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Attorney for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JANE DOE : CIVIL ACTION – LAW
 :
 :
 Plaintiff : JURY TRIAL DEMANDED
 :
 :
 v. :
 :
 :
 LUZERNE COUNTY and RYAN :
 :
 FOY, in his Individual Capacity :
 :
 :
 Defendants : NO. 3:08-CV-1155

**BRIEF IN OPPOSITION TO DEFENDANTS’ MOTION
FOR SUMMARY JUDGMENT**

STATEMENT OF THE CASE

Plaintiff is a Deputy Sheriff for the Luzerne County Sheriff’s Department. (Doe, Tr. at 13:7-15.) On September 27, 2007, she and her partner, Brian Szumski (“Szumski”), were serving a body warrant at the apartment residence of David and Louis Cruz. (Doe, Tr. at 26:5-14.)

Upon exiting the apartment, both deputies became aware of the fact that hundreds of fleas had infested their clothing and bodies. (Doe, Tr. at 38:16-24.) They radioed the problem to the base and were told to proceed immediately

to the Luzerne County Correctional Facility for decontamination. (Doe, Tr. at 39:2-8.)

By the time the deputies arrived at the Correctional Facility, the fleas already were underneath their clothing, biting them. (Doe, Tr. at 43:5-16.) Deputy Chief Bobbouine (“Bobbouine”) was on the phone with someone at the prison and told them to remain in the car for now. (Doe, Tr. at 45:2-7.) Bobbouine later informed the deputies that the jail would not take them, so they were instructed to go to the Emergency Management Building (“EMA Building”). (Doe, Tr. at 45:15-17, 46:5-7.)

Bobbouine later arrived at the EMA building with Chief Ryan Foy (“Foy”), Deputy Erin Joyce (“Joyce”), and Deputy Michael Patterson (“Patterson”). (Doe, Tr. at 48:5-18.) Foy and Bobbouine exited the car and began laughing at the Plaintiff and Szumski, while Foy filmed them in the car. (Doe, Tr. at 48:22-25.)

Plaintiff and Szumski continued to be bitten while in the car and asked if they could roll the windows down because of the heat. (Doe, Tr. at 49:10-25, 50:1-3.) They were laughed at and told no because the other officers did not want fleas. (Doe, Tr. at 50:3-6.)

During this time at the EMA Building, Foy held a video camera that was on and had a red light flashing. He circled the car, tapping on the window,

laughing. Plaintiff asked him to stop videotaping and he told her to shut up because it was for training purposes. (Doe, Tr. at 53:4-11.)

Two male EMA workers finally came out and attempted to set up a decontamination shower outside. (Doe, Tr. at 53:19-24, 54:4.) They were unsuccessful with the setup because they were missing parts did not know how to hook it up. (Doe, Tr. at 54:15-16.)

Foy again proceeded to videotape and Doe told him to get out of her face. (Doe, Tr. at 58:20-25.) Foy laughed again. (Doe, Tr. at 59:2-3.)

The entire stay outside of the EMA building lasted one to two hours. (Doe, Tr. at 60:20-23.) Numerous times throughout this period plaintiff and Szumski were ordered to remain in the car. (Doe, Tr. at 68:11-19.)

A call finally came in to Foy and he told Plaintiff and Szumski to follow him. (Doe, Tr. at 72:5-9.) They followed Patterson, Bobbouine, Foy, and Joyce to Mercy Hospital, while Foy filmed the entire ride. (Doe, Tr. at 74:12-18.)

Upon arrival at the hospital, Szumski was taken first to be decontaminated. (Doe, Tr. at 76:6-10.) Plaintiff finally was instructed to take off all unnecessary clothing, including socks and boots, and put them in the trunk. (Doe, Tr. at 80:19-25, 81:1-2.)

As she walked toward the hospital, Foy started taping her again, which she again objected to. (Doe, Tr. at 88:1-8.) Once again, Doe yelled at him to stop and he laughed. (Doe, Tr. at 89:12-18.)

Upon entering the hospital, Plaintiff was instructed to put on a white sheet to ensure that no fleas jumped off her into the hospital. (Doe, Tr. at 92:12-18.) She then was led to the shower area, was instructed on how to use the shampoo, and showered for fifteen to twenty minutes. (Doe, Tr. 107:8-9.)

Following the shower, Joyce entered the shower room to assist the plaintiff in combing her hair, while the plaintiff kept her eyes closed to avoid burning them with the shampoo. (Doe, Tr. at 114-115.) During this time, the Plaintiff heard Bobbouine yell “what’s that shit on your back” in reference to the tattoo on her shoulder. (Doe, Tr. at 115:18-24.) Foy chimed in, saying that they were tattoos and Bobbouine said that they were tan lines, while the Plaintiff angrily told them to get out of there. (Doe, Tr. at 116:13-22.)

Once the plaintiff was dry, Joyce told Bobbouine and Foy to get her some medium sized scrubs, but the plaintiff overheard them saying that she should get a 3x because she is heavy in the ass. (Doe, Tr. at 119:17-25, 120:3-4.) She was given 3x pants. (Doe, Tr. at 128:2-4.)

All parties finally left the hospital, but Foy informed the plaintiff and Szumski that they could not ride up front in the car because the other officers did not want fleas. (Doe, Tr. at 130:2-5.)

When they arrived back at the Sheriff's office, they had to wait to be let out of the cargo area of the car. Foy grabbed the video camera and started to film, saying something to the effect of "here come the fleabags." (Doe, Tr. at 147:11-25.)

Following the incident, Foy placed the images and video from the camera onto his county computer, in a folder labeled "Brian's ass." (Foy, Tr. at 29:9-11.) Since this was a county computer, everyone on the network could access the file. (Doe, Tr. at 139.) He later showed these multimedia files to numerous other people in his office. (Bobbouine, Tr. at 20:2-8; Doe, Tr. at 138:16-22; Leandri, Tr. at 16:8-15.)

Deputy Mandy Leandri ("Leandri") initially saw some of the images of Szumski in Foy's office and later saw the images of the plaintiff's tattoo while using Foy's computer. (Leandri, Tr. at 19:17-25, 20:1-11.) She informed the plaintiff and Savokinas about the video. (Doe, Tr. at 140:14-25, 141:1-5.)

Plaintiff was called to Sheriff Savokinas' office where she identified five to six still pictures and a video of her bare back. (Doe, Tr. at 141:18-25, 142:1-7.) One picture was of Szumski completely naked from the back, one frontal

view of him wrapped in see-through paper, one of the two officers in the cargo area of the Expedition, one of Doe's naked back, and one of her wrapped in the paper sheer. (Doe, Tr. at 142:14-25.) The only part of her covered in those photos was her buttocks. (Doe, Tr. at 144:1-3.)

According to Foy, Bobbouine told him to film the incident for training purposes. (Foy, Tr. at 9:12-15.) Bobbouine denies giving this instruction. (Bobbouine, Tr. at 17:2.) Nevertheless, a training video never was created from the footage. (Bobbouine, Tr. at 63:3.) In fact, Deputy Michael Vesek ("Vesek") witnessed the jovial nature of the filming and stated that it did not seem like serious filming for the purpose of creating a training video. (Vesek, Tr. at 9:14-19.)

Foy never received any type of consent from the plaintiff to film her. (Foy, Tr. at 15:16-19; Bobbouine, Tr. at 29:24-25, 30:1-5; Doe, Tr. at 165:20-21.)

The plaintiff was subjected to numerous embarrassing comments about the video and images. (Doe, Tr. at 154:9-19.) As a result of the stress and humiliation from the incident she gained a lot of weight, missed work, and had trouble sleeping. (Doe, Tr. at 157:25, 158:1-8.)

ARGUMENT

Summary Judgment Standard

Summary judgment only is appropriate when “the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c). A genuine issue of fact exists when, after drawing all reasonable inferences in favor of the non-moving party, a reasonable jury could find for that party. *Pignataro v. Port Auth.*, 593 F.3d 265, 268 (3d Cir. 2010).

I. The recording of intimate images and subsequent dissemination of those images of Doe’s body, constituted an unconstitutional search and seizure¹

The Fourth Amendment of the United States Constitution protects “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures” U.S. Const. amend. IV. The Amendment “guarantees the privacy, dignity, and security of persons against certain arbitrary and invasive acts by officers of the Government or those

¹ Defendants assert the test for Plaintiff’s claim is a balancing test; however, Plaintiff asserts that the test is a straight Fourth amendment search and seizure test, which is whether the search was “reasonable”. *Capua v. The City of Plainfield*, 643 F. Supp. 1507 (N.J. 1986).

acting at their direction.” *Skinner v. Ry. Labor Executives' Ass'n*, 489 U.S. 602, 613-614 (1989).

As the District of Columbia Court of Appeals noted “[a]nd the Court has made it clear that the "inestimable right of personal security" embodied in the Fourth Amendment "belongs as much to the citizen on the streets . . . as to the homeowner closeted in his study For, as [the Supreme] Court has always recognized, 'No right is held more sacred, or is more carefully guarded, by the common law, than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law.'" *United States v. Askew*, 529 F.3d 1119 (D.C. Cir. 2008)(emphasis added).

As the DC Circuit emphasized:

.... The undoing of clothing to reveal whatever is underneath to whomever happens to be on the street necessarily involves an even more serious intrusion upon the sanctity of the person. The involuntary opening of someone's clothing reveals to the world at large (not just to the searching police officer) what an individual obviously intends to keep private. *United States v. Askew*, 529 F.3d 1119 (D.C. Cir. 2008)(emphasis added).

A. Plaintiff was seized and searched since Plaintiff's barely clothed body after showering were captured without consent and disseminated to numerous individuals

In the instant case, Defendants downplay the significance of the privacy interest implicated by the videotape and pictures stemming from September 27, 2007 ("the incident"); however, as many "[c]ourts have clearly established that individuals retain an expectation of privacy and a right to be free from government intrusion in the integrity of their own bodies. ... [o]ne's anatomy is draped with constitutional protection". *Capua v. The City of Plainfield*, 643 F. Supp. 1507 (N.J. 1986).

First, it simply is untrue that Plaintiff was aware that she was being filmed during the showering procedure. Plaintiff specifically testified that she was not aware that she was being filmed during the shower. (Doe, Tr. at 140:2-3.) She did not learn of this until sometime in early April 2008. (Doe, Tr. at 140:4-8.) In fact, even when she finished with the shower, her eyes were closed to ensure that the shampoo would not run in to her eyes, shielding her ability to observe the camera. (Doe, Tr. at 188:4-6.)

In any event, even if she was aware that she was being filmed, this does not amount to the consent necessary to permit the capture and dissemination of intimate details. *Ridgewood*, 430 F.3d at 179. Numerous times throughout the incident, Plaintiff expressly rebuked Foy for filming her, asking him both

nically and forcefully to stop. (Doe, Tr. at 53:4-11; Doe, Tr. at 58:20-25; Doe, Tr. at 89:12-18; Doe, Tr. at 165:20-21.) As a result, even if she was aware that she was being filmed during the showering process, which she was not, this filming certainly was against her will and clearly was out of her control given Foy's refusal to stop.

As the *Katz* court noted, "... But what he seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected". *Katz v. United States*, 389 U.S. 347 (1967). Of the pictures that were viewed on Foy's computer, one showed a picture of the plaintiff's back naked from the waste up and another showed her wrapped in partially see-through paper. (Doe, Tr. at 142:14-25.) The fact that her "private parts" were covered does not mean that the images did not reveal intimate details of Plaintiff.

For instance, the picture of the plaintiff's bare back revealed a tattoo of her partner's initials, which was an unknown fact that shocked and humored Leandri when she viewed the image. (Leandri, Tr. at 20:9-11, 29:8-15.) This lack of knowledge shows that the tattoo is an example of an intimate detail that Plaintiff wished to conceal from the public and the government.

In addition, Plaintiff's aforementioned aversion to the filming of the entire day in general represents an example of the search, seizure and dissemination of intimate personal details. Throughout the incident, Plaintiff

was covered in flees, was being bitten, and was extremely hot and sweaty. In essence, she was in a highly vulnerable and embarrassing position that she did not want to see captured and disseminated to other people. As a result, even the filming of the fully clothed plaintiff captured intimate personal details that the plaintiff had a right to conceal from the public and the government.

Defendants' final position on this matter, that the images were not widely disseminated, again grossly misstates the record. After capturing the images, Foy showed them to an undetermined amount of officers and other workers inside his office. (Doe, Tr. at 138:16-22; Bobbouine, Tr. at 20:2-8; Leandri, Tr. at 16:8-15.) As a result, the plaintiff frequently was subjected to comments from other deputies about the contents of the video and images. (Doe, Tr. at 154:9-19; Doe, Tr. at 157:18-20.)

This fact alone constitutes evidence of dissemination, but it is not the only example. Foy placed the video and the images on the county server. (Doe, Tr. at 137:3-11.) By doing this, everyone on the network was able to access the files. (Doe, Tr. at 139.) Given the vast amount of comments that the plaintiff received regarding the contents of the video and images, it is reasonable to conclude that the images were disseminated via this medium.

In the end, it is unquestionably reasonable for a jury to conclude that intimate details of Plaintiff were seized and disseminated by governmental

officials without her consent. *Pignataro*, 593 F.3d at 268. As a result, her constitutional rights were violated.

B. The search and seizure of images was not reasonable since the government had no reason to do the same

Defendants next argue that even if the plaintiff's privacy was violated, the government's interest in creating a training video justified the violation. (Defs.' Br. Summ. J. at 8.) However, the evidence on the record hardly supports the notion that the filming was being done for training purposes.

First, a bulk of the filming took place during the time that Plaintiff and Szumski were forced to remain in the vehicle outside the EMA building. *See e.g.* (Doe, Tr. at 48:22-25; 50: 24-25, 51:1-2; 53:4-11.) It is difficult to understand how repeated filming of the two deputies inside the car and prior to any type of showering procedure could be used in any way to train future officers about handling future infestations. In fact, although this irrelevant footage was taken, Foy and the other officers neglected to film other important training information such as the type of shampoo purchased or the location of the purchase. (Bobbouine, Tr. at 63:4-8.)

Second, the jovial nature of the filming makes it even less likely that the video was going to be used for training purposes. Throughout a significant portion of the filming outside the EMA building, on the car ride to the hospital,

outside of the hospital, and even during the showering process, the officers involved, including Foy, were laughing and making fun of Plaintiff and Szumski. (Doe, Tr. at 48:22-25; 50:3-6; 53:4-11; 59:2-3; 89:12-18; 111:3-10; 147:11-25; Vesek, Tr. at 9:14-16.) In fact, Vesek, who was present during the filming, testified that constant laughter made it apparent that the video was not serious enough for training purposes. (Vesek, Tr. at 9:14-19.)

This unprofessional and jovial nature was exemplified further by the fact that Foy placed the video and images on his computer in a folder titled “Brian’s ass.” (Foy, Tr. at 29:9-11.) It is difficult to believe that a serious video for training purposes would be placed in such a folder, or Chief Foy would focus on a nipple ring during his shooting.

The final nail in the coffin of this argument is the simple fact that a training video never was created from the footage that was shot during the incident. (Bobbouine, Tr. at 63:3; Doe, Tr. at 172:3-6.) Essentially, the lack of a training video reaffirmed all suspicions that the filming was not for that purpose.

In the end, it is readily apparent that the purpose of the filming was to humiliate Plaintiff and Szumski and to document this humiliation for future viewing. Despite the self-serving statements of Defendants that the video was for training, nothing in the record supports the idea that the filming was for a

legitimate purpose, and certainly does not warrant the intrusion of someone's private body.

Just as the Ninth Circuit found that video surveillance in a locker room violated the Fourth Amendment, here too, this Court should find that video-recording and images taken of Doe violated her privacy rights. *Bernhard v. City of Ontario Police Dept.*, 270 Fed. Appx. 518 (9th Cir. 2008). Here, like a locker-room, the inside of a private medical facility shower room is not open to government's recording. *Id.*

Instead, any reasonable jury would see the actions of Foy and the other officers as despicable, degrading, and completely unnecessary. *Pignataro*, 593 F.3d at 268. As such, there was no important government interest at stake that would make the search and seizure reasonable.

II. Sheriff Stankus and Chief Deputy Foy were policymakers; and therefore, their actions make Luzerne County liable

Doe concedes that to find 1983 liability against Luzerne County she cannot rely on *respondeat superior*. However, here, Doe is not relying on *respondent superior*, but rather the fact that former Sheriff Stankus and Chief Deputy Foy were policy-makers. *Nudleman v. Dickson City*, 2007 U.S. Dist. LEXIS 82670 (Judge Munley)(holding that a reasonable jury could conclude that the Police Chief was a "policymaker"); *See also Gallis v. Dickson City*, 2006

U.S. Dist. LEXIS 72091 (Judge Munley)(noting that Police Chief was a “policymaker”); *Cimino v. Borough of Dunmore*, 2005 U.S. Dist. LEXIS 40049 (Judge Munley)(finding that Police Chief Mecca was a “policymaker”); *Bonenberger v. Plymouth Township*, 132 F.3d 20 (3d Cir. 1997)(finding that a Sergeant could expose municipality to a 1983 claim).

In *Bonenberger*, the Third Circuit held that “[i]f a state entity places an official in the position of supervising a lesser-ranking employee and empowers him or her to give orders which the subordinate may not disobey without fear of formal reprisal, that official wields sufficient authority to satisfy the color of law requirement of 42 U.S.C. § 1983.” *Bonenberger*, 132 F.3d at 24.

Moreover, the Third Circuit has stated that, “... a municipality may be liable under section 1983 where its policymakers made a deliberate choice to follow a course of action ... from among various alternatives,” ... “and the policy chosen reflects deliberate indifference to the constitutional rights of [the city’s] inhabitants”. *Stoneking v. Bradford Area School District*, 882 F.2d 720 (3d Cir. 1989).

“[L]iability will attach when the individual has policy making authority rendering his or her behavior an act of official government policy.” *McGreevy*

v. Stroup, 413 F.3d 359 (3d Cir. 2005). In that case, the Third Circuit found that the school superintendent was a policymaker. *Id.*

Here, since there is no question that Stankus had policy making authority and he admitted that he directed Chief Deputy Foy to videotape Doe, there is no question his actions bind the County. (Stankus, Tr. at 16). Chief Deputy Foy also had policy making authority since Doe had to obey his orders. Therefore, since both individuals are policy-makers, Luzerne County can be held liable.

III. Luzerne County failed to train its employees about constitutional rights regarding videotaping, which caused the underlying violation

The inadequacy of training given to government employees can be a basis for liability if that failure to train amounts to deliberate indifference to the rights of those individuals with which the employees come into contact. *City of Canton v. Harris*, 489 U.S. 378, 389 (1989). This deliberate indifference occurs when the need for “more or different training is so obvious, and the inadequacy so likely to result in the violation of constitutional rights,” that the failure to implement such training shows deliberate indifference to the need. *Harris*, 489 U.S. at 390. In such a case, the failure to provide proper training is considered the policy of the government entity and the entity will be held liable if the policy causes injury. *Harris*, 489 U.S. at 390.

In the instant case, none of the officers in the Luzerne County Sherriff's Department received any type of training about videotaping procedures or constitutional privacy rights. (Bobbouine, Tr. at 39:24-25, 40:1-6; Foy, Tr. at 71:13-18). Without such training as to the limits of the ability to videotape individuals, Defendants were unable to ascertain the problem with continuing to record the plaintiff against her will. As a result, Luzerne County is liable for its failure to train. *Harris*, 489 U.S. at 390.

CONCLUSION

For the preceding reasons, Plaintiff respectfully requests that Defendants' motion for summary judgment be denied.

By: s/ Cynthia L. Pollick
Cynthia L. Pollick, Esquire

CERTIFICATE OF SERVICE

Cynthia L Pollick, Esquire, hereby certifies that on April 12, 2010, she served a copy of Plaintiffs' Brief in Opposition by serving a copy via electronically on Defendants:

Mr. Mark Bufalino, Esquire
Elliott Greenleaf Dean
201 Penn Avenue, Suite 202
Scranton, PA 18503

s/ Cynthia L. Pollick
Cynthia L Pollick, Esquire

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

* * *

JANE DOE, : CIVIL ACTION
Plaintiff :
vs :
LUZERNE COUNTY and :
RYAN FOY, :
Defendants : NO. 3:08-CV-1155

* * *

Videotaped Rule 30(b)(6) deposition of LUZERNE COUNTY, by and through its designee, BARRY STANKUS, taken at The Employment Law Firm, 363 Laurel Street, Pittston, Pennsylvania 18640, on Thursday, July 9, 2009, beginning at 10:17 a.m. before Ashlee J. Boyle, Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania.

* * *

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BARRY STANKUS

* * *

(It is hereby stipulated and agreed by and between counsel for the respective parties that sealing, certification, and filing are waived and that all objections, except as to the form of the question, are reserved until the time of trial.)

* * *

MS. DEXTER: Good morning. My name is Malissa Dexter. My employer is Attorney Cynthia Pollick. Our address here is 363 Laurel Street, Pittston, PA 18640, where this deposition is taking place.

It is Thursday, July 9th, 2009, 10:17 a.m. This is the case of Jane Doe versus Luzerne County and Roy Foy -- I'm sorry, Ryan Foy. This is the 30(b)(6) deposition.

* * *

(Whereupon, Exhibit 30(b)(6)-A was marked for identification.)

* * *

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

* * *

A P P E A R A N C E S:

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-- Representing the Defendants

* * *

A L S O P R E S E N T:

Malissa Dexter, Videographer

BARRY STANKUS

EXAMINATION

* * *

BY MS. POLLICK:

Q. Mr. Stankus, my name is Attorney Cindy Pollick. And you have been chosen by your counsel as I believe one of the 30(b)(6) deponents.

I'm going to show you what has been marked as 30(b)(6)-A and ask you, since there is another individual that's outside, who -- I did not have prior knowledge who was going to be selected as the 30(b)(6) deponents; apparently there are two of you. If you could, tell me what bullet points you'll be speaking on today. And if you need to consult with your counsel, I don't have a problem with that, on what areas you'll be discussing.

MR. BUFALINO: Just for the record, before we begin, prior to beginning the 30(b)(6) deposition, there was an issue with regards to what was previously marked yesterday as Exhibit 2 to the plaintiff's deposition.

It appears that for purposes of today's video, plaintiff's counsel is having difficulty playing the video on the equipment that is located here in her office. I have afforded counsel the opportunity to reschedule these

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1 depositions in an effort to -- so that the
2 video will be at her disposal for purposes of
3 today's deposition. That has been declined. I
4 have also afforded counsel the opportunity to
5 discuss the matter with Judge Caputo. That has
6 also been declined.

7 We are placing an objection on the
8 record to the extent of any second or
9 subsequent depositions of these witnesses for
10 purposes of today -- for the future.

11 MS. POLLICK: I just want to comment.

12 I was just given a copy of the DVD
13 yesterday. I was not provided with a copy
14 prior to that. I was under the impression that
15 I was going to be looking at the original DVD
16 of -- I don't even know what it was. It was
17 something that was picked up I believe by the
18 camcorder, but I cannot say with certainty
19 because it was just handed to me yesterday, a
20 copy of it. I don't know where it came from.
21 I know it was in the possession of the
22 sheriff's department. But it is not all of the
23 images, nor is it all of the video that is out
24 there. It is one -- I believe it is clips of
25 the actual video that was taken, but not of its

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1 entirety.

2 I have tried to play the DVD today on
3 my laptop. It will not play. All I'm asking
4 is the Court to allow me -- is to just
5 re-depose these people, if necessary, on just
6 the DVD alone in the sense of viewing it. I'm
7 not asking the Court for any other
8 accommodation other than the fact that
9 obviously I want the depositions to go forward,
10 which we need to.

11 I just will be needed -- afforded time
12 to have the DVD on equipment that is playable.
13 We didn't get out of depositions until around
14 4:00 yesterday, so obviously I didn't have a
15 lot of time to prepare that. So that is all
16 I'm asking the Court for. But we will be
17 filing motions and whatnot at that time.

18 Now, if you could tell me what --

19 MR. BUFALINO: Just before -- I just
20 want to add one more thing in that regard, just
21 so that the record is clear.

22 A copy of the video, as evidenced by
23 correspondence exchanged between counsel, was
24 continuously available to Ms. Pollick. In
25 fact, we had scheduled a day for May 4, 2009,

BARRY STANKUS

1 in order for her to come to my office to view
2 the video. So that's what we have.

3 MS. POLLICK: You have an obligation to
4 provide me with electronic information. You
5 have not done that. I thought I was going to
6 view the original. I did not know you were
7 going to -- why would you withhold that
8 information and not provide it?

9 MR. BUFALINO: I'm not withholding
10 anything. You're welcome to have whatever you
11 want.

12 MS. POLLICK: Why wouldn't you
13 automatically provide me with the electronic
14 discovery that I had requested and not require
15 me -- and under my impression, I was going to
16 look at the original yesterday, not knowing
17 that you had made copies.

18 You had told me this morning that it
19 was internal copies; nonetheless -- so that's
20 problematic as well. But nonetheless, the
21 judge clearly knows there is an issue with the
22 DVD. All I'm asking is to re-depose the
23 deponents only on the DVD.

24 So would you put "B.S." on the ones
25 that he is going to do just to make it clear

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1 for the record, because I'm going to attach it
2 as an exhibit, 30(b)(6)-A.

3 MR. BUFALINO: Just for the record,
4 what you're showing Mr. Stankus marked as
5 30(b)(6)-A is different than the copy that I
6 have.

7 MS. POLLICK: Well, it looks like you
8 have -- I don't know. It's on the back of your
9 letterhead.

10 MR. BUFALINO: It's on your letterhead.
11 Well, it's not your letterhead, but it's
12 your -- it's just copied on the back, because
13 that's what it was copied on.

14 MS. POLLICK: Doesn't that say --

15 MR. BUFALINO: This is from your
16 office. So let me just take a moment.

17 I just want to make it clear. From
18 your 30(b)(6)-A notice, the first two bullet
19 points are requesting, number one, is any and
20 all information concerning the incidents that
21 occurred on or about September 27th, 2007, when
22 defendants' officials were present at the
23 medical facility where plaintiff was
24 decontaminated, and all events that led up to
25 that situation that day.

BARRY STANKUS

BARRY STANKUS

1 Mr. Stankus can tell you better. But
2 my understanding is that he was not present for
3 that. But to the extent that he has knowledge
4 regarding any of that, he can answer.

5 With regards to the second bullet
6 point, which is any and all information
7 concerning images being taken of Luzerne County
8 personnel while being, quote, decontaminated on
9 or about September 27th, 2007, and the
10 distribution, replication, copying of said
11 images, again, I don't know that he was present
12 when those images -- or at the Mercy Hospital,
13 Wilkes-Barre, when those were taken. But to
14 the extent that he knows, he can answer that.

15 MS. POLLICK: So those two bullet
16 points are the only ones that both witnesses,
17 Ryan Foy and Barry Stankus, will be
18 discussing -- that you have chosen?

19 MR. BUFALINO: Those are the only two
20 that I wanted to make clarifications on. The
21 other ones -- the third bullet point,
22 Mr. Stankus is here for any and all
23 information -- bullet point number three, do
24 you want me to read that?

25 MS. POLLICK: No. I just want to

1 the way, that I'm referring to. And then the
2 last three bullet points, obviously his work
3 experience, his knowledge of the privacy
4 rights, if any, and the complaints and charges
5 and constitutional violations against the
6 defendants from 2000 until the present time.

7 MS. POLLICK: Okay. Thank you.

8 MR. BUFALINO: You're welcome.

9 BY MS. POLLICK:

10 Q. Now, Mr. Stankus, have you ever been
11 deposed before?

12 A. Yes.

13 Q. And how many times have you been
14 deposed?

15 A. I don't recall.

16 Q. More than five?

17 A. Yes.

18 Q. More than ten?

19 A. I can't recall if it were in that area
20 of numbers.

21 Q. And have you ever testified live in
22 court?

23 A. Yes.

24 Q. How many times?

25 A. Numerous.

BARRY STANKUS

BARRY STANKUS

1 know -- it looks like Barry Stankus you have
2 for everything. I want to know -- you also
3 told me that Ryan Foy -- this morning -- that
4 Ryan Foy will also be testifying as a 30(b)(6)
5 witness. What bullet points will he be
6 testifying to, the first two, and then the
7 information about the last?

8 MR. BUFALINO: The first two, and then
9 if he has information regarding policies and
10 procedures, he can testify with regards to
11 that --

12 MS. POLLICK: Okay.

13 MR. BUFALINO: -- which would be bullet
14 points three and four. I'm sorry, I have
15 listed here -- on bullet point number five, any
16 and all information on constitutional training
17 for the defendant. Mr. Stankus is not a
18 defendant, so he is not going to testify with
19 regards to that. And to any and all
20 information regarding any and all defenses,
21 defendants' claim in this matter, he is not a
22 defendant.

23 He can testify regarding any
24 information that will be used in defense of
25 plaintiff's claims -- which is Mr. Stankus, by

1 Q. How about in connection with -- I know
2 that you just had a lawsuit not too long ago. Did
3 you testify in that case?

4 A. Yes.

5 Q. Now, as being in law enforcement and
6 having been deposed a few -- numerous times, you
7 know about what happens here today. I ask you
8 questions, and you have to answer the question.
9 Your counsel may object to the question, but
10 nonetheless, you have to answer it. Do you
11 understand that?

12 A. Yes.

13 Q. And a lot of times -- sometimes I ask
14 questions and the way that I ask them is confusing.
15 It confuses people. If that happens, you let me
16 know, and I'll rephrase my question until you
17 understand it, okay?

18 A. Yes.

19 Q. You're doing a good job by giving me
20 verbal answers. I don't care if you nod your head.
21 I don't care if you wave your hands. You can do
22 whatever you want, as long as you give me verbal
23 answers as well, okay?

24 A. Yes.

25 Q. Is there any reason why you can't give

BARRY STANKUS

1 truthful and honest answers here today?

2 A. No.

3 Q. Are you under any medication today?

4 A. No.

5 Q. Have you had any alcoholic beverages in

6 the last 24 hours?

7 A. No.

8 Q. Now, you -- how long were you sheriff?

9 A. Eight years.

10 Q. So for two terms?

11 A. Yes.

12 MS. POLLICK: Everything except as to

13 form reserved for trial?

14 MR. BUFALINO: Yes.

15 MS. POLLICK: Do you want him to read

16 and sign, or is he going to waive that?

17 MR. BUFALINO: Yes, please.

18 MS. POLLICK: Oh, he wants to read and

19 sign. Okay.

20 BY MS. POLLICK:

21 Q. Did you review any material in

22 preparation for your deposition today?

23 A. No.

24 Q. Did you review any video?

25 A. No.

BARRY STANKUS

1 Q. Have you ever seen a video of

2 deputies -- a deputy who has been known as -- let

3 me ask you this. Have you ever seen a video from

4 September 27th, 2007?

5 A. In reference to this incident?

6 Q. Yes.

7 A. No.

8 Q. You have never seen it ever?

9 A. That's correct.

10 Q. Did you ever see still images on

11 Chief [sic] Ryan Foy's Luzerne County computer?

12 A. Relative to this incident?

13 Q. Yes.

14 A. No.

15 Q. Did you ever see a file that is noted

16 as "Brian's Ass" on his government computer?

17 A. No.

18 Q. Do you have a policy and procedure to

19 inspect your personnel that are working for you --

20 their computers -- did you have a policy in place?

21 A. No.

22 Q. Would you want to be photographed

23 partially nude?

24 MR. BUFALINO: Object to the relevance.

25 THE WITNESS: As pertaining to what?

BARRY STANKUS

1 MS. POLLICK: Just asking you a

2 question, sir.

3 MR. BUFALINO: Same objection.

4 THE WITNESS: I have been.

5 BY MS. POLLICK:

6 Q. In what way have you been photographed

7 nude?

8 MR. BUFALINO: Relevance. Same

9 objection.

10 You can answer.

11 THE WITNESS: If I remember the

12 question correctly, you said "partially." I

13 have never been photographed totally nude.

14 BY MS. POLLICK:

15 Q. Would you want to be photographed when

16 you're being decontaminated from getting fleas

17 while you were working?

18 MR. BUFALINO: Object to the form.

19 Relevance.

20 You can answer.

21 THE WITNESS: Yes.

22 BY MS. POLLICK:

23 Q. You would want to be photographed?

24 A. Yes.

25 Q. Why?

BARRY STANKUS

1 A. Part of training.

2 Q. Why would that be part of training,

3 sir?

4 A. To indicate to those people who would

5 see the training the process that you would go

6 through in order to be decontaminated.

7 Q. Did Chief Foy ever come to you and show

8 you the footage of the process that he videotaped?

9 A. No.

10 MR. BUFALINO: Objection, asked and

11 answered.

12 BY MS. POLLICK:

13 Q. Did you ever provide a training program

14 based on the video footage that Ryan Foy --

15 Chief Foy -- collected on the day in question?

16 A. No.

17 Q. Did you ever tell him, go and videotape

18 that so we could use it for training purposes?

19 A. Yes.

20 Q. And when did you tell him that?

21 A. The day of the incident.

22 Q. So all of his actions on the day of the

23 incident were authorized by you, correct?

24 A. That's a difficult one to answer.

25 MR. BUFALINO: I'm going to object.

BARRY STANKUS

1 It's vague.

2 When you say "all of his actions," what

3 do you mean?

4 THE WITNESS: Should I go into a little

5 bit more detail?

6 MR. BUFALINO: If you don't understand

7 the question, ask her to rephrase it.

8 THE WITNESS: Please rephrase the

9 question.

10 BY MS. POLLICK:

11 Q. Sir, since you directed Chief Foy to

12 record the events of that day, did you give him

13 permission and was he authorized for all that he

14 did in connection with videotaping? Yes or no, and

15 then certainly you can explain.

16 A. Well, to answer it correctly, if I'm

17 going to explain later, then my answer is going to

18 have to be no with an explanation.

19 Q. Okay. Go ahead.

20 A. Okay. That day in question, we were

21 made aware of the fact that we had two individuals

22 that became contaminated with fleas. We had a

23 prior incident. What my instructions were, you are

24 to speak with those individuals who are going to be

25 decontaminated. If they allow you to video-record

BARRY STANKUS

1 parts of the decontamination, I would then say,

2 then fine, with the understanding that the sole

3 purpose of videotaping is for the training

4 purposes. Therefore, once they said they were

5 willing to allow the process to be videotaped, they

6 then performed the videotaping of the process.

7 Q. So having someone's bare bum being

8 videotaped, you authorized that, right?

9 MR. BUFALINO: I'm going to object.

10 That misstates the testimony and the evidence

11 of record.

12 You can answer if you know.

13 THE WITNESS: I'm not aware of that

14 videotaping.

15 BY MS. POLLICK:

16 Q. So you never saw the videotape that you

17 authorized Chief Foy --

18 A. I answered that. No, I did not.

19 Q. Why wouldn't you look at it? If you

20 directed him to go and take a video, why wouldn't

21 you then look at the videotape, sir?

22 A. At the time, I wasn't interested in

23 seeing the video.

24 Q. Why wouldn't you be interested in

25 seeing two of your personnel who were covered with

BARRY STANKUS

1 fleas and the ordeal that they had to go through?

2 A. Because it was the second time members

3 of our office went through it, and I had competent

4 people there performing videotaping. Therefore,

5 based upon their competency, I didn't feel it was

6 necessary for me to review it.

7 Q. And "competency" meaning laughing while

8 you're videotaping it; is that right? That's the

9 competency?

10 MR. BUFALINO: Objection to the form.

11 THE WITNESS: I wasn't aware of that.

12 BY MS. POLLICK:

13 Q. And focusing in on Deputy's -- I don't

14 know how to pronounce his name. I think it is

15 Smutz [sic] or something. But the gentleman that

16 was videotaped, focusing in on his nipple ring,

17 that is competency?

18 MR. BUFALINO: Objection to the form,

19 relevancy.

20 You can answer.

21 THE WITNESS: I wasn't aware of that.

22 BY MS. POLLICK:

23 Q. You have a responsibility to review the

24 work of your chiefs, correct?

25 MR. BUFALINO: Objection to the form.

BARRY STANKUS

1 Calls for legal conclusion.

2 You can answer.

3 THE WITNESS: Depending on what type of

4 work they do.

5 BY MS. POLLICK:

6 Q. You have a duty to supervise them,

7 correct?

8 MR. BUFALINO: Same objection.

9 You can answer.

10 THE WITNESS: Yes.

11 BY MS. POLLICK:

12 Q. And you want the jury to believe that

13 you never viewed the videotape that you instructed

14 your chief to take; is that correct?

15 MR. BUFALINO: Objection to the form,

16 asked and answered.

17 BY MS. POLLICK:

18 Q. You can answer the question.

19 A. I did not review the tape.

20 Q. Now, tell me about your computer system

21 that you had in place in the sheriff's office

22 in 2007.

23 A. Could you be a little more specific?

24 Q. How were you connected to other -- were

25 all of the computers connected? Were there

BARRY STANKUS

1 different drives that no matter what area you were
2 in you could pull from?

3 MR. BUFALINO: I'm going to object. I
4 think that is beyond the scope of the 30(b)(6)
5 notice.

6 BY MS. POLLICK:

7 Q. You can answer the question, sir.

8 A. Every work station had a computer.

9 Q. And how many drives were on the
10 computer; do you know?

11 MR. BUFALINO: I'm just going to note a
12 continuing objection so I don't have to keep
13 interrupting.

14 Go ahead.

15 THE WITNESS: I have no idea.

16 BY MS. POLLICK:

17 Q. Did you have a D drive?

18 A. I have no idea what that is.

19 Q. Did you ever do any type of work on
20 your computer?

21 A. Yes.

22 Q. Did you have access to the Internet on
23 your computer?

24 A. Yes.

25 Q. Did all of the computers in the office

BARRY STANKUS

1 have access to the Internet?

2 A. I believe some of them did not.

3 Q. Okay. Do you know -- did your chiefs
4 have access to the Internet?

5 A. Yes.

6 Q. And who were your chiefs?

7 A. Arthur Bobbouine. He was my chief
8 deputy.

9 Q. And what was Ryan Foy?

10 A. Ryan Foy was the real estate deputy.

11 Q. Was he a chief?

12 A. He was a real estate deputy.

13 Q. Was he considered a chief?

14 A. He was considered a real estate deputy.

15 Q. Did you ever refer to him as chief?

16 A. No.

17 Q. Did any other personnel ever refer to
18 him as chief?

19 A. I don't know.

20 Q. So who did Ryan Foy follow orders from,
21 you or Deputy Chief Bobbouine?

22 A. He worked with both of us.

23 Q. So did you direct Ryan Foy in his
24 activities?

25 A. Some of his activities, yes.

BARRY STANKUS

1 Q. And what activities did you not direct?

2 A. Well, there might be activities that we
3 had special details, where someone else would be
4 the head of the detail. So therefore, any
5 directions for Ryan Foy would come from those
6 individuals who were at the time supervising the
7 detail.

8 Q. Who was Ryan Foy's supervisor?

9 A. I was the ultimate supervisor in the
10 office.

11 Q. Did Ryan Foy take orders from Chief
12 Deputy Bobbouine?

13 A. Depending upon the situation, yes.

14 Q. So what type of supervisory

15 responsibilities did Ryan Foy have?

16 A. His primary functions were handling
17 real estate.

18 Q. And what did he do there?

19 A. He did all of the work affiliated with
20 sheriff's sales. The only thing that he did not do
21 was actually conduct the sheriff's sale itself.

22 Q. Who did that?

23 A. I did.

24 Q. Did he -- tell me what he actually did
25 with the sheriff's sale. Like, how did he get

BARRY STANKUS

1 prepared for it?

2 A. He would be the one that when the
3 properties would come in for sheriff's sale --
4 working with other members that were assigned to
5 the real estate division. His primary function was
6 preparing those properties for sheriff's sale. Any
7 funds that were obtained from the foreclosing
8 moving attorneys were deposited. The properties
9 were then posted. He would track all of the
10 paperwork on those properties, and then he would
11 see to it that the properties were properly listed
12 for sheriff's sale for advertisement in the paper.
13 Then once the properties were put up for sale, he
14 would then disburse the funds according to the
15 Rules of Civil Procedure.

16 Q. Did he do that all on his own with
17 exception -- you only just conducted the visible
18 sheriff's sale, and he did all of the other tasks
19 associated?

20 A. That's correct.

21 Q. Did he do that on his own?

22 A. Yes.

23 Q. Now, you said that you could actually
24 videotape people for training purposes if they
25 consent. Is that what you said?

BARRY STANKUS

1 A. Yes.

2 Q. And did you give them a written sheet

3 that they could -- you know, you don't have to do

4 this, but if you do it and you consent to it, sign

5 off on it so you're releasing Luzerne County from

6 any liability associated with it?

7 A. No.

8 Q. Did you yourself go up to the two

9 deputies that were videotaped and tell them, you

10 don't have to do this, you don't have to be

11 videotaped; if you don't want to, you don't have

12 to? Did you ever do that?

13 A. No.

14 Q. Did you ever direct Ryan Foy or Chief

15 Bobbouine to actually verbally tell them that you

16 don't have to be videotaped; don't worry about it;

17 you're not going to lose your job over it if you

18 don't allow us to videotape? Did you ever direct

19 either one of them to say that?

20 A. No.

21 Q. Can you explain to me why you wouldn't

22 give people who were going to be videotaped the

23 opportunity to sign a consent form?

24 MR. BUFALINO: Object to the form.

25 You can answer.

BARRY STANKUS

1 THE WITNESS: If someone asks you if

2 you're willing to participate in some type of

3 an action, those people now can say yes, I want

4 to participate, or no, I don't want to

5 participate. Based upon their response, you

6 would either perform the function or action, or

7 you would not perform the function or action.

8 BY MS. POLLICK:

9 Q. Okay. Do you have a policy and

10 procedure in place that notified everyone that you

11 can be videotaped if you do not object? Did you

12 have any type of policy on that?

13 A. No.

14 Q. Did you ever give your deputies

15 information that, I'm going to record you?

16 MR. BUFALINO: Object to the form.

17 You can answer if you understand it.

18 THE WITNESS: Other than for this

19 incident, I can't recall any other times where

20 we were videotaping or had any reasons to

21 videotape any deputies.

22 BY MS. POLLICK:

23 Q. So this is the only time that you ever

24 videotaped someone; is that correct?

25 MR. BUFALINO: Object to the form.

BARRY STANKUS

1 You can answer.

2 THE WITNESS: Relative to this type of

3 incident, yes.

4 BY MS. POLLICK:

5 Q. Did you ever videotape any deputy any

6 other way?

7 MR. BUFALINO: Objection. Asked and

8 answered.

9 BY MS. POLLICK:

10 Q. You can answer the question, sir.

11 A. Not that I can recall right now.

12 Q. Now, did you make sure -- did you

13 direct your chiefs to videotape the consent of both

14 individuals, that they -- the sheriff wants us to

15 know that you definitely consent to this

16 videotaping? Did you have them at least do that?

17 MR. BUFALINO: Objection to the form.

18 You can answer.

19 THE WITNESS: No.

20 BY MS. POLLICK:

21 Q. Now, you said that this happened on

22 another occasion, this flea infestation; is that

23 right?

24 A. Yes.

25 Q. And when did that happen?

BARRY STANKUS

1 A. I don't recall.

2 Q. Do you even recall the deputies that

3 were involved in it?

4 A. I believe one of the deputies involved

5 in it was a Mary Jean Farrell [ph].

6 Q. Do you know if she is still currently

7 working for the sheriff's department?

8 A. I believe so.

9 Q. Do you recall what happened to her, how

10 she was decontaminated?

11 A. The decontamination was done at the

12 Luzerne County Correctional Facility.

13 Q. And was there personnel that did that?

14 MR. BUFALINO: I'm sorry, objection to

15 the form. I'm not sure what you mean by "did

16 that."

17 BY MS. POLLICK:

18 Q. You can answer the question.

19 A. What personnel?

20 Q. Who did the -- who decontaminated her?

21 A. Well, when the decontamination is done,

22 they are actually decontaminating themselves. They

23 are actually washing themselves.

24 Q. There is no medical facility -- medical

25 personnel that assists to make sure that the

BARRY STANKUS

1 decontamination is done properly?

2 A. No medical personnel, no, not that I'm
3 aware of.

4 Q. Did you have any policy in place in
5 2007 that said, if anyone is infested with any type
6 of bugs, fleas, insects, that this is the procedure
7 and protocol to follow?

8 A. No.

9 Q. What do you recall about her
10 decontamination, Mary Jean Farrell?

11 A. All I recall about it is that the
12 decontamination was done at the Luzerne County
13 Correctional Facility. After the decontamination
14 was done, she returned to the office.

15 Q. Do you know how many fleas she was
16 infested with?

17 A. I have no idea.

18 Q. Did -- was there a photograph or any
19 type of images taken at that time?

20 A. Not that I'm aware of.

21 Q. Was there a photograph ever of
22 someone's clothing covered with fleas?

23 A. Not that I'm aware of.

24 Q. When was the first time that you heard
25 about the fact that two of your deputies had been

BARRY STANKUS

1 infested?

2 A. Which time?

3 Q. The incident that we're here for today.

4 A. That day.

5 Q. Yes.

6 A. That day.

7 Q. Yes -- okay. When, do you recall?

8 A. When it happened.

9 Q. And how were you notified of it?

10 A. I don't recall who notified me. But I
11 believe, as best as I could recollect, that they
12 notified the office over the radio. And then I was
13 made aware of the fact that they were contaminated
14 with fleas.

15 Q. And what did you do after you found
16 out?

17 A. We first approached Luzerne County EMA
18 to make a determination if they could decontaminate
19 the two deputies.

20 Q. And then what happened?

21 A. In the process of setting up the
22 decontamination units, they realized that there was
23 a problem with one of the units. So therefore they
24 said that they could no longer perform that
25 function.

BARRY STANKUS

1 Q. How long did that take?

2 A. I have no idea.

3 Q. Were you directly involved in
4 determining what agencies to go to?

5 A. People would ask me if -- what would
6 you recommend, and what would you suggest, and my
7 first suggestion was EMA.

8 Q. Why?

9 A. Because I was aware of the fact that
10 they received a lot of grants as a result of
11 September 11th. I was also aware of the fact that
12 they did purchase these decontamination units.

13 Q. Why not Luzerne County, where your
14 prior flea infestation decontamination occurred?

15 A. Because I'm now dealing with a county
16 agency where people are trained in decontamination.

17 Q. Do you know if they were trained in
18 decontamination?

19 A. The county employees at EMA?

20 Q. Yes.

21 A. Yes.

22 Q. How do you know?

23 A. I coordinated and worked with the EMA
24 on a daily basis.

25 Q. How do you know that they were

BARRY STANKUS

1 specifically trained for decontamination? Did you
2 receive a certificate of training?

3 A. No.

4 Q. Did you attend the training with them?

5 A. No.

6 Q. Did any of them tell you, I just came
7 back from training?

8 A. No.

9 Q. You believe that they are trained in
10 decontamination; is that right?

11 A. It was common knowledge that they were
12 trained in decontamination. That is why they were
13 able to purchase the decontamination units.

14 Q. Well, you would have to be -- well,
15 would Luzerne County -- is the EMA part of Luzerne
16 County?

17 A. Yes, it is.

18 Q. Is the prison system -- the
19 correctional facility, is that part of Luzerne
20 County?

21 A. Yes, it is.

22 Q. And who was the person who was trained
23 in the decontamination that you believe they were
24 trained in; who was it?

25 A. I wouldn't know who trained them.

BARRY STANKUS

1 Q. Well, which individuals from the EMA
2 were trained that you could sit here today and tell
3 me that they were trained?

4 A. All I know is who we coordinated with
5 that day for the decontamination.

6 Q. Okay. But you are stating for the
7 record, under oath, that the EMA people were
8 trained in decontamination. Could you tell me what
9 personnel -- their names from the EMA that actually
10 were trained in decontamination?

11 MR. BUFALINO: Objection. It misstates
12 the testimony. Objection to the form.

13 You can answer.

14 THE WITNESS: I can tell you the name
15 of the individual who we spoke with at EMA that
16 said they were able to perform the
17 decontamination.

18 BY MS. POLLICK:

19 Q. I'm not asking about who you spoke with
20 that day. You told me that the EMA were definitely
21 trained in decontamination. What person do you
22 know of from the EMA that actually was trained?

23 MR. BUFALINO: Objection to the form.

24 Misstates the testimony, argumentative.

25 You can answer.

BARRY STANKUS

1 Q. Can you explain to me what happened
2 with the video that was taken on the day in
3 question? You know there was a video. You never
4 saw it, but what happened with it?

5 MR. BUFALINO: Objection, compound
6 question.

7 You can answer.

8 THE WITNESS: That day the video was
9 brought back to the sheriff's office.

10 BY MS. POLLICK:

11 Q. And what happened to it?

12 A. It was taken into Ryan Foy's office.

13 Q. And what happened with it?

14 A. People in the office and the two
15 deputies involved in the videotaping went into Ryan
16 Foy's office and viewed the video.

17 MS. DEXTER: I'm running out of tape.

18 MS. POLLICK: Okay. Let's stop.

19 * * *

20 (Whereupon, a discussion was held off
21 the record.)

22 * * *

23 MS. DEXTER: We are on tape two of Jane
24 Doe, Luzerne County and Ryan Foy. This is the
25 deposition of 30(b)(6).

BARRY STANKUS

1 THE WITNESS: I could only reiterate my
2 answer to the last question. I could tell you
3 who I spoke with, who was the head of the EMA,
4 who said they could perform the
5 decontamination.

6 BY MS. POLLICK:

7 Q. Do you know if that individual is
8 specifically trained in decontamination?

9 MR. BUFALINO: Objection, asked and
10 answered about four times.

11 You can answer.

12 THE WITNESS: I don't know.

13 BY MS. POLLICK:

14 Q. And what was the individual's name?

15 A. Stephen Bekanich.

16 Q. How do you spell that last name?

17 A. I don't know.

18 Q. Where was the policy that said -- that
19 advised deputies that they would be videotaped if
20 they consented? Where was that policy located?

21 MR. BUFALINO: Objection to the form.

22 Assumes facts not in evidence.

23 THE WITNESS: I don't have a policy.

24 There is no policy.

25 BY MS. POLLICK:

BARRY STANKUS

1 BY MS. POLLICK:

2 Q. Now, you were saying that Ryan Foy took
3 it back, and there was people in Ryan Foy's office.
4 And the two deputies in question actually viewed it
5 on the day in question?

6 A. That's correct.

7 Q. And were you present?

8 A. I was in the office, but I wasn't in
9 Ryan Foy's office.

10 Q. So how do you -- so who were the people
11 that were in that office?

12 A. Ryan Foy, Chief Deputy Arthur
13 Bobbouine, Brian Szumski, Jennifer Roberts, and I
14 know throughout that period of time people within
15 the office would be in and out of Ryan Foy's
16 office.

17 Q. And who?

18 A. I don't recall their names.

19 Q. And why weren't you there?

20 A. I had other functions to perform in the
21 office.

22 Q. And what was the purpose of that
23 congregation?

24 A. They were all --

25 MR. BUFALINO: Objection to the

BARRY STANKUS

1 characterization.

2 You could answer.

3 THE WITNESS: They were all invited
4 into the office to view the video.

5 BY MS. POLLICK:

6 Q. And when did this occur? You said
7 after the situation, but when? Was it 4:00, 5:00?

8 A. It wouldn't be that late, because the
9 office closes at 4:00.

10 Q. Did anyone have any comments made about
11 what they saw?

12 A. No one came into the office commenting
13 to me.

14 Q. Did anyone say, oh, my God, I can't
15 believe Brian's bare butt was shown in that video?

16 MR. BUFALINO: Objection, asked and
17 answered.

18 THE WITNESS: I didn't hear any
19 comments pertaining to the video.

20 BY MS. POLLICK:

21 Q. In your career as sheriff, did anyone
22 make a comment about Brian's bare butt in that
23 video?

24 MR. BUFALINO: Objection to the
25 relevance, and asked and answered.

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1 Go ahead.

2 THE WITNESS: Not to me.

3 BY MS. POLLICK:

4 Q. Did you ever hear any comments about
5 the video from anyone?

6 A. No.

7 MR. BUFALINO: Objection. Asked and
8 answered.

9 THE WITNESS: No.

10 BY MS. POLLICK:

11 Q. What did -- how long were they in the
12 office for?

13 A. I would just have to go under the
14 premise in order to view the video.

15 Q. What do you mean by that, sir?

16 A. Well, when you asked how long they were
17 in the office, I could just tell you what I know.
18 I know that they returned to the office. Deputy
19 Foy and other people proceeded to Ryan's office.
20 That is when they viewed the video.

21 Q. Did you physically, with your own eyes,
22 see the people that you listed go into Ryan Foy's
23 office?

24 A. Those that I recall, yes, I did.

25 Q. And where were you standing when you

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1 saw them go in? Did you greet them when they came
2 back at the end of the day?

3 A. Yes.

4 Q. And what did you say to them?

5 A. I don't recall the exact conversation.

6 But it would be a normal conversation because of
7 prior incidents in my 33 years in law enforcement;
8 are you okay, is everything okay, are you all
9 right, do you feel okay, is it necessary for you to
10 fill out any type of Workers' Compensation forms or
11 injury or accident forms as they are required by
12 the county? It's just your normal, everyday small
13 talk.

14 Q. Did you actually do an incident report
15 on this situation?

16 A. I did not.

17 Q. Why wouldn't you? You're sheriff.

18 MR. BUFALINO: Objection to the form,
19 argumentative.

20 You can answer.

21 THE WITNESS: I wasn't involved in the
22 incident.

23 BY MS. POLLICK:

24 Q. Where were you located when you saw
25 those four individuals go into Ryan Foy's office?

40

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1 MR. BUFALINO: Objection, asked and
2 answered.

3 THE WITNESS: Standing outside of my
4 office.

5 BY MS. POLLICK:

6 Q. I'm going to give you a sheet of paper,
7 and I'm going to mark it as 30(b)(6)-B. If you
8 could, draw the layout.

9 MR. BUFALINO: The layout of his
10 office?

11 MS. POLLICK: Yes, of what we're
12 talking about right now.

13 BY MS. POLLICK:

14 Q. I want to see where your office was,
15 where his office was, so if you wouldn't mind
16 drawing me a rough depiction of the area.

17 A. (Drawing.) My office is on the outside
18 wall (indicating). Directly adjacent to my office
19 was Deputy Chief Bobbouine's office (indicating).
20 This is a hallway that comes down, where you come
21 in through the back door off the elevator or
22 through the private entranceway into the building
23 for the sheriff's department (indicating).

24 As they come up, they cannot continue
25 to go straight because there is another wall.

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1 Therefore, it is necessary where they have to walk
2 by Chief Deputy Bobbouine's office, they then have
3 to walk by my office. On the one side of my office
4 is another hallway that now they have to walk down
5 to get to Ryan Foy's office.

6 Q. What is the distance between your
7 office and Ryan Foy's office?

8 A. I don't know.

9 Q. Is there any other offices anywhere
10 here (indicating)?

11 MR. BUFALINO: Just for the record,
12 when you say "here," Counsel is referring to an
13 area to the left of where the sheriff has
14 depicted the location of his office.

15 MS. POLLICK: And Ryan Foy's.

16 BY MS. POLLICK:

17 Q. You said it is a hallway -- what is to
18 the left of the hallway?

19 A. That is the outside wall with the
20 windows.

21 Q. Are you actually in the courthouse at
22 that time?

23 A. No. We are across the street in the
24 Annex.

25 Q. And where is the entrance to Ryan Foy's

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1 office?

2 A. Entrance to mine (drawing), entrance to
3 Chief Deputy Bobbouine's (drawing), and entrance to
4 Ryan Foy's office (drawing).

5 Q. What is the distance between your
6 office and Ryan's office?

7 A. I don't know.

8 Q. You don't know?

9 A. No.

10 Q. Is there anything in between -- like,
11 is there anything --

12 A. There's workstations.

13 Q. So there is workstations. How many
14 workstations are there?

15 A. They are double-sided workstations. So
16 there would be four cubicles.

17 Q. Could you draw the four cubicles?

18 A. (Drawing.)

19 Q. So over the cubicles, you could
20 actually see who goes into Ryan Foy's office?

21 A. I'm six-foot-four.

22 Q. What is the height of the cubicle?

23 A. Maybe four feet.

24 Q. Do you know if the layout of the
25 sheriff's office now -- right today is the same as

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1 it was?

2 A. I have no idea.

3 Q. And are you -- Ryan Foy's -- was it
4 glass around his office, was it glass windows?

5 A. No. There were no windows.

6 Q. Were there ever any windows in your
7 office?

8 A. Yes.

9 Q. Could you see who goes into his office
10 when you're in your office, or do you have to be
11 outside of your office to see it?

12 A. If I'm standing at the doorway of my
13 office, I could see who goes into his office.

14 Q. And how long does it take to get from
15 your office to Ryan Foy's office?

16 A. A couple of seconds.

17 Q. Who sat at those cubicles?

18 MR. BUFALINO: On that day? I'm going
19 to object to the form.

20 BY MS. POLLICK:

21 Q. You can answer the question, sir.

22 A. Anyone could sit at those cubicles.

23 Q. And what were the cubicles for?

24 A. This cubicle right here (indicating) --

25 MR. BUFALINO: I'm going to object to

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1 the form. It's beyond the scope of the
2 30(b)(6) notice.

3 You could answer.

4 THE WITNESS: This cubicle here
5 (indicating) was assigned for PFAs. The
6 cubicle on this side was for civil
7 (indicating), and the cubicle on this side
8 (indicating) -- civil (indicating), and this
9 (indicating) was for real estate.

10 * * *

11 (Whereupon, Exhibit 30(b)(6)-B was
12 marked for identification.)

13 * * *

14 BY MS. POLLICK:

15 Q. Now, although you saw the individuals
16 go into Ryan Foy's office, how do you know they
17 viewed this videotape since you weren't there?

18 A. I recall -- and I don't recall who told
19 me -- but many people in the office said that they
20 were all in there and they saw the video.

21 Q. Okay. How do you know those four

22 individuals actually saw the video at that time,
23 hearsay?

24 A. That sounds good.

25 Q. Who told you that they saw the video?

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1 You said everybody did. Who? Name a few.

2 A. As far as I know, the ones that I named
3 who were in the office -- that I could recall that
4 went into Ryan Foy's office.

5 Q. So they came out and told you that they
6 saw the video just then?

7 MR. BUFALINO: Objection, asked and
8 answered.

9 You can answer it.

10 THE WITNESS: I don't recall who told
11 me at that time who actually saw the video. I
12 do recall numerous people from the office went
13 into Ryan Foy's office and viewed the video.

14 BY MS. POLLICK:

15 Q. And do you know who those numerous
16 office personnel -- some of their names?

17 A. I don't recall their names.

18 MR. BUFALINO: Objection, asked and
19 answered.

20 BY MS. POLLICK:

21 Q. Now, what happened to the video --
22 after you believe that all of the four people and
23 numerous other people went in and viewed the video,
24 what happened to that video?

25 A. As it was told to me, the video was

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1 then stored on Ryan Foy's computer.

2 Q. Why was it stored on Ryan Foy's
3 computer?

4 A. In order to be utilized eventually as a
5 training film.

6 Q. And how would it be used as a training
7 film?

8 A. Because this is the second time that we
9 had an incident involving decontamination of
10 deputies either serving civil process or warrants.
11 This would afford other deputies in the office an
12 opportunity to see the process of the
13 decontamination.

14 Q. And your deputies laughing and joking
15 and focusing -- and taking nude photos, that is
16 permissible as training purposes in your mind?

17 MR. BUFALINO: Objection. Assumes
18 facts not in evidence, argumentative.

19 THE WITNESS: I'm not aware of that.

20 BY MS. POLLICK:

21 Q. Well, if it was supposed to be for
22 training purposes, why aren't you, the sheriff,
23 looking at this material to make sure that it is
24 suitable for the viewing of your deputies?

25 MR. BUFALINO: Objection to the form,

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1 argumentative.

2 THE WITNESS: Because all the people
3 that viewed it, including those involved, no
4 objections were brought to me relative to the
5 content of the video. So therefore, I felt
6 that it wasn't necessary for me to review the
7 video.

8 BY MS. POLLICK:

9 Q. Who does training for your office?

10 A. We have a lot of different employees in
11 the office. It depends upon the type of training,
12 who performs the training.

13 Q. And who handles any -- well, what
14 actual training was it? Was it called safety
15 training? What were you planning on using this
16 video for? Because you didn't do anything with it.

17 MR. BUFALINO: Objection, asked and
18 answered.

19 THE WITNESS: As I stated before, we
20 were planning on using this as a video to show
21 to deputies the process of decontamination.

22 BY MS. POLLICK:

23 Q. Would it surprise you that your deputy
24 Brian -- it actually showed a shot of him naked?

25 MR. BUFALINO: Objection to the form,

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1 relevance. It assumes facts not in evidence.

2 THE WITNESS: I'm not aware of it.

3 BY MS. POLLICK:

4 Q. Would you show that to other deputies
5 as a training tool?

6 A. I would not.

7 MR. BUFALINO: Objection to relevance.
8 Objection to the form.

9 BY MS. POLLICK:

10 Q. And since the time of this incident and
11 you know that this lawsuit has been started, nobody
12 showed you the video?

13 A. That's correct.

14 Q. Do you have any interest in seeing it?

15 A. No.

16 Q. Why not?

17 MR. BUFALINO: Objection to the form
18 and relevance.

19 Go ahead.

20 THE WITNESS: I have no interest in
21 seeing it because of what value would it be to
22 me to view it? I am no longer in office.

23 BY MS. POLLICK:

24 Q. I just would think that you might be
25 interested to see what your people in charge did.

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1 MR. BUFALINO: Objection to the form,
2 relevance.

3 THE WITNESS: I'm not interested in
4 seeing it.

5 BY MS. POLLICK:

6 Q. What steps were taken to use it as a
7 training tool?

8 MR. BUFALINO: Objection, asked and
9 answered.

10 THE WITNESS: It was stored on Ryan
11 Foy's computer.

12 BY MS. POLLICK:

13 Q. Do you know what Ryan Foy did with the
14 video? Did he make any still images? Do you know
15 that?

16 A. Not that I'm aware of.

17 Q. Tell me your firsthand knowledge, not
18 hearsay, but what you know of the individuals --
19 that they consented to that video. Give me any
20 firsthand knowledge that you have that they
21 consented to being videotaped.

22 A. Neither one of them came into the
23 office when they returned from the incident and
24 said that they didn't consent to the video.

25 Q. But what proof do you have that they

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1 Q. And --

2 MR. BUFALINO: I'm not sure he is
3 finished.

4 BY MS. POLLICK:

5 Q. Oh, I'm sorry.

6 A. There would be someone there -- a clerk
7 assigned to the real estate unit. At the time
8 there were three. So there would be at least one
9 of them there in order to address any concerns
10 relative to real estate. There would be a deputy
11 in order to address any concerns for the service of
12 civil process. And that would be it in our section
13 of the office.

14 Q. Was there any other departments that
15 were in the area of where the sheriff's office was?

16 A. Our office is just strictly our office.
17 We share the building with other departments.

18 Q. And what departments do you share the
19 building with?

20 A. On the first floor is the recorder of
21 deeds office.

22 Q. And the others?

23 A. On the second floor with us is -- I
24 don't know what they are classified as. It's
25 Stephen Englot. I'm not sure what his department

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1 were asked and that they answered that question of,
2 do you consent to this video being taken?

3 A. I have no physical proof.

4 Q. How many people worked for the
5 sheriff's office at that point?

6 A. 50 -- I believe there were 53 full-time
7 employees. Then we had what we classified as
8 part-time per diem employees.

9 Q. And how many of them?

10 A. It fluctuated every day.

11 Q. And how many people were present in the
12 sheriff's office at that time when they came back
13 and you saw them going into Ryan Foy's office?

