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IN THE JUSTICE COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
THE HONORABLE RICHARD GLASSON, JUSTICE OF THE PEACE

WASHOE COUNTY)	
)	Case No. RCP2021-000227
vs.)	Dept No. 6
)	
MIKE CLARK)	
)	
)	

TRANSCRIPT OF PROCEEDINGS
EXTENDED PROTECTION ORDER HEARING

June 30, 2021

APPEARANCES:

For Washoe County:	BRIAN BROWN, ESQ. Attorney at Law 3500 Lakeside Court, Suite 206 Reno, Nevada 89509
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For Mike Clark:	MARK MAUSERT, ESQ. Attorney at Law 729 Evans Avenue Reno, Nevada 89512
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(JAVS ELECTRONICALLY RECORDED)

Transcribed by: Susan Kiger

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1 RENO, NEVADA; WEDNESDAY, JUNE 30, 2021

2 --oOo--

3
4 THE COURT CLERK: Now calling RCP2021-000227, Washoe
5 County versus Mike Clark.

6 Would counsel for the applicant please state his
7 name for the record.

8 MR. BROWN: Good morning, Your Honor. Brian Brown
9 on behalf of the applicant, Washoe County, and with me this
10 morning is Washoe County Manager Eric Brown.

11 THE COURT: Thank you.

12 THE COURT CLERK: Would counsel for the adverse
13 party please state his name for the record.

14 MR. MAUSERT: Good morning, Your Honor.
15 Mark Mausert on behalf of Mike Clark.

16 THE COURT: Thank you. And is that Mr. Clark there
17 with you?

18 MR. MAUSERT: Yes, Your Honor.

19 THE COURT: Okay. And you can hear us all right?

20 MR. MAUSERT: Yes.

21 THE COURT: All right. Just a matter, I guess, of
22 audio/visual principal, Mr. Mausert, I know you're not wearing
23 headphones and a microphone, are you able to discreetly hear
24 an objection or if the Court needs to interrupt, you can hear

1 us and your voice doesn't cancel your own speakers?

2 MR. MAUSERT: Yes, Your Honor. I can hear quite
3 clearly. I did -- before you took the bench, I could hear
4 quite clearly.

5 THE COURT: Could you hear me now?

6 MR. MAUSERT: What's that?

7 THE COURT: Could you hear me just now telling you
8 to stop?

9 MR. MAUSERT: Oh, I just heard you say that, yes.

10 THE COURT: Okay, good. Because if in case there's
11 an objection one way or the other, we need to stop the
12 proceedings and hear the objection.

13 MR. MAUSERT: Sure.

14 THE COURT: Are there any preliminary matters we
15 need to look at before we begin with perhaps hearing evidence
16 in this case, RCP2021-000227?

17 MR. BROWN: No, Your Honor. Washoe County is ready
18 to proceed to evidence.

19 THE COURT: And, Mr. Mausert, are you prepared to
20 proceed right now?

21 MR. MAUSERT: Yes, Your Honor. I'm prepared to
22 proceed.

23 THE COURT: All right. I would like to start by
24 asking Mr. Brown what the order is that you are seeking here

1 today, sir, on behalf of your county.

2 MR. BROWN: At the end of the proceeding,
3 Your Honor, Washoe County will be requesting that Your Honor
4 grant the request for an extension of the restraining order
5 that was previously entered by Judge Hascheff. That order
6 jurisdictionally can be extended at the Court's discretion up
7 to a 12-month time period and that is what we are asking for.

8 We will be asking for that order to be modified and
9 in certain respects and I can go into the exact details at
10 this time if you want me to.

11 THE COURT: I would because it might be that there's
12 no objection to granting something if I know what you're
13 asking for.

14 MR. BROWN: Sure. Your Honor, what the County would
15 be requesting is that the order remain in place. Currently
16 the -- Mr. Clark is restrained from being present at the
17 Washoe County complex on Ninth and Wells. At the conclusion
18 of the hearing, we will be asking for that to be modified to
19 that Mr. Clark may continue to carry out the duties of the
20 Washoe County assessor. The modification is that Mr. Clark
21 would be allowed to be on the property in Building D, which is
22 where the assessor's office is. The complex at Washoe County
23 is made up of several buildings that are connected, but as
24 long as Mr. Clark is present in just Building D of the

1 assessor's office.

2 THE COURT: That's B as in Bravo?

3 MR. BROWN: Did as in dog. I'm sorry, Your Honor.
4 I'll try to articulate a little bit.

5 THE COURT: It's okay. I have acoustic worries of
6 my own.

7 MR. BROWN: Okay. No. That's D as in dog.

8 THE COURT: Okay.

9 MR. BROWN: As long as he's conducting the official
10 business of the assessor.

11 To the extent that Mr. Clark would need to go to any
12 other building within the Ninth and Wells complex, county
13 complex for the purposes of carrying out his duties as the
14 Washoe County assessor, we will be requesting the Court to
15 require him to contact the Washoe County head of security, Ben
16 West, who would make arrangements for the business to be
17 carried out in a manner that Mr. West or someone else can
18 escort Mr. Clark to those particular places in the county
19 complex other than Building D.

20 THE COURT: Okay.

21 MR. BROWN: We also will continue to request for
22 Mr. Clark to have no contact with Kate Thomas.

23 THE COURT: During the time that Ms. Thomas is
24 working, correct?

1 MR. BROWN: During the time that Ms. Thomas is
2 working. I believe that's the jurisdictional limit of this
3 Court in its order.

4 In the unusual event that Ms. Thomas would -- she is
5 the assistant county manager. In the unusual event that she
6 would be serving as the active county manager because
7 Mr. Brown is not there and other assistant managers aren't
8 there and Mr. Clark would need to contact the county manager,
9 at this point would be the acting county manager, Kate Thomas,
10 we would request for the official business of the assessor, we
11 would request that he first contact the head of security,
12 Mr. Ben West, and make those arrangements so that could be
13 done in a supervised fashion.

14 THE COURT: And that's physical contact and
15 electronic?

16 MR. BROWN: That's correct, sir.

17 THE COURT: All right. And what is any other
18 modifications you are seeking?

19 MR. BROWN: Those -- let me check my notes,
20 Your Honor, but I believe those are all the modifications we
21 are requesting at this time. Let me look here. Sorry.

22 No. Those are all the modifications we are
23 requesting at this time.

24 THE COURT: And was there a length you were going to

1 suggest? A time limit? I know the statute allows up to a
2 year.

3 MR. BROWN: At this point, Your Honor, we are asking
4 for the order to be entered for a year.

5 THE COURT: All right. And, Mr. Mausert, you do not
6 consent to those modifications?

7 MR. MAUSERT: No, I don't, Your Honor. I don't
8 think there's any necessity to restrict my client's movement.
9 I don't think that -- let me qualify that, Judge.

10 My client has no attachments effecting any contact
11 with Ms. Thomas. If she were to run or simply walk by he
12 would not get in an elevator with her. He simply has no
13 intention of contacting her. I don't think there's any basis
14 for restricting his movements.

15 THE COURT: Thank you.

16 Mr. Brown, is the applicant prepared to provide
17 evidence to the Court?

18 MR. BROWN: Yes, we are, Your Honor.

19 THE COURT: Okay. Have a seat, sir. Orders for
20 protection hearings bleed into -- these are civil proceedings,
21 but sometimes these civil proceedings bleed into criminal
22 laws, and so I want to advise everyone, especially the adverse
23 party that they have the right to remain silent. Anything
24 they say might be used against them. The reason I say that is

1 one of the things the Court will be looking at today is
2 whether or not there has been, perhaps, harassment or
3 stalking, and harassment and stalking are both misdemeanor
4 crimes as set forth in Chapter 200. So it's possible,
5 sometimes these hearings that the Court hears evidence that
6 might implicate somebody in a crime one way or the other, and
7 I always want to start with that type of an admonishment.

8 The statute -- and I think I brought some of it with
9 me today -- that I think we are looking at is Chapter 33.

10 And, Mr. Brown, initially I believe that it's necessary for
11 the applicant to establish that there has been harassment in
12 the workplace. And my -- from my review of the application
13 which is insufficient to provide grounds for an extended
14 order. An application is for the temporary order and then we
15 have a hearing where we would reconsider from the get-go
16 anything that's not incorporated by a witness from their prior
17 statement. What we are trying to find out is whether or not
18 there has been a threat to cause or the commission of an act
19 that causes bodily injury, damage to property, or substantial
20 harm to the physical or mental health or safety of a person.
21 If that's established, then the other evidence is to establish
22 that the act or the threat was committed against an employer
23 or an employee while the employee performs the employee's
24 duties of employment, and that, finally, that the threat or

1 the action would cause a reasonable person to feel terrorized,
2 frightened, or harassed. And the reason I had that earlier
3 caution is that's the same language we see in Chapter 200 with
4 regard to the crime of harassment.

5 So with that having been said, are you prepared to
6 present evidence with regard to that feature of Nevada law?

7 MR. BROWN: That is my intended purpose, Your Honor.
8 And I have witnesses here that I believe will establish each
9 one of the elements.

10 THE COURT: Then the applicant may call its first
11 witness.

12 MR. BROWN: Your Honor, Washoe County will first
13 call United States Postal Inspector Steve Kline.

14 THE COURT: K-L-I-N-E?

15 MR. BROWN: Yes, Your Honor.

16 THE COURT: Thank you. The record will reflect
17 Mr. Kline is not in the room right now, he's on his way in.

18 MR. BROWN: One other matter while Mr. Kline is
19 being retrieved, Your Honor, I want to invoke the rule of
20 exclusion. I don't believe any of my witnesses are in here
21 and I don't know any of the other folks, unfortunately. My
22 apologies.

23 THE COURT: Thank you. All counsel and parties,
24 spectators, the rule of exclusion has been invoked; ergo, any

1 witness who's present he with regard to these proceedings
2 either physically, orally, or hearing, or watching through
3 some electronic means may have not do so until such time as
4 that person is called to testify.

5 Further, anybody that has testified may not relate
6 anything that occurred in these proceedings to any other
7 witness until such time as this proceeding has been concluded.

8 MR. BROWN: Thank you, Your Honor.

9 THE COURT: Except for the parties. Mr. Clark is
10 certainly welcome to say.

11 MR. BROWN: As well as Mr. Brown as my client
12 representative?

13 THE COURT: Yes.

14 MR. BROWN: And will be a witness.

15 THE COURT: Mr. Kline.

16 THE WITNESS: Yes, sir.

17 THE COURT: Come on in, sir.

18 Do I swear him or do you swear him?

19 Sir, would you please raise your right hand.

20 (The witness was sworn.)

21 THE COURT: Have a seat.

22 And is it a practice the witness may remove his mask
23 if he's been vaccinated?

24 Sir, if you've been vaccinated, you may remove your

1 mask.

2 THE WITNESS: Thank you.

3 THE COURT: Mr. Brown has some questions for you.

4 MR. BROWN: Thank you, Your Honor.

5 Your Honor, prior to beginning my examination, I
6 previously had the clerk mark an exhibit binder of evidence --

7 THE COURT: Do you have that available?

8 MR. BROWN: Of exhibits.

9 THE COURT: Let's have that ready for the witness.

10 Sir, if you keep this binder near you, when it's
11 time to look into it, we'll tell you.

12 THE WITNESS: Okay.

13 THE COURT: Thank you, sir.

14

15 STEVEN KLINE,

16 having been first duly sworn, was examined

17 and testified as follows:

18

19 DIRECT EXAMINATION

20 BY MR. BROWN:

21 Q Good morning, sir. Would you please state your full
22 name for the record.

23 A Steven Roger Kline.

24 Q And, Mr. Kline, what is your profession or

1 occupation?

2 A I'm the United States postal inspector.

3 Q Would you briefly tell the Court the
4 responsibilities and duties of the United States postal
5 inspector?

6 A Yes. I am basically a federal agent for the postal
7 service. I investigate over 200 federal statutes, possibly
8 implied by the postal service; basically, mail theft, mail
9 fraud, controlled substance or other contraband in the mail,
10 violent crimes against our employees, any property crimes, and
11 then lastly what we call dangerous mail investigations.

12 Q And briefly describe to the Court the training that
13 you've received in order for you to be proficient at providing
14 those type of investigations.

15 THE COURT: Just a moment if you could hang on your
16 answer.

17 I note everyone else's microphone is glowing red and
18 the witness is not. Does that indicate the witness's
19 microphone is not working?

20 THE COURT CLERK: No, Your Honor. It should be
21 fine. It should be picking up mine.

22 Mr. Mausert, are you able to hear the witness?

23 MR. MAUSER: Yes.

24 THE COURT: Go ahead, sir.

1 BY MR. BROWN:

2 Q Do you remember the question?

3 A Yes.

4 I attended a federally accredited law enforcement
5 academy in Potomac, Maryland that's run by the United States
6 Postal Inspection Service that lasted 12 weeks.

7 Q You had mentioned one of your obligations is the
8 investigation of dangerous -- you called it dangerous mail
9 investigation; is that right?

10 A Correct.

11 And I received additional training after that law
12 enforcement academy down in Phoenix, Arizona that covers about
13 four weeks of additional training.

14 Q I'm going to bring your attention to on or about
15 April 30th of 2021. Were you on duty at that time?

16 A I was.

17 Q And did anything come to your attention regarding an
18 investigation related to dangerous mail?

19 A Yes. I had received a call from the post office
20 located on McCabe Drive in south Reno from one of the
21 supervisors, and she related to me she had a bunch of
22 suspicious envelopes and basically related to me that the --
23 they had gone out to -- the return address had been listed
24 because initially they thought they were short postage,

1 however, learned they were not. But during that employee
2 going to that house inquiring about those mailings, the people
3 at the house stated they had not mailed anything, had not been
4 in the post office all day, so, therefore, she became
5 suspicious about the mail in the post office and called me.

6 Q Did you go and talk to this person at the McCabe --

7 A Yes.

8 Q -- the address?

9 A So after the -- I told her I would be on my way. I
10 responded to the post office on McCabe Drive, and when I
11 walked in she gave me -- there was a bunch of manila envelopes
12 in what we call postal tubs, the plastic mail tubs we have.
13 And initially my concern is the -- I was making sure that the
14 mail was safe for us and our employees. And so basically what
15 I'm looking for in dangerous mail is because I have a
16 fictitious address, I'm worried about powders, liquids,
17 anything else that we sometimes have responded to in the past
18 with suspicious mail. And I determined at that point there
19 was no powder leaking out of the envelopes, but I still have a
20 fictitious address, and I realized that also, looking through
21 the mail, that most of the mailings were going to prominent
22 addresses which is a red flag for our dangerous mail
23 investigations.

24 Q And what do you mean by prominent addresses?

1 A They were going to county officials, local business
2 people, media outlets.

3 So because it was late on a Friday afternoon on
4 April 30th, I decided on Monday I would contact one of the
5 people who was supposed to receive one of these envelopes.
6 There was 62 envelopes in total.

7 Q Okay. At some point in time during your
8 investigation, did you take photographs of those envelopes?

9 A I did.

10 Q You've been given an exhibit binder in front of you.
11 Would you go ahead and open it and take a look at exhibits
12 that are marked 1 through 5 and tell me if you recognize
13 those. Each exhibit is multiple pages.

14 A I do.

15 Q And what is that?

16 A Those are the envelopes -- the 62 envelopes that I
17 intercepted at the McCabe post office.

18 Q And you took those photographs and they are a true
19 and accurate representation of the envelopes that you seized?

20 A I -- yes.

21 MR. BROWN: Your Honor, I would move to admit
22 Exhibits 1 through 5.

23 THE COURT: Mr. Mausert, any objection?

24 MR. MAUSERT: No objection, Your Honor.

1 THE COURT: Exhibits 1 through 5 are admitted.
2 (Exhibits 1-5 were admitted.)

3 BY MR. BROWN:

4 Q If you could go through and give the Court some
5 examples -- you don't have to read all of them -- but go
6 through and tell some of the individuals on there that are
7 addressed to, what exhibit they are in, that gave you some
8 level of concern as being prominent people in the community.

9 A Well, the first one in Exhibit 1. The first one
10 here is Charles Moore, fire chief of Truckee Meadows Fire
11 Department.

12 And then the other ones are basically county
13 employees. The other one here is Kevin Dick the Health
14 Department director, prominent person whose name I easily
15 recognized because he's been in the news.

16 Assistant county managers. Let's see, other Washoe
17 County employees. A retired -- a former judge, Judge Sattler
18 who I recognize that name.

19 Q Why would the recognition of those names cause you
20 concern as a trained investigator looking into potentially
21 dangerous mail investigation?

22 A Based on the volume of the 62 envelopes, I -- my
23 training and experience tells me that Judge Sattler and
24 Chief Moore, these not solicited mailings. They are not

1 expecting these mailings. So on the very extreme case, they
2 could be threatening letters. We've seen that in the past in
3 other investigations or they could be what we call eccentric
4 mailings which are mailings that don't actually have a threat
5 in them, but they are basically mass mailings, basically
6 people's whatever they want to talk about. It could be a
7 whole range of things. But I didn't know the contents at the
8 time. As I stated, it was Friday afternoon.

9 After I left the McCabe post office that evening, I
10 did go make contact with the return addressee on Geiger, the
11 return address listed, just to confirm that no one in their
12 house mailed anything, and I talked to both Mr. Clinger and
13 his wife and they both said no one had gone to the mail, no
14 one had gone to the post office that day.

15 Also, because that post office has video, I happened
16 to take a still photo reviewing the time of the transaction
17 and just showed them a picture, saying, "Do you recognize this
18 person at the time?" They did not.

19 Q He did not?

20 A Yeah.

21 Q Let me just make sure your testimony is clear from
22 the -- if you just look at the first page of Exhibit 1 which
23 is a copy of an envelope addressed to Charles Moore.

24 A Uh-huh.

1 Q And that's all in somebody's handwriting; is that
2 correct?

3 A Correct.

4 Q And in the upper left-hand corner there's a sticker.
5 Is that the spot that would be for the return address from the
6 mailer?

7 A Correct. And the name that would be listed normally
8 above the address looks like it was scratched out in a black
9 Sharpie, and that was on all the envelopes that way which was
10 another flag for me.

11 Q And why was that a flag for you?

12 A Because someone is attempting to obscure the origin
13 of the mail or who really mailed it. And then as I said, you
14 know, after I talked to Mr. Clinger and his wife and showed
15 them a photo and the fact that no one had -- no one had
16 permission or no one was operating on their behalf to mail
17 anything, it just raised another red flag. So I followed up
18 on Monday to figure out what the contents would be.

19 Q So you determined that that address was Mr. Andrew
20 Clinger, correct?

21 A Correct.

22 Q And you spoke to Mr. Clinger and he denied ever
23 sending any of these documents; is that correct?

24 A Correct.

1 Q At that point in time as an investigator, what are
2 you thinking as you're moving forward? I know you have to
3 keep an open mind as you're looking at the case, but what are
4 your concerns and what are you looking into?

5 A My biggest concern is that there's some kind of
6 threat of violence against any of these individuals or the
7 government in whole. I bring that up because we recently --
8 since the election, we've had several cases where mailings
9 would show up, one in the capitol building, for example, in
10 Nevada obviously saying things were going to happen badly on
11 January 6th. That is an example.

12 So that is my concern are people making any threats
13 or are people just trying to -- what we call eccentric mailing
14 which is just mailing out just non-threatening communications.
15 But it's not normal.

16 Q So once you inspect the packages there at the McCabe
17 address, the 62 packages --

18 A Uh-huh.

19 Q -- you felt you had no evidence that there was any
20 kind of powdery substance, oily substance, or any type of
21 mechanical wiring. You felt it?

22 A Correct. I have some training in recognizing
23 explosives in the mail. All those indicators were absent, so
24 I was -- I guess my level of concern went down a little bit

1 knowing there was no immediate threat. But as I said, knowing
2 that they just contained papers, I just didn't know what else
3 was in there.

4 Q Okay. Did you have the ability to x-ray the
5 packages at that time?

6 A I have x-ray equipment, but I didn't have any
7 indicators that would lead me to want an x-ray of the parcel
8 or the envelopes.

9 Q So after -- after you had done the inspection of the
10 62, you were informed -- you found the address and you were
11 informed that Mr. Klinger didn't mail these and you went out
12 and spoke to him, and he confirmed he didn't mail those, what
13 did you do next?

14 A The post office also provided me a receipt with a
15 transaction where all of these envelopes were mailed together.
16 And I realized that that -- all those mailings were done in
17 cash, which was just another -- it's another indicator that
18 someone tried to obscure the identity of the mailer.

19 It being Friday afternoon, I decided to -- we
20 scanned and intercepted, so if any -- in case anybody wanted
21 to track them through the tracking numbers, they would know
22 they were intercepted by the postal service, they were not
23 going to be delivered. And if they want to, they could call
24 the post office. But no one called, so I kept it in my

1 possession until Monday.

2 Q And up until this time, have you had any contact
3 with anyone at Washoe County?

4 A No.

5 Q Okay. What did you do after that?

6 A On Monday or . . .

7 Q Yes. That was a Friday, right? April 30th was a
8 Friday?

9 A So on Monday, one of the things I recognized in the
10 envelopes was, of course, Chief Moore, Truckee Meadows Fire
11 Chief. His office is not that far from mine. So on Monday
12 morning, I went to his office with his envelopes, this
13 mailing -- there's a picture in Exhibit 1 -- to introduce
14 myself and say, "Hey, this mailing was intended for you. It's
15 not dangerous." I screened it from my thing, and you kind of
16 do that with HazMat because he's a fire chief.

17 But I said I was interested in the mailings and
18 would he give permission for me to either me open it or he
19 open it and show me what the contents were to make sure that
20 there were no threats against any persons or organizations.

21 At that time, Chief Moore had told me that two
22 of his staff members had received similar mailings this
23 morning -- that morning, so . . .

24 Q What did that make you think?

1 A That made me -- that was my first indication that I
2 didn't have all the envelopes, and it gave me an indication
3 that possibly there were additional envelopes maybe mailed
4 from other post offices.

5 Q Okay. What did you do after the chief told you that
6 other people had received them and you made that
7 determination? What did you do next?

8 A As I said, I asked him for permission. He opened
9 it. He actually scanned it. He gave me a scanned copy, a PDF
10 copy, of what the contents were. It was just paper with -- it
11 was like a two-page -- there was a photo, a two-page letter,
12 and the others were some photocopies of some certain legal
13 documents.

14 Q If you could in your exhibit book, Mr. Kline, turn
15 to Exhibits 6 and 7 and briefly flip through those pages.

16 A Yes. So, yes, those are the -- when Chief Moore
17 opened his package, that's basically the -- in this envelope
18 is what the pages were.

19 Q So at the first page of Exhibit 8, is that what you
20 saw a picture of, a woman in a bikini at a pool?

21 A Yes. The that was the cover. That was of the top
22 page.

23 MR. BROWN: Your Honor, I would move to admit
24 Exhibits 6 and 7.

1 MR. MAUSER: No objection, Your Honor.

2 THE COURT: Exhibit 6 and 7 are admitted.

3 Thank you, sir.

4 (Exhibits 6 and 7 were admitted.)

5 BY MR. BROWN:

6 Q At that time, you've opened the letter, you've seen
7 at least cursory --

8 A Uh-huh.

9 Q You've seen the documents. What did you do at that
10 point?

11 A I mean, I just quickly reviewed the documents,
12 realized there was no threat to violence in here.

13 Chief Moore also reviewed, he didn't see anything
14 threatening in there. He was kind of perplexed as to why he
15 received one because he had no association to the contents.

16 And I also took a photograph of the other one that
17 one of the staff members had gotten that day. That was my
18 indication there was more. And then I -- I kind of left and I
19 just said, Hey, if you receive any more, let me know, and then
20 kind of left his office at that point.

21 Q And this is on Monday, May 3rd, correct?

22 A Correct.

23 Q And that was in the morning on your way to work?

24 A Yes.

1 Q You stopped at Chief Moore's place of business?

2 A Uh-huh.

3 Q What did you do after that?

4 A I went to my business -- I went to my office on
5 Vassar Street, and that's where I have the other -- that's
6 where I kept the envelopes. And initially, because I was --
7 there was no concern now of any threats against the
8 government, or any agencies, or people, or organizations, but
9 now I'm left with an anonymous -- what we call an eccentric
10 mailing. This is what I would call purely eccentric mailing
11 where there are no threats. Someone anonymously just mailing
12 stuff either to be, you know, what we call annoying or
13 whatever they just want to do. But it's not an attributable
14 mailing.

15 Q Would you call this an anonymous mailing or was it
16 fraudulently attributed to somebody else?

17 A It's fraudulent mailing in the fact that it's false
18 representation to the government, the origin, because the
19 return address was not the people who mailed it. So there was
20 a false representation of who was supposed to be the owner of
21 the mailing.

22 Q And to your knowledge, is that a violation of
23 federal law?

24 A It is. 18 U.S.C. 1001. And we also have a sister

1 statute 18 U.S.C. 1342 which deals with fictitious names or
2 addresses on mailings.

3 Q So you've determined testimony that there's not an
4 overt threat. Did you ever take time to go through the packet
5 to see if there was any other reasons for you to be concerned?

6 A Yes. When I left Chief Moore's office, I went back
7 to my office. I actually sat down and was able to read -- I
8 didn't want to spend all of my time in Chief Moore's office
9 reading this page by page, word by word. So I did that in my
10 office just to make sure I wasn't missing anything.

11 The only thing that caused me -- only thing that
12 concerned me was on Exhibit A, the second page of the Reno
13 Whistledown letter, at the end where it says all questions
14 will reveal in time.

15 Q Is that the last sentence on that particular page?
16 It's page 3 of Exhibit 6.

17 A Yes.

18 Q Why did that raise concerns with you?

19 A It gave me an indicator that there possibly would be
20 future mailings, that this wasn't going to be sort of a
21 one-and-done because based on the contents, it seems like --
22 and also to the reference of Reno Whistledown. Because I
23 didn't know what Reno Whistledown was in my office, so I
24 Googled that. And all the Google results were a bunch of

1 Netflix show related to a character in a series that was a
2 gossip columnist.

3 So between that and the fact that all questions will
4 reveal in time, it goes hand-in-hand that if someone thinks we
5 a columnist there's going to be future writings, that this was
6 going to be a continuous thing.

7 So at this point, all I had was the federal
8 violations. So my plan at that was to -- next day was to
9 contact the Northern Nevada Regional Intelligence Center and
10 say I'm aware of these mailings, there's no nothing
11 threatening, if there's any future mailings, I would like to
12 know and I can assist in your investigations if there are any
13 escalation or any threats. But I never got to that point the
14 next morning because on Tuesday --

15 Q We'll get to that in just a second.

16 A Yeah.

17 Q You went down the road of no threats?

18 A Yes.

19 Q And you were looking for threats of violence; is
20 that correct?

21 A Correct.

22 Q As an investigator that is -- you're looking for
23 federal violations; is that correct?

24 A Correct.

1 Q Did you consider any type of harassment allegations
2 or are there not really any federal statutes that you could
3 use on harassment?

4 A There are no federal statutes that cover harassment.
5 Reading the contents, I would say I thought it was in that
6 vein, but it wasn't something that I could have charged
7 federally.

8 Q So you believed it to be harassing, but not
9 threatening; is that correct?

10 A Correct.

11 Q Did you do anything else, then, on Monday May 3rd?

12 A No, not that day.

13 Q Okay. You had initially been concerned when you
14 talked to the fire chief based upon the fact that other
15 members of the fire department had already received some of
16 these things and you thought, okay, there could be multiple
17 mailings; is that correct?

18 A Correct.

19 Q Did you do any investigation on Monday related to
20 the multiple mailings?

21 A No, not that day. I was -- I got caught up in some
22 other cases.

23 Q Okay. So we are going to switch the day now and go
24 to May 4th. What did you do in this case if anything?

1 A On May 4th I was at my work and my plan was now to
2 go back to -- because I was interrupted by other cases, and as
3 I said, the Northern Nevada Intelligence Center saying if
4 there's any other mailings, I would like to know.

5 But I received a call from Washoe County sheriff's
6 office from Sergeant Urban basically just quickly related
7 that, Hey, I got a bunch of these mailings -- the county got a
8 bunch of these mailings. I was wondering if I could help if
9 you have time to talk. And it occurred to me on the phone
10 that he was basically talking about these additional mailings.

11 So I said, Hey, I think I'm familiar with what
12 you're talking about. And that's when I have learned that he
13 had, I believe, 21 envelopes that the county had been mailed
14 turned over to him that had been mailed to the Ninth Street
15 complex.

16 Q Could it have been 24?

17 A It could have been 24. It was somewhere in the low
18 20s.

19 Q So after you were informed by the Washoe County
20 sheriff's office that they had 24 envelopes, were you able to
21 ascertain if they matched the envelopes that you took
22 possession of at the McCabe postal location?

23 A Yes. He told me they had the same return address
24 and that they are all black handwriting. And I asked him over

1 the phone, what was on the postage label. In the upper right
2 of an envelope when a person mails it, there's an origin zip
3 code and I was curious to see because the ones I had from the
4 day before from the McCabe all say 89511 which is the zip code
5 for the McCabe post office.

6 And he then related to me his letters, the manila
7 envelopes he had, were 89503.

8 There are two post offices that use that zip code,
9 so after I got off the phone with him, I went to research to
10 figure out where these were mailed from and which of the two
11 post offices. It's either the one on Stardust or the one on
12 North Virginia at the University of Nevada at UNR.

13 Q Okay. And what did you do after determining that?

14 A I was able to go through our system and then when I
15 went to the one -- I looked at all the transactions on both
16 days on April 30th because I knew that was the mailing date on
17 both of the ones I had and that Sergeant Urban had. There was
18 nothing at the Stardust location that showed any additional
19 mailings or similar postages, but when I went to the
20 University one for the retail transactions for the 30th, there
21 were 90-some envelopes with the same postage.

22 Q How many did you say?

23 A 90. There were 97, I believe.

24 Q Okay.

1 A I just know it's in the 90s. One of the first
2 tracking numbers -- because it also lists tracking numbers on
3 the transaction -- I believe it was the very first one was the
4 tracking number of the one that one of Chief Moore's staff
5 members had gotten. So that -- then I realized the mailings
6 are connected.

7 Q And what did you do after that?

8 A I researched some -- some more in that transaction.
9 Our database tells me what time a transaction was started,
10 what time it was ended. It was about an hour and five
11 minutes. I believe it was like from 1:00 p.m. to, like, 2:00
12 something, 2:08.

13 Q Let's make sure we say which transaction we are
14 talking.

15 A Yeah. The ones at the University.

16 Q Okay.

17 A So now I knew what time of the day. That station
18 doesn't have any cameras.

19 Q That's University?

20 A University Station doesn't have any cameras, so I
21 know what time the transaction was started and what time it
22 ended. It was just over an hour.

23 Q So when the person mailed them from the University,
24 they were physically standing there --

1 A Correct.

2 Q -- for an hour with postal attendant?

3 A Yes.

4 Q Getting all of these things stamped and mailed?

5 A Correct.

6 Q For an hour?

7 A And the other thing they told me about the
8 transaction is that it was paid for in cash.

9 Q What did that do to your investigation, then? As an
10 investigator, what did that mean to you?

11 A It's not a normal business mailing because the
12 transaction was over \$700 in cash. Our normal business
13 mailings, people will use meters or like, you know, they
14 have their own meters for that kind of transaction. You
15 routinely -- for people who use cash transactions, they are
16 trying to usually hide the identity, the origin -- the
17 identity of the mailer. This usually comes up in these
18 dangerous mail investigation when we have threatening
19 communications, people trying to send cash in those mailings
20 or sometimes there are narcotics mailings as well because
21 people don't want to be identified with the mailing.

22 Q So at this point you have multiple, multiple
23 mailings?

24 A Correct.

1 Q With a false or fictitious, fraudulent return
2 address, and someone that is paying for these in cash; is that
3 correct?

4 A Yes. At that point, I realized there were 162
5 mailings.

6 Q And how did you come to that determination?

7 A Just because I -- I had 62 envelopes from McCabe. I
8 reviewed their transactions and realized there were actually
9 65 out of McCabe. Three had gotten -- three were just sent
10 on. They were just not that day. The staff just didn't, for
11 whatever reason, because they were not local mailings, they
12 were actually -- I think two were out of state and one was to
13 Las Vegas. So I don't know if they just didn't see that or
14 didn't associate that, because we put everything in a big
15 bucket, basically in a big basket to be mailed.

16 And the transaction at the University told me -- I
17 mean, I can easily tell you there were 97 -- I believe it was
18 97 mailings. So I just knew -- I know in total there were 162
19 envelopes mailed of which I had 62 in my office.

20 Q And so I'm understanding you -- and I apologize, the
21 Plexiglass is giving me a little difficulty in hearing you.
22 There's a total of 162 mailers that you're aware of?

23 A Correct.

24 Q And you're in possession of how many?

1 A 60 -- on that day I was in possession of 62.

2 Q 62. And this is on May 4th, correct?

3 A Correct. And then I -- the total postage was paid
4 in cash in all the transactions.

5 Q Okay.

6 A And it was over \$1,200 in cash.

7 Q All right. And did you -- did you -- were you able
8 to go into your system and re-print the receipts for these
9 mailings?

10 A I was. I personally didn't, but I went to the post
11 offices and said I need to look at receipts. They can look
12 back in their system because I had the transaction times.
13 They were able to look those up and supply me duplicates.

14 Q If you could turn in the exhibit book and look at
15 Exhibit 8, that's marked University Post Office Receipt?

16 A Correct.

17 Q And is that a photocopy of the very long receipt?

18 A It is.

19 Q And this was from the transaction that occurred at
20 the university post office; is that correct?

21 A Correct, on April 30th. And this transaction
22 receipt tells me it was completed at 2:08 p.m.

23 MR. BROWN: Your Honor, I would move to have
24 Exhibit 8 admitted into evidence.

1 THE COURT: Multiple mailings.

2 Any objection?

3 MR. MAUSER: No objection, Your Honor.

4 THE COURT: Exhibit 8 is admitted.

5 (Exhibit 8 was admitted.)

6 BY MR. BROWN:

7 Q If you could turn to Exhibit 9 which is marked in
8 your exhibit book as the McCabe Post Office First Visit Read
9 Receipt.

10 A Correct. And that's also a receipt -- this was from
11 the first transaction. There were actually two separate
12 transactions. The mailer came back at two different times.
13 This was the first one where there were -- I believe there
14 were 62 tracking numbers on this one. And I want to believe
15 it was -- it was -- the transaction was concluded around noon
16 that day. I want to say it's like 11:57 if I remember
17 correctly.

18 Q And this -- this also is a photocopy of -- Exhibit 9
19 is also a photocopy of that receipt which is several pages; is
20 that correct?

21 A Correct.

22 MR. BROWN: Your Honor, I would move to admit
23 Exhibit 9.

24 THE COURT: Multiple mailings.

1 Any objection to Number 9.

2 MR. MAUSERT: No objection, Your Honor.

3 THE COURT: Thank you, sir.

4 (Exhibit 9 was admitted.)

5 BY MR. BROWN:

6 Q Turn to Exhibit 10, Mr. Kline.

7 A Yes.

8 Q And this is marked as Exhibit 9, McCabe Post Office
9 Second Visit Receipt?

10 A Correct.

11 So this is later that afternoon. There were nine
12 additional mailings for there. It was also made in cash. I
13 want to say it was like 60-some dollars in postage. And that
14 transaction was concluded around, I want to say, like, close
15 to 3:00 p.m. Somewhere around 2:55. Somewhere around there.

16 MR. BROWN: Your Honor, I move to admit Exhibit 10.

17 THE COURT: Any objection to Exhibit 10, sir?

18 MR. MAUSERT: No objection, Your Honor.

19 THE COURT: Thank you. \ Exhibit 10 is admitted.

20 (Exhibit 10 was admitted.)

21 BY MR. BROWN:

22 Q So at this point on Tuesday, May 4th, you're aware
23 that packets have actually been received at Washoe County as
24 well as with the fire chief?

1 A Correct.

2 Q And two other members. You've now ascertained that
3 mailings took place on three separate occasions at two
4 different post offices, correct?

5 A Correct. And based on the transaction times for
6 McCabe, I was actually able to go into the DVR system and
7 download a video of the mailer.

8 Q And the cost of those was approximately \$1,256?

9 A Correct.

10 Q And is it your understanding that there's 69 pages
11 in a single packet?

12 A I don't -- it's 60-something pages of paper in each
13 packet, yes.

14 Q So 69 pages times, you know, 162 packets is well
15 over 11,000 copies that were made of this; is that correct?

16 A Correct.

17 Q Did that give you any concern as an investigator?

18 A Yes. It was the time it took just to mail. I mean,
19 if you think about on April 30th, the transaction started
20 around 11:00 in the morning at McCabe and went to University
21 between 1:00 and 2:00 and then ended up at McCabe around
22 2:45ish. That was a lot of time. And then the time it took
23 to assemble all of those pages, yes.

24 Q It was a significant undertaking, wasn't it?

1 A Correct.

2 Q What did you do after that? You're now into Tuesday
3 afternoon. You've been contacted by the sheriff's office.
4 You've concluded we've got three separate mailings, three
5 separate locations.

6 A And they were very interested once I told them, I
7 said, Hey, I have video of the person who came into the McCabe
8 post office. So they said -- after I got the duplicate
9 receipts, I downloaded the DVR video for those transactions
10 and then I put it on a thumb drive.

11 Q Okay.

12 A And then provided that later to Sergeant Urban.

13 Q And they got that about a week later; is that
14 correct?

15 A Correct. On the 11th.

16 Q Okay. So on the 4th, you get the video. And what
17 did you determine?

18 A Initially I determined that the -- our DVR time was
19 eight minutes off. I have to think about it in my notes
20 because I compared it initially before I retrieved the video.
21 I checked to make sure what the current time was in the DVR as
22 compared to what the actual time was on my phone, and then
23 knowing that, I was able to go back and adjust the time of the
24 DVR.

1 But basically on the first one, just after
2 11:00 a.m., I saw an individual, a large, you know, white male
3 walk into the post office carrying, like, a big -- like a box,
4 just full of the manila envelopes. There were no other people
5 around at that time that had that many envelopes. So -- and
6 then I just saw them conduct a transaction, and then he walks
7 out just as the transaction time matches the receipt for the
8 first transaction.

9 Q And that first transaction at McCabe, how long did
10 that last?

11 A I want to say it lasted around 50 minutes.

12 Q And the one at the University?

13 A It was about just over like an hour and five
14 minutes.

15 Q And then the third one back at McCabe, how long did
16 that last?

17 A It was about 12 minutes because it was only nine
18 envelopes.

19 Q And since -- you weren't able to identify the person
20 in the video, correct?

21 A I was not. I just noticed that the -- when I
22 retrieved the video there was a display. The person walks by
23 and I was able to go back out and measure the display, and I
24 know the display was 5-foot-7, so I know the individual was at

1 least taller than 5-foot-7, and he was a white male probably
2 at least 50 years old.

3 Q And since that time you've been aware that
4 individuals at Washoe County have identified the individual in
5 the video as Mr. Clark; is that correct?

6 A Correct.

7 Q So after, on the 4th, you get the video eventually
8 or you're going to get the video, you're looking into all
9 that. Did you do anything else other than get the video ready
10 before I think you said you delivered it on the 11th?

11 A Yeah. So I then went into -- it took me several
12 days, but the 97 envelopes from the University, because all I
13 had was tracking numbers on the receipt. So I had to go back
14 in our system and basically enter each tracking number, and it
15 just tells me just a delivery address of where it went to.
16 And I basically started putting that in an Excel spreadsheet
17 because I was trying to figure out where the other mailings
18 had gone to, and that's when I realized one went back to --
19 there were two at least that went to Truckee Meadows Fire.
20 There were several, at least two dozen, that went also to the
21 Ninth Street complex, and the rest were that standard mix of
22 media -- mailings to media and two other prominent business
23 leaders -- or other prominent private citizens I would call
24 it -- in our system. I can't tell who it was addressed to, I

1 can just tell you the address it went to. And that's -- and
2 then most of that was just Google searches trying to figure
3 out where they were going to.

4 Q If you could turn to Exhibit No. 11 in the exhibit
5 book.

6 A Uh-huh. Yes.

7 Q Do you recognize that document?

8 A I do. That's the Excel spreadsheet I created on the
9 initial 62 mailings out of McCabe post office.

10 Q And can you just briefly -- well, it may be
11 self-explanatory. From left to right, tell the Court what the
12 columns are and what they --

13 A So the first column was a tracking number that was
14 affixed to the manila envelope.

15 Second one is if I had the envelope, who it was
16 addressed to, the name. There were those three envelopes
17 where I don't have names were the ones that I didn't
18 intercept. They were just sent on out of the McCabe post
19 office. They went to, as I said, Colorado, Las Vegas, and
20 Texas and then the address it went to.

21 And then eventually when I turned over some of the
22 ones that were turned over to the Ninth Street that were
23 addressed to the county officials, I annotated whether I had
24 them or Washoe County had them.

1 And then in the ones that I know got mailed on, I
2 put unknown because I don't know -- I don't know if they still
3 had them, or if they threw them away, or what they did in
4 those mailings.

5 Q So if you go on the far right and it says "custody,"
6 and it says "WCSO," is that Washoe County sheriff's office?

7 A It is.

8 Q And I believe there were two acronyms, the three
9 unknown, the USPIS, that's the --

10 A United States Postal Inspection Service. That would
11 be me.

12 Q All right. How is it that the ones that you
13 received went to the sheriff's office? Did they come and get
14 them? Did you bring them to them? How did that go down?

15 A No. It went down with the -- when I called Sergeant
16 Urban, said Hey, I got the video downloaded. I got an Excel
17 spreadsheet of the ones -- of the other ones from the
18 University. And I said, Do -- I offered them up. Do you want
19 the ones addressed to Ninth Street so you can get -- because
20 you have the ones that the county turned over to you from the
21 Ninth Street complex because it's a county investigation about
22 the county mailings. And I asked if he wanted the other
23 envelopes. He said he had to think about it, think about his
24 investigation. He said it would be helpful if he had all the

1 ones that were supposed to go to the county. So I turned over
2 only the ones that were supposed to go to the county.

3 Q And you're authorized to provide the mail to the
4 entity that they are addressed to?

5 A Correct.

6 Q That's what you did?

7 A Yes.

8 Q And that was at your suggestion, correct?

9 A Yes.

10 Q So what did you do after that?

11 A So on the 11th is when I went to the sheriff's
12 office. He showed me the ones he had which basically looked
13 like the ones I had turned over to him. It was basically --

14 Q Same kind of handwriting?

15 A Same envelopes, yes.

16 Q And same -- all of them had the same return label?

17 A Correct, with the same blacked out where the name
18 would be.

19 Q To Mr. Clinger's address?

20 A Correct.

21 Q And were you able to determine -- is the McCabe
22 closest to Mr. Clinger's house?

23 A It is.

24 Q And is the University the closest post office to

1 where Mr. Clinger works at the University?

2 A Correct.

3 Q Okay. What was the next step you took?

4 A So I turned over that, the video. That was pretty
5 much the end of it. At that point, I just wanted to see what
6 the county was going to -- if they were going to be able to
7 develop anything from the video.

8 Q Okay.

9 A I think initially they told me, because we don't
10 have any hits yet, we've asked a couple of people, but it was
11 early because I previously had provided them one still image,
12 so they were hoping to get a better image from the video I
13 gave them to use.

14 Q And to your knowledge, no one was able to identify
15 from the still image who it was when the video was provided?

16 A Correct.

17 Q Okay. What did you do after that? So you've given
18 the video, you gave Washoe County the ones that were addressed
19 to them, what did you do from there from your perspective?

20 A Sergeant Urban related to me they were investigating
21 this on the basis of harassment, work place violence possible
22 issue. So I got the impression that they were definitely
23 going down the -- there were charges they were possibly
24 looking at so it was a continued criminal investigation so I

1 just kept -- just said, Hey, let me know when you develop
2 something. I was going to forward it to the U.S. Attorney's
3 Office, but not having a suspect at the time, it's -- you
4 know, mailing the attorney going, Hey, I have a case but I
5 don't have a suspect yet, are you interested? Yes or no? So
6 it's not advantageous for me to do that, so I was waiting to
7 see if we could develop who the mailer was.

8 Q Okay. And did you do anything else after the video
9 had been given to the sheriff's office?

10 A Yes. So I had to go in a separate case. I
11 routinely go to the Washoe County assessor's office to look up
12 address information, who owns a house, is it a rental property
13 or whatever in some of the other cases. I had gone in there
14 to look up a house, and I really quickly realized Mr. Clark's
15 picture was on the assessor's page. It occurred to me that he
16 looked similar to the person on the video and he could
17 possibly be the mailer or he would be someone we would
18 probably want to talk to, maybe, if we had developed no leads
19 from the video.

20 I talked to Sergeant Urban about that and I want to
21 say that was on the next day on the 12th. And I said, Hey,
22 just so you know, looking at the information -- because the
23 Excel spreadsheet, looking that over again, it occurred to me
24 that we are possibly looking for a county employee as the

1 mailer.

2 Q Why did that strike it -- why did that --

3 A It struck me because all the mailings that went to
4 the county were very specific. They are also addressed to
5 people that I would say would not be normal, common knowledge,
6 public knowledge. You know, HR manager, grant managers,
7 office assistants, versus the ones that were not mailed to the
8 county. If you look at those addresses, like Mr. John
9 Scolari, Elliott Sattler, or they are addressed to casino
10 owners, addressed to the casino, something you could Google
11 search and find out very quickly. But the ones sent to the
12 county, it just struck me the names that were being used were
13 not something that most people would be aware of or even know.

14 Q So it would not only have their name, it would have
15 their specific job title?

16 A Correct. So like on Exhibit 11, if you go to, you
17 know, when I go to like Suzanne Henry, Renown Chief Marketing
18 Officer, that's different. Julie Bobzian, Social
19 Service/Grants Coordinator. Samantha Pierce, County Manager
20 Internal Audit. Erin Meyers, County Manager Office Assistant.
21 Right? It struck me as names and duty titles because the duty
22 titles were put on there that the general public just wouldn't
23 ordinarily know unless you worked at the county.

24 Q So now that you have just by happenstance been on

1 the assessors pages when you were doing this case and you were
2 looking at the video and you thought they were similar, you
3 were drawing a conclusion it might be a county employee, did
4 you at least at that point in time in your mind believe you
5 had a potential suspect?

6 A I would call it a person of interest, someone we
7 would want to talk to.

8 Q Okay.

9 A I relayed that to Sergeant Urban on the phone and
10 unfortunately for sergeant -- Sergeant Urban at that point
11 had -- they reached the point in their investigation, he goes,
12 Hey, this is of a sensitive nature. We think we might have an
13 idea who the mailer is, but we are referring this to the
14 Attorney General's Office as a neutral party because of the
15 involvement with -- it's the county investigating something
16 against the county, and he wouldn't either confirm or deny
17 when I relayed to him. He just said it was interesting and
18 that was that.

19 Q At that point did you reassess whether you had
20 enough information to forward this to the U.S. Attorney's
21 Office?

22 A I thought we were getting close because when he told
23 me he -- they had a person -- they had a lead on who they
24 thought the mailer was and they were turning it over to the

1 Attorney General's Office, I got to the impression we were
2 coming to sort of the closing part of this, identifying the
3 mailer. So, yes, I was -- and I kind of wanted to wait and
4 see whether there going to be any charges or not. I mean, if
5 the County wasn't going to be -- there wasn't going to be any
6 State charges, would I pursue the federal, but it wasn't until
7 days later where I learned through media reports when it
8 started becoming a much bigger deal.

9 Q And you determined that it was Mr. Clark?

10 A Correct.

11 Q And at that point, did you take any action to
12 forward the information on to the U.S. Attorney's Office?

13 A I did.

14 Q And what was your purpose in forwarding it on to the
15 U.S. Attorney's Office?

16 A It was basically the two violations I mentioned,
17 18 U.S.C. 1001, false representation to the United States
18 government and 1342 which was the fictitious name. Gave a
19 quick -- gave the U.S. Attorney's Office a quick background,
20 but basically it was based on the sheer number of mailings,
21 the fact that the Attorney General's Office was taking over
22 the investigation, now we have media interest in the case, and
23 at the very least I thought it was something that the U.S.
24 Attorney's Office should be aware of. That I, as a federal

1 agent, was part of this case, and if they are interested in
2 taking it or not.

3 Q And as of today you have not received a
4 determination one way or the other whether charges are being
5 pursued based upon your forwarding of that information?

6 A Correct. I have not heard anything back yet.

7 MR. BROWN: I don't have any further questions at
8 this time.

9 THE COURT: Thank you.

10 Before -- sir, before I pass you for
11 cross-examination, could you articulate for me the Code of
12 Federal Regulation or United States Code that you referred to
13 with regard to the return address?

14 THE WITNESS: The false representation to the United
15 States government is 18 U.S.C. 1001 and then the fictitious
16 name or address would be 18 U.S.C. 1342.

17 THE COURT: Thank you. Are you all right? Do you
18 need water or anything?

19 THE WITNESS: I'm good. Thank you.

20 THE COURT: Mr. Mausert, would you have any
21 questions of Mr. Kline on cross-examination?

22 MR. MAUSERT: Very briefly, Your Honor.

23 THE COURT: Go ahead, sir.

24 ///

1 CROSS-EXAMINATION

2 BY MR. MAUSERT:

3 Q Mr. Kline, you're not familiar with the underlying
4 facts and circumstances that the package substantively
5 addresses, are you?

6 A I am not, no.

7 Q And so your statement to the Court that you thought
8 this might be harassing, what you're -- if I understand you
9 correctly, your lack of familiarity, would it be more apt to
10 say that it's potentially harassing depending on the
11 underlying facts and circumstances?

12 A Yes, potentially harassing.

13 MR. MAUSERT: Thank you, Your Honor. I have no
14 further questions, Your Honor.

15 THE COURT: Thank you.

16 Mr. Brown, any follow-up?

17 MR. BROWN: No, Your Honor.

18 THE COURT: Mr. Kline, thank you for being here
19 today. Please leave the exhibit book and please don't discuss
20 your testimony with any other witness until this proceeding is
21 over.

