

Dr. Sabina Burton v. Board of Regents University of
Wisconsin, et al.

14-CV-274

Transcript of the Testimony of:

John Lohmann

November 17, 2015



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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

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DR. SABINA BURTON,

Plaintiff,

-vs-

Case No. 14-CV-274

BOARD OF REGENTS
UNIVERSITY OF WISCONSIN, et al.,

Defendants.

= = = = =

Deposition of JOHN LOHMANN

Tuesday, November 17, 2015

1:32 p.m.

at

UNIVERSITY OF WISCONSIN-PLATTEVILLE
Ullsvik Hall
1 University Plaza
Platteville, Wisconsin

Reported By: Christal A. Hansen, CSR-IA/IL, RPR

1 DEPOSITION of JOHN LOHMANN, called as a
2 witness, taken at the instance of the Plaintiff,
3 under the provisions of Chapter 804 of the
4 Wisconsin Statutes, pursuant to Notice, before
5 Christal A. Hansen, a Registered Professional
6 Reporter and Notary Public in and for the State of
7 Wisconsin, at University of Wisconsin-Platteville,
8 Ullsvik Hall, 1 University Plaza, City of
9 Platteville, County of Grant, and State of
10 Wisconsin, on the 17th day of November 2015,
11 commencing at 1:32 p.m.

12
13 A P P E A R A N C E S

14 HAWKS QUINDEL, S.C., by
15 Mr. Timothy E. Hawks
16 222 East Erie Street, Suite 210
Milwaukee, Wisconsin 53201-0442
Appeared on behalf of Plaintiff.

17
18 WISCONSIN DEPARTMENT OF JUSTICE, by
Ms. Anne M. Bensky
19 P.O. Box 7857
Madison, Wisconsin 53707-7857
20 Appeared on behalf of Defendants.

21 UNIVERSITY OF WISCONSIN SYSTEM, by
22 Ms. Jennifer Lattis
1802 Van Hise Hall
23 1220 Linden Drive
Madison, Wisconsin 53706
24 Appeared on behalf of Defendants.

25

1 I N D E X

2 WITNESS Page(s)

3 JOHN LOHMANN

4 Examination by Mr. Hawks 4

5 E X H I B I T S

6 No. Description Identified

7
8 **Exh. 137** Document entitled 1/16/14 AA
Officers teleconference
(John Lohmann notes) 149
10 **Exh. 138** E-mail exchanges regarding
German Delegation Visit 2911 **Exh. 139** E-mail exchanges regarding
German Delegation Visit 2912
13 **Exh. 140** E-mail exchanges regarding
German Student Visit 3114 **Exh. 141** E-mail exchanges regarding
Mentoring Valerie Stackman 3315
16 **Exh. 142** E-mail exchanges regarding
Mentoring Valerie Stackman 3617 **Exh. 143** Letter of Direction 3718 **Exh. 144** Wisconsin Administrative Code 4819 **Exh. 145** Document entitled Deb Rice's
Defamation of my Character 5120
21 **Exh. 146** E-mail exchanges regarding
mentoring Valerie Stackman 5722 **Exh. 147** Return to Work Slip 5923
24 (Attached to original transcript; copies
provided to counsel)

25 (Original transcript filed with Attorney Hawks)

1 JOHN LOHMANN
 2 called as a witness, after having been first
 3 duly sworn, was examined and testified as
 4 follows:
 5 EXAMINATION
 6 BY MR. HAWKS:
 7 Q. Do you recall an issue raised by
 8 Dr. Burton with regard to what she believed to
 9 be defamatory remarks made by Dr. Rice about
 10 her?
 11 A. Yes.
 12 Q. So, she made that -- she shared that
 13 information with you in what, by what means?
 14 A. I don't recall.
 15 Q. Could it have been an e-mail?
 16 A. Could have been.
 17 Q. And did you, subsequent to receipt of
 18 that information, what did you do?
 19 A. Well, assuming it did come in by
 20 e-mail, she may have told me by person, I don't
 21 recall which, I spoke to the chair of the
 22 department, I believe, Mike Dalecki at that
 23 time, and I also spoke to Deb Rice. Yeah, I
 24 think that's --
 25 Q. Did you speak to the dean?

1 A. No, no, I don't believe I did. I was
 2 actually just trying to remember if I spoke to
 3 the student or not. I've spoken to him about
 4 other matters. So, what I did was, I met with
 5 each of them. I definitely met with Dalecki,
 6 and then I talked to him about it. He said he
 7 was going to talk to Deb Rice. He talked to
 8 Deb Rice, as I understand it, came back and
 9 spoke to me. And then I met with Deb Rice,
 10 Dr. Rice, and asked her about the events.
 11 Q. Did you share with Dr. Dalecki the
 12 content of what Dr. Burton shared with you?
 13 A. I believe so.
 14 Q. Including the nature of the words that
 15 Burton believed Rice had said or used?
 16 A. More or less, I believe so.
 17 Q. And you would have done that at a
 18 meeting with him?
 19 A. Yes, in my office.
 20 Q. What did, what did he say in response
 21 to your sharing of that information?
 22 A. I don't recall.
 23 Q. Did you keep any notes of that?
 24 A. I have, likely.
 25 Q. And what did you say to Rice, and what

1 did she say in response?
 2 A. I don't recall exactly.
 3 Q. Do you recall generally?
 4 A. Yes.
 5 Q. What was the general nature of that
 6 conversation?
 7 A. The general nature of the conversation
 8 with Deb Rice was, you know, here are the
 9 allegations that Sabina has set forth, and I've
 10 spoken to the chair about it. I believe I
 11 showed her the e-mail, May not have. If I
 12 didn't show it to her, I read it to her.
 13 Q. If it's here, we'll have it out.
 14 A. Yes. And she -- I confirmed whether or
 15 not the facts were as Sabina had stated them.
 16 Q. And?
 17 A. Essentially Deb agreed that they were
 18 correct. And I said more or less generally to
 19 Deb that it was inappropriate to speak this way
 20 in front of the student in particular. That was
 21 the real issue I had. And I asked her if she
 22 would apologize to Sabina.
 23 Q. And she said?
 24 A. No. I think she said, "Hell no."
 25 Q. And did she explain why?

1 A. No.
 2 Q. Is that how the conversation ended?
 3 A. No.
 4 Q. So, how did it end or where -- how did
 5 it continue?
 6 A. We spoke a little bit about her service
 7 in the U.S. Army. We spoke a little bit about
 8 Germany.
 9 Q. Whose service?
 10 A. Deb Rice.
 11 Q. Deb Rice's service. Okay.
 12 A. She was an officer. And that's about
 13 it for that conversation. And I subsequently
 14 had a conversation with Dalecki about that.
 15 Q. What is the general -- let's go back to
 16 your first conversation with Dalecki. What was
 17 the general sum and substance of that
 18 conversation?
 19 A. That Sabina had alleged that there were
 20 statements made in front of a student at
 21 Steve's, I believe, one of the pizza joints,
 22 about Sabina that she was offended by and felt
 23 were improper. And Mike was very frustrated by
 24 that. And, and he said basically, you know, do
 25 what you have to do, investigate it. And I

1 wanted to see if he had heard anything. I don't
 2 remember getting anything substantive from Mike
 3 at that point, like, oh, yes, I heard this or,
 4 no, I haven't heard this. I just think he was
 5 frustrated by that situation because it was a
 6 dumb thing to do on Deb's part.

7 Q. When you spoke to him about it, it was
 8 after the e-mail had been sent?

9 A. After however I had been notified.

10 Q. However you'd been notified.

11 A. Yes.

12 Q. And did he seem surprised by the
 13 information that he shared with you, as if it
 14 was the first time he'd heard about it?

15 A. I don't recall that. I recall him
 16 being very frustrated. I don't recall him
 17 saying, Hey, this is the first time I've ever
 18 seen this or anything to that effect.

19 Q. Right. And when you contacted him to
 20 set up the meeting, did you do that by e-mail or
 21 by telephone, do you know? Or, more
 22 importantly, did you forward anything in writing
 23 that would provide the information that Sabina
 24 had shared with you?