14 A. I don't recall.

15 Q. And do you recall any people that stick
16 out in your mind that would be there all of the
17 time?

18 MR. BUFALINO: Objection to the form.
19 You can answer.

20 THE WITNESS: There would always have
21 to be someone at the front counter for civil
22 intake. There would always be someone there
23 for the issuance of permits to carry concealed
24 weapons.

25 BY MS. POLLICK:

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1 classification is.

2 Q. Do you know -- the deputies that were
3 videotaped on the day in question, do you know
4 how -- what clothing they were wearing when they
5 were being decontaminated?

6 A. I know that they had their
7 office-issued uniforms on when they became
8 decontaminated. And when they returned to the
9 office, they returned in clothing that was provided
10 by the hospital.

11 Q. Was it scrubs?

12 A. Yes.

13 Q. Now, are you married?

14 A. Yes.

15 Q. Does your wife work?

16 A. No.

17 Q. Has your wife ever worked?

18 A. Yes.

19 Q. Okay. Would you think it would be
20 appropriate for her boss to videotape her when she
21 only has a sheet around her? I call it a protector
22 cover, like when you go to a doctor's office and
23 they protect the cushions and they rip it off after
24 you're done so that it's clean for each individual.
25 Would you feel comfortable if your wife -- her boss

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1 took a video image of her with just a protector
 2 over her private areas?
 3 MR. BUFALINO: Objection to the form.
 4 It is beyond the scope of the 30(b)(6) notice
 5 and not relevant.
 6 BY MS. POLLICK:
 7 Q. You can answer the question, sir.
 8 A. If she consented to it, I wouldn't be
 9 upset.
 10 Q. And how would she need to consent?
 11 MR. BUFALINO: Objection to the form.
 12 Calls for a legal conclusion.
 13 You can answer.
 14 THE WITNESS: I think that is a
 15 question that she would have to answer.
 16 BY MS. POLLICK:
 17 Q. What if her boss didn't give her an
 18 opportunity to consent or not, she just -- we're
 19 doing this, and we're doing it because it is for
 20 training purposes?
 21 MR. BUFALINO: Objection to the form.
 22 Beyond the scope of the 30(b)(6) notice.
 23 THE WITNESS: With all due respect, I
 24 think that is a question that you would have to
 25 ask my wife.

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1 BY MS. POLLICK:
 2 Q. Well, how would you feel about it,
 3 being her husband?
 4 MR. BUFALINO: Objection to the form.
 5 Beyond the scope of the 30(b)(6) notice.
 6 THE WITNESS: I don't -- I can't answer
 7 that.
 8 BY MS. POLLICK:
 9 Q. Now, could you explain to me why it is
 10 okay that people who are barely clothed are
 11 actually videotaped -- that that could happen at an
 12 employment situation?
 13 MR. BUFALINO: Objection to the form.
 14 It assumes facts not in evidence, relevance.
 15 THE WITNESS: If someone consents to
 16 it, then it could happen. If someone doesn't
 17 consent to it, then it can't happen.
 18 BY MS. POLLICK:
 19 Q. So you think that it's okay that an
 20 employer, while you were working at an employment
 21 site, that they actually videotape you and tell you
 22 it is for training purposes when you're partially
 23 clothed?
 24 MR. BUFALINO: Objection to the form,
 25 argumentative. Beyond the scope of the

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1 30(b)(6) notice.
 2 THE WITNESS: I can't answer for them.
 3 BY MS. POLLICK:
 4 Q. Well, I was in human resources before I
 5 became a lawyer. Let me tell you, I would never --
 6 if any of my managers ever videotaped someone
 7 partially clothed, it would not be permissible.
 8 So I'm kind of trying to understand why
 9 you think it is permissible in an employment
 10 situation that you're actually videotaping people
 11 that by no choice of their own have been infested
 12 with fleas, and now they are being decontaminated
 13 and they are partially clothed -- in one case, one
 14 was nude from the rear, you could see -- how that
 15 would be acceptable.
 16 MR. BUFALINO: Objection to the form.
 17 Assumes facts not in evidence. Counsel
 18 testifying. Beyond the scope of the 30(b)(6)
 19 notice.
 20 THE WITNESS: You're asking me to
 21 comment on a video that I did not view.
 22 Therefore, if you want an answer to that
 23 question, I could only answer from my own
 24 encounters.
 25 I was videotaped when I was with the

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1 state police as a result of injuries that I
 2 received in a shoot-out. I was not fully
 3 clothed. I authorized members of the
 4 Pennsylvania State Police to prepare a video.
 5 It was prepared upon my approval, where I said,
 6 yes, you can videotape.
 7 Therefore, going by that, and as I have
 8 continued to state throughout this deposition,
 9 if an individual consents to a video being
 10 prepared, one must go under the premise that if
 11 they want the video stopped, it will be
 12 stopped. If they don't want the video done, it
 13 won't be done. If they view the video and
 14 consent to what was in the video and at no
 15 point in time were raising an objection to the
 16 video -- therefore, I agreed with it. I saw my
 17 video. I consented to it. At no point in time
 18 after that video was prepared and after I
 19 viewed it did I object to it.
 20 So that's coming from me as my opinion
 21 relative to the questions that you're asking me
 22 about the videotapes.
 23 BY MS. POLLICK:
 24 Q. Tell me how you were partially clothed.
 25 What areas were exposed?

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1 A. I was in an emergency room.
 2 Q. Okay. And what was showing, sir?
 3 A. All I had on was my underwear.
 4 Q. Was there a cloth over you or anything?
 5 A. No.
 6 Q. So you were in your underwear?
 7 A. Correct.
 8 Q. And when did the State Police ask you
 9 if they could videotape you?
 10 A. When they accompanied me to the
 11 hospital.
 12 Q. Okay. I'm sure the State Police had
 13 you sign a form or got a recording of you saying
 14 that you consented to this video?
 15 MR. BUFALINO: Objection to the form.
 16 THE WITNESS: Not that I recall.
 17 BY MS. POLLICK:
 18 Q. What shot -- what injuries were you
 19 suffering from at that point?
 20 MR. BUFALINO: Objection to the form,
 21 relevance.
 22 THE WITNESS: Well, actually, I'm not
 23 going to because now you're getting into the
 24 HIPAA law. I'm not going to comment on any
 25 prior injuries or medical conditions I have or

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1 still may be suffering from.
 2 BY MS. POLLICK:
 3 Q. Well, when did this happen?
 4 A. I believe it was in 1986.
 5 Q. '86?
 6 A. Uh-huh.
 7 Q. And who was the trooper that was
 8 recording you?
 9 A. I don't recall.
 10 Q. And you said that there was a training
 11 video from that?
 12 A. No, I didn't say that.
 13 Q. Okay. Well, what came of that?
 14 A. I have no idea.
 15 Q. How do you know that you were recorded?
 16 A. Because I was there.
 17 Q. What indication -- tell me how you know
 18 that you were being recorded.
 19 MR. BUFALINO: Objection. Asked and
 20 answered, beyond the scope of the 30(b)(6)
 21 notice.
 22 THE WITNESS: If someone is standing
 23 there with a recorder, I'm going under the
 24 premise I'm being recorded.
 25 BY MS. POLLICK:

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1 Q. And they asked you before they pressed
 2 the record button?
 3 A. Correct.
 4 MR. BUFALINO: Objection, asked and
 5 answered.
 6 BY MS. POLLICK:
 7 Q. The State Police isn't your employer,
 8 correct?
 9 A. Not now.
 10 Q. But it was at that time?
 11 A. Yes.
 12 Q. Okay. So you actually were a trooper
 13 at that time?
 14 A. Correct.
 15 Q. And what barracks were you out of?
 16 A. Gibson.
 17 Q. And how long were you a trooper?
 18 A. 25 years.
 19 Q. And where was the -- where were you at,
 20 Gibson, what other barracks?
 21 A. Gibson, Dunmore, Hazleton, Milton,
 22 Montoursville, Milesburg.
 23 Q. Where did you spend the majority of
 24 your 25 years?
 25 A. At none of them. They were all spread

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1 out over a period of time.
 2 Q. How about your last ten years?
 3 A. Between Dunmore and Gibson.
 4 Q. Why -- did you retire?
 5 A. Yes.
 6 Q. Did you retire on disability, or just
 7 plain retirement?
 8 A. Retirement.
 9 Q. And you don't remember the -- was it
 10 your supervisor that was recording -- that was
 11 making the videotape?
 12 A. I don't recall.
 13 Q. Do you know -- could I get in touch
 14 with someone? Do you know a name that you could
 15 give me so I could try to see what occurred during
 16 that time?
 17 A. No.
 18 MR. BUFALINO: Objection to the form.
 19 Relevance, beyond the scope of the 30(b)(6)
 20 notice.
 21 BY MS. POLLICK:
 22 Q. You don't know anyone?
 23 A. No.
 24 Q. You don't have anybody that would be
 25 able to give me any bit of information about that

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1 incident that you were injured and somebody
2 recorded you?
3 MR. BUFALINO: Same objection.
4 You can answer.
5 THE WITNESS: I wouldn't know who to
6 contact.
7 BY MS. POLLICK:
8 Q. Did you have a partner on that day that
9 that incident happened?
10 MR. BUFALINO: Same objection.
11 THE WITNESS: No.
12 BY MS. POLLICK:
13 Q. Could you tell me about what happened?
14 I'm not asking for your medical information, just
15 what happened on that day that you got injured.
16 MR. BUFALINO: Objection. Relevance,
17 beyond the scope of the 30(b)(6) notice, asked
18 and answered.
19 THE WITNESS: I was involved in a
20 shootout.
21 BY MS. POLLICK:
22 Q. Was it -- did you go on scene to a
23 domestic? What was the situation that arose in you
24 getting shot?
25 MR. BUFALINO: Same objection.

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1 THE WITNESS: I stopped the individual
2 for a suspicion of DUI.
3 BY MS. POLLICK:
4 Q. And you approached the car, and did he
5 shoot you, or --
6 MR. BUFALINO: Same objection.
7 THE WITNESS: I would rather not
8 comment on that. In other words, it is
9 bringing up things right now that I would
10 rather not discuss.
11 BY MS. POLLICK:
12 Q. Were you on Workers' Comp following
13 that situation?
14 A. No.
15 MR. BUFALINO: Objection, relevance.
16 It's beyond the scope of the 30(b)(6) notice.
17 BY MS. POLLICK:
18 Q. And you feel uncomfortable talking
19 about it?
20 A. That's correct.
21 Q. Had you had any human resource training
22 prior to becoming sheriff?
23 A. No.
24 Q. Did you have any human resource
25 training while you were sheriff?

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1 A. No.
2 Q. Do you know how many people saw that
3 video?
4 MR. BUFALINO: Objection, asked and
5 answered about six times.
6 THE WITNESS: No.
7 BY MS. POLLICK:
8 Q. Do you think that the government has
9 the right to come into a medical facility and
10 record you in a compromising position?
11 MR. BUFALINO: Objection, assumes facts
12 not in evidence. Objection to the form. Calls
13 for a legal conclusion.
14 THE WITNESS: If it's done with
15 consent.
16 BY MS. POLLICK:
17 Q. And what is the way that you have proof
18 that that person consented?
19 MR. BUFALINO: Objection to the form.
20 THE WITNESS: No one told me contrary
21 to the fact, or no one said to me that the
22 people involved did not consent.
23 BY MS. POLLICK:
24 Q. Well, what happens when you have a rape
25 and the victim says, I didn't consent, but the

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1 rapist says that she did consent?
2 MR. BUFALINO: Objection to the form
3 and the relevance.
4 THE WITNESS: I don't understand the
5 question.
6 BY MS. POLLICK:
7 Q. Well, do you discern that that person
8 consented?
9 MR. BUFALINO: Objection to the form.
10 Beyond the scope of the 30(b)(6) notice,
11 improper question.
12 You could answer.
13 THE WITNESS: If the person is raped,
14 it becomes very obvious that it was not
15 consensual because of the fact you're talking
16 about a rape.
17 BY MS. POLLICK:
18 Q. Well, have you had times that you
19 questioned whether there was consent?
20 MR. BUFALINO: Objection to the form.
21 Beyond the scope of the 30(b)(6) notice.
22 THE WITNESS: Pertaining to what?
23 BY MS. POLLICK:
24 Q. Rape.
25 MR. BUFALINO: Same objection.

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1 THE WITNESS: 25 years with the State
 2 Police, I have investigated numerous criminal
 3 incidents.
 4 BY MS. POLLICK:
 5 Q. What is proof of when someone consents,
 6 that you would not charge someone based on the fact
 7 that they believe that they consented to sex?
 8 MR. BUFALINO: Objection to the form.
 9 Relevance, beyond the scope of the 30(b)(6)
 10 notice.
 11 THE WITNESS: Any determination on that
 12 would be based upon the totality of the
 13 investigation.
 14 BY MS. POLLICK:
 15 Q. And it is your belief that the
 16 deputy -- that the woman that was videotaped, she
 17 wanted to be videotaped; is that right?
 18 MR. BUFALINO: Objection to the form.
 19 THE WITNESS: At no point in time did
 20 she come to me and say that she had a problem
 21 with the video or she had a problem with the
 22 videotaping itself.
 23 BY MS. POLLICK:
 24 Q. Okay. But that's not the question that
 25 I asked you. The question was about -- do you

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1 believe that she wanted to be videotaped, yes or
 2 no?
 3 A. I can only go by the premise that she
 4 did, because the tape was prepared. At no point in
 5 time did she object to the tape.
 6 Q. Okay. Well, you're saying that based
 7 on -- you have no firsthand knowledge of whether
 8 she objected at the time of the taping, correct?
 9 MR. BUFALINO: Objection to the form.
 10 THE WITNESS: Yes.
 11 BY MS. POLLICK:
 12 Q. All you can say is, well, she never
 13 came to me and complained about it, correct?
 14 A. Right.
 15 MR. BUFALINO: Objection to the form,
 16 argumentative.
 17 BY MS. POLLICK:
 18 Q. So then you believe that she actually
 19 wanted -- someone who is embarrassed about her
 20 weight wanted to be recorded in a compromising
 21 situation with just the protector sheet around her?
 22 MR. BUFALINO: Objection, assumes facts
 23 not in evidence. Objection to the form.
 24 Beyond the scope of the 30(b)(6) notice.
 25 THE WITNESS: I can't answer for her.

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1 All I can continue to do is answer the way that
 2 I have in the past. There was no objections
 3 raised by her that I was made aware of from her
 4 or anyone else that she objected to the
 5 videotaping, or that she objected to the
 6 contents of the videotape.
 7 BY MS. POLLICK:
 8 Q. And you believe that she saw the entire
 9 video?
 10 MR. BUFALINO: Objection to the form,
 11 asked and answered. Beyond the scope of the
 12 30(b)(6) notice.
 13 Go ahead.
 14 THE WITNESS: I'm aware of the fact
 15 that she went into the office -- with everyone
 16 else into Ryan Foy's office and all of those
 17 people who were there at the incident, and the
 18 videotape was played in Ryan Foy's office.
 19 BY MS. POLLICK:
 20 Q. So how did they get it from the
 21 camcorder to the computer?
 22 MR. BUFALINO: Objection. Calls for
 23 speculation, no foundation, beyond the scope of
 24 the 30(b)(6) notice.
 25 THE WITNESS: I wasn't there.

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1 BY MS. POLLICK:
 2 Q. How did they play it, sir?
 3 MR. BUFALINO: Same objection.
 4 THE WITNESS: I would have to go under
 5 the premise that they played it on the screen
 6 of Ryan Foy's computer.
 7 BY MS. POLLICK:
 8 Q. And that's all assumptions on your
 9 part, correct? You have no evidence that that
 10 really occurred?
 11 MR. BUFALINO: Objection to the form.
 12 You can answer.
 13 THE WITNESS: I was not in Ryan Foy's
 14 office at that time.
 15 BY MS. POLLICK:
 16 Q. And it is only four people that you
 17 believe were in the office, but you know other
 18 people came in and out, correct?
 19 MR. BUFALINO: Objection, asked and
 20 answered.
 21 THE WITNESS: Correct.
 22 BY MS. POLLICK:
 23 Q. And not one person commented about that
 24 videotape to you?
 25 MR. BUFALINO: Objection, asked and

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1 answered.

2 THE WITNESS: Correct.

3 BY MS. POLLICK:

4 Q. Not even Chief Bobbouine -- I always
5 pronounce his name incorrectly, I apologize -- or
6 Ryan Foy, neither one of them ever commented about
7 that tape to you?

8 MR. BUFALINO: Objection, asked and
9 answer.

10 THE WITNESS: Other than the fact that
11 a videotape was made.

12 * * *

13 (Whereupon, a discussion was held off
14 the record.)

15 * * *

16 MS. DEXTER: Videotape three of the Doe
17 versus Luzerne 30(b)(6) deposition.

18 MS. POLLICK: Could you read back the
19 last question?

20 * * *

21 (Whereupon, the court reporter read
22 from the record.)

23 * * *

24 BY MS. POLLICK:

25 Q. Anything else, did either one of them

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1 A. I don't recall.

2 Q. Why did you not immediately take the
3 individuals to the emergency room for
4 decontamination?

5 MR. BUFALINO: Objection to the form.
6 You can answer if you know.

7 THE WITNESS: First you have to find a
8 place where the decontamination can be done
9 before you take them any place.

10 BY MS. POLLICK:

11 Q. Did you have any policy in place
12 that -- since you had this happen on prior
13 occasions, did you have a policy that when anybody
14 gets infected with fleas, this is what you do?

15 MR. BUFALINO: Objection, asked and
16 answered.

17 You can answer if you know.

18 THE WITNESS: No.

19 BY MS. POLLICK:

20 Q. Do you know how long the fleas were
21 biting them?

22 A. No.

23 Q. Did you even ask them?

24 A. I asked them if they -- again, I could
25 only reiterate the conversations that I had with

BARRY STANKUS

1 comment to you about anything?

2 A. Not that I could recall.

3 Q. Now, besides the information that you
4 provided, that you just asked them if they were
5 okay, were you involved in any other -- or I should
6 say telling them to do the videotape, and then also
7 when they came back to the facility asking them if
8 they were okay, did you have any involvement with
9 the two deputies that were decontaminated other
10 than that on that day?

11 MR. BUFALINO: Objection. Misstates
12 the testimony, asked and answered.

13 THE WITNESS: Not other than normal
14 interaction in the office as me being with
15 another co-worker.

16 BY MS. POLLICK:

17 Q. Did you talk with either one of them
18 after they went into Ryan Foy's office?

19 MR. BUFALINO: Objection to the form,
20 asked and answered.

21 THE WITNESS: I recall being there for
22 the entire day.

23 BY MS. POLLICK:

24 Q. And how long was it since the time that
25 they got back until the end of the day?

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1 them when they returned to work after being
2 decontaminated. My primary concern was that they
3 were able to work -- they didn't suffer any
4 debilitating injuries or anything that would
5 prevent them from performing their duties as a
6 deputy sheriff.

7 Q. Did they continue to work that day in
8 their scrubs?

9 A. They remained in the office that day,
10 yes.

11 Q. In the scrubs the entire time for the
12 shift?

13 A. I don't recall if they remained in
14 their scrubs the entire shift.

15 Q. What happened to the car?

16 A. The car had to be decontaminated.

17 Q. And how did that happen?

18 A. I'm not sure which company it is, but
19 what they do is -- they have these smoke bombs.
20 What it is, is they place them in the interior of
21 the vehicle. They set them off. The vehicle
22 remains sealed -- I believe it's for 24 hours.
23 They then return to make sure -- in this case,
24 there were no live fleas or flea eggs or what have
25 you. Once they make that determination, then the

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1 vehicle is vacuumed, sanitized, and now becomes
 2 available to be used.

3 Q. And who did that? Who coordinated all
 4 of that?

5 A. John Chesko.

6 Q. And how do you spell the last name?

7 A. C-H-E-S-K-O.

8 MR. BUFALINO: I'm sorry. C-H --
 9 THE WITNESS: E-S-K-O.

10 BY MS. POLLICK:

11 Q. Have you had any type of training on
 12 privacy rights? You know the HIPAA law. So have
 13 you had any rights on privacy training [sic]?

14 A. No specific training, no.

15 Q. How about informal?

16 A. I haven't attended any classes or
 17 seminars on it.

18 Q. And you yourself sitting here today
 19 didn't want to talk about HIPAA stuff, correct?

20 A. Well, I didn't want to talk about my
 21 own personal medical condition.

22 Q. Because you think that you have a right
 23 to privacy, right?

24 MR. BUFALINO: Objection.
 25 Argumentative, beyond the scope, relevance.

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1 THE WITNESS: Relative to my medical
 2 condition, yes, I do.

3 BY MS. POLLICK:

4 Q. Now, what is your education?

5 A. I graduated from Wyoming Area High
 6 School in 1968, Keystone Junior College in 1970,
 7 Mansfield University with a bachelor of science
 8 degree in elementary education in '72, entered the
 9 State Police Academy in '73, graduated from the
 10 State Police Academy in July, and then different
 11 trainings and seminars based upon my job
 12 description for 25 years with the Pennsylvania
 13 State Police.

14 Q. What is your address?

15 A. [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

21 Q. Now, I know that you just had a lawsuit
 22 that you were -- I think it was 350 the jury
 23 awarded against you; is that right?

24 MR. BUFALINO: Objection to the form.
 25 Beyond the scope of the 30(b)(6) notice,

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1 relevance.

2 BY MS. POLLICK:

3 Q. You can answer.

4 A. I don't recall the amount.

5 Q. But the jury awarded against you,
 6 correct?

7 MR. BUFALINO: Same objection.

8 THE WITNESS: Yes.

9 BY MS. POLLICK:

10 Q. Who was the deputy that filed the
 11 lawsuit against you?

12 A. Norman Sallitt, S-A-L-I -- I think
 13 there is double T. It's S-A-L-I-T-T [sic].

14 Q. The jury found that you violated his
 15 constitutional rights, correct?

16 MR. BUFALINO: Objection. Beyond the
 17 scope of the 30(b)(6) notice, relevance.
 18 Objection to the form, assumes facts not in
 19 evidence.

20 THE WITNESS: I'm not sure of the
 21 wording of the verdict.

22 BY MS. POLLICK:

23 Q. And he was employed -- when was he
 24 discharged?

25 MR. BUFALINO: Objection to relevance.

BARRY STANKUS

1 Beyond the scope of the 30(b)(6) notice.

2 THE WITNESS: I don't recall.

3 BY MS. POLLICK:

4 Q. Who has filed lawsuits against you
 5 while you -- well, actually, in your career as a
 6 police officer?

7 MR. BUFALINO: Objection to the form.
 8 Relevance, beyond the scope of the 30(b)(6)
 9 notice.

10 BY MS. POLLICK:

11 Q. You can answer the question.

12 A. You mentioned Norman Sallitt.

13 Q. Anyone else besides him?

14 A. An individual by the name of
 15 Arnone [ph]. I know there was another one, but I
 16 don't recall the individual's name. I'm not even
 17 sure if it is still in litigation.

18 They are the three that I could recall
 19 at this time when I was with Luzerne County.

20 Q. Now, there was a number of grievances
 21 filed by your deputies during your tenure as
 22 sheriff, correct?

23 MR. BUFALINO: Objection. Beyond the
 24 scope of the 30(b)(6) notice, relevance.
 25 THE WITNESS: Yes.

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1 BY MS. POLLICK:
 2 Q. Do you recall some of the deputies who
 3 filed grievances on you?
 4 MR. BUFALINO: Same objection.
 5 THE WITNESS: Yes.
 6 BY MS. POLLICK:
 7 Q. And could you tell me some of their
 8 names?
 9 MR. BUFALINO: Same objection.
 10 THE WITNESS: Feddock.
 11 MR. BUFALINO: Would that be F-E-D-O-K?
 12 THE WITNESS: F-E-D-D-O-C-K. Barna,
 13 B-A-R-N-A.
 14 * * *
 15 (Pause)
 16 * * *
 17 BY MS. POLLICK:
 18 Q. If that's all you can recall at this
 19 point, that's fine.
 20 A. At this point that's all I can recall,
 21 yeah.
 22 Q. Do you have any children?
 23 A. Yes.
 24 Q. How many children?
 25 A. One.

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1 Q. And what's the age?
 2 A. 22.
 3 Q. And what does that -- is it a girl,
 4 boy?
 5 A. A son.
 6 Q. And what does he do?
 7 A. Attend college.
 8 Q. What are you currently doing now?
 9 A. Retired.
 10 MS. POLLICK: Nothing further.
 11 * * *
 12 (Witness excused.)
 13 * * *
 14 (Whereupon, the deposition was
 15 concluded at 11:41 a.m.)
 16 * * *
 17 (Whereupon, Exhibit 30(b)(6)-A was
 18 retained by Attorney Pollick.)
 19 * * *
 20
 21
 22
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BARRY STANKUS

I N D E X

* * *

1
 2
 3 WITNESS: Barry Stankus
 4 QUESTIONED BY: PAGE
 5 Ms. Pollick 4
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 7

E X H I B I T S

* * *

10 NUMBER	DESCRIPTION	MARKED FOR ID
11 30(b)(6)-A	Notice of deposition	3
12 30(b)(6)-B	Drawing	44
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BARRY STANKUS

INSTRUCTIONS TO WITNESS

1
 2
 3 Read your deposition over carefully. It is
 4 your right to read your deposition and make changes
 5 in form or substance. You should assign a reason
 6 in the appropriate column on the errata sheet for
 7 any change made.
 8
 9 After making any change in form or substance
 10 which has been noted on the following errata sheet,
 11 along with the reason for any change, sign your
 12 name on the errata sheet and date it.
 13
 14 Then sign your deposition at the end of your
 15 testimony in the space provided. You are signing
 16 it subject to the changes you have made in the
 17 errata sheet, which will be attached to the
 18 deposition before filing. You must sign in the
 19 space provided. The witness need not be a notary
 20 public. Any competent adult may witness your
 21 signature.
 22
 23 Return the original errata sheet to the court
 24 reporter promptly! Court rules require filing
 25 within 30 days after you receive the deposition.

BARRY STANKUS
ERRATA SHEET

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BARRY STANKUS
C E R T I F I C A T E

1
2
3 I, Ashlee J. Boyle, Court Reporter and
4 Notary Public in and for the Commonwealth of
5 Pennsylvania, certify that the foregoing is a true
6 and accurate transcript of the deposition of said
7 witness, who was first duly sworn by me on the date
8 and place hereinbefore set forth.
9
10 I further certify that I am neither
11 attorney nor counsel for, nor related to or
12 employed by, any of the parties to the action in
13 which this deposition was taken, and further, that
14 I am not a relative or employee of any attorney or
15 counsel employed in this action, nor am I
16 financially interested in this case.
17
18
19
20
21
22 _____
Ashlee J. Boyle
Notary Public
23
24
25

BARRY STANKUS
SIGNATURE PAGE
OF
BARRY STANKUS

1
2
3
4
5 I hereby acknowledge that I have read the
6 foregoing deposition, dated July 9, 2009, and that
7 the same is a true and correct transcription of the
8 answers given by me to the questions propounded,
9 except for the changes, if any, noted on the
10 attached errata sheet.
11
12
13 SIGNATURE: _____
14
15 DATE: _____
16
17
18
19 WITNESSED BY: _____
20
21 DATE: _____
22
23
24
25

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* * *

JANE DOE, : CIVIL ACTION
 Plaintiff :
 :
 vs :
 :
 LUZERNE COUNTY and :
 RYAN FOY, :
 Defendants : NO. 3:08-CV-1155

* * *

Videotaped Rule 30(b)(6) deposition of LUZERNE COUNTY, by and through its designee, RYAN FOY, taken at The Employment Law Firm, 363 Laurel Street, Pittston, Pennsylvania 18640, on Thursday, July 9, 2009, beginning at 12:01 p.m. before Ashlee J. Boyle, Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania.

* * *

ACCUSCRIPT, INC.
COURT REPORTERS
 218 North Wyoming Street
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RYAN FOY

* * *

1
 2 (It is hereby stipulated and agreed by
 3 and between counsel for the respective parties
 4 that sealing, certification, and filing are
 5 waived and that all objections, except as to
 6 the form of the question, are reserved until
 7 the time of trial.)

* * *

8
 9 MS. DEXTER: Continuing after a
 10 ten-minute break with the 30(b)(6) deposition.

* * *

11
 12 RYAN FOY,
 13 having been called as a 30(b)(6) witness,
 14 was examined and testified as follows:

* * *

EXAMINATION

* * *

15
 16
 17 BY MS. POLLICK:
 18 Q. Mr. Foy, I represent the plaintiff in
 19 connection with a lawsuit that she has brought
 20 against the county as well as yourself in
 21 connection with an incident that occurred on
 22 September 27th, 2007. Have you ever been deposed
 23 before?
 24 A. Yes.

A P P E A R A N C E S:

CYNTHIA L. POLLICK, ESQUIRE
 THE EMPLOYMENT LAW FIRM
 363 Laurel Street
 Pittston, Pennsylvania 18640

-- Representing the Plaintiff

MARK W. BUFALINO, ESQUIRE
 ELLIOTT, GREENLEAF & DEAN
 39 Public Square
 Suite 1000
 Wilkes-Barre, Pennsylvania 18701

-- Representing the Defendants

* * *

A L S O P R E S E N T:

Malissa Dexter, Videographer

RYAN FOY

1 Q. And how many times have you been
 2 deposed?
 3 A. Once.
 4 Q. And what was that in connection with?
 5 A. A lawsuit that I have filed against
 6 Luzerne County and Michael Savokinas.
 7 Q. And is that over your employment with
 8 the county?
 9 A. My termination of employment from the
 10 county.
 11 Q. When did that occur? Not the
 12 termination, the deposition.
 13 A. The deposition? I believe it was July
 14 of last year.
 15 Q. Since you're actually a plaintiff in
 16 another lawsuit, you know how this is definitely
 17 going to work. I get to ask you questions. You
 18 have to answer the questions. Your counsel gets
 19 the opportunity to place the objections on the
 20 record. Unless he instructs you not to answer the
 21 question, you have to answer everything that I ask
 22 you about. Do you understand that?
 23 A. Yes, I do.
 24 Q. At any time that I ask confusing
 25 questions, when I do, let me know and I'll rephrase

RYAN FOY

1 them so that you could understand them, okay?

2 A. Sure.

3 Q. And one of the things is -- you're

4 doing a good job at giving me verbal answers. I

5 need verbal, but I don't care if you do the hand

6 shakes, or whatever motions you need to make, as

7 long as you give me verbal as well, okay?

8 A. Sure.

9 Q. And I'm going to try not to interrupt

10 you. I just ask that you do the same for me.

11 A. Absolutely.

12 Q. Because it is difficult for the

13 reporter to take all of us down at the same time.

14 A. Okay.

15 Q. Did you talk with anyone in preparation

16 for your deposition today?

17 A. I spoke with Attorney Bufalino.

18 Q. Excluding him. Anybody other than him?

19 A. In preparation for the deposition, no.

20 Q. Did you speak with anyone about this

21 lawsuit at all?

22 A. Yes, I did.

23 Q. And who did you speak with?

24 A. I spoke with my attorney.

25 Q. And that is Peter Weinberg [ph]?

RYAN FOY

1 A. Yes, it is.

2 Q. Anyone else?

3 A. Let's see. If -- we'll go back to the

4 time that it is filed. The Times Leader called me,

5 and I gave them no comment. The Citizens' Voice

6 called me, and they also received no comment. I

7 spoke to my wife about it, my mother, my father, my

8 mother-in-law, my father-in-law, my children, my

9 brother, my sister, my sister-in-law, two nephews.

10 I'm trying to get the family, and then I'll go on

11 from there.

12 Q. If you can, give me the names. You can

13 state their names and then what relation they are

14 to you.

15 Your wife's name?

16 A. Marilee Foy.

17 MR. BUFALINO: I'm sorry, Marilee?

18 BY MS. POLLICK:

19 Q. How do you spell that first name?

20 A. M-A-R-I-L-E-E.

21 Q. And your mother?

22 A. Roseanne.

23 Q. Is she still a Foy?

24 A. Yes.

25 Q. And who else?

RYAN FOY

1 A. My father, Ronald Foy; I believe I said

2 my in-laws. My father-in-law is Charles

3 Shatrowskas.

4 Q. And how do you spell that last name?

5 A. S-H-A-T-R-O-W-S-K-A-S. My

6 mother-in-law is Patricia. My brother is Ronald

7 Foy, Junior. His wife would be Glenn Foy. Their

8 son is Ronny Foy, one of my nephews. My sister is

9 Robin Slater [ph]. Her husband is Gerard Slater,

10 and their son is Drew Slater.

11 Q. And any other people?

12 A. I think I had mentioned my

13 sister-in-law, which would be Amber Dempsey. From

14 there I spoke with people with my employment. That

15 would be Mayor William Goldsworthy of West Pittston

16 Borough, Chief of Police, Paul Porfirio.

17 MR. BUFALINO: Could you spell the last

18 name for the benefit of the court reporter?

19 THE WITNESS: P-O-R-I-F-I-R-O [sic].

20 MR. BUFALINO: Is it

21 P-O-R-F-I-R-O [sic]?

22 BY MS. POLLICK:

23 Q. Do your best attempt.

24 A. P-O-R-F-I-R-O [sic].

25 MR. BUFALINO: That's what it is.

RYAN FOY

1 THE WITNESS: They had asked me about

2 it. A lot of people asked me about it but I

3 really didn't fill them in on anything. When

4 your name is in the paper, you get a lot of

5 calls and asked a lot of things.

6 Those are the major ones that I spoke

7 to about it.

8 BY MS. POLLICK:

9 Q. Well, that wasn't anything new for you

10 because you had already sued somebody prior to this

11 case being filed, correct?

12 MR. BUFALINO: Objection to the form.

13 It's beyond the scope of the 30(b)(6) notice.

14 THE WITNESS: Could you repeat that?

15 BY MS. POLLICK:

16 Q. Well, you said that when your name is

17 in the paper -- at that point, your name had

18 already been in the paper because you had sued

19 already, correct?

20 A. Yes. Nobody questioned me on that.

21 Q. And you actually -- in this case, you

22 photographed -- or I should say video-recorded

23 naked people, correct?

24 MR. BUFALINO: Objection to the form,

25 assumes facts not in evidence.

RYAN FOY

1 BY MS. POLLICK:
 2 Q. You could answer the question.
 3 A. That is what is alleged.
 4 Q. Okay. Well, did you ever take a
 5 picture of someone's bare bum?
 6 MR. BUFALINO: Objection to the form,
 7 relevance.
 8 You could answer if you know.
 9 THE WITNESS: Yes.
 10 BY MS. POLLICK:
 11 Q. And who told you to do that, sir?
 12 A. Who told me to do it? I'm not sure of
 13 how the whole -- how the situation came to be. But
 14 I was requested by then Chief Deputy Art Bobbouine
 15 to do it.
 16 Q. When did that occur?
 17 A. When did what occur?
 18 Q. That he requested that you do it.
 19 A. It was on that date. I don't know when
 20 the time was or any specifics of that nature.
 21 Q. What was your position at that point?
 22 A. I was the Real Estate Deputy of the
 23 Luzerne County Sheriff's Department.
 24 Q. Were you ever called chief?
 25 A. It wasn't my title. People may have

RYAN FOY

1 You can answer.
 2 THE WITNESS: The situation was to film
 3 the decontamination process. There wasn't
 4 specifics made as to what was to be filmed. I
 5 had never done it before.
 6 BY MS. POLLICK:
 7 Q. You had never videotaped anyone?
 8 A. I had never done this decontamination
 9 before.
 10 Q. Was it supposed to be a serious process
 11 of you videotaping?
 12 A. I would say that it may have been a
 13 mixture of both serious and there was levity
 14 involved.
 15 Q. And why didn't you just film when you
 16 were outside? Why did you have to go and film when
 17 people were actually barely clothed and naked?
 18 MR. BUFALINO: Objection to the form,
 19 calls for speculation.
 20 You can answer, if you know.
 21 THE WITNESS: I don't -- repeat the
 22 question again, please.
 23 MS. POLLICK: Could you read it back?
 24 * * *
 25 (Whereupon, the court reporter read

RYAN FOY

1 called me chief, but my official title was Real
 2 Estate Deputy when I was hired at that point, and
 3 when I was fired I was Real Estate Deputy.
 4 Q. But people refer to you as chief?
 5 A. They may have.
 6 Q. Sitting here today, do you recall
 7 anybody ever referring to you as chief?
 8 A. Sure. People still call me chief.
 9 Q. Why would they call you chief if you're
 10 not a chief?
 11 MR. BUFALINO: Objection, calls for
 12 speculation.
 13 THE WITNESS: I don't know.
 14 BY MS. POLLICK:
 15 Q. Did you ever inform them, hey, don't be
 16 calling me chief, I'm not a chief?
 17 A. I would tell people frequently that a
 18 title means nothing to me, and I don't care what
 19 they call me. Because I have been referred to as
 20 many other names too.
 21 Q. Now, did Chief Bobbouine -- did he tell
 22 you to videotape people -- your deputies that were
 23 partially clothed and actually not clothed?
 24 MR. BUFALINO: Objection, assumes facts
 25 not in evidence.

RYAN FOY

1 from the record.)
 2 * * *
 3 MR. BUFALINO: Same objection.
 4 THE WITNESS: I would say for
 5 documentation of the process.
 6 BY MS. POLLICK:
 7 Q. And who told you that was documentation
 8 of the process?
 9 A. What's that?
 10 Q. Who told you that that was
 11 documentation of the process?
 12 MR. BUFALINO: Objection, asked and
 13 answered.
 14 You can answer if you know.
 15 THE WITNESS: It's part of the whole
 16 taping and the filming of it that we already
 17 discussed.
 18 BY MS. POLLICK:
 19 Q. And what training purpose does that
 20 show?
 21 A. There is a lot of things that you tape
 22 for training. This was probably -- because I would
 23 not -- nothing ever was done with it. We never had
 24 a chance to do anything with it. So I believe it
 25 was for maybe how a decontamination process would

RYAN FOY

1 go, if you were to be infested with fleas or
 2 anything, for that matter.
 3 Q. So commenting on someone's butt, their
 4 tattoos, their tan lines, that all has training
 5 purposes; is that right?
 6 MR. BUFALINO: Objection to the form,
 7 argumentative.
 8 You could answer.
 9 BY MS. POLLICK:
 10 Q. Well, didn't you comment on that?
 11 A. I haven't seen the tape in over --
 12 well, since it was done. I don't remember
 13 everything that was said and/or done on the tape.
 14 Q. Your counsel didn't show it to you
 15 before your deposition today?
 16 A. No, he did not.
 17 Q. Do you want to see it again?
 18 A. I don't think that it is necessary. If
 19 everything is still there that was taken, I don't
 20 think that's necessary.
 21 Q. How long did you videotape?
 22 A. I don't remember.
 23 Q. Was it an hour, two hours, three hours?
 24 A. I don't remember how long it was.
 25 Q. You don't -- did you record the entire

RYAN FOY

1 time?
 2 A. I believe I recorded from the time that
 3 we met them, I believe it was at the EMA building,
 4 until we finished at Mercy Hospital. I do not know
 5 the time frame.
 6 Q. Was it more than an hour, do you think?
 7 A. I have no idea how long it was, ma'am.
 8 Q. You can't even give me an approximate?
 9 A. I do not know. I don't know.
 10 Q. Can you explain to me why you're
 11 laughing in the video, the portion we have of it?
 12 A. I wouldn't know what part of the video
 13 I would be laughing in.
 14 Q. Do you recall laughing?
 15 A. I recall laughing all of the time. But
 16 as to what specific instance you're talking about
 17 me laughing, I don't know what you're referencing.
 18 Q. So you would need to see it frame by
 19 frame to comment on why you were laughing during a
 20 documentation?
 21 A. Well, if I was laughing, I think it
 22 would be safe to assume that there was probably
 23 something funny that occurred. I'll go with maybe
 24 there was something funny that happened.
 25 Q. And now who told you to take this for

RYAN FOY

1 training purposes?
 2 MR. BUFALINO: Objection, asked and
 3 answered twice.
 4 You could answer if you know.
 5 THE WITNESS: As I stated before, it
 6 was Chief Deputy Bobbouine that had asked me.
 7 BY MS. POLLICK:
 8 Q. How come he didn't videotape?
 9 MR. BUFALINO: Objection. Calls for
 10 speculation.
 11 THE WITNESS: I don't know.
 12 BY MS. POLLICK:
 13 Q. And you willingly videotaped?
 14 A. Sure. It was an order from the Chief
 15 Deputy.
 16 Q. At any time did you get a written
 17 consent form signed by the two deputies that you
 18 recorded?
 19 A. No.
 20 Q. Did you ever get consent on the
 21 videotape that they consented to the process of
 22 being videotaped?
 23 A. Well, as I recall, neither of the
 24 deputies that were involved said no or stop or
 25 whatever, or gave an indication that they didn't

RYAN FOY

1 want the video camera there.
 2 Q. So your testimony under oath is that
 3 neither of the two individuals ever said that they
 4 didn't want to be videotaped?
 5 A. I do not recall that either of them
 6 said that.
 7 Q. It's not that they definitely didn't
 8 say it, you just don't recall sitting here today?
 9 A. I don't recall.
 10 Q. And can you explain to me why you would
 11 be making -- why the chief or you would be making a
 12 comment, oh, we're not going to videotape you in
 13 the shower if someone didn't say they didn't want
 14 to be recorded? Can you explain that one?
 15 MR. BUFALINO: Objection, calls for
 16 speculation, misstates the testimony.
 17 THE WITNESS: I don't know what that
 18 reference is.
 19 BY MS. POLLICK:
 20 Q. How tall are you?
 21 A. Six foot.
 22 Q. And how much do you weigh?
 23 A. 220 pounds.
 24 Q. Would you be embarrassed being
 25 videotaped had you been the deputies that were

RYAN FOY

1 infested with fleas and needed to be
2 decontaminated?

3 MR. BUFALINO: Objection.

4 BY MS. POLLICK:

5 Q. Would you be embarrassed being
6 partially nude -- and the male was nude from the
7 behind?

8 MR. BUFALINO: Objection to the form,
9 compound question, beyond the scope of the
10 30(b)(6) notice.

11 THE WITNESS: No.

12 BY MS. POLLICK:

13 Q. And why not?

14 A. Because if it was going to be utilized
15 for training and it was going to help other
16 deputies, I wouldn't have a problem with it.

17 Q. How would your bare butt being shown
18 help -- how does that help anybody?

19 A. Well, I'm sure that --

20 MR. BUFALINO: Objection -- I'm sorry.
21 Objection to the form, relevance.

22 THE WITNESS: I'm sure that videotape
23 would be edited.

24 BY MS. POLLICK:

25 Q. Why would you even take it? You don't

RYAN FOY

1 think that you're invading someone's privacy when
2 you take someone's bare butt?

3 MR. BUFALINO: Objection, relevance.

4 BY MS. POLLICK:

5 Q. You could answer the question.

6 A. Repeat it again, please.

7 Q. Do you think taking a video of someone
8 who is being decontaminated -- taking a picture of
9 their butt is invading their privacy?

10 MR. BUFALINO: Objection. Calls for
11 speculation, calls for a legal conclusion,
12 beyond the scope of the 30(b)(6) notice.

13 THE WITNESS: I don't know.

14 BY MS. POLLICK:

15 Q. Now, we know -- we definitely have
16 proof on the images that we have that you
17 definitely got a butt shot of the male deputy.

18 What would lead -- why should we
19 believe that you didn't get similar photos or
20 recordings, images, of the female?

21 MR. BUFALINO: Objection to the form.
22 Calls for speculation, misstates the evidence.

23 THE WITNESS: Well, because I didn't,
24 number one. Number two, I believe while the
25 female deputy was in the shower or

RYAN FOY

1 decontaminating or whatever, I was filming the
2 male deputy.

3 BY MS. POLLICK:

4 Q. Oh, so they got showered at the same
5 time?

6 A. No, they went in separately. The male
7 deputy went first, and I believe the female deputy
8 went second.

9 Q. Okay. So you were filming him after
10 his process, that's why you wouldn't be filming
11 her; is that right?

12 MR. BUFALINO: Objection to the form,
13 argumentative.

14 THE WITNESS: That's what I believe.

15 BY MS. POLLICK:

16 Q. Take me through all the -- let me ask
17 you this. You're married, you told me that, right?

18 A. Yes.

19 Q. Would you want your doctor -- your wife
20 to be -- for her photo or image to be recorded when
21 she is in the doctor's office and she is not fully
22 clothed?

23 A. If it was for medical purposes, I would
24 not have a problem with it.

25 Q. Do you think that your wife would?

RYAN FOY

1 MR. BUFALINO: Objection to the form.
2 Calls for speculation, relevance.

3 THE WITNESS: I don't know what she
4 thinks.

5 BY MS. POLLICK:

6 Q. Would you approve of her boss
7 videotaping her in a compromising situation that's
8 occurring at work? This isn't an off-the-job site.
9 This is something that is occurring because of her
10 work.

11 MR. BUFALINO: Objection to the form,
12 relevance, beyond the scope of the 30(b)(6)
13 notice.

14 THE WITNESS: I would have to wonder
15 how she got into the situation, being that she
16 is an office clerk.

17 BY MS. POLLICK:

18 Q. But would you approve of her boss --
19 say she got infested with fleas, would you approve
20 of her boss videotaping her decontamination?

21 MR. BUFALINO: Objection, relevance,
22 beyond the scope of the 30(b)(6) notice.

23 THE WITNESS: Again, I would find it
24 hard to believe. If it was necessary -- or
25 again, as in my situation, if they were going

RYAN FOY

1 to use it for training and edit it properly so
2 that everyone's modesty was preserved, then I
3 would not have a problem with it.

4 BY MS. POLLICK:

5 Q. Well, if you're so worried about
6 everyone's modesty and all of that, then how come
7 you showed the video to numerous people in the
8 office?

9 MR. BUFALINO: Objection, misstates the
10 evidence of record. Objection to the form.

11 THE WITNESS: I believe -- as far as
12 that goes, the plaintiff was one of the people
13 that was in the office as well as the second
14 deputy.

15 BY MS. POLLICK:

16 Q. And who else was there?

17 A. I was there -- you know what, I don't
18 even remember many people that were there. There
19 were others that were there. But to go back, I
20 really don't remember everybody that may have been
21 there. I know that the plaintiff and the other
22 deputy were there.

23 Q. And who else was there that you can
24 remember? You've got to remember at least one of
25 them.

RYAN FOY

1 MR. BUFALINO: Objection,
2 argumentative, asked and answered.

3 THE WITNESS: It really is difficult
4 for me to remember. I haven't even been in the
5 office for -- it will be almost two years. A
6 lot of the people, I don't even recognize them
7 now if I see them.

8 BY MS. POLLICK:

9 Q. Now, how old are your kids?

10 A. My daughter is -- I have a daughter
11 that is three, and a daughter that is five.

12 MS. POLLICK: I know that I have
13 separately noticed him for his own deposition.
14 How do you want me to do that?

15 MR. BUFALINO: Did you? As long as he
16 is here, you can do it. I just don't know that
17 you did that. But I don't have a problem doing
18 it now.

19 MS. POLLICK: I don't know if you want
20 me to do the 30(b)(6) and then start another
21 deposition.

22 MR. BUFALINO: That's up to you.

23 MS. POLLICK: Well, do you have a
24 problem if I do him all in one in the 30(b)(6)?

25 MR. BUFALINO: Yes.

RYAN FOY

1 MS. POLLICK: Okay. So then we'll do
2 two. That's what we'll do.

3 BY MS. POLLICK:

4 Q. How did you first become aware that the
5 two individuals had been infested with fleas?

6 A. Chief Deputy Bobbouine told me.

7 Q. And where were you?

8 A. In my office.

9 Q. And I have a depiction of your office
10 that the prior witness gave to us, Stankus. Is
11 that -- does he accurately --

12 A. Yes.

13 Q. So your office was down there
14 (indicating)?

15 A. Uh-huh, yes.

16 Q. And there was cubicles in between?

17 A. Yes.

18 Q. And then your entrance to your door was
19 there?

20 A. Yeah.

21 Q. And could you see what the sheriff was
22 doing from your office?

23 A. No.

24 Q. Could he see what you're doing from
25 your [sic] office?

RYAN FOY

1 MR. BUFALINO: Objection, calls for
2 speculation.

3 THE WITNESS: I don't know.

4 BY MS. POLLICK:

5 Q. What do you think?

6 MR. BUFALINO: Objection, calls for
7 speculation.

8 THE WITNESS: If he looked.

9 BY MS. POLLICK:

10 Q. Okay.

11 A. I don't know. I don't know if he would
12 be able to see.

13 Q. Have you ever talked with him about
14 this lawsuit at all, Barry Stankus?

15 A. Yes.

16 Q. Okay. When did you talk to him about
17 it?

18 A. When it was filed.

19 You never did let me finish that
20 question.

21 Q. Okay. I'm sorry. Go ahead. Go back.

22 A. Okay. I talked to him about it. This
23 is going to be a list. I talked to -- I was
24 working with the Lackawanna County District
25 Attorney's office at the time. I talked to -- it

RYAN FOY

1 would be -- I forget her exact title, but her name
2 was Maryann Grippo. I don't know if she is the
3 chief deputy or assistant. And that was because of
4 my employment. I had to speak with her about it.
5 I also talked with Gene Talerico. He is --

6 Q. He is the District Attorney for
7 Lackawanna, I know.

8 A. I forget what they call him.

9 Q. He is an ADA.

10 A. Okay. And at the time, I was working
11 for Northeast Regional Cancer Institute. I talked
12 with -- Jane Oswald is her name -- to explain it to
13 her.

14 Shortly after all of that happened, I
15 received a letter from the Boy Scouts of America.
16 I was at the time a Scoutmaster for the Boy Scouts.
17 I received a letter that -- I don't know what the
18 word is -- I was removed from being a Scoutmaster
19 because of this, because they read it in the paper.
20 And with that, I didn't talk to them about it
21 because they did not -- all they were basing it on
22 was a letter.

23 I had to answer to several people that
24 were questioning me on it with the Scouts. We'll
25 start off with the pastor of the church, which is a

26

RYAN FOY

1 Methodist church in West Pittston, and that would
2 be Janet Tibert [ph].

3 MR. BUFALINO: Do you know how to spell
4 that?

5 THE WITNESS: T-I-B-E-R-T, I believe.

6 I talked with Dominic Oritz [ph]. He
7 was the troop committee chairman. I spoke with
8 Reverend Jim Thiron [ph]. I spoke with him on
9 sort of a counseling level because I was really
10 upset about this.

11 MS. POLLICK: Hold on just one second.

12 I'll give you some more time to think
13 of any.

* * *

14 (Whereupon, a discussion was held off
15 the record.)

* * *

16 MS. DEXTER: Tape four of the Doe
17 versus Luzerne County and Ryan Foy 30(b)(6)
18 deposition.

19 BY MS. POLLICK:

20 Q. Go ahead.

21 A. From there on I had communications with
22 the Scouts' regional office in New Jersey. That's
23 about it.

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RYAN FOY

1 Q. Did you tell any of them, you know
2 what, let me show you the tape; that will clear
3 everything up?

4 A. No, because I don't have it.

5 Q. But you put it on your computer,
6 correct?

7 A. No, I didn't put it on my computer.

8 Q. The government's you put it on,
9 correct?

10 MR. BUFALINO: Objection, asked and
11 answered. And objection to the form.

12 THE WITNESS: It's not my computer that
13 I put it on.

14 BY MS. POLLICK:

15 Q. Well, your government computer you put
16 it on, right?

17 MR. BUFALINO: Same objection.

18 THE WITNESS: I don't have a government
19 computer.

20 BY MS. POLLICK:

21 Q. At the time you did?

22 A. Then, yes, it was on that computer.

23 But since I was fired in January, I didn't have
24 access to it in July of 2008.

25 Q. But did you say, you know what, hold

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RYAN FOY

1 on, I'm sure they have that on my computer system
2 and I'll show you so you could see exactly what I
3 did and how I was laughing and basically
4 humiliating two people? You could take it from
5 there what you think. Did you ever say that to any
6 of them?

7 MS. BUFALINO: Objection to the form.

8 Misstates the testimony and evidence of record.

9 THE WITNESS: The answer is no.

10 BY MS. POLLICK:

11 Q. Did you have any -- did you copy --
12 tell me how you got the video from the video
13 camcorder to the computer and all of that.

14 A. Well, without having the equipment in
15 front of me, I really don't know the exact way that
16 it was done. I think it was just a situation of
17 plugging the camera into the computer, and it did
18 it itself.

19 Q. Okay. Then what did you label it?

20 A. I don't recall what it was labeled.

21 But by the court documents I believe it was called
22 "Brian's Ass."

23 Q. Did you label it? I think you would
24 remember that.

25 MR. BUFALINO: Objection,

RYAN FOY

1 argumentative.

2 THE WITNESS: Up until I read the court

3 filings, I did not.

4 BY MS. POLLICK:

5 Q. But you remember it now?

6 MR. BUFALINO: Objection to the form.

7 THE WITNESS: Well, of course.

8 BY MS. POLLICK:

9 Q. So you labeled this training video

10 "Brian's Ass"?

11 A. Sure.

12 Q. And you think that is 100 percent

13 appropriate?

14 MR. BUFALINO: Objection,

15 argumentative.

16 THE WITNESS: Its level of

17 appropriateness I don't think matters.

18 BY MS. POLLICK:

19 Q. It's for training purposes. Instead of

20 saying "training video," you call it "Brian's Ass"?

21 MR. BUFALINO: Objection, asked and

22 answered. Objection to the form,

23 argumentative.

24 THE WITNESS: It was a raw video

25 unedited. It would probably be renamed if it

RYAN FOY

1 was edited.

2 BY MS. POLLICK:

3 Q. Okay. But your first -- the thing out

4 of your mind when you downloaded it was "Brian's

5 Ass"?

6 MR. BUFALINO: Objection,

7 argumentative.

8 THE WITNESS: Actually, when it was

9 downloaded, it was labeled with a computer

10 number.

11 BY MS. POLLICK:

12 Q. And then you renamed that file?

13 A. Yes.

14 Q. And you renamed it "Brian's Ass"

15 because that is what stuck out in your mind?

16 MR. BUFALINO: Objection,

17 argumentative.

18 You can answer.

19 THE WITNESS: That is what I renamed

20 it.

21 BY MS. POLLICK:

22 Q. And you think that is appropriate?

23 MR. BUFALINO: Objection.

24 Argumentative, asked and answered.

25 THE WITNESS: I don't think the level

RYAN FOY

1 of appropriateness matters, being that it was a

2 raw video that hadn't been edited yet.

3 BY MS. POLLICK:

4 Q. But still, you're a law enforcement

5 officer, one of the high individuals working at the

6 sheriff's department, and you labeled something

7 that was supposed to be a training video "Brian's

8 Ass," and you think that is acceptable, right?

9 MR. BUFALINO: Objection to the form.

10 Assumes facts not in evidence.

11 THE WITNESS: I don't mean to be

12 argumentative on this. Stop me if I am,

13 please. But have you been in law enforcement?

14 Occasionally levity happens. We joke around.

15 That is how we get through things. That's what

16 happens. We joke around every now and then,

17 and we're serious at other times.

18 BY MS. POLLICK:

19 Q. But this is -- you made this video for

20 training purposes, which is not joking around,

21 correct?

22 MR. BUFALINO: Objection to the form.

23 Assumes facts not in evidence, speculation,

24 argumentative.

25 THE WITNESS: The video was taken to be

RYAN FOY

1 edited into a training video.

2 BY MS. POLLICK:

3 Q. And who was going to do the editing?

4 A. I don't know. It never got that far.

5 Q. Why didn't you get that far? You had

6 it for a couple of months.

7 A. Well, I don't know if you know what the

8 duties that I had to perform in the office were,

9 but my duties mostly consisted of real estate

10 functions. There were sheriff's sales to be done.

11 We were in the middle of audits. That wasn't a

12 primary function of my job.

13 Q. Have you ever videotaped anyone else?

14 A. Yes.

15 Q. And who have you videotaped?

16 A. I do not remember their names.

17 Q. And what were you videotaping?

18 A. I used to work at Adams County Prison.

19 Every time that we did a cell extraction, we would

20 videotape it. To give you a list of names of cell

21 extractions that I was involved in would probably

22 be unavailable, because I don't remember all of

23 them. We also filmed all of our trainings when I

24 worked at the prison.

25 Q. Did any of them involve any type of

RYAN FOY

1 nudity, partial nudity?
 2 A. Yes, they did.
 3 Q. Was it inmates or was it your
 4 co-workers?
 5 A. Staff and inmates.
 6 Q. The staff were partially clothed?
 7 A. That I cannot recall if that was true,
 8 because we did have several decontamination issues
 9 when a CO would get sprayed with OC spray.
 10 Q. And what is the employer's name again?
 11 I'm sure they would have those videos that you took
 12 there.
 13 A. I don't know if they do. It's Adams
 14 County Prison.
 15 Q. And what is the address?
 16 A. I don't know.
 17 Q. And what state is that in?
 18 A. Pennsylvania.
 19 Q. And where is it located?
 20 A. Gettysburg.
 21 Q. And were you the training officer?
 22 A. No.
 23 Q. What was your position?
 24 A. I started off as a corrections officer
 25 and I moved to lieutenant. I was also a deputy

RYAN FOY

1 warden.
 2 Q. Can you tell me your obsession with the
 3 male deputy's nipple ring? Can you tell me what
 4 that was all about, how that was going to be used
 5 for training purposes?
 6 MR. BUFALINO: Objection to the form.
 7 Objection to the characterization,
 8 argumentative.
 9 THE WITNESS: I don't even know if he
 10 had a nipple ring, to tell you the truth.
 11 BY MS. POLLICK:
 12 Q. So you don't remember zooming in on
 13 that?
 14 A. I don't.
 15 Q. So you don't think that you did it?
 16 MR. BUFALINO: Objection, relevance.
 17 THE WITNESS: I didn't see the video.
 18 I don't have it fresh in my mind. I don't
 19 know.
 20 BY MS. POLLICK:
 21 Q. Sitting here today, you don't believe
 22 that you did?
 23 MR. BUFALINO: Objection. Asked and
 24 answered, misstates the testimony,
 25 rgumentative.

RYAN FOY

1 THE WITNESS: I can't say with
 2 certainty whether I did or didn't because I did
 3 not see the video recently.
 4 BY MS. POLLICK:
 5 Q. You actually had a hoot of a time
 6 videotaping, correct?
 7 MR. BUFALINO: Objection,
 8 argumentative.
 9 THE WITNESS: What do you mean?
 10 BY MS. POLLICK:
 11 Q. You were laughing almost the entire
 12 time that you were filming, the portions that we
 13 still have.
 14 MR. BUFALINO: Objection. Misstates
 15 the evidence and testimony of record,
 16 argumentative.
 17 THE WITNESS: I'm sure that other
 18 people were laughing that were involved in it
 19 also.
 20 BY MS. POLLICK:
 21 Q. But you seemed especially amused by it.
 22 Do you remember that?
 23 MR. BUFALINO: Objection to the form,
 24 argumentative.
 25 BY MS. POLLICK:

RYAN FOY

1 Q. Do you remember that?
 2 MR. BUFALINO: Objection to the form.
 3 Argumentative, misstates the testimony as of
 4 record.
 5 THE WITNESS: No, I don't.
 6 BY MS. POLLICK:
 7 Q. Now, when did you download it to your
 8 governmental computer?
 9 A. When we returned to the office.
 10 Q. And did you do anything after you
 11 downloaded it? Did you take still photos?
 12 A. I believe that there was a photo taken
 13 of a video capture of Brian.
 14 Q. And describe for me the one that you
 15 printed out.
 16 MR. BUFALINO: Objection, relevance.
 17 THE WITNESS: It wasn't printed. It
 18 was just video captured.
 19 BY MS. POLLICK:
 20 Q. Tell me about that one.
 21 MR. BUFALINO: Same objection.
 22 THE WITNESS: It was a picture of his
 23 behind.
 24 BY MS. POLLICK:
 25 Q. And that was for training purposes?

RYAN FOY

1 A. That was for him. He asked for it.
 2 Q. Oh. And how did that come about that
 3 he asked for that photo?
 4 A. I don't remember to be exact.
 5 Q. Did you give it to him?
 6 A. Yeah.
 7 Q. Why would you give him property of the
 8 county?
 9 A. It was a picture. I just gave it to
 10 him.
 11 Q. But I thought it was supposed to be for
 12 training purposes. Why were you handing out
 13 stills?
 14 A. Because he asked for the picture.
 15 Q. Did you make any other stills?
 16 A. No, I did not.
 17 Q. Did you edit the video at all?
 18 A. No, I did not.
 19 Q. Did you -- where did you put the
 20 "Brian's Ass" file on the government computer, the
 21 drive?
 22 A. I have no idea. It was on that
 23 computer, whatever drive that computer has.
 24 Q. Could other people access it?
 25 A. I imagine that they could.

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RYAN FOY

1 Q. Did you put any type of parental
 2 protection on it so that nobody could see the
 3 things that -- you know, for the modesty, so you
 4 could protect that, did you do anything like that?
 5 A. No, I did not.
 6 Q. You really didn't do this for training
 7 purposes, correct?
 8 MR. BUFALINO: Objection.
 9 Argumentative, asked and answered. Objection
 10 to the form.
 11 THE WITNESS: Yes, I did do it for
 12 training purposes. There was no other reason
 13 to do it.
 14 BY MS. POLLICK:
 15 Q. So you didn't do it just because you
 16 thought it was all funny?
 17 A. No, I did not.
 18 Q. And you recorded your workers in
 19 compromising situations, correct?
 20 MR. BUFALINO: Objection to the
 21 characterization. Objection to the form.
 22 Misstates the testimony in evidence of record.
 23 BY MS. POLLICK:
 24 Q. You can answer the question.
 25 A. Could you repeat that, please?

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RYAN FOY

1 Q. You recorded your workers in
 2 compromising situations when they were in the
 3 medical facility?
 4 MR. BUFALINO: Objection to the form.
 5 THE WITNESS: Can you define
 6 "compromising" for me?
 7 BY MS. POLLICK:
 8 Q. Sure. You recorded them partially
 9 clothed, correct?
 10 MR. BUFALINO: Objection to the form.
 11 You can answer.
 12 THE WITNESS: Yes.
 13 BY MS. POLLICK:
 14 Q. Can you explain to me why you would
 15 videotape one of your workers being decontaminated
 16 when they are not fully clothed?
 17 MR. BUFALINO: Objection, asked and
 18 answered.
 19 THE WITNESS: I would describe them as
 20 my co-workers, not my workers. But again, for
 21 training.
 22 BY MS. POLLICK:
 23 Q. Well, could you order them to do
 24 things?
 25 A. Could I?

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RYAN FOY

1 Q. Yes.
 2 A. I don't believe I could.
 3 Q. Did you?
 4 A. Did I?
 5 Q. Yes.
 6 A. I don't believe that I did.
 7 Q. So you don't believe that you gave any
 8 orders?
 9 A. To them, no.
 10 Q. In your job, you don't believe that you
 11 gave any orders?
 12 A. On occasion I did have to.
 13 Q. And you had no supervisory powers over
 14 the two deputies in that --
 15 A. No, I did not.
 16 Q. And why do you think that?
 17 A. Because I was the real estate deputy.
 18 I had control over real estate, which would be the
 19 three clerks that worked with me.
 20 Q. Have you ever had any type of human
 21 resources training?
 22 A. For?
 23 Q. In your background.
 24 A. No.
 25 Q. Have you ever had any training on --

RYAN FOY

1 that you should respect people's privacy?

2 A. Well, it's common sense.

3 Q. Okay. Have you ever -- did Sheriff
4 Stankus direct you to take that video?

5 MR. BUFALINO: Objection. Asked and
6 answered twice.

7 THE WITNESS: Chief Deputy Bobbouine
8 asked me to, and I believe that he got approval
9 from Sheriff Stankus.

10 BY MS. POLLICK:

11 Q. Why would you be asked to do a video
12 when you're only supposed to be doing real estate?

13 MR. BUFALINO: Objection. Calls --

14 BY MS. POLLICK:

15 Q. That certainly was not involving real
16 estate.

17 MR. BUFALINO: Objection, calls for
18 speculation. Objection to the form.

19 THE WITNESS: I don't know.

20 BY MS. POLLICK:

21 Q. Where were you at the time? Were you
22 doing your real estate stuff when they called you
23 and asked you to --

24 A. Yes, I was.

25 Q. And did you protest and say, you know

RYAN FOY

1 the way that you worded it.

