologize so we can move past
21 this."

22 You know, this environment in aviation was not just
23 affecting Sweeney and I, like I said. It was affecting
24 everyone.

25 Hatteberg was working as somewhat of like a mediator

1 trying to smooth everything out because of how pissed off
2 Lieutenant Nobach and Biscay had become.

3 Q Okay. So what happened next?

4 A And so, you know, we're kind of going back and forth on
5 this, and I'm telling him, "Jeff, tell me what I need to
6 apologize to him for," and he finally-- he's getting
7 emotionally upset, so he's got his hands up like this,
8 and we're kind of going back and forth a little bit, and
9 he starts, you know, like, "Ryan, please, just go
10 apologize. I need this-- this needs to be fixed. This
11 environment needs to change," and so I could tell he's
12 getting upset, and his chin is starting to bounce like
13 he's emotionally upset, not angry.

14 He sits down at the conference table in the pilots'
15 office, and so he starts crying, and so I'm looking at--
16 God.

17 So I'm looking at Jayson Caton, who is a new pilot
18 in the section, and Chris Noll, and they're looking at my
19 like, "What in the hell is going on," and I'm like,
20 "Woah."

21 You know, I-- this is a moment where I'm in shock
22 and disbelief that this is happening.

23 Obviously it affected me seeing him like that, so I
24 just said, "Wow, Jeff. I'm sorry, man," and I said, "I
25 will go talk to Lieutenant right now."

1 Q All right. What happened next?

2 A So anyway, I walked downstairs, and I knock on Lieutenant
3 Nobach's door-- it was open. It was a door frame.

4 I said that "Hey, Lieutenant, we need to hash this
5 out because it's having a major impact on everybody
6 here."

7 I think I first knocked on the door, and he says
8 like, "What do you want, Ryan," and then I told him, "We
9 need to hash this out," and so I said, "I'm going to get
10 a cup of coffee. Can I grab you a cup of coffee?" He
11 turns me down.

12 I grab a cup and I come into his office and I sit
13 down at the roundtable in his office.

14 Q What did you tell him?

15 A So I had made a decision at some point in this meeting
16 with-- having to deal with Hatteberg upstairs, that I
17 just felt that we needed to air everything out that had
18 happened in the section, everything that I'd been told
19 when I came into the section about him--

20 MR. BIGGS: Your Honor, objection.

21 THE COURT: Sustained.

22 The jury will disregard that last comment.

23 Q (By Mr. Sheridan) Just focus on what you told him.

24 So what did you tell him?

25 And you are in his office, right?

1 A Yes, sir.

2 Q Go ahead.

3 A So I told him that I wanted him to understand what
4 happened with reporting the breast-rubbing incident with
5 him and Brenda and my observations leading up to that
6 event.

7 Q Tell us what they were.

8 And only if you told him, right?

9 A Yes.

10 Q This should be what you told Nobach.

11 A Okay. So I explained to him that I'd observed him and
12 Brenda leaving aviation for many months, probably a year,
13 routinely during the week, like I said oftentimes gone
14 for an hour, maybe two, and so I explained to him that
15 having these observations were-- that was my initial
16 belief that there was something unusual and strange was
17 obviously going on.

18 (Phone interruption.)

19 THE COURT: Everybody, please make
20 sure your phones are turned off or muted.

21 Sorry.

22 THE WITNESS: That could be my
23 computer.

24 MR. SHERIDAN: I'll close it.

25 THE WITNESS: Sorry about that.

1 Q (By Mr. Sheridan) Okay. So did you tell him that you
2 observed them being gone for an hour or two?

3 A **Yes, sir, multiple-- we did talk about--**

4 Q Let's be specific, okay?

5 What else did you tell him?

6 A **I told him that months prior-- months prior from the
7 sexual harassment incident, that I had to defend him and
8 Brenda's actions to a member in the public.**

9 MR. BIGGS: Your Honor, objection.

10 We are back in that area again.

11 THE COURT: Overruled.

12 Q (By Mr. Sheridan) Go ahead.

13 A **I explained to him that months prior to this, I was going
14 through a coffee stand in Olympia, which is on my way
15 home from the hangar, that I am being questioned about--**

16 MR. BIGGS: Objection, Your Honor.

17 We are now clearly into the hearsay that you
18 disallowed.

19 MR. SHERIDAN: A question is not
20 hearsay.

21 THE COURT: Yeah, it's a little bit
22 premature.

23 MR. BIGGS: He is getting ready to
24 talk about things that are not permitted, Your Honor.

25 MR. SHERIDAN: I disagree. This is

1 what's reported.

2 THE COURT: Okay. Overruled.

3 You know what my rulings are, so please comply with
4 those rules.

5 Q (By Mr. Sheridan) Again, so we are only going to talk
6 about what you said to Nobach, right?

7 A **Okay.**

8 Q So tell us what you said regarding the barista incident.

9 MR. BIGGS: Your Honor, if he's going
10 to repeat hearsay, that's not allowed.

11 MR. SHERIDAN: This is--

12 THE COURT: Mr. Sheridan?

13 MR. SHERIDAN: This is the report to
14 Nobach. I thought that was fair game.

15 THE COURT: Members of the Jury, let's
16 have a five-minute-- it's too early to take our afternoon
17 recess, so let's have a five-minute break-- oh, we don't
18 have a bailiff.

19 Could you please get my bailiff?

20 UNIDENTIFIED SPEAKER: May I ask you a
21 question about the chart? Are we going to get a copy of
22 that or get that--

23 THE COURT: It hasn't been marked yet,
24 so I don't know.

25 COURT BAILIFF: All rise.

1 (Jury exits.)

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

4 I don't know where you're going with this
5 questioning, but if what you're trying to get to is "I
6 told him that the barista said you were having an
7 affair," that is hearsay, and it goes against my ruling.

8 MR. SHERIDAN: It's not offered for
9 the truth of the matter. It's offered to give him
10 notice, to give Nobach notice that there's a public
11 concern expressed about him.

12 It doesn't matter if it's true that he's having an
13 affair--

14 THE COURT: How is that relevant,
15 Mr. Sheridan?

16 MR. SHERIDAN: Because he has
17 retaliated against for all of this, and he is put in a
18 position of-- what's happening is Nobach is mad and out
19 to get him, and this is part of the reason why, so it's
20 not offered for the truth of the matter.

21 Nobody is saying that he's having an affair.

22 What he's saying is "This has gone out into the
23 community and you are making us look bad."

24 That Exhibit No. 222, which is part of the
25 discipline of another person, is because they make the

1 agency look bad because he's having an affair with a
2 subordinate.

3 All of that-- and he's lying about it.

4 So all of that is imperative that the jury
5 understand that he heard that because he's the one doing
6 the retaliation, right?

7 I mean, I think if a limiting instruction to say
8 that it's not offered for the truth here, this is just to
9 put him on notice, would be fine, but that's it.

10 We are not offering it for the truth.

11 THE COURT: Mr. Biggs?

12 MR. BIGGS: Your Honor, I am always
13 amazed when we hear these arguments, the same one we just
14 went through 20 minutes ago, and then Mr. Sheridan says,
15 "He had an affair, and he's lying about it."

16 That's exactly what he's trying to talk about here,
17 and that's not appropriate in this case.

18 THE COURT: Why is what the barista
19 believed relevant to the retaliation claim here?

20 If the issue is Detective Santhuff complained about
21 sexual harassment and as a result Lieutenant Nobach
22 retaliated against him, why would what a barista thinks
23 about whether he was having an affair or not, relevant to
24 the issues before this jury?

25 MR. SHERIDAN: Because he reported

1 that they were having an inappropriate relationship to
2 his management structure.

3 He reported-- meaning Ryan Santhuff, he reported to
4 him that these very things, over and over again-- and
5 just because the defense took the position that we are
6 not going to address it and we're not going to talk about
7 it doesn't mean it's not one of the reasons for
8 retaliation.

9 The jury gets to hear why he wants-- he's going to
10 say, "I didn't retaliate," so why would he want to
11 retaliate?

12 Because, among other things, Ryan said-- I mean, he
13 called him out on it.

14 He said, "Look, you are gone during the workday.
15 Even the public is noticing what you're doing, so, you
16 know, cool it. Let's be done with this," but that list
17 is relevant to the retaliation because it's true. It's a
18 fact.

19 Not that the underlying issue is true, but the fact
20 that he said it to him and he's getting retaliated
21 against is true.

22 THE COURT: So are you saying that the
23 reason why he was being retaliated against, just so I'm
24 understanding your argument, is because the barista
25 thought that he was having an affair and so Detective

1 Santhuff reported that?

2 Is that what you're saying?

3 MR. SHERIDAN: He's being retaliated
4 against for poking the bear. That's what it is.

5 He is poking the bear.

6 He is saying, "Here is ten reasons why I did what I
7 did."

8 That's it, and he's retaliated against him.

9 All of this is evidence of Nobach's motive to
10 retaliate, right?

11 When it's all over, they are going to say, "Why
12 would he retaliate? Why does he care?" Well, he cares
13 about all of these things that Ryan Santhuff said.

14 Also, we are artificially-- I mean, we are
15 strangling the facts that everybody knows all of this and
16 that's part of the atmosphere.

17 At least I should be able to get it in through him
18 because he said it.

19 No one else is going to be allowed to talk about
20 this.

21 THE COURT: What do you mean? He's
22 the one who said what?

23 MR. SHERIDAN: Meaning you have ruled
24 that we don't get to put in the retaliatory atmosphere
25 evidence, so the only way that the jury is ever going to

1 hear that the community was even noticing this, which was
2 said to Lieutenant Nobach, is through his testimony
3 because he was sitting in a room with him telling him.

4 It also happens that he's telling people up the
5 chain of command the same thing, and it sounds like I'm
6 not going to get to put that in either, but it's all
7 about motive, right? His motive to retaliate.