25 A. Did I -- I don't recall, to be honest.

1 A. Yes, sir. Okay. Do you need your
 2 computer back?

3 Q. Can you summarize what you've observed
 4 in that e-mail? Who is it from and who is it
 5 to?

6 A. Just for identification, I think the
 7 e-mail can speak for itself.

8 Q. Yes.

9 A. But it's from Sabina to Mike Dalecki
 10 dated April 2, 2015, 4:30 p.m.

11 Q. From Sabina?

12 A. Yes.

13 Q. Let me see it. Actually, I cursor to
 14 the top of the screen, and I'd ask you to
 15 identify that e-mail again, please. Who's the
 16 author and who is it to?

17 A. Oh, I see. At the top of this
 18 document, this is from Deborah Rice to
 19 Michael Dalecki.

20 Q. What's the date and the time?

21 A. April 6, 12:25.

22 Q. And it appears that she's forwarding
 23 another e-mail, correct?

24 A. It does, yes.

25 Q. And that e-mail that she's forwarding

1 I would either e-mail Mike, I would call Mike
 2 sometimes. Sometimes he would be up in the
 3 office regarding hiring affairs for the
 4 department. So, I may just catch him then.

5 Q. We received a response to a subpoena
 6 duces tecum with a thousand files in it last
 7 night or yesterday, and there's at least one
 8 document in there I want to ask you about.

9 A. That's fine.

10 MR. HAWKS: Counsel, I'd like to
 11 show it to you first.

12 Q. And then you can see it. Feel free to
 13 cursor down to get the whole content.

14 MS. BENSKY: I've seen this
 15 before.

16 MR. HAWKS: You have?

17 MS. BENSKY: I think I --

18 A. Are you ready for me to look at it?

19 Q. Yes. Please do.

20 MS. BENSKY: Look at the top.

21 Q. And feel free to cursor through it.

22 A. I'm looking at this.

23 Q. Have you had a chance to review it?

24 A. Let's see.

25 Q. Let me know when you're ready.

1 is an e-mail that was sent from Burton to you,
 2 isn't it?

3 A. I was carboned on it.

4 Q. CC'd on it?

5 A. Yes.

6 Q. And it identifies the allegations that
 7 she shared with you as to what Rice was reported
 8 to have said?

9 A. Could you ask the question again. I'm
 10 sorry.

11 Q. The e-mail that is forwarded to Dalecki
 12 by Rice contains the allegations of what Rice
 13 is, was reported to have said about Burton?

14 A. I think that's correct. I mean, it
 15 does appear to say that. I don't remember
 16 specifically at this point what the specific
 17 allegation was against Deb Rice, what she was
 18 alleged to have said.

19 Q. We'll get to that.

20 A. But I would say, also, that's -- the
 21 bottom of the document has the part that you
 22 asked me about. And the top of the document is
 23 a different issue regarding Sabina's attendance.
 24 That is not what I'm talking about.

25 Q. Right.

1 A. Okay.
 2 Q. Thank you.
 3 A. May I correct a statement?
 4 Q. Please.
 5 A. When I said I don't remember the
 6 allegations against Deb Rice, what I meant to
 7 say was, I don't remember the content of the
 8 comments she was alleged to have made.
 9 Q. In this e-mail, perhaps you didn't read
 10 it closely enough, and I'll quote it, see if
 11 this refreshes your memory, "Deb Rice
 12 maliciously told department members and students
 13 that I am mentally ill, that I resent
 14 East Germans, and that I would be leaving
 15 UW-Platteville soon."
 16 Was that the essence of the
 17 allegations that Burton was making against Rice?
 18 A. It could be.
 19 Q. And are those the allegations that Rice
 20 admitted having made?
 21 A. I really don't recall. I would have to
 22 look at notes, if I had any from the time.
 23 Q. After Rice said that she would -- "Hell
 24 no," I'm not going to apologize, what, if
 25 anything, did you do next?

1 A. I believe I contacted Dalecki and I
 2 spoke to him. And he indicated -- I told him
 3 Deb had said, "Hell no." And I believe I
 4 expressed to him that I thought that that was in
 5 order for her to apologize, that she should
 6 indeed, and that it would have to go forward.
 7 Mike, I recall, said something along the effects
 8 of, Well, I'm going to talk to her. By that I
 9 got the impression he was going to admonish her
 10 for that behavior.
 11 Q. After that conversation, what, if
 12 anything, did you do?
 13 A. I've had a subsequent conversation with
 14 Mike where I reiterated how inappropriate it was
 15 to have spoken about another faculty member's
 16 issues, if you want to say that, in front of a
 17 student. And I reiterated that that was really,
 18 in my mind, the crux of the issue.
 19 And he said again that he thought he
 20 could get Deb Rice to apologize. And I haven't
 21 heard back from him since. It was -- I was to
 22 write up a report that would then go, I believe,
 23 to the chancellor, I don't recall exactly,
 24 about the incident, but then I did not get the
 25 job as HR director and have not written that

1 report.
 2 (Exhibit No. 137 was marked for
 3 identification by the reporter)
 4 Q. Let me preface my questions about these
 5 documents by informing you that these were
 6 provided to us as part of a Response for the
 7 Production of Documents by the defendants.
 8 They're stamped at the bottom UW-P with a number
 9 following them.
 10 A. I see that. Do you want me to read
 11 this in detail?
 12 Q. Let me know when you've re-familiarized
 13 yourself with them, and I can begin to ask
 14 questions about them.
 15 A. Okay.
 16 Q. I'd ask you to refer to UW-P 4840.
 17 A. I have it in front of me.
 18 Q. The page begins with 12 -- an entry
 19 12/11/13, conversation with Cathy Kutka. Who is
 20 Cathy Kutka?
 21 A. She works physically in the HR office.
 22 She reported to me and to Jennifer de Coste, and
 23 she was the affirmative action program
 24 coordinator.
 25 Q. And then there are a number -- there's

1 several notes above the horizontal bar.
 2 A. Uh-huh.
 3 Q. Do those notes reflect your notes of a
 4 conversation you had with her?
 5 A. It appears to. They're not in my
 6 handwriting, and I normally hand-write my notes.
 7 Q. They're typewritten?
 8 A. Yes.
 9 Q. So, if not yours, whose would they be,
 10 would you know?
 11 A. I would not know. I suspect this is
 12 mine.
 13 Q. You do suspect this is yours?
 14 A. Right. I'm just not comfortable
 15 commenting on the totality of them without
 16 seeing my handwriting.
 17 Q. Then there's a statement "Talked to
 18 Laura Whitney Classified Senate 'respect form,'"
 19 question mark and another bar. And then
 20 immediately below that is an entry:
 21 Mike Dalecki - concern is Tom Caywood. "Women
 22 do not belong in the criminal justice field."
 23 Does that, does that strike you as
 24 something, a note that you took?
 25 A. Yes.

1 Q. Tell me about the context in which you
 2 came to write this note down.
 3 A. I believe this is Mike Dalecki sharing
 4 a concern with me that the allegation was that
 5 Tom Caywood had said this, this statement in
 6 quotes.
 7 Q. And where did that -- first of all, do
 8 you know why he shared that with you?
 9 A. No, I do not. This would have been,
 10 for context, the first month I was on the job
 11 full-time.
 12 Q. And do you -- to your recollection, did
 13 Dalecki tell you that he had overheard
 14 Tom Caywood say "Women do not belong in the
 15 criminal justice field"?
 16 A. I do not recall that. These would have
 17 been notes that I was sharing with Cathy Kutka
 18 about her area. This was a meeting with
 19 Cathy Kutka, not a meeting with Mike. I was
 20 sharing with her my concern about that.
 21 Q. And did you -- okay. The next note is:
 22 "Concerned with going forward. Tenure progress
 23 and hindering of tenure progress by Tom and
 24 allies." Can you elaborate on that?
 25 A. I know Mike had some concerns about a