2 BY MS. POLLICK:

3 Q. Well, were you acting on your own
4 volition when you videotaped?

5 MR. BUFALINO: Same objection.

6 THE WITNESS: I was acting upon an
7 order from my superior.

8 BY MS. POLLICK:

9 Q. And who was your superior?

10 A. That would be the chief deputy and the
11 sheriff.

12 Q. At the time that you videotaped, there
13 was no policy telling you that you shouldn't do
14 that, correct?

15 A. No, none that I know of.

16 Q. Can you explain to me why common sense
17 wouldn't tell you not to tape someone when they are
18 partially nude?

19 MR. BUFALINO: Objection to the form.

20 Calls for speculation, argumentative.

21 THE WITNESS: Because I did believe
22 that it would be used for training.

23 BY MS. POLLICK:

24 Q. How were they going to edit out your
25 laughing?

RYAN FOY

1 what, I don't feel real comfortable doing that?

2 A. My question was, did the sheriff say it
3 was okay.

4 Q. And what was your answer?

5 A. That he was approving of it.

6 Q. How come you're not in the video -- how
7 come you don't give the camera to the chief and you
8 get filmed?

9 MR. BUFALINO: Objection to the form.

10 Calls for speculation. It's beyond the scope
11 of the 30(b)(6) notice.

12 THE WITNESS: I don't know.

13 BY MS. POLLICK:

14 Q. You intentionally and willfully made
15 that videotape, correct?

16 MR. BUFALINO: Objection,
17 argumentative. Objection to the form.

18 BY MS. POLLICK:

19 Q. You could answer the question.

20 A. I don't believe I understand the way
21 that you worded it.

22 Q. Did you intentionally and willfully
23 make the videotape?

24 MR. BUFALINO: Same objection.

25 THE WITNESS: I still don't understand

RYAN FOY

1 MR. BUFALINO: Objection, calls for
2 speculation.

3 THE WITNESS: I don't do that type of
4 work, so I don't know.

5 BY MS. POLLICK:

6 Q. Who was going to do the editing?

7 A. I don't know.

8 Q. And how was it going to be edited out,
9 the comments about tan lines, tattoos, things like
10 that, how was that going to be edited out?

11 MR. BUFALINO: Objection to the form.

12 Calls for speculation.

13 THE WITNESS: Again, I don't know.

14 BY MS. POLLICK:

15 Q. Were you under the influence at all
16 when you made that videotape?

17 MR. BUFALINO: Objection to the form.

18 THE WITNESS: No.

19 BY MS. POLLICK:

20 Q. Do you have any remorse that you
21 videotaped two of your workers when they were
22 partly clothed in the decontamination facility?

23 MR. BUFALINO: Objection to the form.

24 You can answer.

25 THE WITNESS: A remorse -- not so much

RYAN FOY

1 of a remorse, because I do believe the spirit
2 of the filming was for training. So a
3 remorse -- I would not say a remorse.

4 BY MS. POLLICK:

5 Q. Do you care about their rights to
6 privacy?

7 A. Sure I do.

8 Q. Would you -- do you think it is
9 appropriate for a boss to record a worker in a
10 compromising situation that they had no choice but
11 to be decontaminated?

12 MR. BUFALINO: Objection to the form.
13 Calls for speculation, beyond the scope of the
14 30(b)(6) notice, misstates the testimony and
15 evidence of record.

16 BY MS. POLLICK:

17 Q. You could answer the question.

18 A. I'm thinking of the answer --
19 Could you repeat it?

20 MS. POLLICK: I'm sorry.

21 * * *

22 (Whereupon, the court reporter read
23 from the record.)

24 * * *

25 THE WITNESS: Again, if the spirit of

RYAN FOY

1 it is for training, then yes, I do think it is
2 appropriate.

3 BY MS. POLLICK:

4 Q. Well, as a boss, don't you think that
5 you should probably get some written consent that
6 people would say that is okay?

7 MR. BUFALINO: Objection to the form.
8 Assumes fact not in evidence.

9 THE WITNESS: I don't know because I'm
10 not their boss.

11 BY MS. POLLICK:

12 Q. Well, what was your role, just as a
13 co-worker there?

14 A. I was just holding the camera.

15 Q. That was your sole purpose that day,
16 just to be video man?

17 A. Yes. I wasn't giving them orders or
18 telling them what to do.

19 Q. Did you take -- did you distribute the
20 videotape or any of the images -- other than what
21 you've already told us about how Brian wanted a
22 picture of his butt, did you do anything with the
23 images?

24 A. No, I did not.

25 Q. Do you know if anybody took camera

RYAN FOY

1 phone photos on that day in question?

2 A. I don't know if anyone did it.

3 Q. Did you do it?

4 A. I don't remember.

5 Q. Do you still have the same cell phone
6 that you had then?

7 A. No, I do not.

8 Q. When did you get rid of your cell
9 phone?

10 A. After I got fired from the sheriff's
11 office.

12 Q. Was it a sheriff phone?

13 A. Yes.

14 Q. Did the sheriff keep the phone, do you
15 know?

16 A. I don't know what he did with them.

17 Q. What was the phone -- if you could,
18 describe it for me.

19 A. It was a Nextel telephone.

20 Q. Did it have a number on it or anything
21 like that?

22 A. A number as for what?

23 Q. I don't know if it was somehow stamped
24 property of the sheriff, and number one.

25 A. I don't think that they did, no.

RYAN FOY

1 Q. What was the cell number?

2 A. It's still my cell phone number now. I
3 was able to keep my cell number.

4 Q. And what is that number?

5 A. 332-9696.

6 Q. Do you still have -- who is your
7 provider now?

8 A. Nextel.

9 Q. How did you get your job at the
10 sheriff's office?

11 A. I applied.

12 Q. And when did you apply?

13 A. I think it was March or April of 2001.

14 Q. How did you -- who hired you?

15 A. Sheriff Stankus.

16 Q. Do you have any relation with Sheriff
17 Stankus?

18 MR. BUFALINO: Objection to the form.

19 THE WITNESS: As far as --

20 BY MS. POLLICK:

21 Q. Were you friends?

22 A. No.

23 Q. Does your family know each other?

24 A. Well, we all live in West Pittston, so
25 I would assume that, yes.

RYAN FOY

1 Q. And I don't know -- did I ask you your
 2 address? I'm going to ask for your address anyway.
 3 A. [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 Q. And do you live close to Stankus?
 7 A. Currently, yes.
 8 Q. How close?
 9 A. Across the street from him.
 10 Q. Are you -- do you socialize?
 11 A. Yes.
 12 Q. Has your friendship grown stronger over
 13 the years?
 14 A. I would say so.
 15 Q. So who interviewed you for the job for
 16 the sheriff's office?
 17 A. It was at the time Chief Deputy George
 18 Kamage.
 19 Q. How do you spell the last name; do you
 20 know?
 21 A. K-A-M-A-G-E.
 22 Q. What happened to him? Is he still
 23 employed?
 24 A. I don't know what he does now.
 25 Q. Okay. And what were you hired as?

RYAN FOY

1 A. Per diem clerk -- I'm sorry, per diem
 2 deputy.
 3 Q. And that was in March of 2001?
 4 A. That would be May.
 5 Q. May?
 6 A. May.
 7 Q. Okay. And tell me -- describe your
 8 progress in the sheriff's department.
 9 A. Progress as far as what?
 10 Q. The jobs that you held and when.
 11 A. I did just about everything that there
 12 is to do in the sheriff's office. I held a
 13 position of part-time clerk, full-time clerk,
 14 full-time deputy, and real estate deputy.
 15 Q. When were you -- were you appointed as
 16 the real estate deputy?
 17 A. I forget when the salary board --
 18 Q. Pardon?
 19 A. I forget when the salary board approved
 20 that.
 21 Q. What -- how did you get the job as the
 22 real estate deputy?
 23 A. By -- I was working in real estate, and
 24 I guess I was just good at it.
 25 Q. And who did that, who gave you that

RYAN FOY

1 job?
 2 A. Sheriff Stankus.
 3 Q. And when did he give it to you?
 4 A. I believe it was in November of 2005.
 5 Q. Had you ever been in a supervisory role
 6 prior to that?
 7 MR. BUFALINO: Objection to the form.
 8 Assumes facts not in evidence.
 9 BY MS. POLLICK:
 10 Q. You can answer the question.
 11 A. Nothing in the sheriff's office. I
 12 mean, I had -- without the official title, there
 13 were several things that I did. But I never had
 14 anything at the office.
 15 Q. How about outside of the sheriff's
 16 office, were you ever a supervisor?
 17 A. Yes.
 18 Q. And where were you a supervisor?
 19 A. The Adams County Prison.
 20 Q. Anywhere else?
 21 A. No.
 22 Q. And how long were you employed with
 23 Adams County Prison?
 24 A. I think it was four or five years.
 25 Q. Could you give me the dates of

RYAN FOY

1 employment?
 2 A. I don't remember them. I think I left
 3 in -- 1998 was when I started down there. I forget
 4 when I left.
 5 Q. And were you living down there at the
 6 time?
 7 A. Yes.
 8 Q. Where are you originally from?
 9 A. West Pittston.
 10 Q. What high school did you go to?
 11 A. Wyoming Area.
 12 Q. When did you graduate?
 13 A. 1993.
 14 Q. Did you -- what -- tell me about your
 15 further education that you had.
 16 A. I went to LCC for criminal justice.
 17 Q. Did you get your degree?
 18 A. Yes.
 19 Q. And how about anything else?
 20 A. I have gone to the Pennsylvania
 21 Municipal Police Officer's Academy, and I have also
 22 been to the Deputy Sheriff's Training Academy.
 23 Q. Anything else?
 24 A. I had training when I was at the
 25 prison.

RYAN FOY

1 Q. Did you get an associate's degree?
 2 A. Yes.
 3 Q. What was your first job in law
 4 enforcement?
 5 A. I was a police dispatcher.
 6 Q. For what?
 7 A. West Pittston.
 8 Q. And when did you get that job?
 9 A. After high school.
 10 Q. So did you go for your Act 120?
 11 A. No, I didn't go for my Act 120 until I
 12 was in the sheriff's office.
 13 Q. And where did you do Act 120?
 14 A. Lackawanna College.
 15 Q. When did you graduate?
 16 A. I don't remember the year.
 17 Q. Was it in the last ten -- how long have
 18 you been a police officer?
 19 A. I will say 2005 was the graduation.
 20 I'm not entirely certain on that.
 21 Q. What police departments besides West
 22 Pittston have you worked for?
 23 A. Wyoming Area Police Department.
 24 Q. Do you remember the dates of
 25 employment?

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RYAN FOY

1 A. December of this year is when I
 2 started.
 3 Q. Are you currently employed by them?
 4 A. Yes.
 5 Q. How about -- who else are you employed
 6 by currently?
 7 A. That's it.
 8 Q. When did you stop working for West
 9 Pittston?
 10 A. I'm still employed.
 11 Q. Okay. So you're working in West
 12 Pittston and Wyoming Area?
 13 A. Yes.
 14 Q. And how long have you been -- from high
 15 school until now have you been with West Pittston,
 16 or have you had that lapse that you were at the
 17 county -- the prison?
 18 A. I wasn't always there.
 19 Q. What is your date of birth?
 20 A. 3/15/1975.
 21 Q. Who did you show the video to --
 22 MR. BUFALINO: Objection, asked and
 23 answered.
 24 BY MS. POLLICK:
 25 Q. -- or a still image of it, other than

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RYAN FOY

1 what you've already testified to?
 2 MR. BUFALINO: Objection, asked and
 3 answered.
 4 THE WITNESS: What I have testified to
 5 is all that I can remember at this time.
 6 BY MS. POLLICK:
 7 Q. Can you remember any -- let me ask you
 8 this. Did you -- take me through the day -- the
 9 actual day of the 27th after the chief asked you to
 10 videotape and you asked is it approved by the
 11 sheriff and he says yes. What happened?
 12 A. As I recall, we drove to the EMA
 13 building. They were trying to set up a
 14 decontamination shower there, but there was
 15 something wrong and they couldn't do it. We were
 16 waiting there, and they called the prison to see if
 17 the prison would take them, and they wouldn't. I
 18 don't know why.
 19 Then we ended up at the hospital. I
 20 don't remember how that transpired, how the
 21 hospital came to be. But that is where everything
 22 took place.
 23 Q. And you filmed from the time that you
 24 drove to the EMA all the way to the -- when did you
 25 stop filming?

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RYAN FOY

1 A. I don't remember.
 2 Q. Did you film continuously?
 3 A. I would say that there were times when
 4 the camera was shut off.
 5 MR. BUFALINO: I'm sorry. You were
 6 covering your mouth. I couldn't hear what your
 7 answer was.
 8 THE WITNESS: There were times when the
 9 camera was shut off.
 10 BY MS. POLLICK
 11 Q. And when was it shut off?
 12 A. I don't remember.
 13 Q. How long do you think that occurred
 14 that day?
 15 A. How long do I think what occurred?
 16 Q. From the time that you arrived at the
 17 EMA until the footage stopped.
 18 MR. BUFALINO: Objection, asked and
 19 answered.
 20 BY MS. POLLICK:
 21 Q. You could answer the question.
 22 A. I don't know.
 23 Q. More than an hour?
 24 MR. BUFALINO: Objection, asked and
 25 answered.

RYAN FOY

1 THE WITNESS: Earlier you asked me, and
2 I said I don't recall.

3 BY MS. POLLICK:

4 Q. How about more than a half an hour?

5 MR. BUFALINO: Objection, asked and
6 answered.

7 THE WITNESS: Okay. I'll agree to more
8 than a half an hour.

9 BY MS. POLLICK:

10 Q. Now, did Stankus have a good
11 relationship with the prison?

12 MR. BUFALINO: Objection, relevance.
13 Beyond the scope of the 30(b)(6) notice.

14 BY MS. POLLICK:

15 Q. You can answer the question.

16 A. I don't know.

17 Q. Do you think that it's -- women may
18 find it harder to be videotaped versus a male
19 deputy -- because it seems like Brian wanted a
20 picture of his own ass -- did Jennifer ever ask you
21 for any still photos?

22 A. I don't remember.

23 MR. BUFALINO: Objection. Compound
24 question, relevance, beyond the scope of the
25 30(b)(6) notice.

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RYAN FOY

1 You can answer.

2 THE WITNESS: Again, I don't remember.

3 BY MS. POLLICK:

4 Q. Do you think women are more sensitive
5 to being filmed in compromising situations?

6 MR. BUFALINO: Objection to the form.
7 Relevance, beyond the scope of the 30(b)(6)
8 notice.

9 BY MS. POLLICK:

10 Q. You can answer the question.

11 A. Can you re-ask the question again? I
12 got tied up with the objection.

13 Q. Do you think women would be more
14 uncomfortable with being videotaped partially nude
15 if they are not strippers than a male would?

16 MR. BUFALINO: Objection, calls for
17 speculation. Objection to the form, beyond the
18 scope of the 30(b)(6) notice.

19 THE WITNESS: Under normal
20 circumstances, yes.

21 BY MS. POLLICK:

22 Q. How about in a work situation?

23 MR. BUFALINO: Same objection.

24 THE WITNESS: Depending on their
25 occupation.

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RYAN FOY

1 BY MS. POLLICK:

2 Q. What occupations would be -- that they
3 wouldn't feel uncomfortable by being recorded
4 partially nude?

5 MR. BUFALINO: Objection. Relevance,
6 calls for speculation.
7 You could answer.

8 THE WITNESS: Again, I stated that the
9 spirit of the filming was for training. You
10 would expect that it -- you know, if it is
11 going to be used for training -- I can't think
12 like a woman because I'm not a woman. It's a
13 little hard for me to figure out what a woman
14 would want to think.

15 You asked me how I would feel. If it
16 was for training, I don't have a problem with
17 it. I don't know how the plaintiff or another
18 woman would feel in the situation.

19 BY MS. POLLICK:

20 Q. Well, how about someone who is really
21 conscious of their weight, a female?

22 MR. BUFALINO: Objection. Calls for
23 speculation, asked and answered.

24 THE WITNESS: I wouldn't know.

25 BY MS. POLLICK:

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RYAN FOY

1 Q. Do you think the government has a right
2 to videotape you when you're infested with fleas
3 and you're actually waiting to be decontaminated?

4 MR. BUFALINO: Objection to the form.
5 Calls for a legal conclusion.

6 THE WITNESS: You said the government
7 has a right, is that what you said?

8 BY MS. POLLICK:

9 Q. Yes. Do you believe that they have the
10 right to videotape you?

11 MR. BUFALINO: Same objection.

12 THE WITNESS: In situations, I believe
13 that the government has a right to videotape.

14 BY MS. POLLICK:

15 Q. And what would those situations be?

16 MR. BUFALINO: Objection. Calls for a
17 legal conclusion, calls for speculation.

18 THE WITNESS: I don't know.

19 BY MS. POLLICK:

20 Q. And would -- did you ever order the
21 deputies not to get out of the car and to keep the
22 windows shut?

23 A. I don't recall.

24 * * *

25 (Whereupon, a discussion was held off

RYAN FOY

1 the record.)

2 * * *

3 MS. DEXTER: Doe versus Luzerne County
4 and Ryan Foy, tape number five.

5 BY MS. POLLICK:

6 Q. Now, who did you show the video to?

7 MR. BUFALINO: Objection, asked and
8 answered.

9 THE WITNESS: I don't remember.

10 BY MS. POLLICK:

11 Q. Now, after they were decontaminated,
12 did you -- I know that you told me that you took
13 the video and you had Brian -- and that you didn't
14 videotape you know for certain when the plaintiff
15 was being decontaminated because you were
16 videotaping Brian, right?

17 A. Yes.

18 Q. And when did you stop videotaping?

19 MR. BUFALINO: Objection to the form.
20 You can answer if you know.

21 THE WITNESS: I don't remember.

22 BY MS. POLLICK:

23 Q. Do you -- whose decision was it to put
24 them in the back of a -- like, a storage sack of
25 the Expedition?

RYAN FOY

1 MR. BUFALINO: Objection, misstates the
2 testimony and evidence of record.

3 You can answer if you know.

4 THE WITNESS: I don't know.

5 BY MS. POLLICK:

6 Q. Do you remember them being in the back
7 area of the Expedition, and that's how they were
8 transported?

9 A. No, I don't remember that.

10 Q. What happened -- what do you recall
11 happening after they were -- the decontamination
12 was finished, what do you recall?

13 A. As far as what, at the hospital, or at
14 the office?

15 Q. Take me from the end of the hospital --

16 A. As I recall, Wagner's came and towed
17 their car so that the car could be fumed or
18 whatever they call it. We went back to the
19 station -- or to the office or whatever.

20 Q. And what happened once you got back to
21 the office?

22 A. I don't remember everything. I took
23 the camera and plugged it in. After we were done,
24 I think that we went to lunch. I don't remember.

25 Q. Did you -- could you tell me -- okay,

RYAN FOY

1 so you got back to the office. What did you do
2 thereafter? You said that you plugged in the
3 camera. How did that -- take me through your steps
4 of -- you arrived back at the area. Are you with
5 everybody else?

6 A. I don't remember.

7 Q. Are you by yourself?

8 A. I don't remember who was with me or who
9 wasn't with me. I don't remember.

10 Q. And when you plugged the camera in to
11 download the images that you recorded -- when did
12 you do that?

13 MR. BUFALINO: Objection, asked and
14 answered.

15 THE WITNESS: When we got back to the
16 office.

17 BY MS. POLLICK:

18 Q. And who was with you?

19 MR. BUFALINO: Objection, asked and
20 answered.

21 THE WITNESS: I don't remember.

22 BY MS. POLLICK:

23 Q. Do you recall if anybody was with you?

24 A. I don't remember.

25 MR. BUFALINO: Objection, asked and

RYAN FOY

1 answered.

2 BY MS. POLLICK:

3 Q. Do you remember showing that video clip
4 that day to anyone?

5 A. Yes.

6 MR. BUFALINO: Objection, asked and
7 answered.

8 BY MS. POLLICK:

9 Q. And who did you show it to?

10 A. I already stated in the previous
11 testimony that I showed it to the two deputies and
12 other people that I don't remember who was there.

13 Q. And when did this occur?

14 MR. BUFALINO: Objection, asked and
15 answered.

16 THE WITNESS: When we came back to the
17 office.

18 BY MS. POLLICK:

19 Q. Okay. Who else -- can you take me
20 through it? You got out of your car, you -- did
21 you go for lunch, or did you go immediately
22 download it?

23 MR. BUFALINO: Objection, asked and
24 answered.

25 THE WITNESS: I don't remember. It was

RYAN FOY

1 after we finished at the hospital that I
2 brought the camera in and plugged it in.
3 BY MS. POLLICK:
4 Q. When did you name it "Brian's Ass"?
5 A. I don't remember.
6 Q. That day?
7 MR. BUFALINO: Objection, asked and
8 answered.
9 THE WITNESS: I guess it was that day.
10 I don't remember exactly.
11 BY MS. POLLICK:
12 Q. Was Brian in the room when you called
13 it "Brian's Ass"?
14 A. I don't remember.
15 Q. And what clothes was Brian wearing when
16 he was in your office and you were showing him the
17 video?
18 MR. BUFALINO: Objection to relevance.
19 You can answer if you know.
20 THE WITNESS: I think they were wearing
21 hospital scrubs.
22 BY MS. POLLICK:
23 Q. And how long was your showing?
24 MR. BUFALINO: Objection to the form.
25 THE WITNESS: I don't know.

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RYAN FOY

1 BY MS. POLLICK:
2 Q. Did you show the entire video?
3 A. I don't remember if it was the whole
4 video or not.
5 Q. Do you remember what you showed?
6 A. No, I do not.
7 Q. You're good friends with Brian,
8 correct?
9 MR. BUFALINO: Objection to the form.
10 THE WITNESS: Not really.
11 BY MS. POLLICK:
12 Q. You just went to his wedding?
13 A. No, I did not go to his wedding.
14 Q. You didn't go to his wedding?
15 A. No. I wasn't even invited.
16 Q. When was the last time that you talked
17 to Brian?
18 A. I don't know.
19 Q. Within the last months, two months,
20 three months?
21 MR. BUFALINO: Objection, asked and
22 answered.
23 THE WITNESS: I don't know.
24 BY MS. POLLICK:
25 Q. Did you have contact with him within

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RYAN FOY

1 the last year?
2 A. Yes, I did.
3 Q. And what was that contact about?
4 A. When I saw his engagement announcement
5 in the paper.
6 Q. And what did you do? You saw his
7 picture in the paper, and what did you do?
8 A. I called him to congratulate him.
9 Q. And did you ever discuss this lawsuit
10 with him?
11 A. I don't believe that I ever did.
12 Q. Do you recall the time of day that you
13 returned to the office?
14 MR. BUFALINO: Objection, asked and
15 answered.
16 THE WITNESS: No.
17 BY MS. POLLICK:
18 Q. What does your wife do for a living?
19 A. She is a fee clerk.
20 Q. She is a what?
21 A. Fee, F-E-E.
22 Q. And where does she work?
23 A. The Veterans Administration Hospital.
24 Q. And what do your parents do?
25 MR. BUFALINO: Objection to relevance.

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RYAN FOY

1 THE WITNESS: They are retired.
2 BY MS. POLLICK:
3 Q. Have you -- what did they do before
4 they retired?
5 MR. BUFALINO: Objection to relevance.
6 THE WITNESS: My mother was always my
7 mother.
8 BY MS. POLLICK:
9 Q. She was a homemaker?
10 A. Yeah. My father was an IRS agent.
11 Q. And how long was he an IRS agent?
12 MR. BUFALINO: Objection, relevance.
13 THE WITNESS: I don't know. Enough to
14 retire.
15 BY MS. POLLICK:
16 Q. Was he with the government the whole
17 time?
18 A. Yes.
19 MR. BUFALINO: Objection, relevance.
20 MS. POLLICK: I'm going to just ask him
21 a few questions. I could close this and open
22 up another one. Do you want me to do that?
23 MR. BUFALINO: Yeah.
24 MS. POLLICK: Okay. Let me just see if
25 I have any more.

RYAN FOY

1 BY MS. POLLICK:

2 Q. Do you have any more information other
3 than what you already testified to about what you
4 can recall that happened on September 27, 2007?

5 MR. BUFALINO: Objection to the form,
6 vague.

7 THE WITNESS: I don't know what would
8 be relevant.

9 BY MS. POLLICK:

10 Q. Let me ask you -- tell me what you
11 haven't told me that you can recall that happened
12 on September 27th, 2007.

13 MR. BUFALINO: Objection to the form,
14 vague.

15 THE WITNESS: There is nothing that I
16 can recall.

17 BY MS. POLLICK:

18 Q. Did you take any notes of what happened
19 on the day in question?

20 A. I have no notes.

21 Q. Did you fill out any incident forms,
22 training log sheets, anything like that?

23 A. I have done nothing.

24 Q. Have you -- besides transporting the
25 video from the camcorder to the computer and doing

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RYAN FOY

1 that one still, did you replicate or distribute the
2 images in any other way?

3 A. No.

4 Q. Do you know if people actually accessed
5 your file?

6 A. I don't.

7 Q. Or has anyone ever commented to you on
8 the incidents that occurred that day and the images
9 that you recorded?

10 MR. BUFALINO: Objection, asked and
11 answered.

12 THE WITNESS: Could you repeat it,
13 please?

14 BY MS. POLLICK:

15 Q. Sure. Has anyone made any comments
16 about your videography that you took on the day in
17 question?

18 A. Comments as to -- what or when? I
19 don't know what --

20 Q. Like you did a great job; oh, my God,
21 that is so funny. Any comments?

22 A. That I don't know and/or don't
23 remember.

24 Q. Okay. You said that you showed it to
25 the two people who were the subject of the video.

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RYAN FOY

1 Did either one of them have any comments?

2 A. I don't remember.

3 Q. And you can't give me any details about
4 what specifically was shown to them, correct?

5 A. I don't remember.

6 Q. Did the -- you know other people saw
7 the video or portions of it. Did they make any
8 comments?

9 MR. BUFALINO: Objection to the form.
10 Misstates the testimony of record.

11 THE WITNESS: I don't remember.

12 BY MS. POLLICK:

13 Q. Have you had any training as a sheriff
14 on constitutional issues?

15 A. Pertaining to what?

16 Q. Any constitutional issue related to
17 employment, not in your actual work duties as a --

18 A. No, I have not.

19 Q. What is your defense in this case?

20 MR. BUFALINO: Objection to the form.
21 Calls for legal conclusion.

22 THE WITNESS: Defense insofar as --

23 BY MS. POLLICK:

24 Q. Why -- how are you defending yourself
25 from allegations that you invaded someone's

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RYAN FOY

1 privacy?

2 MR. BUFALINO: Same objection.

3 THE WITNESS: My defense is that it was
4 done in the scope of work of my employment
5 following orders.

6 BY MS. POLLICK:

7 Q. Would you have made the videotape had
8 your boss not directed you to?

9 MR. BUFALINO: Objection to the form.
10 Calls for speculation.

11 THE WITNESS: I wouldn't have had to do
12 it then.

13 BY MS. POLLICK:

14 Q. Do you think that someone else should
15 be held responsible for what happened if the Court
16 determines that it was improper, the recording?

17 MR. BUFALINO: Objection to the form,
18 calls for speculation.

19 THE WITNESS: I don't know.

20 BY MS. POLLICK:

21 Q. Who was the person who ordered you to
22 do it? Do you think that they hold any
23 responsibility?

24 MR. BUFALINO: Objection. Relevance,
25 asked and answered, calls for speculation.

RYAN FOY

1 THE WITNESS: Again, I don't know.
 2 MS. POLLICK: That's all I have.
 3 MR. BUFALINO: I just have one
 4 question.
 5 * * *
 6 EXAMINATION
 7 * * *
 8 BY MR. BUFALINO:
 9 Q. Ms. Pollick asked you what your defense
 10 was.
 11 A. Yes, sir.
 12 Q. Did you ever take or capture images of
 13 either -- I'm sorry, of Deputy Roberts while she
 14 was completely nude?
 15 A. No.
 16 Q. Did you take any videos of her while
 17 she was not aware of it?
 18 A. No.
 19 MR. BUFALINO: That's all I have.
 20 * * *
 21 EXAMINATION
 22 * * *
 23 BY MS. POLLICK:
 24 Q. How was she aware of it?
 25 A. She saw the camera.

RYAN FOY

1 Q. Where were you standing in the
 2 decontamination center?
 3 A. I don't remember my exact position, so
 4 I don't know.
 5 Q. Why would you -- being a male deputy,
 6 why wouldn't -- why would you be present when
 7 someone else was getting -- you know, when you
 8 could visibly see that they don't have any -- they
 9 are partially clothed, why would you be there?
 10 MR. BUFALINO: Objection.
 11 THE WITNESS: Well, I wasn't there.
 12 There was a female deputy present to take care
 13 of Deputy Roberts.
 14 BY MS. POLLICK:
 15 Q. So why would you be filming?
 16 A. I wasn't filming Deputy Roberts when
 17 she was taking her shower.
 18 Q. So you do not recall taking any images
 19 of the plaintiff when she just had a sheet -- like,
 20 a cover sheet like when you go to the hospital --
 21 it's like a protective sheet that after you're done
 22 with an examination that the doctor will rip it off
 23 and it's kind of protective of the cushions. You
 24 don't recall taking images of her with just that
 25 around her?

RYAN FOY

1 A. I don't recall what the images were
 2 that were taken of her. But I know that I didn't
 3 take any images of her when she did not have any
 4 clothes on.
 5 Q. Okay. Would you consider a piece of
 6 paper as clothing as I just described it?
 7 A. I don't remember what she had on.
 8 Q. Was anyone else holding the video
 9 camera besides you?
 10 A. I don't recall if anybody else took the
 11 camera or not.
 12 Q. Did she ever tell you, do not take any
 13 photos -- any video of me while I'm in the shower?
 14 MR. BUFALINO: Objection to the form.
 15 You can answer.
 16 THE WITNESS: I don't remember her
 17 saying that, but I didn't anyway.
 18 BY MS. POLLICK:
 19 Q. I'm sorry, what?
 20 A. I didn't take any video of her in the
 21 shower anyway.
 22 Q. Well, if her hair is getting combed out
 23 and she is in the shower area and we have just seen
 24 the video yesterday, how did those images get
 25 there?

RYAN FOY

1 MR. BUFALINO: Objection to the form.
 2 You can answer.
 3 THE WITNESS: I don't believe I
 4 understand your question.
 5 BY MS. POLLICK:
 6 Q. Did you ever take her -- images of her
 7 while she was in the actual decontamination stall
 8 area?
 9 A. I don't recall without seeing the
 10 video. I don't remember where exactly the video of
 11 her was. I don't remember.
 12 Q. Did you ask the plaintiff permission to
 13 videotape her?
 14 A. No, I didn't.
 15 Q. Did anyone ask the plaintiff permission
 16 to videotape her on that day in question?
 17 A. Not that I know of.
 18 Q. Did you ever take images of her when
 19 she was partially clothed?
 20 A. If what you described as -- the sheet
 21 that she had on as being partially clothed, then
 22 yes.
 23 Q. Why did you have to do that?
 24 MR. BUFALINO: Objection, asked and
 25 answered.

RYAN FOY

1 THE WITNESS: I don't know.
 2 I need a break.
 3 MS. POLLICK: We'll take a break, and
 4 then I'll wrap this up. A five- or ten-minute
 5 break, whatever you want.
 6 THE WITNESS: I need about two minutes.
 7 * * *
 8 (Whereupon, a recess was taken from
 9 1:20 p.m. until 1:27 p.m.)
 10 * * *
 11 MS. DEXTER: We're back from the break
 12 with the Doe versus Luzerne, and it's the
 13 30(b)(6) deposition.
 14 BY MS. POLLICK:
 15 Q. Do you think that someone who
 16 videotapes their workers who are barely clothed
 17 should have a badge and be responsible for
 18 enforcing the laws?
 19 MR. BUFALINO: Objection to the form.
 20 Calls for speculation, calls for a legal
 21 conclusion.
 22 BY MS. POLLICK:
 23 Q. What situations would it be acceptable
 24 in?
 25 MR. BUFALINO: Same objection.

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RYAN FOY

1 THE WITNESS: In this situation, where
 2 the spirit of it was for training.
 3 BY MS. POLLICK:
 4 Q. And you're still standing by that after
 5 all today, that that video was definitely taken
 6 only for training?
 7 MR. BUFALINO: Objection to the form,
 8 asked and answered.
 9 THE WITNESS: Yes.
 10 BY MS. POLLICK:
 11 Q. Then why are you laughing? Why are you
 12 making comments if it was for training?
 13 MR. BUFALINO: Objection to the form,
 14 asked and answered.
 15 THE WITNESS: I don't know. I don't
 16 remember what situation or what was going on in
 17 the video at the time.
 18 BY MS. POLLICK:
 19 Q. But why would anybody make comments if
 20 it is supposed to be taken for a serious matter,
 21 which would be training?
 22 A. I don't know.
 23 Q. Who do you still talk with from the
 24 sheriff's department?
 25 A. I'm trying to think of who I do talk

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RYAN FOY

1 to. Really, the only person that I talk to in the
 2 recent past is Carol Benfonte [ph].
 3 Q. How do you spell her last name?
 4 MR. BUFALINO: I believe it's
 5 B-E-N-F-O-N-T-E.
 6 BY MS. POLLICK:
 7 Q. And what type of work does she do?
 8 A. She works at the sheriff's office.
 9 Q. What color hair does she have? I have
 10 to put some pictures --
 11 MR. BUFALINO: If you know.
 12 THE WITNESS: Brownish.
 13 BY MS. POLLICK:
 14 Q. What type of conversations have you had
 15 with her?
 16 A. Just -- she asked me how I'm doing.
 17 Q. Are you personal friends?
 18 A. Personal friends, not really. We don't
 19 talk that often. I would say friendly enough. She
 20 calls to see how I'm doing.
 21 Q. Now, Deputy -- I should say Chief
 22 Bobbouine or whatever -- I apologize for the
 23 pronunciation -- but do you speak with him often?
 24 A. Every now and again we speak.
 25 Q. And why?

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RYAN FOY

1 A. Because we're friends.
 2 Q. Were you friends before you became the
 3 real estate sheriff and he became --
 4 A. I became friends with him when I
 5 started working at the sheriff's office.
 6 Q. Are -- do you both socialize with the
 7 former Sheriff Stankus now?
 8 A. I don't know if Art socializes with
 9 Stankus, but I do. I have already said that.
 10 Q. Have you ever been in the presence with
 11 Art being there when you were socializing with
 12 Stankus?
 13 A. In the past, yes.
 14 Q. Now, do you remember asking for keys
 15 from the plaintiff for the vehicle?
 16 MR. BUFALINO: Objection to the form.
 17 You can answer if you understand it.
 18 THE WITNESS: What vehicle?
 19 BY MS. POLLICK:
 20 Q. The vehicle in question that was
 21 de-bombed.
 22 A. The --
 23 Q. The cruiser that they were in.
 24 A. Oh, I'm sorry. No, I don't remember
 25 that.

RYAN FOY

1 Q. Do you remember if she threw the keys
2 and you caught them?
3 A. I don't remember.
4 Q. Now, who checked the deputies into the
5 facility so that they could use the shower?
6 MR. BUFALINO: Objection to the form,
7 vague.
8 THE WITNESS: I do not know.
9 BY MS. POLLICK:
10 Q. Did you do it?
11 A. No, I did not.
12 Q. Do you recall any problems when they
13 were putting the shampoo in their hair, that it
14 could hurt your eyes?
15 MR. BUFALINO: Objection to the form,
16 relevance.
17 You can answer.
18 THE WITNESS: I don't know.
19 BY MS. POLLICK:
20 Q. Who were the people present at the
21 decontamination site?
22 A. Give me a moment to think about it.
23 Myself, Chief Deputy Bobbouine, Deputy Mike
24 Patterson, Deputy Erin Joyce, Deputy Szumski,
25 Deputy Roberts, and there was Deputy -- what is his

RYAN FOY

1 name -- Tim Gardzalla. He was the one that brought
2 the shampoo or whatever it is.
3 Q. Why didn't you record actually going
4 and showing where the facility would be to go
5 purchase the product that you need to
6 decontaminate? Why didn't you do that?
7 MR. BUFALINO: Objection, calls for
8 speculation.
9 You could answer if you know.
10 THE WITNESS: I don't know.
11 BY MS. POLLICK:
12 Q. Wouldn't that be an important thing to
13 find where you could get it so that they could
14 easily look at that and learn from it?
15 MR. BUFALINO: Objection to the form.
16 Calls for speculation.
17 THE WITNESS: I think that they got it
18 from the drugstore, so it's not that hard to
19 find.
20 BY MS. POLLICK:
21 Q. But if you were using -- if you were
22 videotaping for training purposes, wouldn't that be
23 a part and parcel of what you do when you have
24 someone infested with fleas?
25 MR. BUFALINO: Objection to the form.

RYAN FOY

1 Argumentative, calls for speculation.
2 THE WITNESS: I don't know.
3 BY MS. POLLICK:
4 Q. Why was the male deputy allowed to go
5 into the decontamination first?
6 A. I don't know. It wasn't my decision.
7 Q. Have you ever been arrested?
8 A. No.
9 Q. Have you ever lost your license, or has
10 your license ever been suspended?
11 A. No.
12 Q. Has anyone ever made a complaint
13 against you, not including this situation, in your
14 employment history?
15 A. None that I know of.
16 Q. Has anyone ever charged you with, like,
17 excessive force?
18 A. No.
19 Q. Has there ever been any complaints
20 about Art? Do you recall anyone complaining about
21 him?
22 A. I wouldn't know.
23 Q. How about complaints about Barry
24 Stankus?
25 A. I don't know. That's not information

RYAN FOY

1 that I would know on either of the gentlemen.
2 Q. Besides the lawsuit wherein you're
3 suing -- are you suing for your job back?
4 A. Yes.
5 Q. Besides that lawsuit, have you ever
6 sued before?
7 A. Have I ever sued before?
8 Q. Yes.
9 A. No.
10 MS. POLLICK: Okay. That's all I have.
11 MR. BUFALINO: Do you want to keep
12 going?
13 MS. POLLICK: I'm already done with
14 him.
15 MR. BUFALINO: Oh, you're done with him
16 entirely?
17 MS. POLLICK: Yes. I got what I need.
18 * * *
19 (Witness excused.)
20 * * *
21 (Whereupon, the deposition was
22 concluded at 1:36 p.m.)
23 * * *
24
25

RYAN FOY
I N D E X
* * *

1
2
3 WITNESS: Ryan Foy

4 QUESTIONED BY: PAGE
5 Ms. Pollick 3, 73
6 Mr. Bufalino 73

9 E X H I B I T S

10 * * *

11 NUMBER DESCRIPTION MARKED
12 FOR ID
13 (None marked.)

RYAN FOY

ERRATA SHEET

3	PAGE	LINE	CHANGE	REASON
4	_____	_____	_____	_____
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RYAN FOY
INSTRUCTIONS TO WITNESS

1
2
3 Read your deposition over carefully. It
4 is your right to read your deposition and make
5 changes in form or substance. You should assign a
6 reason in the appropriate column on the errata
7 sheet for any change made.

8
9 After making any change in form or
10 substance which has been noted on the following
11 errata sheet, along with the reason for any change,
12 sign your name on the errata sheet and date it.

13
14 Then sign your deposition at the end of
15 your testimony in the space provided. You are
16 signing it subject to the changes you have made in
17 the errata sheet, which will be attached to the
18 deposition before filing. You must sign in the
19 space provided. The witness need not be a notary
20 public. Any competent adult may witness your
21 signature.

22 Return the original errata sheet to the
23 court reporter promptly! Court rules require
24 filing within 30 days after you receive the
25 deposition.

RYAN FOY
SIGNATURE PAGE

OF
RYAN FOY

1
2
3
4
5 I hereby acknowledge that I have read the
6 foregoing deposition, dated Thursday, July 9, 2009,
7 and that the same is a true and correct
8 transcription of the answers given by me to the
9 questions propounded, except for the changes, if
10 any, noted on the attached errata sheet.

11 I further acknowledge and affirm that
12 although an oath was not administered prior to my
13 testimony, the testimony I have provided and which
14 has been recorded herein is the whole truth, the
15 same as if an oath had been administered.

16 SIGNATURE: _____

17 DATE: _____

18 WITNESSED BY: _____

19 DATE: _____

C E R T I F I C A T E

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I, Ashlee J. Boyle, Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, certify that the foregoing is a true and accurate transcript of the deposition of said witness, as acknowledged on the attached witness signature page.

I further certify that I am neither attorney nor counsel for, nor related to or employed by, any of the parties to the action in which this deposition was taken, and further, that I am not a relative or employee of any attorney or counsel employed in this action, nor am I financially interested in this case.

Ashlee J. Boyle, Court Reporter
Notary Public

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

* * *

JANE DOE, : CIVIL ACTION
Plaintiff :
vs :
LUZERNE COUNTY and :
RYAN FOY, :
Defendants : NO. 3:08-CV-1155

* * *

Oral deposition of JANE DOE, taken at the law offices of Elliott, Greenleaf & Dean, 39 Public Square, Suite 1000, Wilkes-Barre, Pennsylvania 18701, on Wednesday, July 8, 2009, beginning at 9:59 a.m. before Ashlee J. Boyle, Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania.

* * *

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JANE DOE

* * *

(It is hereby stipulated and agreed by and between counsel for the respective parties that signing, sealing, certification, and filing are waived and that all objections, except as to the form of the question, are reserved until the time of trial.)

* * *

MR. BUFALINO: Usual stipulations?
MS. POLLICK: Everything except to form reserved for trial.

* * *

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

* * *

EXAMINATION

* * *

BY MR. BUFALINO:
Q. (REDACTED), could you state your full name for the record, please?
A. (REDACTED).
Q. We are here in the matter of what is captioned as Jane Doe versus Luzerne County and Ryan Foy in the Middle District before

A P P E A R A N C E S:

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-- Representing the Plaintiff

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-- Representing the Defendants

* * *

JANE DOE

Judge Caputo, docket number 3:08-CV-1155.
(REDACTED), you are the Jane Doe that is listed in the caption of this matter?
A. Yes, I am.
MS. POLLICK: And this is one of the things that I am going to ask. If we could just redact her name -- whenever she speaks, if you could do "Jane Doe." It's probably easier if we just put "Jane Doe" because otherwise you're going to have to white out every time she responds.
I like to have the PDF so I could just file them with the court instead of having to worry about redacting.
What do you prefer? Just because it's going to be done electronically, which is going to identify her. Anybody --
MR. BUFALINO: As long as we have an understanding on the record that it is her.
MS. POLLICK: It is her, yes, correct.
MR. BUFALINO: Okay. I don't have a problem with that.
BY MR. BUFALINO:
Q. Can you state your full for the record, please?

JANE DOE

1 MS. POLLICK: She already did.
 2 MR. BUFALINO: Her full name.
 3 THE WITNESS: (REDACTED).
 4 BY MR. BUFALINO:
 5 Q. And have you ever given a deposition
 6 before?
 7 A. No, sir.
 8 Q. Essentially I'm going to be asking you
 9 questions. You're going to be providing answers.
 10 This lady is going to be taking down both my
 11 questions and your answers. Because of that, you
 12 have to give verbal responses. That means no
 13 shrugs of the shoulders, no nods of the head, no
 14 uh-huhs, things of that nature.
 15 A. Yes, sir.
 16 Q. Okay. It is also not necessary to call
 17 me "sir," as I will probably turn around and look
 18 for my father.
 19 If I ask you a question and you don't
 20 understand it or you don't hear it, just please ask
 21 me to repeat it, okay?
 22 A. Yes.
 23 Q. So to the extent that I ask you a
 24 question and you give me an answer, I'm going to
 25 both assume that you heard it and understood it; is

JANE DOE

1 A. No, sir.
 2 Q. No prescription drugs of any kind?
 3 A. No, sir.
 4 Q. Okay. I'm going to begin talking about
 5 your personal background, if we can.
 6 Where do you reside?
 7 A. 5 Arthur Circle in Mountain Top.
 8 Q. And how long have you lived there?
 9 A. Approximately four years.
 10 Q. Where did you live prior to that?
 11 A. 11 Warren Street in Wilkes-Barre city.
 12 Q. And how long did you live there?
 13 A. Approximately four to five years.
 14 Q. And anywhere prior to that?
 15 A. I lived with my parents.
 16 Q. And what is that address, please?
 17 A. 199 Maple Road, Bear Creek Township.
 18 Q. Are you married?
 19 A. No, sir.
 20 Q. Any kids?
 21 A. No.
 22 Q. Can you give me an idea of your
 23 educational background, please?
 24 A. Completed high school and did a year
 25 and a half at Luzerne County Community College, and

JANE DOE

1 that fair?
 2 A. Yes.
 3 Q. Because she is taking down both my
 4 questions and your answers, it becomes extremely
 5 difficult for her if you and I are talking at the
 6 same time.
 7 A. Understood.
 8 Q. I will be happy to let you finish
 9 whatever answer you would like to give, if you
 10 would just be kind enough to let me finish whatever
 11 question I would like.
 12 Periodically there may be objections
 13 from Attorney Pollick. She is entitled to make
 14 those, and I'm entitled to respond to those. If
 15 you hear an objection, which I'm sure Attorney
 16 Pollick has already advised you, you want to stop,
 17 not only for the benefit of the court reporter, but
 18 because, again, we can't all be talking at the same
 19 time, okay?
 20 A. Understood.
 21 Q. First question, not meant to offend you
 22 in any way, but I need to make sure. Are you on
 23 any medications or any drugs of any kind that might
 24 impair your ability to understand what is happening
 25 here today?

JANE DOE

1 then six months in the Act II Sheriff's Academy,
 2 and multiple classes after that pertaining to my
 3 job.
 4 Q. Okay. Let's talk about -- where did
 5 you go to high school?
 6 A. James M. Coughlin.
 7 Q. From what year to what year?
 8 A. I graduated in 1996. So from '94 to
 9 '96.
 10 Q. Coughlin is how many grades?
 11 A. At the time that I was enrolled there
 12 it was sophomore, junior, senior.
 13 Q. Okay. And what years did you attend
 14 LCCC?
 15 A. Following high school, 1997.
 16 Q. And as I understand it, you didn't
 17 complete that course, or you did?
 18 A. I did not.
 19 Q. And what was your areas of
 20 concentration when you were at LCCC?
 21 A. Criminal justice.
 22 Q. Is there any particular reason why you
 23 didn't finish?
 24 A. I didn't have time. I was employed and
 25 trying to further my employment.

JANE DOE

1 Q. How about the six months, the Act II
 2 Sheriff's Academy, when was that?
 3 A. I believe that was in 2003.
 4 Q. And where was that located?
 5 A. Penn State main campus.
 6 Q. And how long did that last for, just
 7 one year?
 8 A. Approximately five, five and a half
 9 months.
 10 Q. Successfully complete that program?
 11 A. Yes.
 12 Q. After -- strike that.
 13 How about your employment history,
 14 where was the first job that you had?
 15 A. The first job that I had was in high
 16 school. It was Advance Auto Parts.
 17 Q. And what did you do there?
 18 A. Sales clerk, cashier.
 19 Q. Would that be 1996?
 20 A. It was actually 1994. I first was
 21 employed at 16.
 22 Q. And was that part-time?
 23 A. Yes.
 24 Q. Okay. And why did you leave
 25 Advance Auto Parts?

JANE DOE

1 position?
 2 A. Two and a half years.
 3 Q. And why did you leave that position?
 4 A. Employment opportunity in Luzerne
 5 County arose.
 6 Q. Okay. And what year was that about
 7 approximately, 1999?
 8 A. End of '99, right around there
 9 approximately.
 10 Q. And when you say employment opportunity
 11 with Luzerne County, was that the sheriff's
 12 department?
 13 A. It was not. It was the Social Security
 14 department.
 15 Q. And when you say employment opportunity
 16 arose, what do you mean by that?
 17 A. I had filled out an application and
 18 received a call back.
 19 Q. How did you learn of the job opening?
 20 A. My father worked for the county.
 21 Q. And what did he do?
 22 A. He is the passport clerk in the
 23 prothonotary office.
 24 Q. What's his name?
 25 A. Dave (REDACTED).

JANE DOE

1 A. I actually took an employment
 2 opportunity with Orloski businesses.
 3 Q. And what did you do for Orloski?
 4 A. Cashier/sales clerk.
 5 Q. Was that 1995?
 6 A. That was nineteen ninety -- end of '96.
 7 Q. And how long were you there?
 8 A. Approximately two years.
 9 Q. And did you ultimately leave that
 10 position?
 11 A. I did.
 12 Q. And why did you?
 13 A. I took another employment with -- at
 14 the time it was a subcontractor for the Social
 15 Security Administration.
 16 Q. Was that in 1998?
 17 A. Yes.
 18 Q. And what did you do for them?
 19 A. I processed Social Security claim
 20 files, I did computer intel -- computer data entry
 21 and handled the subcontracting part of filing,
 22 Social Security files that would eventually move to
 23 the main Social Security Administration building in
 24 Plains.
 25 Q. And how long did you hold that

JANE DOE

1 Q. Is he still employed there?
 2 A. No, he's retired.
 3 Q. And did you ultimately take that job as
 4 a security officer?
 5 A. Yes, I did.
 6 Q. And what were you making at that time
 7 at Luzerne County?
 8 A. Salary for the year when I left was 18,
 9 19,000 approximately.
 10 Q. And how long did you hold that position
 11 for?
 12 A. Approximately a year and a half to just
 13 shy of two years.
 14 Q. And in order to obtain that position,
 15 did you need any special training or educational
 16 requirements?
 17 A. No, sir.
 18 Q. Okay. Once you got the job, were you
 19 required to go through any training or special
 20 education classes?
 21 A. No, sir.
 22 Q. Did you ultimately leave that position?
 23 A. I did.
 24 Q. Okay. And when did that occur?
 25 A. Approximately 2002.

JANE DOE

1 Q. And to what position did you -- for
 2 what position did you leave it?
 3 A. Deputy sheriff.
 4 Q. Is that the reason why you left the
 5 security officer position?
 6 A. Yes.
 7 Q. How is it that you learned of the
 8 opening or the opportunity to join to the Luzerne
 9 County sheriff's office in 2002?
 10 A. It was rumored that they were hiring
 11 part-time deputy sheriffs. I applied and
 12 interviewed and was hired as a deputy sheriff.
 13 Q. Hired by whom?
 14 A. Sheriff Barry Stankus and
 15 Chief George Kamage.
 16 Q. And for the benefit of the court
 17 reporter, how do you spell Mr. Kamage's name?
 18 A. K-A-M-A-G-E.
 19 Q. And if I'm not mistaken, Stankus is
 20 S-T-A-N-K-U-S?
 21 A. Yes, sir.
 22 Q. I want to backtrack for a second to the
 23 position that you held as security officer from
 24 1999 to 2002. What were your duties as a security
 25 officer?

JANE DOE

1 A. I mostly ran all of the computer
 2 imaging, the computer networks, and the recorder
 3 cameras throughout all county buildings.
 4 Q. The surveillance cameras?
 5 A. Yes.
 6 Q. And where was that done from?
 7 A. There was a small room in the center of
 8 the rotunda. They call it the fish bowl. That's
 9 where all of the security monitors were. At the
 10 time, it was three county buildings. That's where
 11 all of the recording devices were, the controls for
 12 the cameras. That's where everything was located.
 13 Q. Okay. When you started with the
 14 sheriff's department in 2002, what was your job
 15 title?
 16 A. Deputy sheriff.
 17 Q. And what were your duties when you
 18 began in 2002?
 19 A. Transporting prisoners, monitoring
 20 courtrooms, all the other duties that the sheriffs
 21 hold.
 22 Q. And I don't mean to be smart, but
 23 that's what I'm trying to figure out.
 24 A. At the current time when I first
 25 started, it was basically transporting prisoners,

JANE DOE

1 monitoring courtrooms.
 2 Q. Okay. Was there any special training
 3 that was required or education that was required in
 4 order to hold that position as a deputy sheriff?
 5 A. Yes. Within one year of employment,
 6 you have to complete the Act II Sheriff's Academy.
 7 Q. So would that coincide with the 2003
 8 training that you took at Penn State main campus?
 9 A. Yes, sir.
 10 Q. Okay. Was that the only requirement
 11 that you had in order to hold that position?
 12 A. Yes.
 13 Q. Okay. At any point in time did your
 14 duties change while you were at the sheriff's
 15 office?
 16 A. Yes.
 17 Q. When was that, please?
 18 A. They would change on a daily basis. It
 19 would all depend on where you were assigned.
 20 Q. Okay. You said that you were titled as
 21 a deputy sheriff. Did that title ever change
 22 during any period of time during the course of your
 23 employment?
 24 A. No, sir.
 25 Q. Okay. Did your rank at all change?

JANE DOE

1 A. No, sir.
 2 Q. How, if at all, did your duties change
 3 during the course of your employment with Luzerne
 4 County?
 5 A. I have done all aspects of the
 6 sheriff's department. I worked in real estate. I
 7 worked in the civil division processing and serving
 8 civil Complaints. I have done and processed gun
 9 permits. I have served PFAs, protection from abuse
 10 orders, and I have served warrants.
 11 Q. Are you still presently employed by
 12 Luzerne County?
 13 A. Yes, sir.
 14 * * *
 15 (Whereupon, the testimony from page 16,
 16 line 14 to page 16, line 24 was redacted and
 17 placed into a confidential transcript.)
 18 * * *
 19
 20
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 22
 23
 24
 25 MS. POLLICK: Can I just -- since she

JANE DOE

1 does undercover work and this is going to be
2 filed, I don't want that to jeopardize her
3 marshal's situation.

4 Is there -- perhaps we can have that
5 transferred to another deposition that we agree
6 won't be filed so that it doesn't compromise
7 the marshals or her future employment.

8 MR. BUFALINO: As long as your
9 suggestion is that I could re-depose her with
10 regards to those issues.

11 MS. POLLICK: Well, right after this.

12 Say after we complete this
13 deposition -- just, all of it without talking
14 about her undercover work -- then we could open
15 up a separate deposition that we will agree
16 won't be filed, and you could go through
17 everything you want to do with talking about
18 the undercover stuff.

19 MR. BUFALINO: That's fine.

20 MS. POLLICK: So could I just ask that
21 that be deleted from the file and put over to
22 the new deposition?

23 Does that sound doable?

24 THE COURT REPORTER: Yes.

25 MS. POLLICK: Thank you, Mark.

JANE DOE

1 Q. Would you be agreeable to providing
2 your counsel with that information or contact
3 information -- providing us with that information?

4 A. Yes.

5 Q. During the course of your employment
6 with Luzerne County -- so we're talking from 1990
7 to the present -- have you ever been suspended?

8 A. No.

9 Q. Have you ever been reprimanded?

10 A. Yes.

11 Q. And how many times?

12 A. I believe two.

13 Q. And do you remember for what?

14 A. I believe one was a late policy. I
15 believe the second one was for accidentally taking
16 a car key home, forgetting to hang it back up on
17 the rack.

18 Q. The late policy -- when you say that,
19 do you mean that you were late for work?

20 A. Correct.

21 Q. Do you remember when that occurred?

22 A. No, I don't.

23 Q. How about the incident with the car
24 keys, do you remember when that occurred?

25 A. I do not.

JANE DOE

1 BY MR. BUFALINO:

2 Q. Let me ask you this question. Besides
3 the Act II training, you have taken other courses
4 for other purposes?

5 A. Yes, sir.

6 Q. Can you tell me what those courses are?

7 A. I can't tell you all of them off the
8 top of my head. I have approximately taken 200
9 courses.

10 Q. From what time period to what time
11 period?

12 A. 2002 from when I first started as a
13 deputy sheriff until the current.

14 Q. Do you pay for those courses yourself?

15 A. Some I do.

16 Q. And where do you take them, at any one
17 particular place?

18 A. Pennsylvania State Police Training
19 Barracks in Wyoming.

20 Q. All of them?

21 A. Yes.

22 Q. Would Pennsylvania State Police
23 Training Barracks have a record of all of those?

24 A. Yes, they should. I have a record of
25 them. They should.

JANE DOE

1 Q. Again, not to offend you, but have you
2 ever been charged or convicted of a crime?

3 A. No, sir.

4 Q. Never charged?

5 A. No, sir.

6 Q. And never convicted?

7 A. No, sir.

8 Q. During the course of your duties or
9 employment with Luzerne County either as the
10 security officer or as the Luzerne County sheriff,
11 have you ever had a complaint filed against you?

12 A. Not to my knowledge.

13 Q. During the course of your employment
14 with Luzerne County from 1999 to the present, have
15 you ever filed a grievance or a complaint?

16 A. Yes.

17 Q. Can you tell me when that was, please?

18 A. I can't tell you off the top of my
19 head.

20 Q. Do you know how many times?

21 A. No, I don't.

22 Q. Was it more than once?

23 A. I believe so.

24 Q. Do you recall the facts and
25 circumstances for which you filed the grievance or

JANE DOE

1 complaint?

2 A. I believe it was an overtime issue.
3 I'm not a hundred percent positive. I would have
4 to look back.

5 Q. Do you have records with regards to the
6 grievances that you filed?

7 A. I do not. If you do, maybe you could
8 refresh my memory.

9 Q. Okay. Is it my understanding that your
10 recollection is that you only filed one grievance
11 or complaint during your tenure?

12 A. I'm really not sure.

13 Q. Was that -- was the grievance or
14 complaint that you filed regarding the overtime
15 issue when you were a security officer or a
16 sheriff?

17 A. When I was a deputy.

18 Q. Deputy sheriff?

19 A. Yes.

20 Q. Do you recall who you -- the sheriff
21 would have been at that time?

22 A. Sheriff Barry Stankus.

23 Q. During the course of your employment
24 with Luzerne County, have you ever filed a
25 complaint or grievance against Ryan Foy?

JANE DOE

1 A. No, not to my knowledge.

2 Q. Have you ever filed a grievance or
3 complaint against Sheriff Stankus?

4 MS. POLLICK: Objection. Confusing
5 question.

6 MR. BUFALINO: Just for the record,
7 what is confusing?

8 MS. POLLICK: Just because she filed
9 this Complaint against Foy. So if you're just
10 talking about the union -- that's the only
11 thing I was a little bit --

12 MR. BUFALINO: I'll be happy to clarify
13 that.

14 BY MR. BUFALINO:

15 Q. What I'm asking you -- let's just do it
16 this way. Prior to the filing of the action which
17 we're here on today, did you ever file a complaint
18 or a grievance against Ryan Foy?

19 A. No, not to my knowledge.

20 Q. Prior to the filing of this action
21 which we're here on today, did you ever file a
22 grievance or complaint against Sheriff Stankus?

23 A. The grievances that I filed were
24 contractual. I don't know who they would be
25 directed to, whether it would be Sheriff Stankus or

JANE DOE

1 any of his chiefs. I'm not aware of how the union
2 processes that. They were all contractual.

3 Q. Did you ever file a grievance or
4 complaint prior to the filing of this action
5 regarding any interaction between any -- any of the
6 interactions you may have had with your co-workers?

7 A. Can you repeat that or rephrase it?

8 Q. Sure. Prior to the filing of this
9 action, did you ever file a grievance or complaint
10 against any of your co-workers for behavioral
11 interactions that you may have had with them?

12 A. No.

13 Q. Have you ever been a party to a lawsuit
14 of any kind other than this one?

15 A. No.

16 Q. Other than this matter which we're here
17 on today, have you ever filed a claim of any kind?

18 A. No.

19 Q. Have you ever gone out on Workers'
20 Compensation?

21 A. Yes.

22 Q. When was that, please?

23 A. I can't recall the exact date.

24 Q. Okay. How many times have you been out
25 on Workers' Compensation?

JANE DOE

1 A. One time.

2 Q. And what was that for?

3 A. I was injured during work, performing
4 my work duties.

5 Q. And when you say you were injured, how
6 did that occur?

7 A. I was serving civil papers and posted
8 an abandoned vacant property. The steps to that
9 property were broken and barely hanging on. It was
10 raining out. When I came down the stairs to the
11 sidewalk, I slipped and fell.

12 Q. And how long were you out?

13 A. Approximately two to three months.

14 Q. During the course of your duties as
15 either the security officer for Luzerne County or
16 as a deputy sheriff, did your duties require you to
17 use a video camera at all?

18 A. No, sir.

19 Q. September 27 of 2007, that is what I
20 want to focus on now. That's the date which is the
21 subject matter of your Complaint in this case,
22 correct?

23 A. Yes.

24 Q. You were on duty that day?

25 A. I was.

JANE DOE

1 Q. And what shift were you working?

2 A. I believe it was day shift.

3 Q. And what does that mean?

4 A. Depending on your work schedule, day

5 shift in our eyes would be either 8:00 to 3:30,

6 8:30 to 4:00, 9:00 to 4:30. There are different

7 times that you were assigned to work. We just

8 called that day shift. It would have been a

9 morning shift. I'm not sure exactly what shift I

10 was on, whether it was the 8:00, 8:30, 9:00 shift.

11 Q. Do you remember what time that you did

12 arrive at work?

13 A. No, I don't. My shift changed almost

14 daily.

15 Q. How come?

16 A. It's just that at that time I was in

17 the warrants division. I work all different

18 shifts. We pretty much make our own schedule.

19 Q. Okay. Do you remember what your duties

20 were that day?

21 A. Executing body warrants, court-ordered

22 from a judge.

23 Q. Did you say body, B-O-D-Y, warrants?

24 A. That's what we called them. They are

25 bench warrants from a county judge.

JANE DOE

1 Q. So in other words, the judge issues a

2 warrant to pick somebody up, and you're going to

3 get that person?

4 A. Correct.

5 Q. Any particular individual or

6 individuals that you had warrants for that day?

7 A. It was David Cruz.

8 Q. C-R-U-Z?

9 A. Correct.

10 Q. And do you remember where you were

11 going to execute that?

12 A. Darling Street in Wilkes-Barre City.

13 We also had a warrant for his father at the same

14 residence, which was Louis Cruz.

15 Q. Darling Street being the street that

16 runs almost perpendicular to where the Luzerne

17 County Courthouse is?

18 A. Yes.

19 Q. Do you remember what time you

20 arrived -- if you did arrive -- strike that.

21 Did you ever arrive at the Darling

22 Street address of Mr. Cruz?

23 A. Yes.

24 Q. And what time did you arrive there?

25 A. I don't recall. I would have to look

JANE DOE

1 at my notes, my incident report from that day. I

2 don't recall the time.

3 Q. You have an incident report from that

4 day?

5 A. Yes.

6 Q. Do you have that in your personal

7 possession, or would that be at the Luzerne County

8 sheriff's office?

9 A. That would be at the Luzerne County

10 sheriff's office.

11 Q. Let me just stop there for a second.

12 What is the practice and procedure as

13 you understand it at that time, September 27th

14 of 2007? Why were you filing incident reports?

15 A. An incident had happened.

16 Q. Okay. Let's get to that in a second

17 though.

18 What is the general practice and

19 procedure that involves incident reports?

20 MR. POLLICK: Objection. Lack of

21 personal knowledge.

22 MR. BUFALINO: Well, she has to say

23 that.

24 BY MR. BUFALINO:

25 Q. Do you know?

JANE DOE

1 A. When an incident happens, a specific

2 incident other than making the arrest.

3 Q. What I'm asking you is, you have been a

4 deputy sheriff since 2002, correct?

5 A. Yes.

6 Q. So that's the better part of about

7 seven years, correct?

8 A. Yes.

9 Q. Can I assume that you didn't just

10 decide for yourself that you were going to create

11 incident reports, correct?

12 A. Correct.

13 Q. Somewhere along the way you were either

14 told, directed, or there was a policy in the office

15 for the creation of incident reports?

