

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

14-CV-274

Transcript of the Testimony of:

**Elizabeth Throop, Ph.D.**

October 28, 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.  
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Deposition of ELIZABETH THROOP, Ph.D.

Wednesday, October 28th, 2015

8:59 a.m.

at

WISCONSIN DEPARTMENT OF JUSTICE  
17 West Main Street  
Madison, Wisconsin

Reported by Kealoha A. Schupp, RPR

1                   Deposition of ELIZABETH THROOP, Ph.D., a  
2                   witness in the above-entitled action, taken at the  
3                   instance of the Plaintiff, pursuant to the Federal  
4                   Rules of Civil Procedure, pursuant to notice, before  
5                   Kealoha A. Schupp, RPR and Notary Public, State of  
6                   Wisconsin, at WISCONSIN DEPARTMENT OF JUSTICE, 17  
7                   West Main Street, Madison, Wisconsin, on the 28th day  
8                   of October, 2015, commencing at 8:59 a.m. and  
9                   concluding at 3:54 p.m.

10    A P P E A R A N C E S:

11                   HAWKS QUINDEL, S.C., by  
12                   Mr. Timothy E. Hawks  
13                   222 East Erie Street, Suite 210  
14                   P.O. Box 442  
15                   Milwaukee, Wisconsin 53201  
16                   Appeared on behalf of Plaintiff.

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

23                   Also Present: Jennifer Schuchart  
24  
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24

25

1 TRANSCRIPT OF PROCEEDINGS  
 2 ELIZABETH THROOP, called as a witness  
 3 herein, having been first duly sworn on oath, was  
 4 examined and testified as follows:  
 5 EXAMINATION  
 6 BY MR. HAWKS:  
 7 Q Can you identify yourself for the record, please?  
 8 A I'm Elizabeth A. Throop, T-H-R-O-O-P. And I'm the  
 9 dean of the College of Liberal Arts and Education at  
 10 the University of Wisconsin-Platteville.  
 11 Q And what are your duties and responsibilities as  
 12 dean?  
 13 A I oversee 200-plus employees, including faculty,  
 14 contingent staff, and clerical staff. I'm  
 15 responsible for all curriculum matters within the  
 16 college, all personnel matters within the college, in  
 17 consultation with others of course, my supervisors  
 18 and our HR people.  
 19 In addition, I'm responsible for my  
 20 college budget of about \$11 million, in consultation  
 21 with my faculty colleagues and my supervisors, and  
 22 other duties as assigned, including supervising four  
 23 office staff.  
 24 Q Who has primary responsibility for faculty personnel  
 25 matters?

1 Q And for how long were you employed there?  
 2 A Four years, four and a half.  
 3 Q And where were you employed prior to that?  
 4 A McKendree College in Lebanon, Illinois.  
 5 Q And what was your position there?  
 6 A I left as an associate professor of sociology.  
 7 Q And have any grievances been filed against you while  
 8 you've been employed at UW-Platteville?  
 9 A Yes.  
 10 Q How many?  
 11 A I think three.  
 12 Q Please identify the grievants in each of those cases.  
 13 A Dr. Burton, I believe, was the grievant for two,  
 14 Dr. Sabina Burton, and Dr. Tom Caywood was the other.  
 15 Q And what was the outcome of the Caywood grievance?  
 16 A I don't really recall.  
 17 Q And the outcome of each of the two Burton grievances?  
 18 A Can you define "outcome"?  
 19 Q The result.  
 20 A I really -- I'm not sure how to answer that. There  
 21 were no consequences, if that's your question.  
 22 Q Have you been named in any other lawsuits?  
 23 A I was -- I've been named -- I was named in one  
 24 federal lawsuit that was dismissed on summary  
 25 judgment in March, I believe. And I was --

1 A Within the college I have significant responsibility.  
 2 Ultimately the chancellor has that responsibility.  
 3 Q When did you commence your employment at  
 4 UW-Platteville?  
 5 A In June of 2012.  
 6 Q And where were you previously employed?  
 7 A Yes.  
 8 Q Where were you previously employed?  
 9 A Oh, I'm sorry. I was dean of business at Bueno Vista  
 10 University in Storm Lake, Iowa.  
 11 Prior to that I was the dean of  
 12 humanities and sciences at St. Mary's University of  
 13 Minnesota.  
 14 Q For how long were you employed at Bueno Vista?  
 15 A I was an interim dean for one year.  
 16 Q And what was your reason for leaving?  
 17 A To take the job at Platteville.  
 18 Q And how long had you been employed at your previous?  
 19 A I was there for two years.  
 20 Q And what was the reason for leaving?  
 21 A To take the job at Bueno Vista.  
 22 Q And where was your employment prior to that?  
 23 A I was the chair of the department of anthropology,  
 24 sociology, and social work at Eastern Kentucky  
 25 University in Richmond, Kentucky.

1 Q Who --  
 2 A I'm sorry.  
 3 Q Who was the plaintiff in that case?  
 4 A David Miller.  
 5 Q Any other federal lawsuits?  
 6 A There's one other federal lawsuit, and the plaintiff  
 7 in that is Florence Omachonu.  
 8 Q And those are both lawsuits that are filed against  
 9 you that are -- that were filed during your  
 10 employment at UW-Platteville?  
 11 A Me and others, yes.  
 12 Q Okay. And were you named in any other federal  
 13 lawsuits, other than those two, in any of your prior  
 14 employment --  
 15 A No.  
 16 Q -- any places of your prior employment?  
 17 Was any grievance filed against you at  
 18 any place of your prior employment?  
 19 A No.  
 20 Q All right. Any charges of discrimination filed  
 21 against you with either state or federal agencies?  
 22 A I believe there's one.  
 23 Q And what is that?  
 24 A It is a discrimination ERD complaint with the State  
 25 of Wisconsin.

Page 9

1 Q And who filed that?

2 A His name is Dr. Eugene Alcalay, and he's claimed --

3 well...

4 Q And what's his claim?

5 A That as an over-40-white man, he's been discriminated

6 against.

7 That claim has been dismissed, but he

8 has appealed it.

9 Q Okay.

10 A In its entirety it was dismissed.

11 Q Was it dismissed after a hearing?

12 A No. Dismissed on -- I don't know what the ERD

13 equivalent of summary judgment is, but it was that.

14 Q Are you familiar with a former employee in the

15 criminal justice program named Danelle Bemis?

16 A Yes.

17 Q How are you familiar with her?

18 A She came to me troubled about a number of things.

19 Q What were those things?

20 A One was a claim she made that people had been

21 breaking into her office, moving things around, and

22 then putting them back exactly where they had been.

23 Q Okay. What are the other claims?

24 A One other claim was that Aric Dutelle had upset her

25 in some way.

Page 10

1 Q Okay. That's the second claim.

2 Were there any others that she

3 brought?

4 A There may be. I don't remember.

5 Q Do you recall meeting with her to discuss a report

6 she had made to the Platteville police?

7 A I don't recall that meeting.

8 Q Do you recall persuading her to resign?

9 A I recall being in a meeting with Jeanne Durr, who was

10 at that time the HR director and having a

11 conversation about her options.

12 Q Did you persuade her to resign?

13 A I don't know if I did or not.

14 Q Have you ever written anything to the effect that you

15 had persuaded her to resign?

16 A I don't -- I don't recall. I may have.

17 Q Do you recall writing a letter to AT&T with regard to

18 a grant that Dr. Burton was to receive and a

19 communication that she had written to AT&T?

20 A I don't recall that.

21 Q Do you recall an issue arising regarding Dr. Burton's

22 description of a cyber crime program?

23 A You'll have to be more specific.

24 Q Did you and Dr. Sabina -- Dr. Burton ever have a

25 conversation about her communications related to a

Page 11

1 cyber crime program at UW-Platteville in the criminal

2 justice department?

3 A Ever have communications with whom?

4 Q With Dr. Burton.

5 MS. BENSKY: Object to form.

6 THE WITNESS: I don't follow your question.

7 I'm sorry.

8 BY MR. HAWKS:

9 Q With -- communications between Dr. Burton and anybody

10 with regard to a cyber crime program.

11 A I recall discussing her wish to have a cyber security

12 program, yes.

13 Q All right. Did you ever criticize her for claiming

14 to be an expert in the field?

15 A I don't believe I've criticized her for that because

16 she isn't an expert.

17 Q Pardon me?

18 A She's not an expert in the field.

19 Q Have you ever said anything publicly to the contrary,

20 that she was an expert in the field?

21 A I believe that at a faculty forum, which is something

22 my college puts on, she was a respondent to a

23 speaker, who I don't actually recall right now who

24 that was, and this was following a great deal of

25 difficult discussion with her. So the decision,

Page 12

1 which I don't make, for her to be a respondent to

2 this talk is made by a faculty committee, which I

3 don't oversee.

4 At that juncture in the school year,

5 given everything that had taken place, I decided that

6 it was -- would not be very kind for me to ask her to

7 not be a respondent to this speaker because, in fact,

8 I had discovered she had no verified expertise in

9 cyber security.

10 So I introduced her and said that she

11 would share -- I said something like her -- that she

12 would share, among a number of other things, her

13 views on cyber security.

14 Q And did you also say that she was an expert in cyber

15 security at that time?

16 A I don't believe I said she was an expert because

17 she's not an expert. I may have referred to her

18 expertise but not as -- solely as a cyber security

19 expert. I said she'd share her views.

20 Q I believe you approved her request to teach a cyber

21 security online course at UW-Milwaukee this current

22 term; isn't that true?

23 A It is true.

24 Q You wrote a letter of reprimand or a letter of

25 direction with regard to certain matters involving

Page 13

1 Dr. Burton; isn't that true?  
 2 A It is true.  
 3 Q And in that letter of direction you identified a  
 4 number of specific areas in which she was to change  
 5 her behavior; isn't that true?  
 6 A Yes.  
 7 Q And did you have any conversation with Dr. Burton  
 8 about any of those areas or those issues prior to the  
 9 time you issued the letter of direction?  
 10 A I think you need to define what you mean by -- do you  
 11 mean face-to-face conversation?  
 12 Q Yes.  
 13 A No.  
 14 Q I believe in that letter of direction you refer to an  
 15 issue involving Dr. Stackman, a CJ faculty member; is  
 16 that true?  
 17 MS. BENSKY: I object to the form of the  
 18 question. You're asking about a document she doesn't  
 19 have in front of her.  
 20 THE WITNESS: I don't recall.  
 21 BY MR. HAWKS:  
 22 Q Okay. On December 12th, 2014, you wrote an e-mail to  
 23 Dr. Burton, in which you found that she had -- or  
 24 alleged, you stated that she had skipped the final  
 25 day of classes in the fall semester of the 2014/2015

Page 14

1 school year and that you were going to discipline  
 2 her; isn't that true?  
 3 A I don't recall the exact wording of the e-mail.  
 4 Q Have I summed up the content of the e-mail?  
 5 A I don't recall.  
 6 Q Did someone provide you with information that  
 7 Dr. Burton had skipped the last day of classes in the  
 8 2014/2015 school year?  
 9 A Yes.  
 10 Q Who was that?  
 11 A Deb Rice.  
 12 Q And when was that information shared with you?  
 13 A I don't recall exactly.  
 14 Q Was it the same day?  
 15 A I don't recall exactly.  
 16 Q As the class was to be conducted?  
 17 A I believe it was after that.  
 18 Q All right. Was it the same day that you issued --  
 19 you sent Dr. Burton that e-mail?  
 20 A I don't recall.  
 21 Q What did Dr. Rice tell you?  
 22 A Dr. Rice told me that two students had told her that  
 23 Dr. Burton had canceled the last day of class in the  
 24 fall semester to fly to Germany to see her ailing  
 25 mother.

Page 15

1 Q All right. And did you make any effort to verify?  
 2 A I asked Professor Rice to go back to those students  
 3 and make sure that that's what they understood to be  
 4 the case.  
 5 Q But you're not the chair of the department, are you?  
 6 A No.  
 7 Q Do you know whether or not Dr. Rice had shared this  
 8 information with the chair of the department?  
 9 A I believe she did.  
 10 Q On what do you base that belief?  
 11 A Dr. Dalecki had told me later that, in fact, it was  
 12 Dr.-- not Dr. Rice -- Professor Rice who had told him  
 13 about it as well.  
 14 Q All right. And how did he communicate that  
 15 information to you?  
 16 A I don't know. I don't recall.  
 17 Q E-mail?  
 18 A I don't recall.  
 19 Q Okay. Do you know why Dr. Rice shared this -- or  
 20 Professor Rice shared this information with you?  
 21 A I don't.  
 22 Q Did you make any effort to contact Dr. Burton before  
 23 sending that letter out?  
 24 A I did not.  
 25 Q Did you ask the chair of the department to verify the

Page 16

1 information before sending the letter out?  
 2 A I did not.  
 3 MR. HAWKS: I believe our next exhibit  
 4 number is 61, but I am relying on memory right now.  
 5 (Exhibit 61 marked for identification.)  
 6 BY MR. HAWKS:  
 7 Q Take a moment to review this, please.  
 8 A (Reviewing document.)  
 9 Q Are you familiar with the incident that led up to --  
 10 first of all, can you identify this document?  
 11 A I can't. I've never seen it before.  
 12 Q Appears to be a letter written from a grievance  
 13 committee to Chancellor Shields; is that fair?  
 14 A I have no idea.  
 15 Q And are you familiar with the breach incident of  
 16 Dr. Gibson?  
 17 A Yes, I am.  
 18 Q Can you describe that in general terms, please?  
 19 A It's -- well, I believe the document explains what I  
 20 understand to have happened, which is that Dr. Gibson  
 21 handed a note to a student in his class and the note  
 22 said what this indicates it did, "Call me," smily  
 23 face, and provided his cell phone number.  
 24 Q Did you have any conversations with Dr. Gibson about  
 25 that matter?

1 A I did.  
 2 Q When did you speak to him about it?  
 3 A I couldn't tell you. Sometime in October of '12.  
 4 Q Did you have any conversations with Chancellor  
 5 Shields about the incident?  
 6 A Yes.  
 7 Q And can you describe the nature of that conversation  
 8 please, or conversations. Was there -- first of all,  
 9 was there one or more than one conversation?  
 10 A I believe there was more than one. I couldn't tell  
 11 you how many, but...  
 12 Q Can you describe the content of the conversations  
 13 that you had with the chancellor regarding this  
 14 incident?  
 15 A I described what I understood the incident to be to  
 16 the chancellor. I expressed my deep displeasure with  
 17 Dr. Gibson's behavior, and I expressed my intent on  
 18 having a very stern conversation with Dr. Gibson  
 19 about this behavior.  
 20 Q Did you issue him a letter of direction?  
 21 A I don't believe I did.  
 22 Q Did you issue him a reprimand, a written reprimand,  
 23 of any sort?  
 24 A I did not.  
 25 Q Did Chancellor Shields ever discuss with you the

1 Q And did she ask you for advice as to how to handle  
 2 the situation when she called you at first?  
 3 A I don't recall her asking me for advice, no.  
 4 Q Did you provide her with advice as to how she should  
 5 handle the situation?  
 6 A I advised that she should allow me and Jeanne Durr,  
 7 the HR director, to handle the situation.  
 8 Q Did you inform her that she should advise the student  
 9 to speak to either student affairs or academic  
 10 affairs --  
 11 A Well, I believe I advised her to speak with Jeanne  
 12 Durr, because as it turns out, the student worked in  
 13 the HR office, at least that's what I understood.  
 14 Q All right. Now, Jeanne Durr was, at that time, the  
 15 director of human relations for the university?  
 16 A Human resources, yes.  
 17 Q Human resources, okay. And this is a student -- a  
 18 student issue.  
 19 You wouldn't ordinarily refer a  
 20 student to an HR director, would you?  
 21 A It was my understanding from Jeanne Durr that a  
 22 Title 9 issue, which is how she interpreted this, I  
 23 believe, was directly under her responsibility --  
 24 Q Okay.  
 25 A -- as it involved faculty-student issues.

1 sanctions that should be imposed on Dr. Gibson?  
 2 A I don't recall.  
 3 Q Specifically did he speak to you about requiring  
 4 Dr. Gibson to attend an instruction in maintaining an  
 5 equitable and safe classroom for all his students?  
 6 A I don't recall.  
 7 Q Did he speak to you about requiring the department to  
 8 review Gibson's lectures and classroom activities?  
 9 A I don't recall.  
 10 Q Did he speak to you about taking a refresher course  
 11 in professional ethics as it relates to research  
 12 participants?  
 13 A I don't recall.  
 14 Q How did you become first aware -- how did you first  
 15 become aware of this issue?  
 16 A Dr. Burton.  
 17 Q And describe the nature of the communication between  
 18 you and Dr. Burton in which you were first informed  
 19 of this issue.  
 20 A I believe she called me first, and then we had e-mail  
 21 exchanges back and forth, one of which included the  
 22 note. She did a screen -- not screen shot, but she  
 23 took a picture of it and sent it to me --  
 24 Q Took a picture with a cell phone?  
 25 A -- of the note. I assume a cell phone, yeah.

1 Q Did you ever have -- did you have any conversations  
 2 with the chair of the department regarding this  
 3 matter, that would be Tom Caywood?  
 4 A Yes.  
 5 Q And one or more than one conversation with him?  
 6 A At least one. Perhaps more.  
 7 Q Well, I'm going to back up a little bit.  
 8 Other than that -- the conversation  
 9 you had with Dr. Gibson, did you impose any other  
 10 employment discipline on him of any sort?  
 11 A No.  
 12 Q To your knowledge, did Dr. Caywood impose any  
 13 employment discipline of any sort for this --  
 14 A I don't know.  
 15 Q Do you know whether or not he suffered any other  
 16 adverse -- any adverse consequence, other than  
 17 writing an e-mail to the students in his class?  
 18 A I don't know.  
 19 Q And by the way, looking at this document, 61, are  
 20 you -- never mind. I'll come back to it.  
 21 (Exhibit 62 marked for identification.)  
 22 BY MR. HAWKS:  
 23 Q Dean Throop, do you have a copy of Exhibit 62 in  
 24 front of you?  
 25 A I do.

Page 21	Page 23
<p>1 Q Can you describe this document, please?</p> <p>2 A It's an e-mail thread regarding, according to the</p> <p>3 title, press release and agenda for Monday's event,</p> <p>4 dated 1/25/13.</p> <p>5 Q All right. So the last entry is an e-mail from you</p> <p>6 to Jessica Erickson; is that correct?</p> <p>7 A What do you mean by the last e-mail?</p> <p>8 Q The one that's timed at 10:37 a.m., Thursday</p> <p>9 January 24.</p> <p>10 A To Jessica Erickson and Rose Smyrski, yes.</p> <p>11 Q Okay. Who is Jessica Erickson?</p> <p>12 A She worked at AT&amp;T Foundation.</p> <p>13 Q And what is AT&amp;T Foundation?</p> <p>14 A It's the benefactor's arm of the AT&amp;T corporation, as</p> <p>15 far as I understand.</p> <p>16 Q All right. And had it provided a grant to</p> <p>17 UW-Platteville?</p> <p>18 A To Dr. Burton, yes.</p> <p>19 Q And in what amount?</p> <p>20 A I believe it was \$7,000.</p> <p>21 Q And for what purpose?</p> <p>22 A It's my understanding that it was to develop a cyber</p> <p>23 security program.</p> <p>24 Q Okay. And in this most -- in the note that is</p> <p>25 dated -- or timed at 10:37, you write that you --</p>	<p>1 your concerns, and my question is, how much work was</p> <p>2 that?</p> <p>3 A It involved several hours of effort.</p> <p>4 Q On your part?</p> <p>5 A Yes.</p> <p>6 Q Did you ask anybody else to address the concerns?</p> <p>7 A I asked Dr. Burton.</p> <p>8 Q And did she address the concerns that you raised?</p> <p>9 A No.</p> <p>10 Q Did you ask her by e-mail?</p> <p>11 A At least, yes.</p> <p>12 Q Let's go back to the very first entry here.</p> <p>13 So this is -- this is at 3:27 p.m. on</p> <p>14 Wednesday, January 23, and it appears to be an e-mail</p> <p>15 from Erickson to Burton, with a copy to Jermain. She</p> <p>16 writes that -- that she's attached the draft press</p> <p>17 materials.</p> <p>18 Had you received a draft at that time?</p> <p>19 A I don't recall.</p> <p>20 Q Do you know when you first received the draft?</p> <p>21 A I don't recall.</p> <p>22 Q Then, on Thursday, January 24th, at 8:37 a.m., the</p> <p>23 reply is from Dr. Burton, and it's to Jessica</p> <p>24 Erickson, but you are copied on that reply, are you</p> <p>25 not?</p>
<p>Page 22</p> <p>1 that "Jessica and I just spoke, and the long form</p> <p>2 release will be edited again to reflect" your</p> <p>3 concerns.</p> <p>4 What were your concerns?</p> <p>5 A My concerns were -- although I don't have the release</p> <p>6 in front of me, so my memory is vague on this. I</p> <p>7 will have to be somewhat vague.</p> <p>8 My memory of the press release, as</p> <p>9 written prior to my seeing it, was that it both</p> <p>10 stated that UW-Platteville had an existing cyber</p> <p>11 security program and that Dr. Burton was an expert in</p> <p>12 cyber security. Those were my concerns.</p> <p>13 Q And who brought this press release to your -- first</p> <p>14 brought this press release to your attention?</p> <p>15 A I don't recall.</p> <p>16 Q Could it have been Dr. Caywood?</p> <p>17 You have to say "yes" or "no" or --</p> <p>18 A I don't recall. I don't recall.</p> <p>19 Q Was it difficult to edit the press release to reflect</p> <p>20 your concerns?</p> <p>21 A I beg your pardon?</p> <p>22 Q Was it difficult to edit the press release to express</p> <p>23 your concerns?</p> <p>24 A I don't know what you mean by "difficult."</p> <p>25 Q Well, you wrote here that you edited again to reflect</p>	<p>Page 24</p> <p>1 A Yes, I am.</p> <p>2 Q Did you receive a copy of the press release at that</p> <p>3 time?</p> <p>4 A I don't recall.</p> <p>5 Q All right. Then, at about 10:00 that morning,</p> <p>6 Erickson replies to Burton, thanking Burton for her</p> <p>7 edits and indicating she will forward the final</p> <p>8 releases to the chancellor's office, as well as Paul</p> <p>9 Erickson, for approval.</p> <p>10 Do you know if that -- if that also</p> <p>11 was forwarded to you at that time?</p> <p>12 MS. BENSKY: Object to form.</p> <p>13 BY MR. HAWKS:</p> <p>14 Q Do you know whether or not the final releases that</p> <p>15 were forwarded to the chancellor's office were also</p> <p>16 forwarded to you?</p> <p>17 A Not at that -- I don't recall for this time.</p> <p>18 Q And that would have been at 9:53 in the morning?</p> <p>19 A Yes.</p> <p>20 Q And who is Paul Erickson?</p> <p>21 A Paul Erickson is our chief information officer. He's</p> <p>22 in charge of all external and internal</p> <p>23 communications.</p> <p>24 Q And the -- do you work in the chancellor's office?</p> <p>25 A I'm sorry?</p>

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1 Q Do you work in the chancellor's office, or do you  
 2 have an office separate from the chancellor?  
 3 A My office is separate. A separate building, halfway  
 4 across campus, in fact.  
 5 Q All right. So then at 10:27, you send an e-mail to  
 6 Erickson, Smyrski, with copies to Caywood and to  
 7 Burton, expressing your concerns; is that correct?  
 8 A That's what the document says, yes.  
 9 Q All right. And that was at 10:27. And then at  
 10 10:37, you indicated it would be edited again.  
 11 Do you know when you completed the  
 12 edited version?  
 13 A I don't recall.  
 14 (Exhibit 63 marked for identification.)  
 15 BY MR. HAWKS:  
 16 Q Take a minute to review this, and let me know when  
 17 you're ready.  
 18 A (Reviewing document.) Okay.  
 19 Q You have Exhibit 63 in front of you; is that correct?  
 20 A I do.  
 21 Q All right. And do you recognize this document?  
 22 A I -- I don't really remember it, no.  
 23 Q You are addressed --  
 24 A I am.  
 25 Q -- on this e-mail chain, correct?