22 THE WITNESS: Yes.

23 THE COURT: Thank you, sir.

24 Mr. Brown, did you have another witness?

1 MR. BROWN: I do. I would call Sergeant West Urban.

2 THE COURT: All right. Is Sergeant Urban available?

3 MR. BROWN: He was. I can go get him.

4 UNIDENTIFIED PERSON: It looks like the attorney is
5 going out to get him.

6 THE COURT: Thank you, sir. Good morning, Sergeant.
7 Come up here by our bailiff.

8 THE WITNESS: Yes, sir.

9 THE COURT: Have a seat and we'll give you the
10 official oath.

11 Will you please raise your right hand, sir.

12 THE WITNESS: Yes, sir.

13 (The witness was sworn.)

14 THE COURT: Have a seat. Would you please state
15 your name and spell your last name for our record.

16 THE WITNESS: Yeah. My name is West Urban and my
17 last name is spelled U-R-B-A-N.

18 THE COURT: Thank you. Is it Wes or Les?

19 THE WITNESS: West, actually. It's West.

20 THE COURT: Thank you.

21 Mr. Brown.

22 ///

23 ///

24 ///

1 WEST URBAN,

2 having been first duly sworn, was examined

3 and testified as follows:

4
5 DIRECT EXAMINATION

6 BY MR. BROWN:

7 Q Good morning, Mr. Urban. Would you please tell the
8 Court what your profession or occupation is?

9 A I currently am employed with the Washoe County
10 sheriff's office.

11 Q And what is your specific job title there if you
12 have one?

13 A I'm the sergeant over Crimes Against Persons section
14 in Detectives.

15 Q So in one sense, you're a police officer and you've
16 risen to the level of sergeant?

17 A Yes, sir.

18 Q Could you briefly describe how long you've been at
19 the sheriff's office and what your duties currently are?

20 A Yes. I've been with the sheriff's office for more
21 than 20 years. I've worked in numerous different or numerous
22 divisions within the department.

23 I was a detective for seven years where I worked
24 major crimes during that time and promoted to sergeant a

1 little more than two years ago.

2 In the last eight months, I've transferred back to
3 Detectives as a supervisor.

4 Q How is it -- you understand that we are here over a
5 temporary restraining order related to Mike Clark, correct?

6 A That's correct, yes.

7 Q And how did you first become involved, if at all, in
8 the materials that Mr. Clark had sent out?

9 A I was advised on the morning of May 4th of this year
10 that there was a suspicious circumstances situation involving
11 the assistant county manager for Washoe County.

12 Q And who was that?

13 A Kate Thomas. Ms. Kate Thomas.

14 Q And what else were you informed?

15 A That there was some stuff that had been sent through
16 the mail that was of concern. And so I was asked to respond
17 down to Ninth and Wells to meet with Ms. Thomas, myself and
18 Lieutenant Iacoboni.

19 Q When you say there was some stuff sent through the
20 mail, did you have an understanding that those items were sent
21 directly into Washoe County, the employer of Kate Thomas?

22 A So once we arrived on scene, Kate was in possession
23 of numerous yellow envelopes and in looking at those, it
24 appeared that the ones -- or the majority of the ones that she

1 had were directly sent to employees within Washoe County, yes.

2 Q And when you went to that meeting, who all was there
3 to your recollection?

4 A So initially it was myself, Lieutenant Iacoboni, and
5 we met with Ms. Kate Thomas.

6 Q Was anyone else there? Did anyone else come later?

7 A Well, we briefly met with Manager Brown after
8 speaking with Kate Thomas.

9 Q Okay. Relate to the Court your conversation with
10 Ms. Thomas when you were doing your investigation.

11 A Okay. So she was concerned because without her
12 knowledge, numerous envelopes containing documentation had
13 been sent to various people that worked within Washoe County.
14 How she became aware of this was she received a phone call
15 from -- I believe it was Dr. Laura Knight from the medical
16 examiner's office advising her of this. And so -- which
17 raised her concern about what had happened. So when we
18 arrived and she was explaining to us she had no idea who had
19 sent these envelopes which was concerning for her and she
20 pointed out right away with one that had been opened that
21 there was a photograph. She identified herself in that
22 photograph.

23 Q From your observations, did she appear to be shaken
24 and upset?

1 A She was she was concerned and was shaken by, you
2 know, what was happening, because she didn't know -- obviously
3 she was aware numerous had been sent out. She didn't know who
4 had sent this or why it had been sent.

5 Q And at this point, all of those that are coming in
6 are coming in directly to Washoe County employees, correct?

7 A That is correct, the way I was understanding yet at
8 the time, yes.

9 Q Did that raise concern to you as well as an
10 investigator?

11 A It did, actually.

12 Q And why is that?

13 A Well, you know, not knowing who -- who sent this or
14 who sent these documents and what the motive was behind it was
15 concerning for me, also was would there be additional action
16 with something? You know, could this progress or get worse,
17 you know, is what I immediately was concerned about.

18 Q If you could -- there should be a binder in front of
19 you of exhibits. Could you go ahead and open that binder --

20 A Yes.

21 Q -- to Exhibit 1. And if you can just flip through,
22 Exhibit 1 has been admitted into evidence which is photocopies
23 which U.S. Postal Inspector Kline took of envelopes that were
24 mailed that he seized at the McCabe post office location. Do

1 the photographs in Exhibit 1, they expand all the way through
2 Exhibit 5, are they similar in the ones that Kate Thomas
3 presented to you?

4 A Yes, sir, they are.

5 Q And what I mean "similar," there was a handwritten
6 delivery address as there are in Exhibits 1 through 5,
7 correct?

8 A That's correct.

9 Q And was there the same return label in the upper
10 left-hand corner?

11 A Yes, sir.

12 Q And was the name crossed out as to where you would
13 normally find the person's name that sent it?

14 A Yes, sir.

15 Q And were all of them, to your knowledge, the exact
16 same return address?

17 A Yes. The ones I saw all were the same.

18 Q At that first meeting, were you aware or were you
19 advised on whose address that was?

20 A I was not advised initially, no. I did not know
21 whose address it was.

22 Q Eventually did you learn that that is the address of
23 Andrew Klinger?

24 A I did eventually, yes.

1 Q And you have determined and heard that Andrew
2 Klinger did not send these packages; is that correct?

3 A That's correct.

4 Q What did you do -- anything else that occurred
5 during your meeting with Kate?

6 A So once we received the initial information, I took
7 possession of the 24 envelopes that she had. I took them back
8 to the sheriff's office with me and placed them into our
9 temporary evidence.

10 Q And what day again? Is this Monday, March --

11 A It was May 4th.

12 Q May 4th. So this was Tuesday?

13 A Yes.

14 Q Did you know when she received those?

15 A I wasn't clear or sure exactly when she received
16 them. I don't recall that.

17 Q You don't know if it was that day or the day before?

18 A That's correct.

19 Q Did you go in the morning or the afternoon on the
20 4th?

21 A I can't remember the exact time, sir, so I
22 apologize. It was mid-morning, 10:00 or 11:00, around there.
23 I'm not sure.

24 Q Was there anything that was unusual about the type

1 of people that were listed on the envelopes that you received?

2 A There were just -- as I looked through them, they
3 all had like 1001 East Ninth Street addresses written on the
4 envelopes if I recall, at least the ones I looked at.

5 Q And that's the address to the Washoe County complex,
6 correct?

7 A That's correct.

8 Q And that's where Kate Thomas works?

9 A That's correct.

10 Q In fact, that's where hundreds of county employees
11 work, correct?

12 A That's correct, yes, sir.

13 Q You don't happen to know the right number or the
14 exact number, do you?

15 A I do not, no.

16 Q So after you met with Kate and you collect these
17 packages, what did you do next?

18 A So my intent was or goal was to try to identify who
19 this person was. So I contacted Mr. Steve Kline through the
20 United States Postal Service -- I knew he was an investigator
21 there -- to see if he may be able to provide some information.
22 And once I reached out to him, he informed me over the phone
23 that he had already been made aware, and in fact had some
24 additional envelopes that had been sent that I believe came

1 from the post office down south on McCabe.

2 Q And what impact did that have on you as an
3 investigator? Did that heighten your concern or have no
4 impact on your concern?

5 A I would say truthfully that it heightened my concern
6 because we didn't know how large this was. As we reviewed the
7 documentation inside, I wasn't sure what the intent was. So
8 the goal was to find out who sent them. And I knew that
9 Mr. Kline, through his -- his, you know, responsibilities with
10 the post office may be able to assist me with that. I knew
11 that they had been shipped because they had a "been shipped"
12 tag on the envelope.

13 Q And what did you do next?

14 A So I later met with Mr. Kline and he advised me that
15 he had found out that -- through his investigation, that it
16 the return address was in fact Mr. Klinger. They followed up
17 with Mr. Klinger who had told him that he had not mailed any
18 of these envelopes and was not aware of them.

19 Q And what impact did that have on you as an
20 investigator with regard to your investigation?

21 A At this point, you know, I'm looking at postage, you
22 know, approximately \$7.70 for each one. There's an amount of
23 money that this individual or these people had spent to mail
24 these. I could tell that the quality and the time -- there

1 was -- there was -- there was an amount of time spent by this
2 person to mail them, the color photo, and the type of paper,
3 clearly somebody had spent some time putting this together.
4 And so I just -- the goal, you know, at this point was, you
5 know, we are investigating a probable harassment case. And so
6 to find out who and why, you know.

7 Q And what were your next steps?

8 A So after meeting with Mr. Kline, he advised me that
9 there would be some video surveillance available from the post
10 office on McCabe. He also informed me that there was some
11 also mailed to the post office -- post office on Virginia
12 Street. So in an attempt to identify this person, we looked
13 for video surveillance in that area and the attempt was
14 unsuccessful.

15 Q And did you ever obtain any type of video evidence
16 of who mailed the packets?

17 A I did.

18 Q And how did that happen?

19 A I had provided Mr. Kline with a thumb drive, and
20 sometime later he returned that to me and it contained the
21 video surveillance that he had received from the post office
22 on McCabe.

23 Q And when you received that, was that about a week
24 later?

1 A Probably. I can't remember the day.

2 Q Tuesday or Wednesday, some day in the next week?

3 A Yes, sir.

4 Q When you got that video, what did you do?

5 A After reviewing it I decided the best -- you know,
6 maybe there's a possibility that Ms. Thomas or Mr. Lucey would
7 recognize the person in the video, so arrangements were made
8 for them to come to the sheriff's office and review the video.

9 Q And why did you select or specifically mention Kate
10 Thomas and Mr. Lucey?

11 A So, Ms. Thomas had stated that the photograph in
12 there, it was contained within the packet, was in fact an
13 image of her, and I was also informed that some of the legal
14 documents inside may have involved Mr. Lucey.

15 Q And who is Mr. Lucey?

16 A He is the -- I believe he's the commissioner for
17 Washoe County.

18 Q He's a Washoe County commissioner?

19 A Yes, sir.

20 Q Did they come to your office?

21 A Yes.

22 Q And did anybody else come with them?

23 A Oh, boy, I'm sorry, county manager, he accompanied
24 them.

1 And I apologize --

2 Q Mr. Brown?

3 A Yes, sir. Thank you. Mr. Brown.

4 Q And he accompanied them?

5 A Yes, sir.

6 Q And did you play the video for them?

7 A I did.

8 Q And what happened when you played the video?

9 A As soon as I played the video, everybody in the room
10 immediately recognized the subject.

11 Q And who did they say it was?

12 A County assessor Mike Clark.

13 Q And when you say "everybody," I think I know what
14 that means, but to be clear, did Kate Thomas identify at that
15 moment it was Mike Clark in the video?

16 A Yes, sir.

17 Q Did Bob Lucey identify that was Mike Clark in the
18 video?

19 A Yes.

20 Q And did Mr. Brown identify that was Mike Clark in
21 the video?

22 A Yes, sir.

23 Q Did you independently observe the reaction of Kate
24 Thomas when she observed who it was?

1 A I did.

2 Q And would you describe that reaction for the Court,
3 please.

4 A It was an immediate change in her demeanor. She
5 was, you know, visibly upset. At one point I saw her she
6 appeared she was crying after seeing who it was.

7 Q Did you observe Commissioner Lucey when he saw it
8 was Mr. Clark?

9 A I did.

10 Q And tell the Court what your observation was of his
11 reaction?

12 A Frustration would be easiest way to explain it. He
13 was frustrated visibly and verbally.

14 Q Upset?

15 A Yes, sir.

16 Q How about Mr. Brown's reaction?

17 A I don't recall his exact reaction at that point.

18 There was a conversation that took place. My attention was
19 more focused on Ms. Thomas as I observed her reaction to what
20 was taking place because I could see she was concerned.

21 Q She was visibly shaken?

22 A Yes, she was concerned, yes.

23 Q What did you guys do next?

24 A At that point, once we learned that it was another

1 county employee that had been identified, I -- we advised my
2 chain of command and the decision was made to request the
3 assistance of an outside agency to move forward with the
4 investigation.

5 Q And did you make that determination, refer it to
6 another agency for continued investigation?

7 A Yes, sir.

8 Q And who did you refer the case to?

9 A The Attorney General's Office.

10 Q To back up just one moment. When you got the video
11 and the thumb drive, Mr. Kline, the postal inspector delivered
12 that to you at the sheriff's office; is that correct?

13 A That's correct.

14 Q And at that time, did he also provide you with
15 additional packets, if you recall?

16 A I recall him at some point -- we had several times
17 we had met. He did provide us with additional envelopes, I
18 believe 21 additional, that he was in possession of.

19 Q And what did you do with those envelopes?

20 A I secured them in our evidence as well.

21 Q When the case was transferred to the Attorney
22 General, did he do a transfer of the evidence to them or do
23 all the documents and packets still remain in the Washoe
24 County sheriff's office evidence locker, if you will?

1 A They remain with the Washoe County sheriff's office
2 in evidence where they are booked.

3 Q If you could turn to -- in the exhibit book -- to
4 Exhibit 12 and let me know if you recognize that exhibit.

5 A Yes, sir, I do recognize that.

6 Q And what is this?

7 A This here is just a spreadsheet to document the
8 information that we received from Ms. Kate Thomas.

9 Q Also, let me have you real quick, Sergeant Urban, if
10 you could turn to Exhibit 6. And the first page of Exhibit 6
11 is a photograph?

12 A Yes, sir.

13 Q Is that the photograph that Ms. Thomas showed you
14 when you initially came to investigate the case?

15 A Yes, sir.

16 Q And if you could flip through Exhibit -- the rest of
17 Exhibit 6 and Exhibit 8, it's already been admitted into
18 evidence, does this -- is this the packet that -- of
19 information that was sent out in the mailers?

20 A Yes, sir, it is.

21 Q If you could turn to page 3 of Exhibit 6. And the
22 last sentence it says, "All questions will be revealed in
23 time. Patience," and then it continues.

24 Did that give you concern as an investigator that

1 this type of pattern of activity would occur again in the
2 future?

3 A I'm sorry, could you repeat that page number again,
4 sir? I was looking for it. I apologize.

5 Q It's Exhibit 6, page 3.

6 MR. MAUSERT: Your Honor, I'm going to object on the
7 basis he's leading the witness.

8 THE COURT: Sustained.

9 BY MR. BROWN:

10 Q If you could take a look at -- read the last
11 question -- or I'll read the last question. It's in evidence.

12 All questions will be revealed in time. Patience,
13 after all, is a virtue.

14 Did that have any impact on you as an investigator
15 looking into a harassment claim?

16 A It would absolutely tell me that there may be
17 additional steps taken by the person that mailed this, yes.

18 MR. BROWN: I don't have any further questions at
19 this time.

20 THE COURT: Thank you.

21 Mr. Mausert, any cross-examination for the sergeant?

22 MR. MAUSERT: I have you a little, Judge.

23 ///

24 ///

1 CROSS-EXAMINATION

2 BY MR. MAUSERT:

3 Q Mr. Urban, what did Mr Lucey say that evidenced this
4 frustration as you put it?

5 A It was just verbal -- I don't recall his exact
6 statements. It was just an elevated voice trying to
7 understand. You know, the way I interpreted it is just
8 frustrated to -- you know, not understanding who or why.

9 Q Did you call my client any names?

10 A I don't recall that, sir.

11 Q Did Ms. Thomas -- did she say she did not know where
12 the photo came from?

13 A She advised -- if I recall sir, she -- it was
14 something that she had had on her phone at that point, but I
15 don't recall exactly where.

16 Q Did she tell you who had taken the photo to her
17 knowledge?

18 A Not that I recall.

19 MR. MAUSERT: I don't have any further questions,
20 Your Honor.

21 THE COURT: Thank you.

22 Mr. Brown, any follow-up?

23 MR. BROWN: No, Your Honor.

24 THE COURT: Sergeant, thank you for being here

1 today. I appreciate your testimony.

2 Please don't discuss what you've heard or saw in
3 this room until the completion of the hearing.

4 THE WITNESS: Thank you.

5 THE COURT: You can leave the book right there.

6 THE WITNESS: Thank you.

7 THE COURT: Counsel, I think it's time for a five-
8 to ten-minute break.

9 MR. BROWN: Yes, Your Honor.

10 THE COURT: Everybody stretch your legs and we'll be
11 back.

12 THE BAILIFF: Please rise.

13 (A break was taken.)

14 THE COURT: All right. I am back here in session in
15 Courtroom B on case RCP2021-000227.

16 Present on behalf of the applicant is Mr. Brown.

17 Mr. Mausert is present on behalf of the adverse
18 party.

19 And we had completed cross-examination of the most
20 recent witness.

21 Mr. Brown, is there other witnesses you want the
22 Court to consider?

23 MR. BROWN: Yes. At this time, Washoe County would
24 call Washoe County Manager, Eric Brown.

1 THE COURT: All right. Mr. Brown, could you come
2 up. It's only a few steps.

3 Sir, before you sit down, would you switch hands and
4 raise your right hand.

5 (The witness was sworn.)

6 THE COURT: As you were, sir. Have a seat.

7 You may proceed, Counsel.

8 MR. BROWN: Thank you, Your Honor.

9

10 ERIC BROWN,
11 having been first duly sworn, was examined
12 and testified as follows:

13

14 DIRECT EXAMINATION

15 BY MR. BROWN:

16 Q Good morning, Mr. Brown. Would you please tell the
17 Court your occupation or profession.

18 A Eric Brown.

19 I am the Washoe County Manager.

20 Q And how long have you been the Washoe County
21 Manager?

22 A Approximately a year and a half.

23 Q And as the Washoe County Manager, would you describe
24 the duties of that position for the Court, please.

1 A Sure. The Washoe County Manager is the chief
2 executive manager for the county and as such oversees all
3 human resources, financial and budgeting, as well as
4 operational issues for Washoe County.

5 Q And in the chain of command in Washoe County,
6 eventually all employees report to you?

7 A That is correct.

8 Q And you're responsible for your employees in a
9 downward way; is that correct?

10 A Yes.

11 Q You understand we are here relative to a Temporary
12 Protection Order for workplace harassment; is that correct?

13 A Yes.

14 Q And that is as to the county assessor, Mr. Mike
15 Clark; is that right?

16 A Yes.

17 Q When did you first meet Mike Clark?

18 A I first met Mike Clark shortly after I interviewed
19 for the county manager position. Mike reached out to me in
20 person to introduce himself and to offer his help in
21 introducing me around and kind of getting me acclimated to the
22 county. He was a great resource in that regard.

23 Q And you said after you first interviewed, was it
24 also after you were hired or was it in between the time you

1 were hired and interviewed?

2 A It was kind of in between the time when the offer --
3 when the commission decided to make an offer and me actually
4 starting the position.

5 Q And I believe you said that Mr. Clark reached out to
6 you, he was very helpful to you, introduced you around; is
7 that correct?

8 A Yes.

9 Q And did you develop a personal relationship with
10 Mr. Clark?

11 A I did. I enjoyed his company and we did a lot of
12 things together. Again, he was very helpful to getting me
13 acclimated here in the county and in my position.

14 Q And did that relationship expand beyond the
15 workplace where you, if you will -- did you become personal
16 friends outside of the workplace?

17 A I did.

18 Q And describe for the Court some of the things you
19 did as friends with Mr. Clark.

20 A Well, on occasion, he's been to my home for dinner
21 and my wife and I have been to his home for dinner. As we
22 began to -- as the county began to try to get its arms around
23 the homelessness issues here in the region, Mike offered and
24 took me on bike rides along the river so I could see firsthand

1 some of the challenges there. So those kinds of things.

2 Q I'm going to bring your attention now to this
3 particular case.

4 How is it that you became aware that this issue was
5 occurring at the county?

6 A You're referring to the mailing?

7 Q Yes, sir.

8 A I have become aware the morning of May 3rd. I had
9 an out-of-the-office meeting. I was on my way into the office
10 and I was contacted by the county director of HR who wanted me
11 to know that some suspicious mailings had begun showing up in
12 the Ninth Street complex at the county offices.

13 Upon my arrival at the county offices, I found that
14 I had one of the mailings on my desk.

15 I was also contacted by Dr. Knight that
16 Lieutenant -- sorry, Sergeant Urban referred to earlier. She
17 left me a message that she thought I ought to be aware that
18 she had received a suspicious package. She wasn't sure
19 exactly what it meant, but something was wrong. Apparently
20 she had also reached out to Director Hurley who is our
21 director of HR.

22 So upon reaching the office, I opened the envelope
23 and saw the contents of it, then conferred with the director
24 of HR and asked her if we could confiscate the envelopes that

1 had not been delivered.

2 Q Let me stop you right there for a second. When you
3 say you opened up your packet, would you open the witness book
4 to Exhibits 6 and 7, please. Let's go ahead and start with
5 Exhibit 6.

6 A Okay.

7 Q When you opened your packet, was the photograph
8 that's in Exhibit 6 as the first page, was that the first
9 document in your packet?

10 A Yes.

11 Q And as you flip through Exhibit 6 and go on to
12 Exhibit 7, are those the documents that were sent to you
13 directly?

14 Strike that.

15 Are those copies of the same documents that were
16 sent to you directly?

17 A Yes.

18 Q When you received this and you opened it, you had
19 the information from Dr. Knight, what about getting this
20 prompted you to call the HR director?

21 A Well, in my prior work experience, I've had
22 situations where suspicious mailings were received in the
23 workplace. I'm old enough to remember Anthrax and scares and
24 those kinds of things, so I immediately wanted to find out if

1 this was an isolated incident in my office or if it had
2 occurred more broadly in the organization. And as I said
3 before, I already had been contacted by director of HR who
4 expressed a concern. And it was for that reason that I
5 reached out to her.

6 Q To you individually as the county manager when you
7 opened the packet, what was concerning to you?

8 A Well, initially the picture was concerning.

9 Q Why?

10 A Because it seemed inappropriate for me, to me, to
11 see a picture of one of our county employees in a bathing suit
12 as the first page of a mailing of that sort. You know,
13 reading the letter, there were inferences, insinuations about
14 inappropriate behavior on the part of a county employee and
15 one of our county commissioners. The close of the letter, as
16 Sergeant Urban mentioned today, sort of insinuated there would
17 be more to come. All of those things were concerning to me.

18 Q Were you concerned for Ms. Thomas who's the subject
19 of the photo, correct?

20 A I was concerned for Ms. Thomas. I was concerned
21 also for the employee based as a whole that, again, not
22 knowing where this came from or how broadly it was being
23 distributed, I thought we needed to get out in front of it and
24 find out, you know, again, was it isolated in my office, was

1 it more broadly distributed across the county, and it was for
2 that reason that we reached out to the Washoe County sheriff's
3 office.

4 Q So after you contacted -- if I understand you
5 correctly, you contacted the HR director and gave the
6 direction to make sure that packets that were delivered to the
7 county by the postal service would not, then, be further
8 distributed within Washoe County?

9 A That is correct.

10 Q Okay. And did you -- when did you start to
11 understand that there were multiple -- more than just the one
12 you received, more than just the one Dr. Knight received, more
13 than one which the HR director received? When did you become
14 aware that it was much broader than that?

15 A Well, the office of the county commissioner at that
16 time handles mail distribution throughout the Ninth Street
17 complex. So we were able to see the collection of envelopes
18 that were addressed to multiple employees at Ninth Street,
19 some of them very recent employees.

20 Q And what do you mean by recent employees?

21 A Some of the recipients were employees that had been
22 hired within the last two or three months. And so that was
23 concerning because obviously somebody would have had to know
24 that these -- would have had to have had recent access to our

1 employee information to know that those folks were even here.
2 For instance, an intern received one of the packets that had
3 just been brought on board within the previous few weeks. So
4 it became very apparent as we looked at the mail that was
5 being sorted to go out, being distributed throughout the Ninth
6 Street campus that we had a problem.

7 Q At that point, did you feel that there was any
8 potential harassment being directed to a broad range of Washoe
9 County employees?

10 A Yes, I did. I saw this as, again, being the way
11 that the mailing was put together with the picture, with the
12 letter in kind of the format that it was written, and again,
13 the inference -- the insinuations that there were going to be
14 more, there was going to be more to come. It occurred to me
15 that this was a problem that -- of harassment that we needed
16 to get in front of.

17 Q So I'll go back to where you were doing your
18 timeline. You had gotten into the office, you received some
19 phone messages, you received your own packet, you contacted
20 the HR director. What did you do next?

21 A Again, we agreed we would collect the packages that
22 we could for around the office and then I reached out to the
23 sheriff's office.

24 Q Did you ever have a conversation with Kate before

1 you reached out to the sheriff's office or did you do that
2 first?

3 A No, I reached out to the sheriff's office first. I
4 did see Kate. Our offices are next to each other in the
5 county complex. I could see that she was shaken up and upset
6 by this, so there wasn't really a need to have a conversation
7 about it. I wanted to take the appropriate actions to see
8 what we could do to find out where this was coming from.

9 Q Well, could you describe for the Court what you
10 observed about Kate to draw the conclusion that she was shaken
11 up?

12 A Sure. The expression on her face, she was -- as I
13 walked in to the building and passed her office to get to my
14 office, I could see that she had multiple packages on her desk
15 and that she wasn't happy and somewhat emotional about the
16 contents of those envelopes.

17 Q In your experience of working with Kate, is she an
18 emotional person?

19 A No. No. She's a pretty tough lady.

20 Q How did this initially impact you? Were you
21 concerned?

22 A I was concerned for the health and safety of -- of
23 our employees. You know, in the world we live in today to
24 have this kind of a mailing show up in your workplace, as the

1 leader of the organization, I think you have to take these
2 things seriously. You don't know -- we didn't know at the
3 time whether or not there was some foreign substance
4 associated with it. We didn't know if the packages were all
5 the same. We didn't know if there could be other potentially
6 harassing information about other folks in some of those
7 packages.

8 So that was my concern was containing the emotional
9 damage that this would inflict on our employee base and
10 starting the process of understanding where it came from.

11 Q Did you have concerns about the photograph that's in
12 Exhibit 6 of Kate that that was going to create a hostile work
13 environment by showing a picture of a female employee in a
14 bikini throughout all the county?

15 A Well, I did. And I will tell you that since this
16 has occurred, I've received a lot of feedback, particularly
17 from our female employees at the county who saw that picture
18 as an objectification of women. The insinuations that this
19 employee, as in Kate Thomas, may have been using her sexuality
20 somehow to further her career or to get what she wants. Those
21 were all things that are concerning to many of our employees.
22 And it is. It struck me that way also.

23 So, yes, it was clear to me that this -- this was a
24 potential case of harassment. Again, I had no idea at the

1 time who perpetrated it or where it came from. I just wanted
2 to get arms around it --

3 Q Mr. Brown, if you could open Exhibit 1, just the
4 first page, you've heard the testimony this morning. This is
5 a photograph of one of the packets that Postal Inspector Kline
6 seized at the McCabe post office. I understand that this is
7 not the one addressed to you, but was the one that you
8 received that was addressed to you addressed in a similar
9 fashion?

10 A Yes.

11 Q And what I mean by a similar fashion, was there a
12 handwritten Address To portion like the one to Chief Moore in
13 this case?

14 A Yes.

15 Q And the return address, did your envelope have a
16 white label with a black line through the name where a name
17 would be?

18 A Yes.

19 Q And did it have the same address?

20 A Yes.

21 Q At this point, that first day when you opened the
22 envelope, you contacted HR, at that moment, did you know that
23 that address was being falsely attributed to Andrew Clinger?

24 A No.

1 Q You became aware of that sometime down the road?

2 A Yes.

3 Q Okay. We'll get to that on the timeline.

4 So after you contact the Washoe County sheriff's
5 office, what did you do next?

6 A I briefed them on the situation. I had also spoken
7 to Kate Thomas and instructed the people in my office who were
8 familiar with the situation that we should act with discretion
9 until the sheriffs office investigators had a chance to
10 investigate, because we didn't know who might be involved and
11 let's wait and see what the investigation shows.

12 Q And so what happened next? Anything else happen
13 other than that first day?

14 A No, not that I can recall.

15 Q And the next day, what did you do on this issue?

16 A Really just followed up with Kate and Commissioner
17 Lucey, make sure we all had the same information and we were
18 waiting for feedback from the investigators.

19 Q And did any time on that second day, did anyone from
20 the sheriff's office come to the county complex and speak to
21 you?

22 A Yes. Sergeant Urban did come speak to me as well as
23 to Kate and came to pick up the packages that were being held,
24 I believe, in the human resource department office.

1 Q During that time, did anymore packages appear
2 between your direction and on the 3rd and when the police
3 came? Do you think you had collected all of them at least to
4 your knowledge?

5 A We thought we had collected all of them, although I
6 will tell you I do remember hearing later in the week from one
7 of my colleagues in the city of Sparks, another in the city of
8 Reno, that they had received packages.

9 Q Okay. So you began hearing that next day that not
10 only did you receive these directly into Washoe County, that
11 these documents also were sent outside of Washoe County?

12 A Correct.

13 Q And those were from other city officials of sister
14 cities and those type of things?

15 A Yes.

16 Q What was -- what was your thought process as you got
17 the information about this type of information not only being
18 directed inside of Washoe County, but now outside of Washoe
19 County?

20 A Made me think even more that somebody was doing this
21 as an attempt to disparage Kate Thomas and/or Bob Lucey.

22 Q And did you -- did you feel that that was harassing?

23 A Yes.

24 Q As the county manager, can you allow individuals to

1 harass your employees?

2 A No. I -- it was -- it was very clear to me, again,
3 that we needed to understand how this happened, who was
4 involved so that we could take the appropriate measures
5 because we don't want to encourage folks to harass and
6 publicly try to embarrass or harass our county employees.
7 That's -- that's not something that we'll stand for.

8 Q I believe from the testimony so far it appears it
9 was about a week later that you had requested to come to the
10 sheriff's office or at least you went to the sheriff's office
11 to view a videotape?

12 A That's correct.

13 Q And tell me how that came about.

14 A I got a call from -- I believe it was Sergeant Urban
15 about a week later, is what, around the 11th, in the
16 afternoon. He indicated that they had identified a video of
17 who they thought had conducted some of the mailings, asked if
18 I could come over and see if I could identify who the person
19 was. So we agreed that the following day Commissioner Lucey,
20 Kate Thomas, and I would come over and take a look at the
21 video.

22 Q So that would be approximately the 12th?

23 A That's the 12th, yes.

24 Q And did you do that?

1 A We did.

2 Q And did Sergeant Urban show you the video?

3 A Yes.

4 Q And did you watch the video?

5 A Yes.

6 Q Were you able to identify the person that was
7 mailing the packets?

8 A Yes.

9 Q And who was that person?

10 A It was Mike Clark.

11 Q Share with the Court your personal reaction when you
12 saw it was Mr. Mike Clark.

13 A Yeah. Honestly, my heart sunk because he was a
14 person that, as I mentioned earlier, had been a great friend,
15 had been a great resource to me in getting acclimated in the
16 county and just personally in northern Nevada. We relocated
17 here from San Diego, and to see someone that has played that
18 role in my life involved in this kind of action that was to me
19 designed to embarrass and harass one of my employees and also
20 one of my commissioners was very disappointing.

21 Q And I appreciate your specialized concern for
22 Ms. Thomas and Commissioner Lucey. What, if anything, was
23 your concern for the rest of the staff of Washoe County?

24 A Well, that here is an elected official, county

1 assessor, who is mailing out this kind of information that
2 clearly seemed inappropriate and something that shouldn't be
3 happening to not only Kate Thomas but any other county
4 employee. So that was very and is very frustrating.

5 But to answer your question, the first reaction
6 honestly was just of -- just disappointment and that someone
7 that was very close to me would do this to my organization and
8 the folks that I work with.

9 Q And I apologize. I kind of skipped over the
10 timeline. Let's go back to that return address.

11 Did you realize or had you been informed or
12 determined that that return address was Andrew Clinger?

13 A Yes.

14 Q Prior to the time you went to see the video?

15 A Yes.

16 Q How did that come about?

17 A I believe it was Sergeant Urban shared with me prior
18 to the viewing of the video that he had heard from the postal
19 inspector and that they confirmed that that was Clinger's
20 address and that he was not involved with the mailing.

21 Q What about -- did the fact that not only were these
22 documents mailed to you, but they were fraudulently attributed
23 to another person, what impact, if any, did that have on you?

24 A Well, I don't know that it had any particular

1 impact. I didn't know Clinger or a lot of the history around
2 his situation, but the fact that the mailings were sent with a
3 fictitious return address just added an additional layer of --
4 I don't know what the right word is -- an appropriateness to
5 the fact that this was being sent not only to county employees
6 but across the region and across the State.

7 Q Going back to that meeting where your heart sank
8 after seeing it was Mr. Clark that engaged in this activity,
9 did you observe Kate Thomas's reaction?

10 A Yes.

11 Q Will you describe for the Court what you saw of
12 Kate's reaction to seeing it was Mr. Clark?

13 A Yeah, she was very shaken up and I didn't see tears,
14 but it was headed in that direction in terms of her reaction
15 to the video.

16 Q Did she leave the room at some point?

17 A Not that I remember.

18 Q How about Mr. Lucey, did you observe his reaction?

19 A Bob was very angry and frustrated that this -- when
20 he saw that it was the assessor.

21 Q What happened after that point?

22 A At that point, I remember the sheriff's office and
23 the investigators brought in the victim advocate to provide
24 consultations to both Bob, Chair Lucey, and Kate Thomas. They

1 advised them of their options with regards to next steps.
2 Among them was the consideration of filing a temporary
3 protective order. Chair Lucey and Kate discussed that. Kate
4 was interested in that and my recollection was at that point
5 the sheriff's office advised us that moving -- if we wanted to
6 move forward with a TPO, doing so, we probably needed to
7 convene the workplace violence committee which is the
8 pre-established agency group that would handle -- normally
9 handles these matters, and that we should probably do that
10 within the next 24 to 48 hours, and that would be the
11 appropriate place to generate the TPO.

12 Q And prior to them suggesting that to you, the
13 sheriff's office suggesting that to you, were you aware of the
14 workplace violence committee?

15 A Yes.

16 Q And who's the chair of the workplace violence
17 committee in Washoe County?

18 A That would be Ben West who reports to me. He's the
19 county security administrator.

20 THE COURT: Sir, can you spell that name for me.

21 THE WITNESS: W-E-S-T. Ben West.

22 THE COURT: Thank you, sir.

23 BY MR. BROWN:

24 Q Did there come a time when the workplace violence

1 committee did convene to your knowledge?

2 A Yes, they did. My recollection is from the day we
3 saw the video, I think that was on a Wednesday, maybe the
4 12th, we were able to convene or the workplace violence
5 committee was able to convene on maybe Friday morning. They,
6 as it turned out, had another matter under consideration that
7 they needed to meet on anyway, and so this was added to the
8 agenda.

9 Q Are you as the county manager a member of the
10 workplace violence committee for Washoe County?

11 A No.

12 Q And this is not something that you personally
13 usually attend?

14 A No.

15 Q Okay. When the workplace violence committee met
16 with regard to Ms. Thomas, did you participate in that?

17 A I did monitor the meeting, yes.

18 Q And were you there in your role -- you're her direct
19 supervisor, correct?

20 A Yes. I consulted with DA's office and with
21 Mr. West, the chair of the committee, to find out if it would
22 be appropriate or inappropriate for me to attend. They both
23 indicated that it's normal practice that victims are invited
24 to meetings where there's discussion about next steps on

1 their -- on their matters and that the supervisors of the
2 victims often also participate.

3 Q And that meeting occurred, correct?

4 A Yes.

5 Q And for lack of a better word, the outcome of that
6 was the county applying for the restraining order that it
7 provided for -- applied for; is that correct?

8 A That's correct.

9 Q As the county manager, are you aware that the county
10 has filed a request to extend that Temporary Protection Order?

11 A Yes.

12 Q And as the county manager on behalf of the county,
13 are you personally in favor of having that extended, the
14 protection order extended?

15 A I am.

16 Q Please describe to the Court why you feel it is in
17 the best interest of Washoe County that it be extended.

18 A Well, as I've mentioned earlier, I've heard quite a
19 bit of feedback from our employees, particularly our female
20 employees, about how we should handle this matter. There's a
21 lot of concern that this does rise to the level of harassment
22 in the workplace. And again, if you go back to the two-page
23 letter in the packet, there are references to the effect that
24 there could be more. And so I think also we did have or tried

1 to open discussions with the assessor and his attorney about
2 reaching a settlement that would have included the terms that
3 would have been acceptable to us to ensure that this kind of
4 thing wouldn't happen again and that Kate Thomas and other
5 employees have the right to work in a place that's free of
6 harassment and in a non-hostile workplace, that that would
7 have been invoked. And there didn't seem to be any interest
8 in that. So the -- I think the extension is something that's
9 in order when you consider the fact that the information that
10 we have to date would lead you to believe that there may be
11 more of this. And as the county manager, I don't want to wait
12 until another act is committed to have to then respond by
13 trying to seek a TPO.

14 Q I just have one last question, Mr. Brown. Are you
15 still friends with Mike Clark?

16 A My friends don't make these kind of actions against
17 my organization and the people that work for me.

18 MR. BROWN: I have nothing further, Your Honor, at
19 this time.

20 THE COURT: Thank you.

21 Counsel, any cross for this witness?

22 MR. MAUSER: Yes, Your Honor.

23 ///

24 ///

1 CROSS-EXAMINATION

2 BY MR. MAUSERT:

3 Q Mr. Clark -- Mr. Clark.

4 Mr. Brown, were you present at a meeting in the fall
5 or late summer of 2020 where you were present, county
6 commissioners were present, my client was present, it was
7 conducted by Zoom in the matter of the Incline Village
8 Assessment -- the league. The largest settlement in the
9 history of the county. I am told 50- to \$60 million that was
10 discussed. Do you remember that meeting?

11 A I do.

12 MR. BROWN: I object as to relevance, Your Honor.

13 THE COURT: Mr. Mausert, what's the relevance of a
14 settlement from 2020 to the proceedings today?

15 MR. MAUSERT: The relevance would be that Mr. Lucey
16 engaged in the very conduct that this witness has condemned
17 and he only did it -- he used pejorative terms to refer to my
18 client. He swore at him. He accused him of being incompetent
19 to the point which, Your Honor, two county commissioners after
20 the meeting were so chagrined by this that they independently
21 called Mr. Clark and apologized for Mr. Lucey's conduct.

22 THE COURT: The objection is sustained.

23 Mr. Mausert, you can go on to a new line of
24 questioning.

1 MR. MAUSERT: Yes, Your Honor.

2 BY MR. MAUSERT:

3 Q Mr. Brown, have you or -- and I don't mean to offend
4 anybody, Your Honor, but I'm going to use a foul term because
5 it's directly related. It's what the term --

6 THE COURT: Is your question related to these
7 proceedings here today or to some, as previous, some
8 historical event that has no apparent connection to these
9 proceedings?

10 MR. MAUSERT: It goes to the harassment of my client
11 by Mr. Lucey and Ms. Thomas, Your Honor, which explains his
12 motivation for sending out the package.

13 THE COURT: Sir, your client's motivation is not an
14 issue before the Court today, so you need to focus on the
15 issues that are before the Court that I went through with you
16 at the beginning of the proceeding.

17 MR. MAUSERT: All right. Your Honor.

18 THE COURT: Thank you.

19 BY MR. MAUSERT:

20 Q (Indiscernible) my questions. What did -- you said
21 Mr. Lucey -- Mr. Lucey was very angry and frustrated. What
22 did he say to exhibit his anger and frustration.

23 A You know, I don't recall what his specific comments
24 were, but I think everybody in the room, at least Assistant

1 County Manager Thomas, Chair Lucey, and I were shocked when we
2 saw the video, and I recalled all of us saying, "That's Mike
3 Clark. That's Mike Clark."

4 Q Did this -- did Ms. Thomas say if she knew where the
5 photo came from?

6 A I didn't -- I don't recall asking her where the
7 photo came from.

8 Q Did you recall saying anything about the origin of
9 the photo?

10 A No.

11 Q Are employees supposed to get along with each other,
12 be courteous with each other? Is that generally the county
13 policy?

14 A Yes, sir.

15 Q And is it appropriate to exclude an employee who's
16 intimately involved in a particular matter to exclude that
17 employee from critical meetings because of personal animus?
18 Is that something that would be appropriate with county
19 policy?

20 MR. BROWN: Objection. Relevance.

21 THE COURT: Mr. Mausert, are you talking about
22 specific meetings or committees that have been already
23 testified to or just generally?

24 MR. MAUSERT: I'm talking about how, Your Honor, if

1 I can make an offer of proof, the evidence will show my client
2 was systematically by Mr. Lucey -- Mr. Lucey and Ms. Thomas
3 from assessment meetings regarding the Incline Village
4 settlement. He was prevented from doing his job.

5 THE COURT: The objection is sustained. That's not
6 relevant.

7 BY MR. MAUSERT:

8 Q Well, Mr. -- Mr. Brown, are you familiar with the
9 fact that Mr. West has told my client the employees who my
10 client supervises, in violation of this Court's order, are you
11 familiar with the fact that he's instructed those employees
12 not to talk with Mr. Clark?

13 A I am not aware of that.

14 Q Okay. If in fact Mr. West has issued
15 instructions --

16 MR. BROWN: I'm going to object. Relevance.

17 BY MR. MAUSERT:

18 Q To the effect of --

19 THE COURT: The objection is to relevance.

20 Mr. Mausert, what's the relevance to this proceeding
21 here today?

22 MR. MAUSERT: Your Honor, the relevance is that the
23 package was sent out in response to a consistent exclusion of
24 my client from his ability to do his job. His roof wasn't

1 fixed for three years. He had to have plastic tarps all over
2 his office because Mr. Lucey sabotaged his ability to do his
3 job. Mr. Lucey, Mr. Slater, they would not allow him -- they
4 wouldn't fix his office.

5 THE COURT: Mr. Clark's motivation is not yet
6 relevant in this proceeding.

7 MR. MAUSERT: Your Honor, but if it becomes
8 relevant, is it never going to be relevant?

9 THE COURT: I don't know. It depends upon other
10 evidence that's foundational to it.

11 The objection is sustained.

12 MR. MAUSERT: Well, Your Honor, I don't have any
13 further questions then.

14 THE COURT: Thank you.

15 Mr. Brown, anything further for this witness?

16 MR. BROWN: No, Your Honor. -

17 THE COURT: Thank you, sir.

18 THE WITNESS: Thank you.

19 THE COURT: Understand there's a rule of exclusion.
20 I understand you're a party here today and you're present, but
21 you can't tell folks what you heard here today.

22 THE WITNESS: I understand. Thank you, Your Honor.

23 THE COURT: Mr. Brown, is there any more evidence?

24 MR. BROWN: Yes, Your Honor. We would like to call

1 Ben West.

2 THE COURT: All right. Ben West will be the next
3 witness. Thanks.

4 I'm just looking at the notes.

5 Mr. West?

6 THE WITNESS: Yes.

7 THE COURT: Sir, can you come up here?

8 THE WITNESS: Sure thing.

9 THE COURT: Before you sit down, would you assist me
10 by raising your right hand.

11 (The witness was sworn.)

12 THE COURT: Have a seat, sir.

13 THE WITNESS: Thank you.

14 THE COURT: Mr. Brown has some questions for you,
15 Mr. West.

16 THE WITNESS: Yep.

17 MR. BROWN: Thank you, Your Honor.

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BEN WEST,

having been first duly sworn, was examined
and testified as follows:

DIRECT EXAMINATION

BY MR. BROWN:

Q Good morning, Mr. West. Would you please tell the
Court what your profession or occupation is.

A Yes. I'm the Washoe County Security Administrator.

Q How long have you held that position?

A Three years.

Q And what are your duties and responsibilities as the
Washoe County Security Administrator?

A I'm responsible for physical security at all county
locations. I manage the contract that the county has for
contract security officers at multiple county locations, and I
work with county departments on, you know, facility security
audits and I'm also responsible for -- I'm chair of the
workplace violence team for the county.

Q And will you briefly describe for the Court what the
workplace violence team is for Washoe County?

A Yes. The workplace violence team is composed of
representatives from the sheriff's office, HR, the comptroller
in the role as risk management for the county, and the

1 assistant county managers as well as myself, and we -- at the
2 request of county departments, we get informed of threats or
3 harassment that's targeted towards county employees or county
4 facilities, and we evaluate the information provided for those
5 departments and then decide what action the county should take
6 to address whatever the threat of harassment may be.

7 Q You understand that we are here under a request of
8 Washoe County to extend an order for protection from
9 harassment as a result of the request of the Workplace
10 violence committee, right?

11 A Yes.

12 Q And that's as to the county assessor, Mr. Mike
13 Clark?

14 A Correct.

15 Q Were you, sometime in the month of May, advised --
16 requested to convene the workplace violence committee over an
17 issue regarding Mr. Clark?

18 A Yes.

19 Q How did that request to convene the committee come
20 to your attention?

21 A I was emailed by the county manager, Eric Brown, and
22 he requested that we convene the workplace violence team in
23 response to some mailing packets that were sent to a variety
24 of county locations as well as other locations. And it was

1 determined that Mr. Clark was involved in the delivery of
2 these items. And the items mentioned a county employee;
3 specifically, Assistant County Manager Kate Thomas as kind of
4 the target of the information that was included in these
5 documents.

6 And so County Manager Brown wanted the team to
7 assess the information that had been gathered and then
8 determine what would be appropriate action to take to protect
9 the interests of the county as an employer.

10 Q And did that occur?

11 A Yes.

12 Q Who do you recall -- do you recall who all is a part
13 of the workplace violence team?

14 A I do have a note from that day that I would like to
15 refer to.

16 Q Uh-huh.

17 A The representative for the sheriff's office was
18 Chief Deputy Herrera.

19 Also in attendance was Sergeant Urban from the
20 sheriff's office to present information that the sheriff's
21 office had gathered.

22 Kathy Hill is the county comptroller and she was in
23 attendance again as a representative for risk management for
24 the county.

1 And Patricia Hurley, the human resources director,
2 was in attendance as members who are voting members of the
3 team.

4 Also in attendance, we had Mary Kandaras who's
5 Assistant District Attorney who advises the workplace violence
6 team whenever we meet.

7 And additionally, David Watts-Vial, also from the
8 DA's office, was there. He's a supervisor also for Mary
9 Kandaras.

10 So those are the team members that were present for
11 that day. It was on May 13th.

12 Q There was some testimony earlier that it's common
13 practice when the workplace violence committee meets that
14 the -- maybe the subject if there's a specific subject of the
15 harassment or whatever you're looking into is invited to these
16 meetings; is that correct?

17 A That's correct.

18 Q And is it also common practice to invite either
19 their supervisor -- either that person's supervisor, or the
20 department head, or anybody else to that meeting?

21 A Yes, that's also correct.

22 Q In this case, was Kate Thomas present at the
23 meeting?

24 A Yes.

1 Q And, she was one of the people that was the subject
2 matter, if you will, of the harassment?

3 A Correct.

4 Q And was Mr. Brown present as her supervisor?

5 A Yes, Manager Brown was there as well.

6 Q And neither Mr. Brown or Ms. Thomas participated in
7 the actual decision of the committee, correct?

8 A Correct.

9 Q Describe what occurred during the workplace violence
10 meeting. What information was provided and what occurred?

11 A Okay. The general outline of the materials that
12 were received and that it was -- Ms. Thomas was the subject of
13 them was described by County Manager Brown, and then at that
14 time, Sergeant Urban from the sheriff's office presented what
15 he had learned through an investigation at the sheriff's
16 office up to that point regarding the mailings, and that based
17 on their investigation and information they received from a
18 postal inspector, they determined that Mr. Clark had delivered
19 a quantity of these mailings to do different post offices in
20 the Reno area. He was seen on video delivering these items
21 and that they were subsequently delivered to multiple
22 locations.

23 He also revealed other information about the
24 investigation such as the return addresses on the envelopes

1 were for Mr. Clinger, the previous city manager for the city
2 of Reno, and that those items had been -- some of the items --
3 I'm sorry -- had been returned to Mr. Clinger by a postal
4 worker to seek additional postage because they had
5 insufficient postage.

6 It was at that time they learned that Mr. Clinger
7 did not mail any of these items. He had no awareness of any
8 of these items being delivered despite the fact they had his
9 return address on them.

10 So at that time, the sheriff's office informed us
11 that they had forwarded the information they had gathered thus
12 far to the State Attorney General's Office to conduct
13 continuing investigation into this incident.

14 Q Did the workplace violence committee take or receive
15 evidence of the number of packets that were sent directly to
16 county employees?

17 A I know that -- I don't remember the exact number,
18 but I want to say it was over 160 mailings were mailed in
19 total and that a number were delivered to county offices
20 within the administrative complex at Ninth and Wells as well
21 as other offices.

22 But, no, I don't know the total number that were
23 delivered to county facilities at that time.

24 Q Was -- I believe that -- did the workplace violence

1 committee make a determination that in its opinion, acts of
2 harassment had occurred in the workplace?

3 A Yes.

4 Q And was that a unanimous decision by the workplace
5 violence committee?

6 A It was.

7 Q And specifically there were acts toward Ms. Thomas?

8 A Yes.

9 Q And those actions also went to other county
10 employees, correct?

11 A Yes. My understanding is that the exact same packet
12 with that information was delivered to multiple employees.

13 Q And as a result -- it's your understanding as a
14 result of that determination, the District Attorney's office
15 filed the action in this matter, correct?

16 A Correct.

17 Q If you could articulate to the Court the reasons --
18 the specific reasons that the workplace violence committee
19 considered or made this situation harassing to the county
20 employees or to the county?