16 A. I wasn't told. I'm not sure if there

17 was a policy. If an incident happens where you

18 were injured or there is an incident with the

19 person that you were trying to pick up when the

20 warrant happened, or criminal charges on that

21 person were going to be filed, an incident report

22 would happen.

23 Q. That's what I'm asking, okay. So not

24 everything that you do during the course of your

25 daily activities is put down on an incident report?

JANE DOE

1 A. Correct.

2 Q. What was the incident that happened

3 when you went to execute the warrants at the Cruz

4 residence?

5 A. Can you rephrase that?

6 Q. Sure. You indicated that you filed an

7 incident report regarding the September 27th, 2007

8 incident?

9 A. Correct.

10 Q. What was the incident that you were

11 recording?

12 A. That we were contaminated with fleas.

13 Q. And when did you discover that?

14 A. Upon exiting that residence on Darling

15 Street.

16 Q. How did you notice that, or how did you

17 become aware of that?

18 A. There were hundreds of fleas crawling

19 and jumping off of us.

20 Q. And you said "us." Who else was

21 present?

22 A. Deputy Brian Szumski, S-Z-U-M-S-K-I.

23 Q. Were you the only two that were at the

24 Darling Street residence?

25 A. Yes.

JANE DOE

1 Q. Is he your partner of sorts?

2 A. He was my partner at that time.

3 Q. Okay. Who is your partner now?

4 A. At the current time, there are four

5 people in my division. We rotate between each

6 other.

7 Q. And who would those four people be?

8 A. Hank Nothen, N-O-T-H-E-N; Courtney

9 Staley, S-T-A-L-E-Y; and Michael Patterson,

10 P-A-T-T-E-R-S-O-N.

11 Q. And obviously you would be the fourth?

12 A. Correct.

13 Q. And Mr. Szumski is no longer your

14 partner. Is there any particular reason why that

15 is?

16 A. I'm not sure.

17 Q. Okay. How was it that you became

18 assigned with Deputy Sheriff Szumski to go to the

19 Darling Street address; do you know?

20 A. He was assigned my partner, and we

21 chose a handful of warrants to attend that day.

22 Q. Was he just assigned to be your partner

23 that day?

24 A. No.

25 Q. How long had you been partners?

JANE DOE

1 A. A couple of months.

2 Q. Who was your partner prior to

3 Mr. Szumski?

4 A. David Homschek, H-O-M-S-C-H-E-K.

5 Q. And how long was Mr. Homschek your

6 partner?

7 A. Two and a half years.

8 Q. And any particular reason why he ceased

9 being your partner?

10 A. He is currently the police chief of

11 Avoca.

12 Q. So am I understanding that he left the

13 Luzerne County sheriff's office?

14 A. Yes.

15 Q. Did you have a partner prior to

16 Deputy Homschek?

17 A. Chris Hardy, H-A-R-D-Y. It was also a

18 three-man team at the time.

19 Q. And is Mr. Hardy still employed at the

20 sheriff's office?

21 A. He is not. He is employed with

22 Wilkes-Barre City Police Department.

23 Q. What was the reason why Mr. Hardy

24 ceased being your partner; did you know?

25 A. He took employment with the

JANE DOE

1 Wilkes-Barre City Police Department.

2 Q. Any partners prior to that?

3 A. No.

4 Q. Okay. Other than the incident report

5 that you filed with the Luzerne County sheriff's

6 office, would there be any other documents to

7 evidence what you did that day? Obviously "that

8 day" -- all of the questions that we are talking

9 about now relate to September 27th, 2007.

10 A. Could you repeat the question?

11 Q. Sure. Other than the incident report

12 that you filed relative to your duties at the

13 Darling Street address, would there be any other

14 documents that would evidence what you did that

15 day, either prior to going to the Darling Street

16 address or after?

17 A. I believe the hospital should have

18 something on report.

19 Q. When you say "the hospital," what

20 hospital are you referring to?

21 A. Geisinger South Wilkes-Barre. I

22 believe it was Mercy Hospital at the time.

23 Q. Okay. We're going to come back to once

24 you get to the hospital. I just have a few more

25 questions with regards to what happened prior to

JANE DOE

1 you getting to the Mercy Hospital.

2 Do you remember what vehicle you used
3 to go to the Darling Street address?

4 A. Yes.

5 Q. What vehicle was that?

6 A. I believe it was called car 15. I'm
7 not sure of the numbers because they changed a
8 couple of times since then. It was a gray unmarked
9 Crown Victoria.

10 Q. Do you remember the license plate
11 number or anything like that?

12 A. No, I don't.

13 Q. When you take a car -- or when you took
14 a car back in 2007, would there be a sign-out or a
15 log sheet that would say, (REDACTED) has car number
16 15?

17 A. No, not to my knowledge.

18 Q. There such a practice or procedure
19 today?

20 A. No. Today we are currently assigned
21 specific cars. Until you're told to switch
22 vehicles, you have that car. My division, we have
23 multiple cars because of the job that we do. We
24 are able to rotate between specific vehicles at any
25 given time.

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JANE DOE

1 Q. How would you know on September 27th,
2 2007, that you were to take car 15?

3 A. I'm not sure if we were told that or if
4 that was just the car that we were using and
5 continued to use. I'm not really sure.
6 Mr. Szumski usually handled that.

7 Q. Did you drive or did he?

8 A. He drove.

9 Q. And nobody else was in the car with you
10 that day?

11 A. Correct, nobody else.

12 Q. When you arrived at the Darling Street
13 address, tell me everything that you did, please,
14 to the best of your knowledge.

15 A. We knocked on the resident's door,
16 which was half-way opened. We observed that the
17 house was in total disarray. There was garbage
18 piled. Being that the door was opened partially,
19 we announced who we were to see if there was anyone
20 inside. The house had a very strong foul odor
21 coming from it. It was a double block or a
22 row-type home. The older gentleman, who was the
23 landlord next door, came out and basically said to
24 us, I'm the landlord, go in there and check it out
25 because I don't know what they are doing in there.

35

JANE DOE

1 Q. Do you remember that person's name?

2 A. I do not.

3 Q. Did you say that he lived on the other
4 side of the double block?

5 A. Yes.

6 Q. Do you remember which side?

7 A. The right side.

8 Q. Okay. It sounds stupid, but I'm
9 assuming that Cruzs lived on the left side?

10 A. Yes.

11 Q. And after you had that conversation
12 with who you perceived to be the landlord, what
13 happened next?

14 A. We entered the residence and attempted
15 to search for David Cruz and Louis Cruz.

16 Q. When you attempted to search for them,
17 what did you do?

18 A. We checked all areas of the house,
19 upstairs, downstairs, closets, basement, room to
20 room we did a search. We moved piles of clothes
21 and garbage bags to see if someone was hiding
22 anywhere.

23 Q. And what happened next?

24 A. We found what was believed to be a dead
25 cat in the -- what I'm assuming to be the living

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JANE DOE

1 room. All of the rooms were trashed, so you
2 couldn't tell what room was what. Upon finding
3 that, we determined that neither Cruz was inside
4 the residence, and exited the residence.

5 Q. Okay. Did you -- other than -- strike
6 that.

7 Did you have any conversations with
8 Deputy Sheriff Szumski while you were inside the
9 residence?

10 A. Not other than check here or check
11 there. Nothing outside of where normal people
12 would hide in our job, where we would find them.

13 Q. And what happened next?

14 A. We exited the residence. The landlord
15 was still on the porch. The landlord was
16 attempting I believe to give us mail, to show the
17 date that the last mail was picked up from that
18 apartment. He did state that they were in and out
19 late at night and he hasn't paid the rent, they are
20 so many months behind, he is starting the eviction
21 process. In the middle of the conversation with
22 the landlord, I happened to feel something on my
23 arm. I looked down, and there were hundreds of
24 fleas starting to crawl -- which I believed to be
25 fleas at the time. I just brushed them off,

JANE DOE

1 because I did not know really that they were fleas
2 at that time. I just kind of brushed them off and
3 ended the conversation with the landlord.

4 Q. You were having with the conversation
5 with the landlord, or was Mr. Szumski?

6 A. Both of us were.

7 Q. And when you say that you noticed that
8 you had fleas on you, were they on your person or
9 on your uniform?

10 A. At the time that I first noticed that
11 there was a handful on my arm, I did not know that
12 they were fleas. I just kind of brushed them off.

13 Q. Do you remember which arm it was?

14 A. My right arm.

15 Q. Again, were they on your skin, or on
16 your uniform?

17 A. At that time they were on my skin.

18 Q. Okay. Was it a short-sleeved uniform?

19 A. Yes.

20 Q. Other than the conversation with the
21 landlord that you just told us about the mail, did
22 you have any other conversations with him?

23 A. The landlord? No.

24 Q. Any conversations with anybody else at
25 that time?

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JANE DOE

1 A. At that time Mr. Szumski and I observed
2 another wanted individual who was proceeding up
3 Darling Street in a vehicle.

4 Q. Who was that?

5 A. James Verdickal [ph].

6 Q. Do you know how to spell that?

7 A. I'm not sure. I believe

8 V-E-R-D-I-C-K-A-L.

9 Q. James did you say was his first name?

10 A. I believe so, yes.

11 Q. And what, if anything, happened then?

12 A. We then entered our sheriff's vehicle
13 and drove alongside of Mr. Verdickal and activated
14 our lights and sirens.

15 Q. And then what happened?

16 A. We ran Mr. Verdickal for warrants. He
17 came back positive for warrants. At the time we
18 were outside speaking to Mr. Verdickal, both Brian
19 and I noticed that there were more bugs -- I'll
20 call them at this time because I didn't know that
21 they were fleas -- basically all over our pants,
22 our shirts, our skin, our hair, our face. There
23 were hundreds. I looked at Brian and I said,
24 Brian, what are these? Brian said, they are fleas.
25 We then radioed to our sheriff's base and advised

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JANE DOE

1 them that we have been contaminated with fleas.

2 Mr. Verdickal, who we have dealt with
3 more times than I could count -- it was basically a
4 fines and cost warrant. Mr. Vertical actually
5 drove himself to our office with his attorney and
6 straightened everything out on his end. At the
7 time we were told to let him go and to report to
8 Luzerne County Correctional Facility.

9 Q. Okay. Let's just stop for a second
10 because you told me quite a bit of information
11 there.

12 You said that you radioed to the
13 sheriff's base. Do you remember with whom you
14 spoke?

15 A. I'm not sure. There was two different
16 people on the radio. One was Deputy Michelle
17 Klinfelter, K-L-I-N-F-E-L-T-E-R.

18 Q. Thank you.

19 A. And Deputy John Chaumpi, C-H-A-U-M-P-I.

20 Q. Okay. So you actually were speaking to
21 two individuals?

22 A. Yes. They were both on and off the
23 radio. They both worked back there at that time.

24 Q. Was it you who radioed, or was it
25 Deputy Szumski?

40

JANE DOE

1 A. I believe it was myself that radioed
2 first. I believe Deputy Szumski did speak to one
3 of them as to where we should go.

4 Q. I think that you may have told us what
5 the subject matter was, but can you tell us -- what
6 was the conversation that you had with both Deputy
7 Sheriff Klinfelter and Deputy Sheriff Chaumpi?

8 A. It was very brief on the radio. We
9 stated that we were contaminated with fleas. Where
10 should we go was basically it. Where would you
11 like us to go to? This is an event that had
12 happened in the past in our office. I believe that
13 there were some protocols as to the decontamination
14 process.

15 Q. And when you say that it happened
16 before, do you know to whom and when?

17 A. It happened a few years earlier. It
18 was Deputies Sallitt, S-A-L-L-I-T-T --

19 Q. That would be Norman Sallitt?

20 A. Yes.

21 Deputy John Brawley, B-R-A-W-L-E-Y;
22 Deputy Dave Bianco, B-I-A-N-C-O, I believe; and
23 Deputy Mary Jean Farrell [ph].

24 Q. And where did the incident involving
25 those deputy sheriffs take place, if you remember?

JANE DOE

1 A. I wasn't working at the time. I wasn't
2 employed at the sheriff's department. They were
3 doing an eviction. That's all I really know about
4 it.

5 Q. Whatever you do know about it is
6 because of conversing with either those individuals
7 or others; is that right?

8 A. Correct. There is a picture that I
9 think was taken of their clothes that were covered
10 in fleas.

11 Q. And where is that picture?

12 A. I saw it years ago. I'm not actually
13 sure where -- whose it was or where it was. It was
14 actually in our office in the main courthouse, the
15 old office where the District Attorney office is
16 now.

17 Q. Do you know who the picture belongs to?

18 A. No, I don't. It was just a picture of
19 a pile of clothes that were covered in fleas.

20 Q. Where was the picture in your office?

21 A. I believe it was towards the back,
22 almost over by a windowsill. I'm not even sure --
23 it wasn't in a frame. It was just a Polaroid
24 picture.

25 Q. And how is it that you came to notice

JANE DOE

1 A. We were told to park out front.

2 Q. And did you do that?

3 A. We did.

4 Q. And then what did you do?

5 A. There were hundreds of fleas on us that
6 were biting us now. It was warm out that day. It
7 seemed every time that we turned the air
8 conditioning on that they would come closer to our
9 bodies. When we rolled down the windows, the sweat
10 and the heat was unbearable.

11 Brian and I jumped out the car and took
12 our duty belts off and put it in the trunk. We
13 wear t-shirts underneath, so we took off our
14 uniform shirt and our bulletproof vest because of
15 how hot it was that day. The fleas were already
16 underneath our vest and our clothing.

17 Q. What did you do with the -- you said
18 that you took the duty belts and put them in the
19 truck. What did you do with the bulletproof vest
20 and the uniform?

21 A. Placed it in the trunk.

22 Q. Okay. You said that they were now
23 biting you. What do you mean by that?

24 A. It just felt like pinching. We had --
25 both Brian and myself had red marks on our arms,

JANE DOE

1 that picture?

2 A. I passed it every day.

3 Q. How did you come to know what that
4 picture was pertaining to?

5 A. I had asked what that picture was.

6 Q. Was there any particular reason that
7 was explained to you why the picture was kept up?

8 A. No. Nobody knew. It was just a
9 picture of the flea clothing.

10 Q. After you radioed and spoke with Deputy
11 Klinfelter and Deputy Chaumpi, where -- what, if
12 anything, did you do next?

13 A. We were told -- I'm not sure which one
14 actually said it over the radio, but we were told
15 to report to Luzerne County Correctional Facility.

16 Q. And did you do that?

17 A. Yes.

18 Q. Do you remember what time you arrived
19 at Luzerne County Correctional Facility?

20 A. I don't know the exact time.

21 Q. Would that be in your incident report?

22 A. It may be. I haven't looked at my
23 incident report in years. I'm not really sure.

24 Q. Where did you go when you arrived at
25 LCCF?

JANE DOE

1 our hands, our necks. Brian had some on his face.

2 There were just hundreds of them. They were
3 everywhere. They were inside the car and on us.

4 Q. When you used the word "biting," you
5 didn't actually know that that is what was
6 happening to you?

7 A. I don't. There were just little red
8 marks appearing.

9 Q. Okay. So after taking your uniform and
10 your duty belt off -- or at least part of your
11 uniform off -- what did you do then?

12 A. We contacted -- we were contacted by
13 Chief Bobbouine by telephone.

14 Q. Bobbouine is one we should probably
15 spell. It's B-O-U-B-B-I-N-I [sic].

16 A. Yes. Chief Bobbouine stated that he
17 was on the phone with the prison and just to sit in
18 the car and he would get right back to us.

19 Q. So he was talking to the prison, and he
20 was going to call you back?

21 A. Yes.

22 MS. POLLICK: Objection. Calls for
23 speculation.

24 BY MR. BUFALINO:

25 Q. When you talked to Deputy Chief

JANE DOE

1 Bobbouine, what did he tell you?

2 A. He was on a two-way telephone, direct
3 connect from Nextel. He just said that he was on
4 hold with someone from the jail and just to stay in
5 the car and he would call us right back. We didn't
6 know what door we had to enter. We were just
7 waiting to hear where to go.

8 Q. Okay. Did you have any conversations
9 during that time while you were waiting for
10 Deputy Bobbouine to call you back with Deputy
11 Szumski?

12 A. No specific conversations. We just
13 couldn't believe that this happened.

14 Q. What happened then?

15 A. We received a two-way call from
16 Chief Bobbouine stating that the jail would not
17 take us.

18 Q. Did you have any knowledge or
19 understanding as to why the jail would not take
20 you?

21 MS. POLLICK: Objection. Calls for
22 speculation.

23 BY MR. BUFALINO:

24 Q. You can answer.

25 A. Chief Bobbouine just stated it was

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1 because Sam Hyder hated the sheriff.

2 Q. That's the only thing that he told you?

3 A. Yes.

4 Q. So what, if anything, happened then?

5 A. We were then directed to go to the
6 emergency management building, which was just up
7 the street from the correctional facility.

8 Q. Okay. That is also known as the EMA
9 building?

10 A. Yes.

11 Q. By whom were you directed to go to the
12 EMA building?

13 A. Chief Bobbouine.

14 Q. And when did that occur?

15 A. Right after he informed us that the
16 jail refused to take us.

17 Q. What time of the day are we talking
18 about at this point?

19 A. I'm not really sure of a specific time,
20 late morning maybe, early afternoon approximately.
21 I'm not sure. Everything was happening so fast.

22 Q. How long were you at the Darling Street
23 address approximately?

24 A. Inside the address?

25 Q. Just in total, either out front,

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1 inside, or pulling away from, from start to finish.

2 A. I can't say exactly, 20 minutes maybe,
3 a half hour. I'm not really sure.

4 Q. How long were you seated outside or
5 standing outside -- strike that.

6 How long were you outside the Luzerne
7 County Correctional Facility approximately?

8 A. Approximately 15 minutes.

9 Q. Okay. And after speaking with
10 Chief Bobbouine when he directed you to go to the
11 EMA building, did you in fact do that?

12 A. Yes.

13 Q. And what happened then?

14 A. He told us to stay in the car -- Chief
15 Bobbouine told us to stay in the car and he would
16 be right there.

17 Q. And did you do that?

18 A. Yes.

19 Q. Okay. What happened then?

20 A. Approximately 15 minutes, 20 minutes
21 went by and Brian was continuously two-waying
22 Chief Bobbouine asking him where he is, what are we
23 supposed to do, it's hot, we are being bit, there
24 are just so many of them, find someplace for us to
25 go.

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1 Q. Uh-huh.

2 A. And Chief Bobbouine said, I'm pulling
3 up right now.

4 Q. And then what happened?

5 A. Chief Bobbouine pulled up in what was
6 his assigned vehicle with --

7 Q. What vehicle would that have been?

8 I'm sorry to interrupt you, but do you
9 know what vehicle that would have been?

10 A. I'm not sure of the car number at the
11 time. I believe it was car 2.

12 Q. If at any time you need water, bathroom
13 break, let me know.

14 A. Thank you.

15 Q. Okay. So Chief Bobbouine arrived, and
16 then what happened?

17 A. Chief Bobbouine arrived with Chief Foy,
18 Deputy Erin Joyce, Deputy Michael Patterson.

19 Q. All in the same vehicle?

20 A. Yes.

21 Q. Okay. And what happened at that point?

22 A. They exited their vehicle and began to
23 laugh at us. Chief Foy and Chief Bobbouine began
24 laughing at us. Chief Foy had a videocamera and
25 began to videotape us sitting in the car.

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1 Q. And this is while you were outside of
2 the EMA building?

3 A. Yes.

4 Q. Did you have any conversations with
5 Chief Bobbouine, Sheriff Foy, Sheriff Joyce, or
6 Sheriff Patterson at that point?

7 A. Yes.

8 Q. And with whom and what was the subject
9 of that conversation?

10 A. We asked them -- we had the windows
11 down in the vehicle because of how hot it was. We
12 were directed to roll the windows up.

13 We stated -- both Mr. Szumski and I
14 stated that it was very hot inside the vehicle and
15 they were just everywhere. We wanted to get out of
16 the vehicle. Both Mr. Szumski and I were a little
17 angry because it was taking so long. There were
18 just hundreds of them. It was to the point where
19 it was more than annoying. They were just
20 everywhere.

21 There were more red marks appearing on
22 our arms and hands and face. We kept asking them
23 to call the hospitals, call someplace, find us a
24 decontamination shower where we could go.

25 Chief Bobbouine stated that he had

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1 someone working on that at their office, calling
2 all the local hospitals to see if anyone would take
3 us. We asked if we could exit the vehicle, and we
4 were told multiple times, no, to stay inside the
5 vehicle because they didn't want fleas. They
6 continued to laugh.

7 Q. The conversations that you just told us
8 about, with whom did you have those with?

9 A. That specific one was directed to Chief
10 Bobbouine. Chief Foy was -- Deputy Joyce and
11 Deputy Patterson were a little further back in the
12 distance. They really weren't saying anything at
13 all. They were on the phone trying to find out
14 from our office if they found a place to take us
15 yet.

16 Q. You said that you were directed to roll
17 up the windows, and that you requested several
18 times to exit the vehicle and were told not to?

19 A. Yes.

20 Q. With whom did you have those
21 conversations?

22 A. That was specifically Chief Bobbouine.
23 Chief Foy chimed in and stated, we don't want
24 fleas, stay in the vehicle. That's an order.
25 Chief Foy had the videocamera and then began to

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1 come closer towards the vehicle, attempting to film
2 us.

3 Q. So when you're sitting at the EMA
4 building, did you ever have any conversation with
5 Deputy Joyce or Deputy Patterson?

6 A. Not any specific. It was just, I just
7 can't believe this is happening.

8 Q. You said that both Deputy Joyce and
9 Deputy Patterson were on the telephone?

10 A. Not at the same time. I think they
11 were both taking turns calling to see if they had
12 found a place for us to go.

13 Q. Was that an assumption on your part, or
14 were you able to hear what they were saying?

15 A. I was not able to hear. The window was
16 up. It is just an assumption.

17 Q. The only thing that you could say is
18 that they were on the telephone?

19 A. Correct.

20 Q. Did you ever go inside the EMA
21 building?

22 A. No.

23 Q. Do you know why or can you tell me why
24 you didn't?

25 A. They told us no.

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1 MS. POLLICK: Objection. Calls for
2 speculation.

3 BY MR. BUFALINO:

4 Q. Were you ever told why?

5 A. Not to exit the vehicle, that's the
6 only thing we were told.

7 Q. Were you ever told why you were
8 directed to go to the EMA building and then never
9 went inside?

10 A. We were told to go there because they
11 had decontamination showers.

12 Q. And then what happened -- strike that.
13 You said that Deputy Foy had a
14 videocamera?

15 A. Yes.

16 Q. Can you describe it, please?

17 A. Small. It was small, silver and black
18 I believe in color. I'm not sure of the make or
19 model. I didn't get that close to it.

20 Q. You keep referring to him as Chief Foy.
21 Was that your understanding, that his title was
22 "Chief"?

23 A. Yes. It was Chief Deputy Bobbouine and
24 Deputy Chief Foy. We just called him Chief.

25 Q. While you were -- while he was standing

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1 there allegedly videotaping you -- well, let me ask
2 you this question. Did you know that he was
3 actually videotaping you at that time?

4 A. The videocamera was on and there was a
5 red light flashing. He would continue to circle
6 the car and tap on the window and laugh. I stated
7 to him at one time not to videotape me. I was very
8 upset. I was in this position to begin with with
9 the fleas. I did not want to be videotaped. I
10 told him to not tape me. He said to me, shut up,
11 it's for training purposes.

12 Q. Was Deputy Szumski in the vehicle at
13 the time when you told him not to videotape you?

14 A. Yes.

15 Q. Did Deputy Foy say anything other than
16 what you just recounted?

17 A. Not to my knowledge.

18 Q. Okay. What happened next?

19 A. We were sitting there, and I believe
20 one or two EMA workers came out and attempted to
21 hook up what they called the decontamination
22 shower.

23 Q. Outside?

24 A. Yes.

25 Q. And do you know the names of the EMA

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1 workers?

2 A. I do not.

3 Q. Two men, two women?

4 A. Two men.

5 Q. What did you observe them do?

6 A. They pulled out a duffel bag with what
7 looked to me as like PVC pipes, white plastic
8 pipes.

9 Q. And what happened next?

10 A. They attempted to piece them together.

11 Q. And when you say "attempted," were they
12 ever successful?

13 A. No.

14 Q. Do you know why?

15 A. I believe there were parts missing, and
16 they didn't know how to hook it up.

17 Q. Did you have any conversations with
18 either of those two EMA workers at that time?

19 A. The only thing at that time was we
20 rolled down the windows a little bit so we could
21 hear what was going on. I heard them say, we don't
22 have enough pieces, it would be cold water anyway.

23 Q. Who were they speaking to, if you know?

24 A. I believe Chief Foy and Chief
25 Bobbouine. That's who was standing by them.

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1 Q. Where was Deputy Patterson and Deputy
2 Joyce at that time?

3 A. Still standing off to the side.
4 Another deputy -- two other deputies had come up to
5 our location.

6 Q. And who were they?

7 A. Deputy Michael Vesek, V-E-S-E-K, and
8 Deputy Timothy G-A-R-D-Z-A-L-L-A.

9 Q. Okay. When did Deputy Vesek and Deputy
10 Gardzalla arrive?

11 A. Right around the same time as they were
12 putting the showers together.

13 Q. So it was outside the EMA building, and
14 not outside the Luzerne County Correctional
15 Facility?

16 A. Correct.

17 Q. Did you ever have any conversations
18 with Deputy Vesek or Deputy Gardzalla at that time?

19 A. I did. Deputy Vesek came over to the
20 window of the vehicle, asked us if we needed
21 anything, do we need anything to drink, is there
22 anything that we needed that he could go and get
23 for us.

24 Q. And what was your response, if any?

25 A. A drink would be really nice. It was

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1 so hot. We were just sweating sitting in that
2 vehicle.

3 Q. Is that the extent of the conversation
4 that you had with Deputy Vesek?

5 A. Yes.

6 Q. How about Deputy Szumski, did he have
7 any conversations with Deputy Vesek?

8 A. I believe the same as me. We were both
9 speaking out one window at him.

10 Q. To your knowledge, was that the extent
11 of the conversation that Deputy Szumski had with
12 Deputy Vesek?

13 A. I believe so.

14 Q. How about any conversations with
15 Deputy Gardzalla at that time?

16 A. Not me specifically, nor do I think
17 Szumski specifically. Mr. Gardzalla was told to
18 come there by Chief Bobbouine. They were trying to
19 figure out where we could take them [sic]. Deputy
20 Gardzalla had previously worked for the emergency
21 room at a local hospital. He was I guess the
22 contact person and was trying to make contact with
23 one of the area hospitals to take us. He also was
24 paramedic. He was explaining what items would be
25 necessary to decontaminate us.

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1 Q. When you say he was explaining it, to
2 whom was he explaining it?

3 A. Chief Foy and Chief Bobbouine.

4 Q. When you say that he was told to come
5 there by Chief Bobbouine, how is it that you know
6 that?

7 A. Like I just stated, we had the windows
8 down a little bit because it was so hot. Everyone
9 was talking on the direct connects. They were not
10 on silent. They were out loud. So you could hear
11 the conversations through the phone that way. They
12 weren't standing too far from the vehicle.

13 Q. Okay. Up to that point and other than
14 the conversation that you had previously told us
15 about, were there any other conversations that you
16 heard coming from either Deputy Foy,
17 Chief Bobbouine, Patterson or Joyce with regards to
18 anything other than what you told us already up to
19 this point?

20 A. No.

21 Q. What happened then?

22 A. Deputy Gardzalla came over and asked
23 both Szumski and myself if we were allergic to
24 anything. I stated that I was allergic to codeine,
25 and Brian stated that he was allergic to nothing.

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1 Tim was then telling us to try to stay
2 calm and asking us where we were being bit. I
3 stated that most were on my arm and my neck.
4 Mr. Gardzalla actually got down to -- he is quite
5 tall. He got down to a window view and said, you
6 actually have some on your face. I then pulled
7 down the visor in the car in the mirror and noticed
8 that I had approximately three or four lines on my
9 jaw line and on my cheek. Then Chief Bobbouine
10 pulled money out of his pocket.

11 Q. Who did that?

12 A. Chief Bobbouine. I'm not sure exactly
13 how much or what kind of bill it was. He
14 instructed Mr. Gardzalla to go to any place that
15 sold the flea shampoos or anything like that. He
16 directed him to go and pick them up and he would be
17 reimbursed by the county.

18 Q. Okay. Did you have any further
19 conversations with Deputy Gardzalla at that time?

20 A. No. Deputy Gardzalla was standing in
21 and around the side of the vehicle that I was on,
22 which was the passenger side, when Deputy Chief Foy
23 came back over and was videotaping again. I told
24 him, stop it, it's not funny. Get that -- excuse
25 my language -- get that f-ing thing out of my face.

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1 Q. What, if anything, did he reply?

2 A. He laughed and stated it was for
3 training purposes.

4 Q. At the time that Deputy Foy was using
5 this videocamera, you were outside in the car in
6 front of either the Luzerne County Correctional
7 Facility or the EMA building, correct?

8 A. We were inside the vehicle at the EMA
9 building.

10 Q. Okay. And at that point in time, you
11 were fully clothed?

12 A. Yes.

13 Q. Okay. Did Detective -- pardon me, did
14 Deputy Szumski have any conversations with Deputy
15 Foy with regards to the videocamera?

16 A. Not to my knowledge.

17 Q. When you say not to your knowledge, you
18 were in the car.

19 MS. POLLICK: Objection.

20 MR. BUFALINO: What's the objection?

21 MS. POLLICK: I'm objecting to the form
22 of the question.

23 BY MR. BUFALINO:

24 Q. You can answer.

25 A. I was in the car, but I was watching

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1 what was going on. I was watching them put up the
2 pipes. I really wasn't paying much attention. If
3 Mr. Foy was on Mr. Szumski's side of the vehicle, I
4 don't know. Brian was on the phone a couple of
5 times with his fiancée trying to get her to bring
6 clothes down. He was calling his dad and his mom.
7 I don't know of him having any conversations with
8 him.

9 Q. Okay. After your conversations with
10 Deputy Gardzalla, was that before or after you
11 noticed the EMA workers discussing the PVC piping?

12 A. That was after.

13 Q. What happened after you had the
14 discussions with Deputy Gardzalla?

15 A. Deputy Gardzalla just said to the
16 chief, do you want me to go now, or do you want me
17 to continue to make phone calls? Chief Bobbouine
18 stated, go now and continue to make phone calls on
19 your way.

20 Q. How long of a period of time were you
21 at the EMA building?

22 A. I'm not sure to have an exact amount of
23 time, but it was well over an hour to two hours.

24 Q. What happened next, did Deputy
25 Gardzalla leave?

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1 A. Yes.

2 Q. Did you remain there?

3 A. Yes.

4 Q. And who else was there at that point in
5 time?

6 A. Deputy Patterson, Deputy Joyce,
7 Chief Bobbouine, Chief Foy, and Deputy Veseck for a
8 short time. Deputy Veseck went to get us drinks.

9 Q. And what happened next?

10 A. We continued to ask what is going on,
11 this is ridiculous, you have to take us somewhere,
12 you have to get us out of here. At that time,
13 Brian was getting bit pretty bad. Brian was
14 getting agitated. All we were told was, we are
15 working on it.

16 Q. You were there. You could hear them
17 working on it, right?

18 MS. POLLICK: Objection. Calls for
19 speculation.

20 MR. BUFALINO: It doesn't.

21 BY MR. BUFALINO:

22 Q. You can answer.

23 A. At that time, they had figured out that
24 they couldn't put the decontamination showers
25 together. They did not have the right amount of

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1 pieces or the right parts. They were working on
2 finding someplace else for us.

3 Q. Your frustration at that time wasn't
4 with regards to the efforts that were being made to
5 try to get you help, it was the time that it was
6 taking, correct?

7 MS. POLLICK: Objection. Confusing
8 question.

9 THE WITNESS: I was more upset that we
10 were being told to stay in a vehicle that was
11 extremely hot. Chief Bobbouine and Chief Foy
12 were laughing and pointing. I was getting more
13 frustrated that they thought it was a joke.

14 BY MR. BUFALINO:

15 Q. Chief Bobbouine had contacted the
16 prison, correct?

17 A. I believe it was him. I don't know.

18 Q. And he was told you couldn't go into
19 the prison, right?

20 A. To the best of my knowledge.

21 Q. Then he tried to get you into the EMA
22 building, right?

23 A. I don't know if it was him for sure.
24 He was at our office. I was in front of the prison
25 in the vehicle. He was just relaying this

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1 information to me. So I don't know exactly who
2 made all the phone calls.

3 Q. But he was on scene attempting to try
4 to get EMA to set up this decontamination shower
5 for you?

6 MS. POLLICK: Objection. Calls for
7 speculation.

8 THE WITNESS: He was there. I don't
9 know if he was the one directing them to do it.

10 BY MR. BUFALINO:

11 Q. And is it your testimony or your belief
12 that the fact that the EMA workers couldn't set up
13 the decontamination shower was somehow attributable
14 to any of the deputies that were there other than
15 you and Mr. Szumski?

16 A. I don't know.

17 Q. Didn't you testify that the EMA workers
18 couldn't put the decontamination shower together
19 because they didn't have enough pieces?

20 A. I think they were uneducated in it, and
21 they had no idea what they were doing.

22 Q. And is that somehow any of your fellow
23 co-workers' fault?

24 A. I don't know. They were all laughing
25 together. I'm not really sure.

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1 MS. POLLICK: Objection.
2 Mischaracterization of prior testimony.

3 BY MR. BUFALINO:

4 Q. Let me ask you this question.
5 You said that the reason why you
6 couldn't use the decontamination shower was that
7 you overheard the EMA workers saying that they
8 didn't have enough pieces, and you also said that
9 it is your belief that they did not have enough
10 education in order to assemble it. Is that
11 essentially it?

12 A. Yes.

13 Q. Is their failure to have the requisite
14 parts -- the EMA workers' failure to have the
15 requisite knowledge attributable in some fashion to
16 either Deputy Foy, Deputy Bobbouine, Deputy
17 Patterson, Deputy Joyce, Deputy Gardzalla, or any
18 of the other individuals present?

19 MS. POLLICK: Objection.
20 Mischaracterization of prior testimony, calls
21 for speculation, confusing/compound question.

22 MR. BUFALINO: It's none of the above.

23 BY MR. BUFALINO:

24 Q. You can answer.

25 A. I don't know.

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1 Q. You don't know whether that's the case?

2 A. I don't know if they were friends. I
3 don't know what their status is.

4 Q. What were they being friends have to do
5 with anything?

6 A. I don't know. They all thought it was
7 a joke. They were all laughing at us.

8 Q. Can we agree that they were also all
9 trying to get you to a hospital or get you aid?

10 MS. POLLICK: Objection. Calls for
11 speculation.

12 MR. BUFALINO: It doesn't call for
13 speculation. She knows. She observed it.

14 MS. POLLICK: Same objection.

15 BY MR. BUFALINO:

16 Q. Go ahead. You can answer.

17 A. Not all of them were.

18 Q. Well, let's talk about them
19 individually.

20 Chief Bobbouine took money out of his
21 own pocket to go get you flea powder, right?

22 A. I don't know if that was his money or
23 money that he had brought from our cash fund at the
24 office.

25 Q. But the bottom line is that he took it

JANE DOE

1 the office.

2 BY MR. BUFALINO:

3 Q. Did you not testify just recently that
4 you overheard Chief Bobbouine tell
5 Deputy Gardzalla, give him directives with regards
6 to go and try to find you a facility that would
7 assist you in decontamination?

8 A. Yes.

9 Q. And I think that you previously
10 testified that Deputy Joyce and Deputy Patterson
11 were on the telephones trying to get you somewhere
12 to get you decontaminated, correct?

13 A. They were on the phone with our office.

14 Q. What was the conversation that you
15 overheard?

16 A. I didn't hear anything. They were
17 actually on the phone, not on the two-way.

18 Q. After Deputy Gardzalla left to get you
19 flea powder and Deputy Vesek left to get you
20 drinks, what happened then?

21 A. We continued to sit in the vehicle as
22 we were told.

23 Q. For how long?

24 A. I don't know the exact time. We were
25 in the vehicle the entire time there. I would say

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1 out of his pocket and made directives in order to
2 get you flea powder, right?

3 A. I don't know if it was money out of his
4 own pocket, or money that he placed from our office
5 into his pocket.

6 Q. Whether it's his money, your money, or
7 the man on the moon's, would you agree that he made
8 directives to somebody to go get you flea powder?

9 MS. POLLICK: Objection.

10 MR. BUFALINO: What's the objection?

11 MS. POLLICK: Mischaracterization of
12 prior testimony.

13 BY MR. BUFALINO:

14 Q. Go ahead.

15 A. He should, yes.

16 Q. But he did that?

17 A. Yes.

18 Q. And he, to your knowledge, made phone
19 calls or had some interaction with EMA in order to
20 get you to the decontamination shower?

21 MS. POLLICK: Objection. Lack of
22 personal knowledge.

23 THE WITNESS: I don't know if he made
24 the phone calls directly, or if he ordered
25 someone else to. I'm not sure. I wasn't at

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1 it was well over an hour, two hours. We were there
2 for quite some time at the EMA building.

3 Q. And then what happened?

4 A. Deputy Vesek came back and provided us
5 the drinks.

6 Q. During the hour or two hours that
7 you're sitting at the EMA building after
8 Deputy Vesek left to get you drinks, did you have
9 any conversations with any of the individuals that
10 were there?

11 A. I stated to both Chief Foy and
12 Chief Bobbouine that this is ridiculous. I was
13 becoming angry at the situation. I stated, let me
14 just go to my car, I'm going home. I will
15 decontaminate myself at home. Because it was
16 taking so long. We were being bitten in the
17 vehicle. We were sweating, it was hot, it was just
18 agony sitting there. I was told, do not leave the
19 vehicle, and that is a direct order.

20 Q. And who was that conversation with?

21 A. Both Chief Foy and Bobbouine.

22 Q. Where was Joyce and Patterson at that
23 point in time?

24 A. They were over by their other vehicle a
25 couple of feet from us.

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1 Q. Okay. Is that the only conversation
2 that you had with either one of the two of them for
3 the hour or two hours that you remained outside of
4 the EMA building?

5 MS. POLLICK: Objection.

6 Mischaracterization of prior testimony.

7 MR. BUFALINO: It's a question. Is
8 that the only conversation that she had with
9 them?

10 MS. POLLICK: Objection.
11 Mischaracterization of prior testimony.

12 MR. BUFALINO: I'm not
13 mischaracterizing her testimony. I'm asking
14 her a question.

15 MS. POLLICK: All I'm doing is placing
16 the objection on the record.

17 You don't have to explain it. You
18 don't have to have any banter with me. You
19 could tell her to still answer the question.

20 MR. BUFALINO: What I need to do, I'll
21 be the judge of.

22 MS. POLLICK: And I'll be the judge of
23 when I place objections on the record.

24 MR. BUFALINO: That's fine. You could
25 do it all you want for all I care.

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1 MS. POLLICK: And I will when it's an
2 improper question.

3 BY MR. BUFALINO:

4 Q. Did you have any other conversation
5 with Deputy Foy or Chief Deputy Bobbouine other
6 than the one that you just recounted in the hour or
7 two hours after Vesek left to get you drinks?

8 MR. POLLICK: Objection.

9 Mischaracterization of prior testimony.

10 BY MR. BUFALINO:

11 Q. You could answer.

12 A. I may have. I don't know. There may
13 have been small talk. I'm not sure.

14 Q. Okay. After Deputy Vesek returned,
15 what happened then?

16 A. He gave us our drinks.

17 Q. And then what happened next?

18 A. He was told to leave.

19 Q. By whom?

20 A. I believe Chief Deputy Bobbouine.

21 Q. Did Deputy Patterson and Deputy Joyce
22 remain there the entire time?

23 A. Yes.

24 Q. Okay. After Deputy Vesek left, what
25 happened then?

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JANE DOE

1 A. Deputy Gardzalla came back a short time
2 later and handed a bag of something to
3 Chief Bobbouine. I'm not sure what was in the bag.

4 Q. And what, if anything, did you observe
5 then?

6 A. Deputy Gardzalla was told to go back to
7 the office.

8 Q. By whom?

9 A. Chief Bobbouine.

10 Q. During this entire time, is Deputy Foy
11 operating the video still?

12 A. Yes.

13 Q. So is it your testimony that from the
14 time that you arrived at the EMA building until the
15 time that Deputy Gardzalla brought back this bag
16 that he handed to Chief Bobbouine, that the video
17 was running that entire time?

18 A. No. It was off and on.

19 Q. When was it off and when was it on?

20 A. He would tape for 10, 15 minutes at a
21 time and then shut it off. He would place it on
22 the hood of the vehicle and then just wander around
23 and talk to everybody. Then he would laugh and
24 pick it up again. He would point and laugh and
25 film us again. I don't know exactly for how long,

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JANE DOE

1 but there was quite a bit of footage from the EMA
2 building that he had taped.

3 Q. After Deputy Gardzalla left, what, if
4 anything, happened then?

5 A. A short time after that I believe
6 someone was on the phone with Chief Foy telling us
7 where to go. I'm not sure exactly what was being
8 said on the phone. It was after he hung up that
9 phone call, we were told, follow us.

10 Q. Do you know whether the call came into
11 Chief Foy, or whether he placed the call?

12 A. It came in because his phone rang.

13 Q. You remember his phone ringing?

14 A. Yes.

15 Q. You don't know whom he was speaking to?

16 A. No.

17 Q. You don't know the subject of the
18 conversation?

19 A. Correct.

20 Q. What happened next?

21 A. We were told to follow them, which we
22 did.

23 Q. You were told that by Chief Foy?

24 A. Chief Bobbouine.

25 Q. And then what happened?

JANE DOE

1 A. We followed them.

2 Q. To --

3 A. Eventually we ended up at Wilkes-Barre
4 Geisinger -- Geisinger South.

5 Q. When you say "eventually," tell me --
6 after you left the EMA building, do you recall what
7 time that was?

8 A. No, I don't.

9 Q. After you left the EMA building, where
10 did you go?

11 A. We drove down Water Street, made the
12 left up the side street by the parkade, traveled
13 down River Street, made the left in the area of
14 Northampton Street, then traveled down South
15 Franklin.

16 Eventually we ended up -- I believe we
17 ended up on South Main Street. Then I want to say
18 it is Hanover Street. I could be mistaken. We
19 made the right onto Hanover Street, and then
20 eventually ended up at Geisinger South.

21 Q. You didn't make any stops in between
22 there and Geisinger South?

23 A. Not other than the red lights.

24 Q. Can we agree that Geisinger South at
25 the time was Mercy Hospital?

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JANE DOE

1 A. Yes.

2 Q. Do you recall what time you arrived at
3 what I'm going to call Mercy Hospital -- that is
4 what it was known at that time?

5 A. Correct. I'm not sure exactly what
6 time, early afternoon. I'm not a hundred percent
7 sure.

8 Q. Okay. Other than you and
9 Deputy Szumski, who were in the same vehicle
10 together, who else was present?

11 A. We were following the blue Expedition.
12 Michael Patterson was driving.
13 Chief Bobbouine was in the passenger seat.
14 Chief Foy and Deputy Joyce were in the back seat.
15 The window of -- the tailgate of that vehicle was
16 open. That is how I knew where everybody was
17 positioned in the vehicle. Chief Foy was
18 videotaping us the entire ride.

19 Q. Again, you're outside at that point of
20 the vehicle fully clothed?

21 A. I was inside of our vehicle fully
22 clothed.

23 Q. Out in public?

24 MS. POLLICK: Objection. Confusing
25 question.

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JANE DOE

1 MR. BUFALINO: Out in public is
2 confusing?

3 MS. POLLICK: To me you're not -- he is
4 videotaping as they are traveling to the
5 hospital. So how could it -- I am just unsure
6 of your question because I thought you were
7 talking when they actually get to the facility.

8 BY MR. BUFALINO:
9 Q. You said that Deputy Foy was
10 videotaping you?

11 A. Correct. He was sitting in the back of
12 the Expedition while we were traveling to the
13 hospital.

14 Q. So it is your testimony that from the
15 EMA building through all of the routes that you
16 just described when you arrived at Mercy Hospital,
17 it is your testimony that the video was being taken
18 by Detective Foy that entire time?

19 MS. POLLICK: Objection.

20 THE WITNESS: Chief Foy, yes.

21 BY MR. BUFALINO:
22 Q. What did you do after you arrived at
23 the hospital?

24 A. We were told to park the vehicle and
25 stay inside.

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JANE DOE

1 Q. And how long did you remain inside the
2 vehicle?

3 A. Myself personally? 45 minutes
4 approximately.

5 Q. How about Deputy Szumski?

6 A. When we first arrived, Chief Foy, Chief
7 Bobbouine, Deputy Joyce and Patterson entered the
8 hospital and came out a short time later. Deputy
9 Szumski was the first one to go and be
10 decontaminated.

11 Q. And you remained in the vehicle the
12 entire time?

13 A. Yes, I was told to.

14 Q. Anybody else present at Mercy Hospital
15 other than Deputy Patterson, Chief Bobbouine,
16 Deputy Chief Foy, Deputy Joyce, yourself, and
17 Deputy Szumski?

18 A. At the time there was an ambulance in
19 the bay. I don't know what company it was or who
20 they were. There were security guards walking
21 around. There were nurses out having a cigarette.
22 I'm not sure who they were at that time.

23 Q. Did you ever have at any point in time
24 between the time that you arrived at Mercy Hospital
25 and the time that you left Mercy Hospital, did you

JANE DOE

1 ever have conversations with individuals other than
2 Patterson, Bobbouine, Foy, Joyce, or Szumski?

3 A. I had one conversation while I was
4 inside the vehicle.

5 Q. With whom?

6 A. Deputy Chesko.

7 Q. Could you spell that for me?

8 A. C-H-E-S-K-O.

9 Q. Do you know the first name of him?

10 A. John.

11 Q. And is he a deputy sheriff?

12 A. Yes.

13 Q. And what was that conversation
14 regarding?

15 A. He handles our vehicles, vehicle
16 maintenance. He direct connected me to find out if
17 there were in fact fleas in the vehicle and
18 approximately how many.

19 Q. And what did you tell him, if anything?

20 A. I responded that they were in the
21 vents, they were all over the windshield, the
22 seats, they were just everywhere. He stated to me
23 that anything specific that needed to be taken out
24 of the vehicle once we were decontaminated to take
25 it out because he was having the vehicle towed from

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JANE DOE

1 the hospital. They were going to flea bomb the
2 vehicle.

3 Q. When you say "flea bomb," what do you
4 mean by that?

5 A. They placed -- I'm not sure exactly
6 what they are called.

7 Q. I don't expect you to.

8 A. They were -- place something inside the
9 vehicle and fumigate it for a couple of days.

10 Q. Okay. Other than the conversation that
11 you had with Deputy Chesko regarding flea bombing
12 the vehicle, did you have any conversations with
13 any individuals other than Patterson, Bobbouine,
14 Foy, Joyce and Szumski?

15 A. I spoke to Mary Jean Farrell.

16 Q. And what did you speak to Deputy
17 Farrell about?

18 A. I asked her if there was any way that
19 she could bring clothing from my house to the
20 office for me.

21 Q. And what, if anything, did she say?

22 A. She said, yes, what do you need?

23 Q. Did she have the key to your house?

24 A. I live with her.

25 Q. Was that the extent of the conversation

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JANE DOE

1 that you had with Ms. Farrell?

2 A. Yes.

3 Q. Did you have any conversation with
4 Deputy Farrell regarding the incident of the flea
5 infestation or the decontamination?

6 A. She just asked why I needed clothes. I
7 stated that I was contaminated with fleas and I was
8 at the hospital being decontaminated.

9 Q. What did she say?

10 A. She just stated, God bless you.

11 Q. Okay. Not to be redundant here, but
12 any conversation with anybody other than
13 Deputy Chesko, Deputy Farrell, other than
14 Patterson, Bobbouine, Foy and Joyce?

15 A. No.

16 Q. And that is from the time that you
17 arrived at Mercy until the time that you left?

18 A. Correct.

19 Q. Never had a conversation with any of
20 the hospital personnel or staff?

21 A. No.

22 Q. Okay. Other than talking to Deputy
23 Chesko and Deputy Farrell, while you were waiting
24 for Deputy Szumski to finish being decontaminated,
25 what did you do? I think you said it was 45

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JANE DOE

1 minutes that you were there.

2 A. I just sat inside the vehicle in
3 disbelief. I was more in shock. I couldn't
4 believe what had happened.

5 Q. While you were sitting in the vehicle
6 for those 45 minutes, do I correctly assume that
7 Deputy Patterson, Chief Bobbouine, Deputy Foy and
8 Deputy Joyce are inside with Deputy Szumski?

9 A. Yes.

10 Q. So you're outside all by yourself?

11 A. Yes.

12 Q. Are you able to see them or hear
13 them --

14 A. No.

15 Q. -- at that point?

16 A. No.

17 Q. Okay. And what happened next after
18 that?

19 A. Deputy Szumski I believe was done.
20 They took care of him. They did whatever they
21 needed to do with him. I was directed to take off
22 any items of clothing or jewelry or phones --
23 anything that I didn't need to bring into the
24 hospital -- and to leave them in the vehicle. They
25 directed me to take my boots and socks off and

JANE DOE

1 directed me to place them in the trunk of the
2 vehicle.

3 Q. And did you do that?

4 A. Yes.

5 Q. And what else besides your boots and
6 socks did you leave in the vehicle?

7 A. Other than what I had originally taken
8 off was my vest, my short-sleeve uniform shirt, and
9 my duty belt.

10 Q. So other than the boots and socks and
11 the other items which you had previously placed in
12 the trunk, you took off no other personal items or
13 jewelry off and left them in the car?

14 A. I had my rings on, which I left on. My
15 watch I left on.

16 Q. Okay. I'm not arguing with you, but am
17 I correct that other than the boots, the socks, the
18 duty belt, the bulletproof vest, and the uniform
19 top, you took no other items off and left them in
20 the vehicle?

21 A. Correct.

22 Q. Was it ever explained to you why they
23 wanted you to take your boots and your socks off?

24 A. No.

25 Q. You said that you were directed to take

JANE DOE

1 is issued to you through the sheriff's office?

2 A. I had a personal one at the time, and I
3 also had one through the sheriff's office.

4 Q. The one that you were using that day,
5 do you remember whether it was your personal one or
6 the one through the sheriff's office?

7 A. I don't recall.

8 Q. Do you possess both of those phones?

9 A. No, I do not.

10 Q. Do you still possess either one of
11 them?

12 A. I do not.

13 Q. What happened to either one of those
14 phones?

15 A. I switched cell phone companies a year
16 ago. When Sheriff Savokinas took office, he
17 switched cell phone companies also.

18 Q. At the time of the incident or the day
19 where you were at Mercy Hospital, that being
20 September 27, 2007, what provider was servicing the
21 cell phones that you had?

22 A. Nextel.

23 Q. On both?

24 A. Yes.

25 Q. Do you recall the numbers for both of

JANE DOE

1 off these items?

2 A. Yes.

3 Q. By whom were you directed?

4 A. I believe it was Chief Foy.

5 Q. Okay. When you say "you believe," is
6 it just that you can't remember?

7 A. I can't remember. There was so much
8 going on. I just wanted to get out of the vehicle.

9 Q. Do you recall what time that was?

10 A. No, I don't.

11 Q. When you had the telephone conversation
12 with Mr. Chesko, was that through your radio?

13 A. That was through the direct connect
14 Nextel phone.

15 MR. BUFALINO: Want to take a
16 five-minute break?

17 MS. POLLICK: Let's just take five
18 minutes.

19 * * *

20 (Whereupon, a recess was taken from
21 11:34 a.m. until 11:43 a.m.)

22 * * *

23 BY MR. BUFALINO:

24 Q. The direct connect phone that was --
25 you were referencing before, is that something that

JANE DOE

1 those phones?

2 A. I don't recall my work phone number,
3 no.

4 Q. How about your personal one?

5 A. It's the same number that it is now.

6 Q. Which is --

7 A. 570 --

8 MS. POLLICK: Can she -- this is going
9 to go on the ECF system, which means that
10 anybody could be calling her cell phone. She
11 will give it to you. Could we put it in that
12 other part of the transcript?

13 MR. BUFALINO: I don't have any problem
14 protecting her cell phone. Obviously we're not
15 looking to have it inadvertently distributed to
16 anybody. What I'm really looking for is to be
17 able to establish the time.

18 She doesn't have a clear recollection
19 of the time of day, so I'm hoping that those
20 cell phone calls might establish that. So if
21 you're agreeable to provide us with her cell
22 phone number --

23 MS. POLLICK: Absolutely not.

24 You're going to have to fight for that
25 one. Before you issue any subpoenas, you got

JANE DOE

1 to give me opportunity. A lot of people don't
2 do that rule, but you have to. It is violation
3 of the rules. Because of the fact of her
4 occupation, all I ask is that we just put it in
5 the separate deposition that we're going to
6 open up at the end.

7 MR. BUFALINO: Well, if I'm going to
8 have to fight for that, then my answer is no.

9 MS. POLLICK: Well then she is not
10 going to answer the question because obviously
11 she has privacy concerns, especially under the
12 circumstances.

13 MR. BUFALINO: You're directing her not
14 to answer?

15 MS. POLLICK: I'm directing her not to
16 answer that question. Let's call the judge.

17 As Judge Caputo always says, if you
18 have a problem, let's call him. Let's explain
19 why I won't let her respond to it. I'm not
20 being unreasonable. I'm just trying to protect
21 my client because you're going to file this on
22 the ECF so anybody can have access to her cell
23 phone number. That's not right. I'm still
24 giving you access to it.

25 MR. BUFALINO: What are you giving me

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JANE DOE

1 access to? You just told me I can't have it.

2 MS. POLLICK: You are going to fight me
3 over the records.

4 You can certainly have her number. How
5 does her personal cell phone records have
6 anything to do with this matter?

7 MR. BUFALINO: I just got through
8 telling you that it helps me establish the time
9 frame that those phone calls were made.

10 MS. POLLICK: Then you have to show the
11 Court that you need them and that you can't
12 establish any other way by all of the records
13 that should be there from the hospital.

14 Any chief deputy would have taken some
15 sort of notes on this situation because it was
16 so long. I think we could call the judge and
17 ask him what he wants to do, I guess.

18 MR. BUFALINO: I'll just file a motion.
19 We don't need to bother him now.

20 MS. POLLICK: Well, his protocol is
21 that you don't file when --

22 MR. BUFALINO: If you want to call him,
23 call him.

24 I don't need to call him.

25 MS. POLLICK: All right. If you don't

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1 want to call him -- when she is deposed in the
2 second set, I'm going to ask her for her cell
3 number and put it on that record that won't be
4 filed with the Court.

5 Then he has it, and then he could do
6 whatever he so chooses with it.

7 MR. BUFALINO: That's fine.

8 BY MR. BUFALINO:

9 Q. After the telephone call that you
10 received from Chief Foy telling you to take off the
11 items, what, if anything, did you do?

12 A. I exited the vehicle and placed my
13 socks and boots in the trunk.

14 Q. Still by yourself at that point?

15 A. Yes.

16 Q. And what, if anything, did you do next?

17 A. I closed the trunk and turned towards
18 the hospital where Chief Foy was exiting the
19 building.

20 Q. Okay. When he exited the building, did
21 you go to meet him?

22 A. He started to walk down. I noticed
23 that he had the camera in his hand. As I

24 attempted -- because I had to cross the little
25 alleyway from where the car was parked and walk

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JANE DOE

1 uphill to the ambulance bay and then to the
2 sidewalk to the entrance of the hospital -- the
3 emergency room section. As I was crossing the
4 little alley there -- and I'm not sure of the name
5 of it -- Chief Foy picked up the camera and aimed
6 it towards me. Once I crossed over the alley, I
7 yelled to him to shut the camera off, I don't want
8 to be taped.

9 Q. And what, if anything, did he respond?

10 A. He did not respond to me. He kind of
11 motioned with his hand, like, shut up (indicating).

12 Q. When Detective Szumski exited the
13 vehicle for the first time upon arriving at Mercy
14 Hospital, was he being videotaped?

15 A. Not to my knowledge, no.

16 Q. When you say not to your knowledge,
17 were you not --

18 A. Not from the outside that I could see.
19 I'm not sure about the inside.

20 Q. When he exited the vehicle, who was
21 present, do you remember?

22 A. Chief Foy and Chief Bobbouine.

23 Q. And at that point in time, was
24 Chief Foy -- did he have the videocamera?

25 A. No.

JANE DOE

1 Q. He did not?

2 A. No.

3 Q. When Deputy Szumski walked from the
4 vehicle to the entrance of Mercy Hospital, wherever
5 he was going, is it your testimony at that point in
6 time there was no videocamera being held by
7 anybody?

8 A. Correct.

9 Q. What happened after you told Deputy Foy
10 that you didn't want to be videotaped at that point
11 at Mercy Hospital?

12 A. He motioned to me like this
13 (indicating). I continued -- I'm in bare feet, so
14 I was walking slow because there was a lot of rocks
15 and gravel on the ground. I started to walk up the
16 hill and again yelled to him, shut off the camera.
17 His response was -- he laughed and said, it is for
18 training purposes.

19 Q. Incidentally, that is about the third
20 time that you have recounted a statement from
21 Mr. Foy in which he allegedly told you that the
22 video was being taken for training purposes; am I
23 correct?

24 A. Correct.

25 Q. Were you present for any conversation

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JANE DOE

1 with Deputy Foy and any other member of your office
2 with regards to the use of that videocamera?

3 A. Can you say that again?

4 Q. Sure. That was a poor question.

5 Were you ever present with any member
6 of your office for a conversation between Deputy
7 Foy and any member of your office regarding the use
8 of this videocamera?

9 A. No.

10 Q. You have no personal knowledge as to
11 whether or not he was told to use it for training
12 purposes?

13 A. Correct.

14 Q. After this conversation with Mr. Foy
15 regarding the -- where you say that he laughed and
16 said it is for training purposes, what happened
17 then?

18 A. As I walked up the hill towards the
19 ambulance bay area, Chief Foy said, give me the car
20 key. I was upset and obviously disturbed about the
21 whole situation. I took the car key and looked
22 over at him, and I threw the car key at him.

23 Q. When you say threw it at him, where did
24 you throw it?

25 A. I threw it towards his direction.

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JANE DOE

1 Q. And what happened to the key?

2 A. He caught it with his hand.

3 Q. Were you about to say something?

4 A. I said, for training purposes, right?
5 He laughed again and he said, yeah, for f-ing
6 training purposes.

7 Q. And is it your testimony that the
8 entire time the videocamera is rolling?

9 A. From the time that I exited the
10 vehicle -- when I got to the trunk of the vehicle,
11 when I looked up, that is when I knew he was
12 rolling until I walked into the hospital. He did
13 not follow me inside the doors.

14 Q. What I'm asking you, ma'am, is after
15 you went from the trunk of the car after placing
16 your socks and your boots inside the trunk up to
17 the point where you threw the key at him, is it
18 your testimony that the video was running?

19 A. Yes.

20 Q. Which hand did he catch the keys in?

21 A. His left hand.

22 Q. Which hand was he holding the video?

23 A. His right hand.

24 Q. Where was Deputy Foy standing when you
25 were at the trunk?

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JANE DOE

1 A. In the middle of the -- it is a small
2 incline where the ambulances back up to unload
3 their patients. It was somewhere in the center of
4 the ramp per se.

5 Q. Okay. After he caught the keys in his
6 hand, what happened next?

7 A. I just was disgusted -- I turned and
8 looked away from him and continued to walk into the
9 hospital.

10 Q. Where did you go after you entered the
11 hospital?

12 A. Right before I got into the door,
13 Deputy Joyce came out and said, you have to put
14 this on, which was a white -- like, a blanket
15 type -- like a hospital blanket or a bedsheet. I
16 had to put it over my head and wrap myself in it so
17 no other fleas jumped off of me and into the
18 hospital. That is what I was told.

19 Q. So it was communicated to you -- was
20 this prior to entering the hospital?

21 A. Prior to entering the hospital, just as
22 I was coming up onto the sidewalk area at the end
23 of that ramp. Then maybe approximately five feet
24 there is a sliding glass door which is the entrance
25 to where I had to be. Chief Bobbouine, Patterson,

JANE DOE

1 Szumski and Joyce were standing right in the door
2 frame there.

3 Q. I'm sorry, can you give me who was
4 there again?

5 A. Chief Bobbouine, Deputy Patterson,
6 Joyce, and Szumski.

7 Q. Foy was not present?

8 A. He was still on the ramp.

9 Q. Would Deputy Foy have been outside when
10 you were putting on this sheet?

11 A. Yes, I believe. He didn't walk past
12 me.

13 Q. So at the time that you're putting on
14 this sheet, am I correct that the persons who at
15 least could have been there to observe it would
16 have been yourself, Deputy Joyce, and Deputy Foy?

17 MS. POLLICK: Objection. Assumes facts
18 not in evidence, calls for speculation.

19 THE WITNESS: Can you rephrase it?

20 BY MR. BUFALINO:

21 Q. Sure.

22 When you were outside putting this
23 sheet on over your head as you said that you were
24 directed to by Deputy Joyce --

25 A. Yes.

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JANE DOE

1 Q. -- outside there with you would have
2 been Deputy Foy and Deputy Joyce?

3 A. Correct. Chief Bobbouine, Deputy
4 Szumski and Patterson were standing in the door
5 frame of the sliding glass door. It is a motion
6 door. So anybody that is standing near it will
7 keep the doors open. So they were standing
8 literally, maybe closer, from me to you away. They
9 weren't too far away from me.

10 Q. Do you know why it was Deputy Joyce
11 that was told to come out to you?

12 A. Deputy Joyce is a female deputy. I'm
13 assuming that she was told to come because I was a
14 female.

15 Q. Okay. What happened after you -- I'm
16 assuming that you put this blanket on or the sheet?

17 A. I did.

18 Q. What was it, a sheet or a blanket?

19 A. It wasn't a sheet like a bedsheet. It
20 was a little bit heavier than that. I really
21 didn't take a good look at it because I was trying
22 to wrap myself up. It wasn't thin like a sheet, it
23 was a little bit heavier. I'm assuming it was like
24 a hospital blanket.

25 Q. Was it a gauze material?

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JANE DOE

1 A. No. It was cotton. It reminded me of
2 a blanket.

3 Q. Okay. It was explained to you at that
4 time that the purpose of that blanket was to
5 prevent you or the fleas that were on you from
6 contaminating anything or anybody else?

7 A. Yes.

8 Q. Did you object to that?

9 A. No.

10 Q. Okay. Did you have an understanding
11 similarly like the blanket that the reason that you
12 were being asked to stay in the car was for that
13 same reason?

14 MS. POLLICK: Objection. Assumes facts
15 not in evidence.

16 BY MR. BUFALINO:

17 Q. You could answer.

18 A. When we were standing in the doorway,
19 Chief Bobbouine came out and pulled it down more
20 from my head. He was pulling it down.

21 Q. Almost like a shroud?

22 A. Kind of. He was pulling it down. He
23 said, hold it up here and hold one down on the
24 bottom (indicating). He said, the hospital won't
25 allow you in here without it.

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JANE DOE

1 Q. When you are saying "it," you mean the
2 sheet?

3 A. The sheet.

4 Q. And just for the record, the deponent
5 was gesturing with her right arm up near her neck
6 as if she were holding the sheet up to her neck; is
7 that accurate?

8 A. Right.

9 Q. What I'm asking you though is, we can
10 agree that you were told that the purpose of the
11 sheet was to prevent spreading of the fleas?

12 A. In the hospital, correct.

13 Q. Were you ever told the reason that you
14 were being asked to stay in the car was for that
15 same reason?

16 A. No.

17 Q. Did you in and of yourself have an
18 understanding that that may have been the reason
19 why you were asked to stay in the car?