1 faculty member getting tenure or maybe a
 2 promotion. I don't recall exactly. I don't
 3 remember the -- I don't remember which faculty
 4 member we were even talking about, but I do
 5 remember Mike having some concerns that Tom and,
 6 quote, his allies would negatively affect any
 7 progress.
 8 Q. Of a female faculty member, I presume?
 9 Is that a fair presumption?
 10 A. I have no idea. I -- yeah. I really
 11 don't have any idea. Well, yes. This says
 12 finalists are all women. So, yes, that would
 13 be.
 14 Q. And there's a statement next to it:
 15 "We need Diversity and Harassment training." Is
 16 that your idea, or is that an idea that Dalecki
 17 raised?
 18 A. That's my idea.
 19 Q. And in quotes, "CJ would be a good
 20 place to start." Is that your quote? Is it
 21 Cathy Kutka's quote?
 22 A. Cathy Kutka's quote.
 23 Q. Do you know whether or not, subsequent
 24 to this day, there was any diversity or
 25 harassment training provided to the Criminal

1 Justice Department?
 2 A. I, I don't know.
 3 Q. Did you take any steps to implement
 4 diversity and harassment training in the
 5 Criminal Justice Department?
 6 A. I think I'd have to say no to that
 7 question.
 8 Q. Did Cathy Kutka, if you know, did
 9 Cathy Kutka initiate any or take any steps to
 10 initiate diversity and harassment training in
 11 the Criminal Justice Department?
 12 A. I don't know. Let me add, diversity
 13 and harassment was an area that we focused on
 14 everything that we did. And Cathy Kutka was
 15 involved in hiring, in particular. So, did I
 16 take specific action to that department, no, not
 17 that I could really testify to. But it was an
 18 area we were trying to work on generally at the
 19 university, and I was working with Dr. de Coste
 20 on that.
 21 Q. And who is that?
 22 A. She's our diversity officer.
 23 Q. The first name is Jennifer?
 24 A. Yes, sir.
 25 Q. I'd ask that you turn to the next page.

1 A. Is that UW-P 4841?
 2 Q. Yes, it is. Do you recognize this
 3 handwriting?
 4 A. That's my handwriting.
 5 Q. And this contains a date of
 6 November 20, 2013?
 7 A. Yes, sir.
 8 Q. Judging from your earlier testimony,
 9 that would have been very soon after you first
 10 began as an HR --
 11 A. Yes. I actually began part-time in
 12 November for contract reasons. I was still
 13 teaching and began full-time in December. So, I
 14 believe that that was very, very soon, yes.
 15 Q. There's a reference very near the top
 16 of the page to Mike Dalecki. Do you know, can
 17 you ascribe a significance to that reference?
 18 A. I believe, if I'm not mistaken, that
 19 these were people that I was to call, that
 20 Liz Throop wanted me to call and get in touch
 21 with, and I would have written down their
 22 extension. She would have given me their
 23 extension. I believe that's what it is.
 24 Q. So, the 1807 would be Mike Dalecki's
 25 extension?

1 A. I believe so. It's been a while since
 2 I've seen this.
 3 Q. There's a bar across the page?
 4 A. Yes.
 5 Q. And then an entry for Caywood, Tom. Do
 6 you see that?
 7 A. Uh-huh.
 8 Q. Can you elaborate on the reason why
 9 that is included there?
 10 A. I believe that was a separate issue
 11 brought up by Liz at that time.
 12 Q. Did you call Mike Dalecki, by the way?
 13 Do you remember?
 14 A. I don't remember.
 15 Q. And then there's an entry, Sabina, you
 16 see that, and a couple arrows?
 17 A. Uh-huh.
 18 Q. It looks like professor, CJ?
 19 A. Correct.
 20 Q. Associate professor earned tenure?
 21 A. Yes.
 22 Q. Emotionally labile?
 23 A. Yes.
 24 Q. Is that in your handwriting?
 25 A. Yes, it is.

1 A. Correct.
 2 Q. Is that her statement that Sabina feels
 3 she should be chair of the department?
 4 A. Correct. All of this would be me
 5 taking notes of the meeting with Liz. This was
 6 at the very beginning of my tenure as HR
 7 director, and I was just writing down
 8 information.
 9 Q. And is there any -- does this refresh
 10 your memory as to other pieces of the
 11 conversation that occurred between you and Liz?
 12 And, if so, what more occurred?
 13 A. Well, there, you see there was -- we
 14 were discussing an individual who was having
 15 panic attacks in class. We talked about that
 16 and what to do about that. That's about it.
 17 That's all I remember. This may have been my
 18 first meeting with the dean. I, I -- yeah.
 19 Q. Then let's go to 4842.
 20 A. Yes, sir.
 21 Q. Can you tell from this document whether
 22 or not this is a continuation of your notes from
 23 11/20?
 24 A. It is not.
 25 Q. Can you ascribe a date to it?

1 Q. And based upon what information did you
 2 write emotionally labile?
 3 A. It was -- I was making notes off what
 4 Liz was telling me.
 5 Q. So, this is how Liz characterized
 6 Sabina to you?
 7 A. Yes.
 8 Q. And then there's a note, Against Tom
 9 Caywood, sex discrimination,
 10 Grievance Committee, dash, no -- arrow, no basis
 11 for sex discrimination. Again, is that
 12 information provided to you by Liz?
 13 A. I believe so, yes.
 14 Q. Did you ever have occasion to read the
 15 Grievance Committee report or actually it's
 16 several reports?
 17 A. I don't recall if I had access to it or
 18 if I ever.
 19 Q. So, in September -- the next note, in
 20 September and October filed a grievance against
 21 Liz. So, that's, again, Liz telling you that --
 22 A. Yes.
 23 Q. -- just for your information? And then
 24 she writes, Feels she should be chair of the
 25 department?

1 A. No, I cannot. Would you like to know
 2 how I can tell the difference?
 3 Q. Yes, I would.
 4 A. You'll notice very faintly that this
 5 is, 4841 is written on an Ampad page, which is a
 6 higher-quality paper. Our assistant ordered
 7 some paper that I found to be in lower quality
 8 from TOPS later.
 9 Q. Very perceptive.
 10 A. So, some of my notes, my handwriting is
 11 so poor, I did actually go back and rewrite
 12 them. So, that won't work all the time. But I
 13 can tell also that I've written it in a
 14 different pen. I'm a pen collector and a nut
 15 about them, so I can tell that it was written
 16 with a different pen.
 17 Q. So, this, the entry, the opening line
 18 is: Notes from meeting RE: CJ. Do you recall
 19 when that meeting occurred?
 20 A. No, I do not.
 21 Q. And do you recall with whom that
 22 meeting was held?
 23 A. I could guess, but I don't remember.
 24 Q. If you, if you had to guess, what would
 25 your best guess be?

1 A. Understanding that it is a guess.
 2 Q. I understand that.
 3 A. It would be Dalecki.
 4 Q. The next line is Tom: Incompetent
 5 chair.
 6 A. Uh-huh.
 7 Q. Would that be someone informing you
 8 that, in their opinion, Tom was an incompetent
 9 chair, or would that be your conclusion?
 10 A. No. It was, it was a transcription of
 11 what somebody said to me.
 12 Q. And this was November of '13. So,
 13 Dalecki is, by that time, the interim chair of
 14 the CJ department, correct?
 15 A. Unfortunately, I can't ascribe any date
 16 to 4842.
 17 Q. Thank you for correcting me on that.
 18 But it would have to have been a date after your
 19 date of hire?
 20 A. Yes.
 21 Q. And your date of hire was November of
 22 2013?
 23 A. For --
 24 Q. Part-time.
 25 A. The hiring for me to be the HR

1 director, yes.
 2 Q. And we know that Dalecki was the
 3 interim chair in '13, '14 and '14, '15?
 4 A. Yes.
 5 Q. So, this would have to be a reference
 6 to Tom in the past because he was not then the
 7 chair.
 8 A. Correct. A historical statement.
 9 Q. Does that reflect -- does that suggest
 10 to you who would have, with a greater degree of
 11 confidence in the conclusion, who would have
 12 made the statement that Tom was an incompetent
 13 chair?
 14 A. I would -- I think it does. It, it, it
 15 probably moves me from a guess, a guess,
 16 outright guess to speculation, but I think it is
 17 more likely that it is with Mike Dalecki, if
 18 that answers your question. I'm happy to answer
 19 another one if you have a different question.
 20 Q. Yes, I do. I just wanted to elaborate.
 21 You note that there's five major incidents
 22 against someone who's providing that
 23 information?
 24 A. Yes, sir.
 25 Q. Aric Dutelle accused of taking bribes

1 on paper?
 2 A. Yes.
 3 Q. Academic staff person batshit crazy?
 4 A. Yes.
 5 Q. And it looks like the words "Danele,"
 6 it looks like "Bens," Danele, D-A-N, by basis of
 7 the handwriting, E-L-E. We know that's not
 8 correct. And according to this page, "Bens,"
 9 B-E-N-S. We know that it's not correct. It
 10 should be Bemis, B-E-M-I-S.
 11 A. That's what the question mark means, by
 12 the way. I didn't get the name correct. I
 13 wasn't quite sure on that one.
 14 Q. Who made the comment that
 15 "Danele" Bemis was batshit crazy?
 16 A. I don't recall. Whoever I was talking
 17 to in relation to 4842. This is, this is a
 18 contemporaneous note from whomever I was
 19 speaking to at the time, and it would have been
 20 that person. I don't usually write down my own
 21 thoughts on these notes.
 22 Q. Thank you. Can you recall any
 23 elaboration as to why anyone would say that
 24 "Danele" Bemis was batshit crazy?
 25 A. No, sir.