21 A Yes. The packets contained specifically a
22 photograph of Ms. Thomas from her personal life outside of the
23 office and she was unaware of how anyone outside of perhaps
24 her immediate family would have obtained a copy of this

1 photograph. And the photograph was of her in a bathing suit
2 at a pool and she felt that that was inappropriate to be
3 sharing with people that she works with in the community,
4 whether it be county offices or other leaders within different
5 community organizations throughout the region.

6 Additionally, it specifically targeted her. It,
7 mentioned her prior relationship to a sexual harassment case
8 that was filed in the city of Reno when she was employed
9 there, and we felt that this targeted mailing specifically at
10 one of our employees that appeared at all -- everything
11 appeared that this was not brought on by any specific behavior
12 by Ms. Thomas against Mr. Clark or anyone else, that this
13 would -- you know, it obviously, based on her testimony to the
14 workplace violence team, was making her upset and unsure of
15 what other behavior may occur in the future as a result of
16 this targeted harassment toward her.

17 And based on that, we felt that it was making it
18 difficult for our employee to conduct her work because it was
19 occupying a lot of her time, and that as an employer, we
20 wanted to make sure that this did not continue to take place
21 in the workplace, whether targeted at her or if it affected
22 other employees in the workplace who may become aware of this
23 information.

24 Q Did the committee consider the fact that Mr. Clark

1 invested over \$1,200 in the mailings alone?

2 A Yes. That was also brought up in this presentation
3 that this was quite an expense of time, money, and energy to
4 send out all this information that was targeting one of our
5 county employees.

6 Q Did the committee consider the fact that more than
7 11,000 copies of this information were made?

8 A Yes. The quantity of copies that were made and all
9 of those things distributed to the fact that, you know, this
10 was obviously upsetting toward our employee.

11 MR. BROWN: I have no further questions.

12 THE COURT: Counsel, any cross for this witness?

13 Sir, you're microphone is off.

14 MR. MAUSERT: Sorry, Judge. Yes, I have a little
15 bit of cross.

16
17 CROSS-EXAMINATION

18 BY MR. MAUSERT:

19 Q Mr. West, did you read the Court's order in this
20 case, the TRO?

21 A Yes.

22 Q And did you have any conversations with anybody
23 about whether Mr. Clark was allowed to communicate with the
24 employees or their supervisors?

1 MR. BROWN: Objection. Relevance.

2 THE COURT: What's the relevance of the language in
3 the order? It should speak for itself.

4 MR. MAUSERT: Yes, Your Honor. The language does
5 speak for itself, but the evidence will show that my client
6 has been prohibited in violation of your order from speaking
7 with witnesses --

8 THE COURT: Well, you can --

9 MR. MAUSERT: -- the county --

10 THE COURT: -- in another proceeding if you want to
11 seek an order to show cause or some sort of sanction, but
12 that's not before the Court today, and I require in fairness
13 notice to both parties --

14 MR. MAUSERT: What just happened?

15 THE COURT: Time out. We have an audio issue.

16 UNIDENTIFIED PERSON: I hate computers.

17 MR. MAUSERT: Your Honor, can you hear me?

18 THE COURT: Just a moment, sir.

19 UNIDENTIFIED PERSON: I can't hear.

20 THE COURT: Are we ready to go?

21 UNIDENTIFIED PERSON: Yes.

22 THE COURT: I apologize.

23 For the record, I didn't touch anything.

24 Go ahead, Mr. Mausert.

1 MR. MAUSERT: I didn't -- it's a glitch in the
2 system, Judge.

3 Your Honor, the relevance of the question would be
4 that Ms. Thomas is not bringing this proceeding, it's the
5 county that's bringing the proceeding, and it's already
6 touching -- the county is biased against my client and that
7 the violation of the Court order is probative of that bias and
8 is directly relevant to the integrity and the sincerity with
9 which this motion is being brought.

10 THE COURT: The objection is sustained.

11 We need to stick on topic with regard to whether or
12 not this order should be extended.

13 So do you have any questions that might be probative
14 of that with regard to cross-examination of this witness?

15 MR. MAUSERT: Yes, I do.

16 BY MR. MAUSERT:

17 Q Mr. West, do you have any indication other than what
18 you've already testified to that my client intends to engage
19 in any inappropriate conduct?

20 A Other than what I've discussed that was brought up
21 through the mailings and the associate activities that we
22 learned through the investigation from the sheriff's office,
23 no.'

24 Q Do you have any indication that my client is violent

1 in any way?

2 A No.

3 Q Do you have any indication that my client has ever
4 actually threatened anybody at work?

5 A I'm sorry. Threatened anybody? I didn't hear the
6 whole question.

7 Q Do you have information to the effect that my client
8 has ever threatened anybody at work?

9 A No.

10 Q In fact, there were no threats in the package, were
11 there?

12 A There were no specific threatening statements of any
13 physical threats, no.

14 Q Do you know who took the photograph of Ms. Thomas
15 sitting poolside with a bathing suit on?

16 A I do not.

17 Q Did Ms. Thomas say she was upset by that photograph?

18 A Yes.

19 Q And you would consider that photograph to be
20 something that would be inappropriate to be disseminated in
21 the workplace, correct?

22 A Yes.

23 Q Do you know whether Ms. Thomas disseminated that
24 very same photograph in the workplace to her boss Mr. Clinger

1 when she worked at the city?

2 MR. BROWN: Objection. Relevance.

3 THE COURT: You may answer that question.

4 THE WITNESS: I don't, know.

5 BY MR. MAUSERT:

6 Q If in fact she did disseminate that photograph, that
7 would be probative of the proposition that she's not really
8 offended by that sort of thing, isn't it?

9 THE COURT: That's a conclusion this witness cannot
10 draw.

11 MR. MAUSERT: I have nothing further, Your Honor.

12 THE COURT: Thank you.

13 MR. BROWN: No redirect, Your Honor.

14 THE COURT: Sir, thank you for being here today.
15 Do we have a witness who will answer shortly?

16 MR. BROWN: I don't believe so, Your Honor. I have
17 two remaining witnesses and I believe both of them --

18 THE COURT: Then we'll adjourn for a midday repass
19 and convene again at 1:00.

20 MR. BROWN: Thank you.

21 MR. MAUSERT: Thank you, Your Honor.

22 UNIDENTIFIED PERSON: I am letting the witnesses
23 know that are in the waiting room.

24 THE BAILIFF: Please rise.

1 (A recess was taken.)

2 THE COURT: Good afternoon. We are back in session
3 with case RCP20216-000227.

4 Counsel for the county is present. Counsel for
5 Mr. Clark is present.

6 The applicant has rested? Not yet?

7 MR. BROWN: Not yet, Your Honor. I have two more
8 witnesses.

9 THE COURT: Okay. Who would be next, then?

10 MR. BROWN: Bob Lucey.

11 THE COURT: All right. Is Mr. Lucey available?

12 MR. BROWN: Yes, he is.

13 THE COURT: All right.

14 THE COURT: L-U-C-I-E?

15 UNIDENTIFIED PERSON: L-U-C-E-Y.

16 THE COURT: E-Y. Thank you.

17 UNIDENTIFIED PERSON: Sorry.

18 MR. BROWN: No, that's okay. That's what I wrote
19 down. I was like, I hope that's right.

20 THE COURT: Does the witness have exhibits?

21 UNIDENTIFIED PERSON: Let me go get it. I'll be
22 right back.

23 THE COURT: Mr. Lucey come forward. You'll be
24 sitting right here.

1 THE WITNESS: All right.

2 THE COURT: But before you sit down, I'd like to
3 annoy you and ask you to raise your right hand.

4 (The witness was sworn.)

5 THE COURT: Have a seat, sir. The exhibits are
6 being brought in so if you have some preliminary questions you
7 may start with those.

8 MR. BROWN: Thank you, Your Honor.

9

10

ROBERT LUCEY,

11

having been first duly sworn, was examined

12

and testified as follows:

13

14

DIRECT EXAMINATION

15

BY MR. BROWN:

16

Q Mr. Lucey, would you inform the Court of your

17

current profession or occupation?

18

A Yes. I am the chairman of the Washoe County

19

commission.

20

Q And how long have you held that position?

21

A I've currently been the chairman for the last year

22

and a half, and I've been elected to office for the last seven

23

and a half years.

24

Q And would you briefly describe for the Court your

1 duties and responsibilities as a chairman and as a County
2 Commissioner in general.

3 A Yeah, absolutely. My -- obviously my duties as the
4 chairman of the Washoe County Commission is to help moderate
5 and mediate the meetings for the County Commission and also
6 help set the agenda with the county manager and conduct the
7 meetings on behalf of Washoe County.

8 Q Is it your understanding that we are here related to
9 Washoe County's application for a restraining order pursuant
10 to the workplace harassment statute?

11 A Yes, I am.

12 Q At some time in the month of May, did you become
13 aware of a packet of information that had been sent to various
14 people in Washoe County?

15 A Yes, I was.

16 Q Approximately when was that?

17 A I don't know the -- I can't tell you the approximate
18 day, but it was -- I remember probably about the middle of
19 May.

20 Q And how did you first become aware that these
21 packets had been sent?

22 A The day that I -- those packets -- I believe the day
23 that I became aware of it I was working in my office at the
24 county, and I was informed by the county manager that packets

1 had been received by county employees, they had been collected
2 and turned over to human resources.

3 Q And did you ever see any of the packets or receive
4 any yourself?

5 A No, I did not receive one and I did not see the
6 contents at that time.

7 Q What did you do, if anything, as County Commissioner
8 when you were given this information?

9 A Usually I do not have any operations -- I do not
10 participate in operations. My role as a County Commissioner
11 is to provide policy and direct from that standpoint. So I
12 don't typically get involved in those type of employment
13 matters.

14 Q And did you become involved at any time thereafter?

15 A I did. It was brought to my attention after that I
16 was named within the packet, the information that was in the
17 packet, my name was in that, and I was shown the packet at
18 that time.

19 Q And if you could --

20 Do we have the exhibits, Your Honor, for the
21 witness?

22 THE COURT: Yes. We have a binder. I'm just
23 getting mine. Thank you.

24 ///

1 BY MR. BROWN:

2 Q If you could turn to what's marked as Exhibit 6 --

3 A Okay.

4 Q And actually look through the documents of Exhibit 6
5 and Exhibit 7.

6 A Okay.

7 Q Do those appear to be the documents that you were
8 shown as being part of the packet?

9 A Yes, they do.

10 Q Once it was made aware that you were -- there were
11 things about you in the packet, did you take any action as a
12 County Commissioner or did the investigation get -- proceed by
13 way of county policy and procedure?

14 A After a discussion with the manager, as I stated
15 before, they had been submitted to the -- over to HR and these
16 type of packets, you know, frequently are sent to my office
17 with -- their disapproval of my job as a County Commissioner
18 or what that may be. So quite often we have seen these
19 packets. It's frustrating, but at that time it was anonymous
20 and not knowing -- it was something I kind of disregarded and
21 allowed the manager to participate in that discussion.

22 Q At some point -- and if you could turn to Exhibit 1.

23 A Uh-huh.

24 Q Were you ever shown any of the envelopes of how the

1 packets were addressed and how they arrived at the county?

2 A I was, yes.

3 Q And Exhibit 1 through 5 contains many pictures of
4 different packets that were sent throughout the community. Is
5 this similar to the ones that you were shown?

6 A Yes.

7 Q Did there come a time that you were made aware or
8 you determined yourself who the address was on the top left?

9 A At the time, no, I was not. I did not know -- it
10 was not something that I could quickly reference being that it
11 was just an address. It's very similar to phone numbers
12 within my phone, unless I -- you know, unless I can correspond
13 to it. But I did after that research it, you know, obviously,
14 on the computer and identified that address as Andrew
15 Clinger's.

16 Q And were you made aware that Andrew Clinger in fact
17 did not send these packets?

18 A I was made aware of that, yes.

19 Q And how did you get apprised?

20 A I personally am a friend of Mr. Clinger's,
21 obviously, through our working relationship when he worked for
22 the city of Reno. I contacted him directly and asked him,
23 hey, what is this? What's going on? Do you know anything
24 about this? And he informed me that some packets were

1 returned to his house, that he never sent those packets and
2 didn't know anything about it.

3 Q As a County Commissioner who directs the policy of
4 Washoe County, were you concerned about this packet of
5 information being broadly sent throughout the county to county
6 employees?

7 A Well, when I first learned about the packets, I
8 wasn't aware of the amount of packets that were sent and who
9 they were sent to. Later, once further detail was brought
10 forward to me, we learned about the number of packets that
11 were sent out and, you know, who they were sent to. And yes,
12 it was concerning at that time that a number of individuals
13 within our community, both elected and non-elected, and
14 leaders within our community were receiving packets like this,
15 yes. And it was bothersome to me.

16 Q And did that make it unique as compared to those
17 other letters that you received at your office maybe
18 complaining about your job performance?

19 A Absolutely because the difference is usually those
20 letters are sent directly to me complaining about my
21 performance or what I've done wrong or those issues. So they
22 are usually correspondence sent directly to me whether they
23 are anonymous or not. But this was different because I never
24 received one personally and this was discussing me to a number

1 of different people throughout the community, that there was
2 nothing -- there was no basis and no fact in any of that --
3 the information that was provided outside of the documents
4 about me.

5 Q And once -- strike that.

6 When you received those packets or you became aware
7 that they were sent throughout the community to the various
8 people and you put that together that Andrew Clinger did not
9 in fact send those, did that rise your level of concern at
10 that point?

11 A Yeah, absolutely, because the problem that I found
12 is that the number and the size of the packet, the content and
13 the information that was in the content -- at least in the
14 letter, the correspondence that was drafted was full of false
15 information. And it was malicious. I mean, that was, to me,
16 something that was -- when you try to conceal through an
17 anonymous letter that you're -- and just this was disturbing
18 to me that someone is out there physically trying to harm me
19 in a way and just smear my name, which is not -- nothing about
20 it is true.

21 Q And when you say it was anonymous, did it appear to
22 be more than anonymous to you since -- it wasn't anonymous.
23 There was a return address, right?

24 A There it was a return address, but on the

1 correspondence as you referred to in Exhibit 6 that I'm
2 reading here, the letter that's titled Reno Whistledown,
3 nothing -- no individual, nothing, just -- other than
4 statements that were, like I said, disturbing and upsetting to
5 me in the sense that they were fictitious and lies about me.
6 And they were sent to a number of individuals who I work with,
7 colleagues that I work with, and staff members that reside
8 within the county.

9 Q Did there come a time that you were requested to go
10 to the Washoe County sheriff's office and view a videotape?

11 A Yes.

12 Q Did you do that?

13 A I did.

14 Q Who was all present at that meeting?

15 A That meeting was myself assistant county manager
16 Kate Thomas, County Manager Eric Brown, and two detectives
17 from the Washoe County sheriff's office.

18 Q And did you watch a videotape presented to you by
19 the sheriff's office?

20 A I did.

21 Q And was that videotape depicting someone delivering
22 packets to the post office?

23 A Yes. The day we arrived we were told that's what we
24 were going to be -- that they had video of an individual who

1 had brought the packets to a post office and that they had a
2 better opportunity for us to see if we could identify the
3 individual, yes.

4 Q And were you able to identify the individual in the
5 video?

6 A Absolutely.

7 Q And who was that?

8 A Immediately I recognized the individual to be Mike
9 Clark, Washoe County Assessor.

10 Q And when you saw that it was Mr. Clark, what impact
11 did it have on you?

12 A I was angry. I was extremely angry and distraught.
13 I never anticipated something -- this from another colleague
14 or elected official that works within the county. This is not
15 a professional thing that I would anticipate, and it bothered
16 me. And it bothered me from a number of levels.

17 Q And what are those levels?

18 A It's one thing to -- it's one thing to attack myself
19 in my work as an elected official, and I understand that's a
20 role that I have. But to include my personal family matters,
21 this individual, Mike Clark, works continuously in our office
22 and has access to information. That bothered me and it gave
23 me a sense of insecurity and I was worried.

24 Q And what do you mean access to information that

1 Mr. Clark has?

2 A When -- he has access to a number of contacts as,
3 you know, as listed on these packets. You know, HR staff,
4 individuals, you know, that are throughout our community and
5 throughout the county. And that was direct -- and he has
6 access to information as the assessor to where I live, to
7 where my businesses are, where my wife's businesses are, you
8 know, and that kind of information is frightening to me that
9 an individual who in my opinion maliciously went out to go and
10 send something of this nature, went to do that and has access
11 to that kind of information gives me -- it made me angry
12 because it gave me concern. Concern for my family and concern
13 for that type of -- I was virtually -- that day I was upset.
14 I was extremely upset that day.

15 Q And as a result of being upset and having those
16 concerns, did you take any action with the sheriff's
17 department or anybody else?

18 A Yes. That day after watching the video and
19 participating in that viewing, we met with Sheriff Balaam and
20 his staff and they discussed what their next steps would be in
21 regards to where they would send the case because they felt it
22 was now a conflict, and we send it over to the Attorney
23 General's Office for a further investigation.

24 I had mentioned to the sheriff that I wanted

1 increased, you know, patrol within our area because I was
2 concerned. I was concerned for my kids and my family. When
3 I'm not there, a lot of times my wife and I both work and my
4 kids are home alone with a nanny. And I don't like that that
5 somebody has this kind of -- this kind of drive and this kind
6 of commitment to go do this. It doesn't mean they would never
7 show up at my house and create something or do something.

8 Q Did you ever seek out any type of counseling over
9 this event?

10 A I did.

11 Q And explain that to the Court.

12 A The month of -- this last month of June I went and
13 visited -- because of my role at the County Commission, it's
14 important that when we make policy decisions, we make
15 decisions on behalf of all citizens of Washoe County. It's
16 important to have a calm and direct demeanor. And when we --
17 I was visibly shaken. And I had lost my grandfather in the
18 end of the month of May. And between these two events, I
19 needed help. And I was just mentally disturbed and
20 distraught. And so I went and sought my therapist to discuss
21 skills of how I should cope with this type of -- this type of
22 stress.

23 Q Do you have any appointments for any future --

24 A I do.

1 Q -- sessions?

2 A Yes. This month coming up.

3 Q Understanding that you're there at this meeting
4 being shown this videotape with other people present and
5 having that reaction on you, were you -- did you observe any
6 reaction from Ms. Thomas?

7 A I did. Immediately she was visibly distraught, and
8 crying, and upset. And in the years I have worked with
9 Ms. Thomas, I've never seen her this upset and crying and
10 truly scared. In my opinion, she looked scared to me.

11 Q Do you still have the increased security at your
12 residence?

13 A I don't know. That's under the sheriff's -- it's
14 under the sheriff's purview.

15 Q Did you see any reaction from Mr. Brown?

16 A I did. Mr. Brown was extremely shocked as
17 well. And not only shocked, but also distraught knowing
18 that it was an elected official that had taken this type
19 of an action.

20 MR. BROWN: I have nothing further, Your Honor.

21 THE COURT: Thank you.

22 Mr. Mausert, any cross?

23 MR. MAUSERT: Yes, Your Honor.

24 There's an echo.

1 CROSS-EXAMINATION

2 BY MR. MAUSERT:

3 Q The introduction of Reno's Whistledown -- I can't
4 see anything in here where Mr. Clark threatened you or your
5 family. Is there some other document or some other thing I
6 don't know about where Mr. Clark posited a threat directed at
7 you or your family?

8 A No. There was no direct threat within the document.
9 As I stated previously, there was really nothing in the
10 document outside of the information that was falsified -- was
11 falsely placed in there that caused me concern.

12 What caused me concern is the way it was drafted and
13 why it was drafted.

14 Q What information in the packet was false?

15 A Let's see. If we go down through here, it talks
16 about Team Kate and how I -- we are -- if it wasn't for us,
17 can be counted among Kate's team, which is not true. There's
18 political insiders -- you know, it talks about a number of
19 different issues about how I got into disputes with
20 Commissioner Berkbigler and that I had discussion about race.
21 Those types of discussions, even though true in fact, they
22 lacked the context, really, of what was going on. So this was
23 drafted in a way, in my opinion, to spear me.

24 Q Okay. But there's nothing in this document that

1 posits a physical threat to you or your family, is there?

2 MR. BROWN: Objection. Asked and answered. Asked
3 and answered.

4 THE COURT: He can ask it himself.

5 MR. BROWN: Okay.

6 THE WITNESS: There is no direct -- there is no
7 direct threat that I read in this, no.

8 BY MR. MAUSERT:

9 Q Do you have any other objective criteria -- and I'm
10 not talking about your subjective fears. I understand people
11 have subjective fears. But do you have any objective
12 criteria, any statements, any indication from any sort that
13 indicates that my client is physically dangerous to you or
14 your family?

15 A No, nothing that I can see within this.

16 MR. MAUSERT: Your Honor, I move to strike all of
17 the testimony about the subjective fears. There's no
18 objective basis for that testimony. I don't think it's
19 relevant. I don't think it's probative of anything.

20 THE COURT: The motion is denied.

21 BY MR. MAUSERT:

22 Q Mr. Lucey, have you and Ms. Thomas always behaved
23 with propriety in the workplace?

24 MR. BROWN: Objection. Relevance, Your Honor.

1 THE COURT: Sir, what is the relevance of that?

2 MR. MAUSERT: Your Honor, it goes to the alleged
3 fears of Ms. Thomas because our contention here is that
4 Ms. Thomas isn't really scared of Mr. Clark harassing her in
5 the sense of stalking or doing anything inappropriate. What
6 she's afraid of is that her misconduct will be exposed.

7 THE COURT: The objection -- excuse me, the
8 objection is sustained.

9 You may move onto a new question.

10 MR. MAUSERT: I don't have any further questions,
11 Your Honor.

12 THE COURT: Thank you.

13 Mr. Brown, anything else?

14 MR. BROWN: No, Your Honor.

15 THE COURT: Commissioner, thanks for being here
16 today.

17 THE WITNESS: Thank you, sir.

18 THE COURT: Please don't mention what occurred in
19 this room until the close of the proceedings.

20 THE WITNESS: I will not. Thank you.

21 THE COURT: Thank you.

22 MR. BROWN: The County will now call Kate Thomas.

23 THE COURT: Kate Thomas, please.

24 Good afternoon, ma'am. Before you sit down, would

1 you please raise your right hand.

2 THE WITNESS: Sure.

3 (The witness was sworn.)

4 THE COURT: Have a seat.

5 THE WITNESS: Thank you.

6 THE COURT: Mr. Brown, this is your witness.

7 MR. BROWN: Thank you, Your Honor.

8

9 KATE THOMAS,

10 having been first duly sworn, was examined

11 and testified as follows:

12

13 DIRECT EXAMINATION

14 BY MR. BROWN:

15 Q Good afternoon, Ms. Thomas.

16 A Good afternoon.

17 Q What is your profession or occupation?

18 A I am the Assistant County Manager for Washoe County.

19 Q And how long have you had that position?

20 A It will be four years on the 10th of July.

21 Q Would you briefly describe for the Court your
22 responsibilities and duties as the assistant county manager
23 for Washoe County?

24 A Sure. I oversee various human service related

1 functions for the county. I have the human services agency
2 under my supervision. The Department of Alternative
3 Sentencing, the medical examiner, the public defender, and the
4 alternate public defender. I am a liaison to the Court and I
5 serve as the oversight for the legislative relations manager
6 as well as emergency management to name some of my duties.

7 Q Do you understand that we are here today based upon
8 a workplace harassment protection order that Washoe County
9 sought as to the county assessor Mike Clark?

10 A Yes.

11 Q I want to bring you back to when the events
12 transpired. How did you first become aware that there was an
13 issue going on with regards to the packets?

14 A So I had just returned from a lunch meeting and
15 received an email from the medical examiner to me and to
16 Manager Brown stating that Dr. Knight had received an unusual
17 package in the mail that she didn't feel had anything to do
18 with her capacity as the medical examiner or her role in
19 Washoe County. She was going to package that back up, seal it
20 and send it over for our eyes only because she felt it was a
21 little bit unusual. So she did that.

22 And where I sit from my office, I can actually see
23 the medical examiner's office. So I saw her deputy walk
24 across the street holding an envelope, a manila envelope.

1 Before I could go down and meet him in the lobby, I got an
2 email from an HR colleague stating that she received an email
3 that was disturbing, and I think she used the word disgusting.
4 And she had actually scanned and attached it.

5 So while I was wondering what the heck could be in
6 this packet from the medical examiner, I now knew what I think
7 could be in the packet, considering the medical examiner
8 offered up she wasn't sure if she was the only one receiving
9 it or others got it. She just sort of left it out there. So
10 it was at that point that I realized --

11 Q I'm going to stop you right there.

12 A I'm sorry.

13 Q Did you open up the email --

14 A I did.

15 Q -- and look at the information?

16 If you can, there should be a binder in front of
17 you.

18 A Yes.

19 Q And if you could turn to Exhibit 6.

20 And actually if you could look at Exhibit 6 and
21 Exhibit 7 --

22 A Okay.

23 Q -- and tell me whether or not this was the packet
24 that you received in the email?

1 A Yes. I believe so, two of these were in it.

2 Q That was a bad question on my part.

3 Is it the packet you received in the email?

4 A Well, these were -- 6 and 7 in the packet that I
5 received, for sure.

6 Q Do you see the first page of the packet, the
7 photograph of Exhibit 6?

8 A Yeah. That was the first thing I saw when I opened
9 the email from my colleagues from HR.

10 Q And whose in this picture?

11 A This is me.

12 Q And do you know who took this photo?

13 A Yes.

14 Q Who took this photo?

15 A My mom took this photo. This is me sitting at her
16 pool.

17 Q And you're aware that your mother took this photo at
18 the time she took this photo?

19 A Yeah.

20 Q Was this a private moment with you and your mother?

21 A Yeah.

22 Q Okay. Did you ever post this photo on any type of
23 social media?

24 A No.

1 Q Or any kind of sharing platform at all?

2 A Absolutely not.

3 Q Did you give this photo to someone that you believed
4 was a friend of yours?

5 A Yes. I shared it with someone who I considered to
6 be a close friend at the time.

7 Q All right. And then when was the next time that you
8 saw that photo?

9 A I believe it was when Mr. Mausert showed it to me
10 during my deposition with a matter in front of the city of
11 Reno.

12 Q Okay. And do you see on Exhibit 6 it says
13 Exhibit 8, there's a sticker?

14 A Uh-huh.

15 Q And it says "Thomas." That's your name, correct?

16 A Yes.

17 Q Since that deposition was taken -- when was that
18 deposition taken -- let me help you, was it in 2021?

19 A No.

20 Q Was it in 2020?

21 A No.

22 Q Was it in 2019?

23 A No.

24 Q 2018?

1 A No.

2 Q 2017?

3 A Maybe 2016.

4 Q Okay. Somewhere quite a while --

5 A It was several.

6 Q -- since you were shown this photograph in your
7 deposition.

8 Had you seen it since then?

9 A No.

10 Q So the first time that you saw this photo after this
11 was when it came into the packets in the envelopes?

12 A Yes.

13 Q So you received the email, you looked at the
14 packets, you looked at the information. What did -- what was
15 the effect on you? What were you going through?

16 A Well, I was obviously shocked that this would be
17 something that was sent to a couple of my colleagues. Not
18 knowing what it has to do with my stature as the county --
19 assistant county manager.

20 Reading through it, it of course triggered some of
21 the -- the issues that were going on with the city of Reno
22 situation where you just wondering what this has to do with
23 anything, and why it's being sent out, and who could possibly
24 send this, and what was the intended result. I mean, there's

1 a bunch of things that go through your head when you see
2 yourself sort of being portrayed in an attempted negative
3 light.

4 Q Did you feel like you were being objectified?

5 A Yeah. There's picture of me in a bikini sent to my
6 colleagues. It's definitely -- as a woman in a position of
7 professional capacity in an organization, of course you -- you
8 know, this is a private thing between me and my mother and
9 someone I thought was a friend. And now it's being -- at the
10 time, a couple of people I knew, obviously it's since been
11 expanded. So that's a good -- objectification is an accurate
12 statement.

13 Q So what happened actually? You waited for the
14 medical examiner assistant. You get the other email. Then
15 what happened?

16 A So I went and met the assistant medical examiner on
17 the stairs, apologized to him that he would have to come over
18 and deliver such a thing. And as I was walking back into the
19 office I believe is when I encountered Manager Brown coming in
20 for lunch, and I held it up and that's when he said, "Yes, I'm
21 aware." So that's when I knew it was probably more widely
22 distributed than anticipated by me.

23 And so it was at that point that the mail must have
24 arrived and so these colleagues of mine start coming in sort

1 of tail between their legs with these packets. And I said
2 just put it on my desk. Thanks. You know. There's
3 confusion. People were concerned wondering why they were
4 receiving something like this.

5 Q As these packets kept coming to you by your
6 colleagues?

7 A Yes.

8 Q One after --

9 A One by one, coming into my office, handing me --

10 Q You're still in your role as the assistant county
11 manager, correct?

12 A Yeah.

13 Q What are you going through personally? I mean, how
14 is this building on you on the inside?

15 A Well, you do what you need to do. You sit there
16 with the strong face on because you're one of the executive
17 leaders of the organization and you don't want your colleagues
18 to see that this is impacting your ability to be a leader, but
19 obviously inside you're doing everything you can to bury the
20 turmoil that you're feeling.

21 Q Did you feel harassed?

22 A Yeah.

23 Q Did you feel frightened?

24 A Yeah, at the time because I didn't know where it was

FILED

24 May 2021 4:31 pm

JAMES P. CONWAY
RENO JUSTICE COURT
BY LC
DEPUTY CLERK

JUSTICE COURT IN THE TOWNSHIP OF RENO
WASHOE COUNTY, NEVADA

Washoe County
Employer (print the name of the workplace or employer),

CASE NO.: RCP2021-000227

DEPT: 6

vs.

Mike Clark
Adverse Party (print the name of the person you want
protection from).

APPLICATION FOR TEMPORARY ORDER FOR PROTECTION
AGAINST HARASSMENT IN THE WORKPLACE

1. Your information (you are the "Applicant").

Your name: Mary Kandaras Deputy District Attorney on behalf of Washoe County
(first) (middle) (last)

2. Your authority (check one).

I am the employer.

I am the authorized agent of the employer.

3. Who do you want protection from (this person is the "Adverse Party")?

Name: Mike Clark Washoe County Assessor
(first) (middle) (last)

Address (if known): 1001 E. 9th Street, Reno, NV Washoe County NV
Address City, State, Zip County

4. Are there any other court cases that involve you and the Adverse Party?

No

Yes. List the case type, county, state, and case number if you know:

5. **Most Recent Threat/Harassment.**

Think about the most recent threat or harassment. These questions ask about the most recent incident only.

Approximate date it happened: May 4 - 12, 2021

City / State / Location where it happened: Reno, Washoe County, NV

Did the other person use or threaten to use a weapon? *(a weapon can be a gun, a knife, or any object that is used to cause or threaten physical harm)?*

No.

Yes *(describe what kind of weapon was used or threatened)* _____

Did the police come? No Yes

Was anyone arrested? No Yes: *(who?)* _____

Is the adverse party in jail? No Yes

What Happened? *Explain the most recent event and describe any injuries. You can list past events on the next page.*

Please see attached narrative.

Attach more pages if you need more room. (2a, 2b, 2c).

I. Facts in Support of Application for Workplace TPO against Mike Clark County Assessor

On or about May 4, 2021, Washoe County Manager Eric Brown contacted Washoe County Sheriff's Office about numerous duplicate mailings sent to officers and employees throughout Washoe County. These mailings were received by Doctor Laura Knight, of the Washoe County Medical Examiner's Office, Karen Jeffers of Washoe County Human Resources and Chief Charles Moore of the Truckee Meadows Fire Protection District, among others. Initially, the County was in possession of 24 envelopes that were mailed to various Washoe County employees. Ultimately, approximately 162 mailings were recovered.

The mailings were all the same and purported to uncover "skullduggery" between the City of Reno and Washoe County. The content also focused on Assistant Manager for Washoe County Kate Thomas (AM Thomas). The content called into question AM Thomas' professionalism and was replete with innuendo that she used her sex to advance her career. AM Thomas very concerned because she had no idea who would send these packets out or why.

Mailings and Content:

The envelopes were 9 x 12 inches and the exterior of each had a handwritten address in a black or red marker. The return address was a computer label with a black line crossing out where a name would normally appear, with a street address. The envelopes had similar weights (13.30 to 14.30 ounces). All the postal labels were affixed with priority mail labels with tracking numbers with postage paid of either \$7.70 or \$8.45.

Each of the envelopes contained approximately 69 sheets of paper. The interior contents were as follows:

- 1 colored photo of AM Thomas, wearing a bathing suit and facing away from the camera;
- 2-page document titled, "Reno's Whistledown." It stated that AM Thomas behaved "unprofessionally" with her superiors;
- Exhibit 1 – not pertinent to this action;
- Exhibit 2 – not pertinent to this action;
- Exhibit 3 contained partial transcript where a person alleged AM Thomas had an "overly-familiar" relationship with a person in the workplace;

- Exhibit 4 contained partial transcript where a where a person accused AM Thomas and others of saying inappropriate things in the workplace;
- Exhibit 5 contained a declaration that alleged that AM Thomas was engaged in an inappropriate workplace relationship;
- Exhibit 6 contained a partial transcript where a person alleged that AM Thomas did not know all aspects of her job.
- Exhibit 7 contained a partial transcript where person alleged that AM Thomas received an unwarranted promotion;
- Exhibit 8 contained 2 documents that alleged AM Thomas was at a meeting where inappropriate statements were made.
- Exhibit 9 – not pertinent to this action.

Investigation:

Washoe County Detective Wes Urban contacted the United States Postal Inspector, Steve Kline. He had intercepted a large number of mailings, as described above, at the post office located at 75 McCabe Drive in Reno, Nevada. Inspector Kline became involved because an employee at this location reported concern about the number of envelopes dropped off and that the postage amount was incorrect.

Investigator Kline found video of the envelopes being mailed. The video showed, an older white male entered the post office located at 75 McCabe Drive carrying 2 large boxes. After paying the postage, he exited at approximately 1203 hours. This occurred on April 30, 2021 at approximately 1118 hours.

Identification of Assessor Mike Clark:

On May 12, 2021, AM Thomas reviewed the video surveillance from the post office located at 75 McCabe Drive. She immediately identified the male subject carrying the two boxes into the post office as Washoe County Assessor, Mike Clark, who works at 1001 East 9th Street in Reno which is the same location where AM Thomas works.

Upon identification of Mike Clark, AM Thomas became concerned for her safety. AM Thomas does not work with Mike Clark in a professional capacity, nor does she know him socially. AM Thomas cannot recall any instance of ever having a conversation with Mike Clark. The mailing contained a photo of her at a pool and in a two-piece swimming suit. AM Thomas does not know where the photo came from. She did not take it or post it on social media. The contents of the mailing questioned AM Thomas' professionalism and competence and sought to objectify her to members of the community and her colleagues. Specifically, the mailing repeated the allegation that she

behaved "unprofessionally" with male co-workers at Reno and Washoe County and that she lacked job qualifications. The inference from the contents of this mailing is that sexual conduct explains her employment positions.

Harassment in the workplace occurs when a person knowingly threatens to cause or commits an act that causes substantial harm to the physical or mental health or safety of a person. NRS 33.240(1)(c). Here, there is video evidence of Mike Clark posting the items. This act has caused AM Thomas to feel terrorized, frightened, intimidated or harassed. NRS 33.240(3). Mike Clark's conduct is inexplicable, premeditated and threatening, especially since AM Thomas does not personally know him. The conduct is obsessive and borders on stalking. AM Thomas is in fear because she does not know what to expect and is worried that Clark's conduct will escalate. She is unable to focus at work. She is having difficulty eating and sleeping. She also worries for the safety of her family and is fearful of retaliation from seeking protection. Accordingly, Washoe County and AM Thomas seek protection against this and any further misconduct by Mike Clark.

II. Washoe County requests that a workplace violence order be issued with the following special conditions:

1. Mike Clark, or any agent, is prevented from contacting AM Thomas at any time and through any medium.
2. Mike Clark may not be present on any Washoe County premises without prior approval of Security Administrator Ben West.
3. Mike Clark should make arrangements with Security Administrator Ben West to retrieve items from his office during the time he is not allowed in office.
4. Mike Clark may contact Washoe County employees by phone or text to conduct official business so long as no threats are made or discussions are had regarding this issue at hand.

6. **Past Threats / Harassment.**

Think about any other times the person you want protection from threatened or harassed you and/or other employees. The following questions ask about any past incidents that may have happened.

Have there been threats of violence in the past?

No (*skip to the next page*)

Yes (*complete the sections on this page*)

Approximate Date: _____

What Happened: _____

Approximate Date: _____

What Happened: _____

Approximate Date: _____

What Happened: _____

Attach more pages if you need more room (3a, 3b, 3c).

7. **Locations that need protecting.**

Workplace. The workplace where protection is needed is primarily located at the following address.

Washoe County, specifically Kate Thomas

Employer/Location Name

1001 E. 9th Street,

Address

Reno, Washoe County, NV

City, State, Zip Code

County

Additional Workplace Locations. List the specific locations that employees might need protection, such as other branches of the workplace or places where employees perform their duties:

Location Name

Location Name

Address

Address

City, State, Zip Code

County

City, State, Zip Code

County

Other Places. The adverse party should stay away from the following places.

Location Name

Location Name

Why?

Why?

Address

Address

City, State, Zip Code

County

City, State, Zip Code

County

8. **Have you given the adverse party notice that you are filing this?** (check one and answer the questions that follow.)

Yes. On the following date, _____, I gave notice (check one or more):

in person via email via telephone via mail other: _____

No. In order for the judge to grant this without notice, you have to show that giving notice might cause irreparable, loss, or damage to the employer or employees. Explain why you should be allowed to skip the notice step.

Because of the inexplicable and preplanned nature of this conduct, Washoe County is concerned that the Adverse Party will engage in retaliatory conduct against the focus AM Thomas. Washoe County will serve Adverse Party upon issuance of the TPO.

If you tried to give notice, but were not able to, explain what efforts you made and any facts that support why you should not have to give notice.

9. **Firearms / Guns.** Does the adverse party own a gun or have a gun in his/her possession or control? No Yes I don't know

10. **Other Information:** Is there anything else you want the judge to know? Any other conditions you are asking for?

Please see attachment for additional conditions.

11. **Exhibits:** You may attach documents, pictures, or anything else that you would like the judge to look at and consider when reviewing your application. *Note: the adverse party will be able to see all the exhibits you attach.* What exhibits are you attaching?
None at this time. At the hearing, Washoe County may submit documents under seal.

12. **Protections Requested.** I request that an Order for Protection Against Harassment in the Workplace be issued against the Adverse Party so that the Adverse Party will be prohibited from contacting, intimidating, threatening, or otherwise interfering with the employer's business and/or its employees and/or any person present at the workplace, and that the Adverse Party will be ordered to stay away from the employer's workplace. I also request that the Court prohibit the Adverse Party from violating this Order via e-mail, correspondence, telephone, or by an agent. Please see attachment for additional conditions.

13. Length of Protection Order.

This is a 15-day order, do you need an extended order? No Yes
If yes, you need to apply before the end of the 15th day.

This document does not contain the personal information of any person as defined by NRS 603A.040.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

DATED May 24, 2021, 20 .

Submitted By: (your signature) Mary Kandaras
(print your name) Mary Kandaras, Deputy District Attorney on behalf of Washoe County

VERIFICATION

I declare that I am the applicant in the above-entitled action; that I have read the foregoing application and know the contents thereof; that the pleading is true of my own knowledge, except for those matters therein contained stated upon information and belief, and that as to those matters, I believe them to be true.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Submitted By: (your signature) Mary Kandaras
(print your name) Mary Kandaras, Deputy District Attorney on behalf of Washoe County

Attorney /Authorized Agent information: Mary Kandaras, Deputy District Attorney on behalf of Washoe County
Name
1 South Sierra Street
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Reno, NV 89501 Washoe County
City, State, Zip Code County
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4 Reno, Nevada 89512
5 (775) 786 5477
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7 mark@markmausertlaw.com
8 \$1175

9 IN THE SECOND JUDICIAL DISTRICT COURT FOR THE COUNTY OF WASHOE

10 STATE OF NEVADA

11 MICHAEL CLARK,

12 Case No. CV21-01389

13 Appellant,

14 vs.

15 **APPELLANT'S OPENING BRIEF**

16 COUNTY OF WASHOE,

17 Respondent.

18 _____/
19 COMES NOW, Appellant Michael Clark, through counsel, and hereby provides an
20 Opening Brief.

21 Statement of the Case

22 An extended protection order hearing (hereinafter "Hearing") was held in the Reno
23 Justice Court on June 30, 2021, the Honorable Richard Glasson presiding. The Hearing was
24 held pursuant to an Application filed by Washoe County. The real-parties-in-interest were
25 Assistant County Manager, Kate Thomas, and Chairman of the Washoe County Commission,
26 Bob Lucey. The appellant is Michael Clark, who is the elected Assessor of Washoe County.
27 The Court ruled from the bench on June 30, 2021, and extended the Order for one year.

28 Facts

A number of witnesses testified, including Mr. Steven Kline, a U.S. Postal Inspector.
Hearing Transcript (HT), commencing at p.12. Mr. Kline testified as to a number, i.e., 162,
(HT, p.33) of identical (with the exception of the names and addresses of the addressees)
packages, mailed by Mr. Clark to various individuals and officials (almost all of whom are
residents of Washoe County). HT, commencing at p.14. Mr. Clark did not use his own return

1 address. Rather, he listed the address of the former City Manager, Andrew Clinger – who was
2 not involved in sending the packages, but who had been responsible for hiring Ms. Kate
3 Thomas as an Assistant City Manager, when he was the Reno City Manager. HT, pp.19-20.
4 Postal Inspector Kline incorrectly characterized the mailings as violations of federal statutes,
5 i.e., 18 U.S.C. 1001 and 18 U.S.C. 1342. Inspector Kline admitted, correctly, the packages did
6 not contain any overt threat. HT, p.26. Nor was pecuniary fraud attempted. The mailings
7 therefore do not appear to violate the statutes, i.e., no crime was committed.

8 The first page of the packages consisted of a color photograph of Assistant County
9 Manager, Kate Thomas, who was photographed wearing a bikini and sitting at poolside, with
10 her back to the camera (Ms. Thomas's mother took the photo). HT, p.23. There is nothing per
11 se indecent or prurient about the photograph. Mr. Kline's testimony was fairly lengthy, but was
12 basically confined to the fact Mr. Clark sent 162 packages; made no attempt to conceal his
13 identity while mailing (at least one of the Post Office has visible cameras) (HT p.62), but did
14 use a false return address, i.e., that of Mr. Clinger; the packages did not contain any threats; the
15 packages did not contain contraband; and were only "potentially harassing" – HT, p.50.

16 Sergeant West Urban of the Washoe County Sheriff's Department testified. (HT,
17 p.52). Ms. Kate Thomas apparently did not inform Sergeant Urban that the photo of herself
18 had been taken by her mother and she had disseminated the photo herself – to at least one other
19 highly placed, male City of Reno employee. HT, p.67, lines 11-18.

20 Washoe County Manager Eric Brown testified. HT, p.69. Mr. Brown testified he
21 thought it was "inappropriate" to see a County employee in a bathing suit. HT, p.74.

22 Well, I did. And I will tell you that since this has occurred, I've received a lot
23 of feedback, particularly from our female employees at the county who saw that
24 picture as an objectification of women. The insinuations that this employee, as in
25 Kate Thomas, may have been using her sexuality somehow to further her career or to
26 get what she wants. Those were all things that are concerning to many or our
27 employees. And it is. It struck me that way also.

28 So, yes, it was clear to me that this – this was a potential case of harassment. . .

HT, p.78, lines 15-24.

Mr. Brown was, apparently, unaware the photo had been taken by Ms. Thomas' mother; Ms.
Thomas failed to reveal this fact; and Ms. Thomas was, herself, responsible for initially

1 disseminating the photo. Apparently, neither were the female employees.

2 Mr. Brown, as did the other witnesses, speculated at length as to how the package might
3 constitute harassment. See, e.g., HT, p.81, lines 20-23; pp.83-84. Instead of focusing on the
4 contents of the package – which are entirely political – he focused on the reactions of Ms.
5 Thomas and the Chairman of the County Commission, Bob Lucey. HT, p.85. Testimony re
6 the County’s Workplace Violence Committee was elicited (HT, pp.85-88) – even though the
7 packages did not contain any threats and Mr. Clark has never made threats, or engaged in
8 violence. In the absence of any actual evidence of a threat or violence the theme of “what if”
9 predominated. *That is, there was no evidence whatsoever presented Mr. Clark stalked Ms.*
10 *Thomas or Mr. Lucey; threatened Ms. Thomas or Mr. Lucey; engaged in violence in or out of*
11 *the workplace; or ever threatened to engage in violence.* It is in this context the Court refused,
12 again and again, to hear evidence regarding Mr. Clark’s intentions and mindset – as well as
13 evidence which would have demonstrated unalloyed hostility by Mr. Lucey and Ms. Thomas.

14 I attempted to examine Mr. Brown re the verbal abuse Chairman Lucey had subjected
15 Mr. Clark to. The Court refused to allow that examination, notwithstanding an offer of proof.

16 The relevance would be that Mr. Lucey engaged in the very conduct that this witness
17 has condemned and he only did it – he used pejorative terms to refer to my client. He
18 swore at him. He accused him of being incompetent to the point which, Your Honor,
two county commissioners after the meeting were so chagrined by this that they
independently called Mr. Clark and apologized for Mr. Lucey’s conduct.

19 HT, p.90.

20 I explained to the Court the proffered testimony would go “to the harassment of [Mr. Clark] by
21 Mr. Lucey and Ms. Thomas, Your Honor, which explains his motivation for sending out the
22 package.” The Court responded:

23 *Sir, your client’s motivation is not an issue before the Court today, so you need to*
24 *focus on the issues that are before the Court that I went through with you at the*
beginning of the proceeding.

25 HT, p.91, lines 6-16 (emphasis added).

26 The Court refused to allow evidence of Mr. Clark’s exclusion from meetings directly
27 related to his job duties, i.e., meetings regarding the Incline Village assessment debacle – re
28 which the County will pay the largest settlement in the County’s history, i.e., fifty to sixty

1 million dollars. HT, pp.92-93. The Court sustained the County's objection and stated,
2 "[t]hat's not relevant." HT, p.93, lines 5-6.

3 The Court refused to allow evidence re Mr. Clark having been ostracized at work by
4 Ms. Thomas and Mr. Lucey, and re the fact they refused to authorize repair of the badly leaking
5 roof in his office, *for years*. HT, pp.93-94. The following exchange occurred:

6 The Court: Mr. Clark's motivation is not yet relevant in this proceeding.

7 Mr. Mausert: Your Honor, but if it becomes relevant, is it never going to be relevant?

8 The Court: I don't know. It depends upon other evidence that's foundational to it.
9 The objection is sustained.

10 HT, p.94, lines 5-11.

11 Mr. Ben West, the Washoe County Security Administrator, testified and echoed
12 incorrect information – apparently disseminated by Ms. Thomas. Mr. West testified Ms.
13 Thomas was "unaware of how anyone outside of perhaps her immediate family would have
14 obtained a copy of [the poolside photograph]. And the photograph was of her in a bathing suit
15 at a pool *and she felt that was inappropriate to be sharing with people that she works with in*
16 *the community, whether it be county offices or other leaders within different community*
17 *organizations throughout the region."* HT, pp.102-03 (emphasis added).

18 Mr. West also imparted the false impression Mr. Clark had no reason for sending out
19 the package – " – everything appeared that [sending the package] was not brought on by any
20 specific behavior by Ms. Thomas against Mr. Clark or anyone else, –". HT, p.103, lines 6-16.

21 The Court refused to allow inquiry as to whether Mr. West had improperly expanded
22 the underlying Order so as to preclude Mr. Clark from electronically communicating with the
23 employees whom he supervises. HT, pp.104-06.

24 Mr. West admitted he had no information Mr. Clark is violent, or had threatened
25 anyone. HT, pp.106-07. Mr. West did not know Ms. Thomas' mother had taken the
26 photograph – obviously because Ms. Thomas failed to inform him of that fact. HT, p.106, lines
27 14-16. Mr. West considered the photograph to be inappropriate for dissemination in the
28 workplace. HT, p.106, lines 19-22. He was unaware of the fact it was Ms. Thomas who

1 originally disseminated the photograph in her workplace. HT, pp.107-08.

2 Washoe County Commission Chairman Robert Lucey testified he has been Chairman
3 of the Commission for more than seven years. HT, p.110. Mr. Lucey is friends with Mr.
4 Andrew Clinger – the former City Manager and the faux return addressee. HT, p.114. Mr.
5 Lucey claimed “nothing about [the package] is true.” HT, p.116. Mr. Lucey reiterated the
6 “what if” theme which pervaded the hearing, i.e., “what if” Mr. Clark is somehow dangerous.
7 HT, p.119. He was not interrupted or otherwise curtailed by the Court. On cross-examination
8 he admitted the package did not contain any “direct threat”. HT, p.122; 123, lines 6-7.. Mr.
9 Lucey backed off of his contention the package contained falsehoods. The matters which Mr.
10 Lucey regarded as such are, in fact, matters of opinion. HT, p.122, lines 15-23. Mr. Lucey
11 admitted Mr. Clark had not posited any threat to himself or his family.

12 Question: . . . But do you have any objective criteria, any statements, any indication
13 from any sort that indicates that my client is physically dangerous to you or your
14 family?

14 Answer: No, nothing that I can see within this.

15 HT, p.123, lines 9-15.

16 The Court denied Mr. Clark’s motion to strike the speculative and prejudicial testimony
17 regarding the “what if” specter of him as dangerous. HT, p.123, lines 16-20.

18 The Court refused to allow inquiry as to whether Mr. Lucey and Ms. Thomas have
19 always behaved with propriety in the workplace. HT, pp.123-24. When the Court inquired as
20 to the relevance, Mr. Clark’s attorney offered the following explanation:

21 Your Honor, it goes to the alleged fears of Ms. Thomas because our contention here
22 is that Ms. Thomas isn’t really scared of Mr. Clark harassing her in the sense of
23 stalking or doing anything inappropriate. What she’s afraid of is that her misconduct
24 will be exposed.