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1 A That is correct.  
 2 Q And it's the same subject line as the -- as  
 3 Exhibit 62; is that correct?  
 4 A That is correct.  
 5 Q All right. And so then it apparently contains a  
 6 couple of attachments.  
 7 The last of the e-mail communications  
 8 here at 10:47 a.m., reports that -- from Erickson to  
 9 you and to Rose Smyrski, with copies to Caywood and  
 10 Burton, that she's attached the updated press release  
 11 and media advisory, as per her conversation with you.  
 12 Do you see that?  
 13 A I do.  
 14 Q Did you, in fact, have a conversation with  
 15 Ms. Erickson?  
 16 A I believe I did, yes.  
 17 Q And do you know -- then she asks, "Please review and  
 18 let -- and let me know if the edited versions are  
 19 accurate, if you have any further edits."  
 20 Did you have any further edits at that  
 21 point?  
 22 A I don't recall.  
 23 Q And she also sent it to Erickson and to the  
 24 chancellor; is that true -- is that what she reports  
 25 she has done?

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1 A That's what the document says she did, yes.  
 2 Q And this last e-mail is written at 10:47 a.m.; is  
 3 that correct?  
 4 A It purports to be, yes.  
 5 Q All right. And you would agree with me that that's  
 6 not two hours after 10:38 a.m.?  
 7 A I would.  
 8 (Exhibit 64 marked for identification.)  
 9 BY MR. HAWKS:  
 10 Q Take a minute to review this please, and let me know  
 11 when you're ready.  
 12 A (Reviewing document.) Whenever you're ready.  
 13 Q Can you describe this document?  
 14 A It appears to be an e-mail -- an e-mail thread.  
 15 Q And is one of the -- one of the messages in this  
 16 e-mail thread a message from you to Dr. Burton?  
 17 A It is, yes.  
 18 Q In the third paragraph you write: "I want to support  
 19 your exploration of cyber security or whatever other  
 20 research interest you choose to follow."  
 21 In fact, you had conversations with  
 22 Dr. Burton during the fall of 2012 regarding a cyber  
 23 security program or the process of establishing a  
 24 cyber security program at UW-Platteville; isn't that  
 25 true?

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1 A It's true we had discussions about the process, yes.  
 2 Q Right. And at --  
 3 A As the second paragraph -- the second sentence in  
 4 that paragraph indicates, which I would like to  
 5 quote:  
 6 "At the same time, you have an  
 7 obligation to follow departmental, university, and  
 8 system procedures for the creation of new courses and  
 9 programs."  
 10 Q Thank you. You should wait for a question before you  
 11 speak up.  
 12 A Thanks for your advice.  
 13 Q Isn't it true that during the conferences or meetings  
 14 that you had with Dr. Burton in the fall of 2012, she  
 15 shared with you screen shots of two web pages that  
 16 she had created?  
 17 A No.  
 18 Q That's not true?  
 19 A That's not true.  
 20 Q All right. Isn't it true that the web pages that she  
 21 created describe the matters contained in them as  
 22 being proposals or proposed?  
 23 MS. BENSKY: Object to form.  
 24 THE WITNESS: That doesn't -- that's not my  
 25 memory of them, no.

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1 BY MR. HAWKS:  
 2 Q Okay. And, in fact, during that fall of 2012, there  
 3 was an effort to obtain a larger grant to support  
 4 cyber security programs at UW-Platteville; isn't that  
 5 true?  
 6 A I don't recall that.  
 7 Q All right. And do you have -- you write in this note  
 8 that she is not to proceed forward with cyber  
 9 security without your department's backing.  
 10 On what basis do you say -- do you  
 11 write -- or do you believe that she did not have the  
 12 department's backing?  
 13 A Where -- can you be specific, please?  
 14 Q First paragraph, third sentence.  
 15 A And I'm sorry, what's the question?  
 16 Q On what basis -- did you believe, when you wrote  
 17 this, that Dr. Burton did not have the department's  
 18 backing to proceed forward with cyber security?  
 19 A Yes.  
 20 Q And on what basis did you believe that?  
 21 A Dr. Caywood told me this. That's No. 1.  
 22 No. 2, no curriculum proposals ever  
 23 came to the college curriculum committee at that  
 24 period for cyber security curriculum.  
 25 Q Are those all the reasons?

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1 A Mm-hmm, yes.  
 2 Q Okay. But the only person in the department you  
 3 spoke to about this was Dr. Caywood?  
 4 A I don't recall if he was the only one.  
 5 Q Well, do you recall speaking to anyone else in the  
 6 department?  
 7 A Dr. Burton.  
 8 Q Besides Dr. Burton.  
 9 A I really don't recall.  
 10 Q Now, at this point in -- now, at a time in the school  
 11 year 2012/2013, did Dr. Burton communicate with you  
 12 her concerns that she was suffering retaliation from  
 13 Dr. Caywood, from the chair of the department,  
 14 Caywood?  
 15 A She made allegations like that, yes.  
 16 Q All right. And did you have any conversations with  
 17 Dr. Caywood about those allegations?  
 18 A I believe so.  
 19 Q Did you conduct an investigation into those  
 20 allegations?  
 21 A I did not.  
 22 Q So at the time that Caywood was communicating to you  
 23 that the department didn't back Burton's efforts to  
 24 move forward with cyber security, you knew that  
 25 Burton believed Caywood to be engaging in retaliation

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1 against her?  
 2 A No.  
 3 Q Okay. This is -- please explain what about that  
 4 statement is incorrect.  
 5 A Dr. Burton's allegations were made after I learned  
 6 that there was no department support for a cyber  
 7 security program.  
 8 Q So it's your testimony that at no time prior to  
 9 January 25, 2013, Dr. Burton communicated to you that  
 10 Caywood was retaliating against her?  
 11 A She made claims. She provided me with no evidence.  
 12 Q So then as of January 24, 25, you knew that she made  
 13 claims that Caywood was retaliating against her?  
 14 A I knew she made claims, yes.  
 15 Q All right. So you knew then at the time that Caywood  
 16 communicated to you his objections or his claim that  
 17 the department didn't back Sabina with moving forward  
 18 with cyber security, to use your words, she believed  
 19 that he was engaging in retaliation against her?  
 20 A I'm sorry --  
 21 MS. BENSKY: Object to form.  
 22 THE WITNESS: -- I don't understand the  
 23 question.  
 24 BY MR. HAWKS:  
 25 Q So you knew, as of January 24, 2015, that

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1 Dr. Burton --  
 2 A I'm sorry, no. Not 2015.  
 3 Q Yeah. You knew as of January 24, 2013, that  
 4 Dr. Sabina's -- Dr. Sabina was alleging that Caywood  
 5 was retaliating against her?  
 6 A I knew she made those claims, yes, in January of '13.  
 7 (Exhibit 65 marked for identification.)  
 8 BY MR. HAWKS:  
 9 Q Do you have -- take a minute again. Let me know when  
 10 you're ready.  
 11 A (Reviewing document.) I'm ready.  
 12 Q All right. So this appears to be Dr. Burton's reply  
 13 to the last message on Exhibit 64.  
 14 Do you recall receiving -- and it's  
 15 addressed to you.  
 16 Do you recall receiving this?  
 17 A No.  
 18 Q The first sentence describes -- or reads: "This is a  
 19 summary of the NSF proposal as submitted to the NSF,  
 20 and Tom signed off on it."  
 21 I have a couple questions for you.  
 22 What is the NSF proposal?  
 23 A I don't know.  
 24 Q Okay. Now, she wrote this to you. Did you not take  
 25 the time to inquire about what the NSF proposal was?

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1 MS. BENSKY: Object to form. This is  
 2 almost three years ago.  
 3 THE WITNESS: I don't recall.  
 4 BY MR. HAWKS:  
 5 Q Yeah, okay. So Tom signed off on it.  
 6 Would that be Tom Caywood?  
 7 A I don't know. I assume so.  
 8 Q Well, let's put it in context, Dean Throop.  
 9 This is the summary of the proposal as  
 10 submitted to the NSF, and Tom signed off on it.  
 11 Is there any other Tom that would sign  
 12 off on an NSF proposal other than Tom Caywood in this  
 13 department?  
 14 MS. BENSKY: Object to form. Misstates the  
 15 evidence in the record. She doesn't know what Tom  
 16 signed off on or didn't sign off on.  
 17 THE WITNESS: I don't know.  
 18 BY MR. HAWKS:  
 19 Q All right. Dr. Burton also writes that the dean's  
 20 office signed off on the NSF proposal.  
 21 You would be the dean responsible for  
 22 the CJ department, wouldn't you?  
 23 A As of June of 2012, yes.  
 24 Q Okay. And so as of January of 20 -- as of  
 25 January '13, you would have been the dean responsible

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1 for overseeing the CJ department?  
 2 A Correct.  
 3 Q So you would have signed off on the NSF proposal,  
 4 wouldn't you?  
 5 A I don't recall doing that.  
 6 MS. BENSKY: Object to form. It's already  
 7 previously been established that the proposal was  
 8 submitted on April 17th, 2012, before Dean Throop  
 9 came to the university.  
 10 BY MR. HAWKS:  
 11 Q Who was the dean that preceded you?  
 12 A The interim dean was Dr. Laura Anderson.  
 13 Q Upon receiving this communication from Dr. Burton,  
 14 did you ask to see the NSF proposal?  
 15 A No.  
 16 Q Assuming for a moment that the chair of the  
 17 department signed off on the NSF proposal, would that  
 18 reflect support for development of a cyber crime  
 19 program at UW-Platteville?  
 20 A It took place before I was there. I don't know.  
 21 Q Hypothetically.  
 22 A I have no idea. I wasn't there.  
 23 (Exhibit 66 marked for identification.)  
 24 THE WITNESS: (Reviewing document.)  
 25

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1 BY MR. HAWKS:  
 2 Q You've had an opportunity to review Exhibit 66?  
 3 A Yes.  
 4 Q Have you seen this before?  
 5 A Not that I recall.  
 6 Q Can you describe the document?  
 7 A I don't know what it is. It appears to be a grant  
 8 application.  
 9 Q And what date appears to be the date in which the  
 10 grant application was filed?  
 11 A Appears to be October 8th, 2012.  
 12 Q And what -- is the grant application -- does it  
 13 appear to be a grant application to AT&T?  
 14 A It appears to be, yes.  
 15 Q And does it appear to be making a request for \$7,000?  
 16 A Yes, it appears to be.  
 17 Q All right. And is that the amount of the grant that  
 18 AT&T ultimately provided to Dr. Burton?  
 19 A Yes.  
 20 Q And do you see the project summary on the second page  
 21 of this document?  
 22 A I don't see a summary -- oh, I see. I'm sorry.  
 23 Q There's an italicized phrase there. "The summary  
 24 should begin with the words "To support." Do you  
 25 see that?

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1 A I do.  
 2 Q It appeared that the grant request was to support the  
 3 development and implementation of a cyber security  
 4 curriculum. Do you see that?  
 5 A I see that.  
 6 MS. BENSKY: Object to form and foundation.  
 7 BY MR. HAWKS:  
 8 Q And would there be anything inappropriate for  
 9 Dr. Burton to write in a grant request that the  
 10 purpose of the grant was to support the development  
 11 and implementation of a cyber security curriculum for  
 12 undergraduate and graduate students at the University  
 13 of Wisconsin-Platteville?  
 14 A I don't know.  
 15 Q You don't know if there'd be anything inappropriate  
 16 about that?  
 17 A I can't answer the question. I have not seen this  
 18 document before.  
 19 Q That wasn't the question.  
 20 The question was: Would there be  
 21 anything inappropriate for Dr. Burton to write in a  
 22 grant application that the purpose of the grant was  
 23 to support the development and implementation of a  
 24 cyber security curriculum for undergraduate and  
 25 graduate students at the University of

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<p>1 Wisconsin-Platteville?</p> <p>2 A Without the support of her colleagues, I'd say yes,</p> <p>3 it would be inappropriate.</p> <p>4 Q Would you say development of a curriculum takes a</p> <p>5 fair amount of work?</p> <p>6 A I would say that, yes.</p> <p>7 Q And would you say that it's appropriate to request a</p> <p>8 grant of money in order to support the development of</p> <p>9 a curriculum to conduct that work?</p> <p>10 A It isn't usual.</p> <p>11 Q My question is: Is it inappropriate?</p> <p>12 A In general terms, yes.</p> <p>13 Q Why?</p> <p>14 A It's expected as a normal part of a professor's and</p> <p>15 her colleagues' or his colleagues' business day.</p> <p>16 This is what the job is, among other things.</p> <p>17 Q In developing a curriculum, can a faculty member</p> <p>18 incur costs and expenses to travel to, say, other</p> <p>19 schools to explore their -- similar curriculums at</p> <p>20 other institutions?</p> <p>21 A I haven't seen that, no.</p> <p>22 Q Okay. Could it -- is it possible?</p> <p>23 A You're asking me to speculate about it?</p> <p>24 Q Yes.</p> <p>25 A I suppose so.</p>	<p>1 Q Do you know whether or not the UWP foundation</p> <p>2 approved the funding application that Sabina applied</p> <p>3 for in the AT&amp;T grant?</p> <p>4 A I don't know.</p> <p>5 Q And the foundation would have refused to provide</p> <p>6 authorization and support for funding an application</p> <p>7 if it was inappropriately made, wouldn't it?</p> <p>8 A I have no idea.</p> <p>9 Q Prior to January 24, 2013, did you ever inform</p> <p>10 Dr. Burton that she did not have departmental support</p> <p>11 for a cyber security -- the development of a cyber</p> <p>12 security program?</p> <p>13 A I don't know.</p> <p>14 (Exhibit 67 marked for identification.)</p> <p>15 BY MR. HAWKS:</p> <p>16 Q Let me know when you're ready.</p> <p>17 A (Reviewing document.)</p> <p>18 Q So this -- it appears from this exhibit that you</p> <p>19 forwarded Dr. Burton's e-mail of January 24 at</p> <p>20 8:36 a.m. to Mittie Nimocks Den Herder; is that</p> <p>21 correct?</p> <p>22 A It appears so, yes.</p> <p>23 Q And who is Mittie Nimocks Den Herder?</p> <p>24 A She's the provost and my immediate supervisor.</p> <p>25 Q All right. And it appears that you sent the provost</p>
<p>Page 38</p> <p>1 Q And a grant that was received could be used for the</p> <p>2 purpose of covering costs such as those, couldn't it?</p> <p>3 A Yes.</p> <p>4 Q Isn't it true that during the fall of 2012, there</p> <p>5 were numerous e-mails, some of which you were cc'ed</p> <p>6 on, in which the term or phrase, and I quote, "Cyber</p> <p>7 Security, Cyber Crime Program" was used?</p> <p>8 A I don't recall.</p> <p>9 Q What representation is it that you claim Burton made</p> <p>10 for which she did not have departmental approval?</p> <p>11 A She claimed that there was a cyber security</p> <p>12 curriculum in place.</p> <p>13 Q Oh. Are you aware whether or not the CJ department</p> <p>14 even had a curriculum committee in the 2012/2013</p> <p>15 academic term?</p> <p>16 A I don't know.</p> <p>17 Q You would agree with me, wouldn't you, that the</p> <p>18 chair's signature on an NSF grant proposal would</p> <p>19 reflect department approval?</p> <p>20 A Not necessarily.</p> <p>21 Q Now, UW-Platteville has a foundation, does it not?</p> <p>22 A It does.</p> <p>23 Q And an application for funding has to receive</p> <p>24 approval from the UWP foundation, doesn't it?</p> <p>25 A No.</p>	<p>Page 40</p> <p>1 something you described as "My Draft" at 9:02 a.m.</p> <p>2 Do you see that?</p> <p>3 A I see it.</p> <p>4 Q Did you -- okay. Why did you send this to the</p> <p>5 provost?</p> <p>6 A I don't recall.</p> <p>7 Q And then the provost reapplies to you. She asks you:</p> <p>8 "Do you know how Tranel got invited?"</p> <p>9 Who is Tranel?</p> <p>10 A Tranel. Travis Tranel is our state representative in</p> <p>11 Platteville in that district.</p> <p>12 Q All right. Do you know how Tranel got invited?</p> <p>13 A No.</p> <p>14 Q Well, would you refer to the -- your reply to Mittie</p> <p>15 and see if that refreshes your memory?</p> <p>16 A It doesn't.</p> <p>17 Q Well, is it -- do I read the first sentence of your</p> <p>18 reply -- excuse me.</p> <p>19 Yeah. Now, I've got it.</p> <p>20 Do you see the first sentence of your</p> <p>21 reply to Mittie? And doesn't it say AT&amp;T invited</p> <p>22 Tranel?</p> <p>23 A This does not appear to be an e-mail to me. It</p> <p>24 appears to be edited.</p> <p>25 Q So you're denying that you ever wrote this e-mail?</p>

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1 A I'm not denying that. I don't recall.  
 2 Q And it's your testimony that you don't recall whether  
 3 or not AT&T invited Tranel?  
 4 A I don't recall.  
 5 Q The next sentence reads: "I wound up not sending any  
 6 e-mail because Tom wrote one and it has upset Sabina  
 7 a great deal."  
 8 Whether or not this is an edited form  
 9 of an e-mail, did you, in fact, not send that draft  
 10 note because Tom had already written one?  
 11 A I don't recall.  
 12 Q All right. So the provost, it appears, believed that  
 13 if AT&T was responsible for inviting Tranel, it was  
 14 responsible and that you shouldn't be chastising  
 15 Sabina for the stir.  
 16 Is that a fair reading of the second  
 17 sentence of Mittie's -- of the provost's note to you?  
 18 MS. BENSKY: Object to form.  
 19 THE WITNESS: No, I don't think it's a fair  
 20 reading.  
 21 BY MR. HAWKS:  
 22 Q So after Mittie -- Mittie writes -- or the provost  
 23 writes that her advice is to add a bit more to the  
 24 congratulations and replace the last line with  
 25 inquiries regarding who contacted the press and

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1 Tranel. Do you see that sentence?  
 2 A I do.  
 3 Q Did you ever follow up in any way to find out who  
 4 contacted the press and Tranel?  
 5 A I don't recall.  
 6 Q Did you ever add a bit more to any -- in any  
 7 subsequent note to Burton regarding this issue  
 8 generally --  
 9 A I don't recall.  
 10 Q -- did you write anything more congratulatory?  
 11 A I believe that I did, but I really don't recall.  
 12 Q Why did you send the draft to the provost?  
 13 A She's my supervisor.  
 14 Q By the way, just a couple questions on some other  
 15 things.  
 16 During your tenure as dean, how many  
 17 letters of directions have you issued to faculty or  
 18 academic staff?  
 19 A Two.  
 20 Q And who -- the one to Burton?  
 21 A Yes.  
 22 Q And who else did you write a letter of direction to?  
 23 A Dr. Eugene Alcalay.  
 24 Q And did you rescind that letter?  
 25 A I removed it from his file.