8 THE COURT: Mr. Biggs?

9 MR. BIGGS: Your Honor, I don't know
10 why we keep relitigating these things.

11 This case is about-- and they've said this many
12 times, there was an 095 issued, and the Plaintiff's
13 position is because Lieutenant Nobach got a 095, he was
14 upset and he retaliated. That's got nothing to do-- you
15 can look at the 095, and it doesn't say anything about a
16 barista or anything about anything else, other than that
17 "You let your shop get laxed."

18 That's what he got an 095 in.

19 That's their theory of why this case is where it is,
20 "Had the 095 not been issued, had this just vanished into
21 thin air, we wouldn't be here today."

22 Their whole theory is he got disciplined and he was
23 upset and he got disciplined not for baristas, not for
24 affairs-- and Mr. Sheridan can keep talking about affairs
25 all day.

1 There is nothing in this record about Lieutenant
2 Nobach having an affair.

3 It's all about not running a tight ship.

4 MR. SHERIDAN: There's nothing in the
5 record because they wouldn't investigate it.

6 THE COURT: All right. I am not going
7 to revise my ruling.

8 My ruling stands.

9 I don't think that the barista thinking that he was
10 having an affair is admissible.

11 MR. SHERIDAN: I understand.

12 Okay. So we'll skip that.

13 Okay. "Just tell me about the other things you
14 said."

15 THE COURT: Do we need to address
16 other things before we ask--

17 MR. SHERIDAN: Well, I started reading
18 that to give you a head's up of what he says in his
19 deposition, and I can continue.

20 So we're skipping over the--

21 THE COURT: Well, my point is,
22 Mr. Sheridan, I have made my ruling, apparently not very
23 clearly, since we keep coming back to the same thing.

24 So do you have any questions about what is
25 admissible or not?

MR. SHERIDAN: Well, I certainly know that discussion of the barista thing is not admissible.

THE COURT: Anybody's belief, speculation, thoughts, whatever, that Mr.-- that Lieutenant Nobach was having an affair is not admissible, and any statements that were made to Detective Santhuff about, "I think he's having an affair" are not admissible.

MR. SHERIDAN: Right, I understand you.

THE COURT: All right.

MR. SHERIDAN: I understand that ruling.

THE COURT: Okay. Please bring in the jury.

COURT BAILIFF: All rise for the jury.
(Jury enters.)

THE COURT: Thank you. Please be seated.

That objection is sustained.

Q (By Mr. Sheridan) Okay. So we are back at the meeting, your meeting with Nobach, and did you talk to him about the breast-rubbing incident?

A Yes, I did.

25 Q Tell us what you said.

1 A I explained my feelings, and I explained-- I didn't have
2 to explain it then because there was no contesting that
3 it had happened in the meeting at all, but I explained
4 how I felt and how I-- when I left the room, my thoughts.

5 As we had this conversation, Lieutenant Nobach
6 continued to get more and more angry.

7 Q Okay. And what happened next?

8 A So again I was-- I wanted to air everything out in this
9 meeting. I didn't want to hold back, and I wanted him to
10 know how I felt and what my observations were throughout
11 the year.

12 I laid that out all on the table.

13 Again, as I continued to talk about these things, I
14 explained to him, "Look, I'm not here to make you mad. I
15 want to air this out so we can move past this and put it
16 all out on the table."

17 So as I'm explaining this, he's getting more and
18 more angry to the point where he's-- he raised his voice.
19 His facial expressions-- he's red in the face. He's
20 pissed off.

21 He starts yelling at me.

22 When we had sat down at this table to have this
23 meeting, he grabbed some papers off his desk, and he
24 had-- when he set them down on the table, he put them
25 face down, so I don't know what exactly they were, but he

1 referenced them as we were talking about the sexual
2 harassment complaint.

3 He starts yelling at me in this meeting, and he
4 starts pounding his finger on the table, and he says,
5 "Goddamn it, Ryan. If I'm going to be held accountable
6 for this shit, then you and everybody else here will be
7 too," just like that.

8 I'm like, "Holy cow," like-- I explained to him, I
9 was like, "That's the last thing this place needs. Your
10 sergeant is up there crying in the damn office because of
11 all this turmoil going on, and people feel like they have
12 to walk around on eggshells right now," and I explained
13 it to him.

14 I put it all out there.

15 Q How did the meeting end?

16 A We talked about some other things, and then, you know-- I
17 wanted to shake his hand at the end of the meeting and
18 let bygones be bygones.

19 I went to shake his hand, and there was reluctance
20 there for him to even want to shake my hand, and I-- he
21 did, he shook my hand, and then I left.

22 Q All right. Did things get better?

23 A No, but after that meeting, I felt they were going to,
24 you know, and I felt like, "Okay. Things have been
25 aired, and we can now move past-- we can move forward in

1 a positive direction," but it didn't take long, and I
2 felt like we were right back in the same position that we
3 were in before this meeting.

4 Q All right. And during this-- before this time, did
5 anyone monitor your taking breaks?

6 A Breaks were somewhat monitored, but not like they were
7 after reporting of the sexual harassment, no way.

8 Q Explain to the jury what happened.

9 A Well, in aviation you're flying airplanes all the time,
10 and so as a trooper we are bound by-- we are a union, we
11 are bound by union contract, and we have a collective
12 bargaining agreement that states what we are allowed for
13 breaks.

14 You can either take two 15-minute breaks and a
15 30-minute lunch or you can combine one of those 15-minute
16 breaks for your lunch and have a 45-minute lunch and one
17 15-minute break.

18 Well, in aviation, you don't get that opportunity
19 because you're up in an airplane flying all the time, and
20 typically you are doing two traffic missions a day, one
21 in the morning, you would have a lunch, and refuel, and
22 then one in the afternoon.

23 So you didn't really have an opportunity to have any
24 15-minute break, and oftentimes you are kind of-- you
25 are-- sometimes you don't even get a break. You land,

1 you refuel, and you have traffic lined up somewhere else,
2 and you have to get going, you have to fly over to
3 Ephrata or one of our traffic courses throughout the
4 state, and it could be you're flying, you know, 100 miles
5 to the next traffic location, and so there's a lot of
6 times you didn't get breaks, so there was kind of a give
7 and take.

8 For some days that you weren't flying, you'd maybe--
9 it was allowed that you could take a little bit longer
10 break, and there was never really an issue with that.

11 After this reporting of the sexual harassment
12 incident, I became under a very, very narrow microscope
13 to where everything that I did throughout the day,
14 including my breaks, lunches, or if I landed to refuel
15 somewhere, that time was being monitored all the time,
16 and so, you know, that's what happened with the breaks.

17 Q Okay. And how do you know they were being monitored?

18 A Because Nobach-- it was almost, you know-- it became
19 almost expected, like-- there was one instance-- here is
20 just one example:

21 I was flying traffic up in Arlington, at Milepost
22 202 on I-5, and I landed at Arlington airport to refuel,
23 and my evening traffic mission, which-- we schedule these
24 things-- we try to schedule these traffic missions
25 because we have to have troopers on the ground to be able

1 to talk to and be able to stop the cars.

2 If the troopers get called to a collision or
3 something else happens, you know, and it could be they
4 arrest somebody, which they are going to be busy for a
5 few hours, or this person gets arrested-- I don't have a
6 trooper then, so they will notify us typically that "Hey,
7 these guys are unavailable," and then I have to find
8 another place to work.

9 This day in particular, I was at Arlington airport.
10 My evening traffic mission or afternoon traffic mission
11 got cancelled.

12 I refuelled, I'm eating lunch, and I'm calling
13 around trying to find another place to work, and I can't
14 find troopers.

15 I am calling all over the place in western
16 Washington, and I can't find troopers available to work,
17 and I was on the ground for probably an hour.

18 Later in the day, after my afternoon traffic
19 mission, I fly back to Olympia, and this is-- this is how
20 it would typically go:

21 I would be sitting in the pilots' office, and I
22 would hear the sergeant's phone ring, which is just down
23 the hallway, and it's Lieutenant Nobach calling, and I
24 could hear the conversation with Sergeant, and then
25 Sergeant would come walking in and say, "Hey, Ryan, what

1 **did you do today?"**

2 **It's kind of like a nonchalant conversation.**

3 **He says, "Is there a reason you were on the ground**
4 **in Arlington for an hour," you know, and this is the type**
5 **of stuff that was continuing to happen.**

6 **I can give you more examples, if you'd like, but--**

7 **Q** Had that happened before you reported--

8 **A** **Never to this degree, no.**

9 **Q** Okay. All right. Did there come a time that you spoke
10 to Sweeney and Hatteberg about retaliation?

11 **A** **Yes.**

12 **Q** Approximately when and what did you tell them?

13 **A** **My first concerns of retaliation were with the adjustment**
14 **of my pilot progression on April 1st.**

15 **That was the first conversation I had with Sergeant**
16 **Sweeney about belief of retaliatory acts.**

17 **Q** Okay.

18 **A** And then those continued.

19 **I mean, with the right-seat training, I was**
20 **expressing retaliation, adverse action taken against me**
21 **because of that, and how that was so outside of the**
22 **normal behavior of training and also reporting in my**
23 **pilot records.**

24 **I was reporting about how Nobach was talking to me.**

25 **I mean, there's some things I didn't even have to go**

1 into detail about because the sergeants were seeing this
2 stuff firsthand. Everybody was.

3 But it was those certain events, like the pilot
4 progression, how the training-- the right-seat training
5 went down, those certain things, I did express concerns
6 as they happened.

7 You know, I didn't hold back.

8 I'm not one to hold back with-- when I went through
9 this whole process, at least with the sergeants.

10 Q All right. And did you talk to them about whether or
11 not-- the idea that you were not as good a pilot as you
12 were before, was that discussed?

13 A Yes.

14 After the right-seat training, I expressed large
15 concern of how I was recorded in my flight logs and that
16 Nobach was inaccurately portraying how those flights
17 went, so, you know, I-- yeah, I talked about that.