24 HT, p.124, lines 2-6.

25 Assistant County Manager Kate Thomas testified she has held the position of Assistant
26 County Manager for almost four years. HT, p.125. She admitted her mother took the
27 photograph which was in the packages Mr. Clark sent. HT, p.128., lines14-16. This testimony
28 conflicts with the content of the Application filed by the County (the information therein was

1 provided by Ms. Thomas to Assistant District Attorney Mary Kandaras, and with what Ms.
2 Thomas told other persons, i.e., she was unaware of the origin of the photo). Ms. Thomas
3 admitted she provided the photograph to Robert Chisel – the City’s Finance Director, with
4 whom Ms. Thomas worked when employed by the City of Reno, see, infra. HT, p.129. That,
5 is Ms. Thomas engaged in precisely the very sort of conduct for which the County’s witnesses
6 roundly condemned Mr. Clark.

7 Ms. Thomas admitted she read the Application the County filed on her behalf for a
8 restraining Order. HT, p.150. She considered the contents to be accurate, but then implicitly
9 admitted some of the information was not accurate. That is, the contention Ms. Thomas did
10 not know where the photo came from was not true. HT, pp.150-51. In fact, as Ms. Thomas
11 admitted, her mother took the photo; Ms. Thomas provided the photo to Finance Director
12 Robert Chisel; and Ms. Thomas admitted she could not recall if she gave the photo to her male
13 supervisor, then City Manager Andrew Clinger. HT, p.151. Ms. Thomas admitted she did not
14 inform Mary Kandaras, Esq., the Assistant District Attorney who prepared the Application, she
15 had provided the photo to Mr. Chisel. HT, pp.151-52. She did not inform Ms. Kandaras she
16 may have given the photo to then City Manager Andrew Clinger.

17 The Court prevented inquiry into whether Ms. Thomas had compounded her
18 inappropriate conduct, while employed at the City, by posting a photograph of herself and Mrs.
19 Clinger on the Instagram social media platform, while using the hashtag “sister wives”. (Ms.
20 Thomas admitted in her deposition taken in the federal sexual harassment case involving two
21 prior City employees, she had, in fact, published such a posting). That term is, of course, a
22 Latter Day Saints’ phrase which references women who share the same husband. I attempted
23 to make an offer of proof, but was curtailed from even doing that.

24 Mr. Mausert: Because it shows that [Ms. Thomas is] not really upset with the packet
25 [in] the sense that it constitutes any kind of stalking or harassment. This witness is
upset at the package because it discusses her behavior. She posted Insta –

26 The Court: Sir, you’re not going to give argument now. You may not inquire into
27 this area any of further. Move on.

28 HT, p.152, lines 17-24.

1 The Court prevented even an offer of proof. HT, p.153. I informed the Court I was unable to
2 proceed – obviously based upon the Court’s rulings which stymied at every turn the
3 presentation of evidence regarding Mr. Clark’s motivations and intent. HT, p.153 line 18.

4 A sitting County Commissioner, **Ms. Jeanne Herman**, was called to testify by Mr.
5 Clark. HT, pp.155-56. The Court prevented inquiry as to whether Mr. Lucey, in Ms. Thomas’
6 presence, swore at Mr. Clark during a County meeting.

7 The Court: Sir, what’s the relevance of that?

8 Mr. Mausert: The relevance of that is that Ms. Thomas was at the meeting, and Mr.
9 Lucey and Ms. Thomas are acting in concert, Your Honor, to use the power of this
10 Court to retaliate against Mr. Clark for several reasons.

The weight goes to Ms. Thomas’ credibility and to whether she is actually in fear
of my client.

11 HT, p.157, lines 1-8.

12 The Court found the inquiry to be irrelevant. HT, p.157, lines 8-9. Likewise, the Court refused.
13 to allow inquiry as to whether Ms. Thomas has isolated Mr. Herman at work – just as Mr.
14 Clark has been isolated. HT, p.157. I offered to prove that Ms. Thomas and Mr. Lucey have
15 systematically isolated Ms. Herman. HT, p.158, lines 3-6. The Court refused to allow
16 testimony from Ms. Herman re the noises she heard coming through the office wall, i.e., she
17 shared a wall with Chairman Lucey and repeatedly heard noises which she perceived to be
18 originating from acts of sexual intercourse. HT, pp.158-59. Ms. Herman’s Affidavit is
19 attached, not for the purpose of establishing the truth of the matters asserted therein, but to
20 illustrate what some of Ms. Herman’s testimony would have consisted of. So too, the sworn
21 statements of the County’s former Director of Human Resources, John Listinsky, and that of
22 the former Chairwoman of the Washoe County Commissioners are attached, for the same
23 purpose. Both were available to testify, but given the Court’s repeated rulings, it was
24 obviously futile to call them. That is, for whatever reason, the Justice Court was intent on
25 excluding evidence of the underlying facts, i.e., the circumstances which ultimately caused Mr.
26 Clark to act – while nonetheless reserving the right to draw conclusions and inferences adverse
27 to the evidence which was excluded.

28 After repeatedly disallowing evidence as to Mr. Clark’s motives, as well as evidence

1 which would have demonstrated Ms. Thomas' and Mr. Lucey's protestations of fear were
2 disingenuous, the Court ruled based on an erroneous perception of Mr. Clark's motives, and
3 Ms. Thomas' and Mr. Lucey's state of mind. For instance, the Court stated:

4 The Court finds not only were these acts more than reckless, they were intentional,
5 and so both threats and acts, and finds that the adverse party both threatened and
6 committed an act that causes substantial harm to the physical or mental health or
7 safety of a person, specifically Ms. Thomas and Mr. Lucey.

8 HT, p.170, lines 15-20.

9 The Court went on to publicly castigate Mr. Clark – based on the Court's perception of
10 Mr. Clark's motives. That is, evidence of Mr. Clark's motives was deemed irrelevant at every
11 turn in the proceeding until suddenly, at the time the Court ruled, his motives were front and
12 center, i.e., directly relevant and apparently dispositive.

13 The Court further finds that the threat and the act would cause any reasonable person
14 to feel terrorized, frightened, intimidated, or harassed. Specifically, the evidence shows
15 that these intentional acts, and based upon the content of the exhibits, were objectifying
16 of a county employee, sexualization of a county employee, fetishistic, sexist,
17 inappropriate. The content was altogether creepy, disturbing.

18 HT, p.171, lines 1-8.

19 **Argument: ASSESSOR MICHAEL CLARK'S FUNDAMENTAL DUE**
20 **PROCESS RIGHTS WERE VIOLATED.**

21 In *Hernandez v. Bennett-Haron*, 128 Nev. 580, 587, 287 P.3d 305 (2012), the Court
22 discussed due process.

23 "Due process' is an elusive concept. Its exact boundaries are undefinable, and its
24 content varies according to specific factual contexts." *Hannah v. Larche*, 363 U.S.
25 420, 442 (1960); *accord Weaver v. State, Dep't of Motor Vehicles*, 121 Nev. 494, 502,
26 117 P.3d 193, 199 (2005) ("What constitutes adequate [due process] procedure[s]
27 varies depending on the circumstances of a particular case."). The level of due process
28 that must be provided in a particular government proceeding depends on the effect that
the proceeding will have a constitutionally protected interest. *Hannah*, 363 U.S. at 442.

Here, Mr. Clark's freedom of movement and ability to do his job were restricted, e.g., he was
initially banned from his workplace and was prohibited from even speaking with his
employees. His constitutionally protected liberty interest in his reputation has been invaded,
i.e., he has been cast as some sort of stalker who engaged in "fetishistic" misconduct. He is an
elected official, who intends on running for office again.

In *Sicor, Inc. v. Sacks*, 127 Nev. 896, 902, 266 P.3d 618 (2011), the Court observed due

1 process rights apply to a civil action. *Quoting, In re Murchison*, 349 U.S. 133, 136 (1955).
2 That is, Mr. Clark had a right to a “fair [hearing] in a fair tribunal”. This principle, i.e., the
3 application of fundamental due process, applies across the legal spectrum. *See, e.g., In re*
4 *Parental Rights as to A.G.*, 129 Nev. 125, 134, 295 P.3d 589 (2013); *Ivey v. District Court*, 129
5 Nev. 154, 159, 299 P.3d 354 (2013). *Also see, State v. Eighth Judicial District Court (Logan*
6 *D.)*, 129 Nev. 492, 503, 306 P.3d 369 (2013).

7 It is important to bear in mind this case does not involve an adverse ruling upon a
8 particular item of evidence – the probative value of which might be marginal. This case
9 involves a wholesale refusal by a tribunal to allow a litigant to present his side of the story, i.e.,
10 evidence which would have repudiated the central thesis of the County. The character of every
11 act is determined by context. The Court allowed the County to cast Mr. Clark in a bizarre
12 manner, sans rejoinder. The Court went so far as to cast Mr. Clark’s conduct as fetishistic – and
13 thereby implied some deviant sexual machination was at play. In fact, Mr. Clark objected to
14 Ms. Thomas’ sexualization of two workplaces – at the City and the County. Ms. Thomas was
15 the person responsible for initially disseminating the pool photo – to a highly placed, influential
16 male employee, and most probably to her former boss, Andrew Clinger. Ms. Thomas is the
17 person who *publicly* cast herself as a “sister wife” re Mr. Clinger, and who participated in the
18 use of the sexualized appellation of “unicorn” while at the City. Ms. Thomas received a
19 \$41,000 raise, courtesy of Mr. Clinger’s efforts. Ms. Thomas mercilessly harassed a co-worker
20 – because her attempts at the City to control work assignments were not entirely successful.
21 Ms. Thomas is the person who refused to speak or interact with Mr. Clark, *for years*. Ms.
22 Thomas acted in concert with Chairman of the County Commission to punish Mr. Clark –
23 because, apparently, he insisted on telling the truth to the citizens of Washoe County about Mr.
24 Lucey’s support of a bill which could have doubled their property taxes; prevented Mr. Lucey
25 from using millions of tax dollars to curry favor with a large, Washington, D.C. law firm; and
26 in general would not subordinate himself and his Office to the will of Chairman Lucey. Mr.
27 Clark was repeatedly told his motivations were irrelevant. That was the flawed reasoning the
28 Court relied upon when it shut down Mr. Clark’s attempts to present evidence, again and again.

1 Yet, the Court allowed adverse information re Mr. Clark's alleged motivations to be presented
2 – along with lengthy speculation as to “what if” Mr. Clark is somehow dangerous.
3 Instead of evidence as to whether the continuation of the Order was appropriate, the Court
4 entertained unsupported and speculative testimony as to how allegedly fearful Mr. Lucey and
5 Ms. Thomas were, while preventing the introduction of impeachment evidence. Then, when
6 ruling, the Court placed Mr. Clark's mindset and motivations front and center and roundly
7 castigated Mr. Clark for what the Court perceived/speculated his motivations to be. Mr.
8 Clark's motivations were not relevant until the very end of the hearing. Then, suddenly, after
9 the presentation of evidence closed, and without notice or opportunity to be heard, those
10 alleged motivations became very, very relevant. They became the centerpiece which justified
11 distorting the facts and circumstances of this case. *There was nothing in the package which*
12 *posited a threat and Mr. Clark never stated, or even hinted at a threat.* The package
13 constituted political speech and political speech only. By disseminating the photograph in a
14 government workplace, Ms. Thomas placed the photo at issue – in conjunction with her
15 massive raise; work assignments; inappropriate familiarity with male superiors; reference to
16 herself as a “sister-wife” and “unicorn”; and the abusive manner in which she treated some co-
17 workers. Mr. Clark, *as was his duty*, opposed abuse of power (albeit in an inept and somewhat
18 foolish manner). Mr. Clark was wrongfully cast as some sort of fetishistic creep – because he
19 used Ms. Thomas' own dissemination of a photo *in the workplace* to protest what he perceived
20 as her successful attempt to sexualize the workplace. That is, Mr. Clark perceived Ms. Thomas
21 as having used sexuality to acquire power, and then a license to abuse that power. Mr. Clark,
22 pursuant to having engaged in protected, political speech, was denied fundamental due process,
23 i.e., the right to present evidence/a defense. Notice and an opportunity to be heard are the
24 essential components of due process. Mr. Clark was denied the opportunity to be heard relative
25 to dispositive matters. He requests the Court's ruling be reversed and this matter remanded for
26 another hearing, before a different Judge.

27
28

Mark Mausert

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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MAUREEN MCKISSICK & DEANNA	:	
GESCHEIDER,	:	
	:	CASE NO.
Plaintiffs,	:	3:17-cv-00458-MMD-VPC
	:	
vs.	:	
	:	
CITY OF RENO and DOES I-X,	:	
	:	
Defendants.	:	
	:	
	:	
	:	

=====

DEPOSITION OF KATE THOMAS

Monday, July 30, 2018

Reno, Nevada

REPORTED BY:	MICHELLE BLAZER CCR #469 (NV) CSR #3361 (CA)
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APPEARANCES

FOR THE PLAINTIFFS:

MARK MAUSERT LAW
Attorneys at Law
By: Mark Mausert, Esq.
-and-
Cody Oldham, Esq.
930 Evans Avenue
Reno, Nevada 89512

FOR THE DEFENDANT:

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FOR THE DEPONENT:

ERICKSON, THORPE & SWAINSTON
Attorneys at Law
By: Thomas P. Beko, Esq.
99 Arroyo Street
Reno, Nevada 89509

ALSO PRESENT:

Deanne Gescheider

-oOo-

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4 BY MR. MAUSERT: 5

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10 2 Facebook Photo 97

11 3 Declaration of Robert Miller dated 100
12 November 17, 201713 4 Two-page document with bold print 121
14 "Bitch please, I ride a unicorn."

15 5 Facebook photo dated 12/15/2016 122

16 6 Instagram Photo dated 12/14/2017 123

17 7 Color Photograph 126

18 8 Color Photograph 127

19 9 Text messages dated 6/30 130

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1 PURSUANT TO NOTICE, and on Monday, the
2 30th day of July 2018, at the hour of 9:00 a.m. of
3 said day, at the offices of Bonanza Reporting &
4 Videoconference Center, Reno, Nevada, before me,
5 Michelle Blazer, a Certified Court Reporter and Notary
6 Public, personally appeared KATE THOMAS.

7 -o0o-

8
9 KATE THOMAS,
10 having been duly sworn,
11 was examined and testified as follows:

12

13

EXAMINATION

14

BY MR. MAUSERT:

15

Q Good morning. Could you please state

16

your name for the record?

17

A My name is Kate Thomas.

18

Q Okay if we go on a first name basis?

19

A Absolutely.

20

Q Have you ever had your deposition taken

21

before?

22

A I have not. This is a first for me.

23

Q It's pretty mellow. It's not that bad.

24

If you need to take a break at any time, just let me

25

know. You have to answer the question on the table

1 before you take a break. Counsel might have some
2 objections; unless they instruct you not to answer
3 based on privilege, you need to answer the question
4 notwithstanding the objections.

5 Your only job here today is to tell the
6 truth. Title VII liability does not lie against
7 individuals, it lies against employers. You have not
8 been sued in this case, and I have no intention of
9 bringing you into the case as a party. So you are
10 just a witness, which is much better than being a
11 defendant. And you are protected by the Federal
12 Witness Protection Act -- don't tell me. I forget.

13 MR. BEKO: You're slipping. I have never
14 seen you forget that in 30 years.

15 MS. GESCHEIDER: Right?

16 BY MR. MAUSERT:

17 Q Title --

18 MS. GESCHEIDER: I am sure there is
19 something that happened in history that you will
20 recall.

21 Q Title 18, Section 1513. Anyway, and NRS
22 199.240. The State Witness Protection Act is actually
23 stronger than the Federal Witness Protection Act. The
24 -- anyway, so nobody can threaten you or punish you.
25 If somebody were to threaten to sue you because you

1 testified a certain way it's probably a violation of
2 the Federal Witness Protection Act.

3 Sometimes I ask stupid questions. I am
4 not trying to. They might appear to be stupid, but
5 there is a reason. I am trying to make a record.
6 Might be very obvious. I am not asking you the
7 question to harass you, I am asking it for a specific
8 reason in my head. I want to establish a record. I
9 have better things to do than harass you.

10 I have got a bunch of stuff I have to get
11 through today so I will try to get through it quickly.

12 The very nature of this case is that it
13 implicates various behaviors by various people. It's
14 a messy, sticky, not-very-pretty situation. Apologize
15 for questions that might offend you, that's not my
16 purpose. It is what it is, and everybody is where
17 they are at. So we need to shake this out and
18 establish the truth.

19 The purpose here is not malicious on my
20 part, although at some time it might seem like that,
21 but it's not my purpose.

22 Do you have any questions about what we
23 are doing?

24 A No.

25 Q If you don't understand a question, tell

1 me you don't -- tell me you don't understand. It's
2 not a test, it's not your SATs. If you don't know
3 say, "I don't know". My favorite pet peeve with
4 clients is you ask them a question and takes them five
5 minutes to finally get to the answer "I don't know".
6 Why didn't you say that the first time.

7 If you want to make an estimate, if you
8 think something happened in late March, but it could
9 have been early April, tell me you are giving me your
10 best estimate. Let me know you are giving me an
11 estimate.

12 Don't say no when you mean yes, and yes
13 when you mean no, and communicate by voice intonation.
14 Everybody in the room will know what you meant, but
15 when you get the record back it means 180 degrees
16 opposite of what you really meant. So if I correct
17 you, I am not -- I'm not trying to be pedantic or
18 patronizing, I'm just trying to -- in my head, I want
19 a clean record for various reasons.

20 Any reason why you can't give truthful
21 testimony here today?

22 A No.

23 Q What is your current job?

24 A I am currently the Assistant County
25 Manager for Washoe County.

1 Q Good. Then you can fix all the low head
2 dams on the river, and then I can go raft the Truckee
3 in my raft instead of getting killed by rebar.

4 What's your educational background, real
5 quick?

6 A My undergraduate is a Bachelor's of
7 Science in Environmental Studies from Michigan State
8 University, and I have a Master's in business from the
9 University of Phoenix.

10 Q Okay. And trace for me, quickly, your
11 career, if you would.

12 A I started in 1996 at the City of Thousand
13 Oaks in Southern California as a management assistant,
14 and I was promoted into a management analyst. I was
15 there for seven years in a Public Works Department
16 running environmental programs until my husband and I
17 decided to move.

18 His job took him -- he was a internal
19 auditor for Kinkos, and when they were acquired by Fed
20 Ex we decided to make a geographical change. We moved
21 to -- we wanted to be by my sister, who lived in
22 Truckee. Thought we could live at Lake Tahoe.
23 Definitely not attainable at the level of -- the level
24 that we were living at the time, so we moved here.

25 Husband was working for Harley-Davidson

1 Financial Services, and I was pursuing a job with the
2 City of Reno as the Assistant to the City Manager. And
3 I got that job in April of 2004.

4 So I went from Southern California to the
5 City of Reno. Worked there for three years before I
6 was recruited to work for the State of Nevada as one of
7 the Deputy Secretaries of State for Ross Miller when he
8 was appointed -- or elected, I should say, as Secretary
9 of State. And I worked there for about five years
10 before I was recruited to the City of Reno to be the
11 Budget Director. And then I was promoted to Assistant
12 City Manager in, gosh, two-thousand and --

13 Q '14?

14 A -- '14, whatever year it was. And then
15 remained there until I became Assistant County Manager.
16 Asked to join that team about -- a little over a year
17 ago. July 10th is when I --

18 Q Who recruited you from the state to the
19 city?

20 A Andrew Clinger.

21 Q And so did you work with him down there
22 in the state?

23 A A little bit, yeah. I was over finance
24 and accounting, and so we had to do the budget process
25 with him and his office. When I was first brought back

1 to the city I thought it was under the guise of Sue
2 Schlerf, who was the Assistant City Manager at the
3 time, but they asked me to come back.

4 Q What did you know about -- what did you
5 hear about his problems down there with Mary Keating
6 and Kim Wallin?

7 A Zero. That was not even on my radar.
8 Public comment that one day.

9 Q You didn't hear anything about that while
10 you were working there?

11 A Not an inkling.

12 Q Who did you report to when you worked at
13 the Secretary of State's office?

14 A To a woman named Nicole Lamboley. She was
15 the Chief Deputy Secretary of State.

16 Q And were you friends with Andrew Clinger
17 when you worked at the state?

18 A No.

19 Q Had you ever socialized with him when you
20 worked at the state?

21 A No.

22 Q What did Andrew tell you why he was
23 hiring you? Why he was recruiting you?

24 A I had a pretty good reputation at the city
25 and had known I had wanted to come back. The state was

1 great, but wasn't what I wanted to do forever and ever.
2 And he -- apparently my reputation preceded me. He had
3 experience working with me at the state. I was always
4 very truthful with him. We would have meetings where
5 they would be a little bit contentious over the budget,
6 I would call him afterwards, let him know, hey, here is
7 our position. Kind of do some cleanup afterwards. And
8 so I think he was respectful of the fact that I was
9 always truthful and open.

10 Q Did you witness him having -- have
11 conflicts with Kim Wallin over the budget?

12 A No.

13 Q When you worked at the city how big was
14 Reno's budget?

15 MR. BEKO: Which time, Mark?

16 BY MR. MAUSERT:

17 Q The last year you worked at the city, how
18 big was the budget?

19 A The general fund was about -- I want to
20 say it is 165 million for general fund budget, and
21 there were other special funds and so forth.

22 Q Okay. So was the whole thing was in
23 excess of 400 million?

24 A Yeah. Would have been -- well, depends on
25 what year you are asking, but 450-ish, depending on the

1 year.

2 Q Sizeable budget?

3 A Yes.

4 Q How many people reported to you when you
5 worked at the city?

6 MR. BEKO: Which time? Again, Mark, can
7 you just --

8 BY MR. MAUSERT:

9 Q Right at the end.

10 MR. BEKO: Okay.

11 BY MR. MAUSERT:

12 Q When is the last month you worked at the
13 city?

14 A I worked there in June of two-thousand and
15 what, '17. '16?

16 Q Is that when you left?

17 A '17. I left a year ago.

18 Q You left in 2017?

19 A Yes.

20 Q How many people reported to you when you
21 left?

22 A Estimate, maybe six or seven, maybe.

23 Q And was there some time when more people
24 reported to you than that?

25 A Yes.

1 Q Prior to April 22nd, 2016 how many people
2 reported to you?

3 A I have to list them off, probably, but
4 there were four more. So there was a number of staff
5 that were moved out from under me, which is where I
6 think you are going with this question, to create
7 another office in the City Manager's office.

8 Q Right. Uh-huh. And how many people at
9 that time total reported to you?

10 A Okay. So I have --

11 MR. BEKO: Talking before or after the
12 transfer, Mark?

13 BY MR. MAUSERT:

14 Q Before the transfer in April 22nd, 2016.

15 A So I had the parks director, I had the
16 special events person, I had the strategic initiatives
17 manager, I had the legislative relations person. Let's
18 see here. I had the sustainability manager. Two
19 analysts. What am I up to, eight? Trying to think of
20 who else I have. All right. So let's say 8 to 10,
21 maybe.

22 Q When you worked at the -- what are the
23 different types of funds the city budget was comprised
24 of?

25 A You have general fund, you have special

1 revenue funds, you have the infrastructure, elements,
2 capital improvement issues. There is varying funds
3 throughout the whole budget. General funds is the one
4 we primarily -- you have the most control over the
5 general fund budget, so that's the one that you focus
6 on the most.

7 Q What funds do you have to show a positive
8 cash flow for?

9 A Primarily the general fund. I mean,
10 that's the one, that's your operating day-to-day where
11 you have the fund balance that you have to carry.

12 Q Any others?

13 A But, I mean, essentially the way budgeting
14 works is the money comes in for a fiscal year in
15 tranches, if it's -- depending on what the revenue
16 source is, you have got your property taxes. So the
17 city revenue for the general fund came from primarily
18 three areas. It was -- the general fund was comprised
19 of the property taxes, the C tax, which is also the
20 sales tax, another word for the sales tax is
21 consolidated tax. And then fines and fees. So kind of
22 a three-legged stool. Property taxes came in on a
23 quarterly basis, and then C tax was monthly. So monies
24 going out happen at the beginning of the year even
25 though you don't realize your first property tax

1 influx.

2 So positive cash flow depends on how much
3 you carry in your fund balance, which was one of our
4 top priorities was increasing that to allow for
5 positive cash flow. Because you have to pay employees,
6 which are about 70 percent of your budget.

7 Q The city uses a certain financial system;
8 is that right?

9 A Yeah.

10 Q What system is that?

11 A New World, I think is the name of it.

12 Q Did you ever master that system?

13 A No, I didn't master that system.

14 Q Did you ever learn how to use it
15 competently?

16 A Relatively competently. Could pull the
17 reports I needed, but I had a lot of staff to do that.
18 As the --

19 Q Now, when you were promoted what kind of
20 raise did you get? Did you get a raise pursuant to
21 your promotion to the Assistant City Manager?

22 A I did. My raise was commensurate with
23 that of the existing Assistant City Manager, Bill
24 Thomas. It was the same amount.

25 Q And not to be rude, personal question,

1 but how old are you?

2 A How old am I? I am 45.

3 Q How old is Mr. Thomas?

4 A I don't know.

5 Q He is in his fifties, isn't he? Late
6 fifties?

7 MR. BEKO: Is that a question?

8 BY MR. MAUSERT:

9 Q Is he approximately in his late fifties?

10 A Sure.

11 Q He is substantially older than you, isn't
12 he?

13 A If ten years is substantial, sure.

14 Q Well, it tends to be. I wish I could
15 have ten years of my life back. The time I decided to
16 be a lawyer.

17 Now, was there a -- there was a ADP
18 payroll system?

19 A Yes.

20 Q And were you involved in the decision to
21 implement that system?

22 A I was.

23 Q What was your involvement in that?

24 A I was part of a little team that was
25 pursuing whether or not we should go forward with the

1 system.

2 Q And when did you guys make the decision
3 to go forward with that?

4 A Oh, I don't recall the date.

5 Q Was it right around the time you got
6 promoted?

7 A No. It was before that.

8 Q It was before that. And did you think
9 the ADP system would have saved the city money?

10 A No. I was actually -- on two different
11 occasions I went in and recommended that we didn't go
12 forward with the system, but the finance director at
13 the time recanted on that and we went forward.

14 Q And what happened with that?

15 A It was not the best system for the city
16 and we moved away from it.

17 Q Approximately how much did that
18 experiment cost the city?

19 A I couldn't say for sure, and I don't know
20 that I'd call it an experiment. It went through a lot
21 of analytical thought process to determine whether or
22 not we should go forward with it, but it performed all
23 of its functions that it said it did, just not as
24 efficiently as we thought, and it was expensive, so we
25 decided not to do that anymore. As stewards of the

1 taxpayer dollar, that's the decisions that you make.

2 Q Is that because there was a lot of
3 granted-funded employees? Is that one of the reasons?

4 A No, I don't believe so.

5 Q Because I have heard it cost between
6 three to \$5 million, the attempt to graft that on, get
7 rid of the -- did you guys go back to the old system?

8 A No. We went to a system under -- the
9 existing financial system had an arm that wasn't ready
10 at the time when ADP was selected. New World had a
11 branch that did payroll, and that's what they ended up
12 going back to.

13 Q So the attempt to use ADP cost the city a
14 substantial amount of money, didn't it?

15 A That was an expensive system that provided
16 payroll services. Wasn't the best system for the city,
17 so we went back to a different system.

18 Q Was there a problem with the firefighters
19 as well in July 2014?

20 A Can you elaborate on "problem"?

21 Q Well, there was a perceived budget
22 shortfall, and I think 21 firefighters were going to
23 get laid off, and they went to court, and then it
24 turned out there was actually a budget surplus of
25 about 10 million bucks; do you remember that?

1 A I do.

2 Q Tell us about that, please.

3 A So when the budget projections are done
4 it's a close relationship between the budget office and
5 finance. And the estimates of revenues that came in
6 were pretty conservative. And there was a shortfall --
7 projected to be a shortfall of revenues. And so the
8 grant-funded firefighters positions, there was a SAFER
9 grant that didn't come through, and so instead of being
10 able to bring those individuals onto the payroll, which
11 there was no excess money at the time to do, the
12 decision was made to lay off those firefighters, absorb
13 what we could, and then move forward.

14 Q And who made the budget estimates? The
15 conservative budget estimates?

16 A That was between budget and finance. So
17 it was between myself and the finance director were the
18 two leads on it.

19 Q Between who and who?

20 A So the budget director and the finance
21 director were the two that conferred on the numbers
22 that end up in the budget. You take historical data
23 and you project what you think the revenues are going
24 to be given certain economic conditions projecting
25 forward, and so that's done both with budget and

1 finance. They are separate arms so that you can
2 maintain that accountability and separation of duties,
3 if you will.

4 Q What month in 2014 did you receive your
5 promotion?

6 A I don't recall. You probably have it in
7 front of you.

8 Q I don't.

9 A Oh.

10 MS. GESCHEIDER: January.

11 THE WITNESS: I will add, for the record,
12 though, that I did apply for it with other individuals
13 internal to the organization and was interviewed for
14 and selected for the promotion.

15 BY MR. MAUSERT:

16 Q Were other people interviewed for that?

17 A They were.

18 Q Do you know whether there was a public
19 recruitment or was it just in-house?

20 A It was internal.

21 Q When did you learn that you had gotten
22 the promotion?

23 MR. BEKO: You are talking about the day
24 again?

25 BY MR. MAUSERT:

1 Q When did you learn that you had gotten
2 the promotion; do you remember?

3 A I don't. I don't.

4 Q Do you remember where you were?

5 A I'm sorry?

6 Q Do you remember where you were when you
7 learned you got the promotion?

8 A Probably at work.

9 Q Okay. When did the promotion take
10 effect?

11 MR. BEKO: Objection. Lacks foundation.

12 BY MR. MAUSERT:

13 Q Well, I mean, you got --

14 A I am sure it's in the HR records. I could
15 look those up or get a copy. Mr. Shipman would
16 probably be able to get that information.

17 Q What kind of raise did you get pursuant
18 to the promotion?

19 A I got the same amount of pay as the
20 existing City Manager.

21 Q You got a \$44,000 raise, right?

22 A If that was the number with salaries and
23 benefits.

24 Q Was about 40.9 percent raise.

25 A It was the amount of pay pursuant to the

1 position that I obtained.

2 Q It was a substantial raise, wasn't it?

3 A It was the amount of pay pursuant to the
4 position that I had applied for and obtained.

5 Q Okay. Are you aware of anybody else in
6 the city who got a raise comparable to yours?

7 A Yeah, actually, the prior Assistant City
8 Manager, Cadence Matiavich was heavily promoted into
9 her position as Assistant City Manager without a public
10 recruitment process. So I would say that that was a
11 similar situation.

12 Q And who promoted her?

13 A And Bill Thomas got that promotion as
14 well. Andrew Clinger promoted both of them into their
15 positions.

16 Q Did you ever hear the term "unicorn" at
17 work?

18 A I did.

19 Q And what is your understanding what a
20 unicorn is?

21 A It's a mythical creature with a -- looks
22 like a horse with a horn on its head.

23 Q Right. What is your understanding what
24 the colloquial meaning of a unicorn as used at the
25 city was?

1 A A female who is of a certain caliber.
2 Good looking and low caliber crazy.

3 Q Uh-huh. And that's pursuant to the Hot
4 Crazy Matrix video?

5 A Yes.

6 Q When is the first time you saw that
7 video?

8 A I think it was on a plane coming back from
9 a trip to which I --

10 Q Did you ever show that video to anybody
11 at the city?

12 A I am sure I did.

13 Q Okay. And do you ever refer to yourself
14 as a unicorn?

15 A Not in seriousness, and very infrequently.

16 Q Okay. Did you ever refer to yourself as
17 a unicorn?

18 A Did I?

19 Q Yeah. At the city with city employees?

20 A I might have.

21 Q Okay.

22 A There were a group of females that did.

23 Q And who was in that group?

24 A The City Clerk and the Director of
25 Communications and Community Engagement.

1 Q Would that be Ashley Turney and Deanna
2 Gescheider?

3 A Yes.

4 Q And yourself?

5 A Yes. And me.

6 Q Right. And you guys called yourselves
7 the unicorn trifecta; is that right?

8 A On one occasion that I can recall. It was
9 a scheduling of drinks in an afternoon, but it was a
10 very infrequent use of a term.

11 Q Did you ever hear Mr. Clinger use the
12 term unicorn?

13 A Probably in general, just after watching
14 the Hot Crazy Matrix, but nothing -- nothing out of the
15 ordinary. I mean, nothing other than minimal office
16 banter.

17 Q What day is your birthday?

18 A My birthday?

19 Q Yeah.

20 A September 11th.

21 Q Oh. Mountain Meadows Massacre.

22 A That's my birthday first.

23 Q America's first 9/11.

24 A Yeah.

25 Q The -- 1857.

1 A Yeah. That was that, not my first
2 birthday.

3 Q And on September 11, 2015 did Mr. Clinger
4 send you a text?

5 A Send me a text?

6 Q Yeah.

7 A I have no idea.

8 Q Said, "happy birthday unicorn", do you
9 recall that?

10 A I don't recall that, but --

11 Q Okay. Do you know why Mr. Clinger would
12 deny that he ever used the term unicorn?

13 A Because it was so infrequent. It was not
14 a thing. I don't really understand.

15 Q Well, if he used it, the correct response
16 would be, "I used it infrequently." Not that, "I
17 never used it."

18 Do you know?

19 A I can't speak for Mr. Clinger.

20 Q Do you know why he denied to Judge Wall
21 that he used the term unicorn?

22 A I don't. I can't speak for Mr. Clinger,
23 I'm sorry.

24 Q So if I understand correctly, the use of
25 the term unicorn was kind of an inside joke among

1 people at the city because you guys had watched the
2 Hot Crazy Matrix?

3 A Sure.

4 Q Okay. And who was in on the joke?

5 A I don't know that I'd call it a joke. It
6 was probably just a few instances of using it. I mean,
7 it was -- I know Deanna was in on it. She had actually
8 given me a unicorn doll at one point. Like a little
9 stuffed plush doll, just in joking, so --

10 Q Sure.

11 A -- it was pretty short-lived.

12 Q The -- did you ever send out any calendar
13 invitations to people and with the -- using the term
14 "unicorn trifecta"?

15 A I think -- I think I received one. I
16 don't recall if I sent it, but, yeah, it was the three
17 women that I talked about. Private invitation, if it
18 was.

19 Q Do know how the urban dictionary defines
20 a unicorn?

21 A I don't.

22 Q Did you ever show the Hot Crazy Matrix to
23 the security guards at the City Hall?

24 A We talked about it. I think he had
25 previously seen it.

1 Q Okay. What's a kegel exercise?

2 K-e-g-e-l.

3 A It's an exercise you do when you are, I
4 think, pregnant, or after you are pregnant to
5 strengthen your pelvic floor.

6 Q Oh. I have heard of that, actually. I
7 couldn't remember what it was. I don't think it's
8 very relevant, but I have a list of questions here.

9 A Okay. Like, wow.

10 Q I am not sure if I want to ask them all.
11 How would you describe your relationship
12 with Andrew Clinger?

13 A I was his number two for awhile. I have
14 known him since, what, 2007, and I have always been
15 open and honest with him. And like I said, I think
16 there was that respect from him that I would give him
17 feedback on how things were going, and so we had a -- a
18 good, close relationship.

19 Q Did you ever put -- did you ever put his
20 head in your lap at a meeting?

21 A His head in my lap?

22 Q Sure.

23 A No.

24 Q Or on your legs?

25 A No.

1 Q Never did that?

2 A Not that I can recall. In a meeting?

3 Q Yeah.

4 A Or anywhere else, no.

5 Q Or in the presence of any other city
6 employees.

7 A Not that I can recall.

8 Q How would you describe your relationship
9 with Robert Chisel?

10 A He used to be one of my closest friends at
11 the city.

12 Q Did you ever refer to him as your work
13 husband?

14 A Yeah.

15 Q And did you guys have a falling out?

16 A Yes.

17 Q What would you attribute that falling out
18 to?

19 A The fact that I was used as a pawn to
20 fabricate a false claim that I was having an
21 inappropriate relationship with my boss, to try to get
22 rid of him, so that Robert Chisel could be put in that
23 position.

24 So I have a tough time when people use
25 protected activities such as sexual harassment

1 allegations for personal gain. And so when I learned
2 of the fact that that was occurring I told him that I
3 was extremely disappointed in the fact that that was
4 what was actually going on. And haven't talked to him,
5 as a friend, since.

6 I have been in meetings with him and been
7 professional, if there have been questions, because I
8 remained in the workplace while he was there, but,
9 yeah, no, he is not.

10 Q How would you describe your relationship
11 with my client, Maureen McKissick?

12 A Currently or previously?

13 Q Previously, while you -- during the --
14 let's say, during the last couple months after
15 April 22nd, 2016, to the time that she left. How
16 would you describe your relationship with her?

17 A I was extremely disappointed in the events
18 that led up to her taking on the office that she was
19 promoted into. But that being said, I was professional
20 to her at all times. Wasn't warm. But in meetings
21 you -- I did my best to make sure people didn't know
22 that there was an uncomfortable situation going on, and
23 that I was not at all happy with the events that led up
24 to the fact that she basically sabotaged me and some of
25 my employees to get what she needed, which was to

1 advance herself.

2 So I was -- and actually, it's funny.
3 Before the allegations came forward she and I had
4 started to round the corner. I remember standing in
5 the lobby and her coming, and like, "cute shoes". I
6 told her, "thanks, they are really comfortable."

7 I thought we were starting to make a
8 little bit of headway, and then this whole thing broke,
9 and, of course, it was backed.

10 Q You are referring to the assignment of
11 the strategic plan along with some of your staff that
12 occurred on April 22nd, 2016?

13 A Yeah. There were some events that led up
14 to that to put that process in motion.

15 Q What events led up to that?

16 A There was an e-mail that was sent that
17 copied the city manager on. One of my employees had
18 sent out looking for some input on the strategic plan,
19 and it was to a handful of folks. And she responded
20 copying the city manager in when he hadn't been in on
21 it, kind of lambasting his work, this thing is riddled
22 with errors, it's -- you know, basically saying it was
23 a terrible piece of work. Unnecessarily, in my
24 opinion, copying the city manager in on that. When
25 she --

1 Q The piece of work you are referring to
2 was your version of the strategic plan?

3 A His. This is the strategic initiatives
4 manager. He was heading up that project.

5 Q Okay. Who was that?

6 A So I went in -- Ryan High.

7 Q Okay.

8 A So I went into Maureen's office and told
9 her I was disappointed with that. I was really
10 frustrated. You know, that's not how we do business
11 here. I was pretty mad about it, but I went straight
12 to her and told her that.

13 Q And when did that occur?

14 A I don't have a date. It was probably --

15 Q It was before April 22nd?

16 A Yeah. Yes.

17 Q So you perceived Maureen as having
18 engaged in various machinations in order to get that
19 job, the task of overseeing the strategic plan?

20 MR. SHIPMAN: Objection. Vague.

21 BY MR. MAUSERT:

22 Q Well, if I knew the answer, John, I
23 wouldn't have to ask the question.

24 The -- did you perceive Maureen as having
25 engaged in maneuvers or machinations or whatever you

1 want to call it, to obtain the task of overseeing the
2 strategic plan along with the staff that went with
3 that?

4 A I do. I feel it was a manipulative move
5 on her part.

6 Q And that's why you were angry at her?

7 A I was really disappointed, yeah.

8 Q You were also angry, weren't you?

9 A Well, sure. But I was --

10 Q You stopped talking to her, didn't you?

11 A I talked to her in meetings when it was
12 necessary. I didn't go out of my way to be warm to
13 her. I didn't stop by her office, say good morning.

14 Q Other than in meetings when you had to
15 talk to her you stopped talking to her, didn't you?

16 A Not unless there was a reason, I didn't
17 talk to her.

18 Q Okay. And a lot of your staff stopped
19 talking to her, didn't they?

20 A I don't know. I am not --

21 Q Well, you worked on the 15th floor with a
22 lot of your staff, right?

23 A I did.

24 Q And Maureen was on the 15th floor, right?

25 A She was.

1 Q And after you got upset with -- well, let
2 me ask you this: Did you communicate the fact that
3 you were -- let me -- I will rephrase that.

4 Did you make a secret of the fact that
5 you were upset with Maureen after this e-mail went out
6 that you just testified about?

7 MR. BEKO: Objection. Form.

8 BY MR. MAUSERT:

9 Q Did you attempt to conceal the fact that
10 you were upset with Maureen?

11 A I did my best to remain professional in
12 the workplace. I didn't go around the office
13 bad-mouthing her, if that's what you are asking.

14 Q But you made no secret of the fact that
15 you were upset, didn't you?

16 MR. BEKO: Objection. Form.

17 THE WITNESS: I didn't.

18 BY MR. MAUSERT:

19 Q Go ahead and answer.

20 MR. BEKO: Go ahead.

21 THE WITNESS: Sorry.

22 BY MR. MAUSERT:

23 Q Unless there is a privilege objection you
24 have to answer. Tom is making objection --

25 A Sorry. It is my first time.

1 Q -- for various reasons that float around
2 in his head. None of us know why, but he does that
3 once in a while, and unless it is a privilege
4 objection you kind of -- he is making it for legal
5 reasons.

6 A So I didn't promote it nor did I make it a
7 secret, if that helps.

8 Q Okay. And, in fact, your staff became
9 aware of the fact that you were upset with Maureen,
10 didn't they, up at some point?

11 MR. BEKO: Objection. Calls for
12 speculation.

13 THE WITNESS: My staff was upset that
14 they were being reassigned to work under her. They
15 weren't a fan of how she did business.

16 BY MR. MAUSERT:

17 Q And the other staff that were -- were not
18 being reassigned, they were aware of this conflict;
19 correct?

20 MR. BEKO: Objection.

21 THE WITNESS: I believe everyone --

22 MR. BEKO: Speculation.

23 THE WITNESS: -- because the folks were
24 moved under her. And so there is a question, hey, how
25 did this come about? What happened? Did you know

1 about this?

2 BY MR. MAUSERT:

3 Q Okay. And after the conflict manifests,
4 it came out in the open, okay, especially after
5 April 22nd, did you observe any of your staff to be
6 sociable with Maureen?

7 MR. SHIPMAN: Can we just -- what staff
8 are you referring to?

9 BY MR. MAUSERT:

10 Q The staff who remained under your
11 supervision.

12 MR. SHIPMAN: Who would be?

13 BY MR. MAUSERT:

14 Q Could you identify those people, please?

15 A So still remaining with me would have been
16 the parks director, special events.

17 Q Give me -- if you could use names.

18 A I am sorry. Alexis Hill is the special
19 events. Andy Bass is the parks director. I never
20 witnessed either of them being negative towards Maureen
21 after the actions.

22 Q Did you ever witness them being positive
23 towards her?

24 A I wasn't around them all the time. I
25 don't --

1 Q Okay. Did you ever see them be positive
2 towards her after this situation blew up on
3 April 22nd?

4 A Actually, I did. And I remember somebody
5 coming to me and saying that they were apologetic
6 because -- you know, I said, "look, I am not -- you
7 don't have to take sides. This is not between anybody
8 else other than me and Maureen."

9 Q Wait. Who was this person that was
10 apologizing?

11 A I want to say it was Andy Bass.

12 Q And he apologized to you?

13 A Yeah.

14 Q Why did he apologize to you?

15 A Because he knew there was a rift.

16 Q Okay. But what was he apologizing for?

17 A For being cordial and being nice.

18 Q Okay.

19 A And that's when I said straight, "look,
20 this is not a thing between anybody else."

21 I would -- I -- and I always expected
22 everybody to remain professional, period.

23 Q Okay. Well, people stopped talking to
24 Maureen, didn't they?

25 A I don't know what everybody did. I mean,

1 I didn't stop talking to Maureen.

2 Q You stopped talking to her except when
3 you had to, right?

4 A Correct.

5 Q Okay. Did you get upset at Mr. Clinger
6 for assigning staff and strategic plan to Maureen?

7 A I did.

8 Q And what did you say to him?

9 A He and I had a discussion about how it
10 happened, and that I had to find out in a meeting with
11 everybody else, and I felt that that was disrespectful
12 to me and my position and all that. We had a nice
13 conversation about it.

14 Q What did he tell you how it happened?
15 What did he say?

16 A Well, he said that he was convinced that
17 it was the right thing to do by Maureen. And then
18 talking about it afterwards of course he says it was a
19 mistake in hindsight, but she's quite convincing, so he
20 made the decision.

21 And I, of course, stood by it. And he is
22 the boss, right, but I wasn't happy with the way that
23 it went about, and I let him know that.

24 Again, we had a close relationship so I
25 was very open about how I felt about the process.

1 Q Do you know whether he was telling you
2 the truth when he told you that she convinced him?

3 A I have no idea whether he was telling the
4 truth or not. I would assume he was, but --

5 Q Well, Judge Wall probably assumed he was
6 telling the truth when he told him he never used the
7 term unicorn, huh? But be that as it may --

8 MR. BEKO: Is that a question or
9 inappropriate comment?

10 MR. MAUSERT: It is an inappropriate
11 comment.

12 MR. BEKO: Okay.

13 BY MR. MAUSERT:

14 Q Thank you for clarifying. Thank you for
15 sharing, Tom.

16 Did you ever talk to Maureen and say,
17 hey, what's the deal here? Did you really go out of
18 your way and try to get this strategic plan along with
19 the staff?

20 A No, not afterwards. I knew that that's
21 where it was heading before when I saw the e-mails, and
22 the way she was behaving about the strategic plan it
23 all fell into place afterwards.

24 Q Well, Maureen could be critical of just
25 about everybody's work, right?

1 A Oh, yes.

2 Q She is a bit of a perfectionist, isn't
3 she?

4 A I wouldn't call her perfectionist. She's
5 very judgmental.

6 Q Every judgment is an act of violence,
7 huh? The -- Maureen is meticulous in her work, isn't
8 she?

9 A It would appear that way. However, in
10 later parts of working with her I found some
11 substantial errors and lack of lack of quality work.
12 And so I have a -- I have a different view on how her
13 work is at this point.

14 Q As you sit here today you don't know
15 whether Maureen McKissick angled for that strategic
16 plan and the staff along with it and wanted that, or
17 whether Andrew Clinger just made up that story, do
18 you?

19 A I have every reason to believe in my heart
20 of hearts that she manipulated her way into that job.
21 I had overseen her for years, I watched her get herself
22 a parking spot, a raise, a spot in the management team,
23 several of those under my leadership. She would come
24 to me and say things like, "I need a parking spot. I
25 need to get a new car, I can't get a new car if I don't

1 have a parking spot because I don't want to get door
2 dings."

3 Still hasn't got a new car to this day.
4 Things like that.

5 "I need a raise, I am not being paid
6 enough."

7 I watched her get two or three raises
8 while I was there. She's extremely good at getting
9 what she wants.

10 Q Okay. So you just -- you don't know, but
11 you suspect strongly?

12 A I strongly suspect that that was all in
13 her plan to get that, that leverage and position,
14 absolutely, at my expense.

15 Q How long had you had -- how long had you
16 overseen the strategic plan for when it was taken away
17 from you?

18 A Since I was in budget. So --

19 Q Couple years?

20 A Since I started back at the city, yeah.

21 Q And how many -- how many staff did you
22 lose when it got transferred?

23 A Four. Four. Yeah.

24 Q Did you talk --

25 A Three? Sorry.

1 Q What were their names?

2 A Ryan, Tillery, Lynn. Is that it, three?
3 There was four, I thought.

4 MS. GESCHEIDER: Amber.

5 THE WITNESS: Amber.

6 MR. MAUSERT: I guess we are just going
7 to dispense with the depo rules, huh?

8 MS. GESCHEIDER: Sorry.

9 MR. BEKO: Let's get the correct --

10 MR. MAUSERT: You want to put in your two
11 cents in, Tom?

12 MR. BEKO: Everybody wants to volunteer
13 and get it correct, let's do it.

14 BY MR. MAUSERT:

15 Q We are not supposed to do it that way --

16 A Okay. Sorry.

17 Q -- you know, Ms. Thomas, because it's
18 kind of -- well, I suppose it's okay if it enhances
19 accuracy, I guess, but I guess if nobody else has an
20 objection.

21 MR. BEKO: You don't.

22 BY MR. MAUSERT:

23 Q I don't.

24 Did you talk to them about the transfer?

25 A Yeah. I asked them to be professional. I

1 said it is what it is. They actually went to the city
2 manager, and he said that if it was terrible he would
3 fix it. Because they were fighting it from the get-go.
4 I didn't encourage them to fight it. I asked them to
5 be professional, I asked them to be respectful that the
6 decision had been made, and that basically, they needed
7 to go forward and do the best that they could
8 regardless of who their supervisor was.

9 Q Now, you became aware at some point in
10 time that Maureen didn't want to be on the 15th floor
11 anymore, right?

12 A I did. She didn't want to go up there to
13 begin with.

14 Q And after this situation on April 22nd
15 where you lost staff and you lost the strategic plan
16 and you were upset and angry, you were even more aware
17 after that that she didn't want to be on the 15th
18 floor, right?

19 A No.

20 MR. SHIPMAN: Objection. Form.

21 THE WITNESS: I keep going?

22 MR. BEKO: Yes, go ahead.

23 THE WITNESS: Okay. No, I think she
24 didn't want to go to the 15th floor to begin with
25 because she didn't want to report to Bill Thomas who

1 was the other assistant city manager before I took the
2 place. Once she got up there I think she got very
3 involved in being on the 15th floor. She liked to be
4 in the know, she liked to be in the meetings, she
5 liked to be in the heart of all of it, and I don't
6 think she regretted for a moment being put in a higher
7 capacity. That's what she was driving towards.

8 BY MR. MAUSERT:

9 Q Did she poison the 15th floor?

10 A I wouldn't say she poisoned 15th floor.
11 She is not particularly pleasant to be around a lot of
12 times, but I wouldn't say poisoned. I think that's a
13 strong word.

14 Q Too strong. Did you ever say that? Did
15 you ever --

16 MR. BEKO: Hang on a second. Just for
17 the record, let the record reflect the witness
18 shrugged her shoulders in response to your question.

19 THE WITNESS: I'm sorry. No.

20 BY MR. MAUSERT:

21 Q I am not sure what that means.

22 MR. BEKO: Well, you didn't see it, you
23 were looking away, that's why I wanted to make it part
24 of the record because I think she did respond your
25 question, but it is not contained within the record.

1 BY MR. MAUSERT:

2 Q Okay. Have you ever said that Maureen
3 poisoned the 15th floor?

4 A I could have. I was pretty mad.

5 Q Okay. And did you ever not invite
6 Maureen to -- or cause Maureen not to be invited to
7 various city events?

8 A Not that I am aware of.

9 Q Okay. Did Mr. Clinger ever talk to you
10 to try to smooth over your relationship with Maureen?

11 A He did.

12 Q On how many occasions?

13 A Two, maybe.

14 Q And do you remember when those occasions
15 occurred? Was it -- let me ask, was that after
16 April 22nd?

17 A Yes. It would have been after.

18 Q Okay. And what did he say to you and
19 what did you say?

20 A Oh, I don't recall. That was a couple of
21 years ago. The general nature of it would have been,
22 "you guys need to be nice," and I said, "I have been
23 nice."

24 It was those types of conversations.

25 Q Do you think not talking to somebody

1 unless you have to is nice?

2 A It's not mean.

3 Q It's not nice, is it?

4 A Sorry. That was not a --

5 Q Saying good morning and being sociable
6 and generally being collegial, isn't it? Silence
7 is --

8 A Probably not a requirement of my job,
9 but --

10 Q Did you ever read The Dog That Didn't
11 Bark, the Sherlock Holmes story?

12 A I did not.

13 Q Where he figures out the murder. It was
14 one of two guys the dog didn't bark at. One guy was
15 in London 200 miles away, nobody heard the dog bark,
16 ergo the guy the dog didn't bark at is the murderer.
17 The absence of something is often as significant as
18 the presence of something, isn't it?

19 A Sure, but I don't think I am a murderer.

20 Q So absence of normal collegial
21 interaction when you are working on the same floor
22 with somebody, that's not nice, is it?

23 A It's also not nice to manipulate someone
24 to get what you like at their expense.

25 MR. SHIPMAN: Objection. Vague.

1 BY MR. MAUSERT:

2 Q Okay. I am not justifying --

3 A I am just --

4 Q -- I am just saying when you said you
5 were nice, I want to clarify for the record that not
6 being collegial with somebody you are working in close
7 quarters with, that's not nice, is it? Or do you
8 consider that to be nice?

9 A I don't think it's mean.

10 Q Okay.

11 A There is professional and there is nice.
12 And I think I was professional at all times.

13 Q Okay. But you weren't nice, were you?

14 MR. BEKO: Objection. Form.

15 MR. SHIPMAN: Objection. Asked and
16 answered.

17 BY MR. MAUSERT:

18 Q It's an important question. I am not
19 just trying to pick at a word. It's quite an
20 important one. When she says she was nice to my
21 client, and my client was ostracized, there is a real
22 conflict there. So I think we have established the
23 conflict that she's backed off from the nice part.

24 A Remember why your client was ostracized.

25 MR. SHIPMAN: The issue, Mark, is you

1 said "nice" and "not collegial", and she's been saying
2 she's collegial.

3 BY MR. MAUSERT:

4 Q She doesn't want to answer the question.
5 That's the problem.

6 A I am happy to answer the question. I have
7 been giving you the answer.

8 Q I think we have established that you
9 weren't nice. You will agree that you weren't nice to
10 my client after April 22nd, weren't you?

11 MR. BEKO: Objection. Misstates the
12 testimony.

13 BY MR. MAUSERT:

14 Q I am asking her a question, since we have
15 got a conflict. Will you agree, ma'am, that you were
16 not nice to Maureen McKissick after April 22nd, 2016,
17 yes or no?

18 MR. SHIPMAN: Objection. Vague.

19 MR. BEKO: Join. Go --

20 BY MR. MAUSERT:

21 Q Go ahead and answer the question.

22 A I was as nice to her as I needed to be in
23 the situation. Honestly, I have varying degrees of
24 nice.

25 Q Right. Okay. Did you ever call her a

1 fucker?

2 A Never to her face.

3 Q You said that at various conversations
4 with a bunch of different people, didn't you?

5 A No.

6 Q Did you say she was a fucker when you
7 were communicating with Mr. Clinger?

8 A I could have.

9 Q All right. This was after --

10 A But not in public. Never in public.

11 Q This is -- did you say nasty stuff about
12 Maureen McKissick to Mr. Clinger, either in person or
13 by text or by e-mail after Mr. Clinger talked to you
14 and asked you to be nice to Maureen McKissick?

15 A Yeah.

16 Q Okay. So even after on two occasions he
17 asked you to be nice --

18 A To her.

19 Q -- to her, you --

20 A Me talking to him about her, is not not
21 being nice to her. That's me venting to him.

22 Q Okay. You continued to manifest, in
23 various communications with Andrew Clinger, unalloyed
24 hostility to Maureen McKissick, didn't you?

25 MR. SHIPMAN: Objection. Vague.

1 MR. BEKO: I will join.

2 BY MR. MAUSERT:

3 Q That's two against one, I guess you
4 can -- I don't know what to do now.

5 MR. BEKO: Part of -- Mark, you forget, I
6 am from Tonopah. You use these great big words. I
7 don't know what you mean.

8 MR. MAUSERT: I was just about to mention
9 that.

10 MR. BEKO: Okay.

11 BY MR. MAUSERT:

12 Q Thank you for admitting it. The --

13 A As we go.

14 Q Play a game of chest for the case right
15 now, pal.

16 MR. BEKO: Absolutely. Bring it out.

17 MR. MAUSERT: Unfortunately, you don't
18 have authority to bind the city. You don't have
19 authority.

20 MR. BEKO: That's what I'm saying. I
21 will give you a checkmate right now, and we can go
22 home. This is the stupidest thing I ever heard. But
23 go ahead.

24 BY MR. MAUSERT:

25 Q Well, I have heard people in Tonopah

1 can't play chess.

2 But the -- you manifested unalloyed
3 hostility in communications with Mr. Clinger after he
4 had asked you to be nice to Maureen McKissick; isn't
5 is that correct?

6 MR. SHIPMAN: Objection. Vague.

7 BY MR. MAUSERT:

8 Q Go ahead and answer.

9 A So I was nice -- I was not nice -- I was
10 not not nice to Maureen McKissick when I was venting to
11 Andrew. That had nothing to do with how I was acting
12 towards Maureen. That would be me venting to Andrew
13 about my frustrations about the whole situation. And
14 largely, that's because I needed to vent to somebody,
15 and -- in order to be professional at work. You got to
16 let that -- you got to let that stuff out.

17 Q Boy, there is -- you know, the weight of
18 psychology is that venting isn't like letting steam
19 out of a cannister, it actually makes the situation
20 worse. You are actually reinforcing your hostility.
21 That seems to be the weight of the psychological
22 literature.

23 A I didn't study psychology.

24 Q Yeah. I studied psychology for 25 years.

25 A Awesome. I did a lot of running, too, if

1 that helps.

2 Q That sometimes helps. So -- okay. So
3 you -- what -- how did Mr. Clinger respond when you
4 vented about your hostility towards Maureen McKissick?

5 A I don't recall.

6 Q Did you ever --

7 A He --

8 Q Well, go ahead.

9 A I was going to say he was pretty
10 neutralizing at times. I mean, it is what it is right
11 at the time. It was what it was.

12 Q Did he ever tell you, hey, don't be so
13 hostile, it is not healthy?

14 A Not that I recall.

15 Q Okay. Did he join in your hostility
16 towards Maureen?

17 A Before or after this was filed?

18 Q After July 1st when she complained about
19 you.

20 A He probably did.

21 Q Okay. Did you ever tell him you didn't
22 want her transferred from the 15th floor?

23 A I didn't want her transferred?

24 Q Right.

25 A Meaning I wanted to her to stay on the

1 15th floor?

2 Q Sure. Exactly. Did you ever say
3 anything like that in any kind of communication?

4 A Not that I recall. I would have wanted
5 her off the 15th floor at that point.

6 Q Okay. Did you have any reason for
7 keeping her on the 15th floor?

8 A No.

9 Q Other than, you know, having her handy so
10 you could minister who her.

11 A So I could minister to her?

12 Q Yeah. So you could vent hostility at
13 her.

14 A I never vented hostility at her.

15 Q Okay. Can you think of any reason as you
16 sit here today why you would have wanted to keep her
17 on the 15th floor?

18 A No.

19 Q Okay.

20 A I'm not a hostile person. I am not
21 aggressive.

22 Q Okay. Have you reviewed any of the text
23 messages between you and Mr. Clinger before you came
24 to the depo here today?

25 A Not in a long time. I think I saw them a

1 long time ago when they were first handed over.

2 Q Okay. What did you do to prepare for
3 your deposition here today?

4 A Told myself I was going to come here and
5 tell the truth. There is not a lot to prepare.

6 Q You know what Aeschylus said, "in war,
7 truth is the first casualty."

8 That's number one, John.

9 MR. SHIPMAN: That's number two, if we
10 are counting.

11 MR. MAUSERT: What's the first?

12 MR. SHIPMAN: It happened about two
13 minutes in. Let the record reflect.

14 BY MR. MAUSERT:

15 Q Did you and Mr. Clinger strategize
16 about -- arrive at a strategy to deal with the sexual
17 harassment complaints after they were made in the
18 June -- early July 2016?

19 MR. BEKO: Objection. Form.

20 THE WITNESS: We didn't strategize. We
21 wondered what they were. Because I didn't find out
22 what this was all about until I met with Alice
23 Mercado.

24 BY MR. MAUSERT:

25 Q Okay. What did Ms. Mercado tell you?

1 A She was asking me questions, and a couple
2 minutes in she said because the general consensus is
3 that I was having an inappropriate relationship with my
4 boss. And I was quite surprised at that allegation at
5 the moment. I remember quite vividly.

6 Q Had anybody intimated to you before that
7 you talked to Alice that they thought you might be
8 having an relationship with Mr. Clinger?

9 A No.

10 Q You had never heard that?

11 A No.

12 Q Nobody ever questioned you about whether
13 you had had a relationship with -- I am talking about
14 a sexual relationship, not a work relationship, with
15 Mr. Clinger prior to your conversations with Alice
16 Mercado on July 12, 2016?

17 A No. I think everybody knew that I wasn't
18 favorable with Mr. Clinger for awhile, too. So
19 everybody knows that I was not having an inappropriate
20 relationship with my boss.

21 Q So nobody had ever questioned you about
22 that?

23 A Not that I can recall.

24 Q What about Visha Siddharthan, didn't she
25 question you whether you were having a romantic

1 relationship with Mr. Clinger?

2 A No. Visha would be the one that knew
3 quite well that I didn't have one. I mean, she -- she
4 was around all the time.

5 Q All right. It's your testimony that
6 Visha -- Visha, is that how she says --

7 A Visha.

8 Q Visha Siddharthan. It is your testimony
9 here today that she never asked you whether you were
10 having a sexual relationship with Mr. Clinger?

11 A Not that I can recall.

12 Q Did you and Mr. Clinger ever manifest
13 your closeness by finishing each other's sentences?

14 MR. SHIPMAN: Objection. Form.

15 MR. BEKO: Yeah.

16 THE WITNESS: A lot of people do that.
17 Friends or otherwise.

18 BY MR. MAUSERT:

19 Q Sure. I am just asking.

20 A It's possible.

21 Q You and Mr. Clinger had a -- sometimes
22 had a tumultuous relationship, didn't you?

23 A We had a lot of stress at work, and I was
24 his number two, so it's probably a fair statement.

25 Q And can you understand how people would

1 sometimes perceive you as behaving like
2 boyfriend/girlfriend or husband/wife?

3 MR. SHIPMAN: Objection. Speculation.

4 MR. BEKO: Join.

5 THE WITNESS: I personally can't see
6 that, but I can't speak for others.

7 BY MR. MAUSERT:

8 Q Has anybody ever told you that's how they
9 perceived it?

10 A No, not directly that I can recall. I
11 know I have been asked several times by Ms. Gescheider
12 whether or not I thought Andrew was cute or hot or
13 don't I think he is sexy. My answer was always like,
14 no, he is like a brother, and I don't find that to be
15 the case.

16 Q Did Alice Campos Mercado ask you about
17 your relationship with Maureen McKissick?

18 A Yes.

19 Q What did you tell her?

20 A It was pretty fresh at that point so I
21 told her what happened, the events leading up to it,
22 the reallocation of staff. How I wasn't particularly
23 happy. But -- and she had asked me if I was
24 professional, I believe, and I told her yes.

25 It was actually after that that Andrew and

1 I had a heated exchange in the office, and that's what
2 I thought I was being called in for was, you know, the
3 fact that we were yelling at each other in my office.

4 Q Who called you in?

5 A The whole investigation. We were --

6 Q Oh.

7 A Yeah. When we were told there was an
8 investigation underway and I was to be at Alice
9 Mercado's office.

10 Q So you and Andrew had a heated exchange
11 where you were yelling at each other?

12 A You had asked me if Andrew and I had ever
13 discussed after -- or had had issues after he did the
14 staff re-allocation, I told you yes. That was that
15 exchange. That's what I was referring to.

16 Q When did that occur?

17 A Probably shortly after.

18 Q Shortly after April 22nd, 2016?

19 A Yeah.

20 Q And was it loud enough where -- did --
21 was -- whose office were you in when you had the --

22 A My office.

23 Q Was the door open? Is that --

24 A It was open.

25 Q Do you have a cubicle or do you have an

1 actual office?

2 A I have an office.

3 Q And was the door was open or closed?

4 A Open.

5 Q So people on the 15th floor could -- if
6 you had your voices raised, could hear you?

7 A Yeah. I think it was after hours, though.

8 Q Okay. Was anybody else on the floor; do
9 you know?

10 A Visha was there.

11 Q Okay.

12 A I don't know who else was.

13 Q Were you angry?

14 A Yeah.

15 Q What did you say to him?

16 A We already talked about this. I told him
17 that I was disappointed in the way that the decision
18 was made, that I felt that it was unfair that I had to
19 find out in a room full of my peers. Things of that
20 nature.

21 Q Do you think Maureen McKissick knew ahead
22 of time that that decision was going to be announced?

23 A Yes.

24 Q And did Andrew Clinger tell you that?

25 A I don't recall.

1 Q Okay. So that happened April 22nd. When
2 was the first time Clinger told you, hey, see if you
3 can get along with Maureen?

4 A I don't know. Probably after that.

5 Q Do you know why he had that conversation
6 with you?

7 A Because he knew I was mad.

8 Q Okay. And then he had -- so how much
9 time elapsed between the first time he told you to see
10 if you can get along with Maureen, and the second
11 conversation where he basically said the same thing?

12 A I don't recall how much time.

13 Q Did he tell you why he was repeatedly
14 having the same conversation with you?

15 A No. I don't think it was repeatedly.

16 Q Well, he repeated --

17 A Two.

18 Q -- it once.

19 A Once, okay.

20 Q Had a second conversation.

21 A I mean, he doesn't like -- nobody likes
22 conflict.

23 Q Okay.

24 A Well, most people don't like conflict.

25 Q I mean, but he told once, you said okay,

1 I will be nice. And do you know why he would have the
2 same conversation again with you?

3 A Made him feel better.

4 Q And you assured him both times that you
5 would be nice?

6 A I assured him the first time I would be
7 nice. I don't recall what I told him the second time.
8 Probably that I have been professional.

9 Q Did you ever talk to people about getting
10 rid of Andrew Clinger?

11 A Yeah.

12 Q Who did you talk to about that?

13 A Robert Chisel. And I didn't instigate the
14 conversation, let's be clear.

15 Q Okay. When -- when did you guys have
16 that conversation?

17 A It was prior to Andrew's review.

18 Q And when was -- was that June of 2016?

19 A Probably.

20 Q So that was after April 22nd, but before
21 the allegations of sexual harassment arose?

22 A Yes.

23 Q Because you remember June 29th, that's
24 the date that Brianna Wolf stated that she had heard
25 you and Andrew Clinger up on the 15th floor after

1 hours huffing and puffing and taking each other's
2 clothes off.

3 MR. BEKO: Is that a question? Are you
4 saying that that's the date that happened? Or --

5 BY MR. MAUSERT:

6 Q Is that -- do you -- does that comport
7 with your memory that it was at the end of June that
8 this thing surfaced?

9 A Didn't know the date that Brianna had
10 claimed, but --

11 Q But that fits with your recollection?

12 A The date that the -- are you asking me
13 what the date was of his review?

14 Q If memory serves correct, I think his
15 evaluation -- or he got his raise June 22nd?

16 A Okay.

17 Q Does that jive with your memory?

18 A Sounds about right. We could look at the
19 council records.

20 Q The same day that the Germans attacked
21 the Russians, 1941. Largest land battle in history.

22 A History lesson.

23 Q Tom didn't know that until I told him.

24 So when -- tell me about your
25 conversations where you were trying to get rid of --

1 what did you --

2 MR. BEKO: Objection. Misstates her
3 testimony.

4 BY MR. MAUSERT:

5 Q What did Chisel say, what did you say, in
6 that conversation that Mr. Chisel initiated?

7 A So the plan all along was that Andrew was
8 going to be fired by the council. There were enough
9 votes. I was still pretty upset with what had happened
10 in April. I could see what was manifesting as far as
11 Andrew's going to get fired, and then Robert's going to
12 be made city manager, and everybody is going to be
13 hunky-dory. That didn't happen. During his review,
14 actually, he got a raise.

15 And so it is my understanding and strong
16 belief that what happened was that this plan B got put
17 into place, and I became a collateral part of that
18 because I didn't agree with the fact that you take
19 somebody's professional career and tank it for personal
20 gain, which is what I fully believe is happening in
21 this case.

22 Q Okay. So there was a plan to get rid of
23 Andrew?

24 A I'm sorry?

25 Q There was a plan to get rid of Andrew?

1 A Yeah. I personally believe there was.

2 Q Okay.

3 A And I believe that this whole case was
4 plan B.

5 Q Okay. You weren't part of that plan to
6 get rid of him?

7 A Oh, people were talking to me about it,
8 and I didn't feel it was -- I didn't feel it was -- you
9 could kind of see where this thing was headed. Council
10 members calling and the whole bit.

11 And it became something where you are mad
12 at your boss for something, and then you realize, oh,
13 my gosh, this is -- this is going to be something
14 that's a lot larger than what -- than what, you know,
15 being mad about a staff re-allocation.

16 And I think it's a colossal waste of
17 taxpayer time and money. I think that this is
18 completely fabricated. I know for sure my portion of
19 it is. I didn't have an inappropriate relationship
20 with my boss. I think it was meant to be a situation
21 where I was to be gotten rid of along with Andrew so
22 that other people could be put into a position of
23 authority.

24 Q Who talked to you about getting rid of
25 Andrew Clinger?

1 A There were folks that are filing this
2 lawsuit. So Deanna did, Robert did, council member
3 Duerr did. Not directly saying we are going to get rid
4 of him, but alluding to the fact that, you know, there
5 were serious allegations, or his performance was
6 lacking, and this and that and the other thing.

7 Q Who else?

8 A I don't recall. I am sure other people.

9 Q There were other people?

10 A Maybe.

11 Q Okay. So you think your perception of
12 this whole situation is that people were unhappy with
13 Andrew, wanted to get rid of him, had their eye on
14 putting Robert Chisel in his job as city manager and
15 because that didn't work these allegations of sexual
16 harassment were used as plan B to effect the same
17 result; is that your perception?

18 A Yeah. That's what I feel happened.

19 Q Okay.

20 A And I know, like I said, for a fact, that
21 I wasn't -- I did not have a sexual relationship with
22 my boss. And -- and I wasn't harassing anybody. There
23 was no retaliation. There was no -- I can speak' for
24 myself. I can't speak for the other instances. I was
25 only present for one of the alleged instances with Ms.

1 Gescheider at the Coffee Bar, but that was not sexual
2 in nature. There was no sexual harassment. So what I
3 saw was no instance of sexual harassment or
4 retaliation --

5 Q Well, you don't know --

6 A -- period.

7 Q -- what happened at the Coffee Bar.

8 A I was sitting right there.

9 Q Well, I was sitting right here and I was
10 looking over here and I didn't see you shrug your
11 shoulders, and Mr. Beko pointed that out. He could
12 see where my eyes were and he knew that I didn't see
13 you shrug your shoulders. Just because you didn't see
14 it doesn't mean it didn't happen, correct?

15 MR. BEKO: Counsel, she never said she
16 didn't see the event in the coffee bar.

17 THE WITNESS: I saw -- I saw him touch
18 her leg. It wasn't in a sexual nature.

19 BY MR. MAUSERT:

20 Q You saw -- okay. Because Mr. Clinger
21 said he didn't touch her leg.

22 A I am just telling you what I saw.

23 Q Okay. What did you see in the Coffee
24 Bar?

25 A It was a conversation. It was Deanna

1 here, kind of one of those things, and then
2 conversation. It wasn't sexual in nature.

3 Q So he did touch her?

4 A Five other people there.

5 Q Did Mr. Clinger put his hand on Deanna
6 Gescheider's leg in the Coffee Bar?

7 A I saw him touch her leg.

8 Q With his hand?

9 A With his hand.

10 Q Okay. How long -- which part of her leg?

11 A Maybe knee. Kind of thigh, knee.

12 Q The area --

13 A It was brief. So --

14 Q Just above the knee. And did he rub his
15 hand on the fabric to see the fabric?

16 A That, I don't recall. What I recall is a
17 quick kind of a motion, like a --

18 Q Okay.

19 MR. BEKO: Just let the record reflect
20 the witness has taken her right hand, moved it --

21 THE WITNESS: Sorry. If it was left, I
22 don't recall.

23 BY MR. MAUSERT:

24 Q Why don't you show us on Mr. Beko's leg.

25 A All right. So, Tom, here, is the one that

1 said that he is from Tonopah.

2 MR. MAUSERT: I am trying to sexually
3 harass Tom.

4 MR. BEKO: And just for record, what she
5 did was she was, as she was describing that, she
6 reached over, touched my leg, and then continued with
7 her conversation.

8 BY MR. MAUSERT:

9 Q Sure.

10 A At a table full of people.

11 Q So you saw a brief touch of the leg which
12 you did not interpret as sexual?

13 A I did not.

14 Q Okay. Because my memory is that Mr.
15 Clinger said he never touched her leg. But be that as
16 it may, we will move on.

17 A I am just telling you what I saw.

18 Q Let's see.

19 Now, did Alexis Hill -- was she on the
20 15th floor in, say, May of 2016?

21 A No. She worked on the, I want to say the
22 11th floor.

23 Q Did she often come up to the 15th floor?

24 A For meetings with me, or --

25 Q Yeah.

1 A -- or meetings with the mayor or the
2 manager.

3 Q Scott Gilles, is it Guile?

4 A Gilles.

5 Q Gilles, Scott Gilles, where did he work?

6 A He was on 12.

7 Q Did he often come up to the 15th floor?

8 A For meetings with me or meetings with the
9 manager. I wouldn't say often.

10 Q Skylar Peterson, is that a man or a
11 woman?

12 A That's a woman.

13 Q Where did she work?

14 A 15.

15 Q And Amber Drlik?

16 A Uh-huh.

17 Q Where did she work?

18 A 15.

19 Q Tillery Williams, where did he work?

20 A 15.

21 Q Bill Dunne, where did he work?

22 A 12.

23 Q And Lisa Mann?

24 A 12.

25 Q Did Bill Dunne and Lisa Mann often come

1 up to the 15th floor?

2 A Bill Dunne came up every once in a while.
3 His boss worked up there. Bill Thomas was his boss, so
4 he was up on the 15th floor.

5 Q Were you working there when the Bill
6 Dunne thing blew up?

7 A No. I was gone.

8 Q Aren't you lucky.

9 A Yes.

10 Q Did you ever see Mr. Dunne engage in any
11 inappropriate behavior?

12 A I didn't see him, no.

13 Q Did you ever see him bully anybody?

14 A No.

15 Q The -- now, did you go through sexual
16 harassment training when you worked at the city?

17 A I did.

18 Q And how many times?

19 A Oh, several times. Over the course of my
20 career I have been -- I have received lots of that
21 training.

22 Q Okay. All right. And what did the city
23 teach you about retaliatory hostility directed at
24 people who had complained of sexual harassment?

25 A We had recently learned, which is

1 interesting, that you don't have to have the sexual
2 harassment be against you, per se. It could be you are
3 witnessing sexual harassment with somebody else, and
4 that could be considered harassing.

5 Q Sure. And what did they teach you about
6 whether it's proper to direct retaliatory hostility
7 against people who had complained of sexual
8 harassment?

9 A They absolutely said that that's not --
10 not okay. And when the claims were filed, we actually
11 visited with the City Attorney who came up to every
12 department head and said, you know, please understand
13 that this protected activity is not to be retaliated
14 against. And that was absolutely understood.

15 Q Okay. What about encouraging other
16 employees to engage in retaliatory hostility, was that
17 permitted?

18 A No, of course not. That's still
19 retaliatory.

20 Q So if you are talking to another city
21 employee and expressing your animosity towards
22 somebody who had complained of sexual harassment,
23 would that be proper or improper?

24 MR. SHIPMAN: Objection. Legal
25 conclusion.

1 BY MR. MAUSERT:

2 Q I am asking for your understanding
3 according to the policy. I am not asking you to be a
4 lawyer. I would never inflict that upon you.

5 A Thank you. So that is also retaliatory in
6 my mind.

7 Q Okay. So you are not supposed to talk to
8 other employees and manifest your hostility towards
9 somebody?

10 A Nor are you to make them manifest
11 hostility because of -- that would be considered
12 retaliatory.

13 Q Okay. Were you nice to Mr. -- did you
14 have collegial conversations with Mr. Clinger after
15 April 22nd, 2016?

16 A We got over it. I mean, I was not happy
17 for awhile, but, you know, he is the boss.

18 Q Why were you so upset at Maureen? I
19 mean, Clinger made the decision, right?

20 A He did.

21 Q Okay, so --

22 A He didn't make that decision out of the
23 clear blue.

24 Q So you are still angry at Maureen, but
25 you are nice to Clinger; is that what happened?

1 A No, I wouldn't say that's how that
2 happened.

3 Q What would you -- how would you disagree
4 with that conclusion?

5 A I would say it was once this whole thing
6 came to light and it was very clear what was going on,
7 that's when I decided that it was unfair what was
8 happening to Andrew Clinger, and so that's when my
9 viewpoint shifted.

10 Q Okay. Why did you decide -- you made a
11 determination that the allegation with Brianna was not
12 true because you were there. You didn't have occasion
13 to watch his interactions with Deanna at a --

14 A That's true. That's true.

15 Q Did you come to the determination that
16 Deanna's allegations were untrue?

17 A All I am speaking of is the one instance I
18 saw. That's all I can speak to. I am not with him all
19 the time. I am not with Andrew Clinger 24/7, but --

20 Q But you weren't watching Andrew Clinger's
21 interactions with Deanna the entire time, were you?

22 A No.

23 Q So it is quite possible that he could
24 have, during that same meeting, he could have put his
25 hand under the table and rubbed her leg and you simply

1 didn't see it?

2 A Unlikely, but possible, sure.

3 Q Sure. Just like I didn't see you shrug?

4 A True.

5 Q Okay. So you don't -- as you sit here

6 today you don't really know whether Deanna's

7 allegations are true or untrue; do you?

8 A Just what I saw and my allegations, that's

9 all I know.

10 Q Okay.

11 A Or the allegations against me, I should

12 say.

13 Q For instance, the fact that he denied to

14 Judge Wall that he ever touched Deanna's leg, that

15 would be probative of the proposition that Deanna is

16 telling the truth and he is lying?

17 MR. SHIPMAN: Objection.

18 THE WITNESS: That's not me.

19 BY MR. MAUSERT:

20 Q I mean, just like he lied with Judge Wall

21 where he emphatically denied using the term "unicorn".

22 MR. SHIPMAN: Objection. Form.

23 THE WITNESS: I wasn't in his

24 investigation.

25 BY MR. MAUSERT:

1 Q I know, but after he finds out that I got
2 the text, the "happy birthday unicorn", and suddenly
3 his testimony changes and yeah, okay, I was using the
4 term unicorn. I mean, those are some facts that are
5 probative of the proposition that Andrew Clinger's
6 lying and my client's telling the truth.

7 And so as we sit here today, I just use
8 those as examples, you don't know who is telling the
9 truth one way or the other, do you?

10 MR. BEKO: Objection. She's already told
11 you, there is two instances she knows that there was a
12 lie. One, about her having a sexual relationship, she
13 knows that's false. And the allegation as to the
14 sexual harassment that she observed, in her mind, was
15 not sexual harassment.

16 BY MR. MAUSERT:

17 Q Okay.

18 A Well, and events leading up to it. Like
19 individuals going around saying this was never supposed
20 to go this far. I have lots of elements that lead up
21 to the conclusion that I am making that this is an
22 untrue situation.

23 Q But you don't know one way or the other,
24 do you?

25 A I'm sorry?

1 Q You don't know for sure one way or the
2 other, do you?

3 A I do about myself.

4 Q Okay.

5 A 100 percent without question.

6 Q Do you deny that you were up on the 15th
7 floor alone with Andrew Clinger?

8 A I was up on the 15th floor alone with
9 Andrew Clinger a lot.

10 Q Did you guys ever laugh and joke when you
11 were up there together?

12 A Sure.

13 Q Okay.

14 A Me and lots of other employees in the same
15 situation.

16 Q Okay. So, I mean, because Brianna's
17 description, have you read her description of what she
18 says?

19 A It's ludicrous.

20 Q Okay.

21 A I can't, for the life of me, think of what
22 she thinks she heard. How do you hear somebody taking
23 off clothing, first of all?

24 Q I'm just trying to pin it down, because
25 it's possible, isn't it, that she was up there, you

1 guys didn't know she was there, you guys were laughing
2 and joking, and she misinterpreted what she heard?

3 A That's absolutely what happened.

4 Because --

5 Q Okay.

6 A -- it didn't happen.

7 Q Right. Because she doesn't
8 definitively -- she doesn't say that I looked over the
9 cubicle and Kate Thomas and Andrew Clinger were naked
10 having sex. She doesn't say that.

11 A No.

12 Q She said that she was up there, she heard
13 you guys come in, you are laughing and joking, she
14 heard clothes rustling, she felt uncomfortable, and
15 she left.

16 MR. SHIPMAN: Objection to form.

17 BY MR. MAUSERT:

18 Q That's basically what she says, right?
19 You have read it?

20 A I haven't, but I heard that's what she
21 wrote, yes.

22 Q Okay. So if you were up there on the
23 floor alone with Andrew Clinger and you guys laughed
24 and joked, because you have a close relationship as
25 you guys testified to, it's quite possible that she

1 misinterpreted what she heard; correct?

2 MR. SHIPMAN: Objection. Speculation.

3 THE WITNESS: She must have
4 misinterpreted because it didn't happen.

5 BY MR. MAUSERT:

6 Q Okay.

7 A Yeah.

8 Q So that's not necessarily definitive
9 proof either way of a conspiracy or anything. That
10 could be an innocent misinterpretation of a close
11 relationship between a man and a woman who are joking
12 when they don't know anybody else is around. And then
13 the rest of the stuff is your interpretation where you
14 don't know one way or the other.

15 So as you sit here today, you don't know
16 what really happened in the situation; do you?

17 MR. BEKO: Objection. Misstates her
18 testimony.

19 MR. SHIPMAN: Objection, vague.

20 THE WITNESS: I have lots of elements
21 that lead me to understand what is happening here.

22 BY MR. MAUSERT:

23 Q Like what else leads you to -- to the --

24 A The fact that I was in on it in the
25 beginning, as far as people trying to coerce me into

1 this was the plan or whatnot. This is not an instance
2 of sexual harassment.

3 Q Okay. There were people who were upset
4 at Andrew Clinger's management style; correct?

5 MR. SHIPMAN: Objection. Speculation.

6 THE WITNESS: Of course, yes. He is the
7 boss. Not everybody loves the boss.

8 BY MR. MAUSERT:

9 Q And they told you that. Right.

10 And there were -- and what else were they
11 upset at about Andrew Clinger?

12 A I can't speak for them. I mean --

13 Q Well, what did they tell you?

14 MR. SHIPMAN: Objection. Vague. Who?

15 THE WITNESS: Yeah, who is they?

16 BY MR. MAUSERT:

17 Q Well, Chisel. What did Chisel tell you
18 why he wanted Andrew Clinger gone?

19 A He used to be the guy who said he would
20 take a bullet for Andrew. That shifted. He became to
21 the point where he wasn't a fan anymore.

22 Q Okay. Did he tell you why he ceased
23 being a fan? Why he wouldn't do the secret service
24 thing with Ronald Reagan, what was the name of the guy
25 who stepped in and took the bullet?

1 A I can't remember.

2 Q You are too young. But did he tell you
3 why his feelings changed?

4 A I think it was just a series of things. I
5 find out later that apparently he was upset that I got
6 the job as Assistant City Manager, which was
7 interesting because I always considered Robert to be a
8 good friend of mine. But clearly I misunderstood that.
9 I was a little too naive in that regard.

10 Q What else did people tell you they were
11 upset about Andrew Clinger?

12 A What -- what people?

13 Q Did Deanna Gescheider he ever tell you
14 she was upset with Andrew Clinger?

15 A Yes. Yeah.

16 Q What did she say?

17 A Was just management style. I am trying to
18 think of specifics, but --

19 Q Did she tell you -- let me see if I can
20 jog your memory. Did she tell you that unless she
21 flirted with him that he wouldn't really pay her any
22 attention? Did she ever tell you that?

23 A No.

24 Q Okay. Did you ever try to get Deanna to
25 be flirtatious with Andrew so that he would pay her

1 attention, make her job easier?

2 A I think Deanna did a great job at her job.
3 I think she was capable and professional. I don't
4 think she needed to flirt with anybody to be better at
5 her job.

6 Q Well, if she had to have frequent
7 face-to-face conversations with Andrew, direct
8 conversations with him, either face-to-face or by text
9 or e-mail and he wasn't cooperating with her, that
10 would impair her ability to do her job; wouldn't it?

11 MR. SHIPMAN: Objection. Form.

12 THE WITNESS: I think there was actually
13 a lot of jealousy around the access that I had to
14 Andrew. I was on the 15th floor. He literally had to
15 walk past my office every time he left. I had a lot
16 of access to the boss. I think that made some people
17 jealous. I think there was a perception that I was
18 teacher's pet because I was number two. I think that
19 I was confided in to make, obviously, not all
20 decisions, but a lot of decisions. I was in the know.
21 And I think that made some people jealous, and I think
22 that's largely what's at heart here in most of these
23 instances. And so -- but again --

24 BY MR. MAUSERT:

25 Q Okay.

1 A Go ahead.

2 Q Do you think Deanna was jealous of your
3 access to Clinger?

4 A I do.

5 Q And did you ever talk about -- did you
6 ever talk to Maureen about her perception of how
7 Andrew was doing as City Manager?

8 A Maureen doesn't think anybody does a good
9 job, let's put it that way. There was one person in
10 the history of the organization that I can recall that
11 she was supportive of, and that was the former chief of
12 staff.

13 But on a number of occasions Maureen had
14 severe problems with the way Ms. Gescheider handled
15 things. I remember her telling me about, you know,
16 Deanna and Fred had an affair, and this council member
17 and that person had an affair. I mean, Maureen was
18 very into what everybody else was doing. She was mad
19 about Robert and mensa stuff. She was constantly
20 complaining about everybody. I mean, she was -- that's
21 just the nature of who she is.

22 Q Did Maureen complain about Clinger?

23 A Yes.

24 Q What did she say?

25 A I can't recall specifically. I want to

1 say -- I don't know. Management style. He is too
2 close to the mayor, things like that.

3 Q Okay. He is too close to the mayor. Did
4 she mean that he was being flirtatious with the mayor?
5 What did she mean?

6 A No, no. He just spent a lot time with her
7 at the expense of others.

8 Q What was your opinion of the mayor?

9 A Whose?

10 Q Yours?

11 A What's my opinion of the mayor?

12 Q Well, did you ever call the mayor stupid?

13 A Did I call the mayor stupid?

14 Q Yeah.

15 A Probably not.

16 Q Did you ever say negative things about
17 the mayor?

18 A Maybe. I mean, there could have been a
19 time. I mean, I didn't agree with all of her
20 decisions, but --

21 Q Sure. Did you ever denigrate her in a
22 unprofessional manner?

23 A Not that I can recall directly. I
24 remember witnessing others do that, specifically Ms.
25 McKissick.

1 Q What did she say about the mayor?

2 A She called her a bimbo.

3 Q The -- how'd you respond to that?

4 A I -- I don't think I called her a bimbo
5 because I don't really think the mayor is a bimbo.

6 Q Did you ever try to get people to give
7 Andrew a bad review?

8 A Did I try to?

9 Q Yeah.

10 A Not that I can recall. I remember sharing
11 with them I was upset about his decision-making
12 capabilities around the re-allocation of staff.

13 Q And you had those conversations just
14 before his review was due, right?

15 A No. I think it was after the council
16 member -- I can't recall the date that she took me to
17 lunch.

18 Q Did you ever tell Duerr to give him a bad
19 review?

20 A That's the council member I am referring
21 to. I shared with her that I was upset in how the
22 whole thing went down, because she asked.

23 Q Okay. Who was at the 4/22/16 meeting
24 where Clinger switched the strategic plan over to
25 Maureen, and switched staff? Who was at that meeting?

1 A I believe it was the executive team, which
2 would have been the police chief, the fire chief,
3 the -- me, Bill, Andrew, Mr. Chisel, Deanna. I think
4 that's it.

5 MR. SHIPMAN: Bill Thomas.

6 THE WITNESS: Bill Thomas. Thank you.

7 BY MR. MAUSERT:

8 Q Thank you for sharing.

9 Did you manifest any anger or emotional
10 distress at that meeting?

11 A No. I did everything I could to sit there
12 as neutral as possible.

13 Q Okay. Do you know who Jean Atkinson is?

14 A Jeannie?

15 Q Yeah.

16 A Yeah.

17 Q And who is she?

18 A She's on the civil -- or, no. Civil
19 Service Commission.

20 Q Okay.

21 A Former HR director.

22 Q She's the chairwoman, right?

23 A Yeah.

24 Q And were you ever aware of her findings
25 she made in August of 2015? Did -- when -- are you

1 aware of those findings?

2 A There was an article about something about
3 my raise or something.

4 Q Okay.

5 A Is that what you are referring to?

6 Q Yeah. That was part of it. I mean, I am
7 trying to determine, do you have an understanding -- I
8 want to determine if you have an understanding of what
9 those findings were, and when you acquired that
10 understanding, if you know.

11 Do you know what her findings were?

12 A I don't.

13 Q Okay.

14 A And I haven't read all the reports and I
15 haven't delved into all of this too extraordinarily
16 deeply.

17 Q Okay. So if I understand your testimony
18 correctly, you didn't know prior to April 22nd that
19 the strategic plan and staff were going to be
20 transferred?

21 A I did not.

22 Q The discussion came out of the blue?

23 A At a meeting in front of my peers. So you
24 could imagine, I was a little bit --

25 Q I can imagine that.

1 A -- peeved.

2 Q Poor form on the part of Mr. Clinger.

3 A Well, and I am supposed to be the number
4 two. Yeah, I was mad.

5 Q Yeah. I bet. I mean, if he is going to
6 do it, it's one thing to do it. He might want to give
7 you a heads-up, huh?

8 A That's what we talked about.

9 Q So you were upset not only at the
10 substance of what he did, but you were upset at the
11 way he did it?

12 A Correct. And we talked about that.

13 Q Did anybody else besides Mr. Clinger talk
14 to you about your relationship with Maureen and try to
15 get you to be nice to her?

16 A Not that I can recall.

17 Q Were you aware that Visha says that she
18 prompted Clinger to talk to you about your
19 relationship with Maureen?

20 A I was not, but I don't doubt it.

21 Q Why don't you doubt it?

22 A Because Visha is kind of the peacemaker.

23 Q How did Mr. Clinger react to the survey
24 where people said negative things about him? And he
25 learned of that in June 2016. What was the reaction,

1 his reaction to that?

2 A What was it the -- what survey?

3 Q The --

4 A Internal one?

5 Q Yeah. The evaluations that people --
6 internal evaluations that people articulated relative
7 to him.

8 A I can't specifically recall. I would say
9 he was mad with council members, Councilwoman Brekhus
10 that had some negative comments about him.

11 Q Did he -- do you know whether he took any
12 measures to find out which people had said bad things
13 about him?

14 A No, I don't recall. I think that I do
15 remember, though, talking about -- I think it was
16 Survey Monkey and who had access to the password and
17 all that sort of thing. But he wasn't asking to get
18 information on that.

19 Q Okay. If he had tried to find out who
20 had provided negative reviews of him would that have
21 been appropriate or inappropriate pursuant to city
22 policy?

23 A Inappropriate.

24 MR. SHIPMAN: Objection.

25 THE WITNESS: Because it was supposed to

1 be an anonymous survey.

2 BY MR. MAUSERT:

3 Q Sure. Were you present at the June 22nd,
4 2016, meeting where the mayor instructed people if
5 they had knowledge of sexual harassment they were to
6 report it?

7 A Was that the council meeting?

8 Q I don't know.

9 A Or, no. Isn't June 22nd --

10 Q I don't believe it was a council meeting.

11 A So what meeting was this?

12 Q There was a meeting on June 22nd where
13 the mayor said, "if you guys know about sexual
14 harassment I want you to report it."

15 Do you remember anything like that?

16 A I don't remember the meeting you are
17 talking about, but --

18 Q Okay.

19 A But didn't you say June 22nd was the date
20 of his review?

21 Q No. I said it was the date of Operation
22 Barbarossa.

23 A Sorry. I am slow. But --

24 Q But I am not sure the exact date of his
25 review, it was right around there.

1 A I thought you said June 22nd, which is why
2 I was correlating those two.

3 Q Was right around there. But there was a
4 meeting -- I am told there was a meeting where the
5 mayor instructed a bunch of people, including my
6 clients, "if you guys know anything about sexual
7 harassment you have got to report it."

8 A So that would have been the meeting up in
9 the 15th floor where nobody knew why we were going into
10 this meeting.

11 Q Yeah. I think so.

12 A Yeah. And then there were two individuals
13 in that meeting that were not on executive team. So it
14 was kind of --

15 Q Who were those people?

16 A Alex Woodley and Michael Chaump. So --

17 Q And were you at that meeting?

18 A I was.

19 Q So tell me, what do you remember about
20 that meeting?

21 A I remember it was odd. The mayor and the
22 City Attorney were in a meeting kind of warning
23 everybody, especially the two gentlemen that were in
24 there that weren't part of the executive team. So we
25 were left to wonder what's going on. We didn't know

1 what the meeting was, going into it. There was no
2 information given in advance. So what we could surmise
3 is that there was an instance with the two gentlemen
4 that were sitting there, and I believe that's --

5 Q And how many people were at that meeting,
6 approximately?

7 A It would have been mayor, city attorney.
8 Might have been executive team. I don't know.

9 Q Was that Karl Hall himself?

10 A Yeah. Karl was there.

11 Q And what was said at the meeting? Who
12 was leading the meeting? Was the mayor leading the
13 meeting?

14 A I think it was the mayor. I can't
15 remember if Duerr was in there or not as well.

16 Q What happened? Tell me -- describe the
17 meeting for me.

18 A It was kind of a finger-wagging saying
19 hey, listen, you know, we are not going to tolerate
20 sexual harassment. And it's my opinion that it was at
21 that meeting that the light bulb went off and that's
22 when plan B was put into place because we realized at
23 that point that sexual harassment didn't have to be
24 directly towards you, it could be you witnessing, or
25 your employee witnessing what was considered to be an

1 inappropriate relationship, which then meant that you
2 were feeling harassed. And that's when I think it all
3 began, just in my person opinion.

4 Q Tell me if I am correct or incorrect. So
5 in your perception, the mayor's legitimate focus on
6 sexual harassment was a catalyst for people that said
7 oh, we have a different way of getting Andrew Clinger,
8 and, in fact, bogus allegations of sexual harassment
9 were made. As opposed to the mayor saying this could
10 be sexual harassment. If you have knowledge, report
11 it. And legitimate complaints were made. You believe
12 in the former scenario; is that correct?

13 A Yes. I believe that the way that that
14 meeting was construed was misappropriated or misapplied
15 towards what we are sitting here defending or talking
16 about today, which is that there was a not good faith
17 filing of, which, hey, listen, it's protected activity,
18 but filing of a sexual harassment claim. Regardless of
19 how it is put forward, has to go through the process,
20 which is why we are sitting here today, letting it go
21 through the process.

22 I mean, honestly, I went out and obtained
23 an attorney because of the -- the just abuse, I think,
24 of what we are discussing right now, which is the use
25 of a sexual harassment or allegation or filing. And

1 the fact that I am pulled into this thing and have been
2 considered to have done something that was not
3 professional, that was potentially harassing somebody
4 else, is insulting as a professional and as a woman,
5 quite frankly. Somebody who's had 22 years in
6 government service, been promoted into or recruited for
7 every job that I have had, you can understand I'd be a
8 little bit upset about what is occurring. And, yes, I
9 believe it was misappropriated, and I believe that that
10 meeting was the beginning of it, and I believe that it
11 was made in bad faith.

12 Q Were you raised Mormon?

13 A No. I was raised Catholic.

14 Q What's your understanding of what the
15 term "sister wife" means?

16 A It's a -- that's awesome. It is in the
17 Mormon faith when a man has more than one, or has many
18 wives.

19 Q Sure.

20 A Those two refer to each other as sister
21 wives.

22 Q Right. The two women or more women who
23 shared the same husband --

24 A Yes.

25 Q -- refer to themselves as sister wives?

1 A Yes.

2 Q Did you ever refer to yourself as a
3 sister wife with Stacie Clinger?

4 A I did it, a hashtag in a post, yes.

5 Q Okay.

6 A Because -- because if you can't laugh
7 about it you cry about it. Because it's ridiculous.

8 Q Well, I mean, ma'am, can you understand,
9 though, if you maintain a very close relationship with
10 your boss who gives you a big promotion and you refer
11 to him -- you refer to his wife as your sister wife,
12 can you understand how that might create a perception
13 among some people that you have an inappropriate
14 relationship with your boss?

15 A So that sister wife comment was long after
16 the two investigations had happened. It was a year
17 ago. So --

18 Q Okay. So it was after you knew that
19 these allegations had been made?

20 A And after they had been -- and they had
21 been proven unsubstantiated by two different
22 investigations. I know for sure with 100 percent
23 certainty that I didn't have an inappropriate
24 relationship with my boss. Nor was I retaliatory in a
25 manner to make people -- I mean, that's what I know for

1 sure.

2 Q I am not talking about that. I am
3 talking about creating the perception that there is an
4 inappropriate relationship. And, in fact, you posted
5 a thing on Facebook with you and Stacie Clinger where
6 you posted it on your --

7 A Instagram.

8 Q -- she posted it on hers, where you guys
9 refer to each other as sister wives; correct?

10 A One hashtag, yes.

11 Q And you did that after these allegations
12 had been made; isn't that correct?

13 A And after they had been proven not true.

14 Q I don't recall Judge Wall saying that
15 they are proven to be untrue. But be that as it
16 may --

17 A Well, he found that there was no
18 allegation of inappropriate conduct between me and Mr.
19 Clinger, as did Ms. Mercado. As I am stating to you
20 today.

21 Q Do you know whether Judge Wall was made
22 aware of Jeannie Atkinson's findings?

23 A Do I?

24 Q Yeah.

25 A No. That he was?

1 Q Yeah.

2 A I don't.

3 Q Because he wasn't.

4 Do you know whether Judge Wall
5 interviewed my clients?

6 A Do I know whether they did?

7 Q Yeah.

8 A No. I don't know whether they did or not.
9 Or he did or not, rather.

10 Q Let's -- I was going to mark these later.
11 I guess we will mark the first one. Let's see which
12 one is which. Who is your -- your -- do you refer to
13 yourself as Ecochic23?

14 A Ecochic.

15 Q Ecochic?

16 A Chic.

17 Q Chic. What does that mean?

18 A I guess chic to be eco.

19 Q Let's get this marked. Have that marked
20 as Exhibit 1.

21 (Whereupon Deposition Exhibit 1 was
22 marked for identification.)

23 BY MR. MAUSERT:

24 Q Is that the posting that you put on the
25 social media?

1 A Yeah.

2 Q And when did you put that up?

3 A Last year. So it was about a year ago
4 during the Reno-Tahoe Open.

5 Q And when did you take it down?

6 A Did I take it down?

7 Q Have you taken that down?

8 A No. I think it is still up.

9 Q It's still up. Okay.

10 A Yeah.

11 Q And, in fact, did you look at the one
12 posted by Stacie Clinger?

13 A Was that on Instagram?

14 Q Let's get this marked Exhibit 2.

15 (Whereupon Deposition Exhibit 2 was
16 marked for identification.)

17 BY MR. MAUSERT:

18 Q Have you looked at that one? They are
19 identical, aren't they?

20 A The pictures are.

21 Q Right.

22 Have you ever looked at Stacie Clinger's,
23 what is it, Instagram? I am not conversant.

24 A I am not super-active on Facebook, but,
25 yeah, I am sure I saw it.

1 Q Does that look like it is an accurate
2 depiction by the one posted by Stacie Clinger?

3 A Yeah. She posted this, and I posted this.

4 Q When was that picture taken?

5 A Barracuda Championship last year. So
6 almost a year. I don't know the exact day.

7 Q Barracuda Championship, what's that?

8 A The annual golf event held up at Montreux.
9 The PGA event.

10 Q Oh, I don't play golf.

11 A You're an attorney who doesn't play golf?

12 Q I am river trash. River trash don't play
13 golf.

14 Want to take a little break?

15 (Brief recess taken.)

16 BY MR. MAUSERT:

17 Q Ma'am, have you ever stopped talking to
18 anybody else in the workplace that you can recall?

19 MR. BEKO: Objection. Misstates her
20 testimony.

21 THE WITNESS: One --

22 BY MR. MAUSERT:

23 Q Unless you absolutely had to talk to
24 them, anybody else?

25 A After I learned of the allegations and

1 went in and kind of made my discomfort known with Mr.
2 Chisel I didn't really speak with him or Ms. Gescheider
3 much after that.