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1 Q Is that different than rescinding it?  
 2 A It was through a process of negotiation with him and  
 3 his attorney.  
 4 MR. HAWKS: Off the record for a second.  
 5 (Discussion was held off the record.)  
 6 (Exhibit 68 marked for identification.)  
 7 THE WITNESS: (Reviewing document.)  
 8 BY MR. HAWKS:  
 9 Q Have you finished your review of this document?  
 10 A I've skimmed it, yes.  
 11 Q So based upon what information did you issue  
 12 Dr. Alcalay a letter of direction?  
 13 A I was given a report by Dr. Cooper that Dr. Alcalay  
 14 had inappropriately touched a female student.  
 15 Following an investigation of that, a  
 16 number of -- the complaining student indicated a  
 17 number of concerns about Dr. Alcalay. Other students  
 18 as well communicated concerns, not of a sexual  
 19 nature, but of -- other concerns that they had,  
 20 including off-campus parties, which I -- let me  
 21 characterize those appropriately. They were sort of  
 22 recital parties, but there were no waivers of any  
 23 kind, no field trips filled out.  
 24 Students reported that Dr. Alcalay  
 25 would take a fake syringe and jab them with it during

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1 instruction.  
 2 They also -- they -- there were other  
 3 concerns as well. I'm not recalling off the top of  
 4 my head the -- some of them are included in here.  
 5 Q Does this document identify when you issued that  
 6 letter of direction?  
 7 A I'll have to look. I've never seen this document  
 8 before. (Reviewing document.)  
 9 This document indicates that the  
 10 letter -- I issued a letter of direction on May 8th,  
 11 2014.  
 12 Q And on page 3 does it indicate that you withdrew it  
 13 on August 22, 2014?  
 14 A It indicates that, yes.  
 15 Q And is there some written communication confirming  
 16 the withdrawal or rescission or the removal of the  
 17 letter of direction from the university's files?  
 18 A I don't recall.  
 19 Q Now, this report indicates that the memorandum of  
 20 understanding was signed by you on September 10th,  
 21 2014.  
 22 Does that appear to be accurate, to  
 23 the best of your recollection?  
 24 A The document indicates that, yes.  
 25 Q And that would be more than two weeks after the

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<p>1 letter of direction was withdrawn, right?</p> <p>2 A Correct.</p> <p>3 Q So then the withdrawal wasn't a consequence of the</p> <p>4 agreement, was it?</p> <p>5 A That's not correct.</p> <p>6 Q What is incorrect about it?</p> <p>7 A The withdrawal was the result of negotiations with</p> <p>8 Dr. Alcalay and his counsel and the university's</p> <p>9 counsel and me regarding the exact wording of the</p> <p>10 MOU.</p> <p>11 Q And that was done -- that was completed by what --</p> <p>12 when was it completed?</p> <p>13 A September -- or -- September 10th, 2014.</p> <p>14 Q All right. And the withdrawal is prior to that date?</p> <p>15 A Following a meeting on August 22nd, 2014.</p> <p>16 (Exhibit 69 marked for identification.)</p> <p>17 THE WITNESS: (Reviewing document.)</p> <p>18 BY MR. HAWKS:</p> <p>19 Q Have you had a chance to review Exhibit 69?</p> <p>20 A I'm just finishing.</p> <p>21 Q Okay.</p> <p>22 A (Reviewing document.) I'm finished.</p> <p>23 Q Okay. This appears to be two e-mail messages, the</p> <p>24 first from Burton to you on January 22nd, and the</p> <p>25 second, your reply. And the subject matter appears</p>	<p>1 Teaching, scholarship, and service to the university</p> <p>2 and wider community.</p> <p>3 Conference travel, research expenses,</p> <p>4 and professional development fall squarely into</p> <p>5 scholarship. It's an expected part of the job.</p> <p>6 Q But receiving a grant and using it for -- to cover</p> <p>7 expenses related to that duty, those sorts of duties</p> <p>8 is entirely appropriate?</p> <p>9 A It's not inappropriate, yes.</p> <p>10 Q Okay.</p> <p>11 MR. HAWKS: Why don't we take a five-minute</p> <p>12 break.</p> <p>13 (A recess was taken from 10:23 a.m. to 10:28 a.m.)</p> <p>14 (Attorney Spitz not present.)</p> <p>15 (Exhibit 70 marked for identification.)</p> <p>16 THE WITNESS: (Reviewing document.)</p> <p>17 BY MR. HAWKS:</p> <p>18 Q Have you had an opportunity to review Exhibit 70?</p> <p>19 A Yes.</p> <p>20 Q Can you describe the document, please?</p> <p>21 A It is response to a grievance that Dr. Burton filed</p> <p>22 in fall of 2014. My response to her grievance.</p> <p>23 Q In this you argue that this is not a grievable matter</p> <p>24 because it's not a personnel problem; is that</p> <p>25 correct?</p>
<p>Page 46</p> <p>1 to be the nature of her comments at the public event</p> <p>2 in which the grant was going -- from AT&amp;T was going</p> <p>3 to be accepted.</p> <p>4 Is that a fair summary of the</p> <p>5 document?</p> <p>6 A The -- no. The date is the 26th, not the 23rd.</p> <p>7 Q Okay. Thank you.</p> <p>8 And other than that, a fair summary?</p> <p>9 A It appears to be part of a discussion, yes.</p> <p>10 Q All right. You write -- you write to Dr. Burton that</p> <p>11 she can use the funds for conference travel, research</p> <p>12 expenses, and professional development so that she'll</p> <p>13 be able to publish in this area in the future.</p> <p>14 Would that be -- in your opinion, that</p> <p>15 would be an appropriate use of the funds?</p> <p>16 A Yes.</p> <p>17 Q And that would not be done during the regular</p> <p>18 expected performance of duties by a faculty member.</p> <p>19 A Oh, yes, it would.</p> <p>20 Q Okay. Now, there can be conference travel, but</p> <p>21 perhaps you should identify or define what you mean</p> <p>22 by within the professional responsibility of the</p> <p>23 faculty member.</p> <p>24 A There are three arenas in which faculty members at</p> <p>25 UW-Platteville, at least in my college, are assessed:</p>	<p>Page 48</p> <p>1 A Correct.</p> <p>2 Q In your letter of direction you make certain</p> <p>3 allegations regarding conduct of Dr. Burton?</p> <p>4 A I believe I do. I don't have it in front of me.</p> <p>5 Q And if the allegations of fact found in your letter</p> <p>6 of direction are based on erroneous information, that</p> <p>7 would be a personnel problem, wouldn't it?</p> <p>8 MS. BENSKY: Object to form.</p> <p>9 THE WITNESS: I don't understand your</p> <p>10 question.</p> <p>11 BY MR. HAWKS:</p> <p>12 Q If your statements of fact contained in the letter of</p> <p>13 direction are based on untrue information, that would</p> <p>14 be a personnel problem, wouldn't it?</p> <p>15 MS. BENSKY: Object to form.</p> <p>16 You can answer.</p> <p>17 THE WITNESS: I think you're</p> <p>18 mischaracterizing the letter of direction, as I</p> <p>19 recall it.</p> <p>20 BY MR. HAWKS:</p> <p>21 Q It's set up with a conditional preposition.</p> <p>22 If the statements of fact contained in</p> <p>23 the letter are based upon untrue information, then</p> <p>24 there is a personnel problem?</p> <p>25 A I don't accept your statement. There were no untrue</p>

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1 statements.

2 Q Going back to the AT&T grant, do you understand -- do

3 you have an opinion as to whether or not Dr. Caywood

4 had supported Burton's efforts to create a cyber

5 crime curriculum and program at the criminal justice

6 department?

7 A I don't know.

8 Q Do you have an opinion as to whether or not after

9 that date he stopped providing any support --

10 A I don't know.

11 Q -- for her?

12 A I don't know.

13 Q Do you have or can you produce any documentation that

14 would demonstrate that Dr. Caywood did not support

15 Dr. Burton's efforts with regard to the creation of a

16 cyber crime program at criminal justice prior to

17 January 24th, 2012 -- '13?

18 A No.

19 Q Do you know Aric Dutelle?

20 A I did, yes.

21 Q He was a criminal justice faculty member up to a

22 certain point in time?

23 A He was, yes.

24 Q Subsequent to your employment.

25 A Yes.

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1 Q Okay. He was moved to the sponsored programs

2 department for a time, was he not?

3 A Yes.

4 Q Were you the one who -- did you participate in the

5 decision to transfer him into that program?

6 A No.

7 Q Do you know who did?

8 A I don't recall.

9 Q Do you know whether or not he requested that

10 transfer?

11 A I don't know.

12 Q Are you aware that there were two studies done of the

13 criminal justice program in the 2013/2014 academic

14 term?

15 A I don't know what you mean by "studies."

16 Q Studies done by outside consultants.

17 A Oh, yes.

18 Q And do you -- you understood that they were quite

19 critical of the program?

20 A I remember that, yes.

21 Q Okay. And those deficiencies in the program occurred

22 while Dutelle was the director of the program, did

23 they not?

24 A He was never the director of criminal justice.

25 Q The director of the forensic investigations, FI,

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1 program.

2 A I don't know.

3 Q Do you know -- did you know that he was the director

4 of the forensic investigations program?

5 A Yes.

6 Q Okay. Were you ever informed that Aric Dutelle was

7 allowed to take week-long hiatuses during the summer

8 semester?

9 A No.

10 Q Were you aware that he used his paid time off to

11 write his books?

12 A No.

13 Q Were you ever informed that Dutelle had canceled

14 classes?

15 A I don't recall.

16 Q Did you ever discipline Dutelle for canceling a

17 class?

18 A I -- no.

19 Q Do you know whether or not Mr. Dutelle was eligible

20 for promotion in August of 2012?

21 A I don't know.

22 Q You would have approved that promotion?

23 A No.

24 Q No, you would not have.

25 Do you recall a grade dispute

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1 regarding [REDACTED] ?

2 A Yes.

3 Q And did you support Dr. Burton in the position she

4 took with regard to that grade?

5 A I did.

6 Q Why?

7 A Because she was -- it was my view that she was being

8 interfered with in terms of her grading.

9 Q Who was interfering with her?

10 A Cheryl Burton Banachowski -- I'm sorry, Cheryl

11 Fuller-Banachowski.

12 Q And why did you think that Dr. Burton needed your

13 support?

14 A She asked for it.

15 Q Did you read [REDACTED] report?

16 A I did.

17 Q And what was your opinion of its quality?

18 A That it wasn't very good.

19 Q Who controls the salary decisions offered to

20 prospective faculty employees?

21 A At present, I do, with regard to the employees of my

22 college with, I must say, guidelines from HR and UW

23 system.

24 Q And previous to your tenure, those would have been

25 determined by your predecessor or predecessors, the

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1 deans of the college?

2 A I don't know.

3 (Exhibit 71 marked for identification.)

4 THE WITNESS: (Reviewing document.)

5 BY MR. HAWKS:

6 Q Can you identify Exhibit 71?

7 A No.

8 Q Well, can you describe it?

9 A It appears to be a letter from AT&T to Mr. Dennis

10 Cooley of UW-Platteville Foundation.

11 Q And who is Mr. Dennis Cooley?

12 A At the time he was -- I believe his title was

13 assistant vice chancellor for something. I don't

14 remember what.

15 Q Okay.

16 A But he was in charge of the foundation.

17 Q Do you see -- does the letter contain the purposes

18 for which the grant is being made?

19 A I'm sorry?

20 Q Does the letter contain a statement of the purpose

21 for which the contribution is being made?

22 A It appears to.

23 Q Do you find anything inappropriate about the purpose

24 as it's stated there?

25 A I can't make a judgment about AT&T.

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1 Q Well, in terms of the criminal justice program and

2 Dr. Burton's participation and efforts to try to

3 start up a cyber security program, do you see

4 anything inappropriate about -- from UW-Platteville,

5 in your position as dean, for the purpose as stated

6 here?

7 A There was no cyber security program in existence at

8 the time.

9 Q So --

10 A It appears to contain a misstatement.

11 Q Well, let's go -- just -- the phrase reads: "To

12 support a new cyber security program."

13 This is a program in the process of

14 being created, correct?

15 MS. BENSKY: Object to form.

16 THE WITNESS: No.

17 BY MR. HAWKS:

18 Q Oh, by the way, do you recall getting a copy of this

19 on or about December 28th, 2012?

20 A No.

21 Q If you had received a copy of it, would you have

22 called this issue to Dr. Burton's attention at that

23 time?

24 A I don't know.

25 Q Your direction to Dr. Burton was to use the funds

Page 55

1 for -- to support expenses for conferences, et

2 cetera.

3 A May I look at the exhibits?

4 Q Yes, please do.

5 A In Exhibit 69 I say: "You could use the funds for

6 conference travel, research expenses, and

7 professional development so that you perhaps will be

8 able to publish in this area in the future."

9 Q You would agree that that's contrary to the purpose

10 of the contribution as AT&T described it?

11 MS. BENSKY: Object to form.

12 THE WITNESS: The descriptions don't match,

13 yes.

14 BY MR. HAWKS:

15 Q Can you explain why the university allowed Dr. Burton

16 to make the original request for the grant for that

17 purpose if there was a problem with the wording of

18 the request?

19 A It was before my time. I don't know.

20 (Exhibit 72 marked for identification.)

21 THE WITNESS: (Reviewing document.)

22 BY MR. HAWKS:

23 Q Have you had a chance to review Exhibit 72?

24 A Yes.

25 Q What does it appear to be?

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1 A It appears to be an e-mail threat -- a threat --

2 thread regarding the potential creation of a cyber

3 security -- homeland cyber security focus.

4 Q The initial e-mail message found here, it appears to

5 be from Dr. Caywood to Dr. Burton, and he closes by

6 saying, "A certificate may be the appropriate way to

7 go."

8 Do you know to what he is referring?

9 A I don't.

10 Q And this -- the second note here appears to be a note

11 from Dr. Burton to you, forwarding Tom's note; is

12 that correct?

13 A It appears to be that, yes.

14 Q All right. And she describes a course selection for

15 a homeland cyber security focus and that she's going

16 to be talking with Dutelle to put together a proposal

17 for the department. Do you see that?

18 A I do see that.

19 Q All right. And then you write on November 19th,

20 2012: "Terrific. This sounds like progress. I'm

21 pleased for you." Is that correct?

22 A Yes.

23 Q So at this point at least, you're supporting Sabina's

24 efforts to -- at least for the course selection for a

25 homeland cyber security focus?

1 A And to take it through as a proposal for the entire  
2 department, yes.

3 Q Yeah, but you're not saying that in this e-mail, are  
4 you?

5 MS. BENSKY: Object to form.

6 THE WITNESS: That's what I'm saying, yes.

7 BY MR. HAWKS:

8 Q But you don't write that in this e-mail, do you?

9 A I don't write that in the e-mail, no.

10 Q Thank you.

11 MS. BENSKY: I just want to point out that  
12 Sabina says that that's what she is going to do, and  
13 Liz responds --

14 THE WITNESS: I am responding to her.  
15 (Exhibit 73 marked for identification.)

16 THE WITNESS: (Reviewing document.)

17 BY MR. HAWKS:

18 Q Can you describe this document?

19 A It appears to be an e-mail thread regarding -- it's  
20 entitled "Cyber Crimes."

21 Q And it appears to relate to the prior note?

22 A It appears to.

23 Q And Sabina -- Dr. Burton is following up?

24 A I don't know.

25 Q By the way, this matter, the matter that's addressed

1 Dr. Caywood had created a new procedure for handling  
2 student complaints subsequent to the breach incident?

3 A I don't recall.

4 Q Now, you write: "Thanks. I'll look into this"?

5 A I did write that.

6 Q Did you do so?

7 A I did.

8 Q What information did you obtain as a consequence?

9 A I believe I handed it to Jeanne Durr in HR asking  
10 her -- although I don't recall exactly, but I believe  
11 I asked her about what university and system policy  
12 was with regard to student complaints.

13 Q And what did she inform you?

14 A I don't remember.

15 Q And did you reply to Dr. Burton after saying, "I'll  
16 look into this"?

17 A I don't remember.

18 Q You write that a response to Tom -- Tom, you refer  
19 to, I assume, as Dr. Caywood?

20 A Yes.

21 Q -- no need to do so because it could be seen as  
22 overly sensitive?

23 A Yes.

24 Q Could you elaborate on that point, please?

25 A Dr. Burton had raised a number of different issues

1 in 72 and 73, is, in fact, related to the development  
2 of the cyber crime curriculum, isn't it?

3 MS. BENSKY: Object to form.

4 THE WITNESS: I don't know.  
5 (Exhibit 74 marked for identification.)

6 THE WITNESS: (Reviewing document.)

7 BY MR. HAWKS:

8 Q Have you had an opportunity to review Exhibit 74?

9 A I have.

10 Q All right. Can you describe what it appears to be?

11 A It appears to be an e-mail thread regarding the  
12 student complaints.

13 Q Dr. Burton writes: "I am working on an e-mail  
14 response to Tom, as his handling of the incident  
15 stresses me greatly. I supported Tom as department  
16 chair against Cheryl, for which I was harassed and  
17 threatened." Do you read that?

18 A I read that, yes.

19 Q And below that -- and she forwards also an e-mail in  
20 which she -- which contains an attachment on how to  
21 deal with student complaints.

22 Do you recall getting a copy of the  
23 attachment on how to deal with student complaints?

24 A I don't recall getting that. I may have.

25 Q Did Dr. Burton ever share with you the fact that

1 upon my -- since my arrival in June of 2012, on which  
2 I spent a fair amount of time.

3 There were no -- she offered very  
4 little proof for many of her allegations, and she  
5 certainly was sending many e-mails, many, many, many  
6 e-mails, both to me and to others, including  
7 Dr. Caywood. So my sense was that she was losing her  
8 effectiveness with her chair.

9 Q You wrote that she could be perceived as being  
10 oversensitive?

11 A Correct.

12 Q In what way, though?

13 A She appeared to me to be responding to Dr. Caywood's  
14 e-mail more intensely than perhaps she needed to.

15 Q Had Dr. Burton previously communicated to you that  
16 Dr.-- when I say "previously," I mean -- let me  
17 rephrase the question.

18 Do you recall the date of the breach  
19 incident?

20 A I don't recall the date, no.

21 Q Do you recall that Dr. Burton had referred the  
22 student who complained about Gibson's note to either  
23 HR or student affairs?

24 A My memory is that it was HR.

25 Q Okay. And do you recall that she informed Caywood

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1 the next day?

2 A I don't recall.

3 Q Okay. Do you recall Dr. Caywood being upset that she

4 had not referred the student to him?

5 A I don't recall.

6 Q So you have no memory that that was an issue?

7 A I don't recall the specifics.

8 Q All right. Going back to Exhibit 74, you close by

9 saying: "I'll see if Tom's memo conforms with

10 university system and policy"?

11 A Yes, I see that.

12 Q And did you reach a conclusion as to whether or not

13 Tom's memo conformed with university and system

14 policy?

15 A I don't recall.

16 (Exhibit 75 marked for identification.)

17 THE WITNESS: (Reviewing document.)

18 BY MR. HAWKS:

19 Q Can you describe Exhibit 75, please?

20 A It appears to be an e-mail thread regarding Roger

21 Burton.

22 Q And what is it addressing about Roger Burton?

23 A Dr. Caywood sent me an e-mail it appears, saying that

24 Roger Burton, Sabina's husband, came -- I reported,

25 came in to see me yesterday, wanted to hear both

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1 sides on a number of issues. Meeting lasted about an

2 hour.

3 Q And you wrote that it was -- that he shouldn't have

4 had the conversation. It wasn't appropriate for

5 Roger to request it; is that correct?

6 A I wrote that it was not appropriate, yes. I wrote

7 that, yes.

8 Q And what is inappropriate about Roger speaking to

9 Dr. Caywood?

10 A Roger can speak all he wishes. Dr. Caywood should

11 not be discussing personnel issues with anyone

12 outside of the university.

13 Q Even if that person has the authorization from the

14 employee?

15 A There's no suggestion that that was in place.

16 Q Is there any suggestion that it wasn't in place?

17 A I think that's up to you to prove, sir.

18 Q My question is: Do you see it one way or the other?

19 You had no information one way or the

20 other as to whether or not it was --

21 A It's not appropriate for the chair of a department to

22 discuss one of his employees with anybody outside of

23 the university without, as you -- well, I'll just put

24 a full stop there.

25 Q Without authorization you were going to say?

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1 A Without documented authorization.

2 Q Did Dr. Caywood correspond with you otherwise with

3 regard to personnel matters and his relationship with

4 Sabina without copying Sabina?

5 A I don't recall.

6 Q Did Dr. Caywood ever send you a blind carbon copy of

7 communications that he had had with Dr. Burton?

8 A I don't recall specifics.

9 Q Did you ever say to Dr. Burton that coming to you

10 doesn't solve a problem because you can't interfere?

11 A I don't recall.

12 Q Do you believe that Dr. Burton brought issues to you

13 that she should -- she should not have brought to

14 you?

15 A At times, yes.

16 Q And in any case, did she bring an issue to you that

17 she did not at first attempt to solve with

18 Dr. Caywood?

19 A I don't know.

20 Q And Dr. Caywood is your -- in a sense, your immediate

21 subordinate; is that fair?

22 A He was.

23 Q Was, thank you.

24 And as the chair of the department, he

25 has certain supervisory responsibilities over the

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1 faculty and academic staff and employees of the

2 department?

3 A As do all chairs, yes.

4 Q And if a problem can't be solved with the chair,

5 wouldn't you be the appropriate person to seek

6 resolution?

7 A Yes.

8 Q Do you believe that there's a law that prohibits a

9 chair of the department from speaking to others about

10 a personnel -- about personnel matters?

11 MS. BENSKY: Object to form, asks for a

12 legal conclusion.

13 You can answer.

14 THE WITNESS: I'm not a lawyer. I don't

15 know.

16 BY MR. HAWKS:

17 Q All right. So it's your testimony it's

18 inappropriate, not illegal?

19 A It is inappropriate and unprofessional, yes.

20 Q You never said to anybody that it was illegal before

21 for that to occur?

22 A Not that I recall.

23 (Exhibit 76 marked for identification.)

24 THE WITNESS: (Reviewing document.)

25

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1 BY MR. HAWKS:  
 2 Q Have you had a chance to review Exhibit 76?  
 3 A I have, yes.  
 4 Q Can you describe the document, please?  
 5 A It's an unsigned letter to me, apparently, two months  
 6 after I became dean regarding a dissatisfaction with  
 7 how our online courses are being graded, I think.  
 8 Q Did you respond to any of her questions in this  
 9 letter?  
 10 A I don't recall.  
 11 MS. BENSKY: Object to form --  
 12 THE WITNESS: And I don't know who her --  
 13 MS. BENSKY: -- it's not established who  
 14 wrote the letter.  
 15 (Exhibit 77 marked for identification.)  
 16 THE WITNESS: (Reviewing document.)  
 17 BY MR. HAWKS:  
 18 Q Can you describe Exhibit 77, please?  
 19 A It appears to be an e-mail thread written by various  
 20 people regarding various complaints and allegations.  
 21 Q All right. The earliest of these e-mails appears to  
 22 be from Chancellor Shields to Dr. Burton --  
 23 A It appears to, yeah.  
 24 Q -- regarding a complaint you filed against her --  
 25 A Yes, appears to be.

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1 Q -- on January 5 of 2015?  
 2 A Yes.  
 3 Q The next appears to be a communication from  
 4 Dr. Burton -- oh, to her husband, excuse me. And  
 5 then a note from Burton to John Lohmann, and then  
 6 Lohmann's response regarding a matter involving Deb  
 7 Rice.  
 8 At some point in time were you  
 9 informed that Deb Rice had made remarks very critical  
 10 against Dr. Burton?  
 11 A I was informed she made remarks.  
 12 Q All right. And did you understand that those remarks  
 13 were, if not defamatory, disparaging?  
 14 A I don't know.  
 15 Q You don't know?  
 16 A I don't know what they were precisely.  
 17 Q All right. So who informed you about the remarks  
 18 that Deb Rice made?  
 19 A I believe it was John Lohmann.  
 20 Q Okay. And when did he inform you?  
 21 A I don't recall.  
 22 Q And did you have a conversation with John Lohmann  
 23 about what should be done?  
 24 A No.  
 25 Q And following that conversation, did you have any

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1 conversations with Chair Dalecki regarding the Rice  
 2 situation?  
 3 A What do you mean?  
 4 Q Did you have any conversations with Dr. Dalecki about  
 5 the incident involving Deb Rice?  
 6 A Which incident do you mean?  
 7 Q The incident in which she made disparaging remarks.  
 8 A I don't recall. I may have.  
 9 Q All right. Did you and he discuss whether or not  
 10 something should be -- whether or not Deborah should  
 11 be subject to some sort of sanctions?  
 12 A I don't recall.  
 13 Q Did John Lohmann tell you or write to you that he  
 14 found that Deb Rice had acted inappropriately?  
 15 A I don't recall.  
 16 Q Did Dr. Dalecki inform you that he had given Deb Rice  
 17 a warning against such involvement with students in  
 18 matters in the future?  
 19 MS. BENSKY: Object to form.  
 20 THE WITNESS: I don't remember.  
 21 (Exhibit 78 marked for identification.)  
 22 BY MR. HAWKS:  
 23 Q This is a lengthier document. Do you want to take --  
 24 spend five minutes or so reading it?  
 25 A This I recall pretty clearly. (Reviewing document.)