18 Q And the training that you had with Nobach on the 1st
19 through the-- was it the 4th through the 8th of April,
20 that you talked about before?

21 A Well, the 4th through the 8th was the right-seat
22 training.

23 Q Yes.

24 Had he trained with you recently before that time?

25 A It had been sometime, like, according to my training

1 **records, it was almost a year.**

2 Q So he had not trained-- he had not brought you in for
3 training for a whole year before that?

4 A **With him, no.**

5 **I mean--**

6 Q Okay. So who else did the training with you during that
7 year?

8 A **I had a couple flights with Chris Noll or maybe one of**
9 **the sergeants, but there's nothing indicated in my**
10 **training records pertaining to training flights during**
11 **that timeframe.**

12 Q Okay. All right. So if-- so during that year, and just
13 keeping in mind that you're qualified to fly the old
14 Cessnas and you are learning how to fly the King, in 20,
15 say, 15, were you doing a lot of training, other than the
16 King air stuff you described?

17 A **Not a lot of training within the section.**

18 **Again, I went to multi-engine school for like a week**
19 **and then the King air stuff, but in the Cessnas, no.**

20 Q Okay.

21 A **I was not.**

22 Q All right. And do you know-- did you have an
23 understanding as to why, after not training with him for
24 a year, he wanted to suddenly start training with you?

25 A **Well, it had to do with getting my limitations removed on**

1 my Cessna limitations.

2 Q What did he say to you in that regard?

3 A Well, I know there was talks within the section that--
4 because we had very few pilots at this point in 2016.

5 It was hindering my ability to contribute within the
6 section for all flight missions, and so the sergeant
7 scheduling the flights became kind of a problem,
8 especially in the winter months on scheduling pilots, and
9 Chris Noll was about to have another child and was going
10 to be gone from work for a period of time, and so that
11 basically left me as the only Cessna pilot for a period
12 of time.

13 It was going to be kind of an issue within the
14 section, and they wanted to get these limitations
15 removed.

16 Q All right. So around the 20th of April, did you go up
17 again with Nobach, if you recall?

18 A We did have another flight together in the Cessnas
19 around--

20 Q Tell us what happened.

21 Was the flight eventful?

22 A Well, we had a couple different flights.

23 We had a flight on the 18th, but there was another
24 flight before that between the right-seat training and--
25 from what I recall, there was another flight between the

1 right-seat training and a flight on May 18th.

2 Q Okay.

3 A And during that flight, it was just a standard training
4 flight where we just went up and did a number of
5 approaches at different airports and came back and landed
6 at the Olympia airport.

7 We were taxiing in, and we-- Nobach and I weren't
8 really doing debriefs.

9 Our relationship had completely changed, like I
10 said.

11 I asked him, as we are taxiing back over the hangar,
12 I said, "Is there anything that I can improve on," and
13 I'm trying to invoke feedback from him.

14 I thought the flight went pretty well.

15 He said there was nothing glaring, just a couple of
16 things that we needed to work on, which I completely
17 agreed with.

18 Nobach-- there was an issue with a cadet at L&I. I
19 think he-- anyway, it was a disciplinary-type issue with
20 a cadet over at L&I, which Nobach supervised, so Nobach,
21 after the flight, took off, we didn't do a debrief, a
22 full debrief.

23 Later that day I'm up in the pilots' office, and
24 Sergeant Sweeney walks in and asks me how the flight went
25 with Nobach.

1 I said, "Yeah, it went okay."

2 I said, "We flew here and here," you know, and
3 initially it was just kind of a casual conversation.

4 He says-- then he starts asking me more detailed
5 questions like, "Did you have any issues?"

6 I'm like, "No."

7 I can tell by the way he's asking me, that there's
8 something underlying those questions, there's more to it.

9 I pry.

10 I'm like, "Why are you asking me this?"

11 He says, "Did you almost crash the airplane today?"

12 I'm like, "What? No."

13 Again, I'm kind of taken aback by this, and I'm
14 trying to process what we did for the flight.

15 A lot of the times I was under the hood, I was doing
16 these approaches under the hood.

17 I'm thinking about the flight, and I'm thinking
18 about the different approaches, and it was kind of a-- it
19 wasn't a severely turbulent day, but it was a bumpy day,
20 so it creates a little bit of a challenge flying and
21 making different changes and inputs into the aircraft to
22 maintain within your limitations of the instruments.

23 I'm like, "No, that never happened."

24 I was starting to get a little frustrated.

25 I'm like, "Did he tell you that?"

1 I'm asking him, "Is that what Nobach told you," and
2 he's reluctant to tell me.

3 He eventually does, "Yeah, Nobach said that you
4 almost crashed the airplane on one of your approaches."

5 I'm like, "Are you kidding me?"

6 I'm getting frustrated, and I am telling Sweeney,
7 I'm like, "That didn't happen, man," and I said, "At no
8 time did Lieutenant Nobach ever take control of the
9 airplane," which he can do, and when you train with a
10 certified flight instructor early on, as a brand new
11 pilot, all they say is, "My controls," and then you let
12 go, a certified flight instructor takes over the airplane
13 and flies the plane.

14 At no time did he ever do that.

15 At no time did he tell me to take the hood off.

16 At no time did he ever tell me to pull up or-- he
17 never gave me any instruction to divert from crashing the
18 airplane in any way.

19 I get frustrated, and I tell Sweeney, "We need to go
20 down there and talk to him right now," and Sweeney calls
21 him and tells him, "Hey, Ryan wants to talk to you about
22 this flight. We are coming to your office."

23 We go downstairs.

24 I'm just at my wits' end now.

25 I'm like, "Come on, man."

1 I am trying to tell him like, "Dude," and I said
2 this-- I said, "As my chief flight instructor, the
3 lieutenant of the section, if I ask you a question about
4 how a flight went, I expect an honest answer, but what
5 I'm not okay with is you going behind my back and telling
6 my sergeant that I almost crashed an airplane."

7 Nobach is kind of getting pissed off about this, and
8 I was like, "So when I ask you for a debrief, again, I
9 expect an honest answer, and I think you gave me one."

10 That's basically how it went.

11 I just said, "Look, for in the future, if I ask you
12 for feedback, I expect an honest answer from you."

13 Q Did Nobach have a response?

14 A I don't recall that he really responded regarding that.

15 At some point-- like I say, he was getting angry,
16 and I called him "Jim" in this meeting, by his first
17 name, which we were on a first-name basis.

18 Like I said, we had a good relationship prior to
19 this breast-rubbing incident reporting.

20 I call him, "Jim."

21 I'm like, "Jim, please."

22 He said, "That's 'Lieutenant Nobach' to you," and
23 I'm like, "Oh, my God. Ugh."

24 You know, anyway, that was the meeting.

25 It was somewhere between when I received training

1 **and the flight on May 18th.**

2 Q All right.

3 THE COURT: Is this a good time to
4 break or do you want to--

5 MR. SHERIDAN: This is fine.

6 THE COURT: Okay. All right. Members
7 of the Jury, I am making you earn your steps today.

8 We'll take our afternoon break.

9 We will be back at 3:05.

10 (Jury exits.)

11 (Recess 2:46 to 3:04 p.m.)

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

14 MR. BIGGS: Your Honor, we were trying
15 to get some witness information squared away for
16 tomorrow.

17 Obviously the plaintiff is going to be until noon
18 tomorrow or something.

19 We have a 1:30 expert coming in. We are just trying
20 to figure out what the rest of the day is going to look
21 like.

22 THE COURT: Let me wait until Mary is
23 here because I know you have a couple of Zoom witnesses,
24 and I need to make sure that we have a video cart
25 available.

1 MR. BIGGS: That's what we're trying
2 to figure out. Thank you.

3 MR. SHERIDAN: I have to check with my
4 staff if any of them has an issue with Wednesday, but we
5 could always move him back to Wednesday afternoon if
6 that's more convenient for the Court.

7 THE COURT: It's really whether there
8 is a cart available or not.

9 MR. SHERIDAN: Your Honor, can I
10 inquire about-- you know, one of the people we have in
11 our Zoom is the barista.

12 Is it fair game for her to say, "I raised this issue
13 with Ryan," because that's not hearsay?

14 THE COURT: Why is what people thought
15 about him having an affair relevant?

16 I mean, why do we keep revisiting the same thing?

17 MR. SHERIDAN: Because it's
18 misconduct. It's misconduct, and he's reporting
19 misconduct. That's why.

20 THE COURT: Mr. Biggs?

21 MR. BIGGS: Your Honor, it's totally
22 irrelevant and it's improper.

23 I can't say anything that we haven't already talked
24 about.

25 THE COURT: We'll talk about it later.

1 COURT BAILIFF: All rise for the jury.

(Jury enters.)

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

5 Mr. Sheridan?

6 MR. SHERIDAN: Thank you, Your Honor.

7 Q (By Mr. Sheridan) All right. So let's now move to May
8 18th, 2016 and a check ride that you did in a Cessna 182
9 with Lieutenant Nobach.

10 Tell us, to set the stage for the jury to
11 understand, what you were doing, why you were doing it,
12 and tell us what happened.

13 A Well, this May 18th flight, I will call it a check ride,
14 but that's not what was relayed to me.

15 At the time I thought it was just going to be
16 another training flight, like I had done previously with
17 Lieutenant Nobach.

18 It was never-- like I say, it wasn't relayed to me
19 by Nobach, it wasn't relayed to me by my supervisors-- it
20 was just going to be a standard training flight where we
21 were going to go up and work on instrument approaches,
22 instrument training to remove the limitations on my-- on
23 me in the section.

24 Q What happened next?

25 A So we start our training flight, and--

1 Q Could you tell us what seat you're in, left or right?

2 A I'm in the left seat.

3 Q Can you tell us whether or not you were wearing a hood?

4 A At the beginning, no.

5 Eventually after takeoff, he instructs me to put the
6 hood on.

7 Q Okay. What happens next?

8 A And I feel him moving around.

9 The Cessna 182 is a very narrow aircraft.

10 Lieutenant Nobach and I are both kind of
11 broad-shouldered guys. We basically touch shoulders in
12 this airplane, and so I can feel him moving around, so
13 I'm like, "What is he doing?"

14 He reaches in the back seat, and so, again, I have
15 this thing on.

16 It was right after I put this on, by the way.

17 He reaches in the back seat, and he grabs a piece of
18 paper, and he puts it on his lap, and I look down, and I
19 see this document that we would use for initial
20 applicants that apply for state patrol aviation, and when
21 we go out and do that initial training or that initial
22 check ride with a brand new applicant in the section,
23 this is the document that he has.

24 He starts filling this thing out as I'm doing the
25 flight.

1 I see this, and I'm thinking to myself, "You know,
2 there was right-seat training, and then after he says I
3 almost crashed the airplane, and now I'm flying this
4 plane with him and he's filling out this brand new
5 applicant check-ride form."

6 You know, so this is-- so-- anyway, as we proceed
7 through this flight, he's taking notes the entire time,
8 writing down stuff, and I can't read the notes because
9 I'm trying to fly the plane with this thing on, so I
10 can't see what he's writing, but I can tell that he's
11 writing notes.

12 We do-- I don't even recall exactly where we went,
13 but, you know, we typically fly like Shelton or Tacoma
14 Narrows or Bremerton, the area around the Olympia
15 airport, and then we come back to Olympia and fly more
16 approaches.

17 I believe that's what we did that day.

18 After the flight, I have an opportunity to talk to
19 him about this document, and he's documenting me for
20 things that have been well established years ago, 2014
21 when I initially came into the section, that I knew how
22 to do.

23 Q Okay. Let's take a look at Exhibit No. 234.

24 Is this the document you're talking about?

25 A Yes, sir.

1 Q All right. And do you recognize the handwriting?

2 THE COURT: I'm sorry, which document
3 is this?

4 MR. SHERIDAN: 234, Your Honor.

5 THE COURT: 234.

6 **THE WITNESS:** I do recognize the
7 handwriting as Lieutenant Nobach's, and he also signed
8 the document on the heading.

9 Q (By Mr. Sheridan) Okay. All right. And was this the
10 document that he filled out in the airplane?

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

12 Q And did you talk to him about the document?

13 A **I did.**

14 MR. SHERIDAN: All right. Plaintiff
15 offers Exhibit No. 234 into evidence.

16 THE COURT: Any objection?

17 MR. BIGGS: No objection, Your Honor.

18 THE COURT: Plaintiff Exhibit No. 234
19 is admitted.

20 (Exhibit No. 234 admitted into
21 evidence.)

22 MR. SHERIDAN: All right. Let's get
23 that up on the screen, if we can.

24 May it be published?

25 THE COURT: Yes, it is published.

1 Q (By Mr. Sheridan) We are going to have to cut this into
2 slices, so let's get the top piece there.

3 Had you seen this document before?

4 A **Yes, sir.**

5 I had assisted with conducting check rides, while I
6 was in aviation, on new applicants, and I filled this out
7 previously.

8 Q And has-- since you've been a qualified pilot, going back
9 to, say, 2014, has anybody ever used this as a tool for
10 rating you?

11 A **No, sir. This is the first time.**

12 Q Okay. Can you tell us what-- where you found this
13 document?

14 A **It was placed in my Cessna training records.**

15 Q And what is the impact of placing a document such as this
16 into your training file?

17 A **It's a permanent record of the training within the
18 section.**

19 Q All right. And can you tell us, who made the decisions
20 about who gets to fly and not fly within aviation in
21 2016?

22 A **Well, those decisions would technically be by Lieutenant
23 Nobach as commander of the section.**

24 I guess--

25 Q Can you tell us, who has the authority to decide if

1 somebody is qualified to fly in 2016?

2 **A Lieutenant Nobach was the chief flight instructor and**
3 training officer, and that would fall under him.

4 Q All right. And first of all, could you tell us, just in
5 broad terms, is this positive or negative, Exhibit
6 No. 234?

7 **A It's negative, in my opinion.**

8 Q All right. Now let's take a look at what it says.

9 It says, under "1: Task flight deck management," and
10 it has a listing of certain criteria, one through five,
11 and it's scoring one through five.

12 Can you read to us some of the comments that he
13 used, that he states?

14 **A Yeah, so in "Flight deck management," he writes, next to**
15 **No. 4, where it says, "Use all appropriate checklists,"**
16 **it says, "Call 'clear.'"**

17 Q Tell us what that means.

18 A When we start an aircraft, you are supposed to open the
19 window and yell, "Clear," so nobody happens to walk into
20 your propeller when you start up the aircraft.

21 It's a safety measure to make sure no one is around
22 the aircraft.

23 Q Okay. And did you call "Clear"?

24 A I don't recall if I did, but, you know-- again, I don't
25 know if I did, but I had been in the section for over--

1 almost two and a half years at this point, and it was
2 well established that I-- I know how to do the things
3 here documented.

4 Q Okay. And so let's go-- do you see anything else there
5 that you can interpret for us?

6 A Well, I think-- it says, "PLB," which is next to "Call
7 'clear.'" It is "personal locator beacon," I believe.
8 "ECT," I don't know what that note is, but "Doors,
9 emergency exit," no-- I can't make out the handwriting,
10 but basically what he's writing down in this is that I--
11 on that initial startup, I didn't instruct him where the
12 emergency locator beacon was, which on a standard flight
13 we would give instructions to passengers, like basically
14 a safety briefing, on how to exit the aircraft on an
15 emergency landing, where the fire extinguisher is, where
16 the emergency locator beacon is, the emergency exit door,
17 the doors in the back of the airplane in the storage area
18 in case you can't open the doors.

19 We give basically a safety briefing, how to use
20 seatbelts and such, and that's what he's documenting
21 here.

22 Q Do you do that when you fly with one of your fellow
23 pilots?

24 A No.

25 Q Okay. So let's go back to "Use of checklist."

1 It says, "Did not call 'clear' before start."

2 Is that something that is routinely done or not
3 done?

4 **A Well, in aviation it typically was not done, and that was
5 instructed to me early on when I came in aviation.**

6 You look around the airplane, make sure nobody was
7 around, but that was not normally done at aviation, state
8 patrol aviation.

9 **Q** What is his second bullet?

10 **A** "Did not provide complete passenger brief."

11 **Q** Okay. And can you keep reading there?

12 **A** Yeah.

13 It says, "Brief," and I think maybe that's "PLB" for
14 the "personal locator beacon," and then "ELT," "emergency
15 locate transmitter."

16 **Q** And is this the briefing that you were talking about
17 before for passengers?

18 **A** Yes, sir.

19 **Q** Do you give that briefing routinely to your co-pilots and
20 pilots-in-training?

21 **A** Never.

22 **Q** Okay. All right. And then he writes, "Did not use
23 checklist after initial cruise for the rest of the
24 flight."

25 Can you explain that?

1 A Well, typically through a flight you reference a
2 checklist on different phases of flights, so there's a
3 taxi checklist, takeoff checklist, before-takeoff
4 checklist, cruise checklist, before-landing checklist--
5 so there's checklists for everything, but, you know, I--
6 I don't know if I-- I don't recall-- I don't know if I
7 used a checklist or not.

8 The thing is, I had the checklist memorized at this
9 point.

10 Q Okay. All right. These observations, had you flown with
11 him before and done the same thing or, according to him,
12 not done the same thing?

13 Was there anything that was different in how you
14 approached flying this plane on this day as opposed to
15 all the other days?

16 A I never had this type of scrutiny from him in my flying.

17 Q How about from Hatteberg or Sweeney?

18 A Never.

19 Q Okay.

20 A Once it was established-- these are very elementary
21 things that you learn as a private pilot early on in your
22 training on how to instruct people how to use a seatbelt
23 or where the emergency exit is, and where the fire
24 extinguisher is-- this is a very, very elementary thing.

25 We didn't train for this stuff in aviation because

1 **it was-- there was an understanding that by this point**
2 **you knew how to do these things, and so it wasn't**
3 **something that we ever did nor was I ever documented on.**

4 Q Okay. And he writes-- turn to the next page, No. 2,
5 "Taxiing."

6 A **(Witness complies.)**

7 Q No. 1 is, "Performs brake check immediately after
8 airplane begins to move," and it looks like, "Late"?

9 A **Yeah, "Late."**

10 Q Did he talk to you about any of these entries that he
11 made while you were in the air or taking off or landing?

12 A **No, not at all.**

13 **This flight, from what I recall, is very-- I don't**
14 **know.**

15 **Our relationship was so tense at this point.**

16 **I just-- I don't know.**

17 **There wasn't a lot of--**

18 Q Okay.

19 A **--communication back and forth like there used to be in**
20 **the previous training flights, before the incident with**
21 **the secretary.**

22 Q And then it looks like No. 3, "Tasks, slow flight," it
23 doesn't appear that that's very clear.

24 Unless you see something, let's go on to--

25 A **Yeah, 3 I see "NA," which I don't think we ended up doing**

1 **slow flight, so "not applicable."**

2 Q The next one is "Task, steep turn."

3 What does he write there, if you can make it out?

4 A **I think it says, "VFR okay," and then plus or minus ten**
5 **knots.**

6 Q What is the significance of that?

7 A **"VFR" would be "visual flight rules," and-- as you do**
8 **steep turns, the standards are, I believe, and it's been**
9 **a long time-- I haven't flown in a number of years, but**
10 **the standards, I believe, for steep turns were plus or**
11 **minus within ten knots of air speed, and so I don't**
12 **know-- I mean, according to these notes, it doesn't say--**
13 **it doesn't say whether I exceeded ten-- plus or minus ten**
14 **knots or not.**

15 **It just makes the note, "Plus or minus ten knots."**

16 **I don't know.**

17 Q What about Task No. 5, "Flight by reference to
18 instruments"?

19 A **I see "Plus ten degrees. Check weather equals minus**
20 **100"-- I think this-- ten degrees would be the heading,**
21 **probably checking weather at the airport, and minus 100**
22 **feet-- I can't make that out.**

23 **Maybe "SHN" for "Shelton"-- "Out of Shelton" maybe.**

24 Q Okay. Did he tell you whether your flight that day was
25 good or bad?

1 A What I recall is he just sat down and started just
2 reading the list and, you know, "Well, you didn't call
3 'clear.' You didn't advise me where the PLB is or"--
4 that's what I recall how this meeting went down.

5 I'm just like, again-- I'm in disbelief when this
6 happens because it's been well established that I've had
7 the instructions and am able to do these types of things,
8 and this type of chippy grading was just-- it blew me
9 away.

10 Q How many hours had you had by then, would you say?

11 A **Probably 1,400 hours of flight time.**

12 Q Okay. And during the other 1,300 hours did he ever
13 criticize you, your flying?

14 A **Well, there was criticism, as I built-- as a student or**
15 **as I built my skills, sure, but never to this degree.**

16 Q Okay. Take a look at Task No. 6, "Nonprecision
17 instrument approach."

18 Can you make out any of that?

19 A It says, "OLM," and that's the "Olympia airport," and a
20 "VOR alpha approach." That's a type of approach into the
21 airport.

22 There's different types, whether you use like a GPS,
23 for instance, or-- they have other different navigational
24 means for doing approaches into the airport.

25 This particular one, we did a VOR alpha.

1 It says that I was late on letdown from 2900 feet to
2 2500.

3 "2500 and P hold inbound, no check of one-minute
4 weather, flaps at four miles, ten degrees"-- I don't
5 know.

6 I mean, it was-- I keep-- there's other-- there's
7 more notes on the bottom here.

8 Q It looks like "Flaps ten at four miles," and it says,
9 "Not per"-- something --"2."

10 A I see the flaps at "four miles, ten degrees," and then it
11 goes, "RV turn" or I don't know-- "to track inbound from
12 LMO 351 radio or 351 degrees"-- 4.5 miles south of
13 airport on missed form ILS 17 XVOR outbound behind
14 aircraft late, letdown, and hold from 2,900 to 2,500. No
15 check of one-minute weather. Flaps ten degrees at four
16 miles equals not per Chapter 2. FAF or 321, three mile
17 ten degrees, two mile 20 degrees"-- anyway-- (phonetic
18 reading.)

19 Q Can you explain whether that's a criticism?

20 A Yeah. I mean, if that's-- you know, if this is indeed
21 what happened during the flight, if he's documenting
22 that, then this would be things that I potentially made
23 an error on, so that's what all this is.

24 Q All right. Okay. He writes-- it goes to the next
25 section. There's a lot of handwriting under "Precision

1 ILS instrument approach," No. 7.

2 Anything there you can make out?

3 A Next to the No. 7, it says, "Minus 100 before GS"-- I
4 think that's "glide slope intercept." "Ten degrees flap,
5 six miles, final approach" or-- that says, "FAF," "final
6 approach fix," I believe that's what that stands for or--
7 "Three miles did not start time, intersection employ
8 you-- triangles"-- it's for an intersection, employ you
9 inbound"-- as you move down the document, "No
10 before-landing checklist, no flaps at two miles, 20
11 degrees, 100 knots, no radio call after ten-mile call.
12 Port X"-- port-- maybe "Runway"-- "Port X across runway,"
13 maybe, when we were at 325 feet, "Missed call at 4.5
14 miles south of OLM"-- (phonetic reading.)

15 Q Can you translate any of that?

16 A It has to do with the approach into the Olympia airport,
17 I imagine.

18 It's that I didn't use a checklist on the approach,
19 no flaps at 2 miles, 20 degrees, 100 knots, so he's
20 documenting that I didn't put the flaps down at a certain
21 timeframe, and he's documenting that I didn't make a
22 radio call to the Olympia area.

23 The tower was closed during this flight, if I recall
24 correctly, so we were just announcing our positions and
25 such as we were doing our approach.

1 Q During the flight was there anything unusual about the
2 directions you were given?

3 A I felt that-- Nobach, as the flight instructor, has the
4 full ability to change the demand on that flight, on the
5 pilot, and what I mean by that is when you're doing an
6 approach or you're going out for a training flight,
7 there's times where you have higher workload, and in
8 cruise flight, you workload is less.

9 As we're training-- we would go out and train to try
10 to become better and more efficient on cockpit resource
11 management and be able to quickly and expeditiously set
12 up the aircraft for different functions, prepare for the
13 next maybe phase of the flight, if it's going to be an
14 approach at an airport.

15 As the instructor, you can load up a person as much
16 as you want, and so when we trained-- and like this
17 flight, I wasn't talking to FAA.

18 I wasn't-- they weren't giving me the instructions
19 to do the approach or clear me to do the approach.

20 I was talking to Lieutenant Nobach and receiving
21 instruction directly from him.

22 As I was doing the flight, he would say, "Okay.
23 Turn left this-- turn left 030, climb, maintain 5,000,"
24 and I'm wearing this thing, flying the aircraft.

25 I would repeat back to him, like if he was the air

1 traffic control.

2 I would repeat back to him those instructions, and I
3 would turn left, do this.

4 As I'm getting the plane configured for that climb,
5 that turn, maybe right before I level out-- so now I'm
6 going to change from the climb checklist or the climb
7 instructions to now level flight or cruise flight, so
8 you're rolling out on your heading, you're levelling off
9 on your altitude, all by instruments, and, you know, then
10 you're supposed to run the checklist for cruise flight,
11 and then, you know, he'd say, "Okay. Descend-- maintain
12 4,000," so I'm like, "Okay," so I'm descending,
13 maintaining 4,000.

14 "Turn right 180, turn right 180," so I'm in descent,
15 "Now turn right 180."

16 If you do those things-- when you are in
17 (inaudible) conditions, configuring the airplane for that
18 descent or that turn, it takes focus. It takes a lot of
19 focus because you do a standard rate turn, which we have
20 an instrument in the aircraft for, so you-- once you set
21 up the plane initially to make that turn, now you've got
22 to watch for your heading to come through, and if you
23 deviate from that heading, then-- which the standard is,
24 I think-- it's plus or minus ten degrees, if I recall
25 correctly from the practical test centers.

1 So you're watching for your heading to come through,
2 you roll out on your heading, not overshoot it or
3 undershoot. You want to roll out right on your heading,
4 and same with your altitude, you are supposed to stay
5 within 100 feet.

6 As you put more demand on a pilot, their ability to
7 pay attention to those things diminishes and your ability
8 to have time to run the checklist diminishes.

9 We actually went up and trained for this as pilots
10 in aviation, specifically for high workload, and that's
11 how I felt this went.

12 You know, obviously I was also-- my mind was in a
13 bit of disbelief too with how this whole flight was going
14 and being evaluated as an applicant, but that's how I
15 felt this flight went.

16 I was in a bit of disbelief with how I was being
17 treated during this flight, with-- well, with the high
18 workload-- that's one thing, okay?

19 Again, I enjoyed flying and progressing in my
20 skills, but then to receive this type of critique to the
21 point where it's so chippy, you know, that I've never
22 experienced before like this, it just added to this
23 belief that-- I totally felt that Nobach was
24 intentionally trying to fail me in this section, and this
25 was like the perfect example of this, and-- I mean, I

1 **fully feel in my gut that Nobach was trying to fail me in**
2 **the section as a pilot, which would give him full grounds**
3 **to remove me from aviation, according to our own policies**
4 **and procedures.**

5 Q You saw the deposition testimony of Lieutenant Nobach
6 during Alexander's testimony.

7 When asked whether he would agree that you can
8 affect how well a person flying a plane does based on how
9 quickly you do it, he said, "Just like any field, you can
10 bury anybody if you want to," and he goes on.

11 Did you feel like that's what was going on here?

12 MR. BIGGS: Objection; leading.

13 THE COURT: Overruled.

14 **THE WITNESS: Absolutely I did.**

15 Q (By Mr. Sheridan) What did you do about it?

16 So now you feel like you're being retaliated
17 against.

18 Did you seek any guidance from upper management?

19 A **Well, right after this flight, I walked in the hangar,**
20 **and Jeff Hatteberg was downstairs in the hallway leading**
21 **out to the-- well, I went to the office part of the**
22 **hangar, I should say, and he's in the hallway leading out**
23 **to the hangar portion where the aircraft are stored.**

24 I said, "Did you know this was a check ride?"

25 He says, "What?"

1 I said, "Did you know this was like a full-on check
2 ride?"

3 He was like, "No."

4 I said, "Yeah. He filled out the full applicant
5 evaluation form on me like this was a full-on check
6 ride," and he was like, "What," and he said, "Okay, I'll
7 talk to him."

8 I'm in-- anyway, but I think-- I diverted from your
9 original question. Could you ask that again, please?

10 Q Sure.

11 Did you go seek higher authority-- did you go to
12 somebody captain or above with a complaint?

13 A Yes, sir.

14 Q Tell us how that happened.

15 A I had reached my max in aviation, my stress and anxiety.

16 I mean-- anyway, I had reached the max at this
17 point, after this check ride flight, and my struggles
18 with Nobach and our relationship, and I went into
19 Hatteberg's office to talk about the issues, and I said,
20 "I want a meeting"-- I had been telling them for probably
21 a couple months now, "I want somebody outside of aviation
22 looking in on what's going on." I said, "This needs to
23 stop."

24 There were times that I went in there and told them
25 that something happened in aviation, and probably

1 pertaining to micromanagement because that was so
2 ongoing.

3 There were times-- it happened twice where I
4 walked-- I went out to fly after something happened in
5 the hangar, and I'm so frustrated and my mind is just
6 so-- just clouded with this environment.

7 I go out to fly an airplane and-- the first time I'm
8 by myself, and I taxi out to go take off. I already got
9 a safety clearance, holding (inaudible) of the runway,
10 thinking about work and what just happened, and I go to
11 taxi out on the runway-- and, you know, we always check
12 to make sure there's nobody coming, so I wasn't going to
13 have a midair or a runway incursion, but I didn't even
14 think about getting takeoff clearance from the Olympia
15 tower.

16 I stop, and I've already passed the threshold line.
17 There is a painted line you are not supposed to cross,
18 and I'm like, "Holy crap. I have got to get this out of
19 my mind. I can't focus on what I'm doing in operating an
20 airplane," but I knew if I stayed at the hangar where all
21 this tension and all these issues were wasn't going to be
22 good for me.

23 Actually, once I got away from the office, I felt
24 better, you know. I felt better flying and going and
25 doing traffic.

1 Anyway, the first time this happened, I caught
2 myself, and I said, "Oh, man."

3 I went in and told the sergeants about it.

4 I said, "This environment has got to change."

5 The second time it happened, Chris Noll was in the
6 airplane with me.

7 We were flying the Cessna 206, and he was in the
8 back seat as a camera operator, and he stopped me.

9 He said-- I am pulling out on the runway, and he
10 says, "Wait, wait. Did you get takeoff clearance," and
11 I'm like, "Ugh. No. Thank you."

12 That's a big deal.

13 I could potentially have my pilot's license changed
14 for that.

15 After that timeframe, I told Chris Noll, I said,
16 "Look, man, if you and I are flying together, you're
17 flying. I will be the camera operator."

18 A lot of times we would switch off and on where I
19 would fly the first half of the day and he would fly the
20 second half of the day or something.

21 There was probably about a two-week or three-week
22 period that we were flying together that I said, "Man,
23 it's all you."

24 I needed to clear this stuff out of my head before I
25 continued to fly.

1 Q Now we get to May 20th.

2 What happened next?

3 A I am telling the sergeants, "I need somebody outside of
4 the section paying attention to what is going on."

5 The sexual harassment complaint had already went up
6 through the chain of command at the chief's level and
7 rolled down to Alexander and all this.

8 They were aware of the reporting. They were aware
9 of me complaining of retaliation and a hostile work
10 environment at this point, and nothing was being done.

11 Finally I get to the point where I'm in Hatteberg's
12 office, and I said, "I want a meeting with the captain,
13 Captain Alexander."

14 That was on, I believe, May 18th, the same day, and
15 then on the 19th I get an e-mail that there's a meeting
16 scheduled at Captain Alexander's office.

17 On the 20th was the meeting--

18 Q Who attended the meeting?

19 A Well, myself, Sergeant Hatteberg, and Lieutenant Nobach,
20 and Captain Alexander.

21 Q Okay. Tell us what happened.

22 A I walk-- at that time the office was in the GA building,
23 general administration building, and we have changed
24 offices, but it was in the basement down there.

25 I walk down the hallway and into the special

1 operations division, in Captain Alexander's, and I didn't
2 know-- well, so in my mind this meeting was because I
3 had-- I wanted a meeting with the captain to talk about
4 the retaliation and hostile work environment stemming
5 from the report of the sexual harassment complaint.

6 I wanted to talk about how that was handled and what
7 has happened since then within aviation and to me and the
8 difficulties I am having with Lieutenant Nobach.

9 I didn't know he was going to be in the meeting.

10 Q "He" being who?

11 A Lieutenant Nobach.

12 Q All right. How did you feel when you saw he was in the
13 meeting?

14 A I was in a bit of disbelief-- actually, not just a bit.
15 I was in complete disbelief that Nobach was there.

16 After I greet the captain, I sit down, and he asks
17 me what my-- "Hey, Ryan, I understand you have some
18 concerns about what's going on in aviation," and I
19 explain to him, I said, "Yes, sir, I do, and it stems
20 from the reporting of this incident between Jim and
21 Brenda," and he says, "Woah, Woah, woah." He stops me--

22 Q Who stops you?

23 A Captain Alexander stops me from talking and says, "That's
24 been handled. That's been dealt with. We are not going
25 to talk about that," and I'm like, "Uh, I"-- I remember I

1 look at Hatteberg, and I'm like, "Okay. Well, that's
2 what this retaliation is stemming from, you know," and I
3 said, "Okay. Well"-- he says, "Well, I understand you
4 have some other concerns about the training program."

5 I start talking about concerns about the training
6 program and with Jayson Caton specifically, and I bring
7 up Jayson Caton.

8 I talked a little bit about Nobach and our training
9 experiences and what had happened with that, and I
10 brought up Jayson Caton and his lack of being progressed
11 in the section.

12 He was a brand new pilot, hadn't-- his 90-day
13 training program hadn't really even been initiated.

14 I think it had finally started by the May 20th
15 timeframe, but he was already like-- that's supposed to
16 happen the first 90 days of employment, and if you don't
17 get that done within 90 days, you are supposed to get
18 some sort of special approval order, notify human
19 resources, and that didn't happen.

20 Jayson is frustrated because he's not getting
21 trained, and he felt like Nobach had some sort of
22 animosity towards him, and so-- anyway, I am explaining
23 this in the meeting to Captain Alexander and the concerns
24 of myself and other pilots about the training
25 environment.

1 Nobach starts-- well, in a raised voice-- he's
2 pissed off, and he says, "Let me stop you right there,"
3 and he's pointing at me like he did in the (inaudible)
4 meeting.

5 He said, "Let me stop you right there. This is
6 about you and only you."

7 Gosh, you know, it's another one of those times
8 where it's just like, "Are you kidding me right now?"

9 I am biting my tongue because I'm just in disbelief
10 over this, and I'm like-- I turn to Lieutenant Nobach in
11 a calm voice. I said, "Respectfully, Lieutenant Nobach,
12 the captain asked me a question, and I'm answering the
13 captain's question."

14 What I said exactly was, "With all due respect,
15 Lieutenant Nobach, the captain asked me a question, and
16 I'm answering the captain's question," and he got pissed
17 off, and he sits back in his chair, and he crosses his
18 arms, and he just is mean-mugging me for the rest of this
19 meeting.

20 I turn back to the captain, and I just continue
21 where I left off.

22 Alexander did nothing, didn't say a word. He just
23 started listening to me and acted like it never even
24 happened.

25 That's how this meeting went.

1 Q Did you get to talk about the retaliation?

2 A I did. I did.

3 I brought up the fact that I felt I was being
4 retaliated against from-- I couldn't go into detail
5 because he shut me down-- I don't feel like I went into
6 much detail because I got shut down, but I did report
7 that I felt like I am being retaliated against and that
8 there is a hostile work environment that was directed
9 towards mainly me, but I felt like Sweeney also.

10 That's what happened in this meeting.

11 At the end of the meeting, Alexander-- he's taking
12 notes. He has his notepad out, and I think he was taking
13 notes from this meeting-- he did-- well, he had his
14 notepad out. Whether he took notes or not, I don't
15 necessarily remember this.

16 He tells me that he can't have this going on in
17 aviation, this turmoil, this disagreement between
18 Lieutenant Nobach and I, and that if we couldn't learn to
19 work together, one of us is going to be removed from
20 aviation, "Do you understand me?"

21 I thought, "Yes, sir," you know, and there were some
22 other conversations that took place about using the
23 sergeants and make sure we go through the chain of
24 command, but that's how this meeting ended is he
25 basically told me that if Lieutenant Nobach and I, who I

1 just told that I felt was retaliating against me, that if
2 him and I can't learn to work together, one is us is
3 going to be removed from aviation.

4 Q And who left aviation?

5 A Well, months later, that was me.

6 Q All right. And is Alexander still in charge of aviation?

7 A No, sir.

8 He was promoted to assistant chief.

9 Q Of the three of you, who is still in aviation?

10 A Lieutenant Nobach is still in aviation, and Sergeant
11 Hatteberg was in the meeting, and he is still in aviation
12 as well.

13 Q So after that meeting, did things get better?

14 A Briefly, for-- you know, I did feel like things got
15 better for a period of time.

16 Q And then let's talk about towards the end of May.

17 Did an issue arise regarding vacation?

18 A Yes.

19 Q Please explain.

20 A Within days after this meeting with Lieutenant Nobach--
21 well, I think it was three days later, I get an e-mail
22 that my King air progression training was cancelled.

23 Q When was it set for? What month?

24 A I believe June of 2016, if I recall correctly.

25 Q All right. And what happened next?

1 A I went to Hatteberg, my sergeant-- well, the sergeant
2 that was working, and I said, "What's up with this," and
3 I am thinking this is retaliation, and I went to him and
4 I said, "What is the deal with this? Now he's cancelling
5 my King air training?"

6 He says, "Well, it has to do with a coverage issue
7 with"-- and that's why it was cancelled, because Chris
8 Noll was going to be going out on FMLA leave for having a
9 new baby and his wife was having some issues with
10 pregnancy, and the baby also had some issues.

11 You know, but when this was-- this reasoning was
12 given to me, I'm like, "That's been on the books for
13 months."

14 Q What has?

15 A Chris Noll's FMLA leave.

16 They knew this leave was coming up, and now all of a
17 sudden after this meeting with Alexander, now he's
18 cancelling my flight safety? Why didn't he do it months
19 ago when he found out there was going to be a scheduling
20 problem?

21 I'm like, "Okay."

22 I am telling Hatteberg, I'm like, "Okay. And this
23 isn't retaliation? Okay."

24 Q Okay. What happened next?

25 A So I looked at the calendar when Chris Noll was going to

1 be back to work, and there was about a two-week or
2 three-week timeframe in July that he was going to be
3 back.

4 I called-- I don't know if I called or maybe-- I
5 feel like I called.

6 Anyway, I found out that flight safety down in Long
7 Beach could fit me in, in their training schedule, during
8 that three-week time frame when Chris Noll was going to
9 be back, so this issue regarding coverage of lack of
10 pilots was going to be alleviated.

11 I asked, I said, "Hey, Chris Noll is going to be
12 back in July. Can I do it then?"

13 Hatteberg went and asked Nobach, "No, I'm not going
14 to accommodate that."

15 I'm like, "Why?"

16 They couldn't give me a reason.

17 I am like, "Okay. Okay, Jeff"-- Jeff Hatteberg
18 --"and this isn't retaliation? Okay."

19 So then I said-- I had prescheduled vacation in
20 August that they had to honor because of our collective
21 bargaining agreement, and we would select our vacation at
22 the beginning of the year.

23 I think I was scheduled for three weeks in August,
24 maybe the end of July, and so I said, "Okay. Since I'm
25 not going to be here anyway, what if I went during my

1 vacation?"

2 I knew they can't give me the coverage issue problem
3 as an excuse because I'm not going to be here anyway.

4 Hatteberg went down and asked Lieutenant Nobach, and
5 he says, "He'll let you go during your vacation, but he's
6 not going to let you reschedule your vacation," and I'm
7 like, "What? He just let you do that, Jeff," and he just
8 let Jared Elliot, later, after this event, another
9 pilot-- he was able to do that to accommodate flight
10 safety schedule. He was allowed to reschedule his
11 vacation.

12 I'm like, "Okay. And this isn't retaliation?

13 Okay."

14 I said, "Okay. I'll do it. I'll go to flight
15 safety on my vacation," and that was in August of 2016.

16 Q All right. And did you finish it? Did you pass?

17 A I did, yes. Yeah.

18 Q Okay. Now, that's in the end of May, isn't it?

19 A Yeah, I believe it was, around that May 25th--

20 Q So let's catch up here to May and talk about, what was
21 your fear level at this time at the end of May?

22 A It was probably a nine at this point.

23 Q Okay. How about stress?

24 A A ten.

25 Q How about humiliation?

1 A I would probably say, at this timeframe, once this went
2 on, more of like a seven or an eight.
3 Q All right. How about anxiety?
4 A A ten.
5 Q And how about anguish?
6 A I would probably say an eight.
7 Q All right. And how about loss of enjoyment of life?
8 A Probably an eight.
9 Q All right. So the month of June, how was that?
10 A I am trying to think of everything that happened in June.
11 Well, again, May and June somewhat improved after
12 this meeting with Captain Alexander, and I think
13 primarily it had to do with vacations.
14 Lieutenant Nobach--
15 Q Lieutenant Nobach, do you know if he left on vacation at
16 that time?
17 A He was on vacation during that timeframe for three or
18 four weeks.
19 Q All right. And then so that's-- through June, did you
20 get to fly?
21 A I did. I flew regularly, yeah.
22 Almost daily I was out flying.
23 Q Without Nobach on-site, did you have any sense of any
24 change in the retaliation, that you perceived?
25 A Well, at that point I didn't feel like I was being

1 **retaliated, per se.**

2 **He was gone.**

3 **You know, my relationships with Sergeant Hatteberg**
4 **was pretty good at this timeframe.**

5 Q All right. Then let's move into July.

6 Did there come a time in July where there was a
7 change in personnel supervising you?

8 A **Yes.**

9 Q Please explain.

10 A **So Sergeant Sweeney-- well, Sergeant Sweeney was my**
11 **supervisor from beginning of 2016. That's who I directly**
12 **reported to, but there were two sergeants in aviation,**
13 **and they shared an office, but my direct chain of command**
14 **was underneath Sergeant Sweeney.**

15 **I get notified that I'm being moved from Sergeant**
16 **Sweeney to Sergeant Hatteberg.**

17 Q Did anybody explain why?

18 A **Well, the reasoning I was given had to do with Jayson**
19 **Caton had accepted a transfer to be a pilot in eastern**
20 **Washington at the hangar in Ephrata, and the reasoning**
21 **that I was given is to balance out experienced pilots**
22 **with newer pilots in the section between the two**
23 **sergeants.**

24 Q Did you have any sense as to how that might affect your
25 ability to do your job?

1 A Well, it-- my concern with that switch was it had to do
2 with Hatteberg being more in line with Nobach and more--
3 and his relationship with Nobach.

4 Sweeney went through this retaliatory environment
5 with me.

6 He had strong concerns about retaliation towards
7 me--

8 Q Hold on.

9 A Sorry about that.

10 Sorry, Your Honor.

11 Q All right. Go ahead.

12 A So my concerns were mostly with Hatteberg being more
13 directly in line with, and friends with, Lieutenant
14 Nobach.

15 Q Okay. All right. And did there come a time-- you recall
16 that the 095 that was issued to Nobach told him that he
17 had to do something about training, sexual harassment.

18 In July, did that come to fruition?

19 A Yes.

20 Q What happened?

21 A They had scheduled-- as part of Nobach's discipline, he
22 was charged with finding outside third-party training for
23 sexual harassment with Department of Enterprise
24 Services-- at that time it didn't really say, but
25 eventually he found the training with Department of

1 **Enterprise Services with the State, with a third-party**
2 **vendor.**

3 The entire aviation section was required to go down
4 to take a five-hour class on sexual harassment.

5 Q Did you go?

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

7 Q All right. And anything interesting about the seating
8 arrangements?

9 A **Yeah.**

10 So it was a room maybe about half the size of this
11 courtroom, and it was split into two sides, and almost
12 all of aviation was sitting on one side of the room, and
13 there were some employees from other State agencies on
14 the other side of the room.

15 I had sat in the row behind Chief Alexander,
16 Lieutenant Nobach, and Brenda Biscay.

17 I was directly behind Chief Alexander.

18 During this training, he presented to the class for,
19 I don't know-- I don't recall, maybe an hour and a half,
20 and then he split the class up into groups.

21 He gave us each a piece of paper that had a number
22 of different scenarios, sexual-harassment-workplace-
23 environment-type scenarios, that we had to in a group
24 work through those problems and find a solution on how we
25 would handle each one of those issues.

1 It just so happens that I'm in this group-- as he
2 separates each individual person in the class, I get put
3 in a group with Lieutenant Nobach-- I laugh about it now.
4 I wasn't laughing then. It was just-- Lieutenant Nobach,
5 Brenda Biscay, and Johnny Alexander.

6 I am in complete disbelief that I have to go through
7 these scenarios with the people that I've had issues with
8 regarding this sexual harassment situation.

9 Q Can you tell us, was there a scenario similar to the one
10 that you had reported?

11 A **There was, very similar.**

12 Q Involving what?

13 A **A supervisor and a secretary.**

14 Q And did you observe any discussions about that between
15 Alexander and Nobach?

16 A **Yes, I did.**

17 Q What did you observe?

18 A They get into a verbal disagreement, an argument, over
19 this scenario in front of me and Brenda, and they're
20 disagreeing back-- I mean, Nobach is like, "No, I don't
21 see it that way," and Alexander is like, "Jim, you can't
22 do that," you know, and that's how this conversation is
23 going.

24 Nobach is like, "I don't see it this way," and they
25 kept going back and forth, and I'm just like, "Oh, my

1 gosh. I cannot believe this is happening."

2 MR. SHERIDAN: This is a good place.

3 THE COURT: Members of the Jury, it is
4 4 p.m. or almost 4 p.m., so you are excused for the day.

5 In case you have forgotten my prior instructions, do
6 not do any research, do not talk about what you have
7 heard, and ignore everybody that you see in the hallways
8 that is involved in this case, and we will see you
9 tomorrow at 9:00.

10 COURT BAILIFF: All rise.

11 (Jury exits.)

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

14 All right. Mr. Sheridan, how much time do you
15 realistically think you have?

16 MR. SHERIDAN: Well, we have to get
17 the exhibits admitted.

18 If they will go today like they went-- if they will
19 go tomorrow like they went today, we should be able to
20 move fairly quickly through the exhibits, but he's got a
21 bunch of exhibits that we have to get into the record.

22 In terms of-- so I'm glad you raised this because I
23 would like to be able to show that after he leaves, he's
24 a success at his next job because--

25 THE COURT: Let's talk about scheduling

1 first.

2 MR. SHERIDAN: So scheduling, I'm
3 going to-- I have to check with my staff to find out if
4 we juggle people, who can come Wednesday and who can't.

5 THE COURT: All right. And the reason
6 why I ask is because-- we do have-- we do have our IT
7 camera-- monitor for tomorrow, so we can do the Zoom--
8 for tomorrow afternoon, so we can do the Zoom witnesses.

9 MR. SHERIDAN: Okay.

10 THE COURT: So-- and I don't know
11 whether-- I need to ask Mary if she asked if we would
12 have it on Wednesday as well.

13 That's the reason I'm asking. That was my main
14 concern.

15 MR. SHERIDAN: We had morning people
16 set, and I was prepared to move the morning people and
17 try to keep-- we have to keep Torelli (phonetic) at 1:30
18 and maybe keep the Zoom people, just to get it done, but
19 that's without my staff inputting as to who can't be back
20 on Wednesday.

21 THE COURT: All right. Assuming that
22 we don't finish with Mr. Santhuff, do you have--
23 Detective Santhuff, do you have an objection of doing the
24 other witnesses and then calling him back?

25 MR. SHERIDAN: I don't. I don't.

1 The goal-- you know, this juggling is always to get
2 people in, and so-- but I would like, if the Court would
3 tell me what to do with the barista, because I think we
4 got her--

5 THE COURT: All right. Hold on.

6 Do you have any objection, if we're not finished
7 with Detective Santhuff, stopping his questioning and
8 then calling the other witnesses that apparently-- well,
9 the expert that has to be here tomorrow at 1:30 in the
10 Zoom.

11 MR. BIGGS: No, I don't have any
12 problem with that.

13 THE COURT: Okay. All right. So the
14 barista, is she going to-- is it a she or a he?

15 MR. SHERIDAN: A she.

16 THE COURT: Is she going to talk about
17 anything other than she thinks they were having an affair
18 and she reported it to Detective Santhuff?

19 MR. SHERIDAN: She is going to
20 basically say, "I reported my concerns to you and to Ryan
21 and various other people," and that's it, but then it's
22 not hearsay because she's reporting it.

23 THE COURT: All right.

24 I don't know who is addressing her testimony.

25 MR. MARLOW: I will, Your Honor.

1 It remains irrelevant.

2 Whether it's hearsay or not, I won't even get into
3 that because it has the relevancy test.

4 THE COURT: All right. I don't see
5 the relevance of this barista thinking he was having an
6 affair-- Lieutenant Nobach was having an affair with
7 Brenda or anybody else, for that matter.

8 If that's the only reason for her testimony, then I
9 don't think we need to have her.

10 MR. SHERIDAN: All right.

11 THE COURT: So Dr.--

12 MR. SHERIDAN: Torelli.

13 THE COURT: --Torelli-- Mary, when did
14 you send me that e-mail with the witnesses?

15 COURT BAILIFF: This morning.

16 THE COURT: Of course it was this
17 morning.

18 Here it is.

19 All right. So who is the barista?

20 MR. SHERIDAN: I have to open up--

21 THE COURT: Kasha Beneventa
22 (phonetic)-- (inaudible crosstalk).

23 So Torelli at 1:30?

24 MR. SHERIDAN: Right.

25 THE COURT: And then Merrill-- oh,

1 Hendricks at 3:15.

2 MR. SHERIDAN: Hendricks at 3:15.

3 I think we asked for help from you folks on Merrill.

4 He's not-- he's the one that said he couldn't come
5 because he was exposed and had to stay in quarantine for
6 14 days.

7 That's when we moved him to a Zoom, and once we
8 moved him to a Zoom, he ceased communicating with us, and
9 so I had one of my staff send you folks an e-mail saying,
10 "Would you guys be able to send an e-mail to him saying,
11 'Hey' "--

12 THE COURT: I can't send an e-mail to
13 a witness.

14 MR. SHERIDAN: Oh, you-- oh, okay.

15 That's happened before.

16 He's in violation of the subpoena. I mean, he's in
17 contempt of court.

18 THE COURT: But I can't e-mail the
19 witness.

20 (Inaudible cross talk.)

21 MR. SHERIDAN: We have had
22 communications with witnesses-- especially because he
23 could be in contempt, right?

24 I mean, if he's sick, he's sick, but if he's not,
25 he's in contempt of your subpoena essentially.

1 THE COURT: Who--

2 MR. SHERIDAN: This is Merrill.

3 THE COURT: Who is Merrill?

4 MR. SHERIDAN: He's the retired
5 president of the union.

6 He's the one that makes the link about being told
7 that "If Ryan complains, we're going to-- we might go
8 after him on truth stuff."

9 THE COURT: So he is not under WSP
10 right now?

11 MR. SHERIDAN: He's retired.

12 THE COURT: So you don't have,
13 necessarily, any-- okay.

14 MR. BIGGS: We haven't been in touch
15 with him, Your Honor.

16 THE COURT: Well, I would suggest that
17 you continue trying to reach out to him.

18 I mean, the most that we can do is just send him an
19 e-mail with a link, with a Zoom link.

20 MR. SHERIDAN: Yeah, I actually sort
21 of anticipated that's how all this would go--

22 THE COURT: The attorneys are supposed
23 to send--

24 MR. SHERIDAN: The link--

25 THE COURT: --the link to the

1 witnesses.

2 MR. SHERIDAN: So anyway, we'll report
3 back to you on that one.

4 THE COURT: Is his testimony going to
5 be just 15 minutes?

6 MR. SHERIDAN: Yeah, that's the plan.
7 They're all shorties.

8 THE COURT: All right. Okay. And
9 then-- all right. So we will still plan on having the
10 monitor for Zoom tomorrow for the witnesses.

11 MR. SHERIDAN: Okay. Yes.

12 THE COURT: You wanted me to address
13 something?

14 COURT BAILIFF: Just with the
15 location, we'll have to bring the monitor in, so we'll
16 have to shift the table down, maybe get rid of the podium
17 and shift the table because it's-- (inaudible crosstalk.)

18 COURT BAILIFF: To see it, we put it
19 almost right in front of the witness's face.

20 MR. SHERIDAN: Oh.

21 COURT BAILIFF: That's what we did
22 last time.

23 MR. SHERIDAN: It went back there?

24 COURT BAILIFF: Not behind the witness
25 stand, but just kind of right where (inaudible).

1 MR. SHERIDAN: Okay.

2 (Inaudible crosstalk.)

3 COURT BAILIFF: I just want to make
4 sure we have (inaudible) power.

5 MR. SHERIDAN: Is it a big TV?

6 UNIDENTIFIED SPEAKER: Yes.

7 (Inaudible crosstalk.)

8 THE COURT: It is about that size, I
9 would say.

10 MR. GLOVER: We have a couple power
11 strip right here.

12 THE COURT: Sorry?

13 MR. GLOVER: We have a couple power
14 strips that can be--

15 COURT BAILIFF: Okay. We will have
16 our IT people come in and set it up during the lunch
17 hour, so I just-- yeah.

18 MR. SHERIDAN: So the weird twist is
19 it probably can't block Torelli because he's going at
20 1:30, just to make it more exciting.

21 COURT BAILIFF: Well, we can push it
22 out of the way and pull it--

23 MR. SHERIDAN: Okay.

24 COURT BAILIFF: It is on wheels, so
25 that shouldn't be a problem.

1 MR. SHERIDAN: Oh, great. Okay.

2 COURT BAILIFF: Our first Zoom witness
3 will be at what time?

4 THE COURT: 3:15 is what you said.

5 MR. SHERIDAN: 3:15, yeah.

6 COURT BAILIFF: And then all three of
7 them will go tomorrow?

8 MR. SHERIDAN: That's the plan, but I
9 haven't checked back with my staff yet-- (inaudible
10 crosstalk.)

11 THE COURT: It's only going to be two,
12 Mary.

13 (Inaudible crosstalk.)

14 MR. SHERIDAN: There's only two right
15 now because Merrill hasn't responded.

16 THE COURT: Well, no. Two with
17 Merrill because the barista is not going to testify.

18 MR. SHERIDAN: Oh, the barista is not.
19 Oh, yes, it may be just one.

20 THE COURT: Okay. Is there anything
21 that you need to do tomorrow morning to set up again?

22 I don't think so.

23 Is there?

24 MR. SHERIDAN: We're set.

25 THE COURT: Okay. So I did receive

1 the response from Defense. I haven't looked at it, so I
2 will look at it this evening, and I will issue my ruling
3 on that tomorrow, so if the parties can be here at 8:45
4 so I don't have to have the jurors wait again.

5 MR. SHERIDAN: Okay.

6 THE COURT: That would be greatly
7 appreciated.

8 MR. SHERIDAN: Okay.

9 THE COURT: All right. Any other
10 issues that I need to rule on, in addition to the-- I'm
11 sorry?

12 MR. BIGGS: We don't need a ruling,
13 Your Honor, but I just want to make absolutely clear, we
14 are calling Noll tomorrow and we are not calling Caton
15 tomorrow, right?

16 MR. SHERIDAN: Since it sounds like we
17 can finish Ryan--

18 THE COURT: It's up to you.

19 MR. SHERIDAN: Let's move him to
20 Wednesday.

21 MR. BIGGS: Okay. And then what about
22 the DNR employee, Sandra Kaiser (phonetic), and Kelly
23 Vasiggi (phonetic)?

24 MR. SHERIDAN: Do we know if that's a
25 local person, because we are going to have a gap after--

1 THE COURT: Do I need to be involved
2 in this?

3 MR. SHERIDAN: Say again.

4 THE COURT: Do I need to be involved
5 in this?

6 MR. BIGGS: I just want to know for
7 sure whether they're going to be called or not so we know
8 whether--

9 MR. SHERIDAN: All right. Let's bring
10 her after--

11 THE COURT: You figure that out.

12 MR. SHERIDAN: We will.

13 THE COURT: I will see you tomorrow at
14 8:45 so we can address this-- say 8:40, the issue of the
15 evidence that came out that had not been disclosed.

16 MR. SHERIDAN: Okay.

17 THE COURT: Any other rulings that are
18 pending?

19 I just think that's the only thing that is left.

20 MR. SHERIDAN: Do we have a signed
21 order now on the motion in limine. That's what we were
22 presenting for?

23 THE COURT: Oh, okay. Yeah, I'll sign
24 it.

25 I had sent it to Counsel, but I will sign it.

1 (Inaudible crosstalk.)

2 THE COURT: --halfway through the
3 trial?

4 MR. SHERIDAN: Yeah, I know.

5 THE COURT: I sent it right away.

6 MR. SHERIDAN: You did. You did.

7 Thanks, Judge.

8 THE COURT: I will see you tomorrow at
9 8:40.

10 UNIDENTIFIED SPEAKER: Okay. Thank
11 you.

12 COURT BAILIFF: All rise.

13 (Court recessed at 4:08 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON)
)
 ss.
COUNTY OF KING)

I, TERILYNNE SIMONS, Certified Court Reporter in the state of Washington, in the County of King, in Seattle, Washington, do hereby certify under penalty of perjury under the laws of the state of Washington:

That the foregoing proceeding was transcribed, from an audio recording received from trial court, to the best of my ability, subject to the quality of audio recording, or was transcribed under my direction;

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Terilynn Simons, CCR, RMR, CRR, CLR
Certified Court Reporter No. 2047

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