4 Q Anybody else?

5 A I have never really talked to Brianna
6 Wolf. So that's not a --

7 Q But that was --

8 A So that wouldn't be stopping talking to
9 somebody.

10 Q But that was not -- you didn't know her,
11 she was part-time?

12 A Right. Exactly.

13 Q Is there anybody else who you have given
14 the silent treatment to?

15 MR. BEKO: Objection. Form.

16 BY MR. MAUSERT:

17 Q Well, when you stop talking to somebody
18 unless you absolutely have to it's called the silent
19 treatment. It's a fair characterization.

20 A No. You are still talking, not silent,
21 but --

22 Q Is there any other employee who you
23 have --

24 A Not that I know of, no.

25 Q Okay. Do you know who Robert Miller is?

1 A Rob Miller?

2 Q Yeah.

3 A Yeah. Former budget staff from a long
4 time ago.

5 Q Have that marked as Exhibit 3.

6 (Whereupon Deposition Exhibit 3 was
7 marked for identification.)

8 BY MR. MAUSERT:

9 Q Why don't you take a minute and take a
10 look at that.

11 MR. BEKO: You want to make notes to
12 yourself, you can.

13 THE WITNESS: That's what I mean.

14 MR. BEKO: Sure. Yeah.

15 BY MR. MAUSERT:

16 Q Okay. Have you had a chance to review
17 that?

18 A Yeah.

19 Q And did you learn of Mr. Miller's
20 negative information he conveyed to Mr. Clinger about
21 you?

22 A Did I learn of it?

23 Q Yeah.

24 MR. BEKO: You are talking about in this
25 affidavit?

1 BY MR. MAUSERT:

2 Q At some point in time before you read
3 this today did you know what -- the substance of what
4 Mr. Miller had said to Mr. Clinger about you?

5 A Yeah. So when I came into my job as the
6 Director of Management and Budget Rob Miller had wanted
7 that job. So we came in, I had heard he was already
8 quite disgruntled, I sat down with him first day, said,
9 "hey, listen, I know that I was plopped into this job
10 and that you want it. This is not where I want to be
11 forever and ever. What can I do to help you as a
12 professional get to the point where if this is what
13 you'd like, let's do it."

14 Interestingly, I was invited to their
15 wedding, and last time I saw Rob Miller we hugged. So
16 it's a little surprising to me that he says I wouldn't
17 speak to him. But I did heed his advice about ADP,
18 like I said, and twice went into Mr. Clinger and
19 recommended that we not go forward with the system. So
20 that's -- that's interesting. I know Mr. Miller and
21 Ms. McKissick were quite close, oftentimes having the
22 same viewpoints on certain issues and misnomers about
23 certain individuals, but that notwithstanding, Rob was
24 a good budget person and actually wanted to come back
25 to the city under my guise at some point, and wasn't

1 selected for that.

2 So if I was really terrible I am not sure
3 that he would want to come back to the city and work
4 for me.

5 So a couple of things I read in here are a
6 little bit contradictory to experiences that I have had
7 with Mr. Miller, but, I mean, that's -- you know.

8 Q So you deny that you stopped talking to
9 him?

10 A I went to his wedding. I was --

11 Q Ma'am --

12 A I gave him a hug. I don't know the timing
13 of when the wedding was.

14 Q So I am inferring from that that you deny
15 you stopped talking to him?

16 A Yes. Sorry. Yes, I deny that I stopped
17 talking to him.

18 I did learn after he left that he made
19 some -- not from Mr. Clinger, but some others, that he
20 had decided to burn that bridge with me by talking
21 about how I wasn't that great of a boss and whatnot.
22 But again, you know, that's fine. He was --

23 Q So Clinger rejected your advice as to not
24 going with ADP; is that right?

25 A Well, that was at the strong urging of Mr.

1 Chisel. So -- and it's funny because I then ended up
2 getting thrown under the bus with Mr. Chisel about ADP.
3 So it is a little bit of a juxtaposition.

4 Q All right. Have you ever heard Visha
5 Siddharthan --

6 A Visha.

7 Q -- indicate that she thought you were in
8 love with Andrew Clinger?

9 A Never. I think she knew that I was not in
10 love with Mr. Clinger.

11 Q Now, did you -- were you ever at any
12 meetings where Mr. Clinger asked people or instructed
13 people or -- to delete text messages?

14 A No.

15 Q Did he ever ask you to download any apps
16 such as Slack or Telegram on your phone?

17 A Yes. Me and the entire executive team.

18 Q And what is your understanding of the
19 purpose? Did he say why he was having you do that?

20 A Yeah. We were all in a group message to
21 try to find another way to communicate. So we were all
22 downloading this app together to have another avenue to
23 communicate as an executive team.

24 Q Now, I guess the Telegram app has a
25 feature where the text messages are automatically

1 destroyed.

2 A Like you have to set it? Or it
3 automatically does?

4 Q I don't know. When you used -- did you
5 use Telegram?

6 A Yeah. We all did.

7 Q Did it automatically destroy the text
8 messages?

9 A I don't know. I think you had to turn
10 that setting on. I am not sure. No, I don't think it
11 automatically destroyed them. I think you kept them
12 until -- kind of like texting right now, you have to
13 delete them yourself.

14 Q Did you use the feature whereby the text
15 messages were automatically destroyed?

16 A No.

17 Q Do you know whether Mr. Clinger did?

18 A I don't. I don't think I knew that there
19 was that feature.

20 Q Do you have that phone that you used when
21 you sent these text messages pursuant to Telegram?

22 A I don't.

23 Q What happened to that phone?

24 A It was a -- I got it in 2011, and -- or
25 no, I got it in 2014, and it's been replaced by a new

1 phone.

2 Q Where is that phone now, the original
3 phone?

4 A I -- somewhere in -- wherever Gazelle is.
5 Where you sell your phones back.

6 Q Okay.

7 A I want to say it's Kentucky, maybe.

8 Q Okay. Did you delete the messages on
9 your phone before you turned it into Gazelle?

10 A No. I uploaded everything to the Cloud,
11 and then transferred it over to my new phone.

12 Q So you will have all those text messages?

13 A Well, I don't have the app. We stopped
14 using the app years ago.

15 Q But you have all the text messages from
16 way back when?

17 A No. You do in paper form right in front
18 of you. I don't keep those. They take up a lot of
19 memory on your phone.

20 Q Okay.

21 A But they have all been turned over.

22 Q Was your staff loyal to you?

23 A I believe so. I mean, clearly Rob Miller
24 wasn't, but that was way back when.

25 Q Did you ever tell anybody you hated

1 Andrew Clinger?

2 A I don't think I said hate. Hate's a
3 strong word, but --

4 Q Did you ever tell anybody that you didn't
5 like him anymore?

6 A I was mad, as I have stated. At -- it
7 would have been right after the staff allocation.

8 Q Right. Who did you tell that to? Who
9 did you express your anger at Mr. Clinger to?

10 A I think it was more frustration at just
11 the fact that that happened, and the way that it did,
12 as we talked about, that it was in front of my peers
13 and all that. It was probably Robert, is my guess,
14 because he and I were quite close. We shared a lot.

15 Q I am just going through my timeline.

16 A You are fine.

17 Q Did Clinger ever show you any text
18 messages sent to him by Deanna Gescheider?

19 A Not that I am aware of. I mean, not other
20 than work-related. I have heard of some, but not seen
21 them.

22 Q Did you ever stomp your feet as a form of
23 manifestation of anger?

24 A Stomp my feet?

25 Q Yeah.

1 A Not that I can recall.

2 Q What was the relationship between Ashley
3 Turney and Andrew Clinger like?

4 A She was a good resource for him. She has
5 her finger on the pulse of the council, so it was
6 important for him to kind of get an idea of what was
7 going on. They were tight in that regard. She would
8 oftentimes come up and meet with him on certain
9 strategic stuff. She had his best interests in heart,
10 I think.

11 Q Did you receive a master key on July 26,
12 2016?

13 A I received a master key, and I am not
14 exactly sure when it was.

15 Q Okay. Did you request that key?

16 A I did. I didn't have a key to my office
17 or anything else, and Mr. Thomas had a master key to
18 the city, and I believe it was even him that suggested
19 that I get one, so I did.

20 Q July 26th sound about the correct date?

21 A I am not sure. I sent a message to the
22 facility staff that day telling them that I had it and
23 that I acknowledged receipt of it, so that they knew.
24 Because those are things we need to keep track of.

25 So we would have that e-mail somewhere in

1 the system.

2 Q Would you say that your relationship with
3 Andrew Clinger was different than the relationships he
4 had with other city employees?

5 MR. SHIPMAN: Objection. Vague.

6 MR. BEKO: Join.

7 BY MR. MAUSERT:

8 Q It was closer?

9 A I was pretty close to all of my employ --
10 I was very open with my staff, and others in various
11 departments. I think that's how you build trust is you
12 are open and communicative with your staff members.

13 Q Would you say that you had a closer
14 relationship with Mr. Clinger than he had with other
15 employees?

16 A No. I would say Bill Thomas and he were
17 quite close as well. But again, we were his number
18 2's. But Bill is not a woman, so he is not sitting
19 here today.

20 Q He was sitting there a couple weeks ago.

21 A Oh, okay. Sorry. I didn't know.

22 Q So if I understand you correctly, ma'am,
23 Mr. Clinger told you that Ms. McKissick had suggested
24 the changes which resulted in the shift of job duties
25 and staff on April 22nd, 2016; is that true?

1 A He alluded to the fact that she was
2 involved in that decision process, yes.

3 Q And --

4 A And like I mentioned, her previous actions
5 validated that.

6 Q And so he indicated to you that she was
7 intimately involved in the decision to do this and
8 that she was partly responsible for that, and that she
9 convinced him to make this decision; is that correct?

10 A No, I wouldn't say that's a fair
11 compilation of what happened.

12 Q How would you characterize her -- what
13 he --

14 A He alluded to the fact that she was
15 involved in the decision-making for that move.

16 Q Okay. He --

17 A He didn't say she was, what did you say,
18 intimately, or --

19 Q You previously indicated that he told you
20 she was very convincing.

21 A I told you she is very convincing, yeah.

22 Q Okay. And did Clinger indicate to you
23 that she had convinced him to make these changes?

24 A In hindsight he did. At the time he was
25 pretty cagey about it. I think he was trying to

1 protect her.

2 Q When did he tell you this? Was this the
3 week after when you confronted him?

4 A Yeah. Well, it was not even a week. It
5 was like a couple days or a day after that I confronted
6 him.

7 Q So based on your conversations with him a
8 week after -- approximately the week after April 22nd,
9 2016, you formed the opinion that Ms. McKissick had
10 maneuvered Mr. Clinger to making these changes; is
11 that correct?

12 MR. BEKO: Objection, that misstates her
13 testimony. She --

14 MR. MAUSERT: Well, I am asking.

15 THE WITNESS: My testimony --

16 MR. BEKO: No, no. Counsel, she
17 previously told you that there were things that
18 occurred before that that led her to believe that that
19 was the case as well.

20 MR. MAUSERT: Okay. Okay.

21 MR. BEKO: So now you are trying to
22 suggest it doesn't happen until that date.

23 MR. MAUSERT: Oh, no. In addition --

24 MR. BEKO: No, that's exactly what you
25 were doing. Trying --

1 MR. MAUSERT: No. I wasn't trying to do
2 that. I was trying to do something else. You're
3 misunderstanding the line of attack.

4 MR. BEKO: Sure you are were. I see
5 exactly what you are doing.

6 BY MR. MAUSERT:

7 Q It's a different line of attack.

8 We can go with what you said. So based
9 on -- I don't have a problem with it. In fact, I like
10 it even more.

11 Based on observations prior to that and
12 based on what Mr. Clinger told you when you confronted
13 him angrily about what he did on April 22nd, you came
14 to believe that Ms. McKissick had engineered those
15 changes; correct?

16 A Yes.

17 MR. SHIPMAN: Objection. Compound.

18 THE WITNESS: Yes. She had engineered
19 those changes based on what I have seen her do on
20 multiple occasions, on multiple staff salary
21 increases, management team allocations, levels of
22 responsibility, and whatnot.

23 BY MR. MAUSERT:

24 Q Okay.

25 A I have witnessed that, that pattern of

1 behavior by her in the past; so therefore, I formed the
2 opinion that given that and her most recent actions
3 specifically around the strategic plan that she had
4 manipulated her way into getting that promotion.

5 Q Okay.

6 A Yes.

7 Q And then Mr. Clinger basically confirmed
8 that for you, didn't he?

9 A Yes.

10 MR. SHIPMAN: Objection. Speculation.

11 THE WITNESS: He alluded to that.

12 MR. MAUSERT: Did you get what she said
13 when she said yes?

14 THE REPORTER: Yes.

15 BY MR. MAUSERT:

16 Q All right. Ma'am, I am going to read a
17 section in the Wall report, which is -- well, this
18 Wall report is all screwed up on page numbers. It's
19 got internal page numbers 19, and then it's got COR
20 numbers, and it's the COR numbers are a page ahead.

21 So it is COR-00020. This is written
22 by -- were you present when Andrew Clinger was
23 interviewed by Judge David Wall?

24 A No. It was my understanding we all had
25 individual interviews with him. Mine was solo.

1 Q Okay. Here is what he says: "Clinger
2 denied that he told Thomas that McKissick suggested
3 the changes, since Thomas was angry with McKissick for
4 taking the important responsibility from her. Clinger
5 said Thomas told him that she believed it was
6 McKissick that had fomented the changes, but Clinger
7 said he told Thomas that the changes were his idea.
8 He is aware that Thomas was angry with Clinger and
9 McKissick, and that Thomas didn't hide that anger from
10 either. Thomas thought that the reassignment was
11 punitive in nature and resented both Clinger and
12 McKissick. He is aware that Thomas stopped speaking
13 to McKissick after the meeting. Clinger said he had
14 several meetings with Thomas after the April 22nd
15 meeting over the course of the next few months to try
16 and ameliorate the issues Thomas had with Clinger, and
17 especially McKissick. He said he told her that she
18 had to be able to communicate professionally with
19 McKissick (and others), to continue to occupy the
20 important role with the city."

21 And he -- let's see. Judge Wall
22 indicates he interviewed Mr. Clinger on September 27,
23 2016.

24 Did Mr. Clinger ever discuss with you
25 what he told Judge Wall?

1 A Not specifically.

2 Q It would seem that if Mr. Judge Wall is
3 accurately relating what Mr. Clinger told him, that
4 Mr. Clinger is telling you one story and Judge Wall
5 another story, wouldn't it?

6 MR. BEKO: Objection. Form.

7 THE WITNESS: So my statement still
8 stands about me believing that it was Maureen
9 McKissick that corroborated the change in staff,
10 regardless of what Andrew said. That --

11 BY MR. MAUSERT:

12 Q Oh, I understand that.

13 A -- that he confirmed or denied.

14 Q I understand that's your belief.

15 A Yeah.

16 Q And I understand you sincerely hold that
17 belief.

18 A Yeah.

19 Q But that's not my question. My question
20 is it would appear that -- and you are the one who
21 knows what Clinger said to you, and you have already
22 testified at length about it. It would appear that
23 Mr. Clinger told you one story, and told Judge Wall
24 another story; correct?

25 MR. BEKO: Objection. Misstates

1 testimony.

2 MR. SHIPMAN: Yeah.

3 MR. MAUSERT: Well, I am asking the
4 question.

5 MR. BEKO: No. You are suggesting
6 something she told you.

7 MR. MAUSERT: I am asking her.

8 MR. BEKO: She's already indicated to
9 you --

10 MR. MAUSERT: I am asking her a question.

11 MR. BEKO: -- that she believed that
12 Andrew was trying to protect Ms. McKissick.

13 MR. MAUSERT: No. Tom, I don't need to
14 have you explain the testimony.

15 MR. BEKO: I'm just trying to --

16 BY MR. MAUSERT:

17 Q Ma'am, it would appear that he told two
18 different stories, wouldn't it?

19 MR. BEKO: Objection. Form.

20 THE WITNESS: I know what he told me, and
21 I see -- I am hearing what you are saying that he told
22 Mr. Wall.

23 BY MR. MAUSERT:

24 Q And that differs materially from what he
25 told you, doesn't it?

1 A I don't say materially. I mean --

2 Q Well, when he says --

3 A -- and plus, we didn't have meetings to
4 talk about me being professional. It was a mention.
5 It wasn't a, like a sit-down meeting. Just --

6 Q Well, he says, "Clinger said he told
7 Thomas that the changes were his idea."

8 That's different than what --

9 A They were his idea, but you come up with
10 those ideas not just out of the blue. There are things
11 that lead you to come up with an idea. And it is my
12 belief that Maureen McKissick led him to the point
13 where he made that decision.

14 Q Well, the entire sentence is this:
15 "Clinger said Thomas told him that she believed it was
16 McKissick that had fomented the changes, but Clinger
17 said he told Thomas that the changes were his idea."

18 That differs materially from what he told
19 you, doesn't it?

20 MR. SHIPMAN: Objection. Argumentative.

21 THE WITNESS: Sure.

22 BY MR. MAUSERT:

23 Q Okay. It does, doesn't it?

24 MR. BEKO: She just answered your
25 question.

1 THE WITNESS: Sure.

2 BY MR. MAUSERT:

3 Q Okay. All right. Well, I wasn't sure
4 if --

5 MR. BEKO: No, you heard the answer as
6 clear, and you repeated the question again.

7 BY MR. MAUSERT:

8 Q Okay. That's fine. All right.

9 The mayor indicated to Judge Wall that
10 you and Clinger fought like husband and wife. Would
11 you disagree with that characterization?

12 A We only had one fight that I can recall,
13 and it was the one that I mentioned. And we tended to
14 disagree on things, but he was the boss. At the end of
15 the day it was my responsibility to let him know my
16 side of the view to make the best decision for the
17 city. So if you want to infer that that's how husband
18 and wives make decisions, sure.

19 Q Well, I am not inferring it, I am just
20 reciting what the mayor told to Judge David Wall.
21 It's not me.

22 She says -- or rather, Judge Wall says at
23 page 41, COR-000 page 42, last full paragraph towards
24 the bottom: "The mayor said she doesn't know if there
25 has ever been any type of romantic relationship

1 between Clinger and Thomas. She said they, quote,
2 'definitely' end quote, have a some type of close
3 personal relationship which she described as being
4 like brother and sister. She is aware that they
5 would, quote, 'would fight like husband and wife' end
6 quote, and she is aware of one significant argument
7 they had in front of staff members. Mayor Schieve
8 says she hasn't personally seen any -- seen evidence
9 of a romantic relationship between Thomas and
10 Clinger."

11 . Would you disagree or agree with that
12 characterization?

13 MR. BEKO: Form.

14 THE WITNESS: I agree with the
15 brother/sister one. Husband and wife is a little
16 weird.

17 BY MR. MAUSERT:

18 Q Okay. So you agree that you guys had
19 such a close relationship that people could --

20 A That we were able to have robust
21 discussions about things. And oftentimes it was --
22 well, I would say the majority, the vast majority of
23 the times it was not in front of anybody else.

24 Q Robust discussions?

25 A Yeah.

1 Q Kind of like me and Tom bickering?

2 MR. BEKO: Objection.

3 THE WITNESS: So when I was assistant to
4 the city manager I used to hear Charles McNeely, I
5 don't know if you ever worked with him, screaming at
6 council members. You know, expletives, the whole bit.
7 It's a stressful job.

8 BY MR. MAUSERT:

9 Q McNeely was who?

10 A Charles McNeely was a longstanding city
11 manager. He was the one I was hired to work for.

12 Q Right.

13 A Yeah. He was 10, 12 years at the city.
14 Very volatile man. So I don't -- I think it's not
15 unusual for people in that position to engage in robust
16 conversations.

17 Q Now, the mayor also indicated that
18 Clinger created a culture of, quote, "if you are nice
19 to him, he will be nice to you."

20 Would you agree or disagree with that?

21 A I would disagree with that. I think he
22 was cordial to everybody. He was respectful to
23 everybody. He had the people that were on his team
24 that he expected to be loyal. And --

25 Q Did you ever hear Karl Hall describe the

1 working relationship on the 15th floor as a toxic
2 dysfunctional atmosphere?

3 A I have not.

4 Q Would you agree or disagree that the work
5 environment of the 15th floor, say as of June 2016,
6 had become toxic?

7 MR. SHIPMAN: June what date?

8 MR. MAUSERT: 2016.

9 MR. SHIPMAN: June 1st? June --

10 BY MR. MAUSERT:

11 Q June 15th, 2016, would you -- excuse me,
12 not June. July. I meant July. Would you agree or --

13 A So July is after this --

14 Q After the --

15 A -- report was --

16 Q -- allegations had broken. Mid-July
17 2016.

18 A It was a tough work environment after that
19 happened. I will admit it. I don't think it was
20 toxic. It was difficult.

21 Q Okay.

22 Let's see if we can get through some of
23 the -- these text messages, which are not in
24 particular order. Let me see. How did I do this.
25 Maybe I should flip them over and do it this way.

1 (Whereupon Deposition Exhibit 4 was
2 marked for identification.)

3 BY MR. MAUSERT:

4 Q Ma'am, for the record, you read that,
5 only half a second to read that. This is a two-page
6 document. The only thing that's on the second page is
7 a number at the bottom, and my client's, Deanna
8 Gescheider's name.

9 Do you recognize this?

10 A I don't.

11 Q My client indicates that you sent this to
12 her.

13 A Okay. Under what context?

14 Q I am not sure. I was going to ask you
15 about that.

16 A I don't recall.

17 Q Are you denying you sent it? Or --

18 A No, no, no. I am just saying I don't
19 recall sending it. I don't remember under what
20 context.

21 Q Okay. If you don't recall, you don't
22 recall.

23 A I don't.

24 Q Moving right along.

25 MR. SHIPMAN: I am just going to object

1 on foundation to that. But just go ahead.

2 THE WITNESS: What? You what?

3 MR. BEKO: He is okay. Just making a
4 record.

5 THE WITNESS: Sorry.

6 MR. BEKO: No problem.

7 MR. MAUSERT: Let's get -- we will get --
8 use the color one.

9 (Whereupon Deposition Exhibit 5 was
10 marked for identification.)

11 MR. BEKO: Let's have her refer to the
12 one you are actually marking.

13 BY MR. MAUSERT:

14 Q Do you recognize that photo, ma'am?

15 A Yeah.

16 Q And what is that a photo of?

17 A Me and some folks from work at the bowling
18 stadium.

19 Q Who are those folks from work?

20 A Alexis Hill, who is a special events
21 person, Mandee Bowler, who was in HR, the city clerk,
22 and Amber Drlik, who was a management analyst in the
23 manager's office.

24 Q And is that a photo emblematic of the way
25 you and the people you worked with got along outside

1 of work?

2 MR. SHIPMAN: Objection. Vague.

3 THE WITNESS: We didn't do too terribly
4 much after work. Alexis was in my husband's band, so
5 I saw her often. But, yeah, once in a while it was
6 fun to go out after work.

7 BY MR. MAUSERT:

8 Q Sure.

9 A Apparently this was a school night.

10 Q Do you remember what year that was?

11 A I don't. Doesn't say the year. I could
12 look it up.

13 Q Could you?

14 A Yeah.

15 Q Do you have your phone with you?

16 A Yeah. Be on my Facebook account.

17 Q That would be wonderful. Maybe I should
18 learn to use my phone, huh? Did I bring my phone with
19 me? Yes, I did. Nobody's called me. Oh, I turned it
20 off.

21 A Okay. Maybe I can't. Let's see. Hang
22 on. Here we go.

23 (Whereupon Deposition Exhibit 6 was
24 marked for identification.)

25 BY MR. MAUSERT:

1 Q While you are at it, if you could look up
2 that one, too, which is Exhibit 6.

3 A That's Instagram. Okay. Hang on. I am
4 on Facebook right now. Here. Okay. So this one
5 was -- I don't know how to see -- let's see here. All
6 right. I don't know how to see what year it is.

7 Q It's not that important.

8 A I don't know what I would hit. Wait. See
9 more. Hang on. Here we go. 2016.

10 Q 2016?

11 A Yes.

12 Q Do you know what day? What month and
13 day?

14 A December 15, 2016.

15 Q Could you --

16 A Says right here.

17 Q Could you write that down at the bottom
18 of the exhibit?

19 A Sure. Bottom?

20 Q Yeah. So we have a record of it,
21 otherwise we will have to go back and figure it out.

22 A It's right on here.

23 Q And then the next one, could you take a
24 look at that?

25 MR. BEKO: Is it on here?

1 THE WITNESS: December 15, but no year.

2 MR. BEKO: Oh, gotcha.

3 THE WITNESS: This one is Instagram.

4 Wait, wait, wait. I need to make my account private.

5 Let's see here.

6 MR. MAUSERT: Anthony Weiner needed to
7 make his account private.

8 THE WITNESS: Right.

9 MR. SHIPMAN: It was private.

10 BY MR. MAUSERT:

11 Q What an idiot. We are off the record.

12 We are off the record.

13 (Discussion off the
14 record.)

15 THE WITNESS: December 14, 2017.

16 BY MR. MAUSERT:

17 Q Could you write that down at the bottom
18 of the exhibit?

19 A 12/14/2017.

20 Q And then the other photograph is what,
21 Exhibit 6, ma'am?

22 A This?

23 Q Yeah, that one.

24 A This is having dinner with friends after
25 work.

1 Q And who are those -- who is in that
2 picture?

3 A Mande Bowler from HR, Amber Drlik, Alexis
4 Hill, Ashley Turney, and Scott Gilles.

5 Q And so those two photographs are kind
6 of -- I am not trying to say you guys weren't partying
7 every night, but on occasion you guys, people from
8 work got together and had dinner, had drinks, and were
9 generally social with each other, right?

10 A Yes.

11 Q And those two photographs are kind of
12 emblematic of that dynamic; correct?

13 A I would say they are people out having a
14 nice time that work together, which is enjoyable.

15 Q Sure. Okay. Let's give those --

16 A Not unusual.

17 Q -- back to the court reporter so she
18 doesn't have is to stop and kill us after the depo.
19 You know how they are.

20 (Whereupon Deposition Exhibit 7 was
21 marked for identification.)

22 BY MR. MAUSERT:

23 Q Show you Exhibit 7, ma'am. Who are the
24 persons in that photograph?

25 A Me, Deanna, and Ashley.

1 Q Okay. Ashley Turney, the court clerk?

2 A Yes. City Clerk.

3 Q The unicorn trifecta?

4 A I think we were past calling it that at
5 this point, but sure.

6 Q Do you know when this photograph was
7 taken?

8 A It was one probably either the -- well,
9 no. It would be winter because I am in a sweater. So
10 it would probably be the employee pancake breakfast is
11 my guess.

12 Q When is that?

13 A In December.

14 Q Oh, okay.

15 A I don't know what year.

16 Q Is it December 2015?

17 MS. GESCHIEDER: Yes.

18 BY MR. MAUSERT:

19 Q Shhh.

20 A Sure. I don't know for sure.

21 Q I doubt it was December 2016.

22 A Yeah, that's true. Sorry. Years, dates.

23 Q I am not trying to embarrass you with
24 this photograph, ma'am, it is not my intent.

25 (Whereupon Deposition Exhibit 8 was

1 marked for identification.)

2 THE WITNESS: So anything goes. Nice.

3 Thanks. Now everybody knows that I have a back
4 tattoo. God, really? Can I have that?

5 BY MR. MAUSERT:

6 Q It's rather large.

7 A Hey, some people get Corvettes.

8 Q What was it, the lethal weapon tattoo,
9 the tiny thing Mel Gibson had on his shoulder?

10 A My mom took that. It is not done. Sorry.

11 Q This is Exhibit 8. And this is a
12 photograph of you --

13 A Yes.

14 Q -- at a pool?

15 A Yes. My parent's pool.

16 Q Oh. That's a nice pool. Where do they
17 live?

18 A They live in Triana down --

19 Q Where is that?

20 A By Rattlesnake Ridge. You know,
21 Rattlesnake Mountain down by IGT.

22 Q Oh.

23 A Yeah.

24 Q Yeah. Nice, nice party. Is that an
25 apartment complex, or is that a --

DEPOSITION OF KATE THOMAS

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1 A Yeah. A little condo complex.

2 Q Oh, so they don't have to maintain the
3 pool?

4 A No. No.

5 Q That's the smart way to do it.

6 A Yeah.

7 Q That looks like it could be an expensive
8 pool to maintain.

9 A Yes, it's big.

10 Q The -- and what year was this taken?

11 A Let's see. I don't know. But I could --
12 let me think. So my tattoo is not done, because there
13 are parts that aren't colored in. So 2014, '15. '15,
14 maybe.

15 Q Did you ever text this to Andrew Clinger
16 or e-mail it to him, or send it to him in any form,
17 shape, or manner?

18 A I don't know. I don't recall doing that,
19 but I don't know.

20 Q Didn't that hurt?

21 A The body of the butterfly on your spine is
22 pretty brutal, but otherwise it is not too terrible.
23 Sorry.

24 Q Let's get this marked.

25 A So did you get that from him?

1 Q I don't know where I got that.

2 A Okay.

3 Q I -- I am not -- I think --

4 A My mom? She sent it to you?

5 Q -- the city produced it. I don't know
6 where I got it. Oh, wait. Here this is the color
7 one. Let's use the color one.

8 (Whereupon Deposition Exhibit 9 was
9 marked for identification.)

10 BY MR. MAUSERT:

11 Q Number nine. Do you recognize that?

12 A Recognize this?

13 Q I will represent to you that it was sent
14 on June 30, 2016 to Deanna Gescheider and yourself.

15 A Yeah. It looks like it was a group text
16 with the three of us.

17 Q By Ashley Turney?

18 A Uh-huh.

19 Q Do you recall getting that from Ashley
20 Turney?

21 A I recall telling her that we have --
22 because we got her a gift card. So I recall telling
23 her that she can go get some cool frames for her
24 wedding photos --

25 Q Sure.

1 A -- because we went in on a gift for her.

2 Q Do you recognize the text message?

3 A Yeah.

4 Q Okay. And, in fact, that comports with
5 your memory of what Ashley Turney sent to you. And
6 where is Deanna on here anywhere?

7 A It's her phone, so you don't see her. So
8 when it's your phone you are not listed up at the top.

9 Q So who sent this?

10 A Sent what?

11 Q Who sent this text message?

12 A Ashley sent this one. See how it says her
13 name above it and then I responded?

14 Q Oh, okay.

15 A So this is on Deanna's phone.

16 Q Okay. I see. Okay. Now I understand.

17 A Yeah, Apple. So that's how Apple works.
18 Quick lesson for you.

19 Q That's what happens when you live in the
20 19th century. Moving right along. Three pages. Will
21 you get that marked, please?

22 (Whereupon Deposition Exhibit 10 was
23 marked for identification.)

24 BY MR. MAUSERT:

25 Q Ma'am, I show you a three-page exhibit

1 that's Exhibit Number 10. This is part of e-mail
2 chains. I try not to -- I try to include the relevant
3 stuff without -- obviously, I can't -- the chain just
4 goes on and on and on. So to manage it I took up
5 pages. This purports to be an e-mail exchange between
6 you and Mr. Clinger --

7 A Okay.

8 Q -- in November 4, 2015.

9 And then I am not interested in the
10 e-mail exchange that on the last page, CLI 230.

11 A I'm sorry, what's your question?

12 Q You guys -- for instance, look at the
13 bottom of 228. "I don't know what his issue is." And
14 Clinger says, "all I know is he is undermining me.
15 Not a good team player." You say, 229, "he is
16 stressed, and I think he is dreadfully unhappy at
17 home."

18 A Uh-huh.

19 Q "Not a" -- and who are you guys referring
20 to? Is this about Robert Chisel?

21 A Uh-huh.

22 Q You have to say yes or no.

23 A Yes. I'm sorry, yes.

24 Q And then you say here, "self-deprecating.
25 Tell me about it (says the incompetent girl who messed

1 up the budget.)"

2 I take it you were making a joke about
3 yourself?

4 A Well, I am saying "tell me about it"
5 because Robert threw me under the bus with the budget
6 process saying that I messed up the budget.

7 Q Is this about the firefighters?

8 A This is about the \$10.9 million.

9 Q That they found?

10 A Might have been that, and something else.
11 So there was a play to get budget moved out from under
12 me when I was Assistant City Manager, quickly, and
13 moved into finance, which eventually happened.

14 But part of that was saying that I messed
15 up the budget. And I had heard that from some folks
16 that that was being purported. So that's why I am
17 saying that.

18 Q Okay.

19 A Because he is saying you shouldn't
20 undermine me, I am, like, tell me about it because I am
21 being undermined myself, is the reference.

22 Q You recognize this? This --

23 A I recognize the context, yeah.

24 Q Okay. And does this appear to be an
25 accurate transcription of what that text exchange was?

1 A I don't know. There were a lot of text
2 exchanges. I don't know if anybody has taken anything
3 out of these. I have no idea. But --

4 Q You don't see anything inaccurate in
5 there, though, do you?

6 A No.

7 Q I will represent to you I have not
8 altered it in any way.

9 A Okay. Thank you.

10 Q I'd be the last person to try to alter
11 something like that because I would --

12 A White out.

13 Q -- I would get caught --

14 A Right. Okay.

15 Q -- almost immediately given my level of
16 technical incompetence. One time I caught my staff,
17 as a form of receipt they had copied the one hundred
18 dollar bills that my client had given me and put them
19 in the file. Fortunately, I didn't have a color
20 printer with the chip in it that notifies the secret
21 service, but I promptly destroyed it and admonished
22 them never ever to copy currency in the printer again.

23 (Whereupon Deposition Exhibit 11 was
24 marked for identification.)

25 BY MR. MAUSERT:

1 Q What do we have here? We have got
2 Exhibit Number 11, which is a five-page text exchange
3 running from CLI-00239 to 244, inclusive.

4 And this purports to have occurred on my
5 birthday --

6 A Oh.

7 Q -- in 2015. Also the same day as Mickey
8 Mouse's birthday. Also the same day as the Jonestown
9 Massacre. Some of these --

10 A Remind me never to --

11 Q The -- some of it goes into 11/19.

12 A Okay.

13 Q Which is the anniversary of the Russian
14 counter-offensive at Stalingrad.

15 And, look, some of it goes into 11/20,
16 which is Bobby Kennedy's birthday.

17 A Awesome.

18 Q Okay. Let's talk about this. Go ahead,
19 take a minute, and read it.

20 A I am a fast reader. Sorry.

21 MR. BEKO: Go ahead.

22 BY MR. MAUSERT:

23 Q You have had a chance to look at this.
24 Do you recognize this text exchange?

25 A Are you asking if I participated in it or

1 remember it?

2 Q Sure.

3 A I don't vividly remember it, but sure,
4 yes.

5 Q You have a general recollection of it?

6 A Yeah.

7 Q Okay. And here it starts out in the
8 first page, looks like Clinger: "Can we put a bar in
9 the vault?"

10 A Uh-huh.

11 Q He says, "I'm serious."

12 Was he serious, do you think?

13 A I think he was.

14 Q You think he was or wasn't?

15 A That's when I had to step forward and go,
16 no, that's the dumbest idea ever. Those were the types
17 of things I would say.

18 Q I'm sorry, do you think he was serious?

19 A I think he was.

20 Q Okay.

21 A There was -- there was talk about it.
22 Mayor wanted to do that at one point, have a side
23 entrance so you didn't have to go through city hall.

24 Q What's the vault? What is that?

25 A So First Independent Bank used to be City

1 Hall. There is a huge beautiful vault down there that
2 we actually turned into a Zen den, like a wellness
3 center. Used to have yoga classes down there. But --

4 Q Yeah, like survival stuff in there from
5 the apocalyptic times?

6 A You don't go in the vault. Actually, the
7 city attorney's office took it over, put a bunch of
8 files in there, which is big misuse of that space.

9 Q Sounds like it would be a nice place for
10 the bar.

11 A Right. If it weren't city hall.

12 Q Twilight zone thing, with the broken
13 glasses. Did you ever see that?

14 A Yeah.

15 Q Okay. And so -- all right.

16 Did you ever see Andrew Clinger
17 intoxicated?

18 A Did I?

19 Q Yeah.

20 A Probably not intoxicated, but after a
21 couple of drinks, sure.

22 Q Did you ever smell alcohol on his breath
23 while he was at work?

24 A No.

25 Q And then if you'd turn to the last page.

1 And I am not trying to embarrass you, ma'am, I am
2 just -- the text messages are what they are.

3 A Sure.

4 Q At the top of the page it says, "yes."
5 And then a message from you, apparently to Mr.
6 Clinger, 11/20, 7:46, 8 seconds: "Sweet. Then I can
7 run home for a nooner."

8 What were you referring to there, ma'am?

9 A So it's a joke. I have a funny sense of
10 humor. Funny to me, nobody else. So it starts off is
11 the meeting with Oscar cancelled again. Because
12 frequently council members would cancel meetings. And
13 he said "yes". And then I made a, "sweet. Then I can
14 go home for a nooner." I then made a little like, haha
15 face.

16 Q Are you referring to having sex with your
17 husband? Is that what that references?

18 A Yeah. Which I would not do. Plus, I live
19 very far away. So bad joke.

20 Q And then towards the middle of the page:
21 "Bottom line is I am sick of Robert trampling all over
22 me."

23 Excuse me.

24 "I am sick" -- "bottom line is I am sick
25 of Robert fucking trampling all over me."

1 A Yeah.

2 Q Is that -- does that refer to Robert
3 Chisel?

4 A Yeah. I don't know what context that is,
5 though.

6 Q Okay. I am done with that.

7 A Anyway. I apologize for the sailor speak.

8 Q Give it back so I can keep these for the
9 court reporter.

10 A It's hers, yeah.

11 Q So now it belongs to her. It's out of my
12 hands. I don't really need that one.

13 (Whereupon Deposition Exhibit 12 was
14 marked for identification.)

15 MR. MAUSERT: I will show you, ma'am --
16 what is that number?

17 THE REPORTER: 12.

18 BY MR. MAUSERT:

19 Q Number 12. This is Exhibit Number 12.
20 It's a one-page document, CLI-00300.

21 Is this a -- purports to be a text
22 exchange between you and Andrew spanning
23 February 23rd, 2016 to February 24th --

24 A Uh-huh.

25 Q -- 2016. So Andrew Clinger says, "hey,

1 let's switch to Telegram."

2 A Uh-huh.

3 Q And you say, "we should check this out as
4 an alternative to the Slack for the team."

5 A I think he said that, not me.

6 Q Oh, that's him, you are right. That is
7 him.

8 A Yeah, and --

9 Q And you say, "cool."

10 He says, "I read an article in WSJ on
11 it."

12 What is WSJ?

13 A Wall Street Journal.

14 Q Wall street Journal?

15 A Yeah, it is a newspaper that --

16 Q Did Andrew say why he was implementing
17 these apps?

18 A Yeah. We were looking, and it was kind of
19 in that Wall Street Journal article, it was an
20 alternative to texting. So just a different way to
21 communicate. So we all jumped on it. I remember the
22 first time we jumped on it I was trying to get logged
23 on, I was on vacation, and we were all trying to get on
24 there. Like I said, at the end of the day it was a lot
25 of extra noise to communicate that way. Texting was

1 just easier.

2 Q Did he ever mention that he intended to
3 do this in order to defeat public records requests?

4 A No. I mean, we all talked about it openly
5 in a meeting as well. The police chief was even in
6 there. It wasn't even a -- that's not --

7 Q Is that the meeting where Jason Soto
8 brought the Nissen decision out of the supreme court
9 of the State of Washington to the meeting and gave
10 everybody a link to that decision? Do you recall
11 that?

12 A I don't recall that, but it could have
13 been.

14 Q Right. Do you recall that he advised
15 everybody that it didn't matter who owned the phone,
16 that text messages were discoverable?

17 A I do recall that, and I remember all of us
18 thinking that over and over regardless of whatever we
19 use, it will likely be something that we could turn
20 over, which I had done numerous times, and, of course,
21 everybody else.

22 Q Right. And then in response to that
23 Andrew started exploring different apps, including the
24 Telegram app that destroyed the messages?

25 MR. SHIPMAN: Objection. Speculation.

1 THE WITNESS: Nobody objected to it at
2 the time. I don't think it was done with malice
3 intended.

4 BY MR. MAUSERT:

5 Q Okay. I am not saying that anybody was
6 necessarily malicious, but do you recall that sequence
7 of events where Andrew adopted the Telegram app
8 because of what Jason Soto had told them at that
9 meeting where he produced the Nissen decision?

10 MR. SHIPMAN: Objection. Compound.

11 THE WITNESS: I don't recall if that was
12 the sequence of events that led to the -- to the
13 adoption of the -- or the usage, short-term usage of
14 the apps. I can't recall that if that --

15 BY MR. MAUSERT:

16 Q Okay. Are you familiar with NRS 239.320?

17 A I am.

18 Q And that's the statute that says it is a
19 felony, I think it is a Class C felony to destroy a
20 government record?

21 A Uh-huh.

22 Q Is that correct?

23 A Yeah.

24 Q When did you become familiar with that
25 statute?

1 A Years ago. First thing in government.

2 And let me be clear, I don't think this was ever
3 intended to be an app to use as decision-making. It
4 was a communication tool.

5 Q Communication about city business, right?

6 A Communication about meetings or whatnot.
7 Not official city business as far as like
8 decision-making. I don't think we ever said, you know,
9 hey, what's the analysis around budget productions, on
10 an app like that. That was never it. It was more of a
11 chitchat tool.

12 Q Members of the executive team frequently
13 used their telephones to communicate about city
14 business, didn't they?

15 A Their telephones?

16 Q Sure.

17 A Personal telephones? Yeah. At the time
18 we didn't have two different ones. We also used
19 Messenger at work that wasn't discoverable until a
20 while ago when they started making it -- kind of after
21 all of this we had the Messenger, a little thing that
22 pops up on your computer and you can chitchat as well.
23 That used to be something that everybody in the
24 organization used as well, but it wasn't discoverable
25 until recently.

1 Q What you do mean it wasn't discoverable?

2 A So they didn't start saving the messages
3 in IT so they could be used in public record until
4 after this whole issue had come up.

5 Q Okay. So the -- a number of city
6 employees were using a means to communicate whereby no
7 record was -- could be reconstructed; is that correct?

8 A It was part of the city's e-mail system.
9 It was called -- I think it was called Messenger. I
10 can't recall. But, yeah --

11 Q Who --

12 A -- it was a little pop-up on the bottom of
13 your screen.

14 Q Whose idea was it to use Messenger?

15 A It was something that was used
16 organizational -- organization-wide.

17 Q So the organization engaged in systemic
18 felonious behavior?

19 MR. SHIPMAN: Objection.

20 THE WITNESS: I wouldn't say that.

21 Again, it was not for city business, it was more --

22 BY MR. MAUSERT:

23 Q That's what it sounds like.

24 A -- "I am running to lunch, be back in
25 ten."

1 Q Was Messenger sometimes used to
2 conduct -- for -- about city business?

3 A No, because you didn't have a record of
4 it. So if you needed to go back and say what did we
5 decide on X, you couldn't use that as a way to get back
6 to business.

7 Q 13.

8 (Whereupon Deposition Exhibit 13 was
9 marked for identification.)

10 BY MR. MAUSERT:

11 Q Show you, ma'am, what's been marked as
12 Exhibit 13. It's two pages, CLI 00312 and 313. Do
13 you recognize that?

14 A It is a Team Kate message.

15 Q Is this Andrew Clinger communicating with
16 you?

17 A In the top? No. He is not on Team Kate.

18 Q No, I mean at the bottom. It says --
19 particularly at the --

20 A Oh, I see. I sent him -- it looks like I
21 sent him a screenshot. Sorry.

22 Q "Council not happy we have not adopted a
23 strategic plan."

24 A Yeah, that's him.

25 Q That's him?

1 A Uh-huh.

2 Q On the next page you say, "reflects on no
3 one but me." You say, "I'll resign."

4 Were you serious about that?

5 A No.

6 Q Okay.

7 A No.

8 Q I didn't think so. Were you joking?

9 A I joke a lot. It's hard to tell in a text
10 message, just saying.

11 Q You say at the bottom, of March 9th. I
12 am not interested in March 10th.

13 "I'm sorry I let you down."

14 Were you -- what were you -- were you
15 referring to the strategic plan there?

16 A Yeah. So at the time, the strategic plan
17 was my responsibility. It's a difficult lift, and
18 still has been. Even -- at every organization I have
19 ever been at strategic planning process is rough, and
20 it was hitting a speed bump at this point, and so I was
21 trying to get it stood back up again. And the person
22 that was responsible for it was reporting to me, and
23 then eventually got moved out from under me.

24 Q Who was that person?

25 A Ryan High.

1 Q That's right. You told me that.

2 A Yeah. I don't have your --

3 (Whereupon Deposition Exhibit 14 was
4 marked for identification.)

5 BY MR. MAUSERT:

6 Q Show you, ma'am, Exhibit Number 14. Is
7 CLI 343 to 344, and I am particularly interested in
8 the message on 4/25 -- excuse me, 4/26/2016.

9 A You are or are not?

10 Q I am.

11 A Okay.

12 Q Starts out, it's from you to him: "I
13 appreciate you hanging out in my office all day (even
14 though it was sort of Creepy). I do feel a LITTLE bit
15 better, thank you."

16 And then Clinger -- is this Clinger?

17 A Yeah.

18 Q Says, "I do care how you feel and what
19 you think and I'm sorry I screwed that up."

20 Is that Mr. Clinger?

21 A Yeah. It appears to be.

22 Q Let's see. Why does it say -- now I
23 don't understand. Up here in the little letters it
24 says 4/26/2016 but then in the substance of the e-mail
25 it says 4/25/2016.

1 A I don't know.

2 Q I don't know how to reconcile that.

3 MR. SHIPMAN: Can we go off the record?

4 MR. MAUSERT: Yeah.

5 (Discussion off the record.)

6 BY MR. MAUSERT:

7 Q Okay. So this is a couple days, you
8 know, three, four days, doesn't make a difference.

9 This is a couple days after the --
10 several days after the 4/22/2016 --

11 A Okay.

12 Q -- meeting that upset you.

13 A Right.

14 Q Is what you guys are referring to the
15 fact that you are upset about that meeting?

16 A I don't know why he would have been in my
17 office all day. I am trying to think about what
18 context that was.

19 Q Why did you say it was sort of creepy?

20 A Because he is in my office all day, haha.
21 I mean, obviously, this was before any allegation came
22 forward. So I think that's kind of an indicator
23 that -- so I was joking about even though it was kind
24 of creepy, haha, I do feel a little bit better. Sounds
25 like we were working through some stuff is my guess,

1 but I don't know if it was the strategic plan. I don't
2 know what it was. But --

3 Q So you and Andrew were trying to work
4 through and kind of effect a rapprochement?

5 A Game plan, maybe. I don't -- I don't
6 know --

7 Q You were trying to --

8 A -- specifically why he was in my office
9 all day.

10 Q -- work through your feelings about
11 having been so rudely treated on 4/22? April 22nd?

12 A Yes. Is that all we needed on that one?

13 Q We are done with that one. We can give
14 that back to the court reporter to avoid her wrath.

15 (Whereupon Deposition Exhibit 15 was
16 marked for identification.)

17 BY MR. MAUSERT:

18 Q I am getting better at that, huh, John?

19 A I did -- this is where I did vent about
20 Bill. I don't know what this is about.

21 Q Okay. You have had a chance to look at
22 that?

23 A Uh-huh.

24 Q This, for the record, is a two-page
25 Exhibit, CLI-00347 to 348. Do you recall this as a

1 text exchange between you and Andrew?

2 A Yes, but I don't know what the context is.

3 Q What is this, on the first page there,
4 347? "So you don't want to be my COO?"

5 What does that refer to?

6 A Chief Operating Officer.

7 Q Okay.

8 A So like your -- you know, when you are the
9 CEO you have got your COO, your --

10 Q Sure.

11 A -- right-hand man. And there is two of
12 us, so he just lit Bill's ass up, too. So I don't know
13 what this is in regards to, though. We dropped the
14 ball on something, apparently. Or apparently I felt
15 Bill did.

16 MR. SHIPMAN: Which Bill, for the record?

17 BY MR. MAUSERT:

18 Q Bill Thomas?

19 A I'm sorry. Bill Thomas, yeah. Not Dunne.

20 Q I couldn't understand that.

21 A Sorry.

22 Q Okay.

23 A So I am telling him he needs to be
24 tougher.

25 (Whereupon Deposition Exhibit 16 was

1 marked for identification.)

2 BY MR. MAUSERT:

3 Q Okay. Exhibit 16, 351 to 352. This is
4 five days after the meeting on 4/22/2016.

5 A Uh-huh.

6 Q Turn to the second page, 352, if you
7 would. Clinger says at the top, he says, "You really
8 have to stop being so sensitive."

9 Did he -- was he trying to get you --

10 A Oh, I know what this is.

11 Q -- to not be so sensitive?

12 A Sorry. Yeah. I get involved in projects
13 and I have a lot of passion about them and then this
14 one there was a change in direction.

15 Q Which project was this; do you remember?

16 A Yeah. I think this was the West 2nd
17 Development.

18 Q What is that? What is the West 2nd
19 Development?

20 A The Don Clark project that they had put in
21 place to do a huge development. Kind of West 2nd
22 Street. They had a city person kind of meet with them
23 every once in a while to say, hey, you know, what do we
24 need to change?

25 Q Did that development ever reach fruition?

1 A No. They are still waiting for their
2 funding. It's been a long.

3 Q Strung me up for a year on my property.
4 Off the record.

5 (Discussion off the record.)

6 (Whereupon Deposition Exhibit 17 was
7 marked for identification.)

8 BY MR. MAUSERT:

9 Q 17. Let's take a look at this. This is
10 389 to 390.

11 A This must have been a council meeting day.

12 Q Who is Kyle West?

13 A He's the safety and training officer for
14 the city.

15 Q So Kyle is a guy?

16 A Kyle is a guy.

17 Q Okay. I am not trying to embarrass you,
18 ma'am, but the third line from the bottom appears to
19 be from you on 6/15/2016: "Fuck her."

20 Who are you referring to?

21 A I am guessing we are at a council meeting
22 and I'm guessing that somebody said something, and this
23 was in response to that.

24 Q Oh, so you guys were texting during the
25 council meetings?

1 A Yeah. It appears that way. If you looked
2 at the date and time that might be what it was.

3 Q So even though you are in a council
4 meeting -- did you ever see the council members text?

5 A Yes.

6 Q During the meeting?

7 A Yes.

8 Q Have you ever seen Jessica Sferrazza in
9 the back of the room texting the council members?

10 MR. SHIPMAN: Objection. Speculation.

11 THE WITNESS: I don't know what -- yeah.

12 BY MR. MAUSERT:

13 Q You never saw Jessica --

14 A I saw her in the back of the room on her
15 phone every once in a while, but I don't know who she
16 was texting. I wasn't sitting by her. I was in the
17 staff area.

18 Q Did she appear to be texting other
19 council members that appeared to be texting?

20 A I can't make that assumption.

21 Q Were you familiar that Jessica Sferrazza
22 went to the lobbying business?

23 A Yeah.

24 Q And was she frequently a visitor up on
25 the 15th floor?

1 A I wouldn't say frequent. She had reason
2 to be up there on occasion.

3 Q Sure. Would council members texting
4 somebody sitting in the audience, would that be a
5 violation of the open meeting law?

6 MR. SHIPMAN: Objection. Legal
7 conclusion.

8 BY MR. MAUSERT:

9 Q Do you know?

10 MR. BEKO: Join.

11 THE WITNESS: I guess it would depend on
12 what they were messaging.

13 BY MR. MAUSERT:

14 Q Sure. If they were messaging about city
15 business that was being discussed that would be a
16 violation, wouldn't it?

17 MR. SHIPMAN: Same objection.

18 THE WITNESS: One would understand that
19 to be the case. I can't speak for what they were
20 messaging.

21 (Whereupon Deposition Exhibit 18 was
22 marked for identification.)

23 BY MR. MAUSERT:

24 Q Sorry.

25 A Okay.

1 Q I am being a hog on documents. I
2 apologize. Hogging the documents.

3 MR. OLDHAM: Hogging.

4 BY MR. MAUSERT:

5 Q Now, this gets into the area where after
6 the allegations have arisen. This is late July of
7 2016.

8 A Okay.

9 Q Just about two years ago. What day is
10 today? 30. It's two years and three days ago.

11 A Yeah.

12 Q This is a text message exchanged between
13 you and Mr. Clinger?

14 A Yeah, appears to be.

15 Q If you could turn to the second page.
16 Clinger, up to the third line from the bottom:

17 "Beyond frustrated with this whole thing."

18 That's Mr. Clinger. What was he
19 referring to?

20 MR. BEKO: Where?

21 THE WITNESS: Third line from the top,
22 not the bottom.

23 BY MR. MAUSERT:

24 Q Third line from the top.

25 A This whole thing. The whole allegation

1 thing.

2 Q Sexual harassment allegations?

3 A Uh-huh.

4 Q Is that correct? You have to say yes or
5 no.

6 A Yes.

7 MR. SHIPMAN: Objection as to it is a
8 legal conclusion, but --

9 THE WITNESS: The allegations.

10 BY MR. MAUSERT:

11 Q Okay. And you say "me too, IT'S
12 CONSUMING," in capitals --

13 A Uh-huh.

14 Q -- "me, but I am trying so hard to be
15 present."

16 A Uh-huh.

17 Q Then you say "I" in capital letters, "I
18 WILL NOT LOSE."

19 What did that mean?

20 A I don't know. It's not mine to lose.

21 Q That's a message from you to Clinger, and
22 --

23 A Probably because I am -- every day it was
24 a fight to sit in your car for ten minutes and take
25 deep breaths because you know what's being alleged of

1 you, falsely alleged of you, and you have to walk in
2 those doors and know that everybody knows what's being
3 falsely alleged of you.

4 So I am not going to lose that battle.
5 I'm going to walk in that door, and I'm going leave
6 that organization for a year after these things were
7 put forward. So I didn't lose.

8 Q Was Maureen McKissick -- did she go on
9 admin leave yet?

10 A I don't know. I don't know what the
11 timing was. So July 27th. You have your timeline.

12 Q Trying to figure that out.

13 A Okay. I am bad with dates.

14 Q That would have been the same day that
15 you received your master key, right?

16 A I don't know. Those two things had
17 nothing to do with one another.

18 Q Were you aware on July 27th, 2016, that
19 Maureen McKissick had complained about you?

20 A I don't believe so.

21 Q So --

22 A It wasn't until later that I found that
23 piece out.

24 Q Okay.

25 A I don't believe.

1 Q If you were not aware on July 27th, 2016
2 that Maureen McKissick had complained about you --
3 Deanna Gescheider hadn't complained about you, had
4 she?

5 A Not directly, no. Not that I know of.

6 Q Okay.

7 A But again, I didn't read all of the
8 detailed documents.

9 Q What were you referring to so adamantly,
10 and you put in capital letters, "I WILL NOT LOSE."
11 What --

12 A I just explained that to you. The
13 struggle that I had every day coming into that. The
14 struggle that I had going into work every single day.
15 I am not going to give up on that.

16 Q Okay.

17 A I didn't do anything wrong and I was going
18 to continue to go in there and do my job, lead that
19 organization.

20 Q Here. Could you take that back?

21 A Sure.

22 Q Okay. Is this the same one? See this.
23 And then you say, middle of the page, it's -- what is
24 it, 2:52 and 49 seconds?

25 A Uh-huh.

1 Q "The fakeness on 15 is bitter."

2 A Uh-huh.

3 MR. SHIPMAN: Yes? I'm sorry.

4 MR. BEKO: Is that a yes?

5 THE WITNESS: Yes.

6 BY MR. MAUSERT:

7 Q That's your message to Clinger?

8 A Yes.

9 Q And now you were referring to the
10 fakeness on the 15th floor; is that right?

11 A Yes.

12 Q And is that fakeness on behalf of Maureen
13 McKissick?

14 A No. I think it's just in general.

15 Q Who is being fake on the 15th floor?

16 A Everybody was being fake. Nobody knows
17 how to act in the situation like this.

18 Q And the next line --

19 A I think it is also -- actually, I think it
20 was specifically in regard to the council members,
21 quite frankly.

22 Q Okay. And then the next line from
23 Clinger, "Jenny openly hostile toward me and the
24 attorney-client meeting."

25 A Uh-huh.

1 Q Who did you understand Clinger was
2 referring to?

3 A Council member Brekhus.

4 Q Jenny Brekhus?

5 A Uh-huh.

6 MR. SHIPMAN: Yes.

7 BY MR. MAUSERT:

8 Q And you say "fuck her?"

9 A Uh-huh.

10 MR. SHIPMAN: Yes?

11 THE WITNESS: Yes. Sorry. Why is John
12 talking? Sorry.

13 BY MR. MAUSERT:

14 Q John's talking because he feels left out
15 and has to talk once in a while. I appreciate that
16 actually, John. Makes a clean record.

17 And then Clinger -- you say, "since when
18 does she matter?"

19 Clinger says, "she doesn't."

20 You say, "exactly." And then you say,
21 "let her actions silo her."

22 What did you mean by that?

23 A She's oftentimes the one council member
24 that dissents on issues, and she's become pretty siloed
25 from her fellow council members. So that's a --

1 Q You mean isolated?

2 A Yes. Isolated. Silo.

3 Q Okay. Give that back to the court
4 reporter.

5 A Thank you.

6 Q Moving right along.

7 Where does this one go? Okay.

8 (Whereupon Deposition Exhibit 19 was
9 marked for identification.)

10 BY MR. MAUSERT:

11 Q This will take you a minute to look at
12 this. This is a little bit longer. Go ahead, take
13 your time. What time is it?

14 MR. OLDHAM: 11:50.

15 BY MR. MAUSERT:

16 Q Have you had a chance to look at that?
17 For the record, this is a -- excerpts from the
18 documents provided by the city.

19 A Yeah.

20 Q Runs from CLI-00443 to 450. So that's
21 eight pages, inclusive. Let's look at the first page
22 of that. Bottom of the page, a message received from
23 Kate Thomas, 8/6/2016. 8:36 and 4 seconds a.m. Okay.

24 Is this a message from you to Andrew
25 Clinger?

1 A Yeah, it appears to be.

2 Q Okay. And I will read it for the record:
3 "Kelly indicated to Deanna that quote 'someone' end
4 quote, came to her and brought the July 26th letter
5 that I gave to you and told you that we are going to
6 the media. So we are trying to figure out if Kelly is
7 intimidating us without the backup info or if we need
8 to change our strategy. We haven't gone to the media
9 with our attorney letters to the city, the media only
10 has the letter our attorney sent to the AG. But if
11 the city thinks we are going to the media, it might
12 try to go to the media first and control the story?
13 We just need to know as much info as possible. I'm
14 sorry to put you in the middle! You can just say 'no
15 comment' if that feel best."

16 Were you and Andrew fomenting -- had you
17 fomented a strategy to deal with the sexual harassment
18 allegations?

19 A I wouldn't call it a strategy. It's just
20 what do you do next.

21 Q Well, I mean, you called it a strategy in
22 the text message.

23 A Yeah, but I think later on we talk about
24 it's not a strategy. Why do you need a strategy if
25 it's the truth? I think I saw that later on in here.

1 "If you are telling the truth why do you
2 need a strategy." On page 446, the third line down.

3 Q Okay. I mean, did --

4 A I say, "my thoughts exactly". So it's not
5 really a strategy. There is no strategy. It's just
6 telling the truth.

7 Q Okay.

8 A And the letter was a letter that somebody
9 gave to Tillery, who gave to me.

10 Q And then later, let's see, at page 445 --

11 A Oh, no, wait. No, I'm sorry. I didn't
12 write this.

13 Q You didn't write it?

14 A I copied this. This was from Brianna Wolf
15 to Tillery. I copied it and pasted it into a text and
16 sent it.

17 Q Okay.

18 A That is not from me.

19 Q So this is something that you got --

20 A See the first text: "From Brianna Wolf to
21 Tillery". And then I copy and paste it into this.

22 Q Okay.

23 A That is Brianna Wolf talking, not me.

24 Q Okay. And so -- oh --

25 A That is what Brianna said to Tillery.

1 Q This stuff, this stuff that's in gray is
2 stuff that you copied?

3 A No, no, no. But on iPhone if you go into
4 somebody else's message you hold it down, you can click
5 "copy" and then you open up a new message and hit it
6 and you hit "paste" and it looks like I said it. But
7 see here, what's important, because I was like, wait, I
8 don't write that stuff. The first message: "From
9 Brianna Wolf to Tillery," that is to Tillery from
10 Brianna. Brianna said to Tillery: "Kelly indicated
11 that someone came to her and brought the July 26 letter
12 that I gave to you," which further corroborates that
13 Brianna gave to Tillery, the letter.

14 Q Okay. Thank you.

15 A So that is -- yeah.

16 Q Take a look at 445, up at the top there,
17 8:26, "these people are so stupid."

18 Is that a message by Clinger to you, or
19 is that something --

20 A Yes.

21 MS. GESCHEIDER: Tillery.

22 BY MR. MAUSERT:

23 Q All right. Is that a message --

24 A No, that is a message from Andrew to me.

25 Q Okay. And who did --

1 MS. GESCHEIDER: Tillery.

2 BY MR. MAUSERT:

3 Q Deanna?

4 MS. GESCHEIDER: Yeah, I hear you.

5 BY MR. MAUSERT:

6 Q Who did you understand --

7 A This is from Andrew. This right here.

8 Q Who did you understand Clinger was
9 referring to?

10 A This whole corroboration. I have told you
11 that this is not --

12 Q No, which people was he referring to?

13 A The people that are filing. Because we
14 don't believe it to be true.

15 Q My clients?

16 A And again, this is from Andrew to me.

17 Q Okay. All right. So he was referring to
18 Brianna and Deanna and Maureen?

19 A Yes, I believe so.

20 Q Okay. If you look at page 447, you say,
21 "I am excited you get to beat them to the punch."

22 What was that referring to? That's the
23 fourth line down from the top.

24 A That is the All-City message that was sent
25 kind of explaining what happened before it comes out in

1 the newspaper. Right. It's Andrew getting to explain
2 his side or his issue, I guess. And it wasn't really
3 explanatory, it was just --

4 Q Is that the one where you accused my
5 clients of lying?

6 A That he did? No, no, no. This would have
7 been at All-City saying, "I am out", or whatever. I
8 don't remember what the All-City was. I am sure it's
9 in the record somewhere.

10 Q You are familiar with the fact that
11 Andrew Clinger at some point accused my clients of
12 lying, and he said that publicly; correct?

13 MR. SHIPMAN: Objection. Speculation.

14 BY MR. MAUSERT:

15 Q Do you remember that?

16 MR. SHIPMAN: Facts not in evidence.

17 THE WITNESS: I believe so.

18 BY MR. MAUSERT:

19 Q Okay.

20 A I don't remember exactly when or where.

21 Q Okay.

22 A I remember --

23 Q Did you think that was appropriate in the
24 middle of the sexual harassment investigation for the
25 city manager to come out and accuse the complainants

1 publicly of being liars?

2 MR. BEKO: Objection. Form.

3 THE WITNESS: He was being accused of
4 something he didn't believe was true, and in that
5 instance he called them liars. I mean, it's his
6 personal opinion of what he thinks he knew what was
7 going on because it was against him.

8 BY MR. MAUSERT:

9 Q Did you think -- did you think it was
10 appropriate for the city manager publicly to call the
11 complainants liars?

12 A No, but I don't think it is appropriate to
13 file false claims, either --

14 Q Okay. So you didn't --

15 A -- for the record.

16 Q -- think it that was appropriate; is that
17 correct?

18 A No. And I'm sure, in retrospect, he
19 probably would have not said that.

20 Q That's going -- the record's going to
21 read screwed up there.

22 A Right. Sorry.

23 Q If I understand your testimony correctly,
24 you did not think that was appropriate; is that
25 correct?

1 A That's correct.

2 Q Okay. That could have been read either
3 way.

4 A Okay.

5 Q Okay. And then on the middle of that
6 page, 8/7/2016, 9:12 and 31 seconds, you say one word:
7 "Fuckers."

8 Who does that refer to?

9 A Probably, in general, the group.

10 Q Okay. The complainants?

11 A And in regards to the allegations against
12 me.

13 Q Okay. Are you talking about the three --
14 the three women who complained?

15 A Probably two of them.

16 Q And which two?

17 A Present company excluded.

18 Q Which two would those be?

19 A Maureen and Brianna at this point in the
20 game.

21 Q Okay.

22 A Yeah.

23 Q And then at the bottom of the page
24 Clinger says, "people are sick," and you respond,
25 "greedy."

1 A Uh-huh.

2 Q Once again, that refers to who?

3 A In that instance it would probably have
4 been against Robert Chisel, who I thought was trying to
5 get himself in a position of authority and using some
6 of our friends to do so.

7 Q And then on the next page Clinger says --
8 Clinger says "exactly." And then he says, apparently,
9 "greed and envy in this case."

10 And you respond, "greed makes people
11 ugly. Jealousy."

12 That refers to which people?

13 A The people in the -- in the allegations.
14 Your clients.

15 Q My clients. Okay.

16 A Uh-huh. Which I previously stated on the
17 record about the jealousy.

18 Q Okay. And then if you could turn to
19 page 449. Let's see. At the bottom there it says,
20 "Amber has a recording of Maureen telling her/Amber
21 quote, 'the mayor made us do it.'"

22 Who does that refer to?

23 A That is Maureen.

24 Q Who is Amber?

25 A Amber Drlik.

1 Q Okay.

2 A So people would come during the process
3 and say, whatever they would say to say, oh, by the
4 way, we don't think this is true because X or Y. And
5 this is one of those cases where Maureen had said to
6 someone, "the mayor made us do it."

7 And that's in a transcript, I believe,
8 somewhere.

9 Q Let's get the exhibit back to the court
10 reporter intact.

11 A But we are clear that on that message that
12 was not me speaking, that was Tillery.

13 Q Oh, okay.

14 A Thank you. For the record. Or I'm sorry,
15 that was Brianna, not Tillery.

16 Q Oh.

17 A At the bottom of page 1 of that exhibit.

18 Q I guess if I understood technology I'd be
19 really dangerous, huh?

20 A Yes.

21 MR. SHIPMAN: Real quick, it's 12:00. Do
22 you want to do a quick --

23 MR. MAUSERT: Yeah. I have got probably
24 another hour. But, yeah, why don't we go to lunch. Is
25 it 12:00 o'clock already?

1 MR. SHIPMAN: Yeah.

2 MR. MAUSERT: How time flies. Let me
3 segregate this stuff so I don't get mixed up. Moving
4 right along.

5 MR. BEKO: All right, Mark, say 1:15? Is
6 that okay?

7 MR. MAUSERT: 1:15 sounds good.

8 THE WITNESS: Okay.

9 (Noon recess taken.)

10 BY MR. MAUSERT:

11 Q Let's see. After the April 22nd, 2016
12 meeting did you contact my client on a number of
13 occasions and complain about Clinger? Contact Deanna
14 Gescheider?

15 A I could have.

16 Q And did you cry on those occasions when
17 discussing how Andrew Clinger was treating you?

18 A I was pretty mad. It's possible. I don't
19 recall specifically, but --

20 Q Now, there is a couple times that you and
21 Andrew had -- where you raised your voices at each
22 other. Do you recall an incident up at Incline
23 Village about the 2015 budget?

24 A Oh, yes. Yes, I do.

25 Q And tell me about that real quick.

1 A That was an incident where we were aware
2 of the overage, and he was out of town, and in this
3 period of transparency felt we should contact council
4 members and start to talk to them about the fact that
5 we had this overage. We had waited too long, in my
6 opinion, to do that.

7 And so we had made contact with a couple
8 of council members, and Andrew was unhappy about the
9 fact that we did that without him. And so --

10 Q He got upset about that?

11 A He did, yes. And I stand by my decision.

12 Q Did he raise his voice to you?

13 A I don't know if he did. He was not happy,
14 but I don't know if he raised his voice.

15 Q Did Maureen McKissick call you like the
16 next night or that night and commiserate with you how
17 she said it was not fair the way Clinger was treating
18 you?

19 A Yes. I remember that.

20 Q And, now, you had a falling out with
21 Robert Chisel after Chisel took over the budget;
22 didn't you?

23 A No, not a falling out. We were okay. The
24 way that went about was not ideal, which is fine, but I
25 agreed with it. It was the right thing to do at the

1 time.

2 The falling out was the day I got back
3 from Alice Mercado's office and then found out what
4 this whole thing was really about. That's when I told
5 him, voiced my disdain. And haven't really talked to
6 him since other than just in meetings.

7 Q There was a period of -- during which you
8 and Mr. Chisel did not talk. That was about the
9 budget, wasn't that?

10 A I don't know that we didn't talk.

11 Q Okay. What was the difference between
12 the Slack Telegram -- the Slack app and the Telegram
13 app?

14 A The difference?

15 Q Yeah.

16 A I think they were similar. They both did
17 the same thing.

18 Q The major difference was that Telegram
19 deleted the messages more efficiently, didn't it?

20 A I don't know that it did. I honestly
21 don't think that mine were auto-deleted. I don't know
22 if it's a feature you have to turn on. I mean, it's
23 not like Snapchat where they are gone. They were
24 there. So, that, I don't know.

25 Q Did you ever tell Naomi Duerr, excuse me,

1 that Mr. Clinger had been sexually harassing you?

2 A No. She asked me if he ever did
3 anything -- or how did she say it. She said, "did
4 Andrew Clinger ever" -- something about, "do anything
5 sexually that made you feel uncomfortable?"

6 Or something like that. And I said,
7 "absolutely not."

8 And that's kind of when the light bulb
9 went on with me about oh, wow. Okay. So this is the
10 road we are going down.

11 And there is a big difference between
12 being unhappy with somebody as a manager and alleging
13 that they are were a sexual harasser. Big difference.

14 Q Why do you think that Andrew Clinger told
15 Judge Wall -- told you one thing and told Judge Wall
16 another thing about the assignment of duties?

17 MR. SHIPMAN: Objection. Speculation.

18 THE WITNESS: I can't speak for Andrew
19 Clinger, but I -- my best guess would be that at the
20 time he was being interviewed by Judge Wall he was
21 kind of in the middle of the whole -- kind of
22 understanding what this whole thing was about, and
23 after a while he probably more clearly thought about
24 the sequence of events, would be my guess. I can't
25 speak for him because I wasn't in with him and Judge

1 Wall.

2 BY MR. MAUSERT:

3 Q Well, I mean, he told you fairly clearly
4 that Maureen McKissick had maneuvered to obtain the
5 strategic plan and the staff that went along with it.

6 A He said she had a play -- a part in it. I
7 don't think he specifically said she maneuvered for it.
8 That was me. That is my belief.

9 Q Okay. And so you don't think that what
10 he told Judge Wall was true?

11 MR. BEKO: Objection. Form.

12 MR. SHIPMAN: Ditto.

13 THE WITNESS: Been over this a bunch,
14 but, yeah. So we will go over it again.

15 BY MR. MAUSERT:

16 Q That's okay. We don't have to do it.

17 A Okay. Thank you.

18 Q That's okay. I will leave it where it
19 is.

20 A Dead horse.

21 Q Exhibit 20.

22 (Whereupon Deposition Exhibit 20 was
23 marked for identification.)

24 MR. MAUSERT: Sorry to disturb your
25 repose.

1 MR. SHIPMAN: I don't have the Rules of
2 Civil Procedure to keep me awake. So --

3 MR. MAUSERT: That's a sick strange thing
4 when the Federal Civil Rules Handbook is a mechanism
5 to stay awake.

6 MR. SHIPMAN: This is which? I'm sorry.

7 THE REPORTER: 20.

8 MR. MAUSERT: The Federal Civil Rules
9 handbook. Oh, which one is this? 17?

10 THE REPORTER: 20.

11 BY MR. MAUSERT:

12 Q 20. We are up to 20.

13 Okay. Let's see. This is a 2-page --
14 Exhibit 20 is a 2-page exhibit, 427 and 428. And 428,
15 let's see, is that from you? Did you send the, "Holy
16 Paranoia Batman these people are fruitcakes?"

17 A Yeah. Looks like I did, if you look at
18 the page prior.

19 Q And --

20 A Bump down.

21 Q -- you sent that to Andrew?

22 A Yeah.

23 Q And --

24 A This is in the midst of everything.

25 Q Was that to refer to my clients?

1 A Yes.

2 Q Okay. Wow. Look. We are almost done.

3 A Yeah.

4 MR. BEKO: Should have told me it was
5 going to be five minutes, I would have stayed.

6 MR. MAUSERT: I had to gather my wits
7 about me.

8 MR. BEKO: Oh, okay.

9 MR. MAUSERT: Since your objections were
10 so disconcerting and disruptive that I was, you know,
11 fustigated and befuddled by your vast intellect.

12 THE WITNESS: She's like, do I have to
13 write this down?

14 BY MR. MAUSERT:

15 Q What is this? Where -- why is this all
16 screwed up? I see. This doesn't have the -- this
17 doesn't have the -- why does it show up there and it
18 doesn't show up there? Very strange. Use this one
19 since it is probably easier to muddle through it.
20 This is a long one.

21 (Whereupon Deposition Exhibit 21 was
22 marked for identification.)

23 THE WITNESS: Is now a good time to talk
24 about the ecological benefits of double-siding?

25 BY MR. MAUSERT:

1 Q I actually recycle all of my paper. If
2 you want to discuss that, talk to this guy over here.
3 He did a 15,000 page document dump on me of irrelevant
4 documents.

5 Might take you a minute to go through
6 this.

7 A You what? Sorry.

8 Q Might take a minute to go through this.
9 This is 25 pages long.

10 A Okay.

11 Q Excuse me, 26 pages long. Is that right?
12 398 to 423, inclusive. That would be 26 pages.

13 Rather than have you read the whole
14 thing, which is going to be a waste, let's go through
15 it.

16 A Yeah, can you? Thank you.

17 Q Because I don't have -- everything is not
18 relevant. I didn't know what to do. I didn't want to
19 be accused of cutting out relevant parts, so I thought
20 I'd make it one exhibit.

21 For the record, this is Exhibit
22 Number 22?

23 MR. BEKO: No.

24 THE REPORTER: 21.

25 BY MR. MAUSERT:

1 Q 21. And it's 329 to 423, inclusive.

2 Okay. At the -- at the bottom there.

3 MR. BEKO: First page?

4 BY MR. MAUSERT:

5 Q First page, 398. Message by you to Mr.
6 Clinger.

7 A Uh-huh.

8 Q "Please don't take away anymore of my
9 good people."

10 That's on --

11 A Uh-huh.

12 Q -- 7/8. Were you referencng the fact
13 that he took away some of your good people on 4/22?

14 A Yes.

15 Q Okay. And then he says -- oh. You say
16 you are paranoid?

17 A Uh-huh.

18 Q Okay to be paranoid when they are really
19 out to get you. Let me see.

20 A There was a lot going on. Just saying.

21 Q Next page, 399, this is a message in the
22 middle of the page. "Think about it. I am going to
23 get rid of the one person I trust and who I know had
24 my back? No way."

25 That's Andrew referring to you?

1 A Yes.

2 Q And you grammatically correct him?

3 A I know. I am a jerk like that. Sorry.

4 Q "Has my back" in present tense.

5 A Uh-huh.

6 Q Maybe that's not a grammatical correction

7 at all. You are --

8 A I am just stating that, yes, I continue to

9 have your back, but I do --

10 Q Okay.

11 A -- on occasion.

12 Q And then on the next page, page 400, down

13 towards the bottom: "I guess you know who has your

14 back."

15 And he says, "I do know."

16 What did you mean by having his back?

17 A He was being accused of some pretty
18 heinous things, one of them with me, and I stand by

19 him. Even though we had a rocky time and whatnot, he

20 had faith, promoted me into the position that I did for

21 almost -- well, I guess two years or however long it

22 was. And you stand by your boss.

23 Q Okay. And the next page, 401, third line

24 up from the bottom, a message by you to Clinger: "I

25 have a plan." That's July 11th. What plan did you

1 have?

2 A Oh, God only knows. Find out where I am.

3 Oh. No, my plan -- and actually, it was at the urging

4 of -- so I had taken kind of a back seat. You know,

5 there is a lot of stuff being alleged. It's a tough

6 position to be in when you are being accused of

7 something so heinous and your credibility is being

8 questioned, and my plan is to get back to the table.

9 That was actually my whole -- I am going to go in there

10 every day, I am going to hold my head up high, and I am

11 going to -- my plan was to pretend like nothing

12 happened. It was harder -- easier said than done. But

13 that was the plan.

14 There was no strategy. That was the other

15 people that were referring to that in that previous

16 e-mail. I didn't have a plan or strategy, it was just

17 a personal way of doing business.

18 Q Okay. Let's take a look at page 404.

19 MR. BEKO: One more.

20 THE WITNESS: Sorry.

21 BY MR. MAUSERT:

22 Q Towards the bottom of the page. Message

23 sent by Andrew Clinger: "Don't stress Deanna told

24 Soto today she wouldn't be around much longer, and

25 Robert told the RPPA he wouldn't be around much

1 longer. The rats are jumping ship."

2 And you respond: "God I hope you are
3 right."

4 That refers to Deanna Gescheider. Was
5 that your understanding?

6 A Yeah.

7 Q And then Jason Soto, the Acting Chief of
8 Police?

9 A At the time he was acting assistant, or he
10 was Assistant Police Chief, I believe, but, yes.

11 Q I think he was acting at that point,
12 wasn't he?

13 A Was he acting? I thought he was
14 assistant. Anyway he is police chief now. So, yes,
15 that person.

16 Q Pretty good, with an associate's degree
17 you get to be Chief of Police.

18 And Robert refers to Robert Chisel?

19 A Uh-huh.

20 Q What is RPPA? Is that the Reno Police --

21 A Professionals Association, yeah.

22 Q -- Professionals Association. And the
23 rats refer to my clients?

24 A Yes.

25 Q And so you hoped that they would leave?

1 A Yes. At the time I did. I did.

2 Q Okay. The next page, 405: "She's so
3 fake", that's you in the middle of the page.

4 Does that refer to the mayor, Mayor
5 Schieve?

6 A Yes.

7 Q Okay. "Not going to lie, it hurts me."
8 And then you say, "makes me ill."
9 What makes you ill?

10 A The fact that someone can be fake to your
11 face.

12 Q Okay. And so we will go to the next
13 page. Message, middle of the page -- not middle.
14 Towards the top, "I know Robert is a snake."

15 That's sent by Clinger. I didn't
16 understand that, right underneath that you respond:
17 "You have 1000 times more depth and substance than
18 her."

19 A So these are coming in fast and furious.
20 I think I was -- I am trying to think where I was on
21 that date. But we were still back up talking about the
22 mayor.

23 Q Okay. So he --

24 A Yeah. So it is like, you know, things
25 are --

1 Q You were talking about the mayor, he was
2 talking about Robert Chisel? Is that your
3 understanding?

4 A Uh-huh. Yeah. Sorry, it jumps around.
5 Texting is not sequential all the time.

6 Q Take a look at page 410. This is a --
7 towards the bottom of the page, fourth up from the
8 bottom. This is July 18th, 2016: "It's consuming
9 us." What does "it's" refer to?

10 Is that the whole situation with the
11 complaints?

12 A Let me catch up. Hang on. Yes.

13 Q And then Clinger comes back and says,
14 "It's really driving me crazy."

15 You understood he was referring to the
16 sexual harassment complaints; correct?

17 A Yeah. The whole mess. So sexual
18 harassment complaints, he is out on leave, people have
19 just been moved, and there is a whole lot of things
20 that happened at once.

21 Q Was he out on leave on the 18th?

22 A I --

23 Q I don't think he was out yet. When did
24 he go out on leave, to your recollection?

25 A Me?

1 Q Yeah.

2 A I don't recall. This would be right
3 around the time. Don't you have the timeline?

4 MS. GESCHEIDER: August 8th.

5 BY MR. MAUSERT:

6 Q Oh. Does August 8th refresh your
7 recollection?

8 A Yes, sure. I don't know.

9 Q 8/8. My friend got married on
10 August 8th, '88.

11 A My girlfriend, my best friend from third
12 grade, her birthday, she got a cool necklace, it had
13 8/8/88 on it.

14 Q Be careful putting that up on your car,
15 you know, 88 is Heil Hitler. White Power stuff. Tom
16 knows about that. He is a white power kind of guy.

17 A I thought it was 666 or whatever. I don't
18 have it.

19 MR. BEKO: I am a Paiute/Serb cross.
20 About the farthest thing from white you can be.

21 BY MR. MAUSERT:

22 Q I saw a guy driving around the other day,
23 I wanted to shoot him. He had 88 on the back of his
24 car.

25 A Maybe it was the year of his car.

1 Q No. He had other stuff on his car, too.
2 He was a white power guy. He needs to go someplace
3 else.

4 A Shooting people is not nice.

5 Q Neither are the Nazis. Okay.

6 Let's see. Take a look at 411. Let's
7 see, sixth down: "I just tried not to play into it.
8 They can both -- they can both be crazy and very, very
9 negative."

10 Who is -- who are you referring to?

11 A I don't know. I don't know. I can't
12 tell.

13 Q Neither could I.

14 Let's take a look at the next page,
15 page 412. This is a little clearer. Middle of the
16 page, message from you: "The Deanna thing surprises
17 me though. I feel like she's turned against me.
18 Thinks I should join in because I've been mistreated.
19 It's bullshit."

20 You also -- there is no response, and you
21 follow --

22 A Probably -- look, it's the same time, so I
23 didn't wait for a response. I am just hammering out
24 messages at that point. If you can see the timing on
25 that, boom, boom, boom, I am just firing them away.

1 Q "Fuck them. They can dig their own
2 graves. Mayor better be smarter."

3 Were you referring to my clients?

4 A Yes.

5 Q Okay. And then a little farther down the
6 page, Mr. Clinger sends you a message that says,
7 "witch hunt!"

8 Was it your understanding he was
9 referring to the investigation and the allegations?

10 A Yeah, I think so.

11 Q Okay. Next page. Okay, I guess that's
12 self-explanatory. I don't need to ask a lot of
13 questions about that okay. Okay.

14 416. "Control" -- third message down:
15 "Control has been lost. Question: Is filing a false
16 sexual harassment claim cause for termination?"

17 What were you referring to as far as
18 "control has been lost"? What did you mean by that?

19 A I don't know. But like I said, it was a
20 tumultuous time. And then I further ask, "is filing
21 false sexual harassment claims a cause for
22 termination," because I happened to know that the
23 claims against me were not legitimate.

24 But I understand. Again, we go back to
25 the training, that it's a protected action. And so we

1 have got to let it run its course. So this is clearly,
2 again, me venting, or which apparently is
3 psychologically not a great thing to do, but I was
4 doing it nonetheless back then with Andrew about this
5 whole thing.

6 Q On July 19, 2016, what did you understand
7 the nature of the claims against you were?

8 A I knew the -- I believe I knew the
9 rustling of clothes because that came out early on, I
10 think. The timing is hard. The sequential --

11 Q But that's not really a claim against
12 you. I mean --

13 A Well, it was claiming -- sorry. The claim
14 was -- well, there were a couple of things. That I was
15 having an inappropriate relationship with my boss,
16 which caused others to be harmed, and that I wasn't
17 competent to do my job, and so that I slept my way into
18 the position. Yeah.

19 Q Okay. What did you understand -- what
20 was your understanding as to how others would have
21 been harmed? That the allegation was that others were
22 being harmed by virtue of an inappropriate
23 relationship?

24 A Because while I was having inappropriate
25 relationships with the boss, my work was -- I was just

1 apparently sitting back, not doing much, and my work
2 was being allocated to Ms. McKissick. Which is what I
3 had been told.

4 Q Okay. So that was your understanding on
5 July 19th, and that upset you?

6 A Yes. It would probably upset anyone when
7 they heard something about that, especially if it
8 weren't true.

9 Q Sure. Okay. All right. And then you
10 understood that -- on July 19th did you understand
11 that Ms. McKissick had made an allegation that she was
12 being ostracized in the workplace as a result of that
13 dynamic?

14 A No. I think that evolved a little later.
15 Or at least I became aware of it a little later.

16 Q Okay. You understood on July 19th that
17 Ms. McKissick was complaining about being overloaded
18 with work? Or what was your understanding?

19 A Which was interesting. Because she had
20 just been given this new responsibility, so it would
21 have been April 22nd or whatever that she had been
22 given a new responsibility.

23 Q Sure.

24 A And the last dissemination of work was she
25 was asked to host the Urban Land Institute was coming

1 into town to do a Virginia Street Corridor Study, and
2 she declined to do it. She said she had too much work.
3 So I got that project.

4 Q Okay. And let me back up.

5 On July 19, 2016, what was your
6 understanding of what Ms. McKissick was complaining
7 about?

8 A I can't recall on that specific day. It's
9 been two years, and there's been a lot of things
10 alleged.

11 Q All right. So then if you could describe
12 for me what your initial understanding -- what it was
13 she was complaining about, and how your understanding
14 evolved.

15 A So again, it was -- my understanding was
16 that because I was having inappropriate relationships
17 with my boss that she was bearing the brunt of getting
18 work product. That she was doing my work that I wasn't
19 capable to do in the beginning -- in the first place,
20 according to her.

21 Q Okay. And did -- then your understanding
22 eventually evolved in that she was complaining about
23 you isolating her and ostracizing her?

24 A Yeah. I think that evolved because it was
25 proven that I wasn't having a relationship with my

1 boss, and it was proven that she was getting adequately
2 compensated for doing the work that she was assigned
3 that, in my opinion, she asked for. And that -- that
4 barring that there was nothing there for sexual
5 harassment or harassment in general she was going onto
6 the fact that she was being ostracized.

7 Q Okay. When did you acquire the
8 understanding that she had started complaining about
9 being ostracized; do you remember?

10 A No, I don't remember. Again, I tried
11 really hard to make sure that it was -- you know, she
12 was -- she had the staff she had, they used to be mine,
13 they came to me and I would tell them you need to be --
14 you know, you need to just go with it, do the best you
15 can, see what happens.

16 Q Okay. Let's turn to page 417. One, two,
17 three -- five. Five messages down from the top. A
18 message from you on 7/20.

19 A I can't read that first part.

20 Q "Put them on admin leave till this is
21 sorted out? Can we?"

22 Were you suggesting that my clients were
23 to be put on admin leave?

24 A I believe so.

25 Q Okay.

1 A Yeah. It was -- it was a difficult time
2 in the office. There were a lot of tears. There were
3 a lot of breakdowns. There was a lot of interruptions
4 during their time. A lot of people were --

5 Q Who was crying?

6 A -- coming to me complaining of people
7 crying in the middle of conference rooms and all this
8 sort of thing. And I'm trying to maintain decorum in
9 the middle of -- you know, trying to keep the natives
10 from revolting in the midst of what was a pretty big
11 issue for the City of Reno at this time.

12 Q Okay. Let's -- did you ever see Maureen
13 cry in the workplace?

14 A No.

15 Q Let's see. Let's turn to page 418.
16 That's a message by Clinger, fourth up from the
17 bottom: "They will still lose this." And he says,
18 "and I am going to pursue -- and I am going to pursue
19 my legal options."

20 Then you say, "I am talking to Derek
21 tonight about getting a attorney."

22 Who is Derek?

23 A That's my husband.

24 Q Oh, okay.

25 A Yeah.

1 Q Do you remember these communications as
2 you are going through these?

3 A No, not specifically. This was -- I mean,
4 I think it was a -- this was the heat of the whole
5 thing, right? I mean, this was when I had found out --
6 I can't remember what the date of the Mercado interview
7 was, but that's when I first found out, and things
8 start evolving, and you are just -- you are in survival
9 mode at that time. So my memory is not super-sharp.
10 Not super-sharp on dates, anyway, let me put that on
11 the record.

12 Q Mercado -- let's see. When did Mercado
13 interview you?

14 A What's the date? I don't have all this
15 stuff written down.

16 Q When did she interview you? I think it
17 was the 12th, wasn't it?

18 A I don't remember.

19 Q The date of the report is the 21st.
20 MS. GESCHEIDER: I have got it here.

21 BY MR. MAUSERT:

22 Q You got me curious here.

23 A People were --

24 Q Yeah. So it was July 12th.

25 A Yeah. So this is, what, eight days later.

1 Q Right. Okay. So that jogs your memory a
2 little bit?

3 A Well, yeah. You are kind of going through
4 the whole what-the-hell-is-happening-right-now motion.

5 Q Mass confusion?

6 A Yeah. Which now I see why you -- this is
7 highlighted on our page.

8 Q Actually, I didn't do that. Somebody
9 else at my office without my permission altered the
10 document, and now it's --

11 A Well, I can still read it. Now I see.
12 But staff had come to me and asked me not to let her
13 come to their floor. So that's why.

14 Q Okay. Let's take a look at page 419.

15 A Okay.

16 Q Top of the page. Message from you to Mr.
17 Clinger?

18 A Uh-huh.

19 Q Quote: "And you," block letters, "BETTER
20 FUCKING NOT" end block letters, "let Maureen move and
21 poison another floor."

22 A Uh-huh.

23 Q Do you recall sending that message?

24 A Yeah. I recall it was in response to
25 staff coming to me and begging me not to have her go

1 down to 12. It wasn't so that I could harass her up on
2 15, which you had alluded to earlier. I will make that
3 clear.

4 Q Who asked you not to move her down to the
5 12th floor?

6 A I don't specifically recall. It was a lot
7 of angst at that time. It might have been Lynn Barker,
8 but I am not sure. She was the sustainability manager.

9 Q And then the next message is still from
10 you, it says: "She does NOT," not is in blocked
11 capital letters, "get her way. Not this time."

12 Clinger says: "You may be correct."

13 So you -- was Andrew Clinger at this time
14 thinking about moving Maureen as a -- as a part of the
15 solution?

16 A I --

17 MR. SHIPMAN: Objection. Speculation.

18 THE WITNESS: Sorry.

19 BY MR. MAUSERT:

20 Q Well did Andrew Clinger say anything to
21 you about Maureen moving?

22 A No, I think it was preemptive. Because
23 people came to me, you know, the rumor mill, "I heard
24 she's moving back down. Don't let her come down here",
25 kind of thing. So the good office is -- she was in a

1 relatively small office up on 15, it probably didn't
2 help that it was my first office at the city.

3 And so she had moved from a corner office
4 on 12 originally to go up to 15. And my guess is she
5 probably wanted a better office.

6 Q Well, I mean --

7 A Because she was now a director.

8 Q -- you understood there was a lot of
9 tension between you and Maureen up on the 15th floor,
10 right?

11 A Yeah, but it wasn't bad. I mean, you
12 just -- I ignored the fact that there was an issue.
13 She was on the other side of the 15th floor. I mean,
14 other than being in the hallway.

15 Q Were you aware at this time, on July 20th
16 that you sent this text, that Maureen was not happy on
17 the 15th floor?

18 A I was aware that there was a rumor that
19 she was going to be moved.

20 Q Okay. Were you -- did you have any
21 indication that she was not happy on the 15th floor
22 when you sent this text?

23 A Yeah, because she wasn't happy moving up
24 there originally. So that, I had known for some time.

25 Q Okay. And were you aware when you sent

1 this text that a number of people on the 15th floor
2 were not talking to her?

3 A No, I didn't know that. I didn't see
4 that.

5 Q Okay.

6 A And I never asked for that.

7 Q All right. Then down about, was one,
8 two, three, four, five down, you say: "I better stop
9 in case texts are discoverable."

10 A I'm smart like that.

11 Q That's a generous compliment to yourself
12 in the light of the documents that I have.

13 A Clearly, I know these are discoverable,
14 but --

15 Q But what did you -- what was in your head
16 at that time? Were you going to say some worse stuff?

17 A I was ranting, right? I am ranting, and
18 it doesn't put you in a very good light. But again,
19 it's a private conversation between somebody and
20 myself, that -- and again, I will go back to and stand
21 by that it was to keep me sane for the rest of the
22 world, that I got to rant to my boss.

23 Q Is that different than venting?

24 A No. Same thing to me.

25 Q Okay.

1 A Achieves the same outcome.

2 Q Let's take a look at 421. I didn't
3 understand is this message. Middle of the page:
4 "Robert and Deanna, are ALWAYS," that's in caps,
5 "busting my chops. 'What does Scott even do all day?'
6 'He's not as busy or overworked like us,'" et cetera.
7 Who is Scott?

8 A So that was indicating that I am aware of,
9 because I would constantly hear rumor allegations
10 against Scott Gilles. He is legislative relations
11 manager and he is very well liked by all of the council
12 members, and he has a nice -- the other nice corner
13 office on the 12th floor and he is busy at the
14 legislature and does special projects, but he is not
15 walking around saying how busy he is all the time.

16 Q Okay.

17 A And so he is often accused of what does he
18 even do all day? You know.

19 Q So I didn't understand who that was.

20 A Yeah. That's me talking about --

21 Q Let's go to the last page, 423. Towards
22 the last third of the page, message from you, 7/20.
23 You guys were busy on 7/20, weren't you?

24 "I want to know what the hell my rights
25 are."

1 A But look at the time. It's after hours.
2 It is not like I am doing this all day. Just saying.

3 Q It is like you are doing it all day, but
4 it is after hours.

5 A No, I understand. Yes. Doing other
6 stuff, too.

7 Q "What are our rights when we are being
8 wrongfully accused of a sexual harassment claim?"

9 And then you say, "Isn't Karl the one we
10 would ask this question, question?"

11 And then Clinger says: "I wouldn't ask
12 Karl."

13 Why -- do you know why he would say such
14 a thing that he wouldn't ask Karl?

15 A I would guess because you have got current
16 employees and you have got the manager, and everybody
17 is -- you know, Karl is the attorney for the city and
18 so rather than diluting that, you know, looking out in
19 my best interests, here we sit today with my own
20 attorney. That's my guess why.

21 Q Is he a good golfer?

22 A He plays. I don't know if he is good.
23 You'd have to ask John.

24 MR. BEKO: Talking about me?

25 THE WITNESS: Karl? Talking about Karl

1 or Beko?

2 BY MR. MAUSERT:

3 Q Talking about Tom.

4 A No, I have not played with him. Our
5 relationship is professional.

6 Q Did you ever hear Karl -- I may have
7 asked you this, if I did, I apologize.

8 Did you ever hear Karl comment on the --
9 this investigation?

10 A No. Karl was very tightlipped about it
11 other than the time when he came up to give us advice
12 on or input legal advice on retaliation, and all of
13 those sorts of things. He did that equally across.
14 But he was very -- all the attorneys have been very
15 professional in this regard, even though --

16 Q Even John?

17 A Well, yes. Especially John.

18 Q I think he is the most professional you
19 got.

20 A He is pretty good. His mom's not too bad,
21 either.

22 Q Of course it's a low bar, but anyway.
23 Here. Let's see. Let's take a look at
24 this. Let's get this marked.

25 (Whereupon Deposition Exhibit 22 was

1 marked for identification.)

2 BY MR. MAUSERT:

3 Q Oh, okay. If you look at bottom, this
4 is --

5 A What is this?

6 Q -- a part of Judge Wall's report. His 96
7 page, \$225,000 magic report. And it's Bates stamped
8 number COR-00049 to 52, inclusive. Internal numbers
9 are different. The internal numbers are 48 and 51,
10 inclusive. The usual confusion.

11 Why don't you take a minute, and you
12 started -- you are at the very bottom of the first
13 page.

14 A Yeah. You want me to read just my piece?

15 Q Yeah.

16 A Okay.

17 Q Have you had a chance to read the whole
18 thing?

19 A I have.

20 MR. BEKO: Go ahead.

21 BY MR. MAUSERT:

22 Q Quicker than him, huh?

23 A Yeah. Speed reader.

24 Q Younger, too.

25 A He paid more attention.

1 Q Brain hasn't solidified yet.

2 The -- let me see. Okay. I only have a
3 few. Is there anything in here that Judge Wall got
4 wrong?

5 A No. Do I get to comment on Robert's
6 section?

7 Q Sure. Well, no. I am talking about you,
8 not --

9 A Okay. Sorry. You have the third page, I
10 don't.

11 Q Which one is Robert's section?

12 A He is the last page.

13 Q Oh.

14 A Yeah.

15 Q Let's talk about you first, then we can
16 get to what you were going to say. You read the whole
17 thing, even that, too, huh?

18 A I'm sorry.

19 MR. BEKO: Very specific question.

20 THE WITNESS: Okay.

21 MR. BEKO: Very broad and across the
22 board. If there is anything that's not accurate, then
23 you need to comment on it.

24 BY MR. MAUSERT:

25 Q Is there anything in here that -- I am

1 trying to short-circuit this, that's why I'm --

2 MR. BEKO: I get that, Mark, but your
3 question is so broad, and she's going to have to look
4 at it much more carefully if you want an answer to
5 that question.

6 BY MR. MAUSERT:

7 Q Okay. Why don't you go through and
8 critique it and tell me if there is anything that
9 Judge Wall got wrong, even partially wrong. Or if you
10 want to, you think he spun it the wrong way. I don't
11 mean spin in a negative sense --

12 A Sure.

13 Q -- I mean he is regurgitating what people
14 told him. So if that interpretation is off, let me
15 know.

16 A So in Wall's description "not a very
17 competitive process" --

18 Q Right.

19 A It was an internal appointment. Or
20 internal -- I guess you had to apply and interview and
21 all that. The previous appointments of those positions
22 were far, far less competitive, because there was no
23 process.

24 So I'd just like to put that on the
25 record.

1 Q Sure. Do you have my questions? Where
2 the heck are they?

3 A I don't think I was agitated during the
4 interview. I think I was upset. I think that's a
5 different word. Bottom of page 50, last paragraph.

6 Q Sure.

7 A Agitated in some ways that I was kind of
8 snarky. Okay. Those are my comments.

9 Q That's it?

10 A Yeah.

11 Q Everything else is essentially accurate?

12 A I think so, and it's been recanted today
13 as well.

14 Q You mean recounted?

15 A Recanted. Restated.

16 Q Recant is when you take something back.

17 A Okay. Recounted. Re-corroborated.

18 Q Okay.

19 A Reiterated.

20 Q Okay. Because it didn't make any
21 sense --

22 A Yeah.

23 Q -- so now I am going to ask a whole bunch
24 of questions about that.

25 A I didn't mean to --

1 Q I figured you were not using the correct
2 word.

3 A Sorry. Apologies.

4 Q What was the question I had? I had a
5 question. There was some devastating inquiry that I
6 forgot. Oh, I know. Let's see.

7 When you started out as assistant city
8 manager which departments did you supervise?

9 A I had -- well, at the time I had Budget,
10 Agenda Management, Parks and Rec. I can't remember if
11 I had Parks and Rec right away, or if that got moved
12 over to me from Bill Thomas after I was put in place.
13 I had Legislative Relations. I had Special Events.
14 And I had management analysts within the manager's
15 office.

16 I think that's it.

17 Q And as of July 2016 which departments did
18 you have? Did you supervise?

19 A Less budget.

20 Q So you didn't have budget?

21 A No. And budget got moved into finance.

22 Q Okay.

23 A Yeah.

24 Q Okay.

25 A But I still had a part in it, obviously,

1 on behalf of the manager's office which is I had been
2 doing it. What was the date you asked, though? Is it
3 after --

4 Q July 2016.

5 A So that was after the April 22nd
6 re-allocation?

7 Q Yeah.

8 A So then that took out four people. Not
9 big sections, but four people.

10 Q Okay. So as of July 2016 what --
11 which -- what were you directly responsible for?

12 A The Parks and Rec Department, the agenda
13 process, Legislative Relations, Special Events, and we
14 took on Arts and Culture, and then various special
15 projects that I had been assigned, which is when that
16 move was made one of the rationale -- one of the
17 reasonings that Andrew gave was that he needed me to be
18 more available for special projects because I was
19 spending a ton of time on budget. It's a huge, huge
20 undertaking.

21 Q Sure.

22 A So --

23 MR. MAUSERT: Why don't we take a little
24 break. I need to consult with my client, and I think I
25 am almost done.

1 THE WITNESS: Great.

2 MR. MAUSERT: John, do you have a lot of
3 questions?

4 MR. SHIPMAN: Oh, no. I am good.

5 MR. MAUSERT: What's that?

6 MR. SHIPMAN: I'm good. No.

7 (Brief recess taken.)