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1 Q You're ready to go?  
 2 A Mm-hmm, yes.  
 3 Q Can you describe this document?  
 4 A It is a Chapter 6 complaint that I filed with the  
 5 chancellor, regarding Dr. Burton's increasingly  
 6 unprofessional and difficult behavior, on  
 7 January 5th, 2015.  
 8 Q Now, did you draft this complaint?  
 9 A I did.  
 10 Q Did you seek review by the HR department of this  
 11 complaint before you filed it?  
 12 A I sought legal advice.  
 13 Q What are the potential consequences of a Chapter 6  
 14 complaint?  
 15 A Well, I'm going to refer back to a different  
 16 exhibit --  
 17 Q Feel free.  
 18 A -- because the chancellor outlines what they are.  
 19 In Exhibit 77, the chancellor  
 20 indicates that he has three options: He can dismiss  
 21 the complaint in its entire -- well, dismiss the  
 22 complaint; two, he can invoke appropriate  
 23 disciplinary action; or he can refer the complaint to  
 24 the faculty complaints and grievances committee.  
 25 Q Okay. If he invokes -- what is the range of

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<p>1 appropriate disciplinary action he can invoke?</p> <p>2 A I believe that's up to him.</p> <p>3 Q Well, what is the minimum to the maximum? Do you</p> <p>4 know what the range is?</p> <p>5 A I don't know.</p> <p>6 Q Could it be as little as -- it could be a dismissal?</p> <p>7 A Could be a dismissal.</p> <p>8 Q Could be a letter of reprimand?</p> <p>9 A It could.</p> <p>10 Q Could be a suspension?</p> <p>11 A I suppose.</p> <p>12 Q The suspension could be of undetermined length.</p> <p>13 Could be for a semester. Is that -- you have to say</p> <p>14 "yes" or "no."</p> <p>15 A I suppose so.</p> <p>16 Q All right. And the chancellor can convert this from</p> <p>17 a Chapter 6 complaint to a Chapter 4 complaint too,</p> <p>18 can't he?</p> <p>19 A I don't know.</p> <p>20 Q A Chapter 4 complaint would be a complaint that would</p> <p>21 lead to termination; isn't that true?</p> <p>22 A I don't know.</p> <p>23 Q Are you familiar with the procedure -- the</p> <p>24 university's -- the UW system or the UW-Platteville</p> <p>25 constitutional provisions relating to complaints</p>	<p>1 allegations with a factual basis.</p> <p>2 In fact, she had filed a grievance</p> <p>3 against Dr. Dalecki, had she not?</p> <p>4 A I believe so.</p> <p>5 Q And do you recall whether or not that grievance ever</p> <p>6 was scheduled for a hearing?</p> <p>7 A I believe she withdrew it.</p> <p>8 Q And that was after the -- after she had filed her</p> <p>9 complaint with the Equal Rights Division?</p> <p>10 A I don't know.</p> <p>11 Q Do you think Dr. Dalecki is unable to defend himself</p> <p>12 from the criticisms or allegations of Dr. Burton?</p> <p>13 MS. BENSKEY: Object to form.</p> <p>14 THE WITNESS: I don't understand your</p> <p>15 question.</p> <p>16 BY MR. HAWKS:</p> <p>17 Q Dr. Dalecki is free to reply to Dr. Burton's e-mails,</p> <p>18 is he not?</p> <p>19 A Yes.</p> <p>20 Q Could you identify each and every subject matter</p> <p>21 described by Dr. Burton's -- Dr. Burton's campaign</p> <p>22 against Dr. Dalecki?</p> <p>23 A Not in specificity.</p> <p>24 Q In general. What did she complain about?</p> <p>25 A In Exhibit C she writes -- excuse me. Let me refer</p>
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<p>1 calling for the dismissal of a tenured faculty</p> <p>2 member?</p> <p>3 A No.</p> <p>4 Q You attached several exhibits to this complaint,</p> <p>5 correct?</p> <p>6 A Correct.</p> <p>7 Q Would you refer to Exhibit A, please?</p> <p>8 A Yes.</p> <p>9 Q Exhibit A is your letter of direction?</p> <p>10 A Correct.</p> <p>11 Q Okay. In the letter of direction, Item 1 reports</p> <p>12 that you've "received dozens of your e-mails since</p> <p>13 May 2014, in which you have made serious accusations</p> <p>14 against Dr. Dalecki and have claimed that he has</p> <p>15 abused you."</p> <p>16 Can you produce copies of those</p> <p>17 e-mails?</p> <p>18 A I believe I have.</p> <p>19 Q All right. So you have provided to the -- your</p> <p>20 counsel all the copies of e-mails you received from</p> <p>21 Dr. Burton making what you would believe to be</p> <p>22 serious accusations or claiming that he had abused</p> <p>23 her; is that correct?</p> <p>24 A I believe so, yes.</p> <p>25 Q You write that she has -- she has failed to support</p>	<p>1 to it.</p> <p>2 In Exhibit C and D to my letter of</p> <p>3 direction, Dr. Burton argues that Dr. Dalecki and</p> <p>4 Dr. Zauche are close friends, and she accuses</p> <p>5 Dr. Zauche as somehow unsupported.</p> <p>6 She makes a claim about whoever --</p> <p>7 Exhibit D on the first -- the final paragraph --</p> <p>8 "whoever has financially benefited from him," meaning</p> <p>9 Dr. Dalecki. I don't know what that means.</p> <p>10 She implies a number of things about</p> <p>11 Dr. Dalecki that she provides no proof for.</p> <p>12 Q Now where are you referring?</p> <p>13 A I'm referring to that specific sentence. I will read</p> <p>14 it to you.</p> <p>15 Q No. What --</p> <p>16 A It's on Exhibit D of my letter of direction.</p> <p>17 Q I'm not on Exhibit D. Let me get there. Okay.</p> <p>18 A The final paragraph.</p> <p>19 "Regarding the statement that" -- and</p> <p>20 this is to Dr. Zauche from Dr. Burton.</p> <p>21 "Regarding the statement that you</p> <p>22 don't face any opposition in the CJ department, well,</p> <p>23 you don't have any support either except from your</p> <p>24 friend and whoever has financially benefited from</p> <p>25 him."</p>

10/28/2015

Elizabeth Throop, Ph.D.

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1 This is a statement about Dr. Dalecki  
2 with absolutely no evidence. I don't even know what  
3 she means by that, but she seems to be accusing  
4 Dr. Dalecki of something. So there's one right  
5 there. And this is -- so there's a very typical  
6 accusation against Dr. Dalecki.

7 She also, on the second page of her  
8 e-mail to Dr. Zauche, which is Exhibit D, in the  
9 second full paragraph, "Then he convinced his friend,  
10 Dr. Troop, to make him chair, and now he has you, his  
11 other friend, chairing the search for the position he  
12 so badly wants."

13 There's no evidence for those  
14 statements.

15 Q There's no evidence -- okay. When you're finished  
16 with your answer, I'll ask another question.

17 A Your question is concerning the numerous statements  
18 that Dr. Burton has made about Dr. Dalecki?

19 Q That is correct.

20 A She continues to argue about whether -- she continues  
21 to make allegations about Dr. Dalecki and friendships  
22 with Dr. Zauche.

23 I find -- and this had been going on  
24 from -- certainly from about -- from the spring of  
25 '14 continuously. I had been getting e-mails

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1 accusing Dr. Dalecki of a number of different things  
2 where there was really -- there was -- she provided  
3 absolutely no evidence for a great deal of what she  
4 accused Dr. Dalecki of.

5 Q Now, you know Dr. Zauche?

6 A I do know him, yes.

7 Q And you know Dr. Dalecki?

8 A I do.

9 Q Are they friends?

10 A I don't know.

11 Q And have you asked -- have you asked them whether  
12 they're friends?

13 A No.

14 Q Have you -- did you ask Dr. Burton whether or not in  
15 her presence each of them have told her they are  
16 friends?

17 A No.

18 Q And if they had said that to her, then it would be a  
19 substantiated, not an unsubstantiated statement?

20 A It would, yes.

21 Q The chair of the department has the ability to make  
22 certain -- make -- to assign, among other things,  
23 supervision of summer interns; isn't that true?

24 A Yes. I believe that's how they do it, yes.

25 Q And there's compensation associated with that?

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1 A There is, yes.

2 Q So the chair of the department is in a position to  
3 affect the incomes of the members of the department?

4 A Yes.

5 Q And in that way, the chair of the department --  
6 excuse me. Rephrase the question.

7 In that way, the members of the  
8 department can be financially benefited by the chair  
9 of the department?

10 A Yes.

11 Q All right. And you've read Dr. Burton's complaint?

12 A Yes.

13 Q And you -- then you understand she alleges that  
14 Dr. Dalecki has assigned, and his predecessor have  
15 assigned, those sorts of activities discriminatorily?

16 A I don't recall.

17 Q It said -- can you identify another case in which a  
18 department conducted a search for a chair in which  
19 the search committee was chaired by somebody from  
20 outside the department?

21 A Oh, yes.

22 Q Can you identify one or two examples?

23 A I chaired a search committee when I was a department  
24 chair for a separate department, so I was an outside  
25 committee member, actually chair.

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1 Q At UW-Platteville?

2 A No, no. When I was a department chair myself.

3 Q At UW-Platteville.

4 A During my time I don't recall that, no.

5 Q The criminal justice department is a significant  
6 department in -- at the University of  
7 Wisconsin-Platteville?

8 A It's large, yes.

9 Q All right. Okay. So you've described one kind of --  
10 one sort of complaint that Dr. Burton had between May  
11 of 2014 and the date of this letter.

12 What other complaints had she made?

13 A Dr. Burton wrote numerous e-mails in April and June  
14 of 2014 regarding the visit of a delegation from a  
15 German university in which she makes numerous  
16 statements about Dr. Dalecki's general badness. And  
17 that's all I can recall at this point.

18 Q So we've got that issue. Are there others?

19 A There were hundreds, sir, which I've provided to  
20 counsel.

21 Q Well, e-mails.

22 A Yes.

23 Q I'm asking you to categorize them. So we're  
24 talking --

25 A His professional --

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1 Q We're talking another case about the German  
 2 delegation.  
 3 A German delegation.  
 4 Q What else?  
 5 A She's complained about her course distribution, in  
 6 other words, her teaching assignments. She's  
 7 complained about internships. She's complained --  
 8 what else has she --  
 9 She's complained about forensic  
 10 investigation in general, the major forensic  
 11 investigation. She has complained about how  
 12 Dr. Dalecki was appointed as chair.  
 13 She's complained about many, many,  
 14 many things.  
 15 Q Well, the complaint about forensic investigation that  
 16 you described, that wasn't a complaint against  
 17 Dr. Dalecki, was it?  
 18 A It was a complaint about how he was managing the --  
 19 Q The forensic investigation?  
 20 A -- the program, yes.  
 21 Q All right. And returning to Exhibit A, paragraph 2.  
 22 A Yes.  
 23 Q You refer to a letter that she wrote on June 6th of  
 24 2014 to the criminal justice department?  
 25 A Yes.

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1 Q In that letter she refers, does she not, to the  
 2 sudden departure of two of the faculty of the  
 3 criminal justice department?  
 4 A Let me find it. Let me find that document. Is that  
 5 document attached to this?  
 6 It does not appear to be attached to  
 7 this document, so I can't comment on it without it  
 8 being in front of me. Is it in another e-mail?  
 9 Q In your complaint can you identify what you accuse  
 10 Dr. Burton of doing that is insubordinate?  
 11 A Exhibit B.  
 12 Q Which is?  
 13 A Exhibit B to the complaint, which is an e-mail thread  
 14 from me to Dr. Burton and her response, in which she  
 15 says: "I cannot accept your letter of direction  
 16 dated October 28th, 2014."  
 17 Q Under what authority do you write a letter of  
 18 direction?  
 19 A I am the supervisor of the unit, the college. I have  
 20 an obligation to attempt to have the college running  
 21 smoothly and the departments running smoothly.  
 22 Q You understand that at this time the state statutes  
 23 provided that faculty had primary responsibility for  
 24 faculty personnel matters?  
 25 A I have --

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1 MS. BENSKY: Object as calls for a legal  
 2 conclusion.  
 3 THE WITNESS: I'm not going to make a legal  
 4 conclusion.  
 5 BY MR. HAWKS:  
 6 Q What is your understanding as to shared governance in  
 7 the University of Wisconsin system?  
 8 A My letter of direction is an attempt to counsel  
 9 Dr. Burton to better behavior. It is not a  
 10 disciplinary action.  
 11 Q Do you know Ray Spoto?  
 12 A Yes.  
 13 Q Are you familiar with the case in Dane County  
 14 entitled Spoto versus UW-Platteville?  
 15 A I've heard that it exists.  
 16 Q But that's all you heard --  
 17 A That's all I know about it, yeah. Long before my  
 18 time.  
 19 Q Did faculty have primary responsibility -- strike  
 20 that.  
 21 Dr. Burton filed a grievance regarding  
 22 the letter of direction, did she not?  
 23 A Yes, I believe she did.  
 24 Q And had that grievance been heard, scheduled and  
 25 heard -- do you recall -- strike that question.

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1 Do you recall when that grievance was  
 2 filed?  
 3 A I believe it's in here. May I look?  
 4 Q Sure.  
 5 A She must have filed it sometime before December 10th,  
 6 2014.  
 7 Q Had that grievance been heard, the faculty committee  
 8 would have been able to make a determination as to  
 9 whether or not Dr. Burton had acted in a manner which  
 10 was insubordinate or, for that matter, whether or not  
 11 you would have -- excuse me, you would have had the  
 12 authority to issue the letter of direction, correct?  
 13 MS. BENSKY: Object to form.  
 14 THE WITNESS: I don't know.  
 15 BY MR. HAWKS:  
 16 Q And the committee would have had an opportunity to  
 17 determine whether or not the facts that you relied  
 18 upon in order to issue the letter of direction were  
 19 substantiated?  
 20 A I don't know.  
 21 Q Can you identify the violations of the employee  
 22 handbook of which you accuse Dr. Burton of in your  
 23 complaint of January 5, 2015?  
 24 A Not without the handbook in front of me.  
 25 Q Under what authority -- under what authority do you

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<p>1 order some -- a tenured faculty member to recuse 2 themselves from a search committee? 3 A I asked that she recuse herself. 4 Q So you are not accusing her of being insubordinate 5 because you didn't direct her to recuse herself, is 6 that correct, with regard to this matter? 7 A I'm not sure. 8 Q You're not sure about what? 9 A Insubordinate. I think that calls for a legal 10 conclusion that I'm not prepared to give. 11 Q Well, just to make clear then, you made a request of 12 her. You did not direct her to recuse herself? 13 A I asked and she agreed to recuse herself. 14 Q And she subsequently declined -- she subsequently 15 reversed her position on -- 16 A She did. 17 Q Okay. Did you at that point direct her? Did you 18 change your position from a request to a direction 19 that she recuse herself? 20 A I removed her from the committee. 21 Q How so? 22 A I removed her. I notified her that I was going to 23 remove her from the committee. 24 Q And under what authority do you remove a tenured 25 faculty member from a search and screen committee?</p>	<p>1 situation in which you first met him? 2 A The dean position carries with it tenure in a 3 department and an appointment as a full professor. 4 He was in the social sciences department, which would 5 be my home department, should I have gotten the job. 6 Q Okay. I understood sociology -- is it sociology or 7 social science? 8 A It's social science. 9 Q Social science. 10 A At that time it was called social sciences. 11 Q And did you end up in the social sciences department 12 then? 13 A Yes. 14 Q Is that your departmental home? 15 A Yes, it is. 16 Q Do you teach any courses? 17 A I do not, except on an emergency basis. 18 Q What courses could you teach in that department? 19 A I could teach all of the anthropology courses. I 20 could teach pretty much all of the sociology courses. 21 Q Okay. Have you attended sociology department 22 meetings? 23 A No. 24 Q Other than occasional visits -- 25 A No.</p>
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<p>1 A I chose to do it. 2 Q With what authority do you have? 3 A My authority as dean. 4 Q All right. And did you consult with the faculty of 5 the criminal justice department before exercising 6 that authority? 7 A No. 8 Q Did you consult with the chair of the criminal 9 justice department before exercising your authority? 10 A No. No. 11 Q Now, Dr. Dalecki had twice applied for membership in 12 the department and had been rejected by the 13 department on both cases; isn't that true? 14 A I don't know. 15 Q Hasn't Dr. Burton informed you or written to you that 16 he has twice been -- he has twice applied and twice 17 been denied? 18 A She's made the allegation, yes. 19 Q Well, are you saying that that's an allegation? Are 20 you denying that that's a fact? 21 A I don't know. 22 Q When did you first meet Dr. Dalecki? 23 A I believe it was during my campus interview. So that 24 would have been sometime in spring of '12. 25 Q All right. And in what capacity or what was the</p>	<p>1 Q -- or not at all? 2 A I believe I visited once in my first year as a 3 "Hello, here I am." 4 Q Okay. How large a department is that? 5 A At the time -- I -- 15. Maybe more -- 6 Q And how -- 7 A -- of faculty and academic staff. 8 Q How large is it today? 9 A Roughly nine, I think. May I amend? 10 The department split from history as 11 part of a reorganization. So history had been 12 included in social sciences and they became separate 13 departments. 14 Q All right. With what frequency would you say you had 15 interactions with Dr. Dalecki in your first year of 16 employment? 17 A Once maybe. 18 Q And in your second year of employment? 19 A More frequently. I probably met with him -- because 20 that was when he became chair, I believe. Let me 21 refresh my memory. 22 Yes. I meet with all department 23 chairs on a monthly and sometimes more often basis. 24 So I meet -- for example, with the larger 25 departments, I meet twice a month, the chairs of</p>

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1 those departments.  
 2 Q And in the third year of your employment?  
 3 A Same.  
 4 Q Okay. In the first year of your employment did you  
 5 have any other communications with Dr. Dalecki other  
 6 than --  
 7 A There may have been a couple e-mails back and forth  
 8 about a faculty meeting that we had in October of  
 9 '12.  
 10 Q Socialize with him at all?  
 11 A I don't believe so.  
 12 Q Golf with him ever?  
 13 A I once -- I've golfed with him once.  
 14 Q And when was that?  
 15 A I don't recall.  
 16 Q And --  
 17 A Not recently.  
 18 Q And was that in association with some sort of event?  
 19 A I don't believe so. I don't -- no. I don't believe  
 20 so, no.  
 21 Q Okay. And would that have been in the first year of  
 22 your employment?  
 23 A I don't recall. I don't think so, but I don't  
 24 recall.  
 25 Q Please state each and every reason why you -- why you

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1 chose to unilaterally appoint Dr. Dalecki as an  
 2 interim chair of the department.  
 3 MS. BENSKY: Object to form.  
 4 THE WITNESS: After Dr. Caywood resigned as  
 5 chair, one, I asked Dr. Caywood for a recommendation  
 6 as to who he thought could serve as an interim chair  
 7 of the department, and his response was Dr. Dalecki.  
 8 I spoke with Cheryl  
 9 Banachowski-Fuller, and she agreed he would be an  
 10 appropriate chair on an interim basis.  
 11 I consulted with the chancellor and  
 12 with the provost. Consulted with HR. I consulted  
 13 with system legal.  
 14 BY MR. HAWKS:  
 15 Q Is that each -- is that every reason why, the basis  
 16 of those recommendations --  
 17 A And the fact that he, in fact, had taught juvenile  
 18 delinquency and therefore had some understanding of,  
 19 in a broad-based way, the field of criminal justice.  
 20 Q Any other reason?  
 21 A Those were the primary ones.  
 22 Q Dr. Burton had prior experiences with Dr. Dalecki?  
 23 Do you understand that to be the case?  
 24 MS. BENSKY: Object to form, vague.  
 25 THE WITNESS: I don't know.

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1 BY MR. HAWKS:  
 2 Q Please refer to the second page of the complaint.  
 3 It's not numbered, so -- of this exhibit. Do you  
 4 have it?  
 5 In the fourth emboldened line you use  
 6 the expression, "Solving problems on the most local  
 7 level possible." Do you see that?  
 8 A I do.  
 9 Q And you refer next then to a complaint against Deb  
 10 Rice?  
 11 A Yes.  
 12 Q Now, that would be the complaint, would it not, that  
 13 Deb Rice had accused Dr. Burton of being mentally  
 14 unstable?  
 15 A I don't know the -- I never saw the complaint.  
 16 Q So how did you know to refer to it then?  
 17 A I was told that Dr. Burton had filed a complaint with  
 18 HR for defamation. I wasn't told the specifics of  
 19 it.  
 20 Q But how could that be inappropriate, if, in fact, she  
 21 had been defamed?  
 22 A That -- seems to me "defamation" is a legal  
 23 conclusion I can't draw.  
 24 Q Yeah, okay, but my question to you is: How can you  
 25 not know about the substance of a complaint and then

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1 use that complaint as a basis for an allegation of  
 2 misconduct by an employee?  
 3 A Dr. Burton chose to not talk with Professor Rice  
 4 first.  
 5 Q And you -- do you have -- strike that.  
 6 Are you saying that as we sit here  
 7 today, you don't know what Dr. Burton accused -- or  
 8 Dr. Burton understood to be the disparaging remarks  
 9 made by Deb Rice?  
 10 A I've only heard that it had to do with her being East  
 11 German. That's all I've heard.  
 12 Q That's all you've heard?  
 13 A Yes.  
 14 Q If Deb Rice had said to students that Sabina Burton  
 15 was mentally unstable, would you consider that  
 16 inappropriate?  
 17 A Yes, I would.  
 18 Q If Deb Rice had said in the presence of students that  
 19 Burton would no -- would not be around much longer,  
 20 would that be inappropriate?  
 21 A Yes.  
 22 Q If Deb Rice said in the presence of students that  
 23 Burton had antipathy towards East Germans, would that  
 24 be inappropriate?  
 25 A Yes.

1 Q All right. And would those be matters appropriately  
2 brought to the attention of the HR department?  
3 A Once an attempt at discussion was made with the  
4 person uttering those things.  
5 Q And do you know anything about the history or  
6 relationship between Rice and Burton?  
7 A No.  
8 MR. HAWKS: I'm going to suggest that we  
9 break a little early for lunch today.  
10 MS. BENSKY: That's fine.  
11 MR. HAWKS: If we can come back around  
12 12:30 or 12:45. I don't know what your schedule's  
13 looking like.  
14 MS. BENSKY: Yeah, that's fine.  
15 (A lunch break was taken from 11:48 a.m. to 12:31 p.m.)  
16 BY MR. HAWKS:  
17 Q In your letter of complaint -- or in your complaint,  
18 you wrote that Dr. Burton's actions constitute  
19 disruptive behavior.  
20 What actions specifically are you  
21 referring to?  
22 A And on which page are you looking? You want just on  
23 the front page?  
24 Q Front page, yes.  
25 A Her continual e-mailing her colleagues in her

1 department with accusations, vitriol and demands,  
2 disrupted in significant ways the basic functioning  
3 of the criminal justice department.  
4 Q And when you say it's disruptive to basic  
5 functioning, can you identify how it has disrupted  
6 basic functioning?  
7 A The chair had to spend many hours focused on her  
8 demands and her accusations instead of helping  
9 students, instead of being able to provide guidance  
10 to the probationary faculty members, and from just  
11 getting on with the business of educating our  
12 students.  
13 Q And the -- so the disruption is that which involved  
14 the chair?  
15 A And as well as her colleagues having to respond to  
16 her accusations.  
17 Q What colleagues had to respond to her allegations?  
18 A Dr. Pat Solar had to respond to her allegations about  
19 alleged illegal search behavior on her behalf. It  
20 upset him quite a bit when she threatened his tenure.  
21 Q You say alleged illegal behavior.  
22 Did you actually investigate the  
23 matter to determine whether or not the search --  
24 A I relied on -- I'm sorry. I spoke over you.  
25 Q Did you actually investigate the matter to determine

1 whether or not the job description that was drafted  
2 by Patrick Solar violated department rules?  
3 A I did not investigate.  
4 Q Can you identify any documentary evidence to support  
5 the view that Burton's biased against Dalecki?  
6 A Her entire e-mail record.  
7 Q By "her entire e-mail record," what do you mean?  
8 A Every mention she makes of Dr.-- let me take that  
9 back.  
10 She mentions many times in e-mails to  
11 me, to the chancellor, to her colleagues, that she  
12 does not think that Mike Dalecki is qualified for  
13 very much of anything.  
14 Q And so that is why you say she's biased against him?  
15 A Yes -- I'm sorry.  
16 (Exhibit 79 marked for identification.)  
17 THE WITNESS: (Reviewing document.)  
18 BY MR. HAWKS:  
19 Q Can you describe this document, please?  
20 A Appears to be an e-mail thread regarding the chair  
21 search committee from December of 2014.  
22 Q I believe that you write in this document, one of the  
23 notes in this document, that because of your -- "That  
24 this is because of your documented prejudgment of his  
25 ability to serve as chair." She responds by asking

1 you to identify the documentation of her prejudgment.  
2 Did you ever respond to that request?  
3 A Where are you referring? I think I see it.  
4 Q I'm relying on notes, not the actual location.  
5 A Looks like page 2.  
6 Q Okay. Can you identify or quote the phrase?  
7 A It looks like, what, paragraph 4 of her e-mail?  
8 Q Mm-hmm.  
9 A Yeah.  
10 Q Paragraph 2, where it reads: "Please identify or  
11 send me the documentation of my prejudgment that you  
12 reference in your e-mail."  
13 A Yes.  
14 Q Did you reply to her request?  
15 A No.  
16 Q Would that documentation be in the responses to the  
17 discovery requests that we filed with the -- with  
18 your lawyers?  
19 A I would assume so.  
20 Q Okay. So whatever's there is what we would have.  
21 A Yes.  
22 Q Okay. Isn't it true that you placed Burton on the  
23 chair search committee yourself?  
24 A Upon the recommendation of the department, if my  
25 memory serves correctly.

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<p>1 Q And approximately when would that have occurred?</p> <p>2 A August or September of 2014.</p> <p>3 Q And when did you first make your demand that she</p> <p>4 remove herself from the committee -- or actually make</p> <p>5 a request that she remove herself from the committee?</p> <p>6 A I don't believe I made that request.</p> <p>7 Q What was your request with regard to her</p> <p>8 participation on the committee?</p> <p>9 A That she recuse herself from any discussion of</p> <p>10 Dr. Dalecki's candidacy.</p> <p>11 Q And when did you first make that request?</p> <p>12 A It appears it was December 5th, 2014.</p> <p>13 Q Who was the most -- at the time that -- while Burton</p> <p>14 was on the committee, wasn't she the most senior</p> <p>15 experienced faculty member of the department on that</p> <p>16 committee?</p> <p>17 A On the committee, yes.</p> <p>18 Q Do you recall who else was on the committee?</p> <p>19 A I believe Dr. Rex Reed. Chief of campus police,</p> <p>20 Scott Marquardt. There was a student named Ashley.</p> <p>21 I don't recall her last name.</p> <p>22 There may have been other members and</p> <p>23 I don't recall who else was on there.</p> <p>24 Q Are you aware that Dr. Caywood sat on Dr. Burton's</p> <p>25 DRB committee in January of 2015?</p>	<p>1 A We try, if it's possible, yes.</p> <p>2 Q And they try again?</p> <p>3 A And they try again.</p> <p>4 Q And they appoint someone else, and then the</p> <p>5 chancellor, the dean -- and the provost?</p> <p>6 A The provost especially, as the chief academic</p> <p>7 officer.</p> <p>8 Q -- would review that decision?</p> <p>9 A Ultimately the chancellor makes the decision and</p> <p>10 makes the appointment.</p> <p>11 Q And as I understand, the University of</p> <p>12 Wisconsin-Platteville constitution bylaws require the</p> <p>13 department to vote once every three years for their</p> <p>14 chair?</p> <p>15 A I believe that's correct.</p> <p>16 Q And had that vote been conducted during the three</p> <p>17 years -- at any time during the three years that you</p> <p>18 were dean?</p> <p>19 A I don't know.</p> <p>20 Q Dr. Zauche wrote that he declined to take the</p> <p>21 position as chair twice; is that correct?</p> <p>22 A Not to my memory.</p> <p>23 Q What is your memory?</p> <p>24 A He agreed.</p> <p>25 Q At the first time?</p>
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<p>1 A I don't recall that specifically.</p> <p>2 Q Okay. Dr. Caywood is a defendant in this lawsuit, is</p> <p>3 he not?</p> <p>4 A Mm-hmm -- yes. Yes.</p> <p>5 Q Do you think it's a conflict of interest for</p> <p>6 Dr. Caywood to serve on a DRB involving Dr. Burton?</p> <p>7 A I'm not sure I'm qualified to make that judgment.</p> <p>8 Q Isn't it true that the University of</p> <p>9 Wisconsin-Platteville faculty decide who their chair</p> <p>10 is for each department?</p> <p>11 A No, it's not true.</p> <p>12 Q How is -- how are department chairs typically</p> <p>13 determined at University of Wisconsin-Platteville?</p> <p>14 A Typically they are -- the department recommends a</p> <p>15 chair via vote, and the dean must consent.</p> <p>16 Q Okay. So it's -- it requires an agreement of the</p> <p>17 faculty and the dean?</p> <p>18 A Generally speaking, yes.</p> <p>19 Q Okay. What exceptions would there be?</p> <p>20 A If the candidate is not acceptable for chair to the</p> <p>21 dean or to the provost and chancellor, we try again.</p> <p>22 Q So you send it back to the committee?</p> <p>23 A We try.</p> <p>24 Q Or to the department, I'm sorry. Send it back to the</p> <p>25 department?</p>	<p>1 A As I remember it, yes.</p> <p>2 Q So you're saying his written statement to the</p> <p>3 contrary is an untrue --</p> <p>4 A I don't recall --</p> <p>5 MS. BENSKY: Where is his written</p> <p>6 statement?</p> <p>7 MR. HAWKS: I'll retrieve it later. It's</p> <p>8 not in this exhibit.</p> <p>9 MS. BENSKY: Then I object to the question</p> <p>10 because it hasn't been established that he made that</p> <p>11 statement.</p> <p>12 MR. HAWKS: It's in his e-mail,</p> <p>13 December 8th, 2014 at 11:03 p.m., where he wrote: "I</p> <p>14 declined the offer to serve as chair two times, but</p> <p>15 at the end, I serve at the discretion of the dean."</p> <p>16 (Exhibit 80 marked for identification.)</p> <p>17 THE WITNESS: (Reviewing document.)</p> <p>18 MS. BENSKY: Okay. It's on the third page</p> <p>19 of this.</p> <p>20 BY MR. HAWKS:</p> <p>21 Q Dean Throop, could you please refer to the bottom of</p> <p>22 page 2 and identify the author of that e-mail</p> <p>23 message?</p> <p>24 A Dr. Tim Zauche.</p> <p>25 Q And could you refer to the last paragraph of that</p>

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1 e-mail message? And does he write there: "I  
2 declined the offer to serve as chair two times, but  
3 at the end, I serve at the discretion of the dean"?

4 A He does write that.

5 Q And are you saying that's untrue?

6 A I'm saying I don't remember that.  
7 (Exhibit 81 marked for identification.)

8 MR. HAWKS: Excuse me, that may be -- that  
9 is not the one I want right now.  
10 (Discussion was held off the record.)  
11 (Exhibit 81 remarked for identification.)

12 BY MR. HAWKS:

13 Q Can you refer back to the letter of direction,  
14 please?

15 A What exhibit number is that?

16 Q That's 76, Exhibit A.

17 A No, that's not --  
18 MS. BENSKY: 78, Exhibit A.  
19 THE WITNESS: That's the Chapter 6  
20 complaint.  
21 I don't see the letter of direction  
22 itself.  
23 MR. HAWKS: Exhibit A.  
24 MS. BENSKY: Exhibit A.  
25 THE WITNESS: Oh, 78 okay. So it doesn't

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1 include the exhibits on it, the exhibits to the  
2 letter of direction.

3 BY MR. HAWKS:

4 Q Referring first to Exhibit 81, you see an e-mail --  
5 it is an e-mail chain?

6 A Yes.

7 Q And in the -- in the middle of that page, the note is  
8 from Dr. Burton to you, and she asks you about a  
9 letter -- about an e-mail that you referenced of  
10 October 2 at 8:40 p.m. and writes that she doesn't  
11 have it.  
12 And you respond by saying that there  
13 is no reference to an October 2, 2014 e-mail in your  
14 letter of direction. Do you see that?

15 A I do.

16 Q And if you refer to paragraph 1 of the letter of  
17 direction, second to last line of that paragraph, do  
18 you see the statement there, "Such as the e-mail of  
19 October 2 at 8:40 p.m."?

20 A I do.

21 Q So your statement, your reply, on Exhibit 81 is  
22 incorrect?

23 A I -- yes. I responded too quickly.

24 Q All right. And I assume we have that letter  
25 someplace else in the file, but in any event, your

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1 reply to Dr. Burton on that point was incorrect.  
2 And did you ever, by the way, correct  
3 it?

4 A I believe I did, yes.

5 Q When?

6 A With -- I sent her the e-mail.

7 Q My question is: When did you correct it?

8 A I don't recall.

9 Q And there'd be a copy of that e-mail in the records  
10 too that we received --

11 A Should be, yes.

12 Q Now, were you aware that that letter had been deleted  
13 from Dr. Burton's e-mail account?

14 A No.

15 Q Now, you were present when the department discussed  
16 and voted on the question of whether or not to extend  
17 Dr. Dalecki's interim chairmanship for an additional  
18 year that was on August 29th, 2014, were you not?

19 A I was present at that meeting, yes.

20 Q And you were present during the time the department  
21 discussed or debated this question; is that true?

22 A I'd have to look at the minutes.

23 Q Okay. Do you remember the discussion or debate of  
24 October 29th, 2014?

25 A Vaguely.

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1 Q Was there some reason why you stayed? Was there some  
2 reason why you stayed during the course of that  
3 discussion?

4 A We were discussing more generally the search process  
5 for a new chair.

6 Q Do you think your presence influenced the discussion?

7 A I have no idea.

8 Q I just want to read back and make sure -- which  
9 department members did you say recommended Zauche as  
10 chair?

11 A Nobody.

12 Q So no one in the department recommended --

13 A I didn't say -- I would need to get the minutes in  
14 front of me.  
15 MS. BENSKY: It's Exhibit 78, and then  
16 Exhibit F within that.  
17 THE WITNESS: Thank you. (Reviewing  
18 document.)

19 BY MR. HAWKS:

20 Q Let us know when you complete your review of that  
21 exhibit.

22 A I've completed it.

23 Q The question I think to you right now is: Who in the  
24 department recommended to you that Professor Timothy  
25 Zauche be the chair of the search and screen

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<p>1 committee?</p> <p>2 A I'd have to speculate as to who it is.</p> <p>3 Q Okay. So -- okay. In Exhibit 78 you write, or you</p> <p>4 wrote, that Dr. Burton has threatened Dr. Pat Solar</p> <p>5 with adverse consequences towards his progress</p> <p>6 towards tenure because she believes incorrectly that</p> <p>7 the faculty searches this year were conducted</p> <p>8 illegally.</p> <p>9 Did you ever investigate Dr. Burton's</p> <p>10 allegations against Dr. Solar?</p> <p>11 A No.</p> <p>12 Q Did you ever ask Dr. Burton to explain her points?</p> <p>13 A I didn't have to.</p> <p>14 Q Did you ask her --</p> <p>15 A She did.</p> <p>16 Q Did you ask her for her proof?</p> <p>17 A She provided it.</p> <p>18 Q So then how -- then on what basis do you allege that</p> <p>19 her beliefs are incorrect?</p> <p>20 A Advice of counsel.</p> <p>21 Q Does the university have a policy that prohibits</p> <p>22 Dr. Burton from filing an official complaint against</p> <p>23 someone who tells students that she is mentally ill?</p> <p>24 A Not that I know of.</p> <p>25 Q So provide the reasons for your decision to reprimand</p>	<p>1 Q All right. Did you have a meeting with or a</p> <p>2 conversation with Director Lohmann -- HR Director</p> <p>3 Lohmann, in which you agreed that the issue with Rice</p> <p>4 had to move forward?</p> <p>5 A I don't recall.</p> <p>6 Q Do you recall a meeting in which you were informed</p> <p>7 that Rice had refused to apologize and that therefore</p> <p>8 the issue had to move forward?</p> <p>9 A I vaguely recall that, yes.</p> <p>10 Q So it's something you have -- you would say is</p> <p>11 probably true?</p> <p>12 A Probably.</p> <p>13 Q Yeah. Did it move forward?</p> <p>14 A I don't know.</p> <p>15 Q Do you know whether or not Rice was reprimanded?</p> <p>16 A I do not know.</p> <p>17 Q Did Dr. Rice share with you the names of the students</p> <p>18 who informed her, falsely, that Dr. Burton had</p> <p>19 canceled her last class the first semester?</p> <p>20 A She may have.</p> <p>21 Q Do you have -- do you remember who they are?</p> <p>22 A I don't. I'm sorry.</p> <p>23 Q So you had made a finding in your e-mail of</p> <p>24 December 12th, 2014 that Burton had skipped class and</p> <p>25 you said in that e-mail that she would be</p>
<p>Page 102</p> <p>1 Dr. Burton for filing an official complaint against</p> <p>2 Deb Rice for saying that Burton was mentally ill.</p> <p>3 MS. BENSKY: Object to form, misstates the</p> <p>4 record.</p> <p>5 THE WITNESS: I didn't do that.</p> <p>6 MR. HAWKS: Could you read the last</p> <p>7 question back to me, please?</p> <p>8 (Previous question read back by court reporter.)</p> <p>9 BY MR. HAWKS:</p> <p>10 Q Okay. Please refer again to Exhibit 78.</p> <p>11 Do you have that in front of you?</p> <p>12 A Yes.</p> <p>13 Q And in terms of -- you make an allegation in the</p> <p>14 complaint that Dr. Burton violated the letter of</p> <p>15 direction Point No. 1; isn't that true?</p> <p>16 A It is.</p> <p>17 Q And you base that -- you base that allegation of</p> <p>18 misconduct on Burton's part on the fact that she's</p> <p>19 filed a complaint against Deb Rice; isn't that true?</p> <p>20 A Rather than dealing with the problem with Dr.-- with</p> <p>21 Professor Rice first.</p> <p>22 Q Did you ever speak to Deb Rice -- I may have asked</p> <p>23 this before. If so, I apologize -- about this</p> <p>24 incident?</p> <p>25 A I don't believe I did.</p>	<p>Page 104</p> <p>1 disciplined, that you would discipline her.</p> <p>2 Would you agree that the best evidence</p> <p>3 of whether or not -- by an uninterested party, of</p> <p>4 whether or not the classes were met were the students</p> <p>5 who attended them?</p> <p>6 A I'm sorry. Say that again.</p> <p>7 Q Would you agree, in terms of something Dr. Burton</p> <p>8 would have a self-interest, might even falsify an</p> <p>9 answer to your question, so wouldn't the best</p> <p>10 witness, an uninterested witness, as to whether or</p> <p>11 not those classes were held be the students</p> <p>12 themselves?</p> <p>13 A I generally attempt to avoid bringing students into</p> <p>14 disputes with faculty members.</p> <p>15 Q But wouldn't students be able to testify whether or</p> <p>16 not they attended class?</p> <p>17 A Dr. Burton could have told me yes or no.</p> <p>18 Q My question is: Wouldn't the best witness that is</p> <p>19 not interested in the result be the students</p> <p>20 themselves?</p> <p>21 A I'm not sure they don't have an interest. Grades are</p> <p>22 at stake.</p> <p>23 Q So they'd lie about whether or not they were in</p> <p>24 class --</p> <p>25 A I don't know.</p>

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1 Q -- in order to get a better grade?  
 2 A I don't know.  
 3 MS. BENSKY: That's not necessary.  
 4 (Exhibit 82 marked for identification.)  
 5 THE WITNESS: (Reviewing document.)  
 6 BY MR. HAWKS:  
 7 Q Have you had a chance to review this document?  
 8 A I have, yes.  
 9 Q Can you identify it or describe it, please?  
 10 A It appears to be a partial copy of notes that I  
 11 prepared, for reasons I don't remember, at some point  
 12 during my time as dean.  
 13 Q This document was provided to the plaintiff by the  
 14 defendants' counsel in response to a request for  
 15 production, and I don't want to take the time right  
 16 now, but we can examine -- if you have a concern  
 17 about not having the whole document, we can acquire  
 18 the whole document, if it's been provided to us.  
 19 A Yeah. I -- it seems to me it was longer than this,  
 20 but...  
 21 Q Why did you prepare this?  
 22 A I don't remember.  
 23 Q Did Dr. Caywood file a grievance regarding his  
 24 removal as chair of the department regarding his,  
 25 without picking it apart --

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1 (Reporter clarification.)  
 2 MR. HAWKS: "Removal as chair from the  
 3 department."  
 4 BY MR. HAWKS:  
 5 Q Did he file a grievance regarding that matter?  
 6 A I believe that he did, yes.  
 7 Q And did you file a response to that grievance?  
 8 A I -- I don't recall.  
 9 Q All right. Did you speak to the committee, grievance  
 10 committee, in defense of your decision?  
 11 A I believe I did, yes.  
 12 Q All right. Would these be the notes that you  
 13 prepared in order to present to the committee?  
 14 A I don't recall.  
 15 Q Okay. But they are your notes?  
 16 A They are, yes. They're at least partial notes, yes.  
 17 Q And the ideas in it reflect ideas that you have held  
 18 and presumably --  
 19 A They do.  
 20 Q -- still hold?  
 21 A Yes, they do.  
 22 Q Okay. So in paragraph 2 you write: "I do not know  
 23 why Caywood did not manage this conflict and, indeed,  
 24 why he exacerbated the problem by publicly chastising  
 25 Burton for going around him."

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1 A Yes.  
 2 Q So you did conclude that he had exacerbated the  
 3 problem and that he had publicly chastised Burton for  
 4 going around him?  
 5 A Yes.  
 6 Q So you write that in November of 2012, Caywood came  
 7 to you concerned about Burton's representation of her  
 8 expertise to the Center for New Ventures as focused  
 9 on cyber security.  
 10 Let me stop there and ask you: Is  
 11 Caywood the only source of your conclusion as  
 12 testified earlier that Burton is not an expert on  
 13 cyber security?  
 14 A No.  
 15 Q What are the other sources?  
 16 A Me.  
 17 Q What -- by "me," what do you mean?  
 18 A She has no publications regarding cyber security,  
 19 which in academia is the evidence that you're an  
 20 expert. Her national peers have not judged her so  
 21 because she hasn't published anything on it.  
 22 Q All right. And you've examined her publication  
 23 record?  
 24 A I have.  
 25 Q Okay. And where -- what sources did you use to

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1 examine her publication record?  
 2 A I used our library's databases.  
 3 Q Anything else?  
 4 A They're extensive.  
 5 Q Anything else?  
 6 A No.  
 7 Q Okay. Now, in this case you write that he brought  
 8 this matter to you rather than confronting him --  
 9 confronting her himself.  
 10 How do you know he had not confronted  
 11 her?  
 12 A My memory is that he told me that he had not.  
 13 Q He told you that --  
 14 A Yes.  
 15 Q -- he had not confronted her? Okay.  
 16 And why do you think he brought this  
 17 to your attention without having confronted her, if  
 18 you know?  
 19 A I don't know.  
 20 Q He didn't say why he was coming to you after having  
 21 not having confronted her?  
 22 A He did not.  
 23 Q Did Rex Reed retire from the department?  
 24 A He did.  
 25 Q When?

1 A I'm not sure of the effective date, but it would have  
2 been August of this year.

3 Q Does his last day of work go back in January or  
4 December?

5 A No.

6 Q He taught in the second semester of this year?

7 A And over the summer.

8 Q You write that when you confronted Caywood with  
9 regard to his illegal activity, and that is in the  
10 decision to try to employ Lomax before 30 days had  
11 elapsed from the date of his retirement, and he  
12 laughed, that is Caywood laughed, and said, and I'm  
13 quoting you, "That's what you get when you deal with  
14 former law enforcement: 'We know how to get around  
15 the law.'"

16 Is that an accurate quotation of what  
17 he said, in fact, to you?

18 A I believe so.

19 Q In the next paragraph you write that he seemed at  
20 least to be abetting bad behaviors by his male  
21 colleagues, Gibson and Dutelle.

22 What bad behavior -- and ignoring or  
23 denigrating the excellent work of his female  
24 colleagues.

25 My first question is: What were the

1 bad behaviors of the male colleagues that Caywood was  
2 encouraging, or at least abetting?

3 A Gibson's "breach experiment" and the reaction to it  
4 from Caywood, I thought was minimal and it should  
5 have been a bigger deal than it was.

6 Dutelle's requests, of what were  
7 interpreted anyway, by a defense contractor in the  
8 Washington, D.C. area as a request for bribes was  
9 also dismissed.

10 Q How did you interpret it?

11 A Dutelle?

12 Q Yeah.

13 A As a request for a bribe.

14 Q Okay. And did that bear in any way on the departure  
15 of Dutelle from the criminal justice program?

16 A I have no idea.

17 Q Okay. You were not involved in that decision?

18 A I was not.

19 Q Okay. Then you next write that Caywood ignored or  
20 denigrated the excellence -- and I assume it's  
21 excellent work --

22 A Yes.

23 Q -- excellent work of his female colleagues.

24 To what specifically are you referring  
25 in that case?

1 A He seemed to have minimal regard for Cheryl  
2 Banachowski-Fuller, who serves -- served then and  
3 serves now, as the director of the master's program  
4 online program in criminal justice. Very dismissive  
5 of her work, and dismissive, frankly, of Dr. Burton's  
6 work.

7 Q In your -- in an e-mail on December 19th, 2014, you  
8 wrote: "As I indicated earlier this week, I received  
9 student reports which I double-checked that you  
10 canceled class and that you were absent without  
11 permission."

12 Do you recall writing that?

13 A I do.

14 Q The phrase I want to ask you a question about is the  
15 one which reads: "which I double-checked."

16 A Could I have that back in front of me, please?

17 MR. HAWKS: Can we go off the record for a  
18 second?

19 MS. BENSKY: Mm-hmm, yep.  
(Discussion was held off the record.)

21 BY MR. HAWKS:

22 Q Can you confirm that that's an accurate copy of the  
23 letter that you wrote to Sabina Burton?

24 A Yes, I can confirm.

25 Q All right. So in --

1 MS. BENSKY: Just for the record --

2 THE WITNESS: Would you like me to read it?

3 MS. BENSKY: -- I would like you to say  
4 what the date of the letter is, the time, To, From,  
5 and then read the letter, please.

6 THE WITNESS: This is an e-mail from me to  
7 Dr. Sabina Burton, copying Dennis J. Shields, who's  
8 the chancellor, Mittie Den Herder, who is the  
9 provost, Johnny Lohmann, who at that time was the  
10 interim director of HR.

11 It reads: "Dear Dr. Burton" -- and  
12 I'm sorry, 12/19/2014 at 3:28 p.m.

13 "Dear, Dr. Burton, as I had indicated  
14 earlier this week, I received student reports, which  
15 I double-checked that you had canceled class and that  
16 you were absent without permission. However, it  
17 appears now that those student reports conflict with  
18 other student reports. As a result, I withdraw my  
19 admonition to you regarding canceling class. Your  
20 12/16/14 e-mail to students however was  
21 unprofessional, inappropriate, and contained a number  
22 of factually inaccurate statements. Dr. Elizabeth A.  
23 Throop, Dean, College of Liberal Arts and Education,"  
24 et cetera.

25

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1 BY MR. HAWKS:  
 2 Q My first question to you focuses on the phrase,  
 3 "which I double-checked."  
 4 How did you double-check the accuracy  
 5 of the student reports?  
 6 A By asking Deb Rice to go and speak with the students  
 7 who had reported to her again and report back to me.  
 8 Q And did she report back to you?  
 9 A She did.  
 10 Q So she reported to you that she spoke to them again  
 11 and they, again, confirmed that Burton had skipped  
 12 class?  
 13 A They -- yes.  
 14 Q Do you know whether or not there was any effort made  
 15 to discipline those students for providing that false  
 16 information?  
 17 A I don't know.  
 18 Q In your next sentence you write that it appears that  
 19 the student reports conflict with other student  
 20 reports.  
 21 You did not write that those student  
 22 reports, those initial student reports, were false,  
 23 did you?  
 24 A I wrote that it appeared they conflicted with other  
 25 student reports.

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1 Q And how many other student reports did you receive?  
 2 A I believe there were three or four in response to an  
 3 e-mail that Dr. Burton sent containing, as I say  
 4 there, considerable factually inaccurate statements.  
 5 Q Can you please identify what Dr. Burton wrote that  
 6 you considered to be factually inaccurate?  
 7 A Statement No. 1 -- and this is Exhibit J to my  
 8 Chapter 6 complaint, which is Exhibit 78 on the  
 9 second to last page of the entire document.  
 10 The first false statement:  
 11 "Dr. Throop wants to fire me." That's not true.  
 12 "Extremely harsh." Not true.  
 13 "Dean Throop wants to fire me." Not  
 14 true.  
 15 "Dean Throop wants to discipline me."  
 16 Not true.  
 17 "She is just looking for reasons to  
 18 discipline me." Not true.  
 19 "Could save me from severe discipline  
 20 that I don't deserve." Not true.  
 21 "Why does Dean Throop want to hurt  
 22 me?" Not true.  
 23 "On October 11, 2012, a female student  
 24 came to me with a complaint of a sexual advance by a  
 25 male faculty member." That's not true. She came to

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1 me with a complaint of a biased student. It was not  
 2 a sexual advance.  
 3 "I have helped the student -- I helped  
 4 the student report the complaint to student affairs."  
 5 My interaction was with HR, but...  
 6 "I've been mercilessly harassed since  
 7 then for my actions in assisting that student." That  
 8 is completely untrue.  
 9 "I need your help." That's not true.  
 10 Q Did you not write on December 12 -- or on  
 11 December 12, 2014 that you would discipline her?  
 12 A Yes. I didn't say it would be extreme discipline,  
 13 severe discipline.  
 14 And, furthermore, she -- this entire  
 15 e-mail is almost completely false.  
 16 Q Do you have any doubt today whether or not Dr. Burton  
 17 taught that course --  
 18 A I have no doubt. No, I have no doubt.  
 19 Q I believe in the complaint you write that members of  
 20 the department find Dr. Burton difficult at best.  
 21 Do you recall writing that?  
 22 A Please tell me where I said it.  
 23 Q I'm looking. It's in the summary.  
 24 A Yes, I see that.  
 25 Q Who -- which departmental colleagues had told you

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1 that they find Dr. Burton to be difficult at best?  
 2 A Dr. Caywood, Dr. Reed, Dr. Gibson,  
 3 Dr. Banachowski-Fuller, Professor Rice, various  
 4 adjunct professors.  
 5 I need to consult -- I have a question  
 6 for my lawyer.  
 7 MR. HAWKS: I have no objection.  
 8 (A recess was taken from 1:31 p.m. to 1:34 p.m.)  
 9 THE WITNESS: Dr. Dalecki, Dr. Solar,  
 10 Dr. Stackman, Dr. Nemmetz, as well as other members  
 11 outside of her department, other community members  
 12 outside of her department.  
 13 BY MR. HAWKS:  
 14 Q Not employees of the University of Wisconsin?  
 15 A Yes.  
 16 Q They are employees of the university?  
 17 A Yes.  
 18 Q Who are they?  
 19 A Dr. Balachandran [phonetic], who was the chair of the  
 20 grievance commission -- well, I'll put a full stop  
 21 there.  
 22 Q Dr. Reed has retired?  
 23 A He has.  
 24 Q Dr. Caywood has retired?  
 25 A He has.

1 Q You did not include Dr. Lomax in your list.  
 2 A He's an adjunct.  
 3 Q He's an adjunct. And has he ever complained about  
 4 Dr. Burton?  
 5 A Actually, I don't believe he has.  
 6 Q He's a former chair of the department?  
 7 A Okay.  
 8 Q When was the last time someone complained to you that  
 9 Dr. Burton was disruptive?  
 10 A I would say it was in September.  
 11 Q Of this year?  
 12 A Mm-hmm.  
 13 Q Who -- which of the members of the department  
 14 complained?  
 15 A It wasn't a member of the department.  
 16 Q Who was it?  
 17 A It was the governor's office.  
 18 Q Other than --  
 19 A Actually, I shouldn't characterize it as  
 20 "disruptive." She had sent an e-mail to them.  
 21 Q My question -- that's really not an answer to my  
 22 question.  
 23 My question was: When was the last  
 24 time that someone told you that Dr. Burton had been  
 25 disruptive?

1 Q Any other subject matters?  
 2 A Dr. Strobl has been quite pleased with her  
 3 interactions with Dr. Burton since she started.  
 4 Q Did you ask, for example, Dr. Strobl if Dr. Burton  
 5 had been disruptive in any way?  
 6 A I did not.  
 7 Q Did Dr. Strobl volunteer that Dr. Burton had not been  
 8 disruptive in any way?  
 9 A I don't understand that question.  
 10 Q Well, you testified that Dr. Strobl informed you that  
 11 she was pleased with Dr. Burton?  
 12 A Yes.  
 13 Q Would that suggest to you that Dr. Burton was not  
 14 being disruptive --  
 15 A It would, this semester, yes.  
 16 Q Okay. Same question with regard to Exhibit 68, the  
 17 summary section of your complaint.  
 18 A 78.  
 19 Q 78. You write that "Her departmental colleagues  
 20 avoid interacting with her."  
 21 Upon what information do you base that  
 22 statement?  
 23 A Their reports to me.  
 24 Q Okay. And who has reported to you that the  
 25 colleagues avoid interacting with her?

1 A I believe it was the night before she was granted  
 2 emergency medical leave in January or early February.  
 3 Q Of 2015?  
 4 A Of this year, yes.  
 5 Q Okay. And who was it then?  
 6 A Dr. Dalecki primarily.  
 7 Q Have you had any communications with Dr. Strobl, the  
 8 new chair, the permanent chair of the CJ department,  
 9 regarding -- have you had any communications with her  
 10 at all?  
 11 A Yes, of course.  
 12 Q Of course. And have you had any communications with  
 13 her regarding Dr. Burton?  
 14 A Yes.  
 15 Q What, if anything, did you say to her, and what, if  
 16 anything, did she say to you?  
 17 A I certainly gave her the information that there was a  
 18 lawsuit filed by Dr. Burton, and I offered to provide  
 19 her with the papers and so forth if she so wanted to  
 20 read them.  
 21 And I think we also talked about  
 22 course scheduling for Dr. Burton and her -- any sort  
 23 of medical accommodation she might need.  
 24 Q Any other conversation?  
 25 A Dr.--

1 A The list I just gave you.  
 2 Q Okay. And then do you have -- did Dr. Strobl --  
 3 other than saying that Dr. Burton -- that she's  
 4 pleased with Dr. Burton, did Dr. Strobl say anything  
 5 with specificity regarding Dr. Burton's interactions  
 6 with other members of the department since Dr. Strobl  
 7 became chair?  
 8 A She has not said anything about that.  
 9 Q All right. Do you have any reason to believe that  
 10 today departmental colleagues are avoiding  
 11 interacting with Dr. Burton?  
 12 A Yes.  
 13 Q And what reason is that?  
 14 A Their history with her.  
 15 Q Other than the history.  
 16 A That's pretty -- it's a pretty strong history.  
 17 Q You next write that "They spent hours upon hours  
 18 attempting to manage their interactions with her."  
 19 You mention that the chair, former  
 20 chair, had to spend time dealing with issues raised  
 21 by Dr. Burton.  
 22 What other departmental members spent  
 23 hours upon hours attempting to manage their  
 24 interactions with Dr. Burton?  
 25 A At the time of this writing, all of them.

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1 Q Lomax?  
 2 A With the exception of Lomax.  
 3 Q And upon what basis do you answer that question that  
 4 way?  
 5 A Their reports to me.  
 6 Q They -- all the members of the department, except for  
 7 Lomax, have reported to you that they spent hours  
 8 upon hours managing their interactions --  
 9 A Yes.  
 10 Q -- with Dr. Burton?  
 11 A Either through interacting with Dalecki or with me or  
 12 with HR or with others.  
 13 Q What do you mean by "interacting with Dalecki"?  
 14 A How do we respond to this latest e-mail from  
 15 Dr. Burton.  
 16 Q And how do you know that?  
 17 A Because they told me.  
 18 Q They told you or Dr. Dalecki told you?  
 19 A They told me.  
 20 Q They told you that they told Dalecki or wrote to  
 21 Dalecki to say --  
 22 A Yes.  
 23 Q -- how do we respond to this e-mail from Burton?  
 24 A Yes.  
 25 Q And that's every member of the department?

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1 A The ones I named, yes, with the exception of Lomax.  
 2 Q You next write that she has no support -- oh, by the  
 3 way, do you believe that's still the case?  
 4 A I don't know.  
 5 Q And other than Dr. Strobl telling you that she's  
 6 pleased with Dr. Burton, do you have any reason to  
 7 believe that that's still the case?  
 8 A The managing interactions piece?  
 9 Q Right.  
 10 A I have no reason to believe that Dr. Burton is  
 11 creating the kind of problems that she was causing.  
 12 Q You next write that Dr. Burton has no support among  
 13 her colleagues.  
 14 Upon what basis do you make that  
 15 allegation?  
 16 A Their characterizations to me.  
 17 Q In your next sentence you refer to senior leadership  
 18 of the department.  
 19 Who specifically do you include in the  
 20 group senior leadership?  
 21 A It's not of the department. It's of the university.  
 22 Q Okay. Thank you for that clarification.  
 23 Who do you include in that group?  
 24 A Me, the director of HR, the provost, the chancellor.  
 25 Q How many hours would you say the chancellor -- well,

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1 would you say the chancellor spent 20 hours a week  
 2 trying to find ways to redirect Dr. Burton's poor  
 3 behaviors?  
 4 A No, but I certainly did.  
 5 Q And the provost?  
 6 A Some weeks it might be ten hours for her.  
 7 I am considered a senior leader.  
 8 Q I understand.  
 9 You next write that you request a  
 10 formal letter of reprimand and that you explore  
 11 further disciplinary options.  
 12 What further disciplinary options did  
 13 you want or were you asking the Chapter 6 committee  
 14 to further explore?  
 15 A I'm not asking the committee for anything. This went  
 16 to the chancellor.  
 17 Q Thank you.  
 18 What -- same question. What are you  
 19 asking the chancellor to further explore in terms of  
 20 disciplinary actions?  
 21 A I had nothing particular in mind.  
 22 Q But any other action would be more serious than a  
 23 letter of reprimand?  
 24 A I suppose so.  
 25 Q Oh, you know, in your letter withdrawing the

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1 admonition -- I can call it back up. I just --  
 2 A It's okay. I remember it.  
 3 Q -- you don't CC the chair of the department.  
 4 A I don't remember that part.  
 5 Q Okay.  
 6 A You're correct, I didn't. I cc'ed other people but  
 7 not him.  
 8 Q You had cc'ed him on your original letter informing  
 9 her that she was going -- you were going to  
 10 discipline her, correct?  
 11 A I did, yes.  
 12 Q Did you ever inform Dr. -- did you ever inform  
 13 Dr. Dalecki that you had withdrawn your letter of  
 14 admonition?  
 15 A Yes.  
 16 Q And when did you do that?  
 17 A I presume the same day as I wrote that e-mail.  
 18 Q And did you do it in writing, or did you do it -- did  
 19 you do it by e-mail, or did you do it by phone call?  
 20 A I believe I did it with a phone call.  
 21 Q Do you believe that you owe Dr. Burton an apology for  
 22 falsely accusing her of canceling a class?  
 23 A I think I do.  
 24 Q Okay. What permissions are required to apply for an  
 25 NSF grant, if you know?

<p style="text-align: right;">Page 125</p> <p>1 A I have no idea.</p> <p>2 Q What permissions are required to accept a private</p> <p>3 grant from AT&amp;T?</p> <p>4 A I have no idea.</p> <p>5 Q What permissions are required to create a new course?</p> <p>6 A The department -- at least under our university</p> <p>7 rules, the department has to approve -- the</p> <p>8 department curriculum committee or the department</p> <p>9 sitting as a whole has to approve the course as</p> <p>10 presented to them.</p> <p>11 It then goes to the liberal arts and</p> <p>12 education curriculum committee, which is chaired ex</p> <p>13 officio by my associate dean.</p> <p>14 It then goes to the UUCC. University</p> <p>15 Undergraduate Curriculum Committee. And if it's</p> <p>16 simply a course, I believe that's where it stops. If</p> <p>17 it's a program, it has to go through the system, UW</p> <p>18 system.</p> <p>19 Q And that was my next -- how about developing -- what</p> <p>20 permissions are required to create a new curriculum?</p> <p>21 A UW -- you mean an entire course of study?</p> <p>22 Q Curriculum, yeah. It would be a course --</p> <p>23 A A course --</p> <p>24 Q Yes. Yes.</p> <p>25 A -- would be part of --</p>	<p style="text-align: right;">Page 127</p> <p>1 (Video played.)</p> <p>2 BY MR. HAWKS:</p> <p>3 Q I believe I had asked you earlier a question about</p> <p>4 whether or not you said Dr. Burton had an expertise</p> <p>5 in cyber security.</p> <p>6 Does this refresh your memory?</p> <p>7 A It does.</p> <p>8 Q And did you say at this event that Dr. Burton had</p> <p>9 expertise --</p> <p>10 A No.</p> <p>11 Q -- in cyber security? What did you say?</p> <p>12 A I said she was developing an expertise.</p> <p>13 Q Thank you.</p> <p>14 When did you first learn -- I used the</p> <p>15 term "website" earlier, but I think more</p> <p>16 appropriately, an "online open source journal." So</p> <p>17 I'll use that phrase.</p> <p>18 When did you first learn that</p> <p>19 Dr. Burton had created an online open source journal?</p> <p>20 A In November of '12, I believe.</p> <p>21 (Exhibit 83 marked for identification.)</p> <p>22 BY MR. HAWKS:</p> <p>23 Q Do you recognize -- with apologies for the poor</p> <p>24 photocopying quality, do you recognize the screen --</p> <p>25 the document I'm showing you?</p>
<p style="text-align: right;">Page 126</p> <p>1 Q Yes, a curriculum.</p> <p>2 A There must be approval from UW system for what's</p> <p>3 called "preplanning."</p> <p>4 Q And the permissions required to create a program?</p> <p>5 A Same thing.</p> <p>6 Q Are the board of regents required --</p> <p>7 A Ultimately they have to approve it.</p> <p>8 Q On a program?</p> <p>9 A On a program.</p> <p>10 Q On a curriculum?</p> <p>11 A On a curriculum, but not on a course.</p> <p>12 Q Do you know whether or not Dr. Burton obtained all</p> <p>13 the appropriate permissions to apply for an NSF</p> <p>14 grant?</p> <p>15 A I have no idea.</p> <p>16 Q Do you know whether or not Dr. Burton obtained all of</p> <p>17 the necessary permissions to accept a private grant</p> <p>18 from AT&amp;T?</p> <p>19 A I don't know.</p> <p>20 Q Well, she couldn't have received the grant if she had</p> <p>21 not received the --</p> <p>22 A You're asking me if I know. I don't know.</p> <p>23 Q Okay. I'm going to play a video for you and ask you</p> <p>24 if you can confirm it. This is to refresh your</p> <p>25 memory, not to offer it as an exhibit.</p>	<p style="text-align: right;">Page 128</p> <p>1 A I believe so, yes.</p> <p>2 Q All right. And do these appear to be the screens</p> <p>3 that were shown to you by Dr. Caywood in November of</p> <p>4 2013 -- or 2012?</p> <p>5 A I don't remember them being exactly like this, but</p> <p>6 it's similar.</p> <p>7 Q Do you see immediately at the bottom of the very</p> <p>8 first page -- or the first document, the phrase "A</p> <p>9 proposal for cyber security homeland" -- "cyber</p> <p>10 security homeland security program at</p> <p>11 UW-Platteville"?</p> <p>12 A I do see that, yes.</p> <p>13 Q All right. Did you at any time ask to -- subsequent</p> <p>14 to November, did you at any time ask anybody to call</p> <p>15 up these web pages again to review them?</p> <p>16 A I don't know. I don't recall.</p> <p>17 Q Did you ever search, do a Google search, for these</p> <p>18 web pages?</p> <p>19 A I believe that I did around the same time.</p> <p>20 Q Okay. And did you find it?</p> <p>21 A I did.</p> <p>22 Q And did you ever ask Dr. Burton whether or not there</p> <p>23 had been any traffic on these web pages?</p> <p>24 A No, I don't believe I did.</p> <p>25 Q And when you saw them in November, did you complain</p>

1 to Dr. Burton about them?

2 A I believe that I did, and in particular complained

3 that the UW-Platteville's logo was at the bottom.

4 Q Do you have some record of your complaint?

5 A It was verbal, as I recall.

6 Q And this would have occurred at a meeting you had at

7 some point in --

8 A Or a phone call. I just -- I don't quite remember.

9 Q And when you subsequently criticized her for these,

10 did you ask her why -- did you mention to her that

11 you had asked her to do this before and she hadn't

12 taken them down?

13 A I'm sorry?

14 Q When you complained about these -- when you next

15 complained in January of 2013 about these websites,

16 did you ask her why she hadn't taken the websites

17 down after you'd previously talked to her about it?

18 A I don't recall.

19 Q All right. Did you ask her if she made any

20 modifications to the websites to address whatever you

21 had concerns with, such as the UW-Platteville logo?

22 A I don't recall.

23 Q Okay. Now, would you agree with the proposition that

24 we are moving in the direction of doing serious

25 academic research more and more often on open -- on

1 online open source journals?

2 A Some people are, yes.

3 Q And would you agree with the proposition that in

4 order to reserve a URL, URL for the page, you sort of

5 get in in advance and get that URL reserved so that

6 you can have it when you start out a program or start

7 an online journal?

8 MS. BENSKY: Object to form.

9 THE WITNESS: I wouldn't know.

10 BY MR. HAWKS:

11 Q You have -- you've never tried to create an online

12 open source journal?

13 A I have not.

14 Q Have you ever done research on an online open source

15 journal?

16 A "Research" meaning?

17 Q Academic research.

18 A Have I published, is that --

19 Q Not published. Used articles on the journal as part

20 of a research project.

21 A No, not open access, no.

22 Q And you described it as "open access." Is that

23 different from "open source" --

24 A I'm using --

25 Q -- or same thing?

1 A Yeah. Sorry.

2 Q Why didn't you just ask Dr. Burton to make these

3 changes in January of 20 -- January of 2013 rather

4 than sending an e-mail to AT&T?