1 Q. So, there's no circumstances or facts
 2 to substantiate or lend credence to that
 3 characterization --
 4 A. Not that I'm aware of.
 5 Q. -- that comes to your mind?
 6 A. Yes, not that I'm aware of.
 7 Q. Early July, poor management with Tom.
 8 Meeting at chair. Can you elaborate on that at
 9 all?
 10 A. No. Again, I think this is a
 11 contemporaneous note, and this would have been
 12 what somebody told me. This does not represent
 13 a meeting that I had with the chair.
 14 Q. Did the dean meet with you to discuss
 15 the process by which Caywood was likely to be
 16 asked to step down or be asked to modify his
 17 management style in the department? Do you
 18 recall that matter or subject ever coming up?
 19 A. I recall the subject coming up. I
 20 don't recall a specific meeting. And I was
 21 aware that Mr. Caywood, Dr. Caywood was teaching
 22 some intro courses during that semester.
 23 Q. The last entry on -- there's a
 24 statement here, No majority.
 25 A. Yes.

1 Q. Can you elaborate on that at all?

2 A. Of all the statements on the document,

3 that's the one that makes me think it was Mike I

4 was speaking to, because I believe he was

5 speaking about factions within the Criminal

6 Justice Department, and I think no faction had a

7 majority.

8 Q. Was he talking about his own or about

9 the process by which he became interim chair?

10 A. No, that's not my understanding.

11 Q. The next line reads, Mike remains

12 interim chair, two years.

13 A. I see that.

14 Q. So, this conversation about Caywood had

15 to be retrospective. Why would you be talking

16 with anybody about Caywood's poor performance as

17 chair --

18 A. I believe --

19 Q. -- as a historical matter?

20 A. I don't think it was an inquiry I made.

21 I think it was offered to me unsolicited. And

22 the two years, Mike remains interim chair, two

23 years, that's because that's the limit for

24 anyone having an interim appointment without

25 special circumstances, someone higher than me

1 today?

2 A. I don't recall.

3 Q. And referring to **Exhibit 139**, this

4 appears to be an e-mail from Mike Dalecki to you

5 dated June 26, 2014?

6 A. Yes.

7 Q. Is that true?

8 A. Yes.

9 Q. And --

10 A. Well, this is the same. Okay. So, I

11 probably did see this because it was following

12 the one that did come to me.

13 Q. So, he writes to you with a copy to --

14 and also to Jennifer de Coste?

15 A. Yes, sir, de Coste.

16 Q. "My response (again, coached by John)."

17 Did you, in fact, coach John -- or coach Mike,

18 rather, with regard to this e-mail that he sent

19 to Sabina?

20 A. Specifically, I don't recall coaching

21 him on an e-mail, no. Mike, when he would be

22 frustrated or want to be careful with what he

23 said, he would often get my opinion.

24 Q. And how would he usually -- would he do

25 that by phone or by e-mail?

1 signing off on it.

2 Q. On 4843 there's some notes as they

3 relate to -- well, at the top of the page is

4 Marcia Taddy. My question, is there any note

5 here on this page that relates to the Criminal

6 Justice Department in any way?

7 A. No, sir.

8 Q. Turning to 4844. Now, this appears to

9 be a very nearly exact copy of your notes on

10 4841; is that correct?

11 A. Yes, sir. This is the rewriting I was

12 speaking of, if you can believe it, the earlier

13 copy is supposed to be more legible.

14 Q. And, again, the page 4845, is that also

15 a rewrite of your notes at 4842?

16 A. Yes.

17 Q. Okay.

18 A. Are we done with that exhibit?

19 Q. We're done with that exhibit, yes.

20 A. I'm giving it back to the court

21 reporter.

22 (Exhibit Nos. 138 - 139 marked

23 for identification by the reporter)

24 Q. 138 and 139. A couple questions with

25 138 and 139. Did you see **Exhibit 138** prior to

1 A. Stop by.

2 Q. And in this case does the e-mail that

3 he sent out look like it reflects your opinion?

4 And that's 138 I'm referring to.

5 A. More or less. One, I -- to the extent

6 that he needed to express some empathy for

7 Sabina in regard to her mother's illness and

8 nailing down details. That would be pretty much

9 what I would have discussed with him.

10 Q. Did he explain to you why he thought he

11 needed to be coached on this matter?

12 A. No, sir. Are we done with this?

13 Q. We are.

14 A. Thank you. I'm handing them back to

15 the court reporter.

16 (**Exhibit No. 140** was marked for

17 identification by the reporter)

18 A. Oh, it's double-sided.

19 Q. Yes. Let me know when you're ready.

20 A. I'm ready.

21 Q. I'd ask you first to turn to the second

22 side of this exhibit, which is UW-P 004745.

23 A. Yes, sir.

24 Q. There appears to be an e-mail from, a

25 copy of an e-mail from Mike Dalecki to

1 Sabina Burton that contains some emboldened
 2 verbiage. Do you see that?
 3 A. Yes.
 4 Q. Do you, you know, you agree that from
 5 time -- that one view of emboldened language is
 6 the equivalent of yelling at a person?
 7 A. I've not heard that, no. I've heard
 8 that for caps. In my job, I always use bold.
 9 People are inundated with information, so that's
 10 what I really want them to see.
 11 Q. Do you know why -- well, first of all,
 12 did Mike Dalecki tell you why he was sending you
 13 this information?
 14 A. No.
 15 Q. Was there any ongoing investigation
 16 regarding Sabina Burton at that time?
 17 A. I would not say "investigation," no.
 18 Q. Was there any outstanding complaint
 19 about Sabina Burton's behavior that was on your
 20 desk at that time?
 21 A. No, not that I recall. I'm --
 22 Q. By the way, you are an attorney?
 23 A. Yes, sir.
 24 Q. And licensed to practice law in
 25 Wisconsin?

1 A. No, sir.
 2 Q. Teach courses here at UW-Platteville
 3 involving the law?
 4 A. Yes. I'm a licensed attorney in the
 5 state of West Virginia.
 6 Q. How long have you been in Wisconsin?
 7 A. This time around I've been here about
 8 three years.
 9 Q. When did you commence your employment
 10 with UW-Platteville? I understand you began as
 11 HR director in November 2013.
 12 A. The fall semester of 2013.
 13 (Exhibit No. 141 was marked for
 14 identification by the reporter)
 15 Q. Let me know when you're ready.
 16 A. I'm ready.
 17 Q. This appears, Exhibit 141 appears to be
 18 a, begin with an e-mail from Burton to Dalecki
 19 saying she gave up a prestigious position at his
 20 request. His response to her, that he had made
 21 the choice in the best interest of Valerie, as
 22 well as the mission of the department and
 23 university. To put some context around this
 24 exchange, do you recall an issue coming up about
 25 Dalecki rather than Burton being the mentor for

1 Valerie Stackman, Professor Stackman?
 2 A. I recall something about it.
 3 Q. And he forwards that response, which
 4 obviously has already been sent, it's not as a
 5 draft --
 6 A. Uh-huh.
 7 Q. -- to you?
 8 A. Uh-huh.
 9 Q. And you respond, "I suggest you stop
 10 there and not be drawn in further." Can you
 11 explain why you said that to Mike Dalecki or
 12 wrote that to Mike Dalecki?
 13 A. Yes, I can.
 14 Q. Please do.
 15 A. I -- Mike and Sabina, just generally
 16 speaking, I think very highly of both of them,
 17 and I thought they were both going to be great
 18 for the department. And from the get-go they
 19 just seemed to bicker back and forth, and that
 20 bickering often ended up in an e-mail war,
 21 quote, unquote. And these would just go on and
 22 on and on.
 23 And as I recall, I -- we were -- I was
 24 going to get together with Jen de Coste, myself,
 25 Mike Dalecki and Sabina, and try to just sit

1 down and talk the differences through. And
 2 after the German student thing, I think there
 3 was another e-mail battle, I don't remember
 4 exactly. But I was trying to encourage Mike to
 5 stop doing this. I thought it was
 6 unprofessional. I thought it was, it was
 7 perhaps risky. Who knows? For this very
 8 purpose, you know, someday you're going to see
 9 your e-mails blown up on a board at the trial,
 10 you know, that kind of thing. That's advice I
 11 give anybody, not just my -- you know, you
 12 should not put anything in an e-mail that you
 13 don't want to see again.
 14 Q. Did you give that advice to Dr. Burton?
 15 Do you recall giving that advice to Dr. Burton?
 16 A. I don't believe so. She canceled the
 17 meeting that we were going to have with Dalecki
 18 and de Coste, herself and me. It was not a
 19 subject that's ever come up when I've had
 20 meetings with Sabina. But that's what I'm
 21 saying here in this memo, in this e-mail, 141,
 22 that I --
 23 Q. That you sent to Dalecki?
 24 A. Yes.
 25 Q. And not to Burton, there's no CC to

1 Dr. Burton, is there?
 2 A. No, sir.
 3 (Exhibit No. 142 was marked for
 4 identification by the reporter)
 5 Q. Let me know when you're ready.
 6 A. I'm ready.
 7 Q. First of all, have you been here at
 8 UW-Platteville long enough to know whether or
 9 not a position on the CRST is prestigious?
 10 A. I've heard both, that it is and it is
 11 not, to be honest with you.
 12 Q. So, you don't have an opinion yourself
 13 one way or the other?
 14 A. I do not. That, that was not really
 15 something the HR side of the house was involved
 16 in. That was really a faculty matter.
 17 Q. Dalecki writes, "She wants me to
 18 explain. I of course have a number of reasons
 19 but I would not explain them without
 20 consultation with you." Did you ever inquire of
 21 him as to what his additional reasons were?
 22 A. I don't recall.
 23 Q. Did you ever -- or did he ever
 24 volunteer to you his -- any additional reasons?
 25 A. He may have. I just don't remember.

1 Q. Do you recall discussions or e-mail
 2 with Dean Throop related to a Letter of
 3 Direction that she was going to -- that she
 4 issued to Dr. Burton in October of 2014?
 5 A. Would you ask that question again,
 6 please.
 7 Q. Yes. Do you recall having had a
 8 conversation with or an e-mail communication
 9 with Dean Throop with reference to her
 10 preparation for and filing of a Letter of
 11 Direction to Dr. Burton?
 12 A. Vaguely. It's likely that it happened,
 13 but I don't have any active recollection of it.
 14 Q. Do you recall -- that's fine.
 15 (Exhibit No. 143 was marked for
 16 identification by the reporter)
 17 A. Okay. I'm ready.
 18 Q. I might ask you, first of all, do you
 19 recognize Exhibit 143?
 20 A. No.
 21 Q. Have you ever seen it before?
 22 A. Possibly. Likely. I didn't write it.
 23 Q. Were you consulted in the preparation
 24 of the document?
 25 A. What I remember about the Letter of

1 Direction issue was, I think I had just, to keep
 2 Dean Throop in the loop, I mentioned that Sabina
 3 had come to see me, and something about that she
 4 wasn't supposed to see me, according to
 5 Dean Throop, and she was going to include it in
 6 some Letter of Direction, which I didn't -- I
 7 mean, I told her, "You can include whatever you
 8 like, but, you know, I believe that any employee
 9 can come see HR at any time." You know, that I
 10 didn't think that that was --
 11 Q. So, was Burton telling you what again
 12 about a Letter of Direction?
 13 A. No, no. It wasn't Burton. It was
 14 Sabina had come to see me about something; I
 15 don't recall exactly what. And I had, for some
 16 reason, had to keep Dean Throop in the loop to
 17 let her know about Sabina coming to see me. And
 18 Dean Throop thought that that was an error, that
 19 she should not have come to see me. And she
 20 wanted to include it in some letter.
 21 And I expressed, I believe, at that
 22 time to Dean Throop that she could use whatever
 23 she wanted. I don't hide anything, but any
 24 employee has a right to come to HR at any time.
 25 Q. That's in a statement you made to

1 Dean Throop?
 2 A. I believe so.
 3 Q. And Dean Throop made a statement to you
 4 that she did not want Burton coming to you or
 5 words carrying that connotation?
 6 A. Harassing our office or something like
 7 that. I, I don't remember exactly.
 8 Q. Do you think that Dr. Burton harassed
 9 your office?
 10 A. No.
 11 Q. I'd ask that you refer to paragraph 4
 12 of this Letter of Direction.
 13 A. Uh-huh. I see it.
 14 Q. Is this the first time you've heard
 15 about, that there was an issue about Dr. Burton
 16 asking Dr. Stackman to house sit?
 17 A. No, it's not.
 18 Q. When was the first time you heard of
 19 that issue?
 20 A. Sometime prior to this. I don't recall
 21 exactly when, but I remember the story of house
 22 sitting and it being Dr. Stackman who is not
 23 tenured.
 24 Q. And did anyone ever complain to you
 25 about Burton asking Stackman to house sit?

1 A. Complain officially, formally or
 2 informally?
 3 Q. Well, formally first.
 4 A. No.
 5 Q. Informally second.
 6 A. I think Dalecki told me about it. Does
 7 that count as a complaint, I don't know.
 8 Q. Now, did Dalecki tell you about it in
 9 context of his e-mails to you of August 8, 2014
 10 when he is describing his communication to
 11 Burton of the reasons why she is not Stackman's
 12 mentor?
 13 A. He may have. I don't recall
 14 specifically. Frankly, it could have been Liz
 15 who told me. It could have been Mike who told
 16 me. I just remember there was a house-sitting
 17 issue.
 18 Q. So, the issue, which was serious enough
 19 to be included in a Letter of Direction, but not
 20 mentioned -- which didn't issue until
 21 October 28th, 2014, wasn't serious enough to be
 22 able to bring to Burton's attention back in
 23 August when you all were talking about it?
 24 MS. BENSKEY: Object to form.
 25 A. Would you restate it.

1 Q. The issue --
 2 A. Yes.
 3 Q. -- which was serious enough to be
 4 included in a Letter of Direction in October was
 5 not serious enough for Dr. Dalecki to include it
 6 in the basis of his reasons for removing Burton
 7 from mentorship of Stackman in August?
 8 A. You would have to ask him.
 9 Q. Do you think that your directions to
 10 him or your advice to him really that he should
 11 not go further was an error in light of the fact
 12 that his additional reason was ultimately to
 13 become the basis for a Letter of Direction?
 14 MS. BENSKEY: Object to form. You
 15 can answer if you understand the question.
 16 A. Would you restate, please.
 17 Q. Do you think your statement to Dalecki
 18 that he had provided -- he had written enough in
 19 his e-mail had the consequence of preventing or
 20 condoning Dalecki's decision not to tell Burton
 21 why he was removing her from being the mentor
 22 for Stackman?
 23 MS. BENSKEY: Same objection.
 24 Calls for speculation.
 25 A. I don't know about the second part of

1 the question, about whether that's true or not.
 2 I would -- I still wanted them to stop doing it
 3 in e-mail form. I -- they were, they were
 4 battling in public. They were battling each
 5 other excessively, and I wanted them to quit it.
 6 Q. During your time here at, at
 7 UW-Platteville how many Letters of Direction
 8 have been issued at the university for
 9 professional employees?
 10 A. Do you mean the entire time I've been
 11 here or the time I was serving as HR director?
 12 Q. I meant to say the latter, the time you
 13 were serving as HR director.
 14 A. Boy, I'd say there were two or three.
 15 Q. Dr. Alcalay is one?
 16 A. Yes.
 17 Q. Can you recall of any other?
 18 A. No. I'm just not ruling it out. I was
 19 trying to answer your question in the sense that
 20 there were not dozens.
 21 Q. There's only two you can identify for
 22 sure, and you're just not sure --
 23 A. As I'm sitting here, yes.
 24 Q. And you're hedging your bets in case
 25 there's one out there that you forgot?

1 A. More or less, yes.
 2 Q. Have you heard -- well, I guess, during
 3 your time as HR director here, was anybody else
 4 disciplined for asking a colleague if they would
 5 be available to house sit?
 6 A. I do not think so.
 7 MS. BENSKEY: I just want to put
 8 in a late objection to the form of the question
 9 because it misstates the facts in evidence.
 10 There's no evidence that this letter is --
 11 constitutes discipline.
 12 Q. What is your prior experience in human
 13 resources?
 14 A. Would you define for me what you mean
 15 by "experience in human resources."
 16 Q. Experience actually in the human
 17 resources department?
 18 A. No.
 19 Q. Prior academic experience or prior
 20 training in human resources issues.
 21 A. Specific human resource issues, no. I
 22 have an MBA. We studied it some in the MBA. I
 23 ran my own law practice for a while. I was
 24 director of claims at an insurance company. I
 25 did some employment law. I did some workers'

1 comp law that included being a --
 2 (Knock on the conference room
 3 door)
 4 MR. HAWKS: We'll just take a
 5 break here.
 6 (Brief recess)
 7 Q. Do you need to have your answer read
 8 back to you? It was truncated by the knock.
 9 A. It was. No. In general, specific HR
 10 training in a classical HR setting, no, I don't
 11 have any. When I talked to Rob Cramer about the
 12 position initially, it was all about
 13 transferable skills. It was all about other
 14 areas that I had handled and managed.
 15 Q. So, what understanding do you have as
 16 to the significance of a Letter of Direction
 17 issued to a faculty member?
 18 A. My understanding is that it's, it is
 19 that, it is a Letter of Direction directing the
 20 employee by their supervisor of their
 21 expectations of employment. It essentially
 22 serves as a warning or a clarification.
 23 Q. Is it your understanding that the
 24 Letter of Direction makes or does not make
 25 findings of fact regarding the conduct an

1 employee is alleged to have engaged in?
 2 MS. BENSKY: Object to form.
 3 A. Finding of fact as to which form?
 4 Q. A conclusion.
 5 A. I think that as, as -- in preface, as
 6 part of the letter, most of the ones I've ever
 7 seen have been an explanation of circumstances
 8 leading to the need for the Letter of Direction,
 9 but there's no impact on the employee's work
 10 conditions as far as salary, time, anything like
 11 that.
 12 Q. Would you agree or disagree with the
 13 proposition that the letter, in stating the
 14 circumstances that lead to its issuance, makes
 15 a, contains a statement that the circumstances
 16 were neither proven or unproven?
 17 MS. BENSKY: Object to form.
 18 A. Please ask me again. I'm sorry.
 19 Q. The circumstances.
 20 A. Yes, prefatory.
 21 Q. The circumstances are alleged to be the
 22 case, but there's no specific finding that they
 23 did or did not occur?
 24 A. I think that's correct. I think it's
 25 the opinion of the author of the document.

1 Q. Could you refer back to **Exhibit 143**,
 2 please.
 3 A. Yes.
 4 Q. This is a letter written by the dean of
 5 the college; is that correct?
 6 A. Appears to be.
 7 Q. Speaking of that, have you maintained
 8 familiarity with the recent reforms of
 9 Chapter 36 relating to faculty govern -- shared
 10 governance and tenure?
 11 A. Just vaguely at this point. I emptied
 12 my head after I didn't get the job. Does that
 13 make sense?
 14 Q. Yes, this makes sense. Is it
 15 significant to you that the dean of the college
 16 writes to a faculty member that the faculty
 17 member has displayed unprofessional and
 18 concerning interactions with your campus
 19 colleagues?
 20 A. Is this significant, yes.
 21 Q. And does that, in your opinion, reflect
 22 a conclusion by the dean as to what Dr. Burton
 23 did, in fact, do?
 24 A. Certainly an opinion.
 25 Q. On the second page, yes, on the second

1 page of this document toward the bottom of the
 2 page, this would be page No. 005457.
 3 A. Yes, sir.
 4 Q. You see the sentence that reads, "These
 5 events show a consistent pattern of
 6 unprofessional and inappropriate behavior by
 7 you." Does that strike you as a conclusion by
 8 the dean about Dr. Burton's behavior?
 9 MS. BENSKY: Object to form.
 10 A. Seems that way to me.
 11 Q. Thank you. I'm done with that exhibit.
 12 A. Thank you.
 13 Q. Do you recall whether or not
 14 Dean Throop showed you that letter before it was
 15 sent?
 16 A. I'm almost certain she did not, but I
 17 don't recall exactly, no.
 18 Q. Isn't that the sort of thing the HR
 19 director should be consulted about before it is
 20 issued?
 21 A. It would be nice.
 22 Q. Were you shown a copy of the Letter of
 23 Direction to Eugene Alcalay before it was sent
 24 out?
 25 A. I don't recall. It was a very busy job

1 with lots of employees, understaffed office.
 2 (Exhibit No. 144 was marked for
 3 identification by the reporter)
 4 Q. I'll show you -- you have Exhibit 144
 5 in front of you. Have you seen this document
 6 before?
 7 A. I don't recall it specifically, but I
 8 must have, yes.
 9 Q. Why do you say you must have?
 10 A. Because I tried to thoroughly review
 11 all of the standards to the extent that they
 12 exist and don't conflict when I took the job.
 13 Q. I'd call your attention, then, to the
 14 second page of this document, and specifically
 15 in the section in bold, the UW-P, the third
 16 paragraph. Does it provide that the aggrieved
 17 faculty member is entitled to a hearing within
 18 20 working days?
 19 A. That's what it says. It says 20
 20 working days of written submission of the
 21 grievance to the commission chairman.
 22 Q. Now, Dr. Burton has filed several
 23 grievances. Are you aware of that?
 24 A. I'm sorry?
 25 Q. You said something and I cut you off.

1 I apologize.
 2 A. No. That's fine. I just was looking
 3 at the part about it being extended, but it
 4 looks like it was upon the consent of the
 5 grievant or by order of the commission. I was
 6 aware that she filed, but that's about it.
 7 Q. So, were you aware of the delay in her
 8 complaint, about the delay in getting a hearing
 9 in any of her grievances?
 10 A. I recall that being a problem.
 11 Q. Did you take any steps -- once you
 12 learned that it became a problem, did you take
 13 any steps to address that?
 14 A. I recall having a brief conversation
 15 with Dr. Balachandran. As I recall, they were
 16 having trouble either getting members or getting
 17 a hearing or getting a room. They were having
 18 logistical problems, as I recall. I did not
 19 become involved in the faculty process, no.
 20 Q. You did write a fairly lengthy report
 21 about the Alcalay situation, right?
 22 A. I did. Are we done with this one?
 23 Q. We are done with this one.
 24 A. Thank you.
 25 Q. It's true that Dr. Alcalay informed the

1 dean that he was not going to comply with her
 2 Letter of Direction?
 3 A. I believe that's correct, yes.
 4 Q. And he was not subject to discipline as
 5 a consequence or a Chapter 6 complaint as a
 6 consequence of his statement to the dean that he
 7 was not going to comply with the Letter of
 8 Direction?
 9 A. As far as I know. I'm not sure I would
 10 know in the sense that if it goes to the faculty
 11 committee, as you can see, you've seen already,
 12 I may not have been informed of it. So, I don't
 13 know for sure, but my understanding is, he was
 14 not.
 15 Q. Do you have any ongoing responsibility
 16 for the Alcalay situation or case?
 17 A. No, not at this point. My last duty
 18 was to write the report. And I believe they
 19 were still in negotiations as far as him not
 20 complying with the Letter of Direction. I
 21 believe that there were still negotiations going
 22 on between the two sides as to what the
 23 resolution would be. So, I'm not sure it was
 24 off the table, but I think there were ongoing
 25 negotiations.

1 Q. I don't believe I have it with me
 2 today, but if I do, I'll come back to it.
 3 A. Okay.
 4 Q. Do you recall that the Letter of
 5 Direction was removed by the dean?
 6 A. Pursuant to the -- I remember there was
 7 some, some sort of resolution where it was --
 8 where basically Eugene agreed to comply with
 9 some of it or parts of it, and then it was
 10 changed or removed, and then there was supposed
 11 to be some sort of a statement made to the other
 12 faculty members.
 13 Q. We'll defer to your report, whatever
 14 you say about that.
 15 A. Yes.
 16 Q. Did you look into Dr. Balachandran's
 17 grievance hearing procedures following
 18 Dr. Burton's complaint?
 19 A. No, not that I recall. I believe we
 20 may have had counsel involved at that point. I
 21 don't remember. In other words, I believe at
 22 that point it was outside of my bailiwick.
 23 (Exhibit No. 145 was marked for
 24 identification by the reporter)
 25 A. All right.

1 Q. Do you recognize **Exhibit 145**?

2 A. I do.

3 Q. Would this establish that Dr. Burton

4 communicated to you the false or the rumors that

5 Deb Rice had spread as of December 10th of 2014?

6 A. Yes.

7 Q. And would this constitute the framework

8 of the issues that you discussed with Deb Rice

9 and that she admitted having made when you met

10 with her?

11 A. This would be, this would be the

12 framework that I discussed with her, yes.

13 Q. And that she admitted having said?

14 A. That she had discussed these things in

15 front of the student, yes.

16 Q. Did you identify the student who shared

17 the information with you with Dr. Rice?

18 A. It was a graduate student. I can't

19 remember his name.

20 Q. I can give you his name, but -- let me

21 withdraw that.

22 MS. BENSKEY: His name is all over

23 transcripts. I mean, you can say it, and we'll

24 redact it.

25 MS. LATTIS: Who we've been

1 referring to as R.J.?

2 MR. HAWKS: Off the record.

3 (Off-the-record discussion)

4 MR. HAWKS: Back on the record,

5 please.

6 Q. Did you mention, did you mention R.J.'s

7 name to Dr. Rice?

8 A. Yes, I did, I believe. And I spoke to

9 R.J. actually out -- I had an opportunity to

10 speak to R.J. about this.

11 Q. Tell me about that conversation. When

12 and where did it occur?

13 A. In my office.

14 Q. And when?

15 A. I wouldn't be able to tell you right

16 now, but I could tie it to an event because he

17 invited me to a student event regarding

18 terrorism. There's a student group that,

19 forensics or some such thing, that he was

20 involved with, and I did attend one of those

21 meetings. And he had come by to invite me to

22 one of those meetings. And we talked about it

23 then.

24 I said, "As long as you're here." And

25 I really, frankly, thought it was a pretext. I

1 think that's why he came to see me, not the

2 invitation, and I basically took advantage of

3 him stopping by to ask him about the situation

4 just to corroborate.

5 Q. And did he corroborate?

6 A. Yes, he did.

7 Q. Did he share any other information with

8 you about another statement made at that event,

9 statement made by the provost to the chair of

10 the department?

11 A. No. I don't think so. What's the

12 statement?

13 Q. A statement to the effect that Burton

14 was all alone on a sinking ship.

15 A. Boy, I heard that somewhere. I don't

16 remember who told me that, but I did hear that

17 somewhere.

18 Q. Can you put that in any sort of

19 context?

20 A. I'm sorry. I can't.

21 Q. And when you say you've heard it

22 somewhere, did you hear that it was a statement

23 allegedly made by the provost to the chair?

24 A. I couldn't testify without specificity.

25 Q. Either with regard to it being made by

1 the provost or with regard to it being made by

2 her to the chair?

3 A. I recall it being -- that's a tough

4 question. I recall it being somebody in senior

5 management, senior team had said something to

6 that effect. I don't know who it was to. At

7 the moment I don't remember which person that

8 was. It could have been R.J. who told me, but I

9 don't recall that.

10 Q. Did you investigate that allegation?

11 A. Which one?

12 Q. The allegation that someone -- if

13 someone --

14 A. The sinking ship comment?

15 Q. Yes.

16 A. No, I don't think I did. People said

17 all sorts of crazy stuff to me all the time in

18 that job. It was very busy, and half the stuff

19 I got was, was just nonsense. I was happy to

20 share a complaint process with anybody who

21 wanted to make a complaint, but I didn't

22 investigate random comments like that.

23 Q. To your knowledge, did Dr. Dalecki

24 reprimand Rice?

25 A. I thought he did.

1 Q. Again, what makes you, what makes you
 2 say you thought he did?
 3 A. Because I believe he told me that, but
 4 I do believe the Deb Rice matter is still
 5 somewhat in limbo, because I -- I left the job.
 6 It was -- we were having voluntary retirement
 7 going on, and we had all sorts of stuff going on
 8 during that time period. And that was still --
 9 I was pursuing it because I thought Deb Rice was
 10 wrong. Dalecki thought Deb Rice was wrong and
 11 should apologize.

12 And when I left the position, I, I was
 13 aware that there was lawsuits and complaints
 14 going back and forth, so I assumed that that was
 15 subsumed in all of that, all of those suits and
 16 complaints, et cetera. But, nonetheless, when I
 17 told Mike about it, about the meeting where I
 18 did not get satisfaction from Deb Rice in the
 19 sense of an apology, my understanding was that
 20 he did speak to her and reprimand her, but you'd
 21 have to ask him for sure.

22 Q. Are you familiar with Dr. Burton's
 23 request to teach online as part of her basic
 24 load?

25 A. Yes.

1 appears to be a note from you to Dr. Dalecki
 2 asking if there's anything he could give back to
 3 her at mediation so we can offer half a loaf.
 4 Why did you ask that question?

5 A. Again, I thought highly of both
 6 individuals, and I thought that this was a
 7 conflict we could have avoided. And I was
 8 actively trying to avoid it and get these two
 9 guys talking, get these two people talking.

10 And I think I recall Sabina had said
 11 she had apologized to Mike about the tone of an
 12 e-mail that had to do around the time that her
 13 mother was ill. And she mentioned, you know,
 14 her mother was ill and she wasn't herself. And
 15 I think I told Mike something to the effect of,
 16 you know, she's at least been willing to
 17 apologize. Why don't you have something, you
 18 know, basic negotiation, you know. Nobody is
 19 going to get everything they want. Do you have
 20 something you can offer her? You know, let's
 21 mend this relationship, let's reconcile. Does
 22 that answer your question?

23 Q. It does.

24 A. Thank you.

25 Q. But I have a follow-up question. Did

1 Q. Did you investigate that issue?

2 A. I spoke, I believe I spoke to Dalecki
 3 about that. And I think there was a
 4 disagreement between the two of them as to
 5 her -- or the obligation of the school to
 6 provide that for her. I don't remember the
 7 exact details. She put in a -- well, that's --
 8 I'll let you ask your questions.

9 Q. Do you recall what Dr. Dalecki shared
 10 with you when you talked to him about it?

11 A. No, I don't. It depends on which --
 12 I'm getting my timeline mixed up in my head.
 13 There was, there was an occasion where Sabina
 14 put in for family medical leave, and I was
 15 communicating with, I believe, the dean and
 16 Mike, but Mike primarily, to try and meet all
 17 the accommodations that were requested.

18 Q. We'll come to that in a few minutes.
 19 We don't have much time left, so...

20 A. I'll try to keep quiet.

21 (Exhibit No. 146 was marked for
 22 identification by the reporter)

23 Q. Have you reviewed 146?

24 A. Yeah. Yes, I have.

25 Q. On the very bottom of that page there

1 Dr. Dalecki offer up anything as half a loaf?

2 A. Yeah, I think he did.

3 Q. What did he offer?

4 A. Some sort of class or some sort of
 5 variation in her load, and we moved her office
 6 so she would have more sunshine.

7 Q. Did that occur at that time, or did
 8 that occur summer of 2015?

9 A. That was later, that was later.

10 Q. In context of her return to work
 11 following her illness?

12 A. Yes, yes. But I believe he offered her
 13 some sort of course accommodation, and I don't
 14 recall exactly what that was.

15 (Exhibit No. 147 was marked for
 16 identification by the reporter)

17 A. All right.

18 Q. Do you recognize Exhibit 147?

19 A. Yes.

20 Q. What is it?

21 A. It appears to be her return to work
 22 slip, Sabina's.

23 Q. Did you receive a copy of this on or
 24 about April 16, 2015?

25 A. Yes.

1 Q. Once you received this letter, what did
 2 you do with it?
 3 A. Physical letter went into her file.
 4 Q. Did you communicate the contents of
 5 this letter to anybody at that time?
 6 A. I did.
 7 Q. Who did you communicate the contents
 8 with?
 9 A. Dean Throop, Mike Dalecki, I believe,
 10 and counsel.
 11 Q. And did you share the contents in their
 12 entirety?
 13 A. Yes, I believe I did.
 14 Q. You forwarded a copy of this letter?
 15 A. Either a copy or I restated it in my
 16 own communication without the, without the
 17 salutation, et cetera.
 18 Q. So, are you familiar with an issue that
 19 arose involving Dr. Burton and I believe it is
 20 Dr. Solar with regard to his chairmanship of a
 21 Search and Screen Committee?
 22 A. Vaguely. Something about him wanting
 23 tenure. I don't really remember. I remember
 24 there was an issue, yes.
 25 Q. With regard to that matter, did you

1 the word "recuse" as it's --
 2 A. Yes, sir.
 3 Q. As it's used in the practice of law?
 4 A. Yes, sir.
 5 Q. Do you understand it to mean a
 6 voluntary decision to remove yourself from a,
 7 from a position?
 8 A. I do. For example, sometimes judges
 9 will recuse themselves if they have a conflict
 10 of interest.
 11 Q. But it's voluntary to the judge?
 12 A. That's my understanding.
 13 Q. And so if an individual was to ask
 14 another to recuse himself, that would apply the
 15 second has a, has a discretionary decision to
 16 make?
 17 A. Depends on the employment relationship.
 18 If, if my superior in my reporting line asks me
 19 to recuse myself, I would consider that a
 20 direction, not a choice. Similar to the request
 21 of, you know, it's time for you to resign. You
 22 know, that isn't really a choice.
 23 Q. By the way, on that matter, is that
 24 your understanding of what the purpose of the
 25 meeting between Dean Throop and

1 investigate it at all?
 2 A. Which matter, again, was that?
 3 Q. The issue involving Dr. Solar and
 4 Dr. Burton.
 5 A. I believe I asked Cathy Kutka to look
 6 into it.
 7 Q. Did she do so?
 8 A. I don't remember. Or I would have
 9 asked her a question about the propriety of the,
 10 of the search. She was, she was really running
 11 the hiring at that time.
 12 Q. Was she also a member of the Search and
 13 Screen Committee, or did she participate in the
 14 interview process?
 15 A. I don't believe she participated in the
 16 interview process, no.
 17 Q. Would she have information regarding
 18 the -- regarding her, her work or service in
 19 relation to the Search and Screen Committees
 20 headed up by Solar?
 21 A. Perhaps. Questions like that about
 22 hiring I would have delegated to her more or
 23 less, not about the hiring itself but the
 24 process.
 25 Q. Are you familiar with the, the use of

1 Provost Den Herder was when they met with
 2 Caywood in the summer of '13?
 3 A. I have no idea.
 4 Q. You wouldn't be there at that time?
 5 A. No. I've got no idea on that. I was
 6 just using it as an illustrative example.
 7 Q. And were you, were you still in your
 8 position in HR during the -- of course you
 9 were -- the spring of 2015. Were you aware
 10 that, that Dr. Burton had objected to the
 11 continuing presence of Dr. Caywood on her, on
 12 her Department Review Board that was evaluating
 13 her performance because she had named him as a
 14 defendant in a lawsuit?
 15 A. I don't recall that. If I had been, if
 16 I knew anything about it, it would have been
 17 peripherally. Again, most of those matters are
 18 dealt with through faculty self-governance. So,
 19 that would have been through the dean, but I
 20 don't remember specifically about that.
 21 Q. You are aware that Dean Throop falsely
 22 accused Dr. Burton of cancelling her classes on
 23 December 12, 2014?
 24 A. I can't really answer that question
 25 because of how you worded it. Let me -- would

1 you like me to explain?
 2 Q. Sure.
 3 A. Okay. I don't think that Liz had any
 4 intent to do anything false at the time that she
 5 said that. I think she had bad information.
 6 Q. What leads you to that conclusion?
 7 A. Well, I think it would be against her
 8 own self-interest to accuse somebody falsely, to
 9 intentionally, with malice, accuse somebody.
 10 And I think, I think it was clear after the
 11 students came forward, said, no, she was there,
 12 there was a mistake.
 13 Q. Did you ever learn of the source of
 14 Dean Throop's information?
 15 A. About what?
 16 Q. That the students, that Sabina had
 17 canceled her class.
 18 A. I believe it was Mike Dalecki.
 19 Q. What leads you to that conclusion?
 20 A. I'm trying to remember. I'm sorry. I
 21 think somebody told me that, but, really, I'm
 22 just guessing. I'm sorry. I can't remember.
 23 Q. Would it surprise you to know that
 24 Dean Throop testified that it was Deb Rice that
 25 told her that?

1 out.
 2 MR. HAWKS: I have no further
 3 questions.
 4 MS. BENSKY: I don't have
 5 anything.
 6 (Deposition was concluded at 3:16
 7 p.m.)
 8
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1 A. That would surprise me, yes. But my
 2 memory is so vague on that incident, it could
 3 be, but it would surprise me.
 4 Q. Did you talk to Dean Throop about the
 5 incident?
 6 A. I'm not sure I did. I know I talked to
 7 Mike about it. I may have talked to Liz. I
 8 don't remember.
 9 Q. And do you recall the conversation you
 10 had with, with Dr. Dalecki about it?
 11 A. Only vaguely. Just essentially what's
 12 reflected in the e-mails, that they thought she
 13 was gone and she wasn't gone. And the students
 14 came forward and said she wasn't gone, there was
 15 a mistake.
 16 Q. Do you think Dean Throop had an
 17 obligation to investigate the reliability of the
 18 information she received before she accused
 19 falsely Dr. Burton of having canceled her
 20 classes?
 21 MS. BENSKY: Object to form.
 22 Argumentative.
 23 A. Do I think she had an "obligation"? I
 24 don't know about that. I think it's also
 25 prudent to check your sources, check information

1 STATE OF WISCONSIN)
 2) SS:
 3 COUNTY OF DANE)
 4 I, CHRISTAL A. HANSEN, a Registered
 5 Professional Reporter and Notary Public in and
 6 for the State of Wisconsin, do hereby certify
 7 that the foregoing deposition was taken before
 8 me at the University of Wisconsin-Platteville,
 9 Ullsvik Hall, 1 University Plaza, City of
 10 Madison, County of Grant, and State of
 11 Wisconsin, on the 17th day of November 2015;
 12 that it was taken at the request of the
 13 Plaintiff, upon verbal interrogatories; that it
 14 was taken in shorthand by me, a competent court
 15 reporter and disinterested person, approved by
 16 all parties in interest and thereafter converted
 17 to typewriting using computer-aided
 18 transcription; that said deposition is a true
 19 record of the deponent's testimony; that the
 20 deposition was taken pursuant to Notice; that
 21 said JOHN LOHMANN, before examination was sworn
 22 by me to testify to the truth, the whole truth,
 23 and nothing but the truth relative to said
 24 cause.
 25 Dated November 24, 2015.
 Notary Public, State of Wisconsin

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