8 BY MR. MAUSERT:

9 Q I have a little bit more. Just a little
10 bit more.

11 A Okay.

12 Q You alluded to mistakes made by Maureen
13 McKissick; what were you talking about?

14 A It was -- the one that I can specifically
15 recall most recent was there was a white paper on
16 affordable housing, I believe it was the subject, and I
17 saw it on -- having worked with her over the years, I
18 saw it on the printer, and looked at it, and flipped
19 through it because, you know, you grab your stuff, and
20 there is all kinds of stuff on there. And I thought,
21 huh, this is a lot of really detailed information to be
22 authored. And I looked in the back and there was no
23 citations of any kind.

24 So I -- and I saw her name on it, and I
25 saw Tillery Williams' name on it, so I Googled it. And

1 sure enough, it was right out of Wikipedia with the
2 exception of the beginning sentences of each paragraph
3 changed.

4 I was, like, gosh, that's too bad. You
5 really should cite that if you are going to write a
6 five page white paper on affordable housing, that you
7 should cite your source.

8 So that was one example that --

9 Q That's not really a mistake, that's a
10 failure to attribute credit.

11 A Yeah. You are falsely representing that
12 it's your work when it's not.

13 Q Okay.

14 A And actually, interestingly, Tillery had
15 done the same thing and gone to her and said he didn't
16 want to be on that, and she actually took her name off
17 and left just him on. So he was asking me, "what can I
18 do? This is not fair. This is not my work. It is
19 not."

20 So that was just one example.

21 Q When is the last time you spoke with
22 Andrew?

23 A Last week. We are working on a project
24 with the governor's office. The -- Washoe County is on
25 the Northern Nevada Adult Mental Health Facility, and

1 he is the governor's project lead, and we are going
2 after a bunch of the homes on there to expand the
3 county's Crossroads program and move the women and
4 families from the downtown Record Street facility onto
5 that campus. And so we are working on that project.

6 Q You mean there will be less homeless
7 people by my house?

8 A Do you live downtown?

9 Q I live right next to the freeway on
10 Evans.

11 A So the idea is to move the composition of
12 folks that are women and children from downtown,
13 because we shouldn't have mixed populations to begin
14 with, to move them to the NAM's campus so -- where they
15 are better suited for care.

16 Q I'd prefer if you move the violent old
17 guys.

18 A So then the idea is now I have got more
19 space to keep them inside and close down the campus,
20 and they are less visible, which is the whole idea.
21 Because they are pretty visible downtown. It's
22 disruptive for businesses.

23 Q And they come on my porch.

24 A Yeah.

25 Q Let me see.

1 The deletion that went along with
2 Telegram, that wasn't really operational, wasn't it?
3 That was automatic, that was part of the deal?

4 A I never watched my texts delete, so I
5 don't know what that -- it's been a while since we have
6 used it. So are you saying that like once you typed
7 something it would delete?

8 Q When you sent it, it deleted it
9 automatically, didn't it?

10 A I don't think so.

11 Q What was your password for Telegram?

12 A I have no idea. Probably one of my
13 standard passwords.

14 Q Password for Slack?

15 A Absolutely, no. I don't remember my
16 PayPal password let along those. I am sure they are in
17 my record keeper.

18 Q Okay. I think I am done. Let me just
19 real quick look at my questions here. Oh, I know.

20 When exactly did you find out the results
21 of the Mercado investigation; do you remember?

22 A I know we were waiting, and I had asked
23 Karl before, and he said it was coming through HR, I
24 think, or maybe I have got that backwards. It might
25 have been -- but I got them when everybody -- actually,

1 I think I got them after council members got them,
2 which I don't think is quite fair. I don't recall the
3 exact date, though. But it was -- I didn't get any
4 information previous to anybody else. Actually, to my
5 disdain, it was after.

6 MR. MAUSERT: I guess I am done. I don't
7 have anymore questions.

8 MR. BEKO: Okay.

9 MR. MAUSERT: Thanks you guys.

10 MR. SHIPMAN: Thanks so much.

11 MR. BEKO: Mark, can we put this on the
12 record? Can you get the deposition -- are you having
13 this transcribed?

14 MR. MAUSERT: Yeah.

15 MR. BEKO: Can the deposition be sent to
16 me for signature and return?

17 MR. MAUSERT: Sure.

18 MR. BEKO: Okay.

19 (The deposition adjourned at 2:18 p.m.)

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I, KATE THOMAS, hereby declare under penalty of perjury that I have read the foregoing pages 1 through 212; that any changes made herein were made and initialed by me; that I have hereunto affixed my signature.

Dated: _____

KATE THOMAS

ERRATA SHEET/CORRECTIONS

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1 STATE OF NEVADA)
) ss.
 2 COUNTY OF WASHOE)

3 I, MICHELLE BLAZER, a Certified Court
 4 Reporter for the State of Nevada, do hereby certify;

5 That on Monday, the 30th day of July,
 6 2018, at the hour of 9:00 a.m. of said day, at the
 7 offices of Bonanza Reporting & Videoconference, 1111
 8 Forest Street, Reno, Nevada, personally appeared KATE
 9 THOMAS, who was duly sworn by me, was thereupon
 10 deposed in the matter entitled herein, and that before
 11 the proceeding's completion the reading and signing of
 12 the deposition has been requested by the deponent or
 13 party;

14 That the foregoing transcript, consisting
 15 of pages 1 through 215, is a full, true, and correct
 16 transcript of my stenotype notes of said deposition to
 17 the best of my knowledge, skill, and ability.

18 I further certify that I am not an
 19 attorney or counsel for any of the parties, nor
 20 relative or employee of any attorney or counsel
 21 connected with the action, nor financially
 22 interested in the action.

23 DATED: At Reno, Nevada, this 13th day
 24 of August, 2018.



25 MICHELLE BLAZER, CCR #469 (NV) CSR #3361 (CA)

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August 13, 2018

Kate Thomas
C/O Thomas Beko, Esq.
ERICKSON, THORPE & SWAINSTON
99 Arroyo Street
Reno, Nevada 89509

In Re: McKissick v. City of Reno, et al.

Dear Ms. Thomas:

This letter is to inform you that, pursuant to Nevada Court Rule 30 (e), the deposition given by you on Monday, July 30, 2018, in the above-mentioned matter is ready for reading and signing at the offices of Bonanza Reporting & Videoconference Center, 1111 Forest Street, Reno, Nevada 89509 (Telephone: 775 786-7655). Our office hours are 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m. Monday through Friday.

You may change any answer either by appearing in person or by a signed letter to me at the address listed in the previous paragraph, and may approve the transcript by signing it, or choose not to read and sign the transcript, in which event after thirty (30) days from today's date the deposition may be used by the parties for any lawful purpose.

Sincerely,

MICHELLE BLAZER, CCR #469
Bonanza Reporting & Videoconference Center
1111 Forest Street
Reno, Nevada 89509
(775) 786-7655
depo@BonanzaReporting.com

Cc: Deposition transcript

1 coming from or what the intent was. And you're wondering how
2 big of a scope it is. Who has this. I mean there's lot of
3 things going through your mind at the time, and, you know,
4 here I am sitting in your office with a full day of meetings
5 ahead of me and trying to keep yourself gathered and collected
6 while this is continuing to come in various forms; phones
7 start ringing, text start coming in. So, yeah.

8 Q You mentioned colleagues and coworkers bringing
9 these things. Can you give us an example. Is it -- were
10 these coworkers, you know, what I would consider the same or
11 similar level, high level of people, or was it a wide range of
12 people?

13 A Oh, it was my entire office. The intern that I had
14 maybe met one time got one. And that's when I was starting to
15 wonder, how did all of these get distributed internally?

16 And then I start getting calls or texts from outside
17 individuals, and then your stomach just plummets because
18 you're thinking, Oh, my gosh, this is something that's
19 happening more than just at my workplace which is bad enough.
20 And now I'm getting calls from the executive director of a
21 local nonprofit I work with and other folks. I didn't know at
22 the time, obviously, how far reaching it was, but it was
23 definitely within my entire office, the manager's office, HR.
24 Obviously, they were continuing to get it in.

1 The next day I had lunch with, like, a department
2 head and he brought one to me stating concerns. So I knew
3 that now at that point it had gone to department heads, yeah.

4 Q I want you to turn to Exhibit No. 1 in the book.
5 And Exhibit No. 1 also Exhibit 2, 3, 4 and 5, they are all
6 photographs that have been admitted into evidence that were
7 confiscated by the United States postal inspector.

8 My question for you on this, when you were given the
9 packets by your coworkers and colleagues, did they appear to
10 be similar to this with having an address written in the
11 middle and a white sticker for return with a line through
12 where a name would normally be?

13 A Yeah. Some of them I noticed are written in red ink
14 and some were written in -- I think it was black or blue. I
15 think it was black. I don't remember. But they all looked
16 like this, the name crossed out, same address. At least the
17 ones I saw.

18 Q On that first day that you were made aware of this,
19 did you pay any attention to the return address?

20 A Oh, of course. First thing you do is you Google
21 that, yeah.

22 Q So you didn't know it. You just looked at that it
23 was just an address, right?

24 A Right.

1 Q So if I heard correctly, you Googled it like we all
2 do?

3 A Yes.

4 Q And whose address was that?

5 A My former colleague, Andrew Clinger's.

6 Q And when you saw that it was Mr. Clinger's address,
7 what affect did it have on you?

8 A I didn't think that it came from him, so that sort
9 of added to the turmoil, knowing that it wouldn't come from
10 him because, you know, part of it is stuff that makes him look
11 unfavorable.

12 So then you just wonder what it -- you know, what is
13 this? And of course the thought process starts spinning
14 about, who could have done this. And of course all of my
15 colleagues as they are bringing in are saying, Who would do
16 this? What is all of this about? And I didn't have an
17 answer. I didn't have an answer.

18 Q So that first day, going back to the first day and
19 people start bringing those and Manager Brown kind of
20 acknowledged that this was going on and you were aware that HR
21 was getting involved, did you provide the packets that were
22 given to you to HR?

23 A I gave them to Manager Brown.

24 Q You gave them to Manager Brown?

1 A Yeah.

2 Q Okay. Anything else that went on that first day?

3 A I think the first day was when Manager Brown
4 involved the sheriff, I believe, because understanding that
5 the breadth of this, it's disturbing to the work place and all
6 of the people that received it. So I believe he wanted to
7 look into it. I believe that was the first day.

8 But, no, I had a couple of meetings, got some calls
9 from other folks that afternoon and evening and just, you
10 know, went about working.

11 Q And then the following day is a Tuesday?

12 A Yeah.

13 Q May 4th, what happened on that day?

14 A I believe -- I don't exactly recall, I'm sorry. But
15 I believe that the -- so there was two sheriffs investigators
16 that came to talk. I don't know if it was Tuesday. It might
17 have been. Sorry, the days are -- this was a while ago. So I
18 went be through the whole thing with them, how I heard about
19 it, kind of what I'm telling you right now, kind of just the
20 sequence of events that occurred. I believe that's what
21 happened the next day.

22 Q Going back to that night, you know, when you went
23 home, what was that first night like?

24 A It's one of those Oh, my gosh, here we go again.

1 This one a little more cryptic because I'm not sure where it's
2 coming for or why. I've been at the county for, you know,
3 close to four years at that point doing good work, have great
4 relationships with every person that I work with. So just
5 sort of rehashing it with my husband who is, of course,
6 supportive, thankfully. Didn't talk about it to my kids. It
7 was one of those things where you sort of go about your
8 business at home and try to bury it and be a good mom and wife
9 but try not to bring home your work drama to my husband, but I
10 did tell him that I was really concerned. I mean, at the time
11 I thought there was maybe 20 or 30 of these things, maybe 40,
12 so that's concerning. So we talked about that.

13 Q Were you concerned for your safety?

14 A I would say at that time I was becoming concerned
15 about my safety. I mean, you know, something like this is
16 perplexing. You don't understand where it comes from, so you
17 don't know what else is coming, and that's a little bit
18 disconcerting and certainly unsettling. I will say that the
19 more of these that came in and the more folks that I talked
20 to, it became apparent that there was some significant effort
21 behind this, and that's when I became pretty concerned.

22 Q At a certain point in time, did you come to an
23 understanding of how many packets were sent out?

24 A Yeah. When we met to review the video I believe is

1 when I was told how many there were, and that is -- it was a
2 pretty daunting number. I thought it was a lot of effort for
3 50, but then you start, you know, doing the math in your head,
4 the cost of postage and handwriting out, you know, 162 of
5 these things and the single sided copies and the color copy,
6 that's when your head starts going, you know, my goodness this
7 was no small effort that seems to be directed right at me.
8 I'm right in the cross-hairs. So it becomes a little bit
9 concerning when you understand the broadness of how many folks
10 got this. I mean, my husband came home one night and he was
11 like, Hey, his good friend and our family friend, Fred Altman,
12 and his wife struggled whether to tell my husband that they
13 had received one of the packets because, you know, they said
14 it's -- it's disgusting. It's ridiculous. You know, they
15 don't believe a word of this. But, you know, the fact that
16 other people had to sort of discuss whether or not to give
17 this to us was -- you know, that's when you start -- that's
18 when you start really internalizing it, and so . . .

19 Q That meeting, eventually were you called to a
20 meeting at the sheriff's department for a possible
21 identification of someone that had mailed these?

22 A Well, the sheriff's department reached out and said
23 they had -- first they came by with a photograph and said,
24 Hey, we've got a still photo, can we bring it by? Will you

1 take a look?

2 And I said of course, so they came by. And at the
3 time, I did not recognize anyone in the photo. I did not
4 recognize the individual in the photo. It was a grainy -- I
5 think it was a cell phone shot of a video. And I didn't
6 recognize the person. I knew it was an older gentleman,
7 that's all you could tell. I mean, it wasn't clear at all.
8 So then you just -- you know, then you're just thinking, Okay.
9 I was kind of hoping to know, you know.

10 Q And then on the 12th were you informed that now a
11 video was available?

12 A If that's the day that the sheriff's office reached
13 out to say we've got a video, then yes.

14 Q Did you go up there the same day they reached out?

15 A Yes.

16 Q Or did you go the following day?

17 A Yeah, they actually reached out to come to us, to
18 come to our office, and we said why don't we just go up to the
19 sheriff's office. So we, County Manager Brown, myself, and
20 Chairman Lucey met us up there, went up to 911 Parr to see the
21 investigators.

22 Q And were you shown the video?

23 A Yes.

24 Q Were you able to identify the person that was in the

1 video?

2 A I was.

3 Q And who was that?

4 A That was County Assessor Mike Clark.

5 Q And what was your reaction when you saw who it was?

6 A All three of us identified him immediately and it
7 was one of those -- pardon my French -- it was, Holy shit,
8 that's the county assessor moments. And for whatever reason,
9 I became overcome with emotion, I guess is the only way to
10 describe it. I had experienced I guess what I would call
11 betrayal that it's a colleagues and elected official quite
12 frankly. I was unsettled that someone that I don't know well
13 at all would go to this length to target me and harass me and
14 objectify me. I have a lot of respect for the elected
15 officials in our organization and I try to present myself well
16 and work well as a leader and liaison with them and to them.
17 And so to see that I think is why I became overcome, the
18 investigators said, oh, it's normal, you know, because I was
19 embarrassed.

20 Q Were you crying?

21 A I'm sorry?

22 Q Were you crying?

23 A I did. I wasn't ugly crying, I just just sort of
24 crying. And I didn't intend to and I wasn't planning on it.

1 Of course you know you want to be strong and composed but I at
2 that moment wasn't able to control that. So again, I was told
3 it was normal because -- he said, Oh, people experience this
4 all the time. They feel betrayed. They feel scared. They
5 feel, you know -- it's overwhelming, I guess, to finally know.
6 You want to know who is doing this and you finally see it and
7 you're like, Oh, my God.

8 Q After that process played itself out, what happened
9 next at that meeting?

10 A We left the viewing room and went up to a larger
11 conference room to discuss kind of next steps and regroup.
12 I -- there was a victim advocate that had come in to assist to
13 say, are you interested in filing a protection order. And at
14 the time I said "Yes, I think that's probably smart for me and
15 my family." We talked about whether I would do that. And it
16 came up in that conversation that the workplace violence
17 committee which I'm familiar with would be an appropriate
18 place to have that happen.

19 So instead of me filling out -- there's quite a bit
20 of paperwork to fill out when you're seeking a protection
21 order. I've always been on the side of helping people fill it
22 out, not fill it out for myself. So the workplace violence
23 committee was recommended, and so that's where we left it.

24 And so went back to work, and I think it was the

1 very next day that the workplace violence committee was called
2 because there was already a couple of items that were on that
3 potential agenda and this one was added to that.

4 Q So describe for the Court that night after you were
5 at home, after you knew it was Mike Clark.

6 A I told my husband, we decided and I decided that,
7 you know, it's not something that I'm going to shout from the
8 roof tops. I'm going to talk about it with my husband and
9 sort of see what the next day brought.

10 But he was appalled. I mean, that was not something
11 that I was expecting, of course. I will say that we talked
12 about safety issues for our house, for the boys, I have two
13 small -- well not small, 10 and 14. But talked about whether
14 we felt, you know, we needed to do anything significant.

15 Q Was that safety issue brought up by the sheriff's
16 department at the meeting where after you identified
17 Mr. Clark?

18 A Yes. They did -- the sheriff's office suggested --
19 there were several things thrown out. You know, do I want to
20 pursue a CCW? Do I want to have the sheriff's office come by
21 the house? I am -- I was not inclined at the time to have
22 that done mostly because I don't really want the use of
23 resources. I'm a steward of the taxpayer dollars. I don't
24 really want those resources spent on me. That's not something

1 that I -- that I want. And they were pretty convincing and
2 said, you know, we really prefer, we do it all the time. We
3 are going to be in the neighborhood. And I actually said no.
4 You know, I have an alarm system, I have a dog, I'll be fine.
5 Again, mostly because it's use -- I was embarrassed that I
6 would have to have those resources directed toward me. I'm
7 always the person that helps other employees. I don't like to
8 be the subject of those things. This was a first for me. So
9 we talked about whether they would that day, that night, I
10 didn't -- but the next day, the sheriff's office, one of the
11 investigators was going on vacation and he said, Look, I would
12 really feel a lot better if we could drive by the house, and I
13 conceded. I said, Yes, that's fine.

14 Q And what was done at that time?

15 A That was the next day, actually, after the workplace
16 violence meeting, and it was just me saying yes, that's fine.
17 And then I guess they would come by every once in awhile. I
18 only saw them a couple of times.

19 Q Okay. So at some point did someone from the
20 sheriff's office come out to your house and do some kind of
21 assessment of your home with you and your husband?

22 A Yes. That was the day that the TPO was served. So
23 there was a sequence of events that day that made me really,
24 really uncomfortable and sort of off kilter. So I agreed. A

1 friend of mine was very concerned and wanted me to agree to
2 have the sheriff's office come by and do a house check. They
3 do that for judges oftentimes just to make sure that your
4 house is in order for any potential wrongdoing. So I allowed
5 that to happen. It was actually the same day that I was a
6 little bit shaken. So that's how the timing worked out. I
7 met the sheriff's deputy there. On my way home from that day
8 that the TPO was served, I called my husband who -- and told
9 him, he's been knowing what's going on. He said, I'm leaving
10 work right now. I'll meet you at the house. And the
11 sheriff's deputy came by, and the two of us walked the house
12 and talked about personal protection.

13 It was his recommendation at that time that we tell
14 our sons so that they can be alert. It's one of those be
15 alert and look out for vehicles. Our street does not get a
16 lot of traffic, so it was a discussion like if you see
17 somebody parked in front of the house, you need to tell us.
18 So just going through those personal protection objections
19 with the sheriff's office. And that was a Tuesday of -- I
20 can't recall the exact date, but it was a Tuesday of a board
21 meeting on the day that the TPO was served.

22 Q Let's go back in time a little bit. So after it was
23 identified, you became aware that Mr. Brown had requested Ben
24 West to activate the workplace violence committee on this

1 particular issue; is that correct?

2 A Yes. The workplace violence committee, my
3 understanding, is was going to be getting together anyway and
4 this issue was added to it. I don't know if that date was
5 sped up because of this or if it was already supposed to be on
6 that date. That I can't recall.

7 Q And you were present at that workplace violence
8 committee meeting?

9 A I was.

10 Q And you were present there because you were one of
11 the potential victims of this harassment, correct?

12 A Correct. I am often at those, but not because of
13 me. Because of some of the -- I mentioned I oversee human
14 services elements for the county, and oftentimes those
15 individuals experience -- you know, we are doing child
16 protective cases and termination of parental rights, things
17 like that that cause our employees to be in harm's way. So as
18 the county, we act on behalf of that employee and issue
19 temporary protection orders for those. So I'm often at those.
20 Not often, but when there are those, I'm there. But this time
21 I was there for me.

22 Q So you were aware that the workplace violence
23 committee voted unanimously for the District Attorney's Office
24 to move forward with seeking a workplace violence protective

1 order; is that correct?

2 A Yes.

3 Q Were you aware that that workplace violence
4 protective order was later issued?

5 A I knew when it was issued because I happened to be
6 in the office when there was discussion on when it would be or
7 when it was issued. I didn't know when it was going to be
8 issued. I had asked because I believed strongly that when
9 that was issued, I needed to be on high alert. That's just my
10 personal thought was, You know what? I have to be -- I have
11 to protect myself. I have to protect my family. I don't know
12 how this is going to go, so I just -- when it was issued -- I
13 found out it was issued because being at work at the same time
14 it was going to be issued, yeah.

15 Q And then I believe you start to touch on it. There
16 was an event after that that caused you to get rather upset
17 again. Would you tell the Court about that?

18 A Sure. So it was the day that the County Commission
19 was meeting, and I -- that was the day that we knew that the
20 Temporary Protection Order had been signed by the judge. It's
21 public document at that point, and so we were fairly certain
22 that at some juncture the media would get ahold of it. I told
23 one of my colleagues that morning, because everybody, you
24 know, is always asking, Did you ever find out who sent the --

1 you know, because everybody got one, the packet. And I
2 mentioned to her this morning, Hey, it is going to be public.
3 I'll let you know this is Mike Clark, the county assessor,
4 that sent the packets out, and we discussed it briefly.

5 And then interestingly, probably about an hour or so
6 later, I was up in my office watching the County Commission
7 meeting from my computer because that's what we do, and she
8 comes up to my office and says, "Kate, what does the Washoe
9 County Assessor look like?" And I described him, and she
10 said, "He's out in the hallway right now outside of our
11 doors." And I immediately became unsettled because I wasn't
12 sure at that point if the TPO had been issued or not. And so
13 in my brain I thought, Oh, my gosh, it's been issued. Now I'm
14 fearful.

15 And so I sent her to her office. I shut my door. I
16 called security and turned on my cameras on my computer to
17 see -- just to get a situational awareness. That's sort of
18 what you're trained to do. I was -- I have never in my life
19 been physically shaking out of fear. I was that day because I
20 just didn't know. The -- when I looked at the cameras and saw
21 where the interaction happened, I can also see it was sort of
22 outside the HR doors of the human resources department, and I
23 noticed at that point, thankfully, two other colleagues, two
24 other elected county officials, one of them had cupcakes in

1 her hand and the other one being there, and I went okay, okay.
2 This must be the elected department head luncheon. I've been
3 invited to one of those in the past and so I knew that they
4 did those. This must be the day for that. That makes sense.

5 So at that point, I know the security administrator
6 who I had called hadn't issued the TPO, but because Mike Clark
7 was on site, they were going to get the sheriffs.

8 Q Do you mean issued or served?

9 A Served. Sorry. I don't know the technical
10 difference, legal difference. It had not been served. So
11 they had talked about we are going to do that here. I wasn't
12 involved in the details. But I was -- so I continued to work,
13 and meanwhile, the commission meeting broke up, and I think I
14 was visibly shaken enough that when the Manager and
15 commissioners came upstairs, they recommended that I probably
16 should go home, you know, take the afternoon and just sort of,
17 you know, regroup, take a deep breath. I fought it for a
18 moment, but then thought, you know, that's fine. And the
19 deputy sheriff was there at the time, walked me to my car and
20 I went home. And that's the same day that the sheriff's
21 deputy met me at the house to do the house check.

22 Q Okay. Anything else that you did from a home
23 standpoint for your personal security as a result of your
24 fear?

1 A Yeah. I'm not a person who owns firearms and my
2 husband was going out of town and I have friends who are
3 concerned for me which is very nice. But I was -- I allowed
4 one of my friends to bring me -- she has a taser gun, so I now
5 am the proud owner of a taster weapon that I was trained on
6 using by a friend of mine, watching some videos. And so that
7 was something else I did to protect myself was just to have
8 something like that on hand for when my husband is out of
9 town. I have kids and a dog but at the same time I wasn't at
10 a level where I felt completely protected. So I didn't
11 purchase that, my friend gave it to me.

12 Q And then there came a time when it was issued and
13 this all became public; is that correct?

14 A Yes.

15 Q Had you had the opportunity before it went public to
16 tell your mom?

17 A I didn't want to worry my mom or my dad, so I did
18 not. When it became public is when I told them because if it
19 didn't become public, I didn't need to cause them any stress.
20 So we went to coffee and I walked them through what had
21 happened and just told them. And then they, of course,
22 insisted on coming over and staying with me when my husband
23 was out of town, but it wasn't necessary.

24 So yes, I told my mom and my dad when it became

1 public because their friends will ask and people are
2 concerned. Though many of the articles did not name me, I had
3 a friend who called and asked, Is this you? Should we be
4 worried? Do you need anything? So yeah, I told my mom.

5 MR. BROWN: I don't have anything further,
6 Your Honor.

7 THE COURT: Thank you.

8 Mr. Mausert, any cross?

9 MR. MAUSERT: Yes, Your Honor.

10
11 CROSS-EXAMINATION

12 BY MR. MAUSERT:

13 Q Ms. Thomas, did you read the application for the
14 protective order before it was filed?

15 A I did.

16 Q And did you okay the accuracy of that application?

17 A Yes.

18 Q And to your knowledge, everything on that
19 application was accurate?

20 A Yes.

21 Q Do you recall that -- the section where you
22 indicated, and I quote, "A.M. Thomas does not know where the
23 photo came from. She did not take it or post it on social
24 media," end quote.

1 In fact, your mother took that photo, correct?

2 A She did.

3 Q And do you remember whether you gave that photo to
4 Mr. Andrew Clinger when you were working at the city and he
5 was your boss?

6 A No.

7 Q You don't remember one way or the other?

8 A No.

9 Q Are you denying you gave him that photo?

10 A I believe I gave that photo to one of the other
11 folks involved in that incident who was a good friend of mine.

12 Q And who was that person?

13 A Robert Chisel.

14 Q Right. And what was -- when you gave the photo to
15 Mr. Chisel, where did he work at?

16 A He was also at the City.

17 Q He worked for the City when you worked there,
18 correct?

19 A Correct.

20 Q And you don't remember for sure one way or the other
21 if you gave that photo to your boss, Mr. Clinger, do you?

22 A I don't.

23 Q And did you tell Ms. Kandaras that you had given
24 that photo to Mr. Chisel?

1 A No.

2 Q Did you tell Ms. Kandaras that you may have given
3 that photo to your boss, Mr. Clinger?

4 A No.

5 Q Did you -- what is a sister wife, Ms. Thomas?
6 What's your understanding what the term sister wife means?

7 MR. BROWN: Objection. Relevance.

8 THE COURT: Sir, what's the relevance of that?

9 MR. MAUSERT: It's relevant, Your Honor, because the
10 evidence will show that while she worked at the City,
11 Ms. Thomas posted an Instagram photo of herself and
12 Mr. Clinger --

13 THE COURT: Mr. Mausert, what's the relevance of
14 what happened with this witness when she worked at a prior
15 employer with regard to the issues that are before the Court
16 today?

17 MR. MAUSERT: Because it shows that she's not really
18 upset with the packet to the sense that it constitutes any
19 kind of stalking or harassment. This witness is upset at the
20 package because it discusses her behavior. She posted
21 Insta --

22 THE COURT: Sir, you're not going to give argument
23 now. You may not inquire into this area any of further.

24 Move on.

1 MR. MAUSERT: Yes, Your Honor. I am unable to
2 proceed with any kind of defense. I have a lot of other areas
3 like that. I don't want to annoy Your Honor by going into the
4 same type of thing that I know you're not going to permit me.
5 If I can just present my offer of proof saying that I have a
6 wealth of evidence --

7 THE COURT: Sir.

8 MR. MAUSERT: -- of the improper behavior of this
9 witness.

10 THE COURT: I don't care what this witness thinks is
11 a definition of a sister wife.

12 MR. MAUSERT: All right, Your Honor. Let me just
13 look at my notes.

14 I don't have -- I have a lot of other -- I don't
15 want to annoy the Court and I don't have any other questions,
16 Judge.

17 THE COURT: All right. Thank you.

18 MR. MAUSERT: I'm not able to proceed.

19 THE COURT: Mr. Brown, any other evidence from this
20 witness?

21 Ms. Thomas, I just didn't want you to leave with the
22 impression that applications for orders of protection are in
23 any way arduous or difficult., There's a whole new series of
24 applications and orders that were approved by the Nevada

1 Supreme Court last October, and those new forms are designed
2 to be easy and complete, and I take great pride in my
3 authorship as a member of the committee that came up with
4 those new forms under Justice Stiglich's direction. I think
5 next time you need to use one of these for your colleagues or
6 one of your friends, you'll find it's a walk in the park.

7 THE WITNESS: Okay.

8 THE COURT: Thank you, ma'am.

9 THE WITNESS: You're welcome.

10 THE COURT: Mr. Brown, other evidence?

11 MR. BROWN: The County rests its case, Your Honor.

12 THE COURT: All right. The applicant has rested its
13 case, Mr. Mausert. Did the adverse party desire to put any
14 witnesses or evidence before the Court?

15 MR. MAUSERT: Your Honor, I have witnesses in the
16 other room. I have -- but based on your rulings so far, I
17 already know what you're going to rule. I have Mr. Joe
18 Wysenski. I have --

19 THE COURT: You have to call one at a time,
20 Mr. Mausert. So you get to choose which one.

21 MR. MAUSERT: Yeah. I -- I'm asking for direction,
22 Your Honor. I don't want to call them and annoy -- annoy the
23 Court. Based on your ruling that I'm not allowed to get my
24 client's motivation, I'm not allowed to get into Ms. Thomas's

1 prior conduct or her alleged misconduct in this job with
2 Mr. Lucey, I infer from those that none of these people
3 including Ms. Jeanne Herman who has testimony by --

4 THE COURT: Mr. Mausert, are you going to proceed or
5 make a speech? This is the time for taking evidence.
6 Argument's at the end.

7 MR. MAUSERT: I can make an offer of proof,
8 Your Honor, as to what each witness will testify to.

9 THE COURT: I want a witness. If you're going to
10 call a witness, call a witness.

11 MR. MAUSERT: I'll call Ms. Jeanne Herman, Your
12 Honor.

13 Jeanne.

14 THE COURT: Ms. Herman, please raise your right
15 hand.

16 (The witness was sworn.)

17 MR. BROWN: I can barely hear.

18 THE COURT: Ms. Herman, have you accepted the oath?

19 MR. MAUSERT: Have you accepted the oath?

20 THE WITNESS: Yes.

21 THE COURT: Okay. Mr. Mausert, Ms. Herman is too
22 far away from the microphone to hear her. You need to move
23 the microphone closer to your witness.

24 MR. MAUSERT: You have to speak up.

1 THE COURT: Have you accepted the oath, Ms. Herman?

2 THE WITNESS: Yes.

3 THE COURT: Yes or no? You have to speak up.

4 THE WITNESS: Yes.

5 THE COURT: Okay. You can put your hand down, then.

6

7

JEANNE HERMAN,

8

having been first duly sworn, was examined

9

and testified as follows:

10

11

DIRECT EXAMINATION

12

BY MR. MAUSERT:

13

Q Ms. Herman, could you state your name for the

14

record, please.

15

A Jeanne Herman.

16

Q And what's your current employment, Ms. Herman?

17

A County Manager.

18

Q And have I requested of you about what you know

19

about this case?

20

A No.

21

Q And do you know a meeting in the fall of 2020 when

22

Mr. Lucey cussed at my client, Mike Clark?

23

MR. BROWN: Objection. Relevance.

24

THE WITNESS: Yes.

1 THE COURT: Sir, what's the relevance of that?

2 MR. MAUSERT: The relevance of that is that
3 Ms. Thomas was at that meeting, and Mr. Lucey and Ms. Thomas
4 are acting in concert, Your Honor, to use the power of this
5 Court to retaliate against Mr. Clark for several reasons.

6 The weight goes to Ms. Thomas's credibility and to
7 whether she is actually in fear of my client.

8 THE COURT: The question is indeed irrelevant.
9 You may ask a different question.

10 MR. MAUSERT: Well, I --

11 BY MR. MAUSERT:

12 Q Has Ms. Thomas isolated you at work?

13 MR. BROWN: Objection. Relevance.

14 THE COURT: Sir, what's the relevance of that with
15 regard to this matter that's proceeding before the Court this
16 afternoon which is on a very narrow platform?

17 MR. MAUSERT: I understand, Your Honor. I'm making
18 an offer of proof. That's all I'm trying to do. I'm not
19 trying to ignore you, Judge. I'm trying to make an offer of
20 proof.

21 THE COURT: Well, you need to make offers of proof
22 that are relevant to the proceedings.

23 MR. MAUSERT: Well, obviously you and I have a
24 disagreement with that, and if I was in agreement with you, I

1 wouldn't need to make an offer of proof.

2 THE COURT: What's your offer, Mr. Mausert?

3 MR. MAUSERT: My offer is that this witness will
4 testify that Mr. Lucey and Ms. Thomas have systematically
5 isolated her and have systematically isolated my client at
6 work.

7 THE COURT: Thank you. I will accept those as what
8 you want to prove. So I don't need any testimony with that
9 regard because I don't believe that's relevant.

10 What else do you have this afternoon?

11 BY MR. MAUSERT:

12 Q Ms. Herman, have you ever heard inappropriate noises
13 coming through the wall -- did you -- your office at one
14 point, did that -- did you share a wall with Mr. Lucey?

15 MR. BROWN: Objection. Relevance.

16 THE COURT: Sir, sharing a wall with Mr. Lucey is
17 irrelevant.

18 Now if you want to ask questions about what may have
19 occurred relevant to these proceedings between May 3rd and
20 today, that might help narrow us down a bit.

21 MR. MAUSERT: Well, Your Honor, my offer of proof
22 would be that she heard inappropriate noises coming through
23 the wall when Ms. Thomas was in Mr. Lucey's office.

24 THE COURT: And that was between May 3rd and today?

1 MR. MAUSERT: No, Your Honor.

2 THE COURT: Okay. Then that's irrelevant.

3 MR. MAUSERT: I understand that's your ruling. I
4 just wanted to make an offer of proof.

5 I don't have any further questions of Ms. Herman.

6 THE COURT: Thank you, Ms. Herman. You may leave
7 the room but please don't discuss what you heard or saw in
8 this court until the conclusion of today's hearing.

9 MR. MAUSERT: I have nothing further, Your Honor.

10 THE COURT: The adverse party rests?

11 MR. MAUSERT: Yes, Your Honor.

12 THE COURT: Thank you.

13 Mr. Brown, any additional evidence?

14 MR. BROWN: No, Your Honor.

15 THE COURT: Sir, we received a number of exhibits, I
16 believe it's No. 1 through 12.

17 THE COURT CLERK: 1 through 12.

18 THE COURT: Any other documentary evidence that the
19 applicant desires?

20 MR. BROWN: No, Your Honor.

21 THE COURT: Mr. Mausert, is there any documentary
22 evidence, video evidence, anything the Court may have already
23 marked that you seek to introduce?

24 MR. MAUSERT: No, Your Honor.

1 THE COURT: All right. Mr. Brown, would you like to
2 sum up?

3 MR. BROWN: I would, Your Honor.

4 THE COURT: Go right ahead.

5 MR. BROWN: Thank you, Your Honor.

6 Your Honor clearly laid out the path of the burden
7 of proof of the County this morning in its opening remarks
8 related to the order for protection and whether harassment
9 occurred under NRS 33.240. And I submit to the Court that the
10 County has more than met the burden on every single element
11 that is contained in 33.240. Specifically, as the Court
12 pointed out in Subsection 1, harassment in the workplace
13 occurs when a person -- and there's some language that's not
14 relevant -- or commits an act that causes. The act that
15 commits the cause is the mailing directly into the county of
16 more than 24 packets and likely more, a total of 162 packets
17 that were sent without -- throughout the county, and that
18 packet was sent by Mr. Clark falsely claiming that it came
19 from another citizen in this county, that being Andrew
20 Clinger.

21 As a result of that act, you have heard the
22 testimony of the substantial harm to the mental health and
23 perceived state of not only Ms. Thomas, Mr. Lucey, and of
24 several people throughout the county that received these

1 packets.

2 The county has also proven under Subsection 2 which
3 requires the act was committed, I submit, against all three.
4 It was committed against an employer. This was committed
5 against Washoe County. The act of mailing these packages
6 under false pretenses to a wide array of county employees and
7 elected officials throughout the State was an act -- was a
8 cowardice act, was a malicious act committed by Mr. Clark
9 against Washoe County.

10 In addition, it it was an act that was committed
11 against an employee of the employer while the employee
12 performs the employee's duties of employment.

13 This act of harassment, of intimidation, of
14 objectification was committed directly into the workplace of
15 Kate Thomas, of Bob Lucey, and of all the employees that
16 received this.

17 While Kate Thomas may be the individual that was
18 named in this package, that objectification was sent
19 throughout the county, and she is not the only one -- not the
20 only employee that received that act. There were multiple, as
21 the Court is aware. And it was certainly done in her
22 employment as they were all mailed to the office.

23 And then if you look at Subsection 3, it says -- or
24 the act would cause a reasonable person to feel terrorized,

1 frightened, intimidated, or harassed. Every single witness
2 that provided relevant testimony described the feeling of
3 being frightened, intimidated, harassed by the act of
4 Mr. Clark in sending those packets with the information that
5 was contained therein directly into the county, and the vast
6 number of people that it was sent to.

7 It is magnified by the fact that this person tried
8 to hide his identity. Didn't do this anonymously. There's
9 nothing anonymous about this. He falsely attributed the
10 actions to Mr. Clinger. That action clearly would cause any
11 reasonable person to feel all of those things, to feel
12 terrorized, frightened, intimidated, and harassed. He chose
13 that course of conduct and he tried to hide his identity. He
14 paid cash.

15 Combine that with the sheer volume. Your Honor has
16 already heard that Mr. Clark spent over \$1,250 in postage
17 alone in order to interject this activity throughout the
18 county and in fact throughout the community. That's not even
19 taking into consideration you've heard the testimony that's
20 completely undisputed. None of these facts are disputed.
21 60 -- 162 packets. 69 pages. My calculator tells me that's
22 over 11,160 pages. Let's put that in context. A ream of
23 paper is 500, the packets that we all get and put into a
24 copier. Two reams of paper are a thousand. This is over

1 20 reams of paper, 21, 22 reams of paper. The length, the
2 planning, the lying all go to the reasonableness of every
3 single person. It's not just Kate Thomas, not just Bob Lucey.
4 Eric Brown was concerned for his entire staff. You heard him
5 testify about the fear that went throughout his employees of
6 the entire county. Not one bit of that testimony was refuted.
7 Not one.

8 The County submits the burden of proof in this
9 particular case is evidence to the satisfaction of the Court
10 that the order should issue.

11 The County submits that it has proved this beyond
12 any burden of proof that would be required in this court that
13 every single element for this Court to find harassment in the
14 workplace and continue to issue this order.

15 As I stated at the beginning, I can go over them
16 again if the Court wants as far as an order, we would like the
17 order extended. If you don't want me to go over it, I don't
18 have to.

19 THE COURT: You may. I thought you were going to do
20 something else.

21 MR. BROWN: Okay. We would like the extended
22 order -- the order extended up to the full jurisdictional
23 limit of the Court which the statute says 12 months.

24 We would like the order modified and we would like

1 the order to read as follows: That Mr. Clark is restrained
2 pursuant to the order from coming to the Washoe County complex
3 located at Ninth and Wells, save and except except for
4 Building D which contains the office of the assessor.

5 The order will allow Mr. Clark to be present at that
6 building for the purposes of carrying out his official duties
7 as the Washoe County Assessor.

8 The County requests that the order remain in effect
9 for the remainder of the county complex at Ninth and Wells.

10 In the event that Mr. Clark, based upon his duties
11 as assessor, is required to do the official business of the
12 assessor in a place other than Building D, the assessor's
13 office, he is to contact the Washoe County head of security
14 Ben West who will make arrangements for Mr. Clark to conduct
15 that business in a supervised fashion.

16 The County requests that the order remain in
17 effect -- in force with regard to Ms. Thomas, that Mr. Clark
18 is to have no contact or no communication with Ms. Thomas
19 while she was at work because we believe that's the limitation
20 of the authority of the Court under the statute.

21 In the rare event that Ms. Thomas would be serving
22 as the acting county manager and Mr. Clark, as a requirement
23 of his duties as the assessor, would need to speak to the
24 county manager, that he is to first engage Mr. Ben West, head

1 of security who will make arrangements for that business to be
2 conducted under his supervision or his designated supervision.

3 With that, Your Honor, the County respectfully
4 requests that you extend the order for 12 months and modify it
5 as we've described.

6 THE COURT: Thank you.

7 Mr. Mausert, would you desire to sum up on behalf of
8 the adverse party?

9 MR. MAUSERT: Yes, Your Honor.

10 THE COURT: Go right ahead, sir.

11 MR. MAUSERT: Your Honor, there's not anything that
12 I present as to the current mental state of Kate Thomas.
13 We've heard testimony as to what she felt and thought, and May
14 is approximately two months ago, but there's nothing as to her
15 current mental state.

16 My client has more than respected the order that was
17 entered. In fact, he even abided by Mr. West's instruction
18 that he's told -- Mr. West told his employees that he
19 supervised that he couldn't talk to them. The County extended
20 the order beyond what Your Honor ordered.

21 There's no evidence of threat today by him. There's
22 no evidence he's violent. There's no evidence he's ever been
23 violent.

24 We've heard a lot of testimony about people's

1 unsupported subjective fears, but there's no criteria that
2 would cause any reasonable person to think that Mr. Clark is a
3 danger to them. There's just nothing there. There's been no
4 evidence presented at all.

5 When you look at the exhibit, when you look at the
6 first few pages of the Reno Whistledown and everybody --

7 THE COURT: Mr. Mausert, could you help me? I think
8 I have a working knowledge of the phrase sister wife. But
9 what does Whistledown mean?

10 MR. MAUSERT: I'm not sure, Judge. My client didn't
11 create this. It was done by (indiscernible), but I don't know
12 what a whistle -- I think it refers to some movie or
13 something. I'm not sure. I don't know.

14 THE COURT: I'm sorry for interrupting, but you
15 brought it up.

16 MR. MAUSERT: No, that's fine. I don't know,
17 either. But when you look at the -- I think it sums up --
18 first of all you have this two-page document here which talks
19 about a lot of the City case that I was involved in. And
20 Ms. Thomas, you know, the photograph, her testimony doesn't
21 jive with what's in the application. She says she read it.
22 She says it was accurate. The application directly implies
23 she doesn't know anything about the photograph. In fact, her
24 testimony was that her mom took the photograph and she gave it

1 to another male professional colleague who she worked with,
2 and she acknowledges that she may have given it to her boss,
3 Mr. Clinger. So the proposition -- and that's the reason it
4 was important. My client didn't sneak up behind her at a pool
5 and stalk her and take this photograph and gratuitously
6 intrude it. Ms. Thomas gave the photograph to a male
7 colleague while she worked at the City and acknowledges she
8 may have given it to her boss. And that's where the photo
9 came from and it is what it is.

10 So the inference that my client is somehow engaged
11 in stalking behavior is simply not true and it's aligned by
12 the conflict of Ms. Thomas's testimony and the application and
13 by her own admission.

14 This case -- you know, the focus, Judge, and you
15 caught a flavor of some of those admissions regarding the
16 photograph. They want to talk about innuendo, innuendo,
17 innuendo, but the package is, in large part, consists of
18 admissions by various individuals and testimony about -- by
19 various individuals as to improprieties which occurred at the
20 City.

21 So you have testimony here today that Ms. Thomas is
22 a very tough cookie, she's a tough lady, and we heard
23 something about she was upset.

24 We have no evidence of a threat. We have no

1 evidence of a criminal record. There is no criminal record of
2 my client. He is not a violent man. He's 70 years old and
3 all we hear about over and over again is the unsupported
4 subjective threats of various people. That's not a basis for
5 continuation of this order. There is no danger. My client is
6 going to aciduously stay away from Ms. Thomas if you enter an
7 order or if you don't enter an extension of the order. He's
8 not going to go anywhere near her. He's done with this. He
9 made a mistake. And to avoid retaliation, he put down
10 Mr. Clinger's address. He shouldn't have done that. It
11 violates federal law. It was inappropriate. There's no
12 question about it. If he would have talked to me, I would
13 have advised him not to send out the package even though the
14 package was in large part -- it's almost entirely composed of
15 documents that are in the public record already or that have
16 been widely disseminated. There was --

17 If Your Honor is inclined to extend the order,
18 there's a matter that wasn't discussed by counsel and that's
19 that my client's attendance at the county commission meetings.
20 I have already talked about my offers of proof. I don't want
21 to annoy the Court by re-covering that same ground. I just
22 note this: If I had been allowed to present the evidence I
23 had at my disposal, a markedly different picture would have
24 been presented to the Court as to whether Mr. Thomas --

1 Mr. Lucey or Ms. Thomas are the victims or the perpetrators.

2 THE COURT: Mr. Mausert, you just used the word
3 picture. Is this picture that's the first page of Exhibit 6,
4 is that indeed in the public record as you just stated other
5 items were?

6 MR. MAUSERT: I don't think -- I'm trying to
7 remember. The answer is I don't know, Judge. I don't think
8 it is, but it may have been attached to a court proceeding in
9 the Clinger case. Off the top of my head, I can't
10 definitively remember. I don't think so, but I'm not sure.

11 THE COURT: You're aware of the Supreme Court's
12 decision in Adelson versus Harris four or five years ago?

13 MR. MAUSERT: What was that? I forget what that
14 case stands for.

15 THE COURT: Okay. We can all look at it afterwards.
16 I'm sorry. Go ahead. You wanted to wrap up.

17 MR. MAUSERT: That's about it, Judge. I would just
18 note if you're going to extend the order you make a provision
19 that allows my client to attend the county commission meetings
20 where he's supposed to be in his elected capacity as assessor
21 of Washoe County.

22 THE COURT: Thank you.

23 Mr. Brown?

24 MR. BROWN: Your Honor, Mr. Mausert didn't argue the

1 right portions of the statute. We were talking about the act,
2 not an overt threat. I had never asserted that.

3 With regard to the extended order, I believe it did
4 cover it. I didn't mention specifically the county commission
5 chambers. It's in Building B of the county complex, so if he
6 wants to attend for the official business of the assessors,
7 it's the county's position that he should contact Ben West,
8 the county security supervisor for that to occur.

9 THE COURT: Appreciate knowing that. Thank you.

10 Based upon all of the evidence provided today, both
11 the testimony on documentary along with all the inferences and
12 presumptions that may lawfully be gleaned from that evidence,
13 the Court finds that act or acts of harassment in the
14 workplace occurred pursuant to NRS 33.240.

15 The Court finds not only were these acts more than
16 reckless, they were intentional, and so both threats and acts,
17 and finds that the adverse party both threatened and committed
18 an act that causes substantial harm to the physical or mental
19 health or safety of a person, specifically Ms. Thomas and
20 Mr. Lucey.

21 The Court further finds that the threat and the acts
22 were committed against an employee of the employer, to wit,
23 Washoe County, at the time when the employees performed the
24 employees' duties of employment.

1 The Court further finds that the threat and the act
2 would cause any reasonable person to feel terrorized,
3 frightened, intimidated, or harassed. Specifically, the
4 evidence shows that these intentional acts, and based upon the
5 content of the exhibits, were objectifying of a county
6 employee, sexualization of a county employee, fetishistic,
7 sexist, inappropriate. The content was altogether creepy,
8 disturbing.

9 The manner in which it was distributed allegedly
10 illegally, the attempted anonymity, the quantum, sheer quantum
11 of this content, the threat of future acts, the use by a
12 co-employee and elected official of perhaps proprietary
13 information to assist in distribution, the numerosity, the
14 breadth of distribution, the daunting number, the broadness of
15 the distribution, the multi publicity of the acts, the attempt
16 to be surreptitious, the expense, the geographic distribution,
17 the furtiveness around the use of multiple postings, times,
18 and places, the falsity of the return address and the
19 dissemination within the county building all mitigate in favor
20 of the issuance of an extended order which will, on the same
21 terms as the original order except it will be modified.

22 The adverse party will be allowed to be in Building
23 D as in Delta of Washoe County for official business. If he
24 needs to go to another building for assessors business, then

1 he needs to contact county security for the escort.

2 He's to have no contact with assistant county
3 manager Kate Thompson [sic] while she is on Washoe County
4 property.

5 If she's serving as acting county manager, he needs
6 to contact the head of security to have access to Ms. Thomas.

7 Cause appearing, the Court extends this temporary
8 order for a year from today. It will expire at 11:59 on the
9 30th of June, 2022.

10 Counsel, is there anything further that the Court
11 should acknowledge, modify, or clarify?

12 MR. BROWN: Not on behalf of Washoe County,
13 Your Honor.

14 THE COURT: Mr. Mausert.

15 MR. MAUSER: No, Your Honor.

16 THE COURT: I want to thank everybody here.

17 We are in recess.

18 (Proceedings concluded.)

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1 STATE OF NEVADA)
2 COUNTY OF WASHOE) ss.
3)

4 I, SUSAN KIGER, do hereby state:

5 That I am not a relative, employee or
6 independent contractor of counsel to any of the parties, or a
7 relative, employee or independent contractor of the parties
8 involved in the proceeding, or a person financially interested
9 in the proceedings;

10 That I was **NOT** present in Department No. 6 of
11 the above-entitled Court on June 30, 2021, but transcribed the
12 proceedings had and the testimony given upon the matter
13 captioned within from the JAVS electronically recorded audio
14 media;

15 That the foregoing transcript, consisting of
16 pages 1 through 173, is a full, true and correct transcription
17 of said JAVS electronically recorded audio media.

18 DATED: At Reno, Nevada, this 17th day of July,
19 2021.

21 /s/ Susan Kiger

22 SUSAN KIGER
23
24