

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
2 FOR THE COUNTY OF PIERCE

3
4 GILLIAN MARSHALL,)
)
5 Plaintiff,)
)
6 vs.) Case No. 19-2-11120-3
)
7 THE STATE OF WASHINGTON,)
 UNIVERSITY OF WASHINGTON, a)
8 State Agency, DIANE YOUNG,)
 individually, and TOM DIEHM,)
9 individually,)
)
10 Defendants.)
_____)

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12
13 VIDEOTAPED DEPOSITION OF MIKE TOWNSEND
14 Taken at the instance of the Plaintiff
15

16
17 November 18, 2020

18 10:46 a.m.

19 Via Zoom videoconference
20

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22
23 BRIDGES REPORTING & LEGAL VIDEO
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1 BE IT REMEMBERED that the videotaped
2 deposition of MIKE TOWNSEND was taken in behalf of the
3 Plaintiff pursuant to the Washington Rules of Civil
4 Procedure before William J. Bridges, Certified
5 Shorthand Reporter for Washington, Oregon and Idaho, on
6 Wednesday, the 18th day of November, 2020, via Zoom
7 videoconference, commencing at the hour of 10:46 a.m.

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Also present:

GILLIAN MARSHALL

DIANE YOUNG

TONY DONDERO

SHANNON GLOVER
Videographer

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I N D E X:

GILLIAN MARSHALL vs. THE STATE OF WASHINGTON, et al
Case No. 19-2-11120-3
November 18, 2020

T E S T I M O N Y

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PRODUCTION REQUESTS:

(None)

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1 THE VIDEOGRAPHER: Good morning. Here
2 begins the deposition of Mike Townsend in the matter
3 of Marshall vs. State of Washington in the Superior
4 Court of Washington in and for Pierce County. Case
5 Number 19-2-11120-3.

6 Today's date is November 18, 2020. The time
7 is approximately 10:46 a.m. This deposition is being
8 taken via Zoom videoconference. The videographer is
9 Shannon Glover, the court reporter is William
10 Bridges, both here on behalf of Bridges Reporting &
11 Legal Video.

12 Will counsel and all present please identify
13 yourselves and state whom you represent?

14 MR. SHERIDAN: This is Jack Sheridan
15 representing the plaintiff Gillian Marshall. And with
16 me is Andra Kranzler who is an attorney at my office.

17 MS. PETERSON: My name is Mary Peterson.
18 I represent defendants in this case. And with me today
19 is Dr. Diane Young, a named party in this matter.

20 MR. SHERIDAN: All right.

21 THE VIDEOGRAPHER: Would the court
22 reporter please swear in the witness?
23
24
25

1 (MIKE TOWNSEND, called as a witness by the
2 Defendants, being first duly sworn to tell the truth,
3 the whole truth and nothing but the truth, was examined
4 and testified as follows:)

5
6 THE VIDEOGRAPHER: You may begin.

7
8
9 EXAMINATION

10
11 BY MR. SHERIDAN:

12 Q. Good morning. Please state your name for
13 the record.

14 A. Mike Townsend.

15 Q. And with whom are you employed?

16 A. The University of Washington through the
17 State of Washington.

18 Q. And what do you do there?

19 A. Hmm. Part of my job is working in the
20 School of Law as an associate professor.

21 The other part of my job is working as
22 what's called Secretary of the Faculty of the
23 University of Washington.

24 Q. And could you explain, of what, do you have
25 a focus of what you teach as a law professor?

1 A. Well, yes. I taught mainly in the first
2 year. I also am trained as a mathematician. So I
3 taught quantitative methods.

4 COURT REPORTER: This is the court
5 reporter. You said "I taught mainly in the first
6 year," and then there was a little black-out. Maybe we
7 missed something. "I taught mainly in the first year."

8 THE WITNESS: I think I said contracts,
9 torts and property.

10 THE COURT REPORTER: Thank you. I did
11 not get that.

12 THE WITNESS: Sorry.

13 Q. (BY MR. SHERIDAN:) And what was, you said
14 that you were a secretary. Would you repeat that
15 connection, please?

16 A. The other part of my job at the university
17 is to work as what's called a Secretary of the Faculty
18 of the University of Washington.

19 Q. Okay. Can you give us in lay terms an
20 explanation of what your job duties entail?

21 A. As Secretary of the Faculty?

22 Q. Yes, please.

23 A. Well, I'm hesitating because I give
24 different descriptions, depending on who's asking,
25 based on what I think they will get out of it.

1 So, let me try it this way: So, there are
2 three basic parts of my job.

3 Two of them I would call, let's just say the
4 jury in the sense that they are specified in various
5 places across the university, such as the Faculty Code.
6 And let me talk about that first.

7 Q. Okay.

8 A. So the University of Washington is obviously
9 this unbelievably large and complex institution. And
10 it's not actually run by one person. Various parts of
11 it are co-managed.

12 Q. Okay.

13 A. One group of parts of it are co-managed by
14 the faculty on one side and you might say the
15 administration who are the delegees of the state
16 legislature on the other.

17 Q. Okay.

18 A. My job in that regard is to facilitate that,
19 what we call shared governance.

20 Q. Okay.

21 A. And there are two parts of that. One is
22 sending documents and communications back and forth
23 between the faculty side and the administration side.

24 Q. Okay.

25 A. And the other part is kind of doing the same

1 thing, just within the faculty side, which itself is a
2 complicated subject.

3 Now, in that part of my job, what I called
4 the jury part, there's actually a professional staff
5 that works with me on this. So, I'm called the
6 Secretary of the Faculty, but that part of the job is
7 actually carried out, you might say, through an office
8 for which I am responsible. So often the communication
9 will go out in an e-mail over my name, but sent out by
10 one of the professional staff.

11 Q. What's the name of the office, if it has
12 one?

13 A. Well, I call it the Secretary of the Faculty
14 office. Sometimes it's called I think the office of
15 the university committees and the codes, something like
16 that.

17 Now, so that's one part of it. I call that
18 the paper pushing part.

19 Then there's another part which I call the
20 de facto part, which is the sequence of things that are
21 done that have accumulated over time. There's not a
22 specific direction for it anywhere. It just so
23 happened that a number of tasks have come to be
24 expected to be done by the Secretary of the Faculty.

25 Q. Okay.

1 A. This group of things I do myself. I don't
2 use a staff for. They would be things like providing
3 advice to members of the administration or members of
4 the faculty side of the governance, of policy questions
5 or procedural matters.

6 And then the other part is it has fallen to
7 my office to provide information to members of the
8 community, typically faculty members, but often
9 administrators, about rights and responsibilities under
10 policies with which I am familiar.

11 Now I say "provide information" because I
12 don't have the authority to interpret rules and
13 regulations at the university. I don't have authority
14 to order anyone.

15 But I can provide information I have about
16 what has happened in the past in certain situations and
17 so forth.

18 So, that's kind of a layperson's, I would
19 say, description of what I and my -- the staff I work
20 with do.

21 Q. That is actually very helpful. All right.
22 So how long have you been doing this?

23 A. This is the, I'm in the middle of the fourth
24 year as Secretary of the Faculty.

25 Q. Okay. All right. And are you -- Who hired

1 you?

2 A. Technically what happened is the Senate
3 Executive Committee, which is, well, it's kind of a
4 creature of the Senate, submits a name for Senate
5 approval.

6 Q. Okay.

7 A. Now, in my case this happened in the summer.
8 The Senate Executive Committee is allowed to act for
9 the Senate in the summer. So, they basically submitted
10 the name to themselves, and I was hired that way.

11 Q. Okay. And do you serve until someone says
12 you can't, or is there a term?

13 A. There's a -- The code says up to five years.
14 I think that was the term under which I was hired. So
15 next year would be the last year under that term.

16 There's no limit on the number of terms.
17 There are limits on eligibility. You have to be a
18 tenured faculty member.

19 Q. Okay. All right. And can you tell us a
20 little bit about the Faculty Code? Who creates it and
21 what authority does it have?

22 A. Well, so, the university -- So this is as I
23 understand it. I'm not, you know, a constitutional or
24 state law expert.

25 As I understand it, the university is a

1 creature of the state legislature. They could run
2 things soup to nuts if they wished. And there are some
3 very specific things in the RCWs on the University.

4 But they choose not to run it soup to nuts.
5 So they have largely delegated the soup to nuts to the
6 Board of Regents. But the legislature has reminded the
7 Board of Regents that as an academic institution the
8 faculty has to be involved in running at least that
9 part of the university.

10 Now, the Board of Regents then could take
11 over what's remaining of the soup and nuts. But they
12 don't do that either, although they do have some
13 various standing orders and things like that.

14 They have largely delegated that to the
15 President, with the reminder from the legislature that
16 the faculty in an academic institution has to be
17 considered part of that.

18 Pursuant to that delegation and that
19 direction from the Board of Regents, the President of
20 the university through a series of Executive Orders set
21 up the mechanism for that sharing or that recognition.

22 And that series of Executive Orders, and the
23 practice that has grown up around that, results in
24 various documents by which that sharing takes place,
25 one of which is the Faculty Code.

1 Q. Okay.

2 A. The Faculty Code, which is listed in the
3 policy manual by name.

4 Q. So, how does that arise?

5 A. Well, there's a legislative process that
6 involves at least four parties. The Senate Executive
7 Committee, the Senate, the Faculty, the eligible voting
8 faculty as a whole, and the President's office.

9 And this gets back to this jury part of my
10 job. Because to get all of that done and everything
11 approved by the right people in the right order at the
12 right time is part of the responsibility of my office.

13 So, it is the result of this legislative
14 process the involves the faculty as a whole,
15 representatives of the faculty, and then the President.
16 So, that's how it all arises.

17 And then, you know, legislation arises, but
18 various people have interests, some of our university
19 councils have interests, and so forth. But it's
20 authority.

21 Well, that's a tricky matter. I think the
22 courts have had some things to say about that. So I'm
23 not really in a position to explain, or I haven't even
24 looked at all of the cases. But I know there are some
25 cases in which the standing of the -- the jury standing

1 of the Faculty Code and the Executive Orders have been
2 in some cases, I'm not enough of an expert, but I can't
3 answer on the jury aspect of it.

4 Q. Okay.

5 A. But there is the faculty aspect. And inside
6 of the university in my experience faculty and
7 administrators have treated the code as binding on
8 members of the community internally, unless there's a
9 feeling that there's a superseding state or federal
10 regulation.

11 That's been my experience it's been treated
12 that way.

13 Q. Did you say binding on the members of the
14 faculty, or faculty and administration?

15 A. Faculty and administration.

16 Q. Okay.

17 A. To the extent that it talked about what the
18 administration is supposed to do.

19 Q. Yeah. Right. Okay. All right. Can you
20 tell us, who creates it and who changes it?

21 A. Well, it's this process that I have
22 described.

23 So, I can give you kind of, you know, you
24 tell a civics class, you might say the typical thing is
25 in running the university some problem is discovered.

1 Let's say the university has become so big
2 that we feel there might be some -- that the process we
3 had for evaluating faculty merit or something like that
4 needs to be changed.

5 So, one of the faculty councils would
6 probably be assigned the task of examining the issue.

7 Q. Okay.

8 A. They would draft some code language in
9 consultation with the relevant stakeholders and
10 parties. That would be sent to the Senate Executive
11 Committee.

12 It's going to get complicated.

13 Then the Senate Executive Committee would
14 send it to the Senate. Then the Senate would send it
15 back to the Senate Executive Committee for a second
16 look.

17 And during that second look the President
18 gets an opportunity to raise objections.

19 Once that's all dealt with, it goes back to
20 the Senate. And then out to the faculty. And then
21 back to the President for final approval.

22 That's your typical Faculty Code or process
23 that happens.

24 There are other things that faculty can do
25 legislatively that are not technically part of the

1 code, as you probably understand it.

2 They can pass sensitive Senate resolutions,
3 like Congress can.

4 And there's a slightly different process for
5 what's called scholastic regulations, which are
6 admissions criteria, whether we're going to require the
7 SAT and so forth. The Senate is involved in that. But
8 it's slightly -- it doesn't have a double look process
9 that I described.

10 So that's how things will get enacted at the
11 beginning.

12 And then they could change basically through
13 the same process.

14 Q. Okay. All right. And can you tell us in
15 your, again, in your experience, if there's a code
16 provision, can certain parts of the university just
17 decide they don't want to do it that way, they want to
18 do it a totally different way?

19 Can you ignore the code, in your experience?
20 And maybe that's too vague. Maybe you need an
21 example.

22 A. Yeah. Can you give an example?

23 Q. Yeah. Let's look at Exhibit 137. Okay.

24 And we're gonna to go to --

25 First of all, so let's just look at the

1 first page so you feel confident you are looking at
2 the code. Okay?