20 MS. POLLICK: Objection. Calls for
21 speculation.

22 THE WITNESS: No.

23 BY MR. BUFALINO:

24 Q. Did you have an understanding that the
25 reason that you were being asked to remove your

JANE DOE

1 clothing was to prevent the spread of the fleas?

2 A. No.

3 Q. What was your understanding of why you
4 were being asked to remove those items?

5 A. I assumed that once we were inside,
6 anything that was in there clothing-wise was going
7 to be taken away.

8 Q. Why?

9 A. Normal decontamination. They usually
10 remove everything. They take it away to be
11 destroyed.

12 Q. Why?

13 A. I guess because it is contaminated with
14 fleas or chemicals or whatever it may be so it
15 doesn't affect anyone else.

16 Q. That's what I'm asking you.

17 Did you have an understanding that the
18 reason that you were being asked to take those
19 items off was to prevent those items from
20 contaminating someone else?

21 MS. POLLICK: Objection. Calls for
22 speculation.

23 THE WITNESS: No. I thought the reason
24 that we were leaving the boots was because we
25 were going to keep them. That's why I believed

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JANE DOE

1 I was asked to remove my boots because they
2 were being left in the car.

3 BY MR. BUFALINO:

4 Q. Okay. So after -- strike that.

5 When you have this sheet over you and
6 Chief Bobbouine is sort of pulling it down over
7 your head and asking you to hold it closer to your
8 Adam's apple area, were you still wearing -- what
9 were you wearing?

10 A. My blue work pants.

11 Q. Uh-huh.

12 A. A navy blue t-shirt. And obviously my
13 undergarments.

14 Q. No shoes, no socks?

15 A. Correct.

16 Q. Earrings?

17 A. Yes.

18 Q. Your watch?

19 A. Yes.

20 Q. And you mentioned another item. I
21 can't recall.

22 A. My rings?

23 Q. How many?

24 A. One on each finger.

25 Q. Which finger?

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JANE DOE

1 A. Ring finger.

2 Q. Both?

3 A. Yes.

4 Q. Any other items besides that?

5 A. No.

6 Q. After Detective -- Deputy Bobbouine
7 pulled the sheet closer to your head, what happened
8 next?

9 A. I was directed to walk inside the
10 sliding glass door and walk directly over to a door
11 on the far right wall, which was the
12 decontamination shower.

13 Q. And who were you directed there by?

14 A. Deputy Joyce.

15 Q. Where were Bobbouine, Patterson,
16 Szumski and Foy at that time?

17 A. Foy was still standing out -- right in
18 that area of the sliding glass doors. Bobbouine,
19 Szumski and Patterson were standing not too far
20 from the door. It's hard to explain. When you
21 first come through the sliding glass doors, it is
22 an area maybe as big as this room. To the left is
23 another set of sliding glass doors which takes you
24 directly into the emergency room. There was racks
25 of medical supplies, a lot of bedsheets and things

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JANE DOE

1 of that nature for the ambulance crews to replace
2 their stuff with. There was racks of that stuff in
3 that small area. Then on -- this is the sliding
4 glass door when you walk in (indicating), over here
5 would have been where the shower would be
6 (indicating).

7 Q. Let me see if I have this straight in
8 my mind. If I'm not accurate, I'm sure you're
9 going to tell me. You come up a ramp at the Mercy
10 Hospital, and you come to an electronic sliding
11 glass doors that allow you entrance to the
12 hospital; is that right?

13 A. Correct. It is an entrance to that
14 little room.

15 Q. So when you come through that first set
16 of electronic doors, you come to essentially an
17 enclosed area?

18 A. Yes.

19 Q. There is to the left another set of
20 sliding electronic doors that allows you entrance
21 to the emergency room?

22 A. Correct. It's not actually an
23 emergency room. It's where the ambulance crew
24 takes the patients. It's the back entrance to the
25 emergency room.

JANE DOE

1 Q. That's on your left-hand side?

2 A. Correct.

3 Q. What would be facing you?

4 A. A wall.

5 Q. What would be to your right?

6 A. Another wall.

7 Q. And behind you again would be the

8 electronic doors you just came from?

9 A. Right.

10 Q. Where is the decontamination shower, is

11 it located anywhere in that enclosed area?

12 A. If you're standing at the sliding glass

13 doors when you first entered, the decontamination

14 shower is approximately at 2:00 to where you would

15 be standing in the center of the door frame.

16 Q. Am I correct in understanding that

17 decontamination shower room is inside that enclosed

18 area?

19 A. Yes.

20 Q. I just want to back up now that I have

21 that idea.

22 Inside the enclosed area, once you

23 first came through the Mercy Hospital doors, who

24 was in there besides Deputy Joyce?

25 A. Inside that first area when you first

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JANE DOE

1 came through from the outside?

2 Q. Yes.

3 A. Bobbouine, Patterson, Szumski. Like I

4 stated, there was an ambulance crew that was coming

5 and going. Nurses were coming and going. That is

6 the entrance that they use.

7 Q. But you didn't interact with those

8 people?

9 A. Right.

10 Q. So I'm talking about the people that

11 you interacted with.

12 A. Correct.

13 Q. All right. So where do you go after

14 that, do you leave that enclosed area?

15 A. No. The shower door was in that area.

16 There was a heavy wooden door that was marked

17 "decontamination," and I walked over towards that

18 door.

19 Q. And then what did you do?

20 A. I pulled the door open and entered

21 another room, which was the shower room.

22 Q. Okay. And who was in there with you?

23 A. I was by myself. I was still standing

24 with the blanket wrapped around me. Deputy Joyce

25 was standing there giving me instructions.

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JANE DOE

1 Q. Outside the door?

2 A. She was standing in the door frame.

3 Q. So the door was open?

4 A. No. The door was open approximately

5 two inches. Deputy Joyce had her foot by the door.

6 The shower room itself was bigger than this office.

7 There was approximately three or four shower

8 heads --

9 Q. When you say "bigger than this office,"

10 you mean bigger than this room?

11 A. This room, yeah.

12 There was approximately three to four

13 shower heads on each wall. There were three walls.

14 The fourth would have been where the door was.

15 Q. Okay. From where Deputy Joyce would

16 have been standing with her foot in the doorjamb,

17 where would Bobbouine, Patterson and Szumski have

18 been standing?

19 MS. POLLICK: Objection. Calls for

20 speculation.

21 THE WITNESS: I don't know where they

22 would have been standing because the door

23 wasn't open enough for me to see out.

24 BY MR. BUFALINO:

25 Q. Do you even know if they were there?

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JANE DOE

1 A. I heard them talking. I don't know

2 what they were saying.

3 Q. Do you know that they were in that

4 enclosed area?

5 A. Yes, I could hear them speaking.

6 Q. Could they have been standing somewhere

7 outside the enclosed area outside the electronic

8 doors at that time?

9 A. No. The doors would have closed and I

10 would not have been able to hear them.

11 Q. Well, I think that you said before

12 somebody could stand in the doorway and keep the

13 doors open.

14 A. That was too far away from where I was.

15 I would not have been able to hear them if they

16 were that far away.

17 Q. But can we agree that at that point you

18 could not see them?

19 A. I could not see them, no.

20 Q. Could you see Deputy Joyce?

21 A. Yes, because Deputy Joyce was reading

22 the instructions to the different boxes and tubes

23 of medication and stuff. She was reading the

24 directions to me and what to do first and what

25 steps to take.

JANE DOE

1 MR. BUFALINO: Okay. Let's just stop
2 for a second.

* * *

4 (Whereupon, a discussion was held off
5 the record.)

* * *

7 BY MR. BUFALINO:

8 Q. Prior to entering into what we'll call
9 the shower room, did you have any conversations
10 with anybody regarding anything?

11 A. Not other than Deputy Joyce asking,
12 what do I do?

13 Q. And what did she tell you?

14 A. She said, I'll read you the
15 instructions, you have to do this a specific way.

16 Q. You didn't have a conversation with
17 anybody, not Foy, not Patterson, not Bobbouine on
18 your way into the shower?

19 A. I don't believe so, no.

20 Q. Once you entered the shower -- strike
21 that.

22 You mentioned that there was some
23 medications or ointments or something of that
24 nature?

25 A. Correct.

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JANE DOE

1 Q. How did that come into play?

2 A. I don't know. They were in the shower
3 room when I got there.

4 Q. They were already inside the shower
5 room?

6 A. Yes.

7 Q. Once you entered the shower room, is
8 that when you had the conversation with Deputy
9 Joyce about what do I do?

10 A. Yes.

11 Q. What happened next?

12 A. She explained everything to me and what
13 I needed to do first, what my next steps were.

14 Q. Let me just stop you there so we don't
15 have to come back to it. What did she explain to
16 you in specifics, if you recall?

17 A. I believe that she told me that I had
18 to use the shampoo first and wash with the shampoo.

19 Q. Uh-huh.

20 A. She told me to use the whole bottle.
21 She told me that once I have that on my head to not
22 get it in my eyes and be extremely careful with
23 opening my eyes, if there is any water dripping
24 down. There was a bar of soap there. She said it
25 was a specific soap and to use that. After I did

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JANE DOE

1 the first washing of my hair, there is a little
2 plastic comb in there to go through my head
3 entirely forward, backwards, left and right.

4 Q. Okay.

5 A. And then obviously rinse and repeat.

6 Q. And how long were you in there in
7 total, if you recall, best estimate?

8 A. Maybe 15, 20 minutes, 25 minutes. I'm
9 not really sure.

10 Q. And while you were in the -- it may
11 sound like a crazy question, but while you were in
12 the decontamination shower, what do you have on,
13 anything?

14 A. When I first arrived inside?

15 Q. Yes.

16 A. I was still fully clothed and in the
17 towel. The shower wasn't running.

18 Q. In the towel or the sheet?

19 A. In the blanket.

20 Q. Okay. I just want to be sure.

21 So when you get into the shower, what
22 do you do with your clothing?

23 A. After Deputy Joyce left -- I was still
24 fully clothed while she was in there.

25 Q. When you say "in there," what do you

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JANE DOE

1 mean?

2 A. In the shower room.

3 Q. She came into the shower room with you
4 initially?

5 A. That's what I stated.

6 Q. I may have misunderstood you.

7 A. She was standing in the door -- right
8 inside the door frame there with her foot in the
9 door.

10 Q. That part I understood, that she was
11 standing in the door frame. Did she at some point
12 come into the shower with you?

13 A. She was standing in there. She was
14 inside and she had like -- if you are the shower
15 room, she was at an angle with just her toes in the
16 door. She was inside the shower room speaking to
17 me.

18 Q. I see. With her back towards the
19 enclosed area?

20 A. The door, correct.

21 Q. Okay. Can we agree at that point in
22 time -- up to that point in time that Deputy Foy
23 was still outside?

24 A. I don't know. I don't know where he
25 was.

JANE DOE

1 Q. You didn't hear his voice in the
2 enclosed room as you heard the others?

3 A. I heard them all talking. I don't know
4 whether he was close to where I was or still by the
5 sliding glass door.

6 Q. So you don't know whether he was inside
7 or outside the enclosed room?

8 A. At that time, no.

9 Q. Okay. Let me get back to my other
10 question because I don't think I finished it.
11 What did you do with your clothing once
12 you got inside the shower?

13 A. Once Deputy Joyce left and I was in the
14 shower room alone, I was told to -- Chief Bobbouine
15 was talking through the door telling me to -- that
16 once I get all of my clothes off, to put them in --
17 there was a red bag in there, a biohazard bag. I
18 was told to place all items of clothing inside that
19 bag and tie it up into a knot.

20 Q. Was it ever explained to you or did you
21 have an understanding as to why you were doing
22 that?

23 A. No.

24 Q. At what point did Deputy Joyce leave,
25 after she explained to you how to use the shampoo

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JANE DOE

1 and whatnot?

2 A. Yes. Before I removed any articles of
3 clothing. I'm a quiet, shy person. Even though it
4 was a female and I knew her, I still wouldn't get
5 undressed with her in the room. Once she explained
6 everything to me, she said, do you have any
7 questions, do you need anything else? I said no.
8 She said, if you need anything while
9 you are in here, if you need more shampoo, more
10 soap, more anything, just come by the door and yell
11 and I'll just open it up and hand it in to you.

12 Q. Did that ever happen?

13 A. No.

14 Q. So the entire time that you were in the
15 shower after taking your articles of clothing and
16 putting them in the biohazard bag, was the door
17 ever opened?

18 A. At that time, no.

19 Q. Other than Chief Bobbouine talking
20 through the door to you about placing the items of
21 clothing into the biohazard bag, did you have any
22 conversations with anyone else at that time?

23 A. I didn't have any conversations with
24 them, no.

25 Q. Did somebody else?

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JANE DOE

1 A. I could hear them all outside talking.
2 I could hear Szumski talking with Chief Foy.

3 Q. And what did you hear Szumski talking
4 to Chief Foy about?

5 A. They were laughing. Erin Joyce was
6 saying, that's see-through, cover that up, that is
7 see-through.

8 Q. Do you have any idea of what they were
9 referring to?

10 A. No.

11 Q. Could we agree that it was not
12 referring to anything that would have involved you?

13 A. Not to my knowledge. I was in the
14 shower. I don't know.

15 Q. That's my point.

16 A. Okay.

17 Q. Other than that conversation and the
18 conversation that you had with Chief Bobbouine
19 about the biohazard bag, any other conversations?

20 A. I didn't have any, no.

21 Q. Did anybody else?

22 A. I just heard them laughing and chatter
23 back and forth. I was too busy concentrating on
24 what I was doing.

25 Q. When you say they were laughing, do you

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JANE DOE

1 know what in particular that they were laughing
2 about?

3 A. No.

4 Q. What happened next?

5 A. I did everything that I needed to do.
6 After I was done and prior to starting the shower,
7 you could see what was the remnants of the dead
8 fleas from when Mr. Szumski was in there. There
9 were hundreds of them on the shower room floor.
10 After I was done, I looked down and there were
11 hundreds of them on the floor.
12 I then walked over towards the door.
13 There was a plastic garbage can or bin that had
14 paper sheers, almost like when you're at a doctor's
15 office and you sit on their bed, the paper that is
16 down. There was sheets of that there. There was
17 no towels in the room.

18 Q. And what happened next?

19 A. I actually -- I held onto the doorknob
20 and I actually yelled through the door, where are
21 the towels or I need a towel, something to that
22 effect.

23 Q. And did anybody respond to you?

24 A. I believe it was Deputy Joyce. She
25 said that there is stuff in there. I said, it's

JANE DOE

1 paper. It's not a towel. And I'm not sure -- it
2 was a male voice. I'm not sure exactly which one
3 it was, but they said use that until we could find
4 something. No towels were ever found or provided
5 to me.

6 Q. What happened next?

7 A. I said to Deputy Joyce through the
8 door -- I said, do you guys have clothes for us or
9 is the hospital giving us scrubs? Erin said, well,
10 before you could even get dressed, you have to make
11 sure all of the fleas are gone. I said, okay. She
12 said, are you wrapped in that -- she wasn't calling
13 them sheers. I can't remember what she was calling
14 them. She said, did you wrap yourself up in that?
15 I stated that I did. I said, well, what do we do
16 next? She said, I have to come in and make sure
17 that you have everything out of your hair. I just
18 want to make sure that you're decent. I said,
19 okay, let me step away from the door and I'm going
20 to move over to the right. Deputy Joyce stepped in
21 and stepped completely into the shower room.

22 Q. With the door closing behind her?

23 A. Correct.

24 Q. What happened next?

25 A. At that point, we were standing in or

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JANE DOE

1 around the door area. Deputy Joyce said, oh my
2 God, look at them all. I said, I can't believe it.

3 I didn't have a towel to dry my hair.
4 My hair was still soaking wet, and it was dripping
5 down. I was trying to keep my eyes closed not to
6 get any of the -- if there was any of the chemicals
7 from the shampoo, like I was told, into my eyes.
8 Deputy Joyce said, here, and she reached over and
9 grabbed another one.

10 Q. Grabbed a what?

11 A. Those paper sheers items. She said,
12 keep wiping your face, do not get that stuff in
13 your eyes. Deputy Joyce was a little shorter than
14 me. I kind of just slouched my shoulders down a
15 little bit and tilted my head down and she began to
16 comb through my hair with that plastic comb.

17 Q. And am I correct that the entire time
18 the door to the shower room was closed?

19 MS. POLLICK: Objection. Calls for
20 speculation.

21 THE WITNESS: I don't know. My back
22 was towards the door. I'm not really sure.

23 BY MR. BUFALINO:

24 Q. When she came into the room, you would
25 have been facing the doorway, correct?

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JANE DOE

1 A. I was on the side, like, if the door
2 was here (indicating), I came a couple feet back
3 and then over this way (indicating), so I wasn't in
4 the direct line of the door.

5 Q. But you could see the door?

6 A. At that time when she entered, yes.

7 Q. Can we agree that when she entered, the
8 door closed behind her?

9 A. Yes, I already said that.

10 Q. What happened next after she began to
11 comb your hair?

12 A. She began to comb my hair. We were
13 just making small talk. I kept saying, do you see
14 any, do you see any? She said, no, but we have to
15 go forward, backward, left and right. We have to
16 check real good to make sure that there were no
17 dead ones or any more live ones in there.

18 Again, my back was towards the door. I
19 hear a male voice say, excuse my language, what's
20 that shit all over your back? Obviously I got a
21 little spooked, and I started to go like this
22 (indicating) to wipe off my back with my hand
23 because I initially thought that there were more
24 fleas on me.

25 Q. When you say a male voice, were you

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JANE DOE

1 able to identify that voice?

2 A. It was Chief Bobbouine.

3 Q. Did you say that you turned around?

4 A. I didn't turn around. I used my hand
5 to go like this (indicating), to brush my back. I
6 thought he said that there were fleas on me when he
7 made reference to what is that stuff on your back.
8 I instantly thought, oh my God, there is more
9 fleas.

10 Q. What happened next?

11 A. Erin said, it's not fleas. I yelled,
12 get out of here. Just get out of here.

13 Chief Foy then made a comment, they are
14 tattoos on her back. Then Chief Bobbouine said, I
15 think they are tan lines. Chief Foy said, there is
16 tan lines there, I could see them. There is
17 tattoos there too. I wonder what they say. Again,
18 I continued to yell, get out of here, get out of
19 here. I never turned around my back. The only
20 time I caught them there was when I turned to brush
21 what I thought was the fleas off, and I caught them
22 out of the corner of my eyes.

23 Q. When you say you caught them there, who
24 do you mean, and what do you mean?

25 A. Chief Bobbouine and Chief Foy had the

JANE DOE

1 door open this much (indicating), maybe a foot, and
2 they were peering in at me.

3 Q. Anybody else?

4 A. I couldn't see anybody else.

5 Q. Were you able to see them at all?

6 A. Yes.

7 Q. What parts of them were you able to
8 see, their entire body?

9 A. I just looked quickly. Obviously I was
10 embarrassed and I wanted them out. I saw their --
11 from the neck up because that is what was more
12 inside the door than anything. Like I said, the
13 door was only open about a foot, a foot and a half,
14 and just a little bit of their shoulders. I looked
15 at them real quick, and then I started to yell, get
16 out, get out. Then I turned away from them because
17 I was embarrassed.

18 Q. What happened at that point?

19 A. Erin yelled to them, get out of here,
20 stop it. I heard the door close, and then Erin
21 said, they are gone, they are gone. I said, hurry
22 up and get me clothes. I want to get out of here.

23 Q. And then what happened?

24 A. Deputy Joyce --

25 Q. I'm sorry, did you say you heard the

JANE DOE

1 A. Deputy Joyce exited the room entirely
2 and was going to attempt to find me something to
3 wear.

4 Q. And then what happened?

5 A. Deputy Joyce came back in and said the
6 nurses are trying to find you some scrubs. What
7 size do you think that you are? I said at this
8 point that anything is fine, I'll make do. I have
9 clothes coming to the courthouse.

10 She said, well, Szumski was a medium,
11 do you think that would fit you? I said, yes. We
12 are very similar in size. I was sure it would be
13 sufficient. She said, okay, just hold on a second
14 and I'll be right back. She was again reminding me
15 not to get any of the liquid that was still on my
16 head into my eyes.

17 She exited the room, and I heard her
18 speaking to Chief Bobbouine and Chief Foy about
19 getting me clothes. I'm not sure which one, but
20 one of them said, what size so we could go tell the
21 nurse? Erin said, medium should be sufficient. At
22 that time, both Chief Foy and Chief Bobbouine made
23 a comment, you better get her a 3X because she is a
24 little bit heavy in the rear. They used the foul
25 language word.

JANE DOE

1 door close?

2 A. I heard it close. It wasn't a locking
3 door like that (indicating). That was no lock on
4 it.

5 Q. Like a heavy hinge that you could hear
6 shut?

7 MS. POLLICK: Objection. Calls for
8 speculation. Assumes facts not in evidence.

9 THE WITNESS: There wasn't a lock
10 mechanism in the door. I did take notice when
11 I went in. It was a heavy wooden door with a
12 doorknob similar to that (indicating).

13 BY MR. BUFALINO:

14 Q. The one that is in this room?

15 A. Yeah. Not exactly, but similar.
16 That's what the inside looked like. The outside
17 was just a -- it was just an up and down handle,
18 like, a little piece of metal that you just use
19 your fingers to open and pull towards you. There
20 was no lock mechanism itself that would allow the
21 door to latch. It was just the heaviness of the
22 door. I think what they did was slam the door,
23 push it close.

24 Q. Okay. What happened after the door
25 closed?

JANE DOE

1 Q. I would rather hear what they said,
2 please.

3 A. Excuse my language. They said, she is
4 heavy in the ass.

5 Q. And what happened next?

6 A. They laughed a little bit about it,
7 about what they said. I didn't hear Erin's voice
8 anymore. I heard them two laughing, but I didn't
9 hear anybody else's voice outside the door. Erin
10 then knocked back on the door and stated, I found
11 clothes for you. I asked her if there was any way
12 to get a towel because I had nothing to dry my body
13 or my hair with. Deputy Joyce said, okay, let me
14 see what I could do. She asked, do you want me to
15 hand the clothes in to you? I stated, yes. I'll
16 open the door and I'll stick my hand out, and you
17 could hand them to me. I knew that everybody else
18 was out there, and I didn't want them to open the
19 door again.

20 Q. How did you know everybody else was out
21 there?

22 A. I could hear them. I just couldn't
23 understand what they were saying.

24 Q. Okay.

25 A. I stepped off to the side of the door,

JANE DOE

1 opened the door with my left hand, kind of just
 2 peeked a little bit with one eye just to see who
 3 was there and where they were standing. Then just
 4 stuck my wrist out and Erin handed me -- she said,
 5 here are the pants, and then I pulled the pants
 6 inside the shower room with me and held them with
 7 my left hand, which was holding the door. I just
 8 moved them from my right hand to my left hand, and
 9 then stuck my wrist back out for the shirt.

10 Q. Okay. When you peeked out, who was
 11 where?

12 MS. POLLICK: Objection.

13 Mischaracterization of prior testimony.

14 BY MR. BUFALINO:

15 Q. You could answer.

16 A. Chief Foy and Bobbouine were not too
 17 far from the door. Deputy Patterson was off to the
 18 right distance.

19 Q. When you say "not too far from the
 20 door," were they on the right side, the left side?

21 A. They were almost directly in front of
 22 the door.

23 Q. I'm sorry, Patterson and Szumski were
 24 where?

25 A. They were off to the right.

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JANE DOE

1 Q. And where was Joyce?

2 A. Joyce was trying to get me a towel at
 3 that time.

4 Q. Now, during the point in time when
 5 Deputy Joyce was inside the decontamination shower
 6 with you combing your hair, other than the exchange
 7 regarding what is that shit on her back -- or your
 8 back -- did you have any conversations with anybody
 9 else other than Deputy Joyce?

10 A. I don't believe so, no. I was shocked
 11 and embarrassed. I was just trying to cover myself
 12 up and make sure that I was covered up. I didn't
 13 know what they were looking at.

14 Q. When you were inside the
 15 decontamination shower with Deputy Joyce at that
 16 point in time, describe for me what you're wearing.

17 A. It was what I'm going to call a paper
 18 sheer, that was it. I had two of them wrapped
 19 around me.

20 Q. When you say wrapped around you, what
 21 do you mean?

22 A. They were wrapped from approximately
 23 mid chest just enough to cover my private areas and
 24 a couple inches to my thighs. They were only so
 25 wide, so I had to kind of double wrap them.

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JANE DOE

1 Q. So when you wrapped yourself in this
 2 paper sheer, your private areas were covered?

3 A. To the best of my knowledge, yes. I
 4 was wet, and I don't know if they were see-through
 5 or not.

6 Q. Okay. What portion of your body would
 7 have been exposed?

8 A. A good portion of my back. Like I
 9 said, they were only so wide to cover so much. I
 10 had one completely wrapped around my waist area.
 11 It was almost double wrapped around. Then I had
 12 one that was almost completely double wrapped
 13 mostly covering the front. I couldn't cover much
 14 of my back. I couldn't really see -- I knew parts
 15 of my back were open, but I couldn't really see how
 16 much was covered of my back. My shoulders were all
 17 open. There was nothing covering my upper back or
 18 my shoulders.

19 Q. Just so that I'm clear, when you were
 20 inside the decontamination shower with Deputy
 21 Joyce, the parts of your body that are bare skin,
 22 for a lack of a better way to describe it, would be
 23 your shoulders, your arms, portions of your legs
 24 from your knees down to your feet?

25 MS. POLLICK: Objection.

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1 Mischaracterization of prior testimony.

2 BY MR. BUFALINO:

3 Q. You tell me.

4 A. Middle thigh. It was only a couple
 5 inches from my private area down to my thigh that I
 6 was able to cover because the sheers weren't that
 7 big. It was above my knee.

8 Q. Okay.

9 A. I don't know how far. I really didn't
 10 look. I was more just trying to get specific areas
 11 covered.

12 Q. And to the best of your knowledge, your
 13 private areas were covered?

14 MS. POLLICK: Objection. Calls for
 15 speculation.

16 THE WITNESS: To the best of my
 17 knowledge, I don't know. I couldn't really
 18 open my eyes because every time I looked down
 19 to see what I was doing, the water would drip
 20 in my eyes and it would burn. The sheers
 21 weren't that wide. I tried to do it as best as
 22 I could. I don't know how much was actually
 23 covered.

24 BY MR. BUFALINO:

25 Q. When you heard Chief Bobbouine say the

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1 part about what is that stuff on your back, do you
2 know whether the door was open or closed?

3 MS. POLLICK: Objection.

4 Mischaracterization of prior testimony.

5 THE WITNESS: I took my right hand and
6 instantly started to go like this (indicating).
7 When I turned to see, out of the corner of my
8 eye the door was open.

9 BY MR. BUFALINO:

10 Q. Your back would have been to them?

11 A. Correct.

12 MR. BUFALINO: What time do you have?

13 MS. POLLICK: If you want to finish
14 this line of questions, as long as we're out by
15 five minutes?

16 You do what you want.

17 MR. BUFALINO: I know. I appreciate
18 that.

19 Let me break here.

20 * * *

21 (Whereupon, a recess was taken from
22 12:34 p.m. until 1:17 p.m.)

23 * * *

24 BY MR. BUFALINO:

25 Q. We were talking about the period of

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1 time when you came out of the decontamination
2 shower when we left off. Tell me about what
3 happened once you came out of the shower, please.
4 What, if anything, did you do?

5 A. Before coming out I got dressed in the
6 clothes that were provided to me. I came out of
7 the shower. Chief Foy and Chief Bobbouine had two
8 wristbands that were given to them by the hospital.
9 They weren't normal hospital bands, like, the
10 plastic. They were almost like a metal covered in
11 rubber or plastic. When you place it on to your
12 wrist, it wrapped itself around. They gave Deputy
13 Szumski and myself one of those bands.

14 Q. Okay. And just to revisit -- and
15 please forgive me for repeating. In between the
16 point in time where you were having the
17 conversation or you heard the commentaries about
18 stuff on your back and the time you were given this
19 wristband, did you have any conversations with
20 anybody between those two points?

21 A. Not other than Deputy Joyce.

22 Q. About the clothing?

23 A. About the clothing and asking for a
24 towel. I may have said to Chief Bobbouine and Foy,
25 what's next, what's our next step, what are we

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1 doing, where do we have to go next?

2 Q. Anything of significance?

3 A. Not to my knowledge, no.

4 Q. Okay. In between the point in time
5 when you were hearing the commentaries about the
6 stuff on your back and the time that you got the
7 wristband, any visual of the videocamera?

8 A. From when I exited the shower room?

9 Q. Any time between when you heard the
10 commentaries -- let's just say this, from the time
11 that you went into the decontamination shower to
12 the point that you were given the wristband.

13 A. Entering the decontamination shower,
14 Chief Deputy Foy had it in his right hand as I was
15 walking onto the ramp, which I already stated.
16 Upon entrance in the hospital, he still had it when
17 I was placing the blanket over me outside.

18 Q. That was the last time that you saw it?

19 A. That was the last time that I saw that
20 specific camera, yes.

21 Q. Okay. Before coming out of the
22 decontamination shower, you had put on the clothes
23 that Deputy Joyce had found for you?

24 A. Yes.

25 Q. Do you know -- can you tell us what

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1 type of clothes they were?

2 A. They were hospital scrubs. They were
3 light blue in color. The shirt was a medium, and
4 the pants were 3X.

5 Q. Okay. Do you recall having any other
6 interaction with any other members of your office
7 besides Deputy Joyce between the point in time when
8 you finished combing your hair with Deputy Joyce
9 and the time that you got the wristband from
10 Chief Bobbouine?

11 A. I had stated to Deputy Szumski, how do
12 you feel? He said, I feel much better, how do you
13 feel? There was an interaction between
14 Deputy Szumski and myself. I asked him if he had
15 any physical bites on him. He then showed me his
16 arm which had multiple bites, little red marks with
17 bumps that he did not have earlier in the vehicle
18 on his neck. I believe there were one or two on
19 his jawline or on his cheek.

20 Q. Is that the only conversation that you
21 had?

22 A. That was just between Szumski and
23 myself, yes.

24 Q. What happened after you received the
25 wristband, anything?

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1 A. I asked, what do we do next? Where do
2 we go? What are we doing? I was told we are going
3 back to the main courthouse, to the annex building,
4 which was across from the main courthouse.

5 Q. And did you in fact do that?

6 A. Yes.

7 Q. So what did you do after you received
8 that, after you heard that, did you just leave?

9 A. We walked out of the hospital.

10 Q. Who is "we"?

11 A. Chief Bobbouine, Chief Foy, Deputy
12 Patterson, Szumski, Joyce and myself. Once upon
13 exiting the hospital, I stated to Chief Bobbouine,
14 do we need to see anybody, do we need to check out?
15 He stated, I checked you guys in and I checked you
16 guys out. You don't need to be treated or seen by
17 a doctor or anything like that. We were then
18 facing the outside of the parking lot. I asked
19 about where our cruiser was. They said that I
20 believe that Wagner's had towed the cruiser.

21 Q. Who was Wagner's?

22 A. Wagner's Towing. They are located on
23 Wyoming -- on Market Street in Kingston. They were
24 the ones that towed the county vehicles at the
25 time.

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1 Q. Okay. And what happened next?

2 A. I asked how we were all going to fit in
3 the Expedition. Chief Foy said, well, you guys
4 aren't riding up front with us, we don't want any
5 fleas. I said to Chief Bobbouine, where are we
6 going to fit everybody, because there was only the
7 driver and the passenger seat and then the backseat
8 of the vehicle could have fit two people
9 comfortably, and three would be pushing your luck.
10 Then there was an open tailgate area of the vehicle
11 for storage. We were advised that that is where we
12 were riding. We were sitting in the storage
13 compartment.

14 Q. Did you in fact do that?

15 A. We did.

16 Q. And where did you go from there?

17 A. We traveled straight up River Street
18 from Carey Ave. We turned onto River Street and
19 proceeded directly to the courthouse annex.

20 Q. And in between the time that you went
21 from Mercy Hospital to the annex building -- which
22 I assume is the sheriff's office?

23 A. Yes.

24 Q. In between the time that you left Mercy
25 Hospital and the time that you arrived at the

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1 sheriff's office, did you have conversations with
2 anybody other than about who is sitting where and
3 how are we going to fit?

4 A. I did place a phone call on my phone to
5 Mary Jean Farrell to see if my clothes were at the
6 office.

7 Q. Do you recall what time of day this
8 was?

9 A. I don't. It was in the afternoon
10 sometime, late afternoon.

11 Q. Late afternoon. Is that the only
12 conversation that you had with her or anybody else?

13 A. Yes.

14 Q. I want to talk a little bit about -- at
15 this point about the Complaint that you filed in
16 this case and some of the allegations that are
17 contained in the Complaint. I don't know whether
18 you have a copy of it. I would be happy to give it
19 to you, if you would like.

20 MS. POLLICK: She doesn't have one.

21 BY MR. BUFALINO:

22 Q. Unless you have an objection, I'm going
23 to come down near you.

24 A. That's fine.

25 MS. POLLICK: Why don't we just make a

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1 copy because you're going to have to mark it as
2 an exhibit.

3 MR. BUFALINO: It's already filed of
4 record. I don't need to make a copy of it.

5 MS. POLLICK: Well, you're using it as
6 an exhibit. Why can't we just copy?

7 MR. BUFALINO: Because I don't want to.

8 MS. POLLICK: Well, I'm not going to
9 allow that. How will we ever know what you're
10 showing her if we don't have it as an exhibit?

11 MR. BUFALINO: Rather than argue about
12 it, that's fine. I'll be happy to do it. It
13 is filed of record. But if it saves an
14 argument --

15 * * *

16 (Whereupon, a discussion was held off
17 the record.)

18 * * *

19 (Whereupon, Exhibit Number 1 was marked
20 for identification.)

21 * * *

22 BY MR. BUFALINO:

23 Q. I'm showing you what has been
24 previously marked for the purposes of this
25 deposition as Exhibit Number 1. Do you recognize

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1 that?

2 A. I recognize it as a suit filed.

3 Q. Is this the Complaint that was filed in
4 this case by you?

5 A. By my attorney.

6 Q. On your behalf, correct?

7 A. Correct.

8 Q. I want to draw your attention to
9 paragraph 7, please, which would be page number
10 three. Do you see that?

11 A. Yes.

12 Q. In there, through your counsel you
13 allege that "On or about September 27th, 2007,
14 Defendant Foy unlawfully searched and seized video
15 images of Doe while she was using a decontamination
16 shower room at a medical facility without her
17 knowledge or consent, and then further violated her
18 right to privacy by distributing still images of
19 said video to individuals."

20 A. Yes.

21 Q. Can you tell me when Mr. Foy seized
22 video images of you while you were using the
23 decontamination shower?

24 A. On September 27th, 2007.

25 Q. When did he do that?

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1 he could not take images of you?

2 A. Not through the door.

3 Q. And the only point in time that door
4 was opened would have been for that brief period of
5 time where the discussion about what is that stuff
6 on your back occurred; is that right?7 MS. POLLICK: Objection. Assumes facts
8 not in evidence and calls for speculation.9 THE WITNESS: That's when I noticed
10 they were in the doorway.

11 BY MR. BUFALINO:

12 Q. And then the next time that you came
13 out is when you were fully clothed, correct?

14 A. When I exited the shower, yes.

15 Q. So what I'm asking you is, at what
16 point in time did he take images of you?17 A. I don't know if he was doing it while
18 the door was open, or if they had opened the door
19 prior to that incident, because I was showering and
20 shampooing my hair. I'm not sure.21 Q. When you say that he did that without
22 your knowledge and without your consent, you
23 certainly knew that he had a videocamera, correct?

24 A. Correct.

25 Q. After entering into Mercy Hospital, you

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1 A. While we were at the hospital.

2 Q. What I'm asking you is when you first
3 went into the hospital, he was outside on the ramp
4 with the camera, correct?

5 A. Correct.

6 Q. And then you went into the
7 decontamination shower, and the door was shut,
8 correct?

9 A. Correct.

10 Q. So can we agree that in between those
11 two points he could not have filmed you?12 MS. POLLICK: Objection. Calls for
13 speculation.

14 THE WITNESS: I'm not sure.

15 BY MR. BUFALINO:

16 Q. Why are you not sure?

17 A. I don't know what he was doing or could
18 be doing.19 Q. How come you don't know, because the
20 door was closed?

21 MS. POLLICK: Objection.

22 THE WITNESS: When I first entered, the
23 door closed.

24 BY MR. BUFALINO:

25 Q. Can we agree that with the door closed,

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1 note -- did you have a conversation with Deputy Foy
2 up until the point that you left?3 MS. POLLICK: Objection. Asked and
4 answered several times.5 We went through everything that they
6 have said to each other.

7 BY MR. BUFALINO:

8 Q. Go ahead. You can answer.

9 A. Can you rephrase it?

10 Q. Up from the time that you entered Mercy
11 Hospital to the time that you left, you had
12 several -- did you have any conversations with
13 Detective Foy?14 A. Deputy Chief Foy, yes. That is what I
15 already stated in regards to telling him to stop
16 videotaping me.

17 Q. Inside the room?

18 A. He was not inside the shower room with
19 me.20 Q. So the last time that you had a
21 conversation with him about not videotaping you was
22 outside Mercy Hospital?

23 A. Correct.

24 Q. You say in there that he distributed
25 still images of the video to individuals. To whom

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1 did he distribute them?

2 A. I'm not sure exactly to who.

3 Q. How do you know that he distributed
4 them to anybody?

5 A. They were found on his computer by
6 another deputy.

7 Q. I understand that. But having them on
8 his computer, how do you know if he distributed
9 them to anybody?

10 A. They were on a county network, which
11 would have been available to anybody in the county.

12 Q. Can we agree that you don't know that
13 he actually sent them or distributed them or gave
14 them to anybody?

15 MS. POLLICK: Objection. Compound
16 question.

17 THE WITNESS: I don't know.

18 BY MR. BUFALINO:

19 Q. You do not know?

20 A. No.

21 Q. Can you tell me why you would file a
22 Complaint that says he distributed them when you
23 don't know that he did?

24 A. They were on the county network, which
25 was available to anybody.

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1 Q. I understand that is what you're
2 claiming. Whether they are available to anybody is
3 different than actually distributing them to
4 somebody.

5 MS. POLLICK: Objection.

6 BY MR. BUFALINO:

7 Q. Can we agree?

8 A. To the best of my knowledge, other
9 deputies have seen the tape and the photos.

10 Q. Who would that be?

11 A. Deputy Mandy Leandri, L-E-A-N-D-R-I.
12 That is who initially found them on the computer.
13 When it was brought to my attention, she said that
14 she had already seen these.

15 Q. Did she tell you how she saw them?

16 A. Ryan was playing -- Chief Deputy Foy
17 was playing them in his office. There were other
18 deputies inside the office watching the tape. I
19 did not ask her who they were. I was already
20 embarrassed enough that they were found on the
21 computer on the county network available to anybody
22 in the county, and I became upset.

23 Q. And how do you know that they are
24 available to anybody?

25 A. The way our server works is if it is on

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1 a specific drive, any deputy could access that from
2 that drive. They were located on the Z drive,
3 which was available to any deputy or any office
4 personnel that would have went to that drive and
5 clicked on the file.

6 Q. Would it have been available to anybody
7 outside the office?

8 A. I'm not sure. It is quite possible
9 because it is a county network.

10 Q. But you're not sure of that?

11 A. I don't know.

12 Q. Is it your testimony that while you
13 were using the decontamination shower, that you
14 were unaware that there was a video being taken for
15 training purposes, or at least allegedly for
16 training purposes?

17 MS. POLLICK: Objection. Form of the
18 question.

19 THE WITNESS: Can you repeat it?

20 BY MR. BUFALINO:

21 Q. Sure, I can.

22 Is it your testimony that you were
23 unaware of the use of the video while you were at
24 Mercy Hospital?

25 A. In the shower?

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1 Q. At any point in time.

2 A. I had no idea while I was in the
3 shower.

4 Q. Okay. When was the first time that you
5 learned of the fact that there may or may not have
6 been a videotape of you?

7 A. Approximately some time in early April
8 of 2008.

9 Q. And from whom did you learn that?

10 A. Deputy Mandy Leandri.

11 Q. Was she the only one that you had
12 conversations with regarding the existence of that
13 videotape at that time?

14 A. Deputy Leandri needed a computer. Hers
15 was not functioning properly. We had a spare in
16 our office, which was Deputy Chief Foy's computer
17 from his office. They hooked up that computer to
18 hers, and she was going through the computer to see
19 what was on there and if there was anything that
20 she could delete or needed specifically to move it
21 into another file like her other computer had.

22 Deputy Leandri opened a file that was
23 labeled Brian's -- excuse my language -- ass. She
24 clicked on it and opened up the file, and that is
25 when she saw that there was a video on that file

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1 and still photos saved to that file. She
2 immediately went to Sheriff Savokinas. She stayed
3 at her desk and called him via telephone and told
4 him that she found something that they needed to
5 see immediately.

6 Q. Have you ever seen it?

7 A. Yes.

8 Q. And did you see it on that computer?

9 A. Yes.

10 Q. And describe for me what it is that you
11 saw.

12 A. After Sheriff Savokinas arrived at her
13 desk, she showed him -- this is what I just found
14 on my computer. Sheriff Savokinas looked a little
15 closer at it to determine what in fact it was, and
16 immediately asked --

17 Q. I'm asking you what you saw.

18 A. He had called me by phone and stated, I
19 need you to come up here, there is something that
20 we found that you need to see. I then came over to
21 Deputy Leandri's desk. He stated that there was a
22 file and what the files's name was and asked me --
23 he was going to turn his back and for me to open up
24 the images to see if in fact that was me on there.

25 Deputy Leandri then was asked to walk

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1 Q. Depicting what?

2 A. I was in the shower room. It shows --
3 that photo showed Deputy Joyce combing my hair.

4 Q. Was it a picture of your face, your
5 back, your side?

6 A. It's my back. Both photos showed right
7 from my hip area completely up my back. The only
8 part that was covered from the rear was my
9 buttocks.

10 Q. And we'll get to the video clip in a
11 minute that you saw. Of the five to six photos
12 that you described, and I think that you just
13 described six of them, two of them pertain to you
14 with the exception of the one of you in the cargo
15 compartment?

16 A. Correct.

17 Q. Those two photos that I'm referring to
18 are the ones while you were inside the
19 decontamination room?

20 A. Correct.

21 Q. Is it your testimony that the only
22 portions of your body that were photographed that
23 were exposed was your back?

24 MS. POLLICK: Objection. Assumes facts
25 not in evidence.

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1 away from her desk by the sheriff. The sheriff
2 then turned around. I turned the computer screen
3 and I sat down on Deputy Leandri's chair and
4 clicked on the file. There were approximately five
5 to six still photos on there of myself and Deputy
6 Szumski and a video clip where it shows my bare
7 back as part of that short clip.

8 Q. The five to six still photos that you
9 observed, what did they depict?

10 A. Like I stated, there was approximately
11 five or six. One was a photograph of Deputy
12 Szumski completely naked.

13 Q. From the front or the back?

14 A. It was mostly from the back, but at an
15 angle where you can obviously see some type of
16 shadow in the front. There was another one of
17 Deputy Szumski wrapped in a light cloth or paper
18 sheer. His body was wet. It was obviously
19 see-through. That was a frontal view. The other
20 picture was Deputy Szumski and myself in the back
21 of the cargo compartment of the Expedition. The
22 other two photos were -- one was of myself showing
23 not too far from my rear end completely up my
24 entire back, which was a full view. The other
25 picture was of me standing in that paper sheer.

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1 THE WITNESS: My legs were bare. The
2 only part of me that was covered was my
3 buttocks.

4 BY MR. BUFALINO:

5 Q. The only part that was covered was your
6 buttocks?

7 A. Correct, from that view. My entire
8 back, my shoulders, my neck was bare, my legs were
9 bare.

10 Q. It doesn't expose your breast area?

11 A. No.

12 Q. And not your vaginal region?

13 A. Correct.

14 Q. How about the video that you saw, can
15 you tell me what you recall about that?

16 A. The video that I saw on the computer
17 was just pieces of events that transpired
18 throughout that day on September 27th. It
19 basically looked like it was just certain sections
20 were cut and pulled from the entire day's events.

21 Q. And when you say "cut and pulled," I'm
22 not sure what you're referring to. Can you explain
23 that for me?

24 A. It looks to me that someone took
25 specific sections of what I believe to be the

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1 original video and transferred them to a computer
2 file.

3 Q. Is that just an assumption on your part
4 or speculation, or do you have some information in
5 that regard?

6 A. It's just my assumption of what it
7 looked like.

8 Q. Okay. Is that the only time that you
9 have either seen the photos or the video?

10 A. I had stated to Sheriff Savokinas that
11 I was very concerned about what had happened, what
12 was found. I sat with Sheriff Savokinas and spoke
13 to him briefly about that day's events in regards
14 to my knowledge that there was a videocamera that
15 was -- that belonged to our office that was also
16 being used that day. That is how I believe that
17 these images appeared on the computer.

18 I asked Sheriff Savokinas if when he
19 took office, if he remembers doing inventory and
20 finding the camcorder. Sheriff Savokinas stated
21 that there were a lot of things that were missing,
22 and that was one of them. There was a lot of
23 different equipment that was not located when he
24 first took office. I asked him that if they did
25 come across it, if I could please see if there was

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1 a disk inside. My assumption was that if there is
2 still photos on the computer, well then the disk
3 has to be somewhere.

4 Q. I'm not sure that answered my question.
5 Let me ask it again.

6 Is that the only time that you have
7 seen either the video or the photographs?

8 A. No.

9 Q. When was the next time that you saw
10 that?

11 A. The camcorder was located a couple
12 weeks later to a month later.

13 Q. Later from what, please?

14 A. From the day that I found the images --
15 well, I didn't find the images, Deputy Leandri
16 found the images on the computer. It was a couple
17 weeks to a month later when the camcorder was
18 found. There was a disk inside the camcorder.

19 Q. Do you know what time frame this would
20 have been?

21 A. It should have been roughly sometime in
22 April still, towards the end of April. I'm not a
23 hundred percent positive.

24 Q. That would be 2008?

25 A. Yes.

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1 Q. Okay. I want to go back for a second
2 where we left off before we got into this line of
3 questioning.

4 After you went back to the sheriff's
5 office on September 27th, 2007, what, if anything,
6 did you do when you got back there?

7 A. We pulled into Chief Bobbouine's
8 parking space and Deputy Patterson and Joyce exited
9 the vehicle.

10 Q. I'm sorry?

11 A. Deputy Joyce and Patterson exited the
12 vehicle. Chief Deputy Bobbouine exited the vehicle
13 and Deputy Chief Foy exited the vehicle. We were
14 knocking on the window because we couldn't get out
15 from the inside. We had to be let out. They had
16 to open the door from the outside. They weren't
17 letting us out of the door. We started knocking on
18 the window.

19 Chief Foy said, hold on a second, I
20 have to get the videocamera ready. At that time, a
21 couple seconds went by. Chief Bobbouine finally
22 opened up the tailgate part of that blue Expedition
23 and Chief Foy then came around towards the back and
24 was making -- it was almost like a documentary. He
25 was saying, here come the fleabags, or here the

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1 fleabags are, something to that effect. They were
2 all laughing.

3 Q. Which would have been --

4 A. Foy, Bobbouine, Joyce, and Patterson.

5 Q. Thank you.

6 A. At that time, from a distance, I hear
7 Sheriff Stankus's voice. He was coming through the
8 parking lot alongside the annex building. He was
9 laughing and he began to wave to us. He stated,
10 they are not coming up to my office if they still
11 have fleas.

12 Chief Bobbouine and Chief Foy were
13 making comments to him. The three of them were
14 laughing together, they are all clean, they should
15 be good now. Sheriff Stankus just laughed and
16 continued to walk right past us and enter the
17 building. He never even acknowledged us.

18 Q. Was that the first time that you had
19 seen Sheriff Stankus that day?

20 A. Yes.

21 Q. Did you see him after that point?

22 A. Briefly in the office. I don't know
23 where he actually was. I didn't have any
24 conversations with him.

25 Q. That day at all?

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1 A. That day at all.

2 Q. Did you ever have any conversations
3 with him about that incident after that point?
4 After that day I should say.

5 A. I don't believe I did.

6 Q. Okay. What happened after you exited
7 the vehicle?

8 A. Mary Jean Farrell was actually walking
9 through the parking lot carrying a bag -- a plastic
10 grocery bag with my clothes in it. We entered the
11 annex building. I asked Chief Bobbouine and Chief
12 Foy, do we do a report, what do we have to do, are
13 we done for the day, what is our next steps? They
14 both stated to just go home because we don't want
15 any fleas in the building.

16 Q. Who told you to go home?

17 A. Both of them. They both stated it.

18 Q. And then what happened next?

19 A. Being that the clothes I was given were
20 gigantic on me, I took the bag of clothes that was
21 brought from my house up to our bathroom and
22 changed and gathered my personal belongings that
23 were still at the office. I left to go home. I
24 was told to do the incident report tomorrow, don't
25 worry about doing anything now, it's not a big

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1 deal.

2 Q. Who were you told that by?

3 A. Chief Foy and Chief Bobbouine.

4 Q. What happened next?

5 A. I asked them if they needed the car key
6 for the cruiser that I had in my possession that
7 was given back to me when we left the hospital by
8 Chief Foy. I asked them if they needed it because
9 I knew the car was towed. They stated the car was
10 towed to the back of the main courthouse and it was
11 being de-bombed.

12 I was told not to go near the car,
13 don't open the car because they need to bomb it
14 twice because of how many fleas were inside the
15 car. We were told just basically to stay away from
16 the car, and in the next day or two, anything else
17 that was in the vehicle, we would all sort through
18 it and determine what needed to be discarded.

19 Q. And then what happened?

20 A. I proceeded to go home.

21 Q. After you went home, from that point up
22 to today, have you had any conversations with
23 anybody regarding the incident?

24 A. I haven't personally. People have
25 asked me about it. People have made comments. I

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1 don't acknowledge them. I don't converse with
2 them. I just blow it off. I don't answer them.

3 Q. Who has made comments to you?

4 A. People from other sheriff's
5 departments, people from different police
6 departments, people in my own office, county
7 workers.

8 Q. Do you have names?

9 A. I can't give you every name. I don't
10 remember everybody's.

11 Q. Give me the name of somebody that you
12 can remember.

13 A. There was a deputy sheriff from
14 Lackawanna County, Thomas Callahan.

15 Q. Uh-huh.

16 A. There were two officers from
17 Wilkes-Barre City. I'm not sure of the second one,
18 but the first one I believe was Michael Boyle.

19 Q. Okay.

20 A. The deputies in my office -- it was
21 almost the entire office that have made comments
22 like, boy, I would like to have that videotape.

23 Q. What were the comments from
24 Deputy Tom Callahan?

25 A. At first he didn't know that it was me.

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JANE DOE

1 He asked.

2 Q. How did he become aware?

3 A. It was in the newspaper. It was in the
4 Times Leader.

5 Q. Do you know who reported that?

6 A. What reporter from the paper? I don't
7 remember.

8 Q. Okay. Do you know whether that article
9 was on account of the Complaint that you had filed
10 or was a result of the Complaint that you filed?

11 A. I'm not sure.

12 Q. What I'm trying to find out from you
13 is, did you have a discussion with Deputy Callahan,
14 or is it your contention or allegation that he came
15 into possession of the video or the photographs?

16 A. I don't believe that he did. I think
17 it was just from the newspaper.

18 Q. How about the two officers from
19 Wilkes-Barre?

20 A. I believe from the newspaper articles.

21 Q. Is it your testimony or allegation that
22 they came into possession of either the photographs
23 or the video?

24 A. I don't believe so.

25 Q. How about the other deputies in your

JANE DOE

1 office? Do you have any knowledge as to who, if
2 anybody, they were distributed to?

3 A. I don't know who in fact saw them. The
4 day that Deputy Leandri stated that she found them,
5 I asked her, did you see them? She said, no, I
6 already knew what it was, I didn't open it. I
7 asked her how she knew that, and she said, oh,
8 because we all watched it in Deputy Chief Foy's
9 office.

10 Q. Did you ever watch it?

11 A. No.

12 Q. So it's your testimony that the first
13 time that you ever saw it was the day that
14 Deputy Leandri had contacted you?

15 A. Correct.

16 Q. Have you ever had a conversation with
17 Deputy Leandri subsequent to that day?

18 A. No.

19 Q. I assume that you probably had
20 conversations with her, but what I meant was about
21 this incident.

22 A. No.

23 Q. In paragraph 15 of your Complaint,
24 which is on page 4 -- do you see that?

25 A. Yes.

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1 Q. You have indicated that as a result of
2 the defendants and their agent's actions, you have
3 suffered embarrassment, humiliation, injuries, and
4 damages. I would like to talk about that for a few
5 minutes if you could, please.

6 The embarrassment -- can you tell me
7 specifically what you're referring to in that
8 regard?

9 A. The other comments that my co-workers
10 make -- that they made once the video and photos
11 were found and once it hit the newspaper. They
12 make comments, boy, I would like to have that
13 videotape. What can you see on there? Hey, do you
14 have a spare copy that I could see? Or, boy, you
15 looked hot that day. One of the older male
16 deputies was out at the back door. He came over to
17 me and he stated, just ignore what everybody is
18 saying. He said, I'm embarrassed for you from what
19 I saw.

20 Q. Who was that person?

21 A. Deputy John Chesko.

22 Q. And is that the extent of what you're
23 referring to with regards to the embarrassment
24 allegation?

25 A. It's just the comments that people

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JANE DOE

1 make. I know these co-workers have seen it.
2 Everybody always had a comment to make. Unless
3 they saw what I saw, they wouldn't know about it.

4 Q. Well, that's actually what I want to
5 talk to you about.

6 How it is that you know that the
7 co-workers have seen it? I know that they made
8 comments to you according to you.

9 A. Specific comments that they made.
10 Unless they saw the video, they would not know what
11 was on there.

12 Q. You didn't actually see them -- or they
13 didn't actually tell you that they saw the video,
14 correct?

15 A. Correct.

16 Q. So can we agree that you don't actually
17 have personal knowledge that they actually did in
18 fact view the video or pictures?

19 MS. POLLICK: Objection.

20 Mischaracterization of prior testimony.

21 BY MR. BUFALINO:

22 Q. You can answer.

23 A. Deputy Leandri was the one that
24 initially found it. She saw it and then stated
25 that she was in Deputy Chief Foy's office while he

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JANE DOE

1 was watching it with other deputies around. I
2 didn't ask who the other deputies were. I didn't
3 want to know because I have to face them every day.

4 Q. And anything else with regards to the
5 embarrassment claim?

6 A. I just don't know who else had seen
7 this tape, who else had seen these pictures, or
8 what other pictures may there be. I don't know how
9 many tapes there are. Is that tape the tape in its
10 entirety? I don't believe so. The 20-some second
11 clip that was on Deputy Leandri's computer is not
12 the same length that was found in the camcorder. I
13 don't know if that is even the original disk. I
14 don't know who else has seen it. I don't know who
15 in the county has seen it. It could be on the
16 Internet. I have no idea.

17 Q. It could not be too, correct?

18 A. It could not be.

19 Q. And it could not have been seen by
20 anybody outside the office; that possible?

21 MS. POLLICK: Objection. Assumes facts
22 not in evidence.

23 BY MR. BUFALINO:

24 Q. How about in regards to the -- is your
25 testimony the same with regards to the humiliation

JANE DOE

1 allegation as the embarrassment?

2 A. Yes. I work in law enforcement. We
3 are very close in the community. I work with
4 multiple jurisdictions, multiple police
5 departments. I don't know if any of them have seen
6 it. I don't know what they know about it. I don't
7 even like walking through the main courthouse. I
8 don't know who in the county has seen this tape. I
9 have to face these people every day of my life. I
10 don't know what they know, what they have seen,
11 what they have been told.

12 Q. And I'm not trying to belittle what
13 you're feeling, but my question is, how could you
14 be humiliated if you don't know that they have
15 actually seen it?

16 MS. POLLICK: Objection.

17 Mischaracterization of prior testimony.

18 THE WITNESS: Because of what the
19 deputies have said. Unless they saw this tape,
20 they wouldn't know what was on there.

21 BY MR. BUFALINO:

22 Q. How about the injuries that you
23 sustained -- that are alleged in paragraph 15 of
24 your Complaint. What injuries have you suffered?

25 A. Not too long after the incident I

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1 didn't want to go to work. I didn't want to face
2 these people. I started to almost binge eat. I
3 gained -- from the time of that incident up until
4 just a couple of months ago when I started to lose
5 the weight, I gained 40 pounds. In the beginning,
6 I wasn't sleeping. That's the only thing that I
7 ever thought about. That is the only thing that
8 ever crossed my mind all day, every day.

9 Q. Is that it?

10 A. Yes.

11 Q. Did you ever seek professional care or
12 treatment?

13 A. No, I did not. I was too embarrassed
14 to.

15 Q. So as a result of the incident on
16 September 27th, 2007, you didn't see any medical
17 providers or psychologists or social workers or
18 counselors with regard to anything that pertains to
19 this case?

20 A. I did not. I was too embarrassed to.
21 I just kept going through my head, how could I let
22 this happen? I blamed myself for allowing it to
23 happen.

24 Q. How about the damages that you're
25 alleging there, what are you claiming in that

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JANE DOE

1 regard?

2 A. That I was wronged, that I feel that I
3 am entitled to what the law states. This should
4 never have happened by someone with authority.

5 Q. Did you lose any time from work as a
6 result of this incident?

7 A. I don't recall. I know I took sick
8 days. I don't recall how many or what other time I
9 took.

10 Q. What I'm just simply trying to find out
11 is, did you have any wage loss as a result of --

12 A. No.

13 Q. No?

14 A. No.

15 Q. Okay. With regards to -- as you sit
16 here today, can you tell me -- is there a
17 difference between the embarrassment and
18 humiliation and the injuries that you had back
19 in 2007 as opposed to today?

20 A. No. They are all the same. I face
21 them every day.

22 Q. Okay. Between September 27th, 2007,
23 and today, did you ever file -- other than the
24 Complaint that you filed in this case, did you ever
25 file a grievance or a Complaint regarding this

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1 incident with anybody?

2 A. No. I could not file a grievance
3 because it wasn't pertaining to my contract.
4 That's the only thing that the grievances were
5 filed for to the best of my knowledge. I didn't
6 know that I could make a Complaint with anyone
7 else.

8 Q. Did you ever go to Sheriff Savokinas
9 and say, hey, these guys videotaped me, this is
10 totally out of order?

11 A. I did.

12 Q. When did you do that?

13 A. When the videotape was found in late
14 April.

15 Q. Of --

16 A. Of '08. It was the same day that the
17 videocamera and tape was found.

18 Q. Where did that conversation with
19 Sheriff Stankus take place?

20 A. With Sheriff Savokinas inside his
21 office.

22 Q. I'm sorry. Maybe you misunderstood me.
23 I asked you about Sheriff Stankus.

24 MS. POLLICK: No, you didn't. You
25 misspoke.

JANE DOE

JANE DOE

1 THE WITNESS: Can you rephrase it then
2 the correct way?

3 BY MR. BUFALINO:

4 Q. Sure. Did you ever have a conversation
5 with Sheriff Stankus or any other member of the
6 office or any member of Luzerne County to make a
7 Complaint and say, hey, these guys videotaped me,
8 other than the filing of the Complaint?

9 A. No, I didn't know I could. I was
10 unaware of the tape when Sheriff Stankus was in
11 office. It wasn't until Sheriff Savokinas took
12 over that I was made aware of any photos or tapes.
13 I didn't know that I could go to the county to file
14 any Complaints.

15 Q. So even after you discovered it -- is
16 that what you're saying, that after you discovered
17 it, you still didn't file a grievance other than
18 this Complaint?

19 MS. POLLICK: Objection.
20 Mischaracterization of prior testimony. Asked
21 and answered.

22 THE WITNESS: I couldn't file a
23 grievance on it because it did not -- it did
24 not have anything to do with my contract
25 itself.

1 correct?

2 A. Correct.

3 Q. And that is extremely different than
4 just being a normal deputy?

5 MR. BUFALINO: I'm going to object to
6 the form.

7 You could answer.

8 THE WITNESS: Correct. Deputy Sheriff
9 is a different title than a Chief Deputy or
10 Deputy Chief.

11 BY MS. POLLICK:

12 Q. And Chief Deputy Foy was in charge of
13 implementing the policies that Sheriff Stankus had
14 established, if any?

15 MR. BUFALINO: Objection to the form.

16 You could answer.

17 THE WITNESS: Correct.

18 BY MS. POLLICK:

19 Q. Now, you told us a lot about the sheer
20 piece of paper that they gave you to cover
21 yourself. I'm kind of thinking back to the
22 doctor's room and the last time that I was there
23 and that paper. Now, you being wet, you could
24 visibly see the outline of your buttocks?

25 MR. BUFALINO: Objection to the form.

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JANE DOE

1 BY MR. BUFALINO:

2 Q. Okay. You had mentioned briefly that
3 Mercy Hospital may have records of some kind
4 relative to this incident?

5 A. I would assume so because Chief
6 Bobbouine stated that he checked Deputy Szumski and
7 myself in and checked us out.

8 Q. What I want to know though is, would
9 there be any records at Mercy Hospital relative to
10 any medical treatment that you received?

11 A. Not to my knowledge. I'm not sure
12 what's on record there.

13 Q. Okay. Did you ever seek medical
14 attention for the flea bites, or whatever they
15 were?

16 A. No.

17 MR. BUFALINO: Okay. I think we are
18 ready for the video.

19 MS. POLLICK: No. I have questions.

20 * * *

21 EXAMINATION

22 * * *

23 BY MS. POLLICK:

24 Q. Now, counsel has been characterizing
25 Ryan Foy as "Deputy." He was Deputy Chief,

1 THE WITNESS: Yes.

2 BY MS. POLLICK:

3 Q. And the other gentleman who had his
4 photos taken or video images or whatever you want
5 to call them, you can actually see his bare butt?

6 MR. BUFALINO: Objection to the form
7 and relevance.

8 THE WITNESS: Yes. From the photos on
9 the computer that I saw, yes, he was completely
10 bare in the one photo.

11 BY MS. POLLICK:

12 Q. And it was Deputy Chief Foy's computer
13 that the "Brian's Ass" file was found, correct?

14 MR. BUFALINO: Objection to the form.

15 THE WITNESS: Yes.

16 BY MS. POLLICK:

17 Q. And he had to somehow transfer the
18 video and whatever still images he had, whether it
19 was the video ones or by phone -- he would have had
20 to transfer them onto the computer?

21 MR. BUFALINO: Objection. Calls for
22 speculation, and form of the question.

23 THE WITNESS: Yes.

24 BY MS. POLLICK:

25 Q. And do you know since -- the wonders of

JANE DOE

1 technology today is you could take a cell phone out
2 at any minute and take a picture. Do you know if
3 they did any of that to you?

4 MR. BUFALINO: Objection. Counsel
5 testifying, and form of the question.

6 THE WITNESS: I'm not sure what they
7 did.

8 BY MS. POLLICK:

9 Q. And that is quite a scary feeling,
10 correct?

11 MR. BUFALINO: Objection to the form of
12 the question.

13 THE WITNESS: Very scary.

14 BY MS. POLLICK:

15 Q. Now, you did not give Deputy Chief Foy
16 permission to videotape you or take images of you
17 in the decontamination shower?

18 MR. BUFALINO: Objection to the form of
19 the question.

20 THE WITNESS: Correct. I didn't give
21 him permission at any time the entire day.

22 BY MS. POLLICK:

23 Q. But even though you told him, don't
24 videotape me, he still did, correct?

25 MR. BUFALINO: Objection to the form.

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1 be able to access that?

2 A. Correct.

3 Q. And if they have the balls to put it on
4 the county's -- the government's computer, we only
5 can wonder what else they did with the photos that
6 they did that day, correct?

7 MR. BUFALINO: Objection to the form.
8 Counsel testifying. Calls for speculation.

9 THE WITNESS: Yes. I don't know what
10 else they could have done, or where else that
11 could have gone to.

12 BY MS. POLLICK:

13 Q. But to have your government come into
14 your place of employment and put barely clothed,
15 even a naked photo on the county's server is quite
16 ballsy, correct?