5 A The two are not connected necessarily. The PR

6 statement, which I don't think we've actually seen,

7 but the PR statement, it contained different

8 representations than these web pages.

9 Q Did you send an e-mail to AT&T criticizing

10 Dr. Burton?

11 MS. BENSKY: Object to form.

12 THE WITNESS: I sent an e-mail to AT&T

13 indicating that Dr. Burton did -- was not a cyber

14 security expert as she had represented.

15 BY MR. HAWKS:

16 Q And did you at the same time indicate that she should

17 not have created these online --

18 A I don't recall saying that.

19 Q -- single source documents?

20 A I don't recall saying that.

21 Q Why was Dr. -- do you know why Dr. Burton's tenure

22 was delayed?

23 A It wasn't, to my understanding. Although, I wasn't

24 here -- I wasn't there, so...

25 Q I just want to double-check.

1 You started in the summer of 2012,

2 right?

3 A Correct.

4 (Exhibit 84 marked for identification.)

5 BY MR. HAWKS:

6 Q Do you have a copy of Exhibit 84 in front of you?

7 A I do.

8 Q What does it appear to be?

9 A A memo from my associate dean, Kory Wein, to Sabina

10 Burton regarding a number of action items that the

11 college rank, salary, and tenure committee was making

12 with regard to her.

13 Q I'm glad I'm not the only one that has difficulty

14 trying to connect the words with the acronyms here.

15 A It doesn't exist anymore anyways, so...

16 Q What's the date, February 13th, 2013?

17 A It is.

18 Q And that is a date during which you were employed?

19 A I was.

20 Q And do you see an entry with regard to tenure?

21 A I do.

22 Q And does that entry reflect the fact that the CRST

23 took no action?

24 A That's what it says.

25 Q Right. And ordinarily that would mean that tenure

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1 was denied, correct?

2 A Not necessarily.

3 Q Well, don't -- you have to have a recommendation for

4 tenure from the CRST, correct?

5 A My memory, which could be incorrect, was that she was

6 granted tenure in August of 2012.

7 Q If it's incorrect and she was granted tenure in

8 August of 2013, this would reflect that.

9 A I suppose so. I just clearly am not remembering.

10 Q Okay. All right.

11 (Exhibit 85 marked for identification.)

12 BY MR. HAWKS:

13 Q Do you have Exhibit 85 in front of you?

14 A I do.

15 Q And can you describe it, please?

16 A It appears to be an e-mail from Sabina Burton to the

17 chancellor, the provost, me, and Shane Drefcinski,

18 who was at that time, I believe, on the grievance

19 commission.

20 Q All right. And this exhibit does -- by the way, it's

21 dated July 11, 2013; is that correct?

22 A It appears to be, yes.

23 Q All right. Do you recall responding to this?

24 A I don't recall.

25 Q Do you recall, in fact, not responding to it?

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1 A I don't recall.

2 Q At the meeting involving the decision to select a

3 chair for the search committee for the permanent

4 chair of the department, did you request a vote to

5 approve Dr. Zauche as chair for the search?

6 A No.

7 Q Why not?

8 A His name hadn't come up, as I recall. Again, I could

9 be wrong. I may be misremembering, so...

10 Q Do you want to return to the minutes of the meeting

11 and see if that refreshes your memory?

12 A (Reviewing document.)

13 It does not appear from the minutes of

14 the meeting that Dr. Zauche's name or anyone else's

15 was put forward by anybody.

16 Q And that would be a reason then why you did not

17 submit a name for a vote --

18 A Correct.

19 Q -- do I understand correctly?

20 A That's correct.

21 Q Okay. Do you know, with regard to the AT&T grant

22 money of \$7,000, do you know how it has been used or

23 if it's still in the foundation account?

24 A I think some of it's been used, although I don't know

25 what for, but the bulk of it remains in the

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1 foundation account, I believe.

2 Q Do you know why Dr. Dalecki sent blind carbon copies

3 to you on e-mails he sent to Dr. Burton?

4 A I don't.

5 MS. BENSKEY: Object to form.

6 BY MR. HAWKS:

7 Q Okay. Did Dr. Dalecki send blind carbon copies to

8 you of e-mails he sent to any other faculty members

9 in the criminal justice department?

10 A I don't recall.

11 Q Have you ever heard Dr. Burton speak or address a

12 group on the subject of cyber security?

13 A I have not.

14 Q Have you asked her whether or not she's attended any

15 classes, seminars, or -- seminars in cyber

16 security-related topics?

17 A I have not.

18 Q Have you asked her about her professional contacts

19 and exchanges in this field?

20 A I have not.

21 Q Have you asked her about her work on Internet crimes

22 against children, cyber terrorism, or online

23 radicalization?

24 A No.

25 Q Are you aware that Dr. Burton's endorsed by Robert

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1 Weaver, senior executive, strategic planner of the

2 risk and infrastructure science center?

3 MS. BENSKEY: Object to form.

4 THE WITNESS: No.

5 BY MR. HAWKS:

6 Q By the way, the AT&T press release never stated that

7 Burton was an expert in cyber security, did it?

8 A It did.

9 Q Can we refer back to that press release, please?

10 A I haven't seen it. I haven't seen the actual

11 exhibit.

12 MR. HAWKS: Can we take a couple minutes?

13 I've got -- I dropped a document from the screen that

14 I need to retrieve, and I also need to retrieve the

15 AT&T press release.

16 (A recess was taken from 2:14 p.m. to 2:25 p.m.)

17 BY MR. HAWKS:

18 Q So, Dean Throop, the grievance hearing that was

19 conducted on December 2, 2013, I believe you attended

20 that. That was the grievance involving -- Burton's

21 grievance against you?

22 A If you say so. I don't recall the date.

23 Q That meeting had an audio recording made by the

24 university, and I have made a short clip of that

25 audio recording provided by the university to -- and

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<p>1 I'd like to play that just to refresh your memory and</p> <p>2 not for the court reporter to take down.</p> <p>3 (Audio recording playing.)</p> <p>4 THE WITNESS: I didn't understand that.</p> <p>5 (Audio recording played.)</p> <p>6 BY MR. HAWKS:</p> <p>7 Q Okay. So this was on December -- this meeting, I</p> <p>8 believe the record will reflect, is on December 2nd</p> <p>9 of 20-- excuse me. It was on December 2nd of 2013.</p> <p>10 You would have been on campus for about a year and a</p> <p>11 half at that point.</p> <p>12 What exactly was the behavior that you</p> <p>13 were referring to when you said that Burton was not</p> <p>14 solving problems at the local level?</p> <p>15 A She kept bringing problems to me rather than to her</p> <p>16 chair.</p> <p>17 Q Well, those problems would include her complaints</p> <p>18 about the chair retaliating against her?</p> <p>19 A Yes.</p> <p>20 Q They would include her -- she would have complained,</p> <p>21 not at the department level, but by filing a charge</p> <p>22 with the Equal Rights Division?</p> <p>23 A I don't follow your question. I'm sorry.</p> <p>24 Q I mean, she did not resolve her complaints at the</p> <p>25 local level, including taking a case to the Equal</p>	<p>1 issue?</p> <p>2 A Well, Dr. Stackman.</p> <p>3 Q And anybody else?</p> <p>4 A And Dr. Dalecki.</p> <p>5 Q All right. Did you speak to Dr. Stackman?</p> <p>6 A I did.</p> <p>7 Q And what did she say to you?</p> <p>8 A She said that Dr. Burton had asked her to house sit.</p> <p>9 Q First of all, who initiated that conversation, you or</p> <p>10 her?</p> <p>11 A Probably I did.</p> <p>12 Q Okay. Was it by telephone or in person --</p> <p>13 A I don't recall.</p> <p>14 Q -- or by e-mail?</p> <p>15 A I don't believe it was by e-mail.</p> <p>16 Q And how long was the conversation?</p> <p>17 A Very brief.</p> <p>18 Q Best testimony, less than five minutes?</p> <p>19 A Most likely.</p> <p>20 Q Okay. And what did you say to Dr.-- or to</p> <p>21 Professor Stackman?</p> <p>22 A Dr. Stackman.</p> <p>23 Q Doctor, thank you.</p> <p>24 A I asked her if Dr. Burton had asked Dr. Stackman to</p> <p>25 house sit. Dr. Stackman said yes. I asked</p>
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<p>1 Rights Division of the State of Wisconsin?</p> <p>2 A No. I don't agree with your characterization.</p> <p>3 Q So this is December of 2013, and what we have -- and</p> <p>4 in October of that year was when she referred the</p> <p>5 student who was the victim of the -- excuse me,</p> <p>6 that's not correct. It was a year and a half</p> <p>7 earlier --</p> <p>8 A Correct.</p> <p>9 Q -- when she referred the student to the -- to the</p> <p>10 academic affairs or HR department to handle the --</p> <p>11 A Correct.</p> <p>12 Q -- breach experiment.</p> <p>13 And subsequent to that, she advised</p> <p>14 you that she believed -- subsequent to that and prior</p> <p>15 to 12/13, she advised you that Caywood was</p> <p>16 retaliating against her, right?</p> <p>17 A She claimed that, yes.</p> <p>18 Q All right. And that was one of those issues that</p> <p>19 wasn't solved at the local level, correct?</p> <p>20 A Correct.</p> <p>21 Q Are you familiar with an issue regarding</p> <p>22 Professor Stackman that came up in the summer of 2014</p> <p>23 regarding housesitting?</p> <p>24 A Yes.</p> <p>25 Q What is your source of information relating to that</p>	<p>1 Dr. Stackman if she had done that -- I don't know the</p> <p>2 past tense of house sit -- and she said no. I said,</p> <p>3 "How did you feel about being asked to house sit?"</p> <p>4 She said, "I was uncomfortable."</p> <p>5 Q Anything else to the conversation beyond that?</p> <p>6 A Not much, no.</p> <p>7 Q Anything you can remember, even if it's a little?</p> <p>8 A No.</p> <p>9 Q And you also spoke to Dr. Dalecki about this issue;</p> <p>10 is that correct?</p> <p>11 A I believe so, yes.</p> <p>12 Q Did he initiate the call or did you -- or the</p> <p>13 conversation?</p> <p>14 A I don't recall.</p> <p>15 Q What did he say to you?</p> <p>16 A That Dr. Burton had asked Dr. Stackman to house sit.</p> <p>17 Q And what did you say to him?</p> <p>18 A I said, "Let me look into that."</p> <p>19 Q And when did you acquire this information?</p> <p>20 A I don't know. Sometime -- I don't recall exactly,</p> <p>21 but it was in --</p> <p>22 Q Would it be roughly contemporaneous with the request?</p> <p>23 A I think afterwards.</p> <p>24 Q By a little or a lot?</p> <p>25 A Couple of months maybe.</p>

1 Q Ordinarily wouldn't it be for the chair of the  
2 department to reprimand a tenured faculty member?  
3 MS. BENSKY: Object to form.  
4 THE WITNESS: That would be a first step,  
5 yes.  
6 BY MR. HAWKS:  
7 Q That would be solving or at least --  
8 A Trying to solve it locally.  
9 Q -- addressing an issue at the local level, wouldn't  
10 it?  
11 A Yes.  
12 Q And ordinarily wouldn't it be the chair of the  
13 department that would reprimand a tenured faculty  
14 member for canceling a class?  
15 A In ordinary departments, yes.  
16 Q And ordinarily wouldn't it be -- excuse me.  
17 In both of these cases you were the  
18 one, not Dr. Dalecki, who imposed the discipline?  
19 A It was an extraordinary circumstance, yes.  
20 Q How much time would you say you spent not just with  
21 Dr. Burton's issues, but with other issues in the CJ  
22 department working with Dr. Dalecki to help manage  
23 the CJ department in the two years that he was there?  
24 A I would estimate, on average, I spent 10 to 15 hours  
25 a week.

1 Q And how does that compare with the time you would  
2 spend working with the chair of any other department  
3 to manage it?  
4 A It's extraordinarily high.  
5 Q What would you estimate the average to be in other  
6 departments, other large departments?  
7 A One to two hours perhaps, and this includes as well  
8 my time with Caywood.  
9 Q Would it be fair to say that Dr. Dalecki was unable  
10 to resolve things at the local level?  
11 A Dr. Burton did not permit it to happen.  
12 Q Fair to say that he was unable to resolve things at a  
13 local level?  
14 A He resolved most things at a local level.  
15 Q Do you know how many faculty and staff left the  
16 criminal justice department during the period of time  
17 that Dr. Dalecki was the interim chair?  
18 A I'm counting. I believe -- faculty, I believe four.  
19 Q And academic staff, three more for a total of seven?  
20 A I can't recall. I don't believe three academic staff  
21 left, but I'd need to refresh my memory.  
22 Q Another audio exhibit I'll play. Hopefully brief.  
23 I'm going to play it from 12 minutes, 9 seconds to 12  
24 minutes, 31 seconds.  
25 This is the audio tape of the

1 grievance process again, the grievance hearing.  
2 A From December of '13?  
3 Q Yes.  
4 MS. BENSKY: I object to playing such a  
5 short portion. I'd like you to put 30 seconds at  
6 least on each end so we can have a little more  
7 content.  
8 MR. HAWKS: I may have got an excerpt  
9 from --  
10 MS. BENSKY: This is the December 2?  
11 MR. HAWKS: 12/2/13.  
12 What did I say, 12:09? So we'll go  
13 back to 11:30.  
14 MS. BENSKY: That's fine.  
15 MR. HAWKS: How about 11:21?  
16 MS. BENSKY: That's fine.  
17 (Audio recording played.)  
18 BY MR. HAWKS:  
19 Q Okay. So I believe you spoke at that meeting and  
20 said, "And with regard to bylaws, I have to say that  
21 the various governance documents regarding interim  
22 chairships are really contradictory, and I can't  
23 address that. The LA&E constitution says one thing,  
24 the faculty constitution says another, and it gave me  
25 absolutely no guidance at all."

1 What was -- what were the conflict --  
2 what was the conflict between the LA&E constitution  
3 and the faculty constitution?  
4 A One, interim chairs were not addressed, period.  
5 Second -- and since I don't have the  
6 documents in front of me, I can't tell you chapter  
7 and verse what they're saying.  
8 Q Well, hold on for a second. I believe I can get them  
9 for you.  
10 (Exhibits 86-87 marked for identification.)  
11 BY MR. HAWKS:  
12 Q Dean Throop, do you have Exhibits 86 and 87 in front  
13 of you?  
14 A I do.  
15 Q What are they?  
16 A I don't know.  
17 Q Do you recognize either of them?  
18 A I don't. There's no identifying --  
19 Q Well, I assume you've read both the university  
20 constitution as well as the LA&E constitution?  
21 A I've read the bylaws, yes, and of course, my  
22 college's and university's constitution.  
23 Q And I assume that you have more than just a passing  
24 familiarity with it as you're engaged --  
25 A Of course.

1 Q -- in faculty governance.  
 2 Do you recognize the provisions here  
 3 as being consistent with what you understand to be  
 4 the manner by which -- the manner by which department  
 5 chairs are selected?  
 6 MS. BENSKY: Object to form.  
 7 THE WITNESS: They both appear to address  
 8 those, yes.  
 9 BY MR. HAWKS:  
 10 Q Okay. You can validate their authenticity by  
 11 reference to the web page, if they haven't been  
 12 changed since the time that you addressed this issue.  
 13 Assuming that they are accurate, can  
 14 you identify in the document what it is that you  
 15 believe is contradictory? And my question is not  
 16 what's missing, but what is contradictory.  
 17 A Now, you're asking me about something that I said two  
 18 years ago, so...  
 19 Q I understand.  
 20 A Neither document refers to interim department chairs,  
 21 one.  
 22 Two --  
 23 Q Remember, my question is what is contradictory.  
 24 A What is contradictory is the college document, which  
 25 I assume is the one which -- I assume is 86, does not

1 contradiction.  
 2 Q What is contradictory?  
 3 A It says nothing about the dean consenting.  
 4 Q It does, actually, unless I'm mistaken here. I don't  
 5 want to argue with you, but it does say that the dean  
 6 has to concur or the decision goes back to the  
 7 faculty, right?  
 8 A You're asking me my interpretation, and my  
 9 interpretation was these are saying two different  
 10 things.  
 11 (Exhibit 88 marked for identification.)  
 12 BY MR. HAWKS:  
 13 Q I'm going to ask you not to review the entire  
 14 document first because I've got narrower questions.  
 15 Does this appear to be the documents  
 16 produced by the -- by the defendants in this case,  
 17 marked by Bates No. UW-P000097 through 000111?  
 18 A Those Bates numbers are on there, yes.  
 19 Q Okay. I'm going to ask that you refer to 000133 --  
 20 oh, no. How'd that happen?  
 21 A I'd like to, but I can't.  
 22 Q Yeah. I'm going to withdraw the question.  
 23 Do you know whether or not the CJ  
 24 permanent chair position vacancy was advertised on  
 25 any other websites besides highereducation.com?

1 have the same language as the university,  
 2 specifically -- let's see. This is Article VI,  
 3 Department and School Chairs, Section 4, subparagraph  
 4 4.  
 5 And what I assume is the university  
 6 process entitled Article 1, Exhibit 87, Section 3,  
 7 Subparagraph A, last sentence: "The department's  
 8 designation shall take place with the advice and  
 9 consent of the college dean." That's different  
 10 language.  
 11 Q But not contradictory, wouldn't you say?  
 12 A It does not say in the college document, which I did  
 13 not create or have any hand in creating --  
 14 Q Did you create or have any hand in creating the --  
 15 A I did not.  
 16 Q -- university document?  
 17 A No, I did not.  
 18 That -- it says nothing in the college  
 19 document that the consent of the dean is required.  
 20 The university document requires a consent of the  
 21 dean.  
 22 Q 86 is the college document?  
 23 A Mm-hmm, yes.  
 24 Q Does paragraph 4 effectively require dean consent?  
 25 A You're asking me about contradiction. That's a

1 A I believe so, yes.  
 2 Q Which ones?  
 3 A Specialized criminal justice sites, one of which  
 4 Dr. Burton suggested, but I don't remember the exact  
 5 ones.  
 6 Q Do you actually place the advertisements or --  
 7 A No. Human resources does.  
 8 Q Do you direct where it's going to be, or do you  
 9 inform human resources?  
 10 A I provide advice.  
 11 Q And did you provide advice in this case?  
 12 A I did.  
 13 Q Do you know for a fact which ones they advertised in?  
 14 A I don't.  
 15 I would like to follow up with that a  
 16 little bit and tell you as well that I contacted an  
 17 organization, the name of which is now going to  
 18 escape me, that is for encouraging Ph.D.s in criminal  
 19 justice. And that person who I contacted was at the  
 20 University of Nebraska-Lincoln, she's the head of  
 21 that organization, asking her for nominations for our  
 22 chair. But I don't remember -- I found that group by  
 23 myself.  
 24 Q So Dr. Burton complained to you about Dr. Caywood's  
 25 retaliation or alleged -- you keep referring to her

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1 allegations.

2 Did you do anything to investigate the

3 validity of Dr. Burton's complaints?

4 A Dr. Burton provided absolutely no evidence of any

5 retaliation.

6 Q Did you investigate at all?

7 A Not after the first one.

8 Q Do you recall that upon receiving similar complaints,

9 Ms. Durr sent Dr. Caywood an e-mail stating that

10 Sabina had acted quite appropriately?

11 A I'd have to see it in front of me.

12 Q You don't recall that?

13 A Only vaguely.

14 Q Dr. Burton complained again to Ms. Durr in November

15 about Caywood's continued bullying and harassment.

16 Do you know whether or not Ms. Durr

17 took any action after that complaint?

18 A I don't. I don't recall.

19 Q So December 10th, 2012, Dr. Burton sent to you an

20 e-mail complaining that Dr. Caywood was still

21 retaliating against her, specifically for her

22 participation in the student sexual harassment

23 complaint, and she cited as an example in her e-mail

24 his hostile attitude, his negative comments about her

25 participation in the student complaint during a

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1 recent department meeting, his decision to assign

2 Dutelle the chair of search and screen committee that

3 had been vacated, for a position vacated by Lomax.

4 Do you recall receiving that e-mail?

5 A No.

6 MS. BENSKY: We have about an hour left.

7 MR. HAWKS: Mm-hmm.

8 BY MR. HAWKS:

9 Q Isn't it true that you asked Dr. Caywood to undergo

10 communication training and he refused?

11 A Yes. Shortly after that, within minutes, he chose to

12 step down from being a chair.

13 Q Okay. I'm going to play an audio tape again.

14 (Audio recording played.)

15 BY MR. HAWKS:

16 Q Okay. Do you recall that meeting? Does that refresh

17 your memory of a meeting between you and Dr. Burton

18 and Jeanne Durr about eight months after you started

19 your employment?

20 A I only vaguely remember that we had that meeting. I

21 am distressed to find that it was recorded as well.

22 Q Isn't it true that Dr. Burton, during the course of

23 that meeting, complained about Caywood's continuing

24 discrimination?

25 A She alleged that, yes.

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1 Q And isn't it true that during that meeting she

2 complained about his retaliation?

3 A I don't recall.

4 Q Isn't it true that Chancellor Shields urged you to

5 assist the department by employing outside

6 consultants to work with the entire CJ department to

7 build a stronger team, work on communications and

8 conflict resolution skills, and begin to resolve some

9 of the conflict that was built up over time?

10 A Are you reading from a document?

11 Q My notes.

12 A My memory is, yes, that he asked the department to

13 engage in kind of team building and communication

14 skills and asked me to help them with that.

15 Q Did that ever happen?

16 A The department essentially refused, including

17 Dr. Caywood, I will say.

18 Q And there were other issues in the department that

19 were significant besides issues between Throop and

20 Caywood or Throop and Dalecki; would that be fair to

21 say?

22 A I'm Throop.

23 Q I'm sorry. It's getting late in the afternoon.

24 Between -- there were other issues in

25 the department other than the ones involving

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1 Dr. Burton?

2 A There were, yes.

3 Q That were significant?

4 A Yes.

5 Q You mentioned the issue of Dutelle.

6 A Yes.

7 Q You've mentioned the issue with Gibson.

8 A Yes.

9 Q What other substantial issues were --

10 A Well, Gibson, not only the breach experiment issue,

11 but he had conducted no scholarship of any kind and

12 was generally a very difficult person with whom to

13 deal. So Gibson was very definitely an issue.

14 Q Significant turnover in the department?

15 A In Gibson's case, he was not retained by the

16 department.

17 Q But there was significant turnover leading to

18 staffing issues --

19 A There were some staffing issues, yes, and there was

20 some turnover as well, yes.

21 Q Right. And then there were two outside studies

22 conducted that criticized the department for

23 structural reasons; isn't that true?

24 A Largely, if my memory serves, the two consultants

25 were looking at the curriculum more than they were at

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1 the sort of psychology of the department, although I  
 2 believe that some comments were made regarding the  
 3 way that the department was working at the time.  
 4 Q I think Professor Stojkovic commented that there was  
 5 a train wreck in the department.  
 6 A Okay. If you say so.  
 7 Q Do you recall that or...  
 8 A I recall that he was frank.  
 9 Can we go off the record for a second?  
 10 MS. BENSKY: Mm-hmm.  
 11 (Discussion was held off the record.)  
 12 BY MR. HAWKS:  
 13 Q Do you still have the exhibit that represents your  
 14 notes in preparation -- perhaps in preparation for  
 15 the grievance committee?  
 16 A Exhibit 82?  
 17 Q Right. Okay -- I'll withdraw the question.  
 18 Would you say that the department had  
 19 been running at an unacceptable level during  
 20 Caywood's tenure as chair?  
 21 A In the one year I experienced it, yes.  
 22 Q Yeah. And would you also say that with regard to  
 23 the -- while Dalecki was tenure -- while Dalecki was  
 24 chair?  
 25 A It was running better.

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1 Q Your initial impressions of Dr. Strobl's tenure --  
 2 A Outstanding.  
 3 Q Did Dr. Caywood ever tell you, "I will fight tooth  
 4 and nail for my faculty, use every trick available.  
 5 I won't break any laws, but I will bend them to fit  
 6 our needs"?  
 7 A I don't recall him saying that.  
 8 Q Has the university complied with UW-Platteville's  
 9 discrimination and harassment policy statement  
 10 that -- to the effect that a copy of this policy and  
 11 the procedures for implementing it will be  
 12 distributed annually to all the University of  
 13 Wisconsin-Platteville students, faculty, academic  
 14 staff, and classified staff?  
 15 A I have no idea.  
 16 Q Did you receive a copy of that policy this year or in  
 17 the last year?  
 18 A I don't recall.  
 19 MS. BENSKY: I think they're on the  
 20 Internet.  
 21 BY MR. HAWKS:  
 22 Q And the policy also requires the university to  
 23 provide additional programs -- programs will be  
 24 conducted regularly to sensitize members of the  
 25 university community to issues covered by this

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1 policy.  
 2 Do you recall when the last  
 3 educational program was offered at UW-Platteville to  
 4 sensitize members of the university community to the  
 5 discrimination and harassment issues covered by the  
 6 policy?  
 7 MS. BENSKY: Object to form.  
 8 You can answer, if you understand the  
 9 question.  
 10 THE WITNESS: I believe there's ongoing  
 11 programming that is provided through the assistant  
 12 chancellor for diversity and inclusion.  
 13 BY MR. HAWKS:  
 14 Q Can you recall the last program?  
 15 A There was -- I believe there are programs going on  
 16 this week --  
 17 Q Do you know --  
 18 A -- regarding discrimination, LBGDTQ issues. It's an  
 19 ongoing programming, and there's quite a bit for  
 20 students, faculty, staff, academic staff.  
 21 Q Isn't it true that the grievance commission involved  
 22 in the Burton -- the two Burton grievances against  
 23 you recommended that you follow procedures, the  
 24 college procedures, for the next search for chair?  
 25 A You'd have to put it in front of me. I don't recall

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1 exactly.  
 2 Q Isn't it true that the reason that the department  
 3 voted to conduct an outside search is because you had  
 4 made it clear you would not allow an internal  
 5 election?  
 6 A No. I don't believe so.  
 7 Q Did you offer Dr. Evan Larson the chair position in  
 8 geography after Dr. Elmo Rawlings left?  
 9 A No.  
 10 Q Is Dr. Larson a tenured or untenured faculty member,  
 11 if you know?  
 12 A He was tenured last -- just this -- just this -- I  
 13 believe he was just tenured this past August. That  
 14 is confirmed by the board.  
 15 Q And when did Elmo Rawlings leave?  
 16 A Sometime before the beginning of the fall semester of  
 17 2014, I believe.  
 18 Q I just want to identify a few documents here and we  
 19 should be able to wrap up.  
 20 (Exhibit 89 marked for identification.)  
 21 BY MR. HAWKS:  
 22 Q Can you describe this document, please?  
 23 A (Reviewing document.)  
 24 It appears to be an e-mail thread  
 25 regarding a search and screen committee, ending on

1 Dr. Burton forwarding me an e-mail thread, and that's  
2 dated December 11th, 2012.

3 Q And it's related to her concerns about not being  
4 fairly considered for -- to chair search and screen  
5 committee that was --

6 A Appears to be, yes.

7 Q Okay. You responded to that by saying it's an  
8 internal department issue, and as Dean, you don't  
9 want to interfere in faculty governance issues; is  
10 that correct?

11 A I write that, yes.

12 Q Do you consider your participation and involvement in  
13 the department's decisions and debate with regard to  
14 the selection and the decision, actually, to have a  
15 search and screen committee for a permanent chair to  
16 be interference with faculty governance matters?

17 A You lost me. Sorry.

18 Q It's an awkward question.

19 You participated in the departmental  
20 meeting at which several -- two decisions were made:  
21 One decision was whether or not to extend Dalecki for  
22 a year or conduct a national search for a permanent  
23 replacement for chair; and the other issue was  
24 whether or not to go outside the department for a  
25 chair of the search and screen committee, correct?

1 in a faculty governance matter?

2 A After a year and a half of interacting with this  
3 group, it was clear to me that the junior faculty  
4 members, as well as the wider university community,  
5 needed this department to have some direction.

6 (Exhibits 90-91 marked for identification.)

7 BY MR. HAWKS:

8 Q So by way of background -- or context for the  
9 question I'm going to ask, the department drafted a  
10 position description for the chair as part of the  
11 search and screen process. The position  
12 description -- let me put it into a question.

13 Did you revise the department's  
14 position description?

15 A In a minor way I did, yes.

16 Q Which position description was the department's first  
17 draft?

18 A I believe Exhibit 90.

19 Q And Exhibit 91, then, contains the modification?

20 Can you point out to us what that  
21 modification is?

22 MS. BENSKY: Where's 91?

23 THE WITNESS: This one.

24 MR. HAWKS: Did you not get 91? Sorry.

25 MS. BENSKY: Thanks.

1 A I don't think so. I think you're mischaracterizing  
2 the first part.

3 Q Okay.

4 A It does not appear -- actually, could I get the  
5 question back?

6 (Previous question read back by court reporter.)

7 THE WITNESS: Not correct.

8 BY MR. HAWKS:

9 Q What is incorrect?

10 A There was not a decision made between keeping Dalecki  
11 on for a second year or doing a search. We were  
12 going to do a search. There was no question about  
13 it.

14 Q At some point in the meeting didn't you suggest or  
15 propose that Dr. Dalecki continue for an additional  
16 year?

17 A Not according to the minutes.

18 Q And what is your memory?

19 A My memory is that I did suggest that at the request  
20 of faculty members over the summer.

21 Q Okay. So those -- so you attended that meeting in  
22 which those two issues were discussed or -- yeah.

23 A The issue of Dalecki staying as interim chair, yeah.

24 Yes. I'll say yes.

25 Q Okay. And my question is: Is that not interference

1 THE WITNESS: I think the document speaks  
2 for itself.

3 BY MR. HAWKS:

4 Q Could you identify it, please?

5 A Well, the first paragraph, for example, I thought was  
6 very awkwardly written, so I attempted to make it a  
7 little more, if you will, elegant. And I believe I  
8 added in "minimum qualifications."

9 In the second paragraph, I believe I  
10 added the phrase "or closely related discipline."

11 Q And as a practical matter, under the department's job  
12 description, Dr. Dalecki would not be eligible to  
13 become the permanent chair?

14 A That's incorrect.

15 Q And under your description he would be?

16 A No, you're incorrect.

17 Q Why am I incorrect?

18 A Dr. Dalecki holds a Ph.D. in sociology. That is in  
19 the department's description.

20 Q Have you consulted with the department about that or  
21 consulted the job --

22 A This is theirs. I'm pointing to Exhibit 90. This is  
23 the department's description that they sent to me,  
24 and it very clearly says sociology. I did not alter  
25 that.

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<p>1 Q Does Dr. Dalecki have an undergraduate or graduate 2 degree in criminal justice?</p> <p>3 A The description says: "Must have earned a doctorate 4 in criminal justice, forensic investigation, 5 criminology, a criminal justice or public 6 administration area, sociology, penology" -- however 7 you say that.</p> <p>8 Q Penology.</p> <p>9 A -- "corrections, or a policing law enforcement area." 10 Dr. Dalecki has earned a doctorate in 11 sociology.</p> <p>12 Q I'm referring specifically to the sentence that 13 reads: "The successful candidate will also have an 14 undergraduate or graduate degree in criminal 15 justice," in Exhibit 90.</p> <p>16 A Well, then that was one reason I needed to -- well, 17 actually, I'm not -- yes, that's what it says.</p> <p>18 Q All right. And does Dr. Dalecki hold an 19 undergraduate or graduate degree in criminal justice?</p> <p>20 A I don't know.</p> <p>21 Q All right. The revised job description, the 22 analogous sentence reads: "The successful candidate 23 will also have an undergraduate or graduate degree in 24 criminal justice, criminology, or a closely related 25 field."</p>	<p>1 BY MR. HAWKS:</p> <p>2 Q Can you describe Exhibit 93, please?</p> <p>3 A It appears to be an e-mail written from Sabina Burton 4 to Deb Rice on October 7th, 2014. Subject line: 5 "Info Requested."</p> <p>6 Q And is this an e-mail for which you have proposed 7 discipline for Dr. Burton?</p> <p>8 A Yes, I believe so.</p> <p>9 Q You may refer to Exhibit 78 -- is it? -- if you wish.</p> <p>10 A Thank you. 11 Yes. The answer to your question is 12 yes.</p> <p>13 Q Specifically did you speak to that issue in your 14 letter of direction?</p> <p>15 A I did in paragraph 5.</p> <p>16 Q 5, all right. 17 Can you identify what in this e-mail 18 you consider accusatory?</p> <p>19 A "Who authorized your directed study." 20 Dr. Burton has a habit of implying 21 unnamed things in many of her e-mails.</p> <p>22 Q Anything else?</p> <p>23 A "You never coordinated the project with me, nor did 24 you discuss it with me. You took over."</p> <p>25 Q Is that a factual, correct statement?</p>
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<p>1 Does Dr. Dalecki have -- meet that 2 qualification?</p> <p>3 A I don't know. I don't know what his undergraduate 4 degree is in.</p> <p>5 Q Do you know what courses he teaches in the department 6 of sociology, or formerly taught, I should say?</p> <p>7 A He taught juvenile delinquency. He taught research 8 methods in social sciences. And I don't know what 9 else.</p> <p>10 Q Okay. Thank you. 11 (Exhibit 92 marked for identification.)</p> <p>12 BY MR. HAWKS:</p> <p>13 Q Can you identify Exhibit 92?</p> <p>14 A It appears to be an e-mail sent to me from Dr. Reed, 15 dated 9/24/14.</p> <p>16 Q And does it inform you what the department -- what 17 the department's vote was to adopt the job 18 description and then forwarded to you?</p> <p>19 A Yes.</p> <p>20 Q And what was that vote?</p> <p>21 A To adopt what they had proposed.</p> <p>22 Q By what vote?</p> <p>23 A It appears that six of the seven voters approved it. 24 (Exhibit 93 marked for identification.) 25</p>	<p>1 A I have no idea.</p> <p>2 Q And if it is, is it accusatory?</p> <p>3 A I believe that it is, yes.</p> <p>4 Q Do you know what the context for this e-mail is?</p> <p>5 A I don't recall. 6 (Exhibit 94 marked for identification.)</p> <p>7 BY MR. HAWKS:</p> <p>8 Q Do you recognize 94, Exhibit 94?</p> <p>9 A May I review it?</p> <p>10 Q Please.</p> <p>11 A (Reviewing document.)</p> <p>12 Q Have you had an opportunity to review it?</p> <p>13 A I have.</p> <p>14 Q Can you describe this document, please?</p> <p>15 A Appears to be an e-mail, dated October 17th, 2012, 16 from Dr. Burton to Dr. Caywood, copying me, regarding 17 the breach experiment incident.</p> <p>18 Q And could you refer specifically to the originating 19 message from Caywood to Burton? 20 Would you characterize that as 21 unnecessarily accusatory?</p> <p>22 A I would. 23 (Exhibit 95 marked for identification.) 24 THE WITNESS: (Reviewing document.) 25</p>

1 BY MR. HAWKS:  
 2 Q Let me know when you're ready.  
 3 A Okay.  
 4 Q Referring to the second page of this two-page  
 5 document, Chancellor Shields writes: "However, I do  
 6 not condone involving students in these types of  
 7 matters unless it's absolutely necessarily. In this  
 8 case I believe both you and Dr. Throop could have  
 9 handled the situation differently to avoid any direct  
 10 student involvement."  
 11 Do you agree that Dr. -- you could  
 12 have handled the situation differently to avoid any  
 13 direct student involvement?  
 14 A Yes, I do, as could have Dr. Burton.  
 15 (Exhibit 96 marked for identification.)  
 16 THE WITNESS: (Reviewing document.)  
 17 BY MR. HAWKS:  
 18 Q Earlier I asked you a question whether or not  
 19 Chancellor Shields had urged or recommended you and  
 20 the provost to employ outside consultants to work  
 21 with the entire criminal justice department to build  
 22 a stronger team, et cetera.  
 23 Does this document put that question  
 24 and answer in context?  
 25 A It does, yes.

1 you had sent to him previously, right?  
 2 A It appears to be, yes.  
 3 Q And you'll note toward the end of the paragraph at  
 4 the top of the page, the statement: "If we can't  
 5 stay on the same page regardless of the issue, then  
 6 it is time for you to start thinking about a  
 7 replacement for department chair. In the meantime, I  
 8 will fight tooth and nail for my faculty, use every  
 9 trick available. I won't break any laws, but I'll  
 10 bend them to fit our needs." Do you see that?  
 11 A I do.  
 12 Q Would that be a statement that Dr. Caywood made to  
 13 you then?  
 14 A I'm not sure because this is not completely clear  
 15 that he sent that to me.  
 16 (Exhibit 98 marked for identification.)  
 17 THE WITNESS: (Reviewing document.)  
 18 BY MR. HAWKS:  
 19 Q Have you had a chance to review this document?  
 20 A I have.  
 21 Q Have you seen it before?  
 22 A I don't believe so.  
 23 Q What does it appear to be?  
 24 A It appears to be a letter from Dr. Burton to, I  
 25 assume, Jeanne Durr, the former head of HR, dated

1 (Exhibit 97 marked for identification.)  
 2 THE WITNESS: (Reviewing document.)  
 3 BY MR. HAWKS:  
 4 Q Earlier I asked you -- I should wait.  
 5 A (Reviewing document.)  
 6 Q Let me know when you're done.  
 7 A It's a confusing document, but I've looked at it.  
 8 Q Okay. What does it appear to be, as best as you can  
 9 describe it?  
 10 A It -- in incorrect order, it appears to be an e-mail  
 11 thread regarding Joe Lomax, but I don't know who  
 12 initiated it and who concluded.  
 13 Q Right. You made notice that it's in order of the  
 14 Bates numbers.  
 15 A I didn't stamp it.  
 16 Q Right, right, right.  
 17 Does this appear to relate to the  
 18 issue of Dr. Caywood employing Dr. Lomax to -- in  
 19 violation of state law?  
 20 A Yes.  
 21 Q And on the second page of this document, the page  
 22 that begins with: "Subject: Re: Joe Lomax, I'm  
 23 confused." Do you see that paragraph?  
 24 A I do.  
 25 Q And it appears to be in response to an e-mail that

1 February 8th, 2013.  
 2 Q And does it appear -- in this letter, does she  
 3 complain that she is suffering discrimination and  
 4 retaliation by Tom Caywood?  
 5 A She -- not at the end. It appears in the second  
 6 paragraph that she is referring to Title 7 of the  
 7 Civil Rights Act of 1964.  
 8 Q She makes an allegation in the first paragraph that  
 9 "the answers to these question indicate that Tom is  
 10 discriminating against me for the handling of the  
 11 student complaint, then I believe Tom is violating  
 12 Title VII of the Civil Rights Act of 1964."  
 13 Is that what you were just referring  
 14 to?  
 15 A Right. The second paragraph, yes.  
 16 Q Oh, okay.  
 17 Did you understand that Dr. Caywood  
 18 had cautioned Dr. Burton not to make an erroneous  
 19 assumption that she enjoyed his support?  
 20 MS. BENSKEY: Object to form.  
 21 BY MR. HAWKS:  
 22 Q Do you see the statement in the second paragraph:  
 23 "But then on January 24th, only a few days before I  
 24 was to accept the AT&T grant, I received a letter  
 25 from Tom cautioning me not to make the erroneous

1 assumption that I had his support"?

2 MS. BENSKY: Object to form. She's never

3 seen the document before.

4 I mean, if you want to read the

5 document, you can read the document, but she hasn't

6 seen it before.

7 THE WITNESS: That's what the letter says.

8 BY MR. HAWKS:

9 Q Okay. Did you have an independent understanding that

10 Dr. Caywood had provided support to Dr. Burton, the

11 work she was doing with regard to cyber security

12 programming and so on, until January 24, 2013, when

13 he wrote her a letter saying that he should not --

14 she should not assume that she had his support?

15 A No.

16 Q Okay.

17 (Exhibit 99 marked for identification.)

18 THE WITNESS: (Reviewing document.)

19 BY MR. HAWKS:

20 Q Have you had a chance to review this document?

21 A I have.

22 Q And did you receive a copy of this document on or

23 about December 13th, 2013?

24 A I believe so.

25 Q And what is the complaints and grievances commission?

1 Q Thank you for the correction.

2 Your point is that the commission or

3 committee found that the faculty bylaws had not been

4 followed?

5 A Correct.

6 Q Thank you.

7 Did you appeal this decision?

8 A I did not.

9 Q Could you have?

10 A I don't know. Since they didn't reverse my

11 appointment, I didn't see the point.

12 Q They didn't -- they weren't asked to reverse the

13 appointment, were they? Yes or no?

14 A I don't know.

15 Q Would you please refer to Exhibit 99. Go to the

16 second to last paragraph.

17 What did Dr. Burton request as

18 redress?

19 A It appears, according to the letter, as you can read,

20 that she seeks acknowledgment.

21 Q Do you know a graduate, former graduate assistant, in

22 the department of criminal justice known -- named [REDACTED]

[REDACTED]

24 A I know his name.

25 Q Is Ron an applicant for a position for the '15/'16

1 A It's a commission attached to our faculty senate that

2 hears grievances and complaints. The membership is

3 revolving, and they must be tenured, I believe,

4 faculty members.

5 Q Is Exhibit 99 a letter stating the conclusion of that

6 committee following a hearing on the grievance?

7 A It appears to be, yes.

8 Q Does it make a finding -- does the commission or

9 committee make a finding that you did not follow the

10 LA&E constitution, nor -- excuse me.

11 Does the committee make a finding that

12 you did not follow the LA&E constitution when you

13 appointed Dr. Dalecki?

14 A It does not appear to say that, no.

15 Q Would you please read the last sentence?

16 A Of what?

17 Q Of the letter.

18 A I'll read the last two sentences.

19 "However, we believe that the process

20 for selecting a department chair that is spelled out

21 in the faculty bylaws must be followed nonetheless.

22 It was not followed in the appointment of

23 Dr. Dalecki. It should be followed in the

24 appointment of the next chair of the criminal justice

25 department."

1 school year?

2 A I -- a position?

3 Q Yes. An advocate -- or an applicant for either a

4 graduate position or an academic staff position.

5 A I don't know.

6 Q Who is Dan Avernarius [phonetic]?

7 A He's something to do with the distance learning

8 center.

9 Q All right. And do you know whether or not [REDACTED]

10 [REDACTED] was an applicant for a graduate assistant

11 position in the master's of science and criminal

12 justice department for the 2015/2016 school year?

13 A No, I don't know.

14 (Exhibit 100 marked for identification.)

15 BY MR. HAWKS:

16 Q So is John Lohmann the HR director who succeeded

17 Jeanne Durr?

18 A Our HR director, yes.

19 Q Are you aware that Dr. Burton was on a medical leave

20 of absence during the second semester of the 2014/'15

21 school year?

22 A I am aware, yes.

23 Q And did she provide a return to work letter to John

24 Lohmann?

25 A I don't know.

1 Q What does this document appear to be?  
2 A It appears that she provided a return to work letter.  
3 Q All right. And who's -- who are included as  
4 recipients?  
5 A Me, Dr. Dalecki, and Dr. Burton.  
6 Q Thank you.  
7 And the note says: "I will review for  
8 restrictions follow up with you."  
9 Did Dr.-- or did Dr.-- did John  
10 Lohmann contact you to review restrictions follow up,  
11 and if so, when?  
12 A I vaguely remember that he did, but I couldn't tell  
13 you when.  
14 Q Okay. Do you know whether or not Lohmann followed up  
15 with Michael Dalecki?  
16 A I don't know.  
17 MR. HAWKS: I have no further questions. I  
18 have nothing further.  
19 MS. BENSKY: Great.  
20 \* \* \* \*  
21 (Deposition concluded at 3:54 p.m.)  
22 (Original exhibits retained by court reporter and attached  
23 to original transcript. Copies provided with  
24 additional transcripts.)  
25

1 STATE OF WISCONSIN )  
2 )SS:  
3 MILWAUKEE COUNTY )  
4  
5 I, Kealoha A. Schupp, RPR and Notary  
6 Public in and for the State of Wisconsin, do hereby  
7 certify that the preceding deposition was recorded by  
8 me and reduced to writing under my personal  
9 direction.  
10 I further certify that said deposition  
11 was taken at WISCONSIN DEPARTMENT OF JUSTICE, 17 West  
12 Main Street, Madison, Wisconsin, on the 28th day of  
13 October, 2015, commencing at 8:59 a.m.  
14 I further certify that I am not a  
15 relative or employee or attorney or counsel of any of  
16 the parties, or a relative or employee of such  
17 attorney or counsel, or financially interested  
18 directly or indirectly in this action.  
19 In witness whereof, I have hereunto  
20 set my hand and affixed my seal of office on this 5th  
21 day of November, 2015.  
22  
23 Kealoha A. Schupp, RPR  
24 Notary Public  
25 My commission expires January 10th, 2016.