3 So, is this an online document?

4 A. It is what I remember seeing on the web
5 pages.

6 Q. Okay. Fair enough. All right. Do you
7 yourself get involved at all in drafting code changes?

8 A. I have sometimes in the first instance, if
9 it's some technical, really technical thing, I might be
10 asked to draft something in the first instance or be
11 involved in the first instance drafting.

12 Other times I have made suggestions in the
13 middle of the first process when I've seen things that
14 I have thought, okay, maybe you missed something.

15 So, yes, in that sort of situation I have
16 been involved in --

17 Q. Okay.

18 A. -- in drafting. But I'm not considered a
19 primary code drafter.

20 Q. That is what I was going to ask, is in your
21 position it seems like anyone could grab you to get
22 your input, as opposed to you being assigned to a
23 certain point, to review a certain point in that change
24 process that you described.

25 Would you agree with that?

1 A. It's more often I'm asked for advice, yes.

2 Q. Okay. All right. So, looking at, I'd like
3 to draw your attention to Section 24-32. It's on page
4 2606, which is the Bates stamp page.

5 (Pause in the proceedings).

6 Q. Okay. That's it. And it says, Section
7 24-32, "Scholarly and Professional Qualifications of
8 Faculty Members." And have you seen this section
9 recently?

10 A. Recently? Yes, I have seen it recently.
11 Yeah.

12 Q. Good. I just wanted to make sure whether
13 you feel comfortable with this.

14 So, one of the things, it talks about "The
15 University faculty is committed to the full range of
16 academic responsibilities: scholarship and research,
17 teaching, and service."

18 And then towards the last four lines of that
19 paragraph, it says, "In accord with the University's
20 expressed commitment to excellence and equity, any
21 contributions in scholarship and research, teaching,
22 and service that address diversity and equal
23 opportunity shall be included and considered among the
24 professional and scholarly qualifications for
25 appointment and promotion outlined below."

1 And do you happen to know how long that
2 provision has been in the Faculty Code?

3 A. It's fairly recent, but I don't have the
4 exact date on enactment.

5 Q. Do you happen to know, like you've said you
6 can't interpret it. But have you seen, have you
7 observed situations where either faculty in the tenure
8 and promotion process are accused of having either
9 ignored it or gotten advice from you regarding the use
10 of that section?

11 MS. PETERSON: Objection, compound.

12 Q. (BY MR. SHERIDAN:) You can answer.

13 A. I don't understand what you mean by ignore,
14 the faculty ignore.

15 Q. So, for example, let's say I'm applying for
16 tenure and I'm writing -- and all my work has to do
17 with diversity.

18 But when I come up for tenure the fact that
19 I am working in that area is ignored by the faculty
20 that is making the decision whether or not to let me
21 progress onward.

22 Has that type of situation come up where you
23 have been asked to address it from either point of
24 view?

25 A. Not the way you just described it, no.

1 Q. Could you tell us how that has come up?

2 A. Well, I don't recall any specific faculty
3 case where this has come up in the way you have
4 described it.

5 Q. In what ways have you seen it come up?

6 A. Well, it was quite clear, although I don't
7 remember exactly when this came up, I do remember the
8 context in which it came up.

9 Q. Okay. Please just tell us.

10 A. This was considered to be an important
11 addition to the code. There was a lot of discussion
12 about what the intent of it was in the Senate.

13 There was some concern that people would see
14 this as a requirement. And there was some tweaking of
15 the language to make it clear that it wasn't a
16 requirement, but that if faculty members did this, it
17 shall be included, it would be considered.

18 It was part of a larger thing about trying
19 to expand out the idea of what traditional top 10
20 journal publications really meant.

21 So that that's the, you know, that's been my
22 main contact with that particular sentence, was in it's
23 passage, and the discussions about it, its actual
24 intent.

25 Q. Okay. Because this document is online and

1 it seems to be a work in progress, is there any way
2 that you know of to go back into some database or
3 records to find out when this language was actually
4 inserted?

5 A. Yes.

6 Q. Could you explain how to do that?

7 A. So -- Well, I can't remember -- Okay. So,
8 basically what you would do is, I would go to Google
9 and I type in, this is what I do, faculty, Senate --
10 faulty, space, Senate, space, UW, and then I hit the
11 return.

12 And it usually takes me to a sequence of
13 links, one of which is to the faculty Senate page on
14 the university website collection.

15 On that page, I think it's somewhere on the
16 right-hand side it has, it will say "Legislation." And
17 then if you click on Legislation, it has back to about
18 2001 or so all of the legislative actions that the
19 Senate -- that has been approved by the processes I
20 discussed, either this double look, the actual Faculty
21 Code, the scholastic regulations or the Senate
22 resolutions, they are all listed there.

23 And somewhere in there it would say
24 something like Class A legislation, and there would be
25 a number for this one. And if you clicked on that link

1 it would have, I think what it has is the final report
2 that my office gives on it with the vote totals from
3 the faculty and so forth.

4 And it also should have the markup that
5 describes, you know, when it was approved and all the
6 rest of it, and what the code looked like before and
7 after.

8 I think that's what we have there. So that
9 can be found out.

10 Q. That's great. Can you tell me, so, what you
11 had said was that the de facto, this then would be
12 followed by the faculty.

13 Would you agree?

14 A. I don't have any experience that it hasn't
15 been followed.

16 Q. Okay. And would it be your expectation that
17 based on prior commitments by the faculty, that this
18 would be something that the de facto would be something
19 required to be followed?

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

22 THE WITNESS: If I had to speculate,
23 based on my experience, I would expect faculty units to
24 comply with that.

25 Q. (BY MR. SHERIDAN:) Okay. Thanks. All

1 right. I'd like to take a look at -- Andra, would you
2 take us to the ranking section, please? Thanks.

3 And for record purposes, just show it as
4 Bates stamp 2609. And this is Qualifications for
5 Appointment at Specific Ranks and Title.

6 And for associate professor under A.2. It
7 says "Appointment to the rank of associate professor
8 requires a record of substantial success in teaching
9 and/or research. For tenured, tenure-eligible, and WOT
10 appointments, both of these shall be required, except
11 that in unusual cases an outstanding record in one of
12 these activities may be considered sufficient."

13 Is that your understanding of the
14 qualifications for appointment of the rank of associate
15 professor under the Faculty Code?

16 A. Well, I've seen those sentences. And I've
17 been around the university for almost 30 years. So,
18 yeah.

19 Q. Okay. And can you tell us, let's say that
20 one of the units on campus decided that they didn't
21 like the idea that teaching was one of the elements.
22 They just wanted to ignore it as a qualification.

23 In your experience would this be the de
24 facto rule that one would measure the idea of promotion
25 to associate professor for, or could they just change

1 it at a whim?

2 MS. PETERSON: Objection, compound,
3 calls for speculation, calls for legal conclusion.

4 THE WITNESS: Could you break that down
5 for me a little bit?

6 Q. (BY MR. SHERIDAN:) Sure. I want to give
7 you an example. Let's say a unit at the University of
8 Washington just decided that they want to not consider
9 substantial success in teaching. They just want to
10 think about research.

11 And so let's say they wrote their own little
12 thing that says at this particular unit we only look at
13 whether or not somebody has good research. We don't
14 care about teaching. So, if you want to be promoted,
15 you had better just do research.

16 In your experience is that type of a change
17 in terms of the local unit as applying -- as addressing
18 promotion to associate professor, is that something
19 that has been permitted in the past?

20 MS. PETERSON: Objection, compound,
21 calls for speculation, calls for a legal conclusion.

22 Q. (BY MR. SHERIDAN:) You can answer.

23 A. It has not been my experience that units
24 ignore, leaving aside that "except in unusual cases,"
25 it's not been my experience that units ignore one of

1 the two: teaching orders or research.

2 However, it's fair to say that for the
3 tenured line, tenure-eligible or WOT appointments,
4 there are a number of units that encourage faculty
5 members to focus on research over teaching.

6 Q. Are those in the medical field, or all
7 fields?

8 A. I -- I can't say there's a real pattern to
9 where that is. There's just -- There's some units
10 where, and -- There's some units where the emphasis on
11 those two categories is on research.

12 But I don't know if units have specifically
13 just said we're just going to ignore teaching.

14 Q. Okay. Are you familiar with a K01 grants?

15 A. No.

16 Q. Okay.

17 A. I mean, I've heard of such things.

18 Q. Okay.

19 A. But I am not familiar with the details past
20 that.

21 Q. Have you heard of faculty that have one of
22 these grants may be required to work, the NIH may
23 require them to work, say, 75 percent on the grant for
24 their time and 25 percent on other things, have you
25 seen that?

1 A. I am aware that -- Not those percentages you
2 gave, no. I'm aware that grants in general have to fit
3 the faculty members --

4 So my field doesn't really rely on grants a
5 lot. But I am aware from discussions I have had as
6 Secretary of the Faculty that grants typically require
7 faculty to certify efforts to make sure that they are
8 doing the correct amount of work for the money they are
9 receiving on the grant and so forth.

10 So I'm aware of that. But I'm not aware of
11 specifically how that works with K01 grants.

12 Q. Okay. Could you tell us, based on your
13 experience, why grants are important to a university?
14 And let's say, like, for half a million dollars. Why
15 would that be important to a university?

16 MS. PETERSON: Objection, calls for
17 speculation.

18 Q. (BY MR. SHERIDAN:) Just based on your
19 experience.

20 A. Well, I think there are two reasons that are
21 generally given, in my experience.

22 One is they bring money in to the
23 university. Although that has to be qualified by
24 whether or not the overhead or indirect costs part of
25 the grant is actually covering the overhead.

1 And then the second is the prestige. And
2 the University of Washington is quite proud of its
3 standing among not just public but all universities in
4 terms of the grants it receives.

5 Q. All right. Can you tell us a little bit
6 about merit pay? Do all faculty get that, if you know?

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

9 THE WITNESS: I don't see the books of
10 the university. I have been told by faculty members
11 that -- by some faculty, that they were deemed
12 non-meritorious, and therefore did not get merit pay.
13 But of course, I have only what they told me.

14 Q. (BY MR. SHERIDAN:) Okay. Fair enough.
15 Does the Faculty Code provide for merit pay?

16 A. The Faculty Code -- Well, if I understand
17 the general thrust of your question, the answer is yes.
18 It has a procedure for -- It has a procedure for
19 periodic evaluation of faculty performance.

20 Q. Okay. All right.

21 A. And attached to that evaluation is a process
22 for associating pay increases that would change the
23 nominal salary.

24 But those are really two -- historically
25 those were two separate things put together. So, there

1 is an evaluation process and a pay process. Both those
2 can be separate, because the university may have no
3 money this year, we have no money for merit, but we are
4 still doing the evaluation.

5 Q. Okay.

6 A. So that the section of the code serves two
7 interrelated functions, but they are actually separate.
8 We always do the evaluation, but people don't always
9 get extra pay.

10 Q. Okay. I get it. And do you know if there
11 is an appeal process for faculty if they are found to
12 be non-meritorious?

13 A. Yes.

14 Q. And to whom does that go, to what level, if
15 you know?

16 A. Well, faculty members who feel that there
17 was a problem with their merit evaluation and/or the
18 accompanying pay increase if money were available,
19 there's a process internal to the unit.

20 In addition, there is a possibility of
21 following the dispute -- the other dispute resolution
22 procedures that the Faculty Code offers, up to and
23 including filing an adjudication.

24 However, where the internal process inside
25 the unit can look at the actual merits, you know. I am

1 really getting into what the faculty member did and
2 what their teaching evaluations were like and so forth.

3 The adjudication one only allows faculty
4 members to argue that impermissible criteria were used
5 or there was a flaw in the formal sequence of steps
6 required in that code.

7 So that those are the avenues available.
8 There's one in the unit, and one that would go over to
9 the university level.

10 Q. Thank you. I have another question, based
11 on your experience. In this particular case we have
12 seen summaries of faculty discussions regarding issues
13 like tenure and reappointment.

14 And one of the ones we have most recently
15 seen says basically it is simply a report of the
16 faculty, what the faculty said.

17 So, for example, a faculty member might say
18 this person does not deserve tenure because I saw the
19 person doing something wrong somewhere. And it could
20 be totally untrue, but it's written down.

21 In the process is there any kind of fact
22 checking requirement?

23 MS. PETERSON: Objection, lacks
24 foundation, assumes facts not in evidence, calls for
25 speculation, calls for a legal conclusion, and

1 compound.

2 Q. (BY MR. SHERIDAN:) You can answer.

3 A. Well, basically it would be impossible to
4 answer. Can you repeat the question?

5 Q. Yes. The essence of the question is, in
6 your experience is fact checking required at some
7 level?

8 MS. PETERSON: Objection, calls for a
9 legal conclusion.

10 Q. (BY MR. SHERIDAN:) Let me ask you more
11 simply, then. In your experience have you ever seen
12 fact checking in a process that determined whether
13 statements made by faculty during tenure proceedings or
14 reported proceedings are in fact true?

15 MS. PETERSON: Objection, compound.

16 Q. (BY MR. SHERIDAN:) You can answer.

17 A. I have been involved in promotion
18 discussions in the law school where assertions made
19 were asked to be checked. Hmm. So that would be --
20 that would be my first-hand experience --

21 Q. Okay.

22 A. -- by the law school.

23 Q. I think that does answer our question.

24 Okay.

25 I have no further questions, except that I

1 can't remember when our trial is, I think it's in
2 March. Even if you leave town these days, you can be
3 Zoomed from anywhere. But do you plan to be around at
4 that time?

5 A. Yes.

6 MR. SHERIDAN: Okay. Mary, am I right,
7 it's March we're in?

8 MS. PETERSON: March, yes.

9 MR. SHERIDAN: Okay. All right. Well,
10 I want to thank you for your time --

11 MS. PETERSON: I have a few questions.

12 MR. SHERIDAN: Yes.

13

14

15 EXAMINATION

16

17 BY MS. PETERSON:

18 Q. Okay. I have a few questions, Professor
19 Townsend.

20 Are you authorized as a spokesperson to
21 speak on any matters in connection with this case?

22 (Pause in the proceedings).

23 COURT REPORTER: And your answer?

24 THE WITNESS: No.

25 Q. (BY MS. PETERSON:) Were you personally

1 involved in making any employment decisions related to
2 Dr. Gillian Marshall?

3 A. No.

4 Q. In your experience is it common for
5 individual units throughout the university system to
6 have their own guidelines related to promotion and
7 tenure criteria?

8 MR. SHERIDAN: Objection, vague.

9 Go ahead.

10 THE WITNESS: Most units fill out the
11 general description we had on the screen earlier in
12 24-32.

13 More specifically, in the context of their
14 units it might get down to the number of publications,
15 the journals that they expect to see the publications
16 in and so forth.

17 But I think almost all units have that.

18 In addition, we are recently working on
19 legislation that changed the code to require that these
20 guidelines be published.

21 It already says in the code that the faculty
22 member for promotion is to assemble a packet based on
23 the guidelines of the unit. So it's assumed in the
24 code that the unit will have guidelines that kind of
25 flush out in a particular area what substantial success

1 means.

2 MS. PETERSON: Thank you. Nothing
3 further.

4

5

6

RE-EXAMINATION

7

8 BY MR. SHERIDAN:

9 Q. Can you tell us when all of that is going to
10 come online, if you know?

11 A. Well, the language on guidelines is already
12 in the code. It's in that section on Promotion.

13 There's a proposed amendment to insert the
14 word "published" in front of guideline that is winding
15 its way through this back and forth process.

16 Q. Okay. Anything else to add?

17 MS. PETERSON: No. I'm finished. Thank
18 you for your time today, Professor Townsend.

19 Q. (BY MR. SHERIDAN:) And, Professor, do you
20 have anything else to add?

21 A. I would like to add the following, if I
22 might. So, my job, I don't represent individuals or
23 even the university.

24 The way the job was explained to me when I
25 came onboard was, if anything, I'm supposed to be

1 representing the Faculty Code, and trying to do that to
2 the best of my ability, even though I don't have
3 authority on it, but try to represent it to people who
4 fall under its purview.

5 So, I've tried to maintain in this office
6 neutrality with respect to all parties. I do.

7 I listen -- I get faculty members come in. I
8 get administrators come in.

9 So I want that on the record, that I think
10 every Secretary of the Faculty has viewed this office
11 as neutral. We don't, even though obviously I'm paid
12 by the university and am an employee of the university
13 in a formal sense, and even though I'm called Secretary
14 of the Faculty, I am neither an advocate for the
15 faculty or the university.

16 I do the -- My staff and I do the best we
17 can to try to make sure that the code does its job in
18 helping the university run. But I just want that on
19 the record.

20 MR. SHERIDAN: Thank you for your time.
21 We appreciate it. And I have no further questions.

22 THE VIDEOGRAPHER: This concludes the
23 video deposition of Mike Townsend consisting of one
24 tape. The time is approximately 11:35 a.m.

25 The original tape of today's testimony will

1 remain in the custody of Bridges Reporting & Legal
2 Video.

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(11:35 a.m.)

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