17 MR. BUFALINO: Objection to the form.
18 Assumes facts not in evidence. Calls for
19 speculation.

20 THE WITNESS: Extremity disturbing.

21 BY MS. POLLICK:

22 Q. Better choice of words. Thank you.

23 And you did not consent to the
24 videotape, its recording, reproduction, or any
25 images taken of you at all that day, correct?

JANE DOE

1 BY MS. POLLICK:

2 Q. In the sense of the ones that you knew
3 about -- let me clean that up. Sorry.

4 When he first approached you, and in
5 the three times that you spoke with him, you told
6 him, don't videotape me, and he still continued to
7 do it even though he knew it was upsetting you?

8 MR. BUFALINO: Objection as to the form
9 of what Defendant Foy knew.

10 THE WITNESS: Yes. I directed him
11 multiple times not to, and he continued to do
12 it.

13 BY MS. POLLICK:

14 Q. That's not very nice behavior, correct?

15 MR. BUFALINO: Objection to the form.

16 THE WITNESS: Correct.

17 BY MS. POLLICK:

18 Q. Now, putting actual images of someone
19 barely clothed on a county-wide server is
20 unbelievable almost.

21 MR. BUFALINO: Objection. Counsel
22 testifying.

23 THE WITNESS: Very.

24 BY MS. POLLICK:

25 Q. Because people from other offices may

JANE DOE

1 MR. BUFALINO: Objection to the form.

2 THE WITNESS: Correct. I never would.

3 BY MS. POLLICK:

4 Q. And although you were embarrassed that
5 you knew that they had seen you -- that they had
6 peered in the room, which is embarrassing enough --
7 to find out in 2008 that actually there were images
8 that they did take and they did distribute them,
9 that even intensified your bad feelings?

10 MR. BUFALINO: Objection to the form.
11 Counsel testifying.

12 BY MS. POLLICK:

13 Q. You could answer the question.

14 A. Yes. It is very disturbing to me, very
15 embarrassing. It's just pure humiliation.

16 Q. And you think that two guys who are --
17 two under-the-top-dog men so to speak would know
18 enough and be respectful enough not to do something
19 like that, correct?

20 MR. BUFALINO: Objection to the form.
21 Calls for speculation. Counsel testifying.

22 BY MS. POLLICK:

23 Q. You could answer the question.

24 A. You would think that they would have
25 enough sense not to do something like that, but

JANE DOE

1 apparently they didn't.

2 Q. And both chiefs operating under
3 Stankus's direction did what they did to you,
4 correct?

5 MR. BUFALINO: Objection to the form.

6 THE WITNESS: Correct.

7 BY MS. POLLICK:

8 Q. Luzerne County in 2007 did not have a
9 policy that said that you cannot video people when
10 they are barely clothed without their consent.
11 There was no policy that was in place, correct?

12 MR. BUFALINO: Objection to the form.

13 THE WITNESS: Correct.

14 BY MS. POLLICK:

15 Q. There was no type of training that the
16 deputies got or the sheriff's department got that
17 said you shouldn't videotape without their consent,
18 and you should certainly not videotape employees
19 when they are in compromising situations?

20 MR. BUFALINO: Objection to the form.

21 THE WITNESS: Correct. We had no
22 policies as per that.

23 BY MS. POLLICK:

24 Q. Chief Foy and Bobbouine -- both of them
25 exhibited bad behavior that day by the fact that it

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JANE DOE

1 was probably over three hours that you had fleas
2 actually on your body and you weren't
3 decontaminated, correct?

4 MR. BUFALINO: Objection to the form.

5 Counsel testifying.

6 THE WITNESS: Correct.

7 BY MS. POLLICK:

8 Q. And instead of being concerned about
9 videotaping it, they could have gotten you
10 instantly over to Mercy and got you washed up,
11 correct?

12 MR. BUFALINO: Objection to the form.

13 Calls for speculation. Counsel testifying.

14 THE WITNESS: Correct.

15 BY MS. POLLICK:

16 Q. Now, can you tell me why Chief Foy and
17 Chief Bobbouine did not have you examined by
18 medical personnel?

19 MR. BUFALINO: Objection. Calls for
20 speculation.

21 THE WITNESS: As I testified earlier,
22 they stated that we didn't need it.

23 BY MS. POLLICK:

24 Q. Okay. You're covered with hundreds of
25 insects and they don't even give you -- the

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JANE DOE

1 courtesy to you or the other deputy as being
2 examined by a doctor to make sure that you don't
3 have anything, or give you any type of cream so
4 that you wouldn't have any type of adverse
5 reaction?

6 MR. BUFALINO: Objection to the form.

7 THE WITNESS: Correct. They stated
8 that we didn't need any medical attention
9 whatsoever, any medical attention.

10 BY MS. POLLICK:

11 Q. And both individuals, both chiefs,
12 could have chosen to care about you and not
13 videotape you, correct?

14 MR. BUFALINO: Objection to the form.

15 Assumes facts not in evidence. Calls for
16 speculation.

17 THE WITNESS: Correct.

18 BY MS. POLLICK:

19 Q. And they could not have laughed at you
20 when -- during the day, correct?

21 MR. BUFALINO: Objection to the form.

22 Relevance.

23 Calls for speculation.

24 BY MS. POLLICK:

25 Q. You could answer the question.

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JANE DOE

1 A. Correct. I didn't think it was very
2 funny.

3 Q. Now, was there ever a training video to
4 your knowledge made of this wonderful video that
5 Chief Foy made?

6 A. No. We have never been trained on it.

7 Q. Now, you were actually at a medical
8 facility, correct?

9 A. Correct.

10 Q. And you used the medical facility,
11 correct?

12 MR. BUFALINO: Objection to the form.

13 THE WITNESS: Correct.

14 BY MS. POLLICK:

15 Q. So although you weren't actually
16 treated by a physician, he did not examine you, you
17 were in part of a medical facility and actually
18 using what they use to treat people?

19 MR. BUFALINO: Objection to the form.

20 Calls for speculation.

21 THE WITNESS: Correct.

22 BY MS. POLLICK:

23 Q. And you had an expectation of privacy
24 there, correct?

25 MR. BUFALINO: Objection. Calls for a

JANE DOE

1 legal conclusion. Calls for speculation. Form
2 of the question.

3 THE WITNESS: Yes.

4 BY MS. POLLICK:

5 Q. Luzerne County never had you sign a
6 consent form that said you waive any rights and you
7 consent to being videotaped?

8 A. Correct. I never signed anything
9 pertaining to that type of incident or being
10 videotaped or being allowed to be videotaped.

11 MS. POLLICK: That's all I have.

12 * * *

13 (Whereupon, a recess was taken from

14 2:21 p.m. until 2:27 p.m.)

15 * * *

16 (Whereupon, Exhibit Number 2 was marked
17 for identification.)

18 * * *

19 EXAMINATION

20 * * *

21 BY MR. BUFALINO:

22 Q. Before we look at the video, I just
23 want to follow up on some of the questions that
24 Attorney Pollick asked you.

25 She asked you about the medical

JANE DOE

1 please.

2 * * *

3 (Whereupon, a video recording marked as
4 Exhibit Number 2 was played.)

5 * * *

6 BY MR. BUFALINO:

7 Q. Just for the record, that is where the
8 video stopped.

9 Do you recognize what you just watched?

10 A. Yes.

11 Q. Can you tell me what it was, please?

12 A. The video that was found in the
13 camcorder.

14 Q. Is that the same video that you had
15 seen at Deputy Leandri's desk that day?

16 A. No, it's not.

17 Q. How is it different?

18 A. The video clip that was on
19 Deputy Leandri's desk was maybe 20 to 40 seconds
20 long. It was just bits and pieces from that video
21 that we just watched.

22 Q. This is longer than the one that was on
23 there?

24 A. Correct.

25 Q. Does this video contain -- even though

JANE DOE

1 treatment that the county may or may not have
2 offered you.

3 MS. POLLICK: So this is not starting
4 the new one? We'll start the new one --

5 MR. BUFALINO: After we do the video
6 and this questioning.

7 MS. POLLICK: I just wanted to make
8 sure because I know you're going to want
9 whatever you ask to be ECF.

10 MR. BUFALINO: I'm not getting into the
11 materials that we talked about earlier about
12 her other occupation.

13 MS. POLLICK: Okay.

14 BY MR. BUFALINO:

15 Q. You were asked questions about whether
16 or not anybody offered to take you to a doctor or
17 any further medical treatment. Do you recall those
18 questions?

19 A. Yes.

20 Q. After this incident on September 27th,
21 '07, did you yourself take yourself to the doctor?

22 A. No, I did not.

23 Q. I'm going to show you what has been
24 previously marked as Exhibit 2 for this deposition.
25 I'm going to ask you if you know what this is,

JANE DOE

1 it contains more, does it contain the same things
2 that were contained on Deputy Leandri's clips?

3 A. Yes.

4 Q. What clips are different?

5 A. The clips from the EMA building were
6 different.

7 Q. What were different?

8 A. I believe that is where the people from
9 EMA were attempting to put the decontamination
10 shower together. There is a small couple-second
11 clip of them attempting to piece that together.
12 There was a different video of us riding in the car
13 on Deputy Leandri's computer. There was a
14 different one of the shower -- entering the shower
15 of Deputy Szumski. Then there was a different clip
16 of us in the car riding back from the hospital.

17 Q. Was there anything different than what
18 is on this video relative to the actual
19 decontamination shower itself?

20 MS. POLLICK: Objection. Confusing
21 question.

22 THE WITNESS: Can you repeat it or
23 rephrase it?

24 BY MR. BUFALINO:

25 Q. Sure. What you viewed on Deputy

JANE DOE

1 Leandri's computer, did that contain images of you
2 actually in the decontamination shower?

3 A. Showering?

4 Q. Either prior to showering, during
5 showering, or after while you were in the wrap?

6 A. The still photos, not the video.

7 Q. And we already discussed those photos?

8 A. Correct.

9 Q. I have just a few questions. I wanted
10 to show you the entire video first before I went
11 back and asked you certain questions.

12 * * *

13 (Whereupon, a video recording marked as

14 Exhibit Number 2 was played.)

15 * * *

16 BY MR. BUFALINO:

17 Q. I want to -- I'm going to stop at
18 certain points along the way. Do you recognize --
19 right now we're at -- I'm not sure what frame we're
20 at here.

21 MS. POLLICK: It hasn't been working.

22 MR. BUFALINO: I'm sorry?

23 MS. POLLICK: The numbers -- normally
24 if it's a normal tape or video, it will track
25 it. That might be the problem.

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1 BY MR. BUFALINO:

2 Q. The beginning of this video, which is
3 marked as Exhibit Number 2, where I have stopped it
4 here, you're inside what appears to be a
5 dark-colored vehicle. Do you recall or recognize
6 where that would have occurred?

7 A. That was at the EMA building.

8 Q. Is that when people first started
9 arriving?

10 A. Yes.

11 Q. I'm going to play a little bit more.

12 * * *

13 (Whereupon, a video recording marked as

14 Exhibit Number 2 was played.)

15 * * *

16 BY MR. BUFALINO:

17 Q. At this point, can we agree that you're
18 speaking to somebody through the car that is on the
19 videotape?

20 A. Correct.

21 Q. So you're aware that they are
22 videotaping you at that point, correct?

23 A. Correct.

24 Q. Okay. I want to continue playing it.

25 * * *

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JANE DOE

1 (Whereupon, a video recording marked as
2 Exhibit Number 2 was played.)

3 * * *

4 BY MR. BUFALINO:

5 Q. I'm going to fast forward to the part
6 where you're at the hospital.

7 * * *

8 (Whereupon, a video recording marked as
9 Exhibit Number 2 was played.)

10 * * *

11 BY MR. BUFALINO:

12 Q. Is this the portion of the day where
13 you were at the hospital?

14 MS. POLLICK: Objection. Assumes facts
15 not in evidence. The video has not been
16 authenticated that it is the entire video.

17 BY MR. BUFALINO:

18 Q. Does the video -- the segment of you
19 walking into the hospital that you're being shown
20 right now, does that fairly and accurately depict
21 what happened that day?

22 MS. POLLICK: Objection. Assumes facts
23 not in evidence.

24 Again, the video is clearly stopping
25 and starting like someone intentionally tried

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JANE DOE

1 to delete portions of the video.

2 THE WITNESS: The photo that is on the
3 screen at this time looks like the area of
4 Mercy Hospital.

5 BY MR. BUFALINO:

6 Q. You have also seen the complete segment
7 of the video from where you exited the car to the
8 point where you went into the hospital. Does that
9 fairly and accurately depict what happened on
10 September 27th, 2007?

11 MS. POLLICK: Objection. She has never
12 seen the complete video of what happened that
13 day. It is stopping and stuttering. It is
14 clearly not authenticated.

15 BY MR. BUFALINO:

16 Q. Well, she was there on that day.

17 When you got out of the car to the
18 point where you went in the hospital -- what is
19 shown to you today in Exhibit 2, does that fairly
20 and accurately depict what happened that day?

21 MS. POLLICK: Same objection.

22 THE WITNESS: It looks like what
23 transpired that day to the best of my
24 knowledge.

25 MR. BUFALINO: I'm going to play a

JANE DOE

1 little more.

2 * * *

3 (Whereupon, a video recording marked as
4 Exhibit Number 2 was played.)

5 * * *

6 BY MR. BUFALINO:

7 Q. Now that is the section of the video
8 where you testified earlier that you threw the key
9 to Deputy Foy, correct?

10 A. Correct.

11 Q. He didn't catch it with his hand, did
12 he? The key hit the ground.

13 A. I can't tell from that.

14 Q. Did you hear the key hit the ground?

15 A. I heard a noise. I don't know if that
16 was the key hitting the ground.

17 Q. Can we agree -- then let me play a
18 little more, then we'll stop it again.

19 * * *

20 (Whereupon, a video recording marked as
21 Exhibit Number 2 was played.)

22 * * *

23 BY MR. BUFALINO:

24 Q. Would you agree that I have paused it
25 at the point where you have now gone from the

JANE DOE

1 vehicle to where you are now inside the enclosed
2 area in the hospital?

3 MS. POLLICK: Same objection. It is
4 not a complete video. It's not accurately
5 depicting what occurred on that day, pieces and
6 parcels.

7 THE WITNESS: That looks like the
8 interior when you first enter.

9 BY MR. BUFALINO:

10 Q. And the clips that you were just shown,
11 does that fairly and accurately depict what
12 happened that day?

13 MS. POLLICK: Same objection.

14 THE WITNESS: It shows parts of it,
15 yes.

16 BY MR. BUFALINO:

17 Q. What parts are missing?

18 A. The part where I told Deputy Chief Foy
19 to shut the camera off.

20 In fact, it doesn't show when Chief
21 Bobbouine was standing closest to the door when I
22 first walked in.

23 Q. We can agree that the video being shown
24 to you, Exhibit Number 2, contains no clip of you
25 telling Deputy Foy that you did not want to be

JANE DOE

1 videotaped, correct?

2 A. From what I'm seeing on that, no.

3 Q. And can we agree that it is clear from
4 the video that you knew that he was videotaping you
5 at that point?

6 MS. POLLICK: Objection to form.

7 THE WITNESS: Yes.

8 MR. BUFALINO: Let's continue watching.

9 * * *

10 (Whereupon, a video recording marked as
11 Exhibit Number 2 was played.)

12 * * *

13 BY MR. BUFALINO:

14 Q. I'm stopping the video again. Does
15 that fairly and accurately depict what occurred on
16 September 27th, 2007, in between the time that you
17 entered the hospital to the point where you got
18 into the decontamination shower?

19 MS. POLLICK: Objection. Incomplete
20 video because it is only parts and parcels of
21 what occurred that day.

22 BY MR. BUFALINO:

23 Q. You can answer.

24 A. Not in its entirety. It doesn't show
25 Deputy Joyce speaking to me, which in fact she was.

JANE DOE

1 Q. Is that the only part that would have
2 been missing?

3 MS. POLLICK: Objection. Calls for
4 speculation.

5 MR. BUFALINO: She was there.

6 MS. POLLICK: But how could she
7 remember everything single thing that happened?

8 MR. BUFALINO: That's not speculation.
9 That's lack of recollection.

10 MS. POLLICK: No, it's not. You're
11 asking an improper question.

12 BY MR. BUFALINO:

13 Q. You could answer.

14 A. I don't recall.

15 Q. Okay. Can we agree that in between the
16 point when you walked into the hospital as
17 exhibited on Exhibit Number 2 that there were no
18 parts of your body that were exposed in the video?

19 MS. POLLICK: Objection. That is
20 mischaracterization. It's an incomplete video.

21 THE WITNESS: Can you repeat that?

22 BY MR. BUFALINO:

23 Q. Sure.

24 In between the time that you entered
25 the hospital and the time that you got into the

JANE DOE

1 decontamination shower, you were covered in the
2 sheet and no part of your body was exposed?

3 A. Correct. I have already stated that.

4 Q. Right. But I'm saying that video
5 accurately reflects that?

6 MS. POLLICK: Objection. The video is
7 incomplete. It's only parts and parcels. It
8 is clearly a hundred percent -- you can see it
9 by viewing it that it is not a complete video.

10 THE WITNESS: I'm sorry. I got mixed
11 up. Please say that again.

12 BY MR. BUFALINO:

13 Q. Sure. The video -- I know that you
14 already testified to it, but what I'm asking you is
15 that the video that is being shown to you, Exhibit
16 Number 2, does that fairly and accurately depict
17 and reflect your prior testimony that in between
18 the time that you entered the hospital until the
19 time that you got to the decontamination room, you
20 were covered in the sheet?

21 MS. POLLICK: Objection.

22 THE WITNESS: To the best of my
23 recollection today, yes, I had that sheet on
24 and walked from the doorway to the
25 decontamination shower.

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JANE DOE

* * *

1
2 (Whereupon, a video recording marked as
3 Exhibit Number 2 was played.)

* * *

5 BY MR. BUFALINO:

6 Q. I'm going to stop it there.

7 Can we agree that where it is stopped
8 there -- describe for the record what is depicted
9 in that paused image of that video.

10 A. That is the second time Deputy Joyce
11 was combing my hair.

12 Q. And can we agree that the door is open
13 and you're facing outward?

14 A. The second time, yes.

15 Q. And prior to pausing the video, did you
16 hear somebody's voice telling Deputy Joyce to do a
17 better job?

18 A. You would have to play it again.

19 Q. I'll be happy to.

20 MS. POLLICK: I'm going to place the
21 same objection that this is an incomplete and
22 non-authenticated video.

* * *

24 (Whereupon, a video recording marked as
25 Exhibit Number 2 was played.)

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JANE DOE

* * *

1
2 BY MR. BUFALINO:

3 Q. Did you hear it that time?

4 A. Yes.

5 Q. Who was speaking there?

6 A. I believe it was Chief Bobbouine.

7 Q. At any point in time in the clips that
8 we just played from the time that you got into the
9 emergency room -- or into the Mercy Hospital to
10 that point of the video where it depicts Deputy
11 Joyce combing your hair, did you ever say to
12 anybody, stop videotaping me?

13 A. Yes, I did.

14 Q. Can we agree that what is depicted in
15 this video indicates that you knew that you were
16 being videotaped at that point?

17 MS. POLLICK: Objection. Assumes facts
18 not in evidence.

19 I don't know how you get around that
20 one. How does she know someone is videotaping
21 her?

22 THE WITNESS: One more time.

23 BY MR. BUFALINO:

24 Q. Sure. The images that are depicted
25 here -- particularly at this point where Deputy

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JANE DOE

1 Joyce is combing your hair, is it your testimony
2 that you were not aware that this was being
3 videotaped?

4 A. Correct. I had my eyes closed for most
5 of it. The water was coming down into my eyes, so
6 I was trying to keep my eyes closed.

* * *

8 (Whereupon, a video recording marked as
9 Exhibit Number 2 was played.)

* * *

11 BY MR. BUFALINO:

12 Q. Your eyes were opened there, are they
13 not?

14 A. If they are, you can see them better
15 than me. It looks like I'm trying to squint to
16 keep them closed.

17 Q. You're telling me that in this still
18 image from the video that depicted in that still is
19 where Deputy Joyce is combing what appears to be
20 the backside of the left side of your head?

21 MS. POLLICK: Objection. Confusing
22 question. Again, unauthenticated.

23 BY MR. BUFALINO:

24 Q. Is that what that depicts?

25 A. One more time.

JANE DOE

1 Q. Yes. Would you agree with me that the
2 still/paused part of this video that is being shown
3 to you right now depicts Deputy Joyce combing what
4 appears to be the backside of the left side of your
5 head?

6 A. That is the second time. What is on
7 the computer right now is the second time she is
8 combing my hair.

9 Q. Whether it is the first, the second,
10 the third, does that accurately depict what is
11 going on there?

12 A. That is the second time she is combing
13 my hair, yes.

14 Q. Does it accurately depict what happened
15 that day?

16 MS. POLLICK: Same objection. It's not
17 an authenticated video. It is incomplete.

18 THE WITNESS: Not in its entirety.

19 BY MR. BUFALINO:

20 Q. But what is being shown there? What is
21 missing from that?

22 A. Prior to that, you could see where the
23 tape was cut off just prior to this picture. When
24 you played it in its entirety, it shows where the
25 tape is cut off. Prior to the tape cutting off is

JANE DOE

1 Exhibit Number 2 was played.)

2 * * *

3 BY MR. BUFALINO:

4 Q. Did you hear that, where somebody asked
5 you about, is that a tan line?

6 A. Yes.

7 Q. And you responded, did you not?

8 A. Yes.

9 Q. Is it still your testimony that you did
10 not know that people were there while you were
11 standing there in that wrapped sheet taking a
12 video?

13 A. In my prior testimony, I stated that
14 those were the comments that they made. At that
15 point, I was aware that I was being taped.

16 Prior to this incident is when they
17 first came into the -- stuck their heads into the
18 shower room and stated, what is that -- excuse my
19 language -- shit on your back. At that point, when
20 they made that specific comment about my back, that
21 is when I first knew and first directed them to get
22 out of there.

23 Q. At this point, you're actually
24 conversing with them. You're not saying, hey,
25 guys, I told you to get out of here, I don't want

JANE DOE

1 where should have been the first time that she is
2 combing my hair with my back facing the door inside
3 the shower.

4 Q. I understand your testimony right now,
5 but I'm only talking about this image that is in
6 front of you right now.

7 A. She is combing my hair.

8 Q. Can we agree that your eyes are very
9 much opened?

10 MS. POLLICK: Objection.

11 THE WITNESS: The way that you paused
12 it in that specific second, yes. If you watch
13 it in its entirety, my eyes are squinted. I
14 was blinking. So where that is stopped right
15 there could have been when I blinked or
16 whatever I was doing.

17 BY MR. BUFALINO:

18 Q. Can we agree also in this paused image
19 that the door is very much opened?

20 MS. POLLICK: Objection. Incomplete
21 video. Whether it is zoomed, who knows.

22 THE WITNESS: It is open, but I can't
23 tell how much it is opened.

24 * * *

25 (Whereupon, a video recording marked as

JANE DOE

1 you videotaped, right?

2 MS. POLLICK: Objection.

3 THE WITNESS: During the first time is
4 when I stated that. They didn't -- they
5 weren't listening the entire day. They were my
6 superiors. There was nothing I could have done
7 at that point.

8 BY MR. BUFALINO:

9 Q. So am I correct you did not tell them
10 at that point?

11 A. I had told them prior, which you did
12 not show me that clip.

13 Q. My question is, did you tell them at
14 this point?

15 MS. POLLICK: Objection.

16 * * *

17 (Whereupon, a video recording marked as
18 Exhibit Number 2 was played.)

19 * * *

20 BY MR. BUFALINO:

21 Q. I just stopped it.

22 Did you hear the portion where it was
23 referenced, what is this crap?

24 A. I did. I also heard Chief Bobbouine
25 say, you could see your ass.

JANE DOE

1 Q. Was that the portion of the video that
2 you were just referring to during your previous
3 answer?

4 MS. POLLICK: Objection. Confusing
5 question.

6 THE WITNESS: No, it's not. There was
7 another incident prior to that. This would
8 actually be the third image of Deputy Joyce
9 combing my hair. The one incident before that
10 is not on there.

11 BY MR. BUFALINO:

12 Q. So it is your testimony that somebody
13 said to you, "what is this crap" twice?

14 A. Yes.

15 Q. You didn't mention that during your
16 testimony when we were in the conference room, did
17 you?

18 A. Yes, I did. I stated that
19 Chief Bobbouine had made the comment and Chief Foy.

20 * * *

21 (Whereupon, a video recording marked as
22 Exhibit Number 2 was played.)

23 * * *

24 BY MR. BUFALINO:

25 Q. There somebody said something about you

JANE DOE

1 happened on the 27th of September 2007?

2 A. Yes, to the best of my recollection.

3 Q. So is it still your testimony that you
4 didn't know that people were there, and that you
5 didn't know it was being videotaped?

6 MS. POLLICK: Objection. Compound
7 question.

8 BY MR. BUFALINO:

9 Q. Did you know that it was being
10 videotaped?

11 A. Like I have already stated, at that
12 point, yes, I did, because they were already in
13 there, and I had already asked them to stop.

14 Q. When the individual approached you with
15 the blue cover that they put over you, did you say
16 to anybody, hey, guys, turn the camera off?

17 A. At that time, I did not know where
18 Chief Foy was with the camera. That is Deputy
19 Joyce that was directly in front of me.

20 I believe -- and I can't tell because I
21 can't see the face -- I'm not sure who that was
22 that threw that over me. But by watching the tape
23 in its entirety and knowing what people were
24 wearing, I believe that to be Chief Bobbouine.

25 Q. I think as we play it, you might see

JANE DOE

1 have a big rip in your ass?

2 MS. POLLICK: Objection. Assumes facts
3 not into evidence.

4 BY MR. BUFALINO:

5 Q. Did you hear that portion of the video?

6 A. I did hear it. I was responding to
7 Deputy Joyce, who was just asking me a question
8 also.

9 Q. What was the question that she was
10 asking?

11 A. I believe at that time, if I remember
12 correctly, I kept turning my head because the teeth
13 in the comb were so fine that it kept catching my
14 hair. I think I had switched and moved. She said,
15 are you okay? I said, yeah.

16 * * *

17 (Whereupon, a video recording marked as
18 Exhibit 2 was played.)

19 * * *

20 BY MR. BUFALINO:

21 Q. We're stopping the video at that point.
22 Do you see where somebody in the video
23 is placing a blue garment over you?

24 A. Yes.

25 Q. Does that accurately depict what

JANE DOE

1 that you're correct.

2 * * *

3 (Whereupon, a video recording marked as
4 Exhibit Number 2 was played.)

5 * * *

6 BY MR. BUFALINO:

7 Q. Did you hear the person in the video --
8 or a person in the video saying, grab that and
9 cover her up?

10 MS. POLLICK: Objection. Assumes facts
11 not in evidence. Again, incomplete video.

12 BY MR. BUFALINO:

13 Q. You can answer.

14 A. That was after he stated -- the person
15 that just made that comment -- that they could see
16 my -- what they quoted as boobies.

17 Q. And do you recognize the voice?

18 A. I can't make out exactly who it was.

19 * * *

20 (Whereupon, a video recording marked as
21 Exhibit Number 2 was played.)

22 * * *

23 BY MR. BUFALINO:

24 Q. Is it your testimony that when the
25 person said you had a big crack in your ass or a

JANE DOE

1 rip in your ass, whatever was said there, your
2 response was, "yeah, I put it there," was that a
3 response to something else?

4 MS. POLLICK: Objection. Assumes facts
5 not in evidence.

6 The video is incomplete.

7 THE WITNESS: The answer of "yeah" was
8 in response to Deputy Joyce, what she was
9 saying to me.

10 BY MR. BUFALINO:

11 Q. Your answer was, yeah, I put it there?

12 MS. POLLICK: Objection.
13 Mischaracterization of an incomplete
14 unauthenticated video.

15 BY MR. BUFALINO:

16 Q. Go ahead. What do you want to say?

17 A. I said "yeah," and then there was a
18 brief pause before "I put it there." I don't know
19 why I was saying that "I put it there." I was
20 answering "yeah" as a response to Deputy Joyce. I
21 know she was asking me "does that hurt?" I kept
22 pulling my head away.

23 * * *

24 (Whereupon, a video recording marked as
25 Exhibit Number 2 was played.)

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JANE DOE

1 * * *

2 BY MR. BUFALINO:

3 Q. That was the question that I asked you
4 before. Do you know who was speaking there?

5 A. It sounds like Chief Foy, but I'm not a
6 hundred percent positive because of the poor sound
7 quality.

8 Q. And just so I'm clear for the record,
9 what I'm asking is, who was saying "grab that" to
10 cover you up with it?

11 MS. POLLICK: Objection.
12 Mischaracterization of the incomplete and
13 unauthenticated video.

14 THE WITNESS: Like I just stated, I
15 think that is who it is. I'm not sure because
16 of the poor sound quality.

17 BY MR. BUFALINO:

18 Q. One final question and then I'm done.
19 Can we agree that nowhere on Exhibit
20 Number 2, which is the video that you're being
21 shown, does it contain any reference or clip of you
22 saying to anybody, stop videotaping me, or don't
23 videotape me?

24 MS. POLLICK: Objection. Assumes facts
25 not in evidence. It is an incomplete

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JANE DOE

1 unauthenticated video.

2 BY MR. BUFALINO:

3 Q. You can answer.

4 A. It does not show it -- where I did say
5 that. You could tell it is cut off.

6 Q. How is it that you can tell?

7 A. You could see where the clip stops and
8 then it automatically jumps to another scene.

9 Q. Couldn't it be because the camera was
10 turned off?

11 A. Then they would not have heard me say
12 that -- the camera would not have heard it [sic].

13 Q. Right. But you don't know that it is
14 because the tape has been edited or altered or -- I
15 forget what word you used before -- cut and pulled.
16 You don't know that that is the reason why, do you?

17 A. There is some type of defect in the
18 tape. I'm not sure exactly what the words to use,
19 but it was definitely altered in some aspect. It
20 doesn't show everything in its entirety that day.

21 Q. Have you retained any expert that has
22 offered you that conclusion, any computer expert or
23 video expert?

24 A. I haven't, no.

25 Q. Do you know whether your counsel has on

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JANE DOE

1 your behalf?

2 MS. POLLICK: Objection.

3 Attorney/client privilege.

4 MR. BUFALINO: Are you directing her
5 not to answer that?

6 MS. POLLICK: No.

7 THE WITNESS: Me personally, I have
8 not.

9 MR. BUFALINO: That's all of the
10 questions that I have.

11 * * *

12 EXAMINATION

13 * * *

14 BY MS. POLLICK:

15 Q. Absolutely, with a hundred percent, you
16 know that all of the events of the day in question
17 that transpired over a three-hour period are not
18 contained in the short clip that we viewed,
19 correct?

20 MR. BUFALINO: Objection to the form.

21 THE WITNESS: Correct.

22 BY MS. POLLICK:

23 Q. And it's absolutely, a hundred percent,
24 without doubt, that there are missing pieces of the
25 tape just by the pausing of the images, correct?

JANE DOE

1 MR. BUFALINO: Objection. Calls for
2 speculation. Objection to form.

3 THE WITNESS: Correct. There are many
4 missing pieces throughout the day that were not
5 on the tape.

6 BY MS. POLLICK:
7 Q. Now, when you were in the shower and
8 you already washed your hair and your -- and the
9 door -- well, let me ask you this.

10 It appears that the guys are at the far
11 end of the entrance when you first go in. They
12 tell you to put a towel on in there and that they
13 could hand you things, and they start to laugh
14 about it, right?

15 A. Yes.

16 MR. BUFALINO: Objection to the form.

17 THE WITNESS: Yes.

18 BY MS. POLLICK:
19 Q. Then after you're already showered and
20 in a very compromising situation, one of the chiefs
21 actually opened up the door. Are you a hundred
22 percent there in a sense of knowing what is
23 actually happening to you because you're being
24 traumatized not only by having fleas on you and
25 having them on you for three hours, but having your

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JANE DOE

1 supervisors videotape, laugh at you, humiliate you?
2 Are you a hundred percent there to be cognizant of
3 all of your surroundings?

4 MR. BUFALINO: Objection to the form.
5 Counsel testifying. Move to strike.

6 THE WITNESS: No. I'm not a hundred
7 percent there. Like I already stated, most of
8 the time in the shower and the whole episode
9 with the shower, I had my eyes closed. I was
10 trying to keep them closed to the best of my
11 ability because the water -- the chemicals from
12 the shampoo was getting into my eyes and
13 burning.

14 BY MS. POLLICK:
15 Q. So your vision actually could be
16 blurred?

17 MR. BUFALINO: Objection to the form.

18 THE WITNESS: Absolutely. You could
19 tell I'm squinting in the video.

20 BY MS. POLLICK:
21 Q. And Ryan Foy could be all of the way
22 outside that door and zoom in on you and could take
23 your photos with the camcorder and you would have
24 no idea what he was doing, correct?

25 MR. BUFALINO: Objection. Calls for

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JANE DOE

1 speculation. No foundation.

2 THE WITNESS: Yes and yes.

3 BY MS. POLLICK:
4 Q. And your boss should not be even
5 remotely close to you when you're naked with a
6 sheet that they already know could be seen through,
7 correct?

8 MR. BUFALINO: Objection to the form.

9 THE WITNESS: Correct. I did not know
10 it was see-through.

11 BY MS. POLLICK:
12 Q. And plus what kind of man actually
13 would want to see his employee in a -- it's not
14 even a gown. It's not even cloth. You could tell
15 it's actually paper.

16 What kind of man, supervisor, or
17 employer would want to even be there? Most
18 employers that are good would be out the door and
19 not even remotely close to someone who is nude,
20 partially nude, correct?

21 MR. BUFALINO: Objection to the form.
22 Counsel testifying.

23 THE WITNESS: Correct. They're
24 disgusting pigs.

25 BY MS. POLLICK:

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JANE DOE

1 Q. He doesn't seem to have any problem
2 opening the door while you're in a compromising
3 situation, correct?

4 MR. BUFALINO: Objection to the form.

5 THE WITNESS: Correct.

6 BY MS. POLLICK:
7 Q. And they are two guys; there is a
8 difference, right?

9 A. Yes.

10 MR. BUFALINO: Objection to the form.

11 BY MS. POLLICK:
12 Q. Although you're in police work, which
13 there is not a lot of women in. I admire women who
14 actually have the stamina and strength to do it
15 because you're in a man's world -- a man's
16 profession. A lot of times women will
17 especially -- they will kind of take stuff that is
18 extremely upsetting to them but try to withstand it
19 just because of the trade that you love, but
20 sometimes unfortunately chose?

21 MR. BUFALINO: Objection to the form.
22 Counsel testifying.

23 THE WITNESS: Yes. They were my
24 superiors. I was afraid of them.

25 BY MS. POLLICK:

JANE DOE

1 Q. They actually -- before you even --
2 before your turn, so to speak, of being humiliated,
3 they knew that you could see through that paper
4 sheet that you're wearing in that still of the
5 video, correct?

6 MR. BUFALINO: Objection to the form.
7 Calls for speculation. Not in evidence.

8 BY MS. POLLICK:

9 Q. Correct?

10 A. Correct.

11 Q. And they had no problem doing that,
12 correct?

13 MR. BUFALINO: Objection to the form.
14 Calls for speculation. No foundation.

15 THE WITNESS: Correct.

16 BY MS. POLLICK:

17 Q. And there is no way for us to know,
18 with the exception of just the visual -- you could
19 see that there is different cuts and pastes, cuts
20 and pulls, whatever you want to call it, but there
21 is no real way to show all that was videotaped and
22 if they had deleted that evidence?

23 MR. BUFALINO: Objection to the form.
24 No foundation. Assumes facts not in evidence.

25 THE WITNESS: Correct.

JANE DOE

1 BY MS. POLLICK:

2 Q. You could answer the question.

3 A. I have no idea.

4 Q. And we could hear in the background at
5 some point someone saying, is all of this really
6 necessary, or something to that effect. Do you
7 recall hearing that?

8 A. Yes.

9 MR. BUFALINO: Objection to the form.

10 BY MS. POLLICK:

11 Q. So not only you, who is in a
12 compromising situation, who only wants the bugs off
13 of her and cleaned up, somebody else who is taking
14 this all in is saying, this isn't right?

15 A. Correct.

16 MR. BUFALINO: Objection to the form.

17 BY MS. POLLICK:

18 Q. And they wouldn't have been allowed to
19 do this if you were treated by a medical
20 professional, which they did not get for you,
21 correct?

22 MR. BUFALINO: Objection to the form.
23 Assumes facts not in evidence.

24 THE WITNESS: Correct.

25 BY MS. POLLICK:

JANE DOE

1 BY MS. POLLICK:

2 Q. And opposing counsel, who spent
3 probably more than an hour reviewing this video
4 again and again and again, has tormented you?

5 MR. BUFALINO: Objection to the form.
6 No foundation.

7 THE WITNESS: Yes.

8 BY MS. POLLICK:

9 Q. He has humiliated you once more in this
10 process?

11 A. Yes. I didn't need to see the tape 700
12 times.

13 Q. And they say things like -- something
14 about your ass. Like, what kind of supervisor
15 would say that?

16 MR. BUFALINO: Objection to the form.

17 BY MS. POLLICK:

18 Q. Can you tell me?

19 A. I don't know what he could have been
20 thinking. I don't understand why they would do
21 that to an employee.

22 Q. Why would you need to show nipple rings
23 for training purposes?

24 MR. BUFALINO: Objection to the form.
25 Speculation. No foundation.

JANE DOE

1 Q. Because no doctor would ever let
2 someone make humiliating comments about your body
3 in front of you and videotape while you were being
4 decontaminated for being infested with fleas?

5 MR. BUFALINO: Objection to form.

6 Calls for speculation. Assumes facts not in
7 evidence.

8 THE WITNESS: Correct.

9 BY MS. POLLICK:

10 Q. And although counsel, during this
11 little show-and-tell I'll call it, is trying to
12 make you feel bad and somehow convince you that you
13 consented to what they did, you did not. You never
14 once asked to be videotaped, correct?

15 MR. BUFALINO: Objection to the form.

16 Assumes facts not in evidence. Counsel
17 testifying.

18 THE WITNESS: Correct. I never
19 consented. I never signed anything. I would
20 never agree to that.

21 BY MS. POLLICK:

22 Q. Hearing even in the background them
23 saying, oh, she is really tattooed up, that's
24 humiliating, correct?

25 MR. BUFALINO: Objection to the form.

JANE DOE

JANE DOE

1 THE WITNESS: Correct.

2 BY MS. POLLICK:

3 Q. Although Ryan was holding the camera,
4 you may not have heard that because you don't know
5 where he was actually positioned. You thought that
6 part was not being videotaped. Are you a hundred
7 percent sure that they were videotaping at that
8 exact moment?

9 MR. BUFALINO: Objection to the form.
10 Assumes facts not in evidence. Counsel
11 testifying.

12 THE WITNESS: Correct. I was speaking
13 to Deputy Joyce and answering her questions. I
14 had no idea what was going on farther back in
15 that smaller room outside the shower area.

16 BY MS. POLLICK:

17 Q. And when people make fun of us in
18 general, we have a tendency to self-deprecate. Oh,
19 yeah, you have got a lot of roots today. If
20 someone said that and I said, yes, I do have roots
21 today, that is not uncommon to do that, to try to
22 just hold it all together until you can get away
23 from the situation?

24 MR. BUFALINO: Objection to the form.
25 Counsel testifying.

1 partner -- do you think that they would like to be
2 videotaped?

3 MR. BUFALINO: Objection to the form.
4 Calls for speculation. Assumes facts not in
5 evidence.

6 THE WITNESS: I would hope not.

7 MS. POLLICK: Nothing further.

8 I want to make sure my tape works for
9 tomorrow. I want this on the record.

10 I just got receipt of the copy of what
11 was shown today during the deposition. I want
12 to make sure that it works so that I could show
13 it tomorrow.

14 * * *

15 (Whereupon, a copy of Exhibit Number 2
16 was played.)

17 * * *

18 MS. POLLICK: I did a speed view so
19 that we could get out of here. It looks like
20 everything is on the videotape that was just
21 shown. I think that is everything I would need
22 at this point for tomorrow with the exception
23 of the outstanding discovery.

24 * * *

25 (Witness excused.)

JANE DOE

JANE DOE

1 BY MS. POLLICK:

2 Q. You can answer the question.

3 A. Correct.

4 Q. And it actually shows on the videotape
5 your partner moving his genitalia area in this
6 video?

7 MR. BUFALINO: Objection to the form.

8 THE WITNESS: Yes.

9 BY MS. POLLICK:

10 Q. Do you think that everyone knew that
11 they were being videotaped in that decontamination
12 shower area, or do you -- although I find it hard
13 for you to be able to tell me if you saw a red
14 light, which is an indicator to you that you're
15 being videotaped a lot of times -- do you know if
16 everybody in that room knew that Ryan Foy had the
17 video on and was recording everything?

18 MR. BUFALINO: Objection to form.
19 Compound question. Assumes facts not in
20 evidence. Counsel testifying.

21 THE WITNESS: I don't know who knew. I
22 didn't know that they were doing it.

23 BY MS. POLLICK:

24 Q. Do you think that either of those two
25 gentlemen who so willingly videotaped you and your

1 * * *

2 (Whereupon, the deposition was
3 adjourned at 3:34 p.m.)

4 * * *

JANE DOE
I N D E X
* * *

1
2
3 WITNESS: Jane Doe

4 QUESTIONED BY: PAGE
5 Mr. Bufalino 3, 173
6 Ms. Pollick 162, 200
7

8 E X H I B I T S

9 * * *

10	NUMBER	DESCRIPTION	MARKED FOR ID
11	Exhibit 1	Amended Complaint	132
12	Exhibit 2	Video recording on disk	173
13			

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JANE DOE
C E R T I F I C A T E

1
2
3 I, Ashlee J. Boyle, Court Reporter and
4 Notary Public in and for the Commonwealth of
5 Pennsylvania, certify that the foregoing is a true
6 and accurate transcript of the deposition of said
7 witness, who was first duly sworn by me on the date
8 and place hereinbefore set forth.

9
10 I further certify that I am neither
11 attorney nor counsel for, nor related to or
12 employed by, any of the parties to the action in
13 which this deposition was taken, and further, that
14 I am not a relative or employee of any attorney or
15 counsel employed in this action, nor am I
16 financially interested in this case.

17
18
19
20
21

22 _____
Ashlee J. Boyle, Court Reporter
Notary Public

23
24
25

JANE DOE

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

* * *

JANE DOE, : CIVIL ACTION
Plaintiff :
vs :
LUZERNE COUNTY and :
RYAN FOY, :
Defendants : NO. 3:08-CV-1155

* * *

Videotaped deposition of ARTHUR BOBBOUINE,
taken at The Employment Law Firm, 363 Laurel
Street, Pittston, Pennsylvania 18640, on Thursday,
July 9, 2009, beginning at 2:46 p.m. before Ashlee
J. Boyle, Court Reporter and Notary Public in and
for the Commonwealth of Pennsylvania.

* * *

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ARTHUR BOBBOUINE

* * *

1
2 THE VIDEOGRAPHER: Good afternoon. My
3 name is Malissa Dexter. My employer is
4 Attorney Cynthia Pollick. The address here is
5 363 Laurel Street, Pittston, PA 18640 where
6 this deposition is taking place.

7 It is Thursday, July 9th, 2009, 2:46 in
8 the afternoon. This is the case of Jane Doe
9 versus Luzerne County and Ryan Foy. This is
10 the deposition of Art Bobbouine.

* * *

ARTHUR BOBBOUINE,

11
12 having been first duly sworn, was
13 examined and testified as follows:

* * *

EXAMINATION

* * *

14
15
16
17 BY MS. POLLICK:

18 Q. Mr. Bobbouine -- and obviously we all
19 know that I'm going to get the name wrong, that is
20 commonplace for me. I'm going to actually call you
21 Chief just because it will be easier for me. I
22 know that you are no longer a chief, but I'm just
23 going to do it because it is much easier for me.
24

25 MR. BUFALINO: Why don't you just call

A P P E A R A N C E S:

CYNTHIA L. POLLICK, ESQUIRE
THE EMPLOYMENT LAW FIRM
363 Laurel Street
Pittston, Pennsylvania 18640

-- Representing the Plaintiff

MARK W. BUFALINO, ESQUIRE
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39 Public Square
Suite 1000
Wilkes-Barre, Pennsylvania 18702

-- Representing the Defendants

* * *

A L S O P R E S E N T:

Malissa Dexter, Videographer

ARTHUR BOBBOUINE

1 him Arthur?

2 THE WITNESS: Yeah, whatever you want.

3 BY MS. POLLICK:

4 Q. I like Chief.

5 A. I do too.

6 Q. So Chief, my name is Attorney Cynthia
7 Pollick. You are the last of our depositions
8 today, so bear with me because I'm probably tired,
9 which we probably all are. We'll try to get
10 through this as quickly and as painlessly as
11 possible.

12 Have you ever been deposed before?

13 A. No.

14 Q. Okay. A deposition is -- have you ever
15 given sworn testimony in court? It is very
16 similar. I ask the question, you have to answer
17 them. Your counsel will place objections on the
18 record. Unless he instructs you not to answer, you
19 have to answer all of my questions, okay?

20 A. Uh-huh.

21 Q. And you have to give me a verbal --

22 A. Yes.

23 Q. Yeah, thank you. A verbal response
24 along with any hand motions or whatnot is fine with
25 me.

ARTHUR BOBBOUINE

1 Is there any reason why you cannot give
2 truthful and honest answers here today?

3 A. No.

4 Q. Are you under the care -- under any
5 type of medication that would make it difficult for
6 you to give truthful and honest answers here today?

7 A. No.

8 Q. Have you had anything to drink in the
9 last 24 hours?

10 A. No.

11 MR. BUFALINO: Alcohol I assume you
12 mean?

13 MS. POLLICK: Yes.

14 BY MS. POLLICK:

15 Q. Now, did you talk with anyone in
16 preparation for your deposition today excluding
17 your counsel?

18 A. No.

19 Q. Did you review any material in
20 preparation for your deposition today?

21 A. No.

22 Q. What is your address?

23 A. [REDACTED]
[REDACTED]
[REDACTED]

ARTHUR BOBBOUINE

1 Q. Now, would you want to be photographed
2 nude?

3 MR. BUFALINO: Objection to the form.
4 Relevance.
5 You can answer.

6 THE WITNESS: I don't know.
7 It depends on the situation I guess.

8 BY MS. POLLICK:

9 Q. Would you want to be recorded -- video
10 recorded partly clothed at the worksite?

11 MR. BUFALINO: Objection to the form.
12 Relevance.
13 You can answer it.

14 THE WITNESS: I guess it would depend
15 on the situation.

16 BY MS. POLLICK:

17 Q. What situation would it depend on?

18 A. If it was for training. I don't know
19 what the situation would be.

20 Q. So you think it is appropriate to be
21 nude or partially nude to be videotaped at the
22 worksite when it is for training?

23 MR. BUFALINO: Objection.

24 THE WITNESS: I would probably say not
25 nude, but partially nude. I don't know what

ARTHUR BOBBOUINE

1 you would consider partially nude, if I was
2 wearing underwear, you know.

3 BY MS. POLLICK:

4 Q. How about your bare bum, do you think
5 that is appropriate to be videotaped at the
6 worksite?

7 MR. BUFALINO: Same objection.

8 THE WITNESS: Again, it would depend on
9 the situation.

10 BY MS. POLLICK:

11 Q. What training situation would you need
12 your bare bum to be videotaped?

13 A. None that I could think of.

14 Q. Would you want to be photographed with
15 a -- I call them protectors on the chairs when you
16 go into the doctor's office. It is a white sheet
17 of paper. Would you want to be photographed with
18 only that type of covering over your genitalia
19 area?

20 MR. BUFALINO: Same objection.

21 THE WITNESS: I don't know.

22 BY MS. POLLICK:

23 Q. You don't know?

24 A. It would certainly depend on the
25 situation.

ARTHUR BOBBOUINE

1 Q. And you think there is a situation that
2 training would provide a purpose for that type of
3 photograph?

4 A. Not that I could think of right now.

5 Q. Do you think it would be a little
6 embarrassing or maybe humiliating to be videotaped
7 in that type of situation with only a sheet of
8 cover -- a piece of paper that I was describing
9 like the chairs that the doctor's office has? Do
10 you think that would be embarrassing if it was in
11 connection with a work situation and you were
12 videotaped?

13 MR. BUFALINO: Objection to the form.
14 Relevance.

15 Misstates the testimony of record.
16 You could answer.

17 THE WITNESS: It might.

18 BY MS. POLLICK:

19 Q. Are you married?

20 A. Yes.

21 Q. What is your wife's name?

22 A. Trish -- Patricia.

23 Q. What does she do for a living?

24 A. She is a secretary.

25 Q. For whom?

ARTHUR BOBBOUINE

ARTHUR BOBBOUINE

1 A. Wilkes-Barre Area School District.
 2 Q. Would you want your boss's wife -- I
 3 mean your wife's boss to photograph her with only
 4 that sheet of protective covering around her?
 5 MR. BUFALINO: Objection to relevance.
 6 Objection to the form.
 7 THE WITNESS: No.
 8 BY MR. BUFALINO:
 9 Q. Do you have any children?
 10 A. Uh-huh.
 11 Q. How many kids?
 12 A. One.
 13 Q. And how old?
 14 A. Two years and four or five months --
 15 almost two and half.
 16 Q. Girl or boy?
 17 A. Boy.
 18 Q. Who are you employed with right now?
 19 A. Allied Medical and Technical Institute.
 20 Q. And what are you doing there?
 21 A. Teaching.
 22 Q. And what are you teaching?
 23 A. Criminal justice and paralegals.
 24 Q. How did you get that job?
 25 A. Applied for it.

1 And I was hired as chief deputy in -- I think it
 2 was 2005.
 3 Q. And where -- did you replace someone?
 4 A. Yeah.
 5 Q. And who did you replace?
 6 A. George Kamage.
 7 Q. And why -- what happened to him?
 8 A. He was terminated.
 9 Q. And why was he terminated?
 10 A. Sheriff fired him.
 11 Q. And Barry Stankus fired him?
 12 A. Uh-huh.
 13 MR. BUFALINO: Is that a yes?
 14 THE WITNESS: Yes.
 15 BY MS. POLLICK:
 16 Q. Did he sue for his job or anything like
 17 that?
 18 A. No.
 19 * * *
 20 (Whereupon, a discussion was held off
 21 the record.)
 22 * * *
 23 THE VIDEOGRAPHER: Doe versus Luzerne,
 24 deposition of Bobbouine, tape six.
 25 * * *

ARTHUR BOBBOUINE

ARTHUR BOBBOUINE

1 Q. And where did you find that it was
 2 available?
 3 A. I think it was The Citizens' Voice,
 4 maybe The Times Leader. I don't know.
 5 Q. So you applied to a want ad?
 6 A. Yes.
 7 Q. And how long have you been doing that?
 8 A. I think it is a year and maybe two
 9 weeks.
 10 Q. Now, do you teach police officers, or
 11 is it --
 12 A. It's criminal justice. Not police,
 13 just regular criminal justice courses.
 14 Q. Now, what was your -- what was the job
 15 before that?
 16 A. I worked for the sheriff's department.
 17 Q. How long did you work for them?
 18 A. Seven and a half years almost.
 19 Q. And when did you become -- if you could
 20 tell me the progression from what job you started
 21 with and how you ended up as chief.
 22 A. I started as a part-time deputy
 23 in 2001. I was hired full-time in 2003 maybe. I
 24 don't remember exactly offhand. I think it
 25 was 2003. I think I was part-time for 18 months.

1 MR. BUFALINO: I thought Bufalino was
 2 hard.
 3 MS. POLLICK: Oh, that's an easy one.
 4 BY MS. POLLICK:
 5 Q. What did you do as chief deputy?
 6 A. Everything.
 7 Q. Okay.
 8 A. Just about every job in the sheriff's
 9 office.
 10 Q. What was your major duties?
 11 A. Scheduling.
 12 Q. Okay.
 13 A. Time off for everybody -- handling
 14 everybody's time off, just to make sure that
 15 everybody was scheduled where they were supposed to
 16 be; some disciplinary issues, whatever the sheriff
 17 told me to do.
 18 Q. How did you get that chief deputy
 19 position?
 20 A. The sheriff asked me to be chief
 21 deputy.
 22 Q. And at the time in 2005, who was the
 23 other person that was -- what were the other -- if
 24 you could tell me, you have the sheriff, and then
 25 who is under the sheriff?

ARTHUR BOBBUINE

1 A. The chief.
 2 Q. And then who is next?
 3 A. In 2005, no one.
 4 Q. Okay. And then what happened?
 5 A. At that time -- I don't remember
 6 when -- it might have been in 2005 later on in the
 7 year. I'm not sure. Sheriff went to the salary
 8 board and created a position of real estate deputy.
 9 Q. Okay.
 10 A. And according to the third class county
 11 code, the real estate deputy is similar to the
 12 chief deputy. He handles all of the real estate
 13 stuff and could help out and manage it I guess.
 14 Q. Now, who filled that position?
 15 A. Ryan Foy.
 16 Q. And did you have any involvement in him
 17 filling that position?
 18 A. No.
 19 Q. Who placed him in that position?
 20 A. The sheriff.
 21 Q. Were you friends with Ryan at that
 22 time?
 23 A. I worked with him for a few years.
 24 Q. Did you hang out outside of work?
 25 A. No.

ARTHUR BOBBUINE

1 Q. What did they refer to Ryan as? Did
 2 they refer to him as Chief?
 3 A. The other deputies in the office?
 4 Q. Yeah.
 5 A. No.
 6 Q. Was he ever referred to as chief?
 7 A. No.
 8 Q. He has testified that some people have
 9 referred to him as chief.
 10 A. Well, he had the title of a deputy
 11 chief or assistant chief, but I don't remember many
 12 people calling him that. I don't think I remember
 13 anybody calling him that.
 14 Q. You never recall anybody calling him
 15 chief?
 16 A. No.
 17 Q. Did you guys work hand-in-hand?
 18 A. On occasion.
 19 Q. Did you have meetings with
 20 Barry Stankus, the three of you?
 21 A. On occasion.
 22 Q. Anyone else involved in the meetings
 23 that you had?
 24 A. Depends on what the meeting was for,
 25 yes.

ARTHUR BOBBUINE

1 Q. Did he have supervisory duties?
 2 MR. BUFALINO: Objection to the form.
 3 It called for a legal conclusion.
 4 THE WITNESS: He was in charge of the
 5 real estate division.
 6 BY MS. POLLICK:
 7 Q. Were you in charge of a specific
 8 division?
 9 A. No.
 10 Q. Okay. Did he give orders to everybody
 11 who was in the reel estate department?
 12 A. Uh-huh.
 13 MR. BUFALINO: Is that a yes?
 14 THE WITNESS: Yes.
 15 MR. BUFALINO: That is my way of
 16 reminding you that you have to be verbal.
 17 THE WITNESS: I should know that.
 18 BY MS. POLLICK:
 19 Q. Now, how did it come about that you
 20 were going to videotape on September 27th, 2007?
 21 A. How did it come about?
 22 Q. How did it come about.
 23 A. I don't remember.
 24 Q. You don't remember.
 25 Did Sheriff Stankus order you to

ARTHUR BOBBUINE

1 videotape?
 2 A. Me? No.
 3 Q. Did he order Ryan Foy to -- were you
 4 around --
 5 A. Not that I'm aware of.
 6 MR. BUFALINO: Let her finish the
 7 question.
 8 She is going to be asking questions.
 9 You're going to have to give answers. It is
 10 going to be impossible for this young lady to
 11 do her job if you're both talking at the same
 12 time.
 13 BY MS. POLLICK:
 14 Q. So at no time did Sheriff Stankus order
 15 you to videotape on the day in question, correct?
 16 A. Correct.
 17 Q. And you don't remember how the
 18 videocamera came into play?
 19 A. No.
 20 Q. When did you first realize that the
 21 events were being videotaped?
 22 A. Probably -- I think it was at the EMA
 23 building.
 24 Q. Did you have any discussions with Ryan
 25 Foy on him -- like, did you direct him, videotape

ARTHUR BOBBOUINE

1 this for training?
2 A. I didn't direct him, no.
3 Q. Did you relay a message from Sheriff
4 Stankus to videotape the day in question?
5 A. Not that I remember, no.
6 Q. Where was the videocamera kept, do you
7 know?
8 A. Not in my office. I don't know.
9 Q. How do you know that -- how do you
10 first see Ryan holding up the videocamera? When do
11 you first see it?
12 A. Well, he had it in the car.
13 Q. Did you ask, why are you bringing that?
14 A. No.
15 Q. When he started recording, do you ask
16 him, what are you doing?
17 A. No.
18 Q. So you just witnessed him recording.
19 You had no involvement in directing him to
20 videotape?
21 MR. BUFALINO: Objection.
22 Asked and answered.
23 THE WITNESS: No.
24 BY MS. POLLICK:
25 Q. You directed him to videotape?

ARTHUR BOBBOUINE

1 A. No.
2 Q. Was there any communication from you
3 telling Ryan Foy that you should -- you must
4 videotape this because this is going to be for
5 training purposes?
6 A. No, not that I remember. Like I said,
7 I don't remember saying anything about it.
8 Q. Okay. So from your recollection, he
9 did it on his own?
10 MR. BUFALINO: Objection.
11 Asked and answered.
12 THE WITNESS: Yeah.
13 BY MS. POLLICK:
14 Q. Okay. Did you know that he was
15 recording the entire time that this incident was
16 unfolding?
17 MR. BUFALINO: Objection.
18 Misstates the testimony.
19 You could answer.
20 THE WITNESS: Could you repeat that?
21 I'm sorry.
22 MS. POLLICK: I don't know.
23 * * *
24 (Whereupon, the court reporter read
25 from the record.)

ARTHUR BOBBOUINE

1 * * *
2 THE WITNESS: What do you mean "the
3 entire time"?
4 BY MS. POLLICK:
5 Q. Like, did you see him -- did you know
6 what times he was recording, what times he wasn't
7 recording?
8 A. I guess when I was there if the camera
9 was up I would know he was recording.
10 Q. Did it have a red button? Is that how
11 you knew it was being recorded?
12 A. I don't know if it did.
13 Q. Whenever you saw him have it --
14 A. If I saw him with the camera up, I
15 would assume that he was recording.
16 Q. Did you ever direct him to stop
17 recording?
18 A. Not that I remember.
19 Q. Now, have you ever seen the video that
20 was taken on the day in question?
21 A. Pieces of it I would say -- that day.
22 Q. That day? And when did you see pieces
23 of it?
24 A. Later on that day.
25 Q. Okay. When did you -- where were you

ARTHUR BOBBOUINE

1 when you saw it?
2 A. In Ryan's office.
3 Q. And at the time that you saw it, was
4 anyone else present in the room?
5 A. Yeah.
6 Q. Okay. And who was present?
7 A. There were other people. I don't
8 remember. I know there were other people.
9 Q. Other people were there, but you can't
10 recall specifically?
11 A. Who specifically. I would be lying if
12 I said a name because I don't remember.
13 Q. That's a hundred percent okay.
14 Is that the only time that you viewed
15 bits of the video?
16 A. Yes.
17 Q. And do you recall the bits that you
18 reviewed or that were shown?
19 A. Uh-huh.
20 MR. BUFALINO: Is that a yes?
21 THE WITNESS: Yes.
22 BY MS. POLLICK:
23 Q. What bits did you show -- or what
24 did -- I should say Ryan show?
25 A. I remember seeing Ryan -- not Ryan --

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1 Jen and Brian sitting in the car. Then there was
2 them running into the hospital one at a time. I
3 probably saw them at the EMA too. I don't remember
4 because we were sitting in the car. Brian was
5 getting decontaminated.

6 Q. Anything else?

7 A. No -- well, then at the end sitting in
8 the back of the Expedition with their scrubs on
9 laughing.

10 Q. Anything else?

11 A. No.

12 Q. Now, Brian decontaminating his -- are
13 you talking about the picture of his nude bum?

14 A. Yes.

15 Q. Did you have any control over Ryan
16 showing this to other people?

17 MR. BUFALINO: Objection.

18 Assumes facts not in evidence.

19 THE WITNESS: No.

20 BY MS. POLLICK:

21 Q. That was no?

22 A. No.

23 Q. Did Sheriff Stankus ever tell you or
24 Ryan, you know, don't be showing that video?

25 MR. BUFALINO: Objection to the form.

ARTHUR BOBBOUINE

1 Assumes fact not in evidence.

2 BY MS. POLLICK:

3 Q. Did Sheriff Stankus ever say that you
4 should not show that video to anybody?

5 A. To me? No.

6 Q. Did anyone make any comments to you
7 about what they saw that Ryan was showing on the
8 day in question -- at the day in question?

9 MR. BUFALINO: Objection to the form.

10 Assumes facts not in evidence.

11 BY MS. POLLICK:

12 Q. If you don't understand the question --

13 A. Yeah, I don't understand it.

14 Q. I don't even know if I told you this.
15 I ask confusing questions. When I do, you tell me
16 to please rephrase it. I'll rephrase it until you
17 can understand my language.

18 Did -- are you aware that it was only
19 that day that Ryan was showing that video, or do
20 you have any knowledge of him showing it at any
21 other times?

22 A. I have no knowledge.

23 Q. You only have knowledge because you
24 were actually in the room at that time when he was
25 showing it to you and there was other people but

ARTHUR BOBBOUINE

1 you don't know who?

2 A. Right.

3 Q. Okay. Now, do you know why the
4 videotape was made?

5 A. At the time, no.

6 Q. Did you do anything with the
7 videotape -- did it ever come into your possession
8 at all?

9 A. No.

10 Q. Did you download it on to a computer or
11 laptop or anything like that?

12 A. No.

13 Q. The only person that downloaded or
14 transferred the camcorder file to the computer was
15 Ryan Foy?

16 MR. BUFALINO: Objection to the form.

17 THE WITNESS: I have no idea.

18 BY MS. POLLICK:

19 Q. Fair enough. The only -- all you know
20 is that Ryan had -- do you know that Ryan
21 downloaded it to his government computer?

22 A. I don't know who did it, but it was on
23 his computer. That's where I viewed it.

24 Q. It was under the name of "Brian's Ass"?

25 A. That I don't remember.

ARTHUR BOBBOUINE

1 Q. You never saw the file "Brian's Ass"?

2 A. No.

3 Q. Did you see stills, or did you see
4 actual video footage?

5 A. I believe it was actual video.

6 Q. From the time that you were at the EMA
7 until the time that you came back to the office,
8 what time had transpired, do you know?

9 A. It was quite a while.

10 Q. Several hours?

11 A. Probably.

12 Q. How long had Ryan been videotaping?

13 MR. BUFALINO: Objection.

14 Asked and answered.

15 THE WITNESS: I have no idea.

16 BY MS. POLLICK:

17 Q. When you saw the video footage of
18 Brian's butt, were you shocked that that was
19 actually videoed [sic]?

20 A. No.

21 MR. BUFALINO: Objection.

22 Relevance.

23 BY MS. POLLICK:

24 Q. And why not?

25 MR. BUFALINO: Same objection.

ARTHUR BOBBOUINE

1 THE WITNESS: I don't know. I wasn't
 2 shocked. I was there.
 3 BY MS. POLLICK:
 4 Q. You were there, but were you shocked
 5 that that portion of the day was actually recorded
 6 on a videocamera?
 7 A. No.
 8 Q. And why not?
 9 MR. BUFALINO: Objection.
 10 Relevance.
 11 THE WITNESS: I don't know.
 12 Brian knew it was happening.
 13 BY MS. POLLICK:
 14 Q. Okay. But how could he know when he is
 15 not facing the shower? Did you all say, we're
 16 going to videotape this now?
 17 MR. BUFALINO: Objection.
 18 It calls for speculation.
 19 THE WITNESS: I have no idea.
 20 I can't remember.
 21 BY MS. POLLICK:
 22 Q. Now, to me it is -- I was in human
 23 resources before I became a lawyer. It is very
 24 alarming that someone would tape -- videotape
 25 someone partially nude at the worksite or at a

ARTHUR BOBBOUINE

1 medical facility. It's extremely alarming to me.
 2 I want to know why that wasn't alarming to you that
 3 you are actually videotaping a worker in that
 4 compromising situation.
 5 MR. BUFALINO: Objection to the
 6 testimony from counsel.
 7 Also objection to the form of the
 8 question.
 9 It assumes facts not in evidence.
 10 THE WITNESS: I don't know.
 11 BY MS. POLLICK:
 12 Q. You don't know?
 13 A. I don't remember.
 14 Q. Would you want to be videotaped in a
 15 compromising situation while you were at work
 16 partially clothed?
 17 MR. BUFALINO: Objection to the form.
 18 Assumes facts not in evidence.
 19 Not relevant.
 20 THE WITNESS: Like I said before, it
 21 depends I guess what was going on.
 22 BY MS. POLLICK:
 23 Q. These two deputies had no choice that
 24 they were contaminated with fleas, right?
 25 A. Uh-huh.

ARTHUR BOBBOUINE

1 MR. BUFALINO: Is that a yes?
 2 THE WITNESS: Yes.
 3 BY MS. POLLICK:
 4 Q. And the sheriff's department was trying
 5 to get them decontaminated, correct?
 6 A. Yes.
 7 Q. So they had no choice that they had
 8 fleas all over them and they had to go for a
 9 showering, correct?
 10 MR. BUFALINO: Objection to the form.
 11 Assumes facts not in evidence.
 12 Not relevant.
 13 You could answer if you want.
 14 THE WITNESS: I would assume.
 15 BY MS. POLLICK:
 16 Q. Because the male deputy didn't say
 17 don't tape me, you're saying that he agreed to be
 18 filmed?
 19 A. I would say that he knew it was
 20 happening.
 21 Q. Okay. He knew it was happening, but
 22 isn't that different than me saying, you know, go
 23 ahead, Chief, you could film me?
 24 MR. BUFALINO: Objection to the form.
 25 Relevance.

ARTHUR BOBBOUINE

1 This case is about Jane Doe, not about
 2 Mr. Szumski.
 3 THE WITNESS: I don't know.
 4 BY MS. POLLICK:
 5 Q. So you don't see a difference -- or you
 6 don't know if there is a difference between a
 7 worker saying, go ahead, Chief, videotape me,
 8 versus you just holding out a camera and taking
 9 whatever you want to take off of me [sic]?
 10 MR. BUFALINO: Objection to the form.
 11 Calls for a conclusion.
 12 THE WITNESS: I think if you know what
 13 is going on and don't say no that you're
 14 agreeing to it.
 15 BY MS. POLLICK:
 16 Q. So if someone is raped, if you don't
 17 say no, you're not raped?
 18 MR. BUFALINO: Objection to the form.
 19 Calls for a legal conclusion.
 20 Not relevant.
 21 MS. POLLICK: I'm asking a fair
 22 question.
 23 MR. BUFALINO: No. It's not a fair
 24 question, but you could ask it.
 25 BY MS. POLLICK:

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1 Q. You can answer the question.

2 A. I think they are totally different

3 situations.

4 Q. At any time, did the female deputy tell

5 you that I do not want to be recorded?

6 A. No.

7 Q. Did she tell you -- why would you be

8 making a comment to her that, oh, we're not going

9 to videotape you in the shower? Why would you make

10 that comment if she had not said something, can you

11 tell me that?

12 A. I don't recall making that statement.

13 Q. Do you recall any statement being made

14 about we're not going to videotape you in the

15 shower?

16 A. Not that I remember.

17 Q. And you think that just because someone

18 doesn't say no, you can videotape them when they

19 are partially nude?

20 MR. BUFALINO: Objection to the form.

21 Calls for a conclusion.

22 THE WITNESS: No.

23 BY MS. POLLICK:

24 Q. Now, did you get any type of consent

25 form signed by either of these two deputies before

ARTHUR BOBBOUINE

1 you started to videotape them, before they started

2 to de-clothe?

3 A. No.

4 Q. Why not?

5 A. I don't know.

6 Q. Did you ever get consent put on the

7 record during the videotaping of the two deputies

8 in question?

9 A. No.

10 Q. Can you explain to me why people are

11 laughing during the whole -- during almost the

12 entire footage that we have of the situation?

13 MR. BUFALINO: Objection to the form.

14 Misstates the evidence and testimony of

15 record.

16 You could answer.

17 THE WITNESS: I don't remember.

18 BY MS. POLLICK:

19 Q. When is the last time that you saw it?

20 A. That day.

21 Q. You have never seen it since?

22 A. No.

23 Q. Now, who can access it if it is on Ryan

24 Foy's computer? If he puts it on the actual

25 computer, who can access his computer and look at

ARTHUR BOBBOUINE

1 those photos and video?

2 A. I have no idea.

3 Q. Did you have a policy at the sheriff's

4 office that said that you should not be taping

5 people without their consent?

6 MR. BUFALINO: Objection to the form of

7 the question.

8 It assumes facts not in evidence.

9 You can answer.

10 THE WITNESS: I don't remember.

11 BY MS. POLLICK:

12 Q. Did you have a policy at the sheriff's

13 office that said that before you tape someone

14 partially clothed or nude, you better make sure

15 that you have their consent in writing or on the

16 videotape?

17 A. No.

18 Q. Did you -- when you were viewing parts

19 of the video, were you laughing? What was your

20 view of the -- of when you saw what was unfolding

21 that Ryan was showing you?

22 MR. BUFALINO: Objection to the form.

23 Relevance.

24 You could answer.

25 THE WITNESS: I don't remember.

ARTHUR BOBBOUINE

1 BY MS. POLLICK:

2 Q. Can you tell me why Ryan Foy put the

3 video on his actual government computer?

4 A. I don't know why he did that.

5 Q. Did you ask him to do that?

6 A. No.

7 Q. Did you ever hear Sheriff Stankus ask

8 him to do that?

9 A. Did I hear him? No.

10 Q. Were you there at all times when -- did

11 you hear everything that Ryan Foy was saying when

12 he was videotaping?

13 A. No.

14 Q. Did you hear everything that the female

15 deputy was saying while Ryan Foy was videotaping

16 her?

17 A. No.

18 Q. Do you think -- do you think the

19 government has the right to come into a medical

20 facility and film you in a compromising position?

21 MR. BUFALINO: Objection to the form.

22 Misstates the testimony of record.

23 Calls for a conclusion.

24 Speculation.

25 You could answer.

ARTHUR BOBBOUINE

1 THE WITNESS: I don't know.
 2 BY MS. POLLICK:
 3 Q. Do you think an employer has a right to
 4 come into a medical facility when you're partially
 5 clothed and record you in a compromising,
 6 embarrassing situation?
 7 MR. BUFALINO: Objection to the form.
 8 Calls for speculation.
 9 Calls for a legal conclusion.
 10 You can answer.
 11 THE WITNESS: I don't know.
 12 BY MS. POLLICK:
 13 Q. Did you ever see any still photos of
 14 the video?
 15 A. I don't know. I don't remember.
 16 Q. Was there ever any posting of Brian's
 17 back nude on video? Was there ever any posting of
 18 that?
 19 MR. BUFALINO: Objection.
 20 Relevance.
 21 THE WITNESS: There may have been.
 22 BY MS. POLLICK:
 23 Q. And where would that may have been?
 24 MR. BUFALINO: Same objection.
 25 Relevance.

ARTHUR BOBBOUINE

1 THE WITNESS: I don't remember.
 2 BY MS. POLLICK:
 3 Q. Do you think that the government has
 4 the right to videotape you when you're infested
 5 with fleas?
 6 MR. BUFALINO: Objection to the form of
 7 the question.
 8 Calls for a legal conclusion.
 9 Speculation.
 10 THE WITNESS: It depends, I guess.
 11 BY MS. POLLICK:
 12 Q. And what would it depend on?
 13 A. The reason why you were infested with
 14 fleas.
 15 Q. Okay. Well, if it was not due to any
 16 fault of you, you were just doing your job and you
 17 got infested with fleas, do you think that the
 18 government has the right to videotape you with
 19 buggies all over biting you?
 20 MR. BUFALINO: Objection.
 21 Relevance.
 22 THE WITNESS: It depends.
 23 BY MS. POLLICK:
 24 Q. And what does it depend on?
 25 A. Why you're doing it.

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1 Q. You told me that you have no idea why
 2 it was done on the day in question, correct?
 3 MR. BUFALINO: Objection.
 4 Misstates the testimony.
 5 You could answer the question, sir.
 6 THE WITNESS: I said at the time I
 7 didn't know it was --
 8 BY MS. POLLICK:
 9 Q. Yeah. So at the time it was being
 10 videotaped, you did not know the purpose of it,
 11 correct?
 12 A. I believe so, right. I believe you're
 13 correct.
 14 Q. When did you find out that there was a
 15 purpose for this videotaping?
 16 A. Sometime that day.
 17 Q. And when did you find that out?
 18 A. Ryan told me.
 19 Q. And what did Ryan say?
 20 A. I believe that he said something like,
 21 we're going to use it for training.
 22 Q. And when did he tell you that?
 23 A. I don't remember, at some point during
 24 the day.
 25 Q. Was it after it was already done? When

ARTHUR BOBBOUINE

1 did he say that?
 2 A. I don't remember.
 3 Q. So it is your testimony here today that
 4 you had absolutely no involvement in the
 5 videotaping of the two deputies in question?
 6 MR. BUFALINO: Objection.
 7 Asked and answered.
 8 THE WITNESS: Right.
 9 BY MS. POLLICK:
 10 Q. Do you think that your boss has the
 11 right to come into a medical examination room and
 12 view your private body partially unclothed?
 13 MR. BUFALINO: Objection.
 14 Asked and answered.
 15 Calls for speculation.
 16 Objection to the form.
 17 Not relevant.
 18 THE WITNESS: It depends, like I said.
 19 BY MS. POLLICK:
 20 Q. Well, if something is saved under
 21 "Brian's Ass," that is the file. There has been
 22 already testimony. Brian [sic] has already
 23 admitted that that is what it was labeled. How
 24 could that be training if it is labeled under
 25 "Brian's Ass," could you explain that to me?

ARTHUR BOBBOUINE

1 MR. BUFALINO: Objection to the form of
2 the question.

3 Argumentative.

4 Misstates the testimony and evidence of
5 record.

6 THE WITNESS: I don't know. I didn't
7 know that is what it was named.

8 BY MS. POLLICK:

9 Q. Did he tell you any further what was
10 going to be -- how it was going to be used for
11 training purposes?

12 A. I don't believe that we discussed that
13 afterwards.

14 Q. Can you tell me how -- if there is all
15 this laughter and commenting on someone's ass,
16 tattoos, tan lines, how would that ever be used for
17 training purposes?

18 MR. BUFALINO: Objection to the form of
19 the question.

20 Argumentative.

21 Calls for speculation.

22 THE WITNESS: I don't know.

23 BY MS. POLLICK:

24 Q. Do you remember making any derogatory
25 comments during the videotaping of this day in

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ARTHUR BOBBOUINE

1 question?

2 A. Not that I remember.

3 Q. Do you remember what you said at all?

4 A. No.

5 Q. Do you recall if Ryan Foy ever said
6 anything that was degrading?

7 A. I don't remember.

8 Q. Did you have any conversation with
9 Sheriff Stankus about this videotape?

10 A. I may have.

11 Q. What do you recall sitting here today?

12 A. I don't remember. I couldn't tell you.

13 Q. But you're certain that he didn't ask
14 you to videotape, correct?

15 MR. BUFALINO: Objection.

16 Asked and answered.

17 THE WITNESS: Not that I remember.

18 BY MS. POLLICK:

19 Q. So it is possible that he did tell you
20 to videotape, is that what your testimony is?

21 A. I don't remember him telling me that.

22 Q. Okay. Do you remember -- did you ever
23 have any conversations since you -- after you
24 viewed the videotape in Ryan Foy's office, did you
25 have any discussions with Sheriff Stankus

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ARTHUR BOBBOUINE

1 thereafter?

2 A. I might have. I don't remember.

3 Q. Did viewing the video ever in your eyes
4 raise a red flag, like, that shouldn't have been
5 recorded, that being outside in the public is
6 completely different than being partially clothed
7 in a medical decontamination area?

8 MR. BUFALINO: Objection to the form of
9 the question.

10 THE WITNESS: Not that I remember.

11 BY MS. POLLICK:

12 Q. Are you trained at all on sexual
13 harassment, or were you I should say?

14 A. I believe we had a class in the
15 academy.

16 Q. Okay. But not at the academy, how
17 about at Sheriff Stankus'? Did he ever put any
18 type of sexual harassment training on for you guys?

19 MR. BUFALINO: Objection.

20 Relevance.

21 You could answer.

22 THE WITNESS: Not that I remember.

23 BY MS. POLLICK:

24 Q. Did he ever tell you that you should
25 not videotape people when they are partially

40

ARTHUR BOBBOUINE

1 nude -- your fellow workers -- your subordinates,
2 that you should not be videotaping them?

3 A. Not that I remember.

4 Q. And did you ever get any training that
5 workers have a right to privacy at certain times?

6 A. Not that I remember, not specifically.

7 Q. What do you recall about the day in
8 question? Tell me everything that you remember.

9 A. I remember getting a call that the
10 deputies had fleas. We had to send one deputy to
11 go buy stuff to get the bugs off, the
12 decontamination shampoo or whatever it was.

13 There was a few of us that went up to
14 the EMA, which is where they were going to first do
15 the decontamination. There was some problem with
16 why they couldn't do it there. Then they called --
17 I don't know the name of the hospital, I think it
18 is Geisinger South, but I don't remember what it
19 was at the time -- to see if we could use one of
20 their rooms. Then we went down there and we had to
21 clean out the room because it was all full of
22 medical equipment and everything. Then the
23 deputies one at a time went in and got cleaned up.
24 I went and got them scrubs from the hospital. Then
25 when we were done, we went back to the office.

ARTHUR BOBBOUINE

1 Q. Did the deputies finish out their day's
2 work that day, the two in question?

3 MR. BUFALINO: Objection.

4 That misstates -- there aren't two in
5 question. There is one in question.

6 You can answer it, if you know.

7 THE WITNESS: I don't remember.

8 BY MS. POLLICK:

9 Q. Do you remember if they even had their
10 uniforms?

11 A. No. I said I got them scrubs.

12 Q. But did they have a spare uniform to
13 wear at the office?

14 A. No.

15 Q. Do you -- so you can't tell me either
16 way if they went home or if they stayed and
17 finished out their shift?

18 MR. BUFALINO: Objection.

19 Asked and answered.

20 THE WITNESS: I don't remember.

21 BY MS. POLLICK:

22 Q. When you got back to the office, was
23 Barry Stankus still working?

24 A. I don't remember.

25 Q. Do you remember seeing Barry Stankus

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ARTHUR BOBBOUINE

1 after you came back at all that day, do you
2 remember seeing him?

3 A. I don't remember.

4 Q. Now, are you good friends of Barry
5 Stankus?

6 A. Uh-huh.

7 MR. BUFALINO: Is that a yes?

8 THE WITNESS: Yes.

9 BY MS. POLLICK:

10 Q. And are you good friends with Ryan Foy?

11 A. I would say I'm friends with him.

12 Q. Are you acquaintances?

13 A. Yeah. I wouldn't say that I'm good
14 friends with him.

15 Q. Do you ever socialize with him?

16 A. Not in two years or however long it has
17 been since we've been there. I talk to him once in
18 a while.

19 Q. Did you go to Brian's -- the deputy in
20 question that was in this incident, one of them,
21 did you go to his wedding?

22 A. Yes.

23 Q. And did anyone else from the sheriff's
24 office go to his wedding?

25 A. Yeah.

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ARTHUR BOBBOUINE

1 Q. Who do you know -- was Barry Stankus
2 there?

3 A. No.

4 Q. Was Ryan Foy there?

5 A. No.

6 MR. BUFALINO: Objection.

7 Relevance.

8 BY MS. POLLICK:

9 Q. Who was there?

10 MR. BUFALINO: Objection.

11 Relevance.

12 THE WITNESS: It was Mike Patterson,
13 Dave Caplbianco [ph].

14 BY MS. POLLICK:

15 Q. How do you spell that, if you know?

16 A. C-A-P-L-B-I-A-N-C-O.

17 Q. Anyone else?

18 A. Yeah.

19 Q. Who?

20 A. John Jugus.

21 Q. How do you spell that one?

22 A. J-U-G-U-S, I believe; Leslie Middaugh,

23 M-I-D-D-A-U-G-H; Don Kreseski [ph],

24 K-R-E-S-E-S-K-I, I think.

25 * * *

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ARTHUR BOBBOUINE

1 (Whereupon, a discussion was held off
2 the record.)

3 * * *

4 THE VIDEOGRAPHER: Doe versus Luzerne.
5 Deposition of Art Bobbouine, tape seven.

6 BY MS. POLLICK:

7 Q. Who was in charge of Ryan Foy, you or
8 Sheriff Stankus?

9 MR. BUFALINO: Objection to the form.

10 You can answer it if you know.

11 THE WITNESS: I would think the

12 sheriff.

13 BY MS. POLLICK:

14 Q. Now, you were telling me more people
15 that were at Brian's wedding. Who else?

16 MR. BUFALINO: Same objection.

17 Relevance.

18 BY MS. POLLICK:

19 Q. Don Kreseski is the last one that you
20 gave me.

21 A. I think that was it.

22 Q. Were you in the wedding, or just
23 attending?

24 A. Just attending.

25 MR. BUFALINO: Objection.

ARTHUR BOBBOUINE

1 Relevance.
 2 BY MS. POLLICK:
 3 Q. Do you know if Barry Stankus was
 4 invited?
 5 A. I have no idea.
 6 Q. Do you know if Ryan Foy was invited?
 7 MR. BUFALINO: Objection.
 8 Relevance.
 9 THE WITNESS: I have no idea.
 10 BY MS. POLLICK:
 11 Q. Have you ever seen any of the images
 12 that you saw that day in Ryan's office at any other
 13 time until today?
 14 MR. BUFALINO: Objection.
 15 He hasn't seen them today.
 16 Oh, until today you mean?
 17 MS. POLLICK: Yeah.
 18 MR. BUFALINO: My fault.
 19 THE WITNESS: I don't remember.
 20 BY MS. POLLICK:
 21 Q. Did you take any images on the day in
 22 question, whether it be by videocamera or by phone?
 23 A. No.
 24 Q. Where are you from?
 25 A. Pittston.

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ARTHUR BOBBOUINE

1 Q. And do you have any brothers or
 2 sisters?
 3 A. Yes. I have a brother.
 4 Q. You have a brother?
 5 A. Yes.
 6 Q. And what is his name?
 7 A. George.
 8 Q. And what does George do?
 9 A. He is a police officer.
 10 Q. For Wilkes-Barre City?
 11 A. No.
 12 Q. Okay. What --
 13 A. Rocky Mount, Virginia.
 14 Q. Is Ryan Foy's brother -- is he a police
 15 officer?
 16 MR. BUFALINO: Objection.
 17 Relevance.
 18 BY MS. POLLICK:
 19 Q. Do you know if any of his family
 20 members are Wilkes-Barre officers?
 21 A. I believe he is a detective.
 22 Q. Okay. What is his name?
 23 A. Ron Foy.
 24 Q. And are your parents still alive?
 25 A. My mother.

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ARTHUR BOBBOUINE

1 Q. Is she working, or is she retired?
 2 A. Neither.
 3 Q. Did she ever work?
 4 A. No.
 5 Q. Did your father work?
 6 A. Did he? Yes.
 7 Q. What did he do for a living?
 8 A. He was a painting contractor, and then
 9 he worked for the Pennsylvania Turnpike.
 10 Q. And I think that you gave me your
 11 address.
 12 A. Uh-huh.
 13 Q. You did? Okay.
 14 MR. BUFALINO: Just ask him again.
 15 THE WITNESS: 20 Mill Street.
 16 BY MS. POLLICK:
 17 Q. Okay. That's Pittston, okay.
 18 So you don't live in West Pittston,
 19 you're in Pittston?
 20 A. Yes.
 21 Q. There is a difference.
 22 A. Oh, yes, big time.
 23 Q. How did you get your -- get the
 24 part-time job at the sheriff's office?
 25 MR. BUFALINO: Objection.

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ARTHUR BOBBOUINE

1 Asked and answered.
 2 You could tell her again.
 3 THE WITNESS: I applied.
 4 BY MS. POLLICK:
 5 Q. Were you a police officer at that time?
 6 A. No.
 7 Q. Are you a police officer?
 8 A. No.
 9 Q. Okay. So you could do the sheriff's
 10 without having your Act 120?
 11 A. Right.
 12 Q. You do your sheriff's something or
 13 other?
 14 A. Act II.
 15 Q. Okay. How come you didn't go into
 16 police work?
 17 MR. BUFALINO: Objection.
 18 Relevance.
 19 THE WITNESS: I didn't really want to
 20 get into the sheriff's department at the time.
 21 BY MS. POLLICK:
 22 Q. And why is that?
 23 MR. BUFALINO: Objection.
 24 Relevance.
 25 THE WITNESS: I went to law school.

ARTHUR BOBBOUINE

1 BY MS. POLLICK:
 2 Q. Oh, okay. And where did you go?
 3 A. Dickinson.
 4 Q. And when did you graduate?
 5 A. 2001.
 6 Q. How did you -- why did you go into the
 7 sheriff's office then?
 8 A. At the time, I didn't pass the bar in
 9 July. I was taking care of a grandfather that was
 10 dying. I needed a job, so I applied down the
 11 sheriff's office.
 12 Q. Are you practicing law now?
 13 A. No. Hopefully never.
 14 Q. It's a blessing sometimes.
 15 Has there ever been any complaints
 16 against you while working in the sheriff's office,
 17 anything that you did?
 18 A. No.
 19 Q. Are you aware of any complaints against
 20 Barry Stankus at the time that you were his chief
 21 deputy?
 22 A. As far as what?
 23 Q. Just any complaints. Did any workers
 24 have complaints against him, or even citizens have
 25 complaints against him?

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ARTHUR BOBBOUINE

1 A. There is always complaints, especially
 2 if you're in law enforcement.
 3 Q. Did you testify at his trial that was
 4 just -- occurred not too long ago?
 5 A. No.
 6 Q. What did you do before you were a
 7 deputy sheriff?
 8 MR. BUFALINO: Objection.
 9 Asked and answered.
 10 THE WITNESS: I was a law student.
 11 BY MS. POLLICK:
 12 Q. And what was your -- did you go to
 13 Pittston Area?
 14 A. Uh-huh.
 15 Q. When did you graduate high school?
 16 A. 1994.
 17 Q. Where did you go to college?
 18 A. University of Scranton.
 19 Q. What did you get your degree in?
 20 A. History and political science. It was
 21 a double major.
 22 Q. And then you went to Dickinson?
 23 A. Yes.
 24 Q. When did you graduate at the U?
 25 A. In 1998.

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ARTHUR BOBBOUINE

1 Q. When did you graduate from Dickinson?
 2 A. 2001.
 3 Q. Did you hold any part-time jobs during
 4 this time?
 5 A. Lots.
 6 Q. When was your first full-time job?
 7 A. In the sheriff's office.
 8 Q. What is your date of birth?
 9 A. 3/19/76.
 10 Q. How many deputies were employed by the
 11 sheriff's office?
 12 A. I know we had 39 full-time. I don't
 13 remember how many part-time. It changed all of the
 14 time. I believe we had 39 full-time deputies and
 15 six full-time clerks.
 16 Q. Now, I'm going to show you what has
 17 been marked as 30(b)(6) B. We're going to mark it
 18 also -- I'm going to make a copy of it and mark it
 19 as your last name and A.
 20 BY MS. POLLICK:
 21 Q. Is this the layout of your office, Ryan
 22 Foy's being here (indicating), the sheriff's office
 23 being here, and yours being there? Does that look
 24 familiar?
 25 A. Uh-huh, yes.

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ARTHUR BOBBOUINE

1 Q. What is in between here?
 2 A. A lot of people, a lot of desks.
 3 Q. And how many desks are there?
 4 A. Maybe four rooms, if I remember
 5 correctly.
 6 Q. Could you see from the sheriff's office
 7 all the way to Ryan's office?
 8 A. Can you see it?
 9 Q. Yeah.
 10 A. Yeah.
 11 Q. Could you see who would enter the
 12 offices? If I'm standing here by the sheriff's
 13 office, could I see who would be going into Ryan
 14 Foy's office?
 15 A. Not necessarily.
 16 Q. Why would that be?
 17 A. Because there is a second door in his
 18 office.
 19 Q. Tell me about that.
 20 A. It's over here (indicating).
 21 Q. Oh, okay.
 22 So he had two -- I'm going to mark this
 23 as -- let me make a copy.
 24 * * *
 25 (Whereupon, a discussion was held off

ARTHUR BOBBOUINE

1 the record.)

2 * * *

3 (Whereupon, a recess was taken from
4 3:42 p.m. until 3:44 p.m.)

5 * * *

6 (Whereupon, Exhibit Bob-A was marked
7 for identification.)

8 * * *

9 BY MS. POLLICK:

10 Q. I'm going to show you what is -- what
11 was 30(b)(6) -- I'm just going to mark it with Bob.
12 If you could, circle the X mark that you had made.

13 A. The one that you made.

14 Q. Well, you started. I'm not going to --
15 that would indicate that there were two doors to
16 Ryan Foy's office; is that right?

17 A. Right.

18 Q. So depending on what door you entered,
19 you could not be -- necessarily the sheriff
20 wouldn't be able to see if you were entering this
21 door?22 A. Not if this door (indicating) was
23 closed.24 Q. Okay. Is this an open area, is there
25 glass, or what is it?

ARTHUR BOBBOUINE

1 THE WITNESS: (Drawing.) There was a
2 full wall (drawing), and then it went over here
3 to the front counter. So there is a full wall.
4 Then there is another door here to get into the
5 office.

6 BY MS. POLLICK:

7 Q. Okay.

8 A. That was the main door, where everybody
9 came in and out.

10 Q. So put the main door, or MD.

11 A. Okay.

12 Q. And what would be in here (indicating)?

13 A. More cubicles.

14 Q. Okay.

15 A. The whole thing is full.

16 Q. Have you been there since you -- since
17 Stankus left office?

18 A. Absolutely not.

19 Q. So you wouldn't know if it is the same
20 setup?

21 A. I have no idea.

22 Q. How many workers would be here for one
23 shift?24 A. It would depend on who was day shift
25 and who was afternoon shift.

ARTHUR BOBBOUINE

1 A. It's a closed office.

2 Q. But if that door was open, could I see
3 that you came in this way?

4 A. Yes.

5 Q. Is it small?

6 A. Yeah.

7 Q. How many people can fit in there?

8 A. A couple; it's probably half the size
9 of this room.10 Q. When you entered his office, what door
11 did you use?

12 A. This door (indicating).

13 MR. BUFALINO: Could the record
14 reflect that Mr. Bobbouine was referencing the
15 door that was closest to the cubicle, which was
16 directly across from Sheriff Stankus's office.

17 BY MS. POLLICK:

18 Q. Who would use this door (indicating)?

19 A. That was an outside door sort of.

20 Q. Okay.

21 A. Could I show you?

22 Q. Sure. You can add stuff, if you want.

23 A. There is a wall here (indicating).

24 MR. BUFALINO: Please make a mark where
25 you're --

ARTHUR BOBBOUINE

1 Q. How many shifts did you run?

2 A. Two.

3 Q. Okay. So how many would be there -- if
4 it was first shift, how many people
5 approximately -- I know you can't be definitive
6 because it probably would depend on the day. But
7 how many would normally be there?

8 A. I would say at least 10 or 12 --

9 Q. Okay.

10 A. -- if not more. It was depending on
11 where everybody was going, who was on the road, and
12 who was in the office. I believe there were 16
13 cubicles if my memory serves me correct.14 Q. And where were the cubicles, were they
15 all in this area?

16 A. Yes.

17 Q. Okay. So not only here, but then kind
18 of went all the way --

19 A. I think there was four.

20 Q. Four rows?

21 A. Four rows of four.

22 MR. BUFALINO: Just for clarity of the
23 record, could we write the word "cubicles"
24 where he is saying they are, please?

25 MS. POLLICK: Okay, sure.

ARTHUR BOBBOUINE

1 MR. BUFALINO: C-U-B-I-C-L-E-S.
 2 MS. POLLICK: Just "cub" is fine.
 3 BY MS. POLLICK:
 4 Q. So there would be four rows of them?
 5 A. Right.
 6 Q. Okay. Now, if you were standing at the
 7 sheriff's -- like, at his entrance, would you be
 8 able to see who entered Ryan Foy's office using the
 9 entrance closest to the cubicles?
 10 A. Yeah, I believe so.
 11 Q. Okay. And why would you be able to
 12 see?
 13 MR. BUFALINO: Objection to the form.
 14 BY MS. POLLICK:
 15 Q. You can answer.
 16 A. I don't know. It was kind of like a
 17 straight shot if you were down here in the
 18 sheriff's office. Not in his office, but outside
 19 the --
 20 Q. Okay. So if you were outside -- if you
 21 were standing at his doorway of his -- entering his
 22 office, could you be able to see directly who would
 23 be entering Ryan Foy's office?
 24 MR. BUFALINO: Objection.
 25 Asked and answered.

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ARTHUR BOBBOUINE

1 THE WITNESS: From his doorway?
 2 I don't think so.
 3 BY MS. POLLICK:
 4 Q. But if you went to the corner of the
 5 end of his office, then you would be able to see
 6 because the cubicles weren't in the way?
 7 A. Right.
 8 Q. The cubicles are what was blocking the
 9 vision between the doorway of the sheriff's office
 10 and Ryan Foy's doorway?
 11 MR. BUFALINO: Objection.
 12 Calls for speculation.
 13 THE WITNESS: I believe so, yeah.
 14 BY MS. POLLICK:
 15 Q. Okay. Do you recall any conversations
 16 that you had with the plaintiff on the day in
 17 question?
 18 A. Specific conversations, no.
 19 Q. Generally --
 20 A. Sure, I had conversation with her
 21 throughout the day.
 22 Q. But sitting here today, you can't
 23 recall any of the ones that you had?
 24 A. Specifically, no.
 25 Q. Do you have the same cell phone that

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ARTHUR BOBBOUINE

1 you had back at the sheriff's office?
 2 A. No.
 3 Q. Same number?
 4 A. No. I had a sheriff's office phone.
 5 Q. Okay. So you were issued a phone and
 6 you didn't ask for the phone number to be
 7 transferred?
 8 A. No. I always had two separate phones.
 9 Q. Smart. What was the cell number that
 10 you had then, do you recall it?
 11 MR. BUFALINO: Objection.
 12 THE WITNESS: I know it was 760.
 13 I don't know if it was --
 14 MR. BUFALINO: Don't guess.
 15 THE WITNESS: I don't remember.
 16 BY MS. POLLICK:
 17 Q. What do you think it was? Give me your
 18 best guess.
 19 MR. BUFALINO: I don't want him to
 20 guess. He either knows it or he doesn't. We
 21 could end up giving out someone else's cell
 22 phone number if he guesses wrong.
 23 MS. POLLICK: Yeah, but what are we
 24 going to do with it? We're not doing anything
 25 with it.

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ARTHUR BOBBOUINE

1 MR. BUFALINO: Well, I don't know what
 2 you're doing with it. We could get the records
 3 from the sheriff's office.
 4 I'm happy to have him tell you it if he
 5 remembers, but if he doesn't remember --
 6 THE WITNESS: Yeah, I don't remember
 7 exactly offhand.
 8 BY MS. POLLICK:
 9 Q. How long did you have the phone?
 10 A. A little bit -- well, since I was chief
 11 deputy, so almost two years.
 12 Q. And you don't remember the phone
 13 number?
 14 A. Exactly, no. I think that I do, but
 15 I'm not sure if it is correct.
 16 Q. Well, what do you think it was?
 17 A. I think it was 20 -- 2032 or 2023.
 18 Q. Was it written anywhere on your
 19 application, on your personnel files, the number
 20 that you were issued?
 21 A. I don't know. I know it was on my
 22 business card.
 23 Q. Okay. You had a business card?
 24 A. Yes.
 25 Q. Still have your business card?

ARTHUR BOBBOUINE

1 A. No.

2 Q. What cell service do you have -- did

3 you bring your personal cell phone to the work

4 site?

5 A. Sometimes.

6 Q. On the day in question, did you have a

7 personal --

8 A. I don't know.

9 Q. Okay. Did you have camera capabilities

10 on your cell phone at the time in question, your

11 personal one?

12 MR. BUFALINO: Objection.

13 Relevance.

14 THE WITNESS: Probably.

15 BY MS. POLLICK:

16 Q. And do you have a Nextel, AT&T,

17 Verizon?

18 A. Nextel.

19 Q. Was that your work phone as well,

20 Nextel?

21 A. Yes.

22 Q. And what is your -- what was your -- do

23 you still have the same personal cell phone?

24 A. Yes.

25 Q. And what is your personal cell number?

ARTHUR BOBBOUINE

1 MR. BUFALINO: Objection to the

2 relevance.

3 THE WITNESS: 570-760-7815.

4 BY MS. POLLICK:

5 Q. Okay. Now, were you present when there

6 was a flea infestation on another occasion prior to

7 what happened in this case?

8 A. No.

9 Q. Where you aware of any -- that a deputy

10 got infested with fleas?

11 A. I believe there was years ago before I

12 was there.

13 Q. Okay. Was there a picture hanging of

14 someone with fleas?

15 A. Not that I remember.

16 Q. Of their uniform coated with fleas, or

17 anything like that?

18 A. Not that I remember.

19 Q. Was there any policy in place on how to

20 handle it when someone got infested with fleas?

21 A. No.

22 Q. After this incident, was there any

23 policy developed on what to do?

24 A. I don't believe so.

25 Q. Was there ever training video --

ARTHUR BOBBOUINE

1 training material created based on the video that

2 was taken in this case?

3 A. Not that I remember.

4 Q. Could you tell me why there was no

5 video footage of the one deputy going and actually

6 finding the decontamination products that they were

7 going to use?

8 A. I don't know.

9 Q. Would that be important if you were

10 devising a training program to have where you could

11 actually go and pick up the material?

12 MR. BUFALINO: Objection.

13 Calls for speculation.

14 Not relevant.

15 THE WITNESS: I don't know.

16 BY MS. POLLICK:

17 Q. Well, you're a teacher.

18 A. Uh-huh.

19 Q. I would think that if you were doing a

20 training video, you would want to tell people,

21 okay, well, this is -- you go down to the CVS

22 and -- look, you go in here, and these are the

23 products that you look for.

24 MR. BUFALINO: Objection to the form.

25 Not relevant.

ARTHUR BOBBOUINE

1 BY MS. POLLICK:

2 Q. Wouldn't you think that would be

3 useful?

4 A. It could be.

5 Q. In law school, did you have any type of

6 courses that dealt with the right to privacy?

7 A. Just criminal procedures.

8 Q. How about constitutional law?

9 A. Constitutional law.

10 Q. Have you ever been asked to leave a

11 position -- with the exception of the sheriff

12 situation because I know that you were appointed as

13 that through Stankus -- any other positions?

14 A. No.

15 MR. POLLICK: I don't have any other

16 questions.

17 * * *

18 (Witness excused.)

19 * * *

20 (Whereupon, the deposition was

21 concluded at 3:56 p.m.)

22 * * *

23

24

25

ARTHUR BOBBOUINE

I N D E X

* * *

1
2
3 WITNESS: Arthur Bobbouine

4 QUESTIONED BY: PAGE

5 Ms. Pollick 3

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ARTHUR BOBBOUINE

ERRATA SHEET

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ARTHUR BOBBOUINE

INSTRUCTIONS TO WITNESS

1
2 Read your deposition over carefully. It
3 is your right to read your deposition and make
4 changes in form or substance. You should assign a
5 reason in the appropriate column on the errata
6 sheet for any change made.

7

8 After making any change in form or
9 substance which has been noted on the following
10 errata sheet, along with the reason for any change,
11 sign your name on the errata sheet and date it.

12

13 Then sign your deposition at the end of
14 your testimony in the space provided. You are
15 signing it subject to the changes you have made in
16 the errata sheet, which will be attached to the
17 deposition before filing. You must sign in the
18 space provided. The witness need not be a notary
19 public. Any competent adult may witness your
20 signature.

21

22 Return the original errata sheet to the
23 court reporter promptly! Court rules require
24 filing within 30 days after you receive the
25 deposition.

ARTHUR BOBBOUINE

SIGNATURE PAGE

OF

ARTHUR BOBBOUINE

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5 I hereby acknowledge that I have read the
6 foregoing deposition, dated July 9, 2009, and that
7 the same is a true and correct transcription of the
8 answers given by me to the questions propounded,
9 except for the changes, if any, noted on the
10 attached errata sheet.

11
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13 SIGNATURE: _____

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15 DATE: _____

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ARTHUR BOBBOUINE
C E R T I F I C A T E

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I, Ashlee J. Boyle, Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, certify that the foregoing is a true and accurate transcript of the videotaped deposition of said witness, who was first duly sworn by me on the date and place hereinbefore set forth.

I further certify that I am neither attorney nor counsel for, nor related to or employed by, any of the parties to the action in which this videotaped deposition was taken, and further, that I am not a relative or employee of any attorney or counsel employed in this action, nor am I financially interested in this case.

Ashlee J. Boyle, Court Reporter
Notary Public

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

* * *

JANE DOE, : CIVIL ACTION
Plaintiff :
vs :
LUZERNE COUNTY and :
RYAN FOY, in his :
individual capacity, :
Defendants : NO. 3:08-CV-1155

* * *

Oral deposition of MAURICE "SCOTT" LAMOREUX,
taken at The Employment Law Firm, 363 Laurel
Street, Pittston, Pennsylvania 18640, on Wednesday,
November 18, 2009, beginning at 11:13 a.m. before
Marilou S. Kohut, Registered Professional Reporter
and Notary Public in and for the Commonwealth of
Pennsylvania.

* * *

ACCUSCRIPT, INC.
COURT REPORTERS
218 North Wyoming Street
Hazleton, Pennsylvania 18201
(570) 455-4558 (570) 823-2667 (800) 596-0001

MAURICE "SCOTT" LAMOREUX

* * *

1
2 (It is hereby stipulated and agreed by
3 and between counsel for the respective parties
4 that signing, sealing, certification, and
5 filing are waived and that all objections,
6 except as to the form of the question, are
7 reserved until the time of trial.)

* * *

8
9 THE COURT REPORTER: Same stipulations.
10 MR. BUFALINO: Yes.
11 MS. POLLICK: Yes, everything, except
12 as to form are reserved for trial.

* * *

13
14 MAURICE "SCOTT" LAMOREUX,
15 having been first duly sworn, was
16 examined and testified as follows:

* * *

EXAMINATION

* * *

19
20 BY MS. POLLICK:
21 Q. Could you state your name for the
22 record, please?
23 A. **Maurice Scott Lamoreux.**
24 Q. Lamoreux. My name is Attorney Cindy
25 Pollick, and I subpoenaed you here today to take

A P P E A R A N C E S:

CYNTHIA L. POLLICK, ESQUIRE
THE EMPLOYMENT LAW FIRM
363 Laurel Street
Pittston, Pennsylvania 18640

-- Representing the Plaintiff

MARK BUFALINO, ESQUIRE
ELLIOTT, GREENLEAF & DEAN
39 Public Square, Suite 1000
Wilkes-Barre, Pennsylvania 18701

-- Representing the Defendants

* * *

MAURICE "SCOTT" LAMOREUX

1 your deposition.
2 **A. Correct.**
3 Q. And have you ever been deposed before?
4 **A. Never.**
5 Q. Okay. What happens is I ask you some
6 questions, and you have to answer all of my
7 questions similar to your work if you were doing an
8 investigation. And then Attorney Bufalino can
9 actually place an objection on the record, but you
10 still have to answer all of the questions that I
11 ask you. And since he's not your lawyer, he can't
12 instruct you not to answer. But I don't anticipate
13 any problems today because there shouldn't be any
14 issues.

15 But at any time if I ask a question
16 that you don't understand based on the way that I
17 asked it, because I sometimes ask confusing
18 questions --

19 **A. Sure.**
20 Q. -- let me know, and I'll rephrase it
21 until you understand it, okay?

22 **A. Okay.**
23 Q. You're doing a good job. You're giving
24 me all verbal answers. I don't care if you talk
25 with your hands. You can do whatever you want as

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1 long as you give me a verbal as well.
 2 **A. Okay.**
 3 **Q. Good job. Now, who do you currently**
 4 **work for now?**
 5 **A. I'm the security supervisor at the**
 6 **Children's Service Center.**
 7 **Q. And where is that?**
 8 **A. I have a couple buildings. The main**
 9 **building is at 335 South Franklin Street in**
 10 **Wilkes-Barre.**
 11 **Q. What's the zip there?**
 12 **A. 18702.**
 13 **Q. And how long have you held that**
 14 **position?**
 15 **A. I've been there since I believe -- like**
 16 **the end of May, beginning of June.**
 17 **MR. BUFALINO: Of?**
 18 **THE WITNESS: This year.**
 19 **BY MS. POLLICK:**
 20 **Q. 2009?**
 21 **A. Actually, my last day at the hospital**
 22 **was July 6th. So I'm wrong. I'm sorry. So my**
 23 **first full-time day at the Children's Service**
 24 **Center was July 7th. I worked there part-time a**
 25 **couple days prior to -- while I was giving the**

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1 **other place a two-week notice.**
 2 **Q. Okay. Now, so what job were you**
 3 **working in July -- on July 6th, 2009?**
 4 **A. That was my last day at Geisinger**
 5 **South.**
 6 **Q. Okay. Geisinger South. What did you**
 7 **do for Geisinger South?**
 8 **A. I was a security officer.**
 9 **Q. Okay. And how long were you there?**
 10 **A. I worked for Geisinger in Plains**
 11 **Township from August 29th of 2004 to roughly June**
 12 **of 2006 and then I transferred to Geisinger South**
 13 **from June 2006 until July of this year.**
 14 **Q. Now, do you currently hold any other**
 15 **employment besides working for the Children's**
 16 **Service Center?**
 17 **A. I'm a police officer for Pringle**
 18 **Borough part-time.**
 19 **Q. When did you get your Act 120?**
 20 **A. I graduated May of 2001.**
 21 **Q. Now, do you recall a situation in which**
 22 **two sheriff -- Luzerne County sheriff deputies came**
 23 **into the Geisinger South facility to be**
 24 **decontaminated?**
 25 **A. Yes. There was more than two there,**

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1 **but only two had to be --**
 2 **Q. Decontaminated?**
 3 **A. Correct.**
 4 **Q. Do you recall that -- did you actually**
 5 **know who the individuals were?**
 6 **A. All but one.**
 7 **Q. And who do you recall being there?**
 8 **A. Erin Joyce, she was there. Jen**
 9 **Roberts, Art Bobbouine, Ryan Foy. And then there**
 10 **was a kid at the time I didn't know, but I know who**
 11 **he is now.**
 12 **Q. Okay.**
 13 **A. His last name Szumski.**
 14 **Q. Now, at any time, did you see them --**
 15 **see any of the individuals videotaping?**
 16 **A. Yes.**
 17 **Q. Okay. Who did you see videotaping?**
 18 **A. I don't know exactly who was taping. I**
 19 **know one of them -- it was either Foy or Bobbouine**
 20 **had a cell phone camera, and the other one had a**
 21 **video camera. I was sitting in my office, and**
 22 **that's where all of our monitors are. And I looked**
 23 **over. And I'm like, I know all of those people.**
 24 **So I just sat there and watched. And like I said,**
 25 **I can't remember who had which camera, but I know**

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1 **it was those two.**
 2 **Q. Okay. Did you see them take**
 3 **photographs with their cell phones?**
 4 **A. Well, when I'm watching the monitor,**
 5 **one is holding the cell phone up facing the**
 6 **contamination room and the other one was holding**
 7 **the video camera facing the contamination room.**
 8 **Q. And that's like the shower room?**
 9 **A. Yes. It's decontamination. I'm sorry.**
 10 **Q. That's okay. No. It is a**
 11 **decontamination room. But there is shower**
 12 **facilities within that room?**
 13 **A. Correct, because when we would do**
 14 **drills and stuff with the Susquehanna plant, that's**
 15 **where we would have our mock drills.**
 16 **Q. Now, did you ever tell the individuals**
 17 **that they can't videotape in the medical facility?**
 18 **A. I didn't know if it was for training or**
 19 **whatnot. So --**
 20 **Q. Okay.**
 21 **A. After the fact, I found out that they**
 22 **called ahead because they knew that the hospital**
 23 **had a decontamination shower. So they told me**
 24 **after the fact why they were there.**
 25 **Q. Okay.**

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1 A. At first, I didn't know why. I'm just
2 like looking on the camera, hey, I know those
3 people. So I sat there and watched.

4 Q. Did you have any conversations with any
5 of them?

6 A. After the fact.

7 Q. After the fact?

8 A. Because they called us -- they called
9 security and asked if they could leave their
10 cruiser outside by the emergency room ramp because
11 they had to have somebody come get it to defumigate
12 it or whatever it was.

13 Q. Okay. So after they had already left,
14 somebody called?

15 A. It was either Ryan Foy or Bobbouine
16 called, and then I went out to the cruiser. And
17 they said, we're going to leave this here because
18 of bed bugs or whatever, lice, whatever. I said
19 yeah, no problem, just leave it in the emergency
20 lane, and nobody will touch it.

21 Q. Okay. Do you happen to know if there
22 is no videotaping in the hospital?

23 A. Usually law enforcement, they'll --
24 sometimes they'll let them. If it's a media type
25 thing, they have to -- I know when I worked there,

1 MR. BUFALINO: Objection to the form.
2 Counsel is testifying.

3 BY MS. POLLICK:

4 Q. People are going to be naked.

5 A. Right.

6 MR. BUFALINO: Same objection.

7 BY MS. POLLICK:

8 Q. So you saw people videotaping the
9 decontamination room which is where they would be
10 naked?

11 MR. BUFALINO: Objection to the form.

12 BY MS. POLLICK:

13 Q. You can answer the question.

14 MS. POLLICK: There is no question.

15 MR. BUFALINO: What is the question?

16 MS. POLLICK: Do you want to read it?

17 * * *

18 (Whereupon, the court reporter read
19 from the record.)

20 * * *

21 BY MS. POLLICK:

22 Q. So can you answer the question?

23 MR. BUFALINO: Go ahead. Answer.

24 THE WITNESS: Yes. I could see
25 somebody with a video camera facing the

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1 they had to get approval from PR or nursing or
2 whoever is in charge of the hospital at the time.

3 Q. Well, having -- knowing these --
4 knowing these individuals and watching it unfold,
5 were you a little alarmed that they were taking,
6 you know, what appeared to be photographs and video
7 of the decontamination room?

8 MR. BUFALINO: Just object to the form.
9 You can answer.

10 THE WITNESS: Could you restate it?

11 BY MS. POLLICK:

12 Q. Sure. Well, the decontamination
13 room --

14 A. Did I find anything wrong with it; is
15 that what you're saying?

16 Q. Well --

17 A. Like I said, I didn't know if it was
18 for training purposes, because at the time, I
19 didn't know exactly what was going on.

20 Q. Well, I hear you. But look -- when you
21 see someone, there's -- people are going to be
22 undressed in the decontamination room because you
23 have to get the fleas out of you; you're not going
24 to keep the clothes on.

25 A. Yes.

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1 decontamination room. Now, at that time, when
2 I saw them with the video camera, I didn't --
3 when I started watching, I didn't know who was
4 inside the thing until they came out with
5 towels on. That's when I saw Jen, and then the
6 other one went in.

7 Q. Okay. So did you see them take video
8 from -- well, Jen was in the shower room, and then
9 the only reason why you know it was Jen was because
10 when she came out --

11 A. She had towels --

12 MR. BUFALINO: Object to the form.

13 THE WITNESS: She had towels wrapped
14 around her.

15 BY MS. POLLICK:

16 Q. And you witnessed that one of the
17 individuals was holding the video camera prior to
18 her exiting and one of the individuals was holding
19 the cell phone?

20 A. That is correct.

21 MR. BUFALINO: Object to the form.

22 THE WITNESS: Am I doing anything
23 wrong?

24 MS. POLLICK: No.

25 MR. BUFALINO: No. Please understand.

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1 When she asks a question, I have the right to
2 object. It doesn't mean you're doing anything
3 wrong.

4 THE WITNESS: Roger that.

5 BY MS. POLLICK:

6 Q. Now, did you have any talks with any of
7 the individuals that day besides the little --
8 about the cruiser situation?

9 A. None.

10 Q. If I come into the hospital and I have
11 like a video camera, can I just come in the
12 hospital and visit someone and have my video camera
13 and record?

14 MR. BUFALINO: Object to the form;
15 relevancy. You can answer.

16 BY MS. POLLICK:

17 Q. You might not know.

18 A. No. I mean, it somebody brings a small
19 camera in their purse and they're in the room with
20 their family member and nobody calls us, we're not
21 going to know. As a general rule, no videotaping
22 is allowed from outside unless it's for training or
23 an emergency incident.

24 Q. And after you discovered that Jen had
25 come out of the shower room and they had -- and it

MAURICE "SCOTT" LAMOREUX

1 was already basically too late to stop someone from
2 videotaping because --

3 MR. BUFALINO: Object to form.

4 BY MS. POLLICK:

5 Q. -- because that already had occurred?

6 MR. BUFALINO: Objection.
7 You can answer.

8 THE WITNESS: Well, yeah, yes.

9 BY MS. POLLICK:

10 Q. Do you know --

11 A. That was their business. So I wouldn't
12 have interrupted anyway because they're law
13 enforcement.

14 Q. So unfortunately, in some situations,
15 law enforcement gets, you know, a little break, so
16 to speak?

17 MR. BUFALINO: Objection to the form.

18 BY MS. POLLICK:

19 Q. You don't even have to answer that.

20 A. I won't.

21 Q. Okay. You as a professional people --
22 it's a professional courtesy in a sense that
23 they -- that people wouldn't do anything improper?

24 MR. BUFALINO: Objection to the form.

25 BY MS. POLLICK:

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1 Q. Yeah.

2 A. The only way I would go to an incident
3 such as that is if I was requested, which I wasn't
4 told until after the fact. So I sat there and
5 watched it on video.

6 Q. Did you ever have any conversations
7 with Ryan Foy or Art Bobbouine --

8 MR. BUFALINO: Bobbouine.

9 BY MS. POLLICK:

10 Q. -- Bobbouine after that fact regarding
11 that situation?

12 A. No. I haven't talked to them in -- the
13 last time I talked to either one of them was when
14 they asked about the cruiser, and that was it other
15 than a passing at the arena, hi, how you doing;
16 nothing --

17 Q. What is your address, Scott?

18 A. My current address?

19 Q. Yes.

20 A. [REDACTED]

22 MS. POLLICK: That's all I have.

23 * * *

24 EXAMINATION

25 * * *

MAURICE "SCOTT" LAMOREUX

1 BY MR. BUFALINO:

2 Q. Mr. Lamoreux, my name is Mark Bufalino.
3 I represent Mr. Foy and the County in this case. I
4 just have a few questions for you if I might.

5 A. Sure.

6 Q. You said you worked at the Children's
7 Service Center from --

8 A. Children's Service Center.

9 Q. Children's Service Center up until July
10 7th of 2009?

11 A. No. I started there in July of 2009.

12 Q. Okay. You started there.

13 A. I ended my employment with Geisinger
14 South that same month.

15 Q. And you're a security supervisor there?

16 A. That is correct.

17 Q. What does that entail?

18 A. I just run the day-to-day operations of
19 the security guys.

20 Q. Okay. How many people?

21 A. I have eight.

22 Q. Okay. And as I understand it, you
23 worked for what is now known as Geisinger South?

24 A. It has a new name now. I'm not sure
25 what it is. I left when it was Geisinger South.

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1 Q. From 2004 to 2006, you were stationed
 2 out of Plains, Pennsylvania?
 3 **A. Correct.**
 4 Q. What did you do during that time?
 5 **A. Security officer.**
 6 Q. Do me a favor. Just let me finish my
 7 question, and I'll be happy to let you finish your
 8 answer.
 9 **A. Sure.**
 10 Q. The only reason I say that is, she's
 11 taking down both my questions and your answers.
 12 **A. Absolutely.**
 13 Q. And she will want to pull her hair
 14 out --
 15 **A. Okay.**
 16 Q. -- if we're both talking at the same
 17 time.
 18 **A. Not a problem.**
 19 Q. Just general job duties as your
 20 security officer for Geisinger?
 21 **A. Mine were a little bit different. At**
 22 **Geisinger South, I did set up all the training, but**
 23 **the regular stuff were foot patrols, morgue duty.**
 24 **I would do investigation for the department for**
 25 **thefts and stuff like that. Just general stuff,**

MAURICE "SCOTT" LAMOREUX

1 **locking doors, opening doors for people, that type**
 2 **of stuff, restraining patients if need be; when we**
 3 **had a psych unit, respond there for stuff.**
 4 Q. Would that be the same both during your
 5 tenure in Plains as in Wilkes-Barre?
 6 **A. Yes. The only difference was that the**
 7 **Plains facility does not have a psych unit. I**
 8 **didn't do as many of the investigations.**
 9 Q. I see. In Plains?
 10 **A. In Plains.**
 11 Q. Very good. You mentioned training as
 12 part of both of your duties while stationed in
 13 Plains and in Wilkes-Barre for Geisinger South,
 14 correct?
 15 **A. I didn't do any training in Plains;**
 16 **Geisinger South.**
 17 Q. Okay. So the Wilkes-Barre incident --
 18 **A. Correct.**
 19 Q. -- or facility, rather. So just so
 20 we're clear, the incident that Ms. Pollick asked
 21 you about occurred in the Wilkes-Barre facility?
 22 **A. Correct, Geisinger South, 25 Church**
 23 **Street.**
 24 Q. So during your tenure from 2006 to 2009
 25 while at the Wilkes-Barre Geisinger South, you did

MAURICE "SCOTT" LAMOREUX

1 training?
 2 **A. I did. I set it up.**
 3 Q. As part of training, did you ever use
 4 videotaping?
 5 **A. No.**
 6 Q. Okay. In your tenure as both a police
 7 officer and a security officer, I take it from your
 8 previous answers that you gave here today that you
 9 are familiar with videotaping as part of a training
 10 procedure?
 11 MS. POLLICK: Objection; assumes facts
 12 not into evidence and a compound question.
 13 BY MR. BUFALINO:
 14 Q. You can answer.
 15 **A. Oh, okay. My eight years or so as a**
 16 **police officer, I never used videotape at all.**
 17 **Every place I've worked, if it came down to it --**
 18 **I've always just been a patrolman. So always a**
 19 **superior officer had always, if need be -- and**
 20 **actually, in my eight years, I -- I can't even**
 21 **recall even being asked about videotaping while on**
 22 **the police department.**
 23 Q. I'm not necessarily asking you if
 24 you've ever done it yourself. I'm asking you in
 25 your years as a police officer and as a security

MAURICE "SCOTT" LAMOREUX

1 officer, are you familiar with the practice of
 2 videotaping for purposes of training?
 3 MS. POLLICK: Same objection as I made
 4 last time.
 5 THE WITNESS: I mean, I know there's
 6 regulations and stuff on it. However, like I
 7 said, I've never had to deal with it.
 8 BY MR. BUFALINO:
 9 Q. I'm not asking if you ever had to deal
 10 with it. I'm asking you, are you aware of the
 11 practice of videotaping for training purposes?
 12 MS. POLLICK: Asked and answered --
 13 MR. BUFALINO: He hasn't answered.
 14 MS. POLLICK: And the same objection.
 15 Yes, he did. He said he has never had training
 16 himself in his eight years of videotaping.
 17 MR. BUFALINO: I didn't ask him if he
 18 did. I'm asking --
 19 THE WITNESS: Have I seen it before?
 20 BY MR. BUFALINO:
 21 Q. Um-hum.
 22 **A. Yes, I've seen video before. But**
 23 **not -- not of my people; of just like a CPR video**
 24 **or an OC video for class like for --**
 25 Q. What's OC?

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1 **A. Like pepper spray we carry on our belt,**
2 **that type of thing.**

3 Q. Okay.

4 **A. But it was always -- it was never**
5 **anybody that I knew. It was always like --**

6 MS. POLLICK: Professional video.

7 THE WITNESS: -- whatever company it
8 was. Or for baton training, it was ASP baton
9 company that did the --

10 BY MR. BUFALINO:

11 Q. Okay. Ms. Pollick asked you earlier
12 questions about whether anybody talked to you
13 prior -- whether any of the individuals, Mr. Foy,
14 Ms. Joyce, Ms. Roberts, Mr. Bobbouine or
15 Mr. Szumski, whether they had any conversations
16 with you or the hospital prior to videotaping. Do
17 you recall that question?

18 MS. POLLICK: Objection;
19 mischaracterization of prior testimony.

20 THE WITNESS: I've had conversations
21 with them, but not about that incident.

22 BY MR. BUFALINO:

23 Q. No. My question -- listen to my
24 question carefully. Do you recall Ms. Pollick
25 asking you questions --

MAURICE "SCOTT" LAMOREUX

1 **A. Yes.**

2 Q. -- as to whether or not anybody talked
3 to you about permission from either you or the
4 hospital to videotape that day?

5 MS. POLLICK: Objection;
6 mischaracterizes prior testimony.

7 BY MR. BUFALINO:

8 Q. Go ahead. You can answer.

9 **A. I remember her asking me that question.**

10 Q. And I think you testified previously
11 that you didn't have any conversations with any of
12 the individuals that I just named either before or
13 after this incident at the hospital?

14 MS. POLLICK: Objection;
15 mischaracterization of prior testimony.

16 THE WITNESS: I believe she only asked
17 me about Ryan Foy and Art Bobbouine, not the
18 rest of the folks.

19 BY MR. BUFALINO:

20 Q. And you tell me if I'm wrong. Did I
21 understand your testimony to be that -- that you
22 didn't tell anybody that they couldn't tape because
23 you didn't know whether it was for training
24 purposes; is that what your testimony was?

25 **A. Correct. I just watched the video from**

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1 **my office, because I'm like, I know some of those**
2 **people.**

3 Q. So as you sat there that day in
4 question, you had it in your mind that it was
5 probably for training purposes?

6 MS. POLLICK: Objection.

7 BY MR. BUFALINO:

8 Q. Go ahead. You can answer.

9 **A. At the time, I didn't know what it was**
10 **for. That's why I said I didn't know if it was an**
11 **incident or if it was for training.**

12 Q. But my question to you is -- and please
13 listen to my question carefully.

14 **A. Sure.**

15 Q. At the time you were sitting in your
16 office watching this all unfold, you had the
17 thought in your mind that it was possibly for
18 training purposes --

19 MS. POLLICK: Objection.

20 BY MR. BUFALINO:

21 Q. -- although you did not know?

22 MS. POLLICK: Objection.

23 THE WITNESS: Correct. I didn't know
24 what it was exactly for until after.

25 BY MR. BUFALINO:

MAURICE "SCOTT" LAMOREUX

1 Q. You said you were a police officer for
2 Pringle Borough -- or are a police officer for
3 Pringle Borough, correct?

4 **A. Yes, sir.**

5 Q. Were you a police officer anywhere
6 else?

7 **A. A few places.**

8 Q. Can you tell me where that was?

9 **A. Wilkes-Barre Township. I was a police**
10 **officer in Fairview Township for a while. When I**
11 **first started out, I worked in Sugar Notch and**
12 **Warrior Run.**

13 Q. When were you a police officer in
14 Wilkes-Barre?

15 **A. Wilkes-Barre Township, roughly July**
16 **2001 to August of 2004.**

17 Q. Why did you leave there?

18 **A. Because I got full-time employment.**

19 Q. With?

20 **A. Geisinger in Plains because I had no**
21 **benefits.**

22 Q. How about Fairview Township?

23 **A. Fairview Township was roughly 2003 --**
24 **part of 2003, part of 2004 roughly.**

25 Q. These are approximations --

MAURICE "SCOTT" LAMOREUX

1 **A.** **Yes.**

2 **Q.** **-- to the best of your memory?**

3 **A.** **Right, yes, sir.**

4 **Q.** **And why did you leave Fairview**
5 **Township?**

6 **A.** **Because I basically was working 72**
7 **hours every two weeks there and 80 at the hospital.**
8 **Fairview wasn't able to give me benefits. I needed**
9 **a break. So I just stayed with the hospital.**

10 **Q.** **So you quit?**

11 **A.** **Yeah, I left. I resigned.**

12 **Q.** **Would that also be true for**
13 **Wilkes-Barre Township?**

14 **A.** **Yes, because I got full-time**
15 **employment.**

16 **Q.** **How about dates of employment with**
17 **Sugar Notch?**

18 **A.** **Well, I graduated May, so that was**
19 **roughly June or July -- it had to be June of 2001**
20 **through roughly September of 2002.**

21 **Q.** **And why did you leave Sugar Notch?**

22 **A.** **Because at the time, I was getting more**
23 **hours in Wilkes-Barre Township between the arena**
24 **and 32 hours a week on the road.**

25 **Q.** **You quit or were you terminated?**

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1 **A.** **Um-hum.**

2 **Q.** **Is that correct?**

3 **A.** **Um-hum, yes.**

4 **Q.** **You have to say --**

5 **A.** **Yes.**

6 **Q.** **And you answered me with regard to one**
7 **of my previous questions that you had no**
8 **conversations with either -- Mr. Foy either before**
9 **or after this alleged incident; is that right?**

10 **A.** **Correct, other than if I saw him**
11 **outside somewhere, hi, how you doing. That's it.**
12 **I don't even recall.**

13 **Q.** **I apologize for interrupting you.**

14 **A.** **No problem, sir.**

15 **Q.** **How about any of the other individuals?**

16 **A.** **Well, I worked -- I was back in the**
17 **sheriff's department from roughly February of 2008**
18 **until December of 2008 when I got laid off.**

19 **Q.** **You worked for the Luzerne County**
20 **sheriff's department?**

21 **A.** **Correct.**

22 **Q.** **Up until 2008? I'm sorry.**

23 **A.** **Yes, December 2008. When they had all**
24 **the layoffs, I got laid off.**

25 **Q.** **What did you do for the sheriff?**

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1 **A.** **From where?**

2 **Q.** **From Sugar Notch.**

3 **A.** **Oh, I resigned. I've never been fired**
4 **from any job.**

5 **Q.** **And I didn't mean to implicate that you**
6 **did. I'm just trying to find out if you did.**
7 **Warrior Run, please?**

8 **A.** **Warrior Run, that was from September of**
9 **2001 through roughly February maybe.**

10 **Q.** **Of 2002?**

11 **A.** **Correct. I was just starting out.**

12 **Q.** **And you left Warrior Run for what**
13 **reason?**

14 **A.** **Because I was working 32 hours a week**
15 **in Wilkes-Barre Township, and I was hired in the**
16 **sheriff's department part-time --**

17 **Q.** **Okay.**

18 **A.** **-- because it worked better for the**
19 **schedule that I had.**

20 **Q.** **Okay. Getting back to what you**
21 **witnessed in September of 2007 at Wilkes-Barre**
22 **South, you said that you knew -- I think you said**
23 **that you knew Erin Joyce, Jen Roberts, Art**
24 **Bobbouine, which by the way I believe is**
25 **B-o-b-o-u-i-n-n-e, and Mr. Foy at that time?**

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1 **A.** **Deputy. I worked on my days off from**
2 **the hospital.**

3 **Q.** **Have you ever seen -- during the course**
4 **of your employment with the Luzerne County**
5 **sheriff's office, have you ever seen any of the**
6 **alleged videos or the videos or photographs from**
7 **the incident which you also were present for at**
8 **Geisinger South?**

9 **A.** **I did not see videos of -- or pictures**
10 **from the contamination shower or anything other**
11 **than that day when I sat there behind the monitors**
12 **and watched.**

13 **Q.** **Very good. Let's talk about -- strike**
14 **that. I'm not sure that I got an answer to my**
15 **question, though.**

16 Have you ever had a conversation with
17 Erin Joyce either on September 27th of '07, which
18 is the date of this incident, or thereafter
19 regarding what you observed at the decontamination?

20 MS. POLLICK: Objection. You never
21 asked that question. So I'm placing the
22 objection on the record just that you're
23 implying that he didn't answer.

24 MR. BUFALINO: If I did, I apologize.

25 THE WITNESS: You didn't answer -- or

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1 didn't ask. But other than maybe hi that day,
2 since that day, I have never had a conversation
3 with Erin about that incident.

4 BY MR. BUFALINO:

5 Q. How about Jen Roberts, same question?

6 A. Jennifer I have.

7 Q. When did you talk to Jen?

8 A. I don't recall.

9 Q. This year, last year, at the time of
10 the incident?

11 A. Probably earlier this year.

12 Q. What caused you to have that
13 conversation with her, do you know?

14 A. She came to me.

15 Q. And said what to you?

16 A. Probably -- I'm sure she asked me if
17 they had video at the hospital. I don't recall 100
18 percent.

19 Q. What did you tell her?

20 A. I said, yeah, there's video. They have
21 monitors.

22 Q. There's video at the hospital of what?

23 A. Different areas of the hospital.

24 Q. And did you at any point in time
25 procure those videos of the hospital?

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1 A. That particular camera is a fixed
2 camera, so I can't zoom in or zoom out. It's just
3 on -- where the decontamination shower is right off
4 the ambulance ramp. So it's -- it's just -- when
5 you walk in, it's just a walkway into the back of
6 the emergency room. And then the decontamination
7 closet is in the wall. And when the door opens,
8 you can't see inside -- you can't see inside of it
9 from the camera view.

10 Q. But my question is, did you obtain a
11 copy of that videotape?

12 A. No, I did not. I was not requested to.

13 Q. Do you know whether that videotape
14 still exists?

15 A. It will not exist.

16 Q. Okay. And --

17 A. I think it goes up to maybe 14 days it
18 saves stuff or -- 14 or 20 days.

19 Q. Was that the extent of your
20 conversation with Ms. Roberts?

21 A. About that, yeah, other than that
22 Cynthia might be calling me.

23 Q. Okay. Was that the only time you
24 discussed this matter with her?

25 A. No. She had called me just a couple

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1 weeks ago for my address and stuff, I guess to give
2 it to her, Cynthia.

3 Q. Okay. And is that only conversation
4 you've had?

5 A. About that incident, I believe that's
6 about it. She knew I worked at the hospital, so --

7 Q. Okay. How about Mr. Bobbouine, any
8 conversations that day or subsequent thereto?

9 A. Like I said as I answered before, I
10 wasn't sure if it was him or Ryan Foy that -- I
11 can't remember that asked me if they could leave
12 the cruiser. Other than that, in passing at the
13 arena, hi, how you doing. That's it.

14 Q. Very good. And Mr. Szumski I think you
15 said discovered --

16 A. I --

17 Q. Hang on. I think you said you
18 discovered that -- strike that.

19 You discovered who Mr. Szumski was
20 subsequent to your day in the security booth at the
21 hospital; is that right?

22 A. I didn't know Matt until I started
23 there -- started working in the sheriff's
24 department is when I actually met him.

25 Q. Did you ever have any conversations

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1 with Mr. Szumski on that day at Wilkes-Barre South?

2 A. Not that I can remember.

3 Q. Okay. Have you ever had any
4 conversations with Mr. Szumski subsequent to that
5 day at Geisinger South regarding this incident?

6 A. Never.

7 Q. Have you ever had any conversations
8 with anybody other than the people that we've
9 previously discussed regarding this incident? And
10 by "this incident," you understand that I mean what
11 you observed at Geisinger South, right? Do you
12 understand that?

13 A. Absolutely, September 27th, 2007.
14 Other than maybe telling my wife that -- well, she
15 was my fiance at the time that -- a couple deputies
16 were serving a warrant and they got lice or bed
17 bugs or something, other than that, no.

18 Q. Let's talk for a few minutes about what
19 you did observe. Ms. Pollick asked you about
20 whether or not you saw a video cameras being
21 pointed towards the decontamination shower area; is
22 that right?

23 A. Yes.

24 Q. Were you able to tell whether or not
25 the video cameras were actually working or not?

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1 **A. No, I was not.**

2 Q. How about the same for the cell phone,
3 do you know whether anybody was actually
4 videotaping using that cell phone?

5 **A. I don't know if they were videotaping
6 or taking pictures. I can't answer if they
7 actually used their thumb to push the button.**

8 Q. I think we covered this. But you never
9 saw an actual video or still photograph of this
10 incident, correct?

11 **A. No, I did not.**

12 Q. Were you able to see who came in and
13 out of the decontamination shower? I believe you
14 said that you did?

15 **A. Yes.**

16 Q. Who did you see?

17 **A. I saw Jen come out wrapped in towels,
18 and I believe it was Matt Szumski. I think that's
19 his first name.**

20 Q. With regards to Ms. Roberts, when you
21 say she was wrapped in a towel, can you describe
22 that please?

23 **A. If I remember correctly, she was
24 wrapped in towels that the hospital let her --
25 wrapped around her body.**

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1 Q. Did you ever see any part of her
2 anatomy?

3 **A. No, I did not.**

4 Q. Did you ever provide a written
5 statement with regards to anything you saw or did
6 while you were at the Wilkes-Barre South facility
7 on that day?

8 **A. No, I did not.**

9 Q. Have you ever provided one subsequent
10 to that?

11 **A. No, I have not.**

12 Q. Okay. Do you have any other knowledge
13 or information regarding the incident that occurred
14 at Geisinger South on that day?

15 MS. POLLICK: Objection; compound,
16 vague question.

17 THE WITNESS: Could you repeat the
18 question?

19 BY MR. BUFALINO:

20 Q. Sure. Do you have any other knowledge
21 or information pertaining to what you observed
22 while you were employed at Geisinger South?

23 MS. POLLICK: Same objection.

24 THE WITNESS: No.

25 BY MR. BUFALINO:

35

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1 Q. I'm sorry?

2 **A. No, I do not.**

3 MR. BUFALINO: Very good. That's all I
4 have. Thank you.

5 MS. POLLICK: I have some follow-up.

6 * * *

7 EXAMINATION

8 * * *

9 BY MS. POLLICK:

10 Q. Now, the towel, it's not like a towel
11 that we would think when we get out of the shower.
12 It's not a nice, fuzzy warm towel. It's just a
13 sheet of paper actually.

14 MR. BUFALINO: Object to the form.
15 You can answer.

16 THE WITNESS: No. They're regular
17 towels. They're just not beach towel size.

18 BY MS. POLLICK:

19 Q. Okay. So it's a regular towel?

20 **A. It's a regular size standard towel.
21 Like I said, it's just not -- It's not like going
22 to the beach, not one of them big ones.**

23 Q. Could you actually decipher what
24 actually was around her at the time that she exited
25 the decontamination shower room?

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1 **A. I'm trying to think now. Now that I'm
2 thinking back on it, she might have come out in
3 scrubs. I can't remember 100 percent, but I know
4 that the hospital gave them towels. And they're
5 just white standard HCSC towels.**

6 Q. Now, counsel had tried to get you to
7 convince -- tried to get you to agree to the fact
8 that you believed that it was training that was
9 occurring at that day --

10 MR. BUFALINO: I'm just going to object
11 to the characterization.

12 You can answer.

13 MS. POLLICK: I didn't finish my
14 question, but by all means, you can have the
15 objection after I finish.

16 MR. BUFALINO: Sorry.

17 BY MS. POLLICK:

18 Q. In your mind on that day when you were
19 watching the video, you believed they could have
20 been recording an incident; you didn't really know
21 what was going on; it could be an incident or
22 possibly it could be for training; you really
23 didn't know?

24 **A. Correct. That's how I answered.**

25 Q. Yes.

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1 **A. I did not know either way.**
2 Q. And the only -- because they were law
3 enforcement, they do -- it wasn't a concern only
4 because law enforcement was the one holding the
5 video?
6 MR. BUFALINO: Objection to the form.
7 You can answer.
8 THE WITNESS: Correct.
9 BY MS. POLLICK:
10 Q. Now --
11 **A. As I stated before, I would not -- I'm**
12 **not going to go get involved in something unless I**
13 **get called for it at the hospital.**
14 Q. I hear you.
15 Now, when you see someone holding up a
16 video camera, normally they're video recording?
17 MR. BUFALINO: Objection to form; calls
18 for speculation.
19 THE WITNESS: I can't say either way.
20 BY MS. POLLICK:
21 Q. Although you can't say if they were
22 actually recording, it appeared to you that they
23 were recording and taking photos?
24 MR. BUFALINO: Objection to form.
25 You can answer.

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1 THE WITNESS: Correct. I can't say
2 that they had their finger on the button, but I
3 can say that the video camera was facing the
4 decontam room and so was the cell phone.
5 BY MS. POLLICK:
6 Q. Okay. Now, you, yourself, have never
7 been trained in any of your law enforcement jobs
8 with homemade videos?
9 MR. BUFALINO: Objection to form.
10 But you can answer.
11 THE WITNESS: That is correct.
12 BY MS. POLLICK:
13 Q. You've always had professional
14 training. If you've had it, it was professionally
15 done, correct?
16 MR. BUFALINO: Objection to form.
17 But you can answer.
18 THE WITNESS: I've never had training
19 on how to videotape somebody.
20 BY MS. POLLICK:
21 Q. Okay.
22 **A. But I've seen videos of training.**
23 Q. Okay. Like you said about the OC, the
24 pepper spray?
25 **A. Yes.**

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1 Q. But that wasn't a homemade video you
2 saw; it was a professional outfit that put it
3 together, and it was professional?
4 MR. BUFALINO: Objection to the form.
5 But you can answer if you know.
6 THE WITNESS: Correct.
7 BY MS. POLLICK:
8 Q. Did any of the videos that you saw in
9 your law enforcement training, did you have any
10 banter like laughter, things like that, as part of
11 an official professional training?
12 **A. There has been, yes.**
13 Q. Okay. Tell me about that.
14 **A. Especially when it comes to the OC or**
15 **the pepper spray, when somebody gets sprayed, like**
16 **they start coughing up. They start snorting all**
17 **over the place. And they're trying to reach and**
18 **cuff people. Like some of the guys in the**
19 **background will snicker or laugh. And same thing**
20 **with some of the -- like the tazer videos I've**
21 **seen, same type of thing.**
22 Q. Have you ever heard people talk about
23 like making fun of the person who was being
24 videotaped in a sense of, oh, did you see those
25 tattoos on the back or that they have a fat ass,

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1 things like that?
2 MR. BUFALINO: Objection to form.
3 You can answer.
4 THE WITNESS: No, I have not. They
5 usually don't -- they don't make fun of whoever
6 is getting sprayed or whatnot. It's usually --
7 usually you can hear people like snicker and
8 stuff like that.
9 MS. POLLICK: Okay. That's all I have.
10 MR. BUFALINO: That's it. Thank you.
11 * * *
12 (Witness excused.)
13 * * *
14 (Whereupon, the deposition was
15 concluded at 11:51 a.m.)
16 * * *
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I N D E X

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3 WITNESS: Maurice "Scott" Lamoreux

4 QUESTIONED BY: PAGE
5 Ms. Pollick 3, 35
6 Mr. Bufalino 15

E X H I B I T S

* * *

MARKED
FOR ID

11 NUMBER DESCRIPTION
12 (None marked.)

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C E R T I F I C A T E

1
2
3 I, Marilou S. Kohut, Registered
4 Professional Reporter and Notary Public in and for
5 the Commonwealth of Pennsylvania, certify that the
6 foregoing is a true and accurate transcript of the
7 deposition of said witness, who was first duly
8 sworn by me on the date and place hereinbefore set
9 forth.

10
11 I further certify that I am neither
12 attorney nor counsel for, nor related to or
13 employed by, any of the parties to the action in
14 which this deposition was taken, and further, that
15 I am not a relative or employee of any attorney or
16 counsel employed in this action, nor am I
17 financially interested in this case.

18
19
20
21
22
23
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25

Marilou S. Kohut, RPR
Notary Public

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

* * *

JANE DOE, : CIVIL ACTION
Plaintiff :
vs :
LUZERNE COUNTY and :
RYAN FOY, :
Defendants : NO. 3:08-CV-1155

* * *

Oral deposition of MANDY LEANDRI, taken at The Employment Law Firm, 363 Laurel Street, Pittston, Pennsylvania 18640, on Thursday, September 17, 2009, beginning at 11:12 a.m. before Marilou S. Kohut, Registered Professional Reporter and Notary Public in and for the Commonwealth of Pennsylvania.

* * *

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MANDY LEANDRI

* * *

1
2 (It is hereby stipulated and agreed by
3 and between counsel for the respective parties
4 that signing, sealing, certification, and
5 filing are waived and that all objections,
6 except as to the form of the question, are
7 reserved until the time of trial.)

* * *

MANDY LEANDRI,

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

* * *

EXAMINATION

* * *

15 BY MS. POLLICK:

16 Q. Could you state your name for the
17 record, please?

18 A. Mandy, M-a-n-d-y, middle initial C,
19 Leandri, L-e-a-n-d-r-i.

20 Q. Mandy, my name is Attorney Cindy
21 Pollick. And I represent Joe -- Jane Doe -- excuse
22 me -- in a case that she has brought against
23 Luzerne County. It's involving when two deputies
24 were infested with fleas back in 2007.

25 A. Um-hum.

A P P E A R A N C E S:

CYNTHIA L. POLLICK, ESQUIRE
THE EMPLOYMENT LAW FIRM
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Pittston, Pennsylvania 18640

-- Representing the Plaintiff

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Wilkes-Barre, Pennsylvania 18701

-- Representing the Defendants

* * *

MANDY LEANDRI

1 Q. Have you ever been deposed before, like
2 in this formal setting with a stenographer right
3 there?

4 A. Um-hum.

5 Q. You have?

6 MR. BUFALINO: Is that a yes?

7 THE WITNESS: Yes, I did -- have.

8 BY MS. POLLICK:

9 Q. And one of the little rules that we try
10 to abide by is that you can give me nods of the
11 head, hands -- I don't care -- as long as you give
12 me a verbal as well.

13 A. Okay.

14 Q. So you're familiar with the process in
15 a sense, I ask questions.

16 A. Yes.

17 Q. You have to answer the questions.

18 Opposing counsel can provide -- can place
19 objections on the record so he can preserve the
20 record, but you still have to answer all of my
21 questions, okay?

22 A. Got you.

23 Q. And one of the things that I ask is, if
24 you can wait for me to finish my question --
25 sometimes I'm long-winded -- and then answer the

MANDY LEANDRI

1 question so that the court reporter can take down
2 both of us.

3 A. Yes.

4 Q. Great.

5 MR. BUFALINO: Read and sign.

6 BY MS. POLLICK:

7 Q. What is your address?

8 MR. BUFALINO: Read and sign?

9 BY MS. POLLICK:

10 Q. Do you want to waive the reading and
11 signing? That's usually the easiest --

12 A. Sure.

13 Q. -- process to do, because if you don't,
14 then you get a copy of this. You have to review it
15 all, make any changes in a sense of -- not
16 substantive changes, but if there's word problems.
17 And you change it, and then you have to sign it.
18 It's a little bit more work. Most of -- I always
19 usually have people waive it just for the ease of
20 their process unless you feel that you would want
21 to read it.

22 MR. BUFALINO: You do have the right
23 to.

24 MS. POLLICK: Yes.

25 THE WITNESS: I'm not reading anything.

MANDY LEANDRI

1 field, and then you made the switch to come in?

2 A. They made the switches for you.

3 Q. Okay. Sorry. In 2007, what was your
4 job, deputy sheriff in the office?

5 A. Until I went for training, right.

6 Q. Okay. And what training did you
7 undergo?

8 A. The Act 235 deputy sheriff training.

9 Q. So you were working for the sheriff's
10 office up until 2007 not in a deputy sheriff
11 capacity?

12 A. No. We were hired part-time, but then
13 you have to go and get certified.

14 Q. When you become full time?

15 A. Right.

16 Q. So that's when you --

17 A. Well, actually, no. I went to the
18 training before I was actually hired full time.
19 They get you the training first, and then --

20 Q. Okay. So from '97 to 2007, before your
21 training, you were only part-time?

22 A. Right.

23 Q. Okay. Now, I gotcha. In September of
24 2007, what was your position at that point?

25 A. I worked in the office.

MANDY LEANDRI

1 BY MS. POLLICK:

2 Q. Okay. Less work, right?

3 A. Yep.

4 Q. What is your home address?

5 A. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

9 Q. Who are you employed by?

10 A. Luzerne County Sheriff's Department.

11 Q. How long have you been with the
12 Sheriff's Department?

13 A. March 17th, 1997.

14 MR. BUFALINO: The 17th?

15 THE WITNESS: March 17th, St. Patrick's
16 Day.

17 BY MS. POLLICK:

18 Q. And what do you -- what were you hired
19 to do?

20 A. A deputy sheriff.

21 Q. Okay. Now, do you work in the office,
22 or do you work -- do fieldwork? I guess I'll call
23 it fieldwork.

24 A. Currently in the office.

25 Q. At one point, you were out in the

MANDY LEANDRI

1 Q. And what was the role that you were
2 filling at that point?

3 A. Civil process.

4 Q. Okay. Were you doing the real estate?

5 A. No.

6 Q. Well -- so it was just all different
7 tasks you were performing at that point?

8 A. If you sue somebody, I process the
9 paperwork.

10 Q. Where was your office -- or your desk,
11 I should say, in relation to Deputy Chief Foy's
12 office?

13 A. They have cubbies. So I was like the
14 second -- I was the middle row.

15 Q. Okay.

16 A. I don't know how you would explain it
17 really.

18 Q. If you draw it, would that be easier?

19 A. Sure.

20 Q. Okay.

21 A. His office is here. Here's our front
22 counter. Then you have three desks. And on the
23 opposite side of these three desks and a divider
24 are another three desks. And I was here.

25 Q. Is the setup the same now as it was

MANDY LEANDRI

1 then?

2 A. It is. Some of the partitions are
3 lowered so you can see more now.

4 Q. Okay. The partitions were higher?

5 A. Um-hum.

6 Q. That's a yes?

7 A. Yes.

8 Q. Sorry. Do you recall when two deputies
9 got infested with fleas in September of 2007?

10 A. I do.

11 Q. Okay. Were you in the office on that
12 day in question?

13 A. I was.

14 Q. And how did you learn that they were
15 infested?

16 A. Everyone started laughing about it.

17 Q. Okay. And how did you -- like, did
18 they call in or how do you -- or did somebody that
19 you were working with say, oh, did you hear
20 so-and-so got infested with fleas?

21 A. I don't really remember who said what.
22 I just remember hearing that Jen and Szumski got
23 fleas and they had to go and delouse themselves
24 with spray. And they were going to go over.

25 Q. Did you have any involvement in any

MANDY LEANDRI

1 that way no one could say anything.

2 Q. And why would they want that? Why
3 would she be -- so that they could, you know, be
4 insulated, I should say, from any bad intentions?

5 MR. BUFALINO: Object to the form.

6 You can answer.

7 THE WITNESS: I have no idea.

8 BY MS. POLLICK:

9 Q. Have they ever videotaped anyone on the
10 work site that you're aware of on any prior
11 occasion?

12 A. I have no idea.

13 Q. Where was Erin working at this point?

14 I'm going to call her Erin and not Shitsy.

15 A. That's fine. I don't call her Shitsy
16 either actually. I believe she -- her office was
17 over in the courthouse, but she was in our office
18 that day for some reason or other. And that was
19 it.

20 Q. Now, how did you hear this -- how did
21 you hear them asking her to -- was she present in
22 the office, or was this over the phone?

23 A. They were just yelling back, come on,
24 Shitsy; let's go; we're going to make sure
25 everything is okay, and we're going to make a video

MANDY LEANDRI

1 type of direction of who went where on that day and
2 did what?

3 A. Nope.

4 Q. Do you recall -- do you recall anyone
5 talking about videotaping?

6 A. Yep.

7 Q. Okay. What do you recall?

8 A. I heard them say that they were going
9 to make an informational -- that's not the word --
10 like a training video out of it. And I remember
11 them yelling to the one lady -- they called her
12 Shitsy -- and hey, Shitsy, let's go; that way they
13 can't say anything is wrong. So -- so I remember
14 them all heading out the door. And that was it.

15 Q. And who is Shitsy?

16 A. Erin Joyce.

17 Q. What was -- why did they want her?

18 A. They said they wanted --

19 MR. BUFALINO: I'm just going to object
20 to the form of the question. I think that it
21 calls for her to speculate what's in somebody
22 else's mind.

23 Q. You can answer.

24 A. Okay. They said because they didn't
25 want anyone saying anything was wrong happening --

MANDY LEANDRI

1 of how -- what to do -- it was the second time that
2 happened with fleas. And the first time they went
3 to go one place, it was okay, and then when they
4 went to go back there, they didn't want us there or
5 something. They wanted to have it and make a
6 manual as to what to do if it were to happen again.

7 Q. How do you know they wanted to make a
8 manual because -- have you ever seen the video?

9 A. Not of Jane Doe.

10 Q. Okay. So you've never seen the video
11 of Jane Doe?

12 A. Of John Doe.

13 Q. Okay. Of --

14 A. Brian.

15 Q. Okay. So you've never seen the parts
16 that Jane Doe was in in the video?

17 A. I didn't see any of it. I saw a
18 picture of her.

19 Q. So you saw a still image?

20 A. Right.

21 Q. Now -- so how do you know that they
22 were going there with the intention of doing a
23 serious documentary on training?

24 A. Just from what I heard in the office.
25 I really don't know what exactly they were doing,

MANDY LEANDRI

1 just what they -- I don't even know who was saying
2 what.

3 Q. Because there was laughter and focusing
4 in on a nipple ring and --

5 A. I have no idea about any of that.

6 Q. I don't know how that would be tied
7 into training, if you can maybe explain that one to
8 me.

9 MR. BUFALINO: I'm just going to object
10 to the form.

11 But you can answer if you know.

12 THE WITNESS: I don't have a clue even
13 what you're talking about personally.

14 BY MS. POLLICK:

15 Q. Well, you as -- if it's only what you
16 heard them say -- well, who did you hear say that
17 it was to go make a training manual?

18 A. I don't even remember. It might have
19 been Foy. It might have been Bobbouine. It might
20 have been the sheriff. I don't remember.

21 Q. Well, who was present that you recall
22 during the day -- that day in the office at that
23 time when this conversation occurred?

24 A. Myself, Sherry Whites.

25 MR. BUFALINO: Slow down, please.

MANDY LEANDRI

1 THE WITNESS: Sorry.

2 MR. BUFALINO: That's okay.

3 THE WITNESS: Erin, Foy, Art. I don't
4 remember if the sheriff was there or not. I
5 don't really remember anybody else
6 specifically.

7 BY MS. POLLICK:

8 Q. And was it a man's voice or a woman's
9 voice?

10 A. Man's.

11 Q. So out of all of these people that you
12 stated, the only two males were Foy and --

13 A. Art.

14 Q. Art?

15 A. Um-hum.

16 Q. So it --

17 MR. BUFALINO: Is that a yes?

18 THE WITNESS: Yes.

19 BY MS. POLLICK:

20 Q. So it had to be one of those two?

21 A. Correct.

22 Q. And why would taking Erin Joyce prove
23 it to be training? Was she involved in training at
24 all?

25 A. I have no idea, no clue.

MANDY LEANDRI

1 Q. Could you tell me again what you recall
2 being said?

3 A. I remember we were laughing, ha ha;
4 they got fleas. And they were going to head over
5 to wherever they were to get their shower and make
6 a video and a training step-by-step of where to go,
7 what to do with their clothing, bag it up. I don't
8 know. That's really all I remember. I don't know
9 who was saying what.

10 Q. Can you tell me why they didn't show
11 any bagging up of the clothing and what you do --
12 well, do you know if the video that they took that
13 day was ever made into a training video? Have you
14 seen it during your time as a sheriff?

15 A. No.

16 Q. What was Erin Joyce's job?

17 A. Deputy.

18 Q. Who was in charge of training, you
19 know, deputies?

20 A. It depends. There are a couple
21 different deputies that train for different things.

22 Q. Was Erin Joyce ever a deputy that
23 trained individuals?

24 A. Not us. She goes in the schools and
25 stuff.

MANDY LEANDRI

1 Q. But has she ever provided any training
2 that you're aware of to deputy sheriffs?

3 A. Nope, at least she didn't train me.

4 Q. Do you -- what do you recall next
5 happening in connection with anybody that was a
6 participant in either the videotaping or the
7 deputies that were infested?

8 A. I don't know if it was later that day
9 or later on in the week or however long, but I
10 remember in Foy's office, they were watching --
11 there was a whole lot of people in there. I have
12 no idea who was in there. I remember myself and
13 Sherry Whites specifically, only because we walked
14 out because we saw Brian Szumski's rear. But that
15 was it.

16 Q. From your recollection, who do you
17 remember being there, only Sherry and chief -- or
18 Deputy Chief Foy?

19 A. Yes. There was -- I -- yeah, I don't
20 remember, because I thought Jen was in there. I
21 thought Jen Roberts was in there. I don't know.
22 Apparently, I thought all these people were there,
23 and they weren't. I thought we were all laughing
24 about it.

25 Q. Why do you think they were all there?

MANDY LEANDRI

1 A. I don't know. I just remember it that
2 way.
3 Q. Well, what conversations have you had
4 that you realized, no, they weren't there?
5 A. She told me she wasn't.
6 Q. Okay. Well, who else did you believe
7 was there and they said they weren't there?
8 A. I never talked to anybody about it --
9 Q. Okay.
10 A. -- especially once I heard -- at the
11 time, it was no big deal. Since we heard about
12 this, no one -- I don't want -- I haven't talked to
13 anybody about it.
14 Q. Well, how about -- you and Sherry
15 walked out when you saw his bare butt?
16 A. Right.
17 Q. Did anybody else walk out at that time?
18 A. I don't know. I just know that we went
19 back and -- we were around the corner. So we just
20 went and sat down.
21 Q. Okay. And sitting here today, who can
22 you recall that was there?
23 A. Myself and Sherry. I guess Foy was in
24 there. And I don't know who all was in there. I
25 really don't. I don't remember.

MANDY LEANDRI

1 Q. Why did you leave when you saw the
2 bare -- Brian's bare butt?
3 A. You've seen one, you've seen them all.
4 I don't know. I just didn't want to watch it.
5 Q. Okay. Were you offended at the fact
6 that at your site, they were showing this stuff?
7 MR. BUFALINO: I'm just going to object
8 to relevance.
9 THE WITNESS: No.
10 MR. BUFALINO: The subject of this
11 lawsuit is not Mr. Szumski's butt. It's
12 what -- the videotapes or images allegedly of
13 Ms. Doe. So --
14 MS. POLLICK: It's all what an employer
15 does -- what the government can do. So I
16 disagree with you. But nonetheless --
17 BY MS. POLLICK:
18 Q. So you left. Why did you leave now?
19 You left because you've seen one bare butt, you've
20 seen them all; is that the --
21 A. Pretty much. I don't have any desire
22 to watch it really. It's none of my business.
23 Q. Why were you there in the first place
24 then?
25 A. Because they said for everybody to go

MANDY LEANDRI

1 in. So we were all in there.
2 Q. Who said that?
3 A. I -- Foy possibly.
4 Q. So Deputy Chief Foy called everybody in
5 the office. What was that purpose? Was it a
6 training session?
7 A. I don't know. I have no clue.
8 Q. Were people laughing, or was it solemn?
9 What was the atmosphere in that room -- in his
10 room?
11 A. I guess laughing. I'm not really sure.
12 I know that I said, oh, geez. And I started
13 laughing myself. I said, I'm out of here. And
14 that was it. I don't really know.
15 Q. Now, I thought you told me you didn't
16 see the video, but then you did see the video.
17 A. I never saw a video of Jen. I said I
18 saw a video of Brian.
19 Q. So you just saw a video of Brian on
20 that day. Is that the only day you saw it?
21 A. Later on after the new sheriff came in,
22 I ended up with Foy's computer. And that's when --
23 I was trying to -- they were trying to teach -- I'm
24 computer stupid. Let's just say that. I didn't
25 even know how to turn it on. And they were trying

MANDY LEANDRI

1 to -- someone was trying to show me how to do
2 something. And I had given up on it. I went back
3 to try it all again. I don't remember what was I
4 was trying to pull up. And then -- I don't know.
5 Then all of a sudden -- it was a still picture of
6 Brian's rear end again, and then there was a
7 picture of Jen.
8 Q. And what did you see?
9 A. Her shoulder. It was a picture of her
10 shoulder, because I said, oh, wow, I didn't know
11 you had a tattoo of your girlfriend's initials.
12 Q. So you saw tattoos. That's what you
13 remember from the photo?
14 A. That's pretty much all I remember,
15 because I was just more in shock that you would get
16 someone's initials tattooed on you.
17 Q. And why?
18 A. It's pretty permanent. I don't know.
19 I just remember the tattoo.
20 Q. Now, what -- tell me about what -- how
21 you went about accessing Ryan's computer and like
22 what you clicked on?
23 A. I don't have a clue.
24 Q. So you don't remember that the file
25 folder was Brian's ass?

MANDY LEANDRI

1 MR. BUFALINO: Objection to form.
 2 You can answer.
 3 THE WITNESS: No. I don't have a clue.
 4 I don't know what I was doing. It just was
 5 there. And then I called Sherry over, and she
 6 said, oh, geez. I said, yeah. I don't know.
 7 We kind of laughed about it. I told Jen. I
 8 said, I didn't know you had a picture -- or a
 9 tattoo of her initials on you. I said, you
 10 crazy, or something like that. And that was
 11 it. I don't really -- I have no idea how it
 12 got there. I wouldn't be able to do it again.
 13 BY MS. POLLICK:
 14 Q. Okay. But it was on his computer. Did
 15 you delete that file or anything?
 16 A. No. I wouldn't even know how.
 17 Q. Do you still have the computer that --
 18 Foy's computer now, today?
 19 A. I do.
 20 Q. Has anyone come to look at that
 21 computer to download things off of it?
 22 A. I don't know what they do on it. But
 23 like IT has been there.
 24 Q. Yes, IT.
 25 A. They've been there.

MANDY LEANDRI

1 Q. And when did they come during the last
 2 six months? Did they come in the last six months?
 3 A. Yeah.
 4 Q. Okay. And how long did they look at
 5 your computer?
 6 A. I don't know. I would leave. I didn't
 7 want to even be standing there. So I would walk
 8 away. They said they would only be like 10, 15
 9 minutes at a time when they would be there. So I
 10 would just leave.
 11 Q. Who were the people?
 12 A. Steve Englot.
 13 MR. BUFALINO: E-g --
 14 THE WITNESS: E-n --
 15 MR. BUFALINO: Oh, I'm sorry.
 16 E-n-g-l-o-t.
 17 BY MS. POLLICK:
 18 Q. Anyone else beside him?
 19 A. Not that I recall, no.
 20 Q. How long was he there?
 21 A. 10, 15 minutes, I guess. He would be
 22 gone when I'd get back. I would usually go on
 23 break or something, or I would go and work on
 24 something else. It was only like two or three
 25 times.

MANDY LEANDRI

1 Q. Now, as far as you know, that file
 2 should still be on the computer?
 3 A. I guess. I never did anything with it.
 4 I know after that, people had tried finding it and
 5 couldn't find it --
 6 Q. And --
 7 A. -- like office people, like Jen or
 8 other people there.
 9 Q. So what had -- so you don't know what
 10 you clicked to get these still images?
 11 A. Not a clue.
 12 Q. But these still images came up?
 13 A. Right. Shocked me I should say. I
 14 didn't want anyone's bare rear in my face, but yes.
 15 Q. Was it like full size, or was it zoned
 16 in on the butt area?
 17 A. Oh, no. It was full size. It wasn't
 18 like a huge picture. They were like up in the
 19 top -- I don't know. There was all kinds. I don't
 20 know. Just weird pictures.
 21 Q. Well, what were the pictures, if you
 22 can describe them to me?
 23 A. One of Szumski, one of Jen, races --
 24 MR. BUFALINO: I'm sorry?
 25 THE WITNESS: A race. Like I don't

MANDY LEANDRI

1 know. I've never been to a race either.
 2 Poconos.
 3 BY MS. POLLICK:
 4 Q. A NASCAR race?
 5 A. Yes. There you go.
 6 Q. What else?
 7 A. That's all I remember. Because I
 8 remember, who would want a race. But Foy used to
 9 go to all of the races. He used to work them.
 10 Q. He used to work them as a sheriff, or
 11 did he just --
 12 A. No. I don't -- no, not as us. I don't
 13 know what he would do, but he would take off that
 14 time and go do something with the races.
 15 Q. So his personal hobby was he liked to
 16 go to the races?
 17 A. I guess, yeah.
 18 Q. Have you ever seen any photos like
 19 hanging around the office like of the printout of
 20 Brian's butt?
 21 A. No.
 22 Q. Has anyone else used your computer? Is
 23 it like -- is it just for your purposes or can
 24 people sit down and they use it?
 25 A. Oh, no. People sit down all the time.

MANDY LEANDRI

1 There was so many times I'd go in there, and I go
2 to do something. And I'll see that somebody else
3 was on it.

4 Q. How do you know that somebody else was
5 on it?

6 A. Because I have to reenter my name into
7 it. And usually I could just put my password in,
8 and I would be good. But if somebody else was on
9 it, I have to X them out and put my own name in
10 there and start over.

11 Q. Is it a Luzerne County database that
12 you log onto or what?

13 A. I'm sorry. I really have no idea.

14 Q. Well, is it a Microsoft -- like when
15 you go in in the morning -- well, say you turn on
16 the computer.

17 A. Oh, God, okay.

18 Q. Do you ever turn off the computer?

19 A. Yes.

20 Q. When you turn it on --

21 A. Um-hum.

22 Q. -- what do you do? Take me through
23 turning on the computer and what you do.

24 A. Put in M. Leandri and my password. I'm
25 not telling you that.

26

MANDY LEANDRI

1 Q. I'm not going to ask for it.

2 A. I don't know. I wait for all of those
3 little icon things to come up.

4 Q. Is it a Microsoft password do you
5 think, or is it a -- you know, like how do you
6 access -- what can you access when you put that in?
7 What do you access? Your icons come up. What can
8 you do?

9 A. Oh, God. I go to my civil docket.

10 Q. Can you pull up case names and things
11 like that?

12 A. Yes.

13 Q. Okay.

14 A. I could do email. I can look at the
15 prothonotary's files. I could -- I don't know -- I
16 guess it's like a blank sheet. You can write a
17 memo on it if you had to. I don't what that's
18 called either.

19 Q. Now, who -- what do you have to click
20 to get onto -- is it certain icons, like one is
21 civil stuff, one prothonotary?

22 A. Um-hum.

23 Q. So do you have to just double click on
24 the icon?

25 A. Yeah.

27

MANDY LEANDRI

1 Q. Do you have to enter a new password?

2 A. No.

3 Q. Now, where does Sherry sit in
4 connection with you?

5 A. Well, Sherry sits in the district
6 attorney's office now.

7 Q. So Sherry is no longer there?

8 A. Right. She got transferred. I don't
9 sit there anymore. I sit up here, right front and
10 center. Love it there.

11 Q. And where did Sherry sit at the time?

12 A. Sherry sat here.

13 Q. Okay. And so where --

14 A. Oh, wait. You know, I don't know. She
15 used to sit -- there would be another row of -- she
16 used to sit back here. And I really don't remember
17 where she was at the time to be honest with you.

18 Q. When did she move over to the DA's
19 office?

20 A. When -- I guess the beginning of the
21 year. We had all of those layoffs.

22 Q. Okay. And she was part of the layoffs,
23 and she was able to bump somebody?

24 A. Right.

25 Q. Who does she work for? Does she work

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MANDY LEANDRI

1 for a couple of DA's -- assistant district
2 attorneys over there?

3 A. I really don't know. She answers the
4 phones. I don't know if that would be anybody
5 specific.

6 Q. So now, how was it that you're working
7 on Ryan Foy's computer? Because that was not your
8 computer that you had.

9 A. I never had a computer --

10 Q. Okay.

11 A. -- at all. I didn't want one because
12 they scare me. I'm not good at them at all. But
13 they -- after he was gone, they kept saying they
14 were going to give me a computer. And I wasn't
15 saying anything. Then finally they just brought
16 his out and put it on my desk. They said, use it.
17 I said, for what. I keep a handwritten log of
18 everything I do. I'm pretty old school.

19 Q. Okay. So you were showed originally
20 how to do some things, and then you went back to
21 kind of do it on your own; is that how you

22 discovered these photos because you accidentally --

23 A. Yes. I don't know -- I don't know what
24 I hit. All I know is that they were there. And I
25 have no clue. I don't even know how they got off.

MANDY LEANDRI

1 I don't know if somebody else clicked them off. I
2 know I didn't do anything. But I don't -- I didn't
3 touch it.

4 Q. So now, they come up. And what do you
5 do?

6 A. I started laughing.

7 Q. You call for Sherry?

8 A. Yes. Well, everyone heard me laugh. I
9 said, oh, my gosh. And then Sherry came over.
10 She's like, oh, my gosh. I said, yeah. I said --
11 you know, we were laughing. We already saw Brian.
12 So that was on that video that we left. And then I
13 remember saying, look at that. I said, she's got a
14 tattoo of her initials on her. That's all I really
15 remember.

16 Q. And what did Sherry say? Because it
17 was just you and Sherry looking at this, or did
18 other people come and congregate and look and see
19 what you had found -- or just appeared, I should
20 say?

21 A. Yeah. I don't really remember. I just
22 remember -- if something with his computer
23 happened, I usually called Sherry and said, get rid
24 of this, or something would pop up and I don't know
25 how to get rid of it. I didn't know how to access

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MANDY LEANDRI

1 different things or search things. So I would
2 always call Sherry. So I don't really -- I don't
3 know.

4 Q. All you recall is discussing what had
5 popped up on the computer with Sherry?

6 A. Yeah.

7 Q. And so what did you do after that?

8 A. Nothing. The pictures went away, and I
9 just went back to work. When I saw Jen, I told
10 her.

11 Q. What happened there?

12 A. I just said, I didn't know you had a
13 tattoo. She said, yeah, I have one. I said, oh.
14 I said that there was a picture of her and Szumski.
15 And she said, yeah, yeah, Foy's old computer. I
16 said, yeah.

17 Q. And so what else?

18 A. That's pretty much all I remember. I
19 didn't really talk about it much to be honest with
20 you.

21 Q. Well, how did she -- I want to know
22 exactly what she said to you and what you said to
23 her when you disclosed that there was a photo of
24 her on the computer.

25 A. I don't know exactly what I said;

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MANDY LEANDRI

1 probably just something about the tattoo.

2 Q. Okay.

3 A. I don't know my exact words. I
4 don't -- I don't remember.

5 Q. What did she say, though? You don't
6 recall what you said. What did she say to you?

7 A. I don't really remember verbatim. I
8 just remember commenting on the tattoo.

9 Q. But you had stated that she stated
10 that, oh, it's on Foy's computer.

11 A. Yes, because I have Foy's old computer.

12 Q. Okay. You said that to her --

13 A. Right.

14 Q. -- the image is on Foy's computer?

15 A. No. She said, it's probably because I
16 have Foy's computer.

17 Q. Oh.

18 A. She told me that.

19 Q. Okay. And how did she -- how did
20 she -- so now tell me what she said to you, because
21 I'm really getting confused.

22 A. You're getting me confused.

23 Q. And that's the one thing, if I do get
24 you confused, just let me know, and we'll just stop
25 and make sure you're clear what I'm asking you. So

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MANDY LEANDRI

1 take me -- so you meet with Sherry and you view the
2 pictures. Then how do you get in this conversation
3 with Jen?

4 A. Whenever she came walking through. I
5 don't -- not a specific -- I don't know if it was
6 that day or that week. And I said, hey, there was
7 a picture of you. I said, there was a tattoo.

8 Q. Okay. And did she say that she knew
9 there was a picture there?

10 A. I don't remember her saying anything.
11 I just remember her saying, oh, that was Foy's
12 computer.

13 Q. So all she said was -- you had told her
14 that you discovered this photo on Foy's computer --

15 A. Yes.

16 Q. -- on your computer, and she responds,
17 oh, that's Foy's computer? I don't know.

18 A. I don't know exactly. I don't really
19 remember. I'm sorry. I just don't remember
20 everything. I don't remember exactly what she
21 said.

22 Q. Okay. And that's fine. I just want to
23 make sure that I know what she was saying to you
24 and whatnot. Because how does it come up -- do you
25 tell her, there is a photo here on -- I found a

MANDY LEANDRI

1 photo of you on Foy's computer?

2 A. No. I didn't say on Foy's computer.

3 Q. Okay.

4 A. I just said, I found a picture of you
5 on here.

6 Q. And what did she say?

7 A. I don't really remember. She said, of
8 what. I said, your shoulder. You have a tattoo of
9 Mary Jean's initials. And I don't -- I don't
10 really remember. I don't know.

11 Q. Okay. So you tell her you saw a
12 picture of her. She says, you know, of what. You
13 tell her about the tattoo?

14 A. Yeah.

15 Q. And then, was there anything else more
16 that you can recall?

17 A. No. I think there was more people
18 there now that I'm thinking about. I think there
19 were more people. Maybe it wasn't even her that
20 said it was Foy's computer. But someone said, oh,
21 it's because you have Foy's computer. So I don't
22 remember. I don't know who -- I don't remember.
23 Maybe Sherry was there. Now I'm confused. I don't
24 really remember. I'm sorry. I'm getting all
25 screwed up here. But I don't remember. I'm

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MANDY LEANDRI

1 thinking maybe somebody else was there after I
2 started the conversation but not initially.

3 Q. So is it all you can -- so what else
4 does Jen state to you from your memory that you can
5 recall?

6 A. Nothing. I think she just left. I
7 think she went to go call Mary Jean or call
8 somebody.

9 Q. And what happens to -- did you go over
10 and do you see the photo or is the photo gone off
11 your screen now?

12 A. I don't remember. Probably gone.

13 Q. Does anything happen with your computer
14 at that point?

15 A. No -- what do you mean?

16 Q. Like someone come and look at it to see
17 what the photos are, the videotape?

18 A. No, not that I know of anyway, no. Not
19 like IT. Is that what you mean?

20 Q. Anyone, whether it's the sheriff, the
21 deputy sheriff, anyone that comes and wants to see
22 what was on that computer once you made the
23 disclosure that a picture was on the computer.

24 A. I don't think so. To be honest, I
25 think the only ones that ever saw those were me and

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MANDY LEANDRI

1 Sherry on there, I think, unless someone else got
2 on there, but I don't know.

3 Q. Did you ever see the video that you had
4 seen of Brian on your computer?

5 A. No, just a still picture.

6 Q. Still image?

7 A. Yes.

8 Q. Now, do you recall if the sheriff ever
9 saw the video that you saw?

10 A. I have no idea.

11 Q. And you can't think of who was there?
12 No one stands out in your mind?

13 A. Just me and Sherry, because we both
14 kind of did the girly squeal thing and left. At my
15 desk or in Foy's office?

16 Q. Foy's office.

17 A. The only one I really remember is just
18 me and Sherry, because then I was just trying --
19 like I thought, maybe Carol was there, but I can't
20 actually place her in my head. Like I can't see
21 anybody but me and Sherry and Foy. Foy was sitting
22 there. I know there was a guy in there. I want to
23 say it's Mike Patterson, but I don't really
24 remember exactly. I really don't.

25 Q. Do you remember when the two deputies

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MANDY LEANDRI

1 came back to the office that day?

2 A. Not really.

3 Q. Do you remember if they worked at all
4 that day or if they left?

5 A. That's what I was just going to say. I
6 thought they might have went home. I don't really
7 remember.

8 Q. Do you recall that -- did you -- how
9 did you get into Ryan Foy's office that day? Do
10 you recall? Like, did he say, everybody come in
11 here; I want to show you the video?

12 A. He might have -- he probably said,
13 Mandy come here; Sherry come here. I -- I don't
14 really remember. But I know there was a couple
15 people in there, or maybe it was somebody else in
16 there saying, come here; you got to see this.

17 Q. Do you remember laughter on the video?

18 A. Yes. Szumski was laughing his -- yeah,
19 he was laughing.

20 Q. You can say, butt off.

21 A. I'm getting all nervous here. I don't
22 know what I'm supposed to say. No. He was
23 laughing and smiling.

24 Q. Do you recall anyone --

25 A. He was in the office, maybe. I don't

MANDY LEANDRI

1 know. I don't -- I'm terrible at this. I'm sorry.
2 I don't remember.

3 Q. That's okay. And I don't want you to
4 tell me -- the last thing I want you to do is tell
5 me something that you're not sure of, because -- or
6 if you're going to tell me that, you got to tell
7 me, I'm unsure of it, and that way, you don't
8 have -- you know, you're giving me all the truthful
9 testimony that you have.

10 A. I don't -- I'm sticking with, I don't
11 remember then. I don't really remember who exactly
12 was in there.

13 Q. And that's a hundred percent okay.
14 There's nothing wrong with that.

15 A. Okay.

16 Q. I just need to know that these are the
17 only two people that you remember definitely. You
18 think other people were there, but you're not a
19 hundred percent sure.

20 A. I know other people were there. I just
21 don't who they were.

22 Q. Who, okay.

23 A. I feel bad. I wish I could remember.

24 MR. BUFALINO: You don't need to feel
25 bad. You remember what you remember.

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MANDY LEANDRI

1 THE WITNESS: Oh, okay. Good.

2 BY MS. POLLICK:

3 Q. Now, are you a friend of Ryan Foy's?

4 A. Personally, I wouldn't say I'm friends
5 with anybody there. Not to be whatever, but I
6 don't really trust anybody who works for the
7 County.

8 Q. Okay. Well, that's not -- you know,
9 with everything going on, that's probably --

10 MR. BUFALINO: Objection. Move to
11 strike that.

12 BY MS. POLLICK:

13 Q. I'll just -- a tricky situation right
14 now, I think --

15 A. I just don't -- yeah.

16 Q. -- for everybody working for Luzerne
17 County.

18 A. Yes.

19 MR. BUFALINO: Objection; move to
20 strike.

21 BY MS. POLLICK:

22 Q. Did you ever talk with him on the
23 phone, not business, but personal?

24 MR. BUFALINO: Mr. Foy, Cindy?

25 MS. POLLICK: Yes.

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MANDY LEANDRI

1 THE WITNESS: Not that I can recall.

2 BY MS. POLLICK:

3 Q. When is the last time you saw Ryan Foy
4 or talked to him?

5 A. The last time I saw him was probably
6 the last day he worked with us. And the last time
7 I talked to him -- I did call him once -- oh, no.
8 I called -- see, my memory sucks. The sheriff had
9 me call him for something, Savokinas, who is not
10 really the sheriff now. He had me call him for
11 something, but I don't remember what for. I don't
12 remember what it was for. Oh, something having to
13 do with the office, a code of some sort to get in
14 the evidence room. And Foy said he didn't know it
15 or something like that. I don't really remember.
16 I know they made me call him at one point. Other
17 than that, personally, I called once. I got lost
18 in -- I thought I was in Exeter. I think I was in
19 West Pittston. But anyway, I called him to ask
20 where I was going. I was on my way somewhere. He
21 didn't answer the phone anyway, but I did call him.

22 Q. Now, did you see that he -- did you
23 ever see his business cards that said Deputy Chief
24 Foy?

25 A. No.

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MANDY LEANDRI

1 Q. What did you call him in the office,
2 Ryan Foy?

3 A. Foy.

4 Q. You called him Foy. You didn't call
5 him chief?

6 A. No; hey, Foy, or Ryan. I called him
7 Ryan sometimes.

8 Q. Who was his friends that worked in the
9 office if you had to --

10 A. The sheriff.

11 Q. That's Stankus, right -- Sheriff
12 Stankus?

13 A. Yes. He and Art did things together,
14 but they used to complain about each other all the
15 time. So I don't know how friendly that was. But
16 they were together a lot. As for the deputies,
17 honestly, I thought Jen was one of his top
18 favorites. I thought Szumski. There was a
19 part-timer, but I can't remember the part-timer's
20 name. He liked Gino.

21 Q. And what's Gino's last name?

22 A. Guarnieri. I don't know how you spell
23 it either. I just say Gino.

24 Q. Gino Guarnieri?

25 A. It's kind of like the chief's name now,

MANDY LEANDRI

1 but not.
 2 Q. And did you ever --
 3 A. And Sherry. I'm still thinking of his
 4 friends. Sorry. He loved Sherry. He loved
 5 Sherry. That's because Sherry was brilliant.
 6 Q. Did she do real estate work for him?
 7 A. I think in a pinch if they needed
 8 something, but she didn't really do that. She did
 9 a lot of other stuff.
 10 Q. And what other stuff would she do for
 11 him?
 12 A. Like the -- like our tobacco stuff.
 13 She used to do stuff with them for the State and
 14 everything. I'm not even sure what it was because
 15 I've never done it. So --
 16 Q. Who were the people that did most of
 17 his real estate work that he handled?
 18 A. Vicky Rabowski, Janice Szumski and
 19 Cathy Collins.
 20 Q. And any relation with the --
 21 A. Yeah.
 22 Q. Okay.
 23 A. I think her first husband was his uncle
 24 or something. He's deceased. So I guess
 25 distant -- they're related somehow. I don't know.

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MANDY LEANDRI

1 Q. Did you ever see any still images or
 2 the portion of the video that you saw on any other
 3 occasion?
 4 A. No.
 5 Q. And you told me people have tried to
 6 find those images --
 7 A. Yeah.
 8 Q. -- that you saw. And who has tried to
 9 find them?
 10 A. Jen, Sherry. They asked me, what do
 11 you click on. I said, I have no idea; they just
 12 appeared. I don't really remember anybody else,
 13 but --
 14 Q. And no one was able to pull them back
 15 up?
 16 A. Not that I know of.
 17 Q. Now, you said someone else was infested
 18 with fleas before.
 19 A. Um-hum.
 20 Q. Do you recall any photos being posted
 21 of that person's clothing or anything else?
 22 A. No. But I was off that day. I
 23 remember hearing about it the next day when I got
 24 to work. Sorry. I'm cracking my knuckles.
 25 Q. Now, can you tell me what -- why Jen

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MANDY LEANDRI

1 was looking for the photos?
 2 A. Probably because they were of her. I
 3 don't know. I never really asked her. I just
 4 assumed.
 5 Q. Was she upset that there was photos on
 6 Foy's computer of her?
 7 A. She didn't seem to be at that time.
 8 Q. Okay. And what was her reaction? Do
 9 you recall?
 10 A. To --
 11 Q. Why would you want to look for
 12 something if you weren't curious about what it was?
 13 MR. BUFALINO: Objection. That calls
 14 for speculation. You're asking her to put
 15 herself in the mind of Jen Roberts.
 16 But you can answer if you know.
 17 BY MS. POLLICK:
 18 Q. You can answer the question.
 19 A. I forgot. I'm sorry.
 20 Q. That's okay. She was looking for the
 21 photos. So she wanted to see what was on his
 22 computer of her?
 23 A. Right.
 24 MR. BUFALINO: Objection to the form.
 25 BY MS. POLLICK:

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MANDY LEANDRI

1 Q. And why would you want to see something
 2 of yourself if you've never -- if you've already
 3 seen it?
 4 MR. BUFALINO: Objection to the form;
 5 calls for speculation. You can answer if you
 6 know.
 7 THE WITNESS: I have no idea.
 8 BY MS. POLLICK:
 9 Q. She wanted to see it -- do you remember
 10 having any conversations with her as to that she
 11 was upset that there were images of her on his
 12 computer?
 13 A. More recently, yeah. I never really --
 14 I always throw my hands in the air and say, leave
 15 me out of it; I don't know anything. So I don't
 16 know. Back in the day, if she was looking for
 17 stuff, I would just get up and leave. Or if
 18 somebody else was using my computer, I would get up
 19 and leave. I didn't have anything on it
 20 personally. So I wouldn't care what they needed my
 21 computer for. There was times when people would
 22 come over from the other office and say they need
 23 to check something on the internet; can I use your
 24 computer. Sure, I don't care. And I would just
 25 walk away.

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1 Q. So can you tell me for certain that she
2 wasn't upset with the fact that images of her were
3 on Foy's computer?
4 MR. BUFALINO: Objection; asked and
5 answered.
6 THE WITNESS: No. I don't know.
7 BY MS. POLLICK:
8 Q. So basically you stayed out of other
9 people's business?
10 A. Tried to as hard as I can.
11 Q. Up until the time that you saw the
12 photo of her, you did not -- you never saw that she
13 had tattoos on her back, correct?
14 A. Never saw them.
15 Q. Do you have any knowledge of whether
16 Mr. Foy or Mr. Bobbouine ever got consent from Jen
17 Roberts to be videotaped?
18 A. Who?
19 MR. BUFALINO: Bobbaweenie.
20 BY MS. POLLICK:
21 Q. Bobbaweenie. I always pronounce --
22 sorry about that. Bobbaweenie or Foy, do you know
23 if they ever got consent from her to videotape her?
24 A. I have no idea.
25 Q. Would you want to be videotaped when

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MANDY LEANDRI

1 you're decontaminated in a shower?
2 MR. BUFALINO: Objection; relevance.
3 But you can answer.
4 THE WITNESS: Nope.
5 BY MS. POLLICK:
6 Q. Would you want your fellow coworkers to
7 see you in a compromising situation?
8 MR. BUFALINO: Objection; relevance;
9 assumes facts not in evidence.
10 You can answer.
11 THE WITNESS: Nope.
12 BY MS. POLLICK:
13 Q. And although Brian doesn't have any
14 problem with his butt apparently -- you know, I
15 don't know. I've never spoken to him. So I don't
16 know if he has a problem with his butt being
17 videotaped -- would you want to be in that
18 situation?
19 MR. BUFALINO: Objection; relevance.
20 You can answer.
21 THE WITNESS: No, I wouldn't.
22 BY MS. POLLICK:
23 Q. Do you think it's proper that an
24 employer videotapes an employee nude?
25 MR. BUFALINO: Objection to the form.

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MANDY LEANDRI

1 You can answer.
2 THE WITNESS: No -- oh, wait. What did
3 you say? Did I answer it right?
4 BY MS. POLLICK:
5 Q. Well, do --
6 A. Do I have an objection about it?
7 Q. Do you think it's appropriate for an
8 employer to videotape you when you're naked when
9 you were just trying to get decontaminated from
10 fleas that you got on your job?
11 A. No.
12 MR. BUFALINO: Same objection.
13 THE WITNESS: Not me.
14 BY MS. POLLICK:
15 Q. Would you want a videotape of you in
16 the shower being decontaminated, then placed on the
17 computer for anybody to go and find and see?
18 MR. BUFALINO: Same objection to the
19 form; relevance.
20 You can answer.
21 THE WITNESS: No, I wouldn't.
22 BY MS. POLLICK:
23 Q. Do you hold your right to privacy close
24 to the chest? That's the only way that I can
25 describe it.

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1 A. Yes, I do. With that -- other than
2 that, I go in there and tell stories every day
3 about my life actually now that I think about it.
4 I -- nobody wants to see my bare body, nor do I
5 want them to look at it.
6 MS. POLLICK: I don't have any more
7 questions.
8 Do you have any?
9 MR. BUFALINO: I have a few --
10 THE WITNESS: Oh, gosh.
11 MR. BUFALINO: -- a few questions for
12 clarification.
13 THE WITNESS: I thought it was 13
14 minutes. I'm just kidding.
15 * * *
16 EXAMINATION
17 * * *
18 BY MR. BUFALINO:
19 Q. Ms. Leandri, you said that you saw only
20 two photos on the computer, one of Mr. Szumski and
21 the other one of Jen Roberts; is that right?
22 A. Yes.
23 MS. POLLICK: Objection;
24 mischaracterization of testimony; the race
25 photo.

MANDY LEANDRI

1 BY MR. BUFALINO:
 2 Q. Okay. With the exception of the race
 3 photo, is that accurate?
 4 A. What does that even mean?
 5 MS. POLLICK: Well, you saw three
 6 images that you recall.
 7 THE WITNESS: Oh, the race. A race
 8 photo, okay. I thought you said the raise.
 9 You guys are getting me all screwed up. That's
 10 all I remember seeing.
 11 BY MR. BUFALINO:
 12 Q. So you saw only saw two pictures of
 13 human beings; is that correct?
 14 A. With the exception of the race people?
 15 Q. Were there people in the race? I don't
 16 know if you just saw cars or whatever.
 17 A. I mean, there were people standing
 18 around.
 19 Q. With the exception of the people
 20 regarding the NASCAR race, you saw one picture who
 21 you believe to be Mr. Szumski, correct?
 22 A. Correct.
 23 Q. The only other photo that you saw was a
 24 photo of Jen Roberts?
 25 A. Correct.

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1 Q. And in that photo, did you see her
 2 nude?
 3 A. I saw her back shoulder blade and her
 4 head.
 5 Q. Do you consider that to be nude?
 6 A. I didn't see what was below. So I
 7 really wouldn't -- I really wouldn't know.
 8 Q. So if you had a tattoo, would you have
 9 an objection to somebody taking a photo of the
 10 tattoo?
 11 MS. POLLICK: Objection; assumes facts
 12 not in evidence and calls for speculation.
 13 THE WITNESS: I have a tattoo, and I
 14 didn't care when people took a picture of it.
 15 BY MR. BUFALINO:
 16 Q. So -- and you said, if I'm not
 17 mistaken, that you were not sure whether or not
 18 there was consent given to anybody to take the
 19 photo?
 20 MS. POLLICK: Objection;
 21 mischaracterization of prior testimony.
 22 BY MR. BUFALINO:
 23 Q. Did you say that?
 24 A. I have no idea.
 25 Q. If there was or there wasn't?

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1 A. Right.
 2 Q. Now, you also said initially when you
 3 were first asked the question that back in 2007 or
 4 thereabouts when you mentioned to Jen Roberts that
 5 you had seen this photograph of her shoulder on the
 6 computer, that she didn't seem to be upset then?
 7 MS. POLLICK: Objection;
 8 mischaracterization of prior testimony.
 9 MR. BUFALINO: Well, let's clear that
 10 up.
 11 BY MR. BUFALINO:
 12 Q. Did you say that?
 13 A. She didn't appear to -- she didn't
 14 appear to be, oh, my God, if that's what you're
 15 looking for.
 16 Q. No. I'm just asking you.
 17 A. I didn't think she looked to be --
 18 Q. And we had some discussion regarding
 19 whether or not she was the one who told you that it
 20 was because you were using Mr. Foy's computer?
 21 A. Right.
 22 MS. POLLICK: Objection;
 23 mischaracterization of prior testimony.
 24 BY MR. BUFALINO:
 25 Q. Well, was that what you said?

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1 A. It is. I don't remember if it was her
 2 or Sherry or someone else that might have come in
 3 on the conversation. I don't really remember the
 4 particulars of that conversation.
 5 Q. Okay. You also mentioned that you
 6 thought that -- well, that you recalled that Jen --
 7 Ms. Roberts herself had subsequent to the --
 8 discovering the photo had used your computer?
 9 MS. POLLICK: Objection;
 10 mischaracterization of prior testimony.
 11 BY MR. BUFALINO:
 12 Q. Did Jen use your computer?
 13 A. Yes.
 14 Q. Was that after the conversation you had
 15 with her regarding seeing the photo of her
 16 shoulder?
 17 A. Yes.
 18 Q. How many times would you say that Jen
 19 Roberts used your computer, more than once?
 20 A. Yeah.
 21 Q. Okay. Would you say it was frequently?
 22 A. I don't know. Sometimes she might have
 23 been looking up something for work. I don't
 24 really -- I don't really know what she would be
 25 doing on it because Jen was more -- she was the

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1 other one -- if Sherry couldn't figure something
2 out, we would go to Jen. Jen was the other
3 computer person.

4 Q. So Jen was one of the computer people
5 in the office?

6 A. Yes. She knew what she was doing on
7 them. Like, if we needed help with something, we
8 would ask Jen.

9 Q. Did she, in fact, use the same computer
10 that you used that these photographs were on?

11 MS. POLLICK: Objection;
12 mischaracterization of prior testimony.

13 THE WITNESS: She used it.

14 BY MR. BUFALINO:

15 Q. You talked about -- I want to go back
16 to when you were in Mr. Foy's office the day of
17 this accident I think you said or thereabouts; is
18 that right?

19 A. Yes. I don't remember exactly what
20 day.

21 Q. You say initially you believed that
22 Ms. Roberts was in the office that day?

23 A. I -- I always thought she was.

24 Q. And the only reason now that you don't
25 think she was is because she told you so?

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1 MS. POLLICK: Objection.

2 BY MR. BUFALINO:

3 Q. You can answer.

4 A. I just always thought she was in there
5 for some reason.

6 Q. Do you still believe that today?

7 A. I don't know what to believe to be
8 honest with you. I don't know. I don't remember.
9 Apparently, my memory is worse than what I always
10 thought it was.

11 Q. Well, when you "apparently," I mean,
12 are you saying apparently because somebody has
13 talked you into that?

14 A. No. I just don't remember. Like --
15 when I first heard of this, like I remember I
16 turned to her, and I said, well, I thought you were
17 in there. And of course, we were in training. So
18 we couldn't really talk. So I had to turn back
19 around. So I don't even know what she said then.
20 But I always thought that she was in there watching
21 that video at that time. Like I thought her and
22 Szumski were in there. But I could be thinking of
23 something way totally different.

24 MR. BUFALINO: That's all the questions
25 I have.

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* * *

EXAMINATION

* * *

4 BY MS. POLLICK:

5 Q. I'm going to ask you more questions
6 about that.

7 So it's -- regardless of what Jen
8 Roberts has said to you, do you have an independent
9 recollection of her being physically in that room
10 viewing the video portions of Brian Szumski and his
11 butt?

12 A. I don't remember.

13 Q. Now, you said she didn't seem like
14 throwing up her hands concerned about that there
15 was a photo out there of her on Foy's computer.
16 Can you tell me that she was not concerned about
17 it?

18 A. No. I never -- she very well may have
19 been. Maybe she's -- like I'm the dramatic -- I
20 will let you know I'm pissed. Maybe she's the more
21 quiet type.

22 Q. So she's not a drama queen, is what I
23 would maybe --

24 A. Then again, maybe sometimes she could
25 be. I don't know. I just don't remember.

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1 Q. Do you remember her -- can you recall
2 anything about her facial expressions or anything
3 like that?

4 A. No.

5 Q. So you can't really tell us what she
6 was concerned or not concerned; is that fair?

7 MR. BUFALINO: I'm going to object.
8 It's been asked and answered. She said she
9 didn't seem upset three times.

10 BY MS. POLLICK:

11 Q. You can answer the question.

12 A. I don't remember.

13 Q. Okay. So is it fair to say that you
14 can't give an assessment whether she was upset or
15 not upset?

16 MR. BUFALINO: Objection; asked and
17 answered.

18 BY MS. POLLICK:

19 Q. You can answer the question.

20 A. I don't remember.

21 Q. Now, where is your tattoo?

22 A. I have --

23 MR. BUFALINO: I'm going to object. I
24 don't think there's any relevance.

25 MS. POLLICK: You started this. You

MANDY LEANDRI

1 asked her if she had a tattoo and whether she
 2 would want to show it to people. So --
 3 THE WITNESS: One I would. One I
 4 wouldn't.
 5 BY MS. POLLICK:
 6 Q. Okay. So --
 7 A. The other one is -- no one is supposed
 8 to know about.
 9 Q. So if someone did show that tattoo,
 10 that would be -- you know, you would feel
 11 uncomfortable with that?
 12 A. Well, I used to show it back before I
 13 gained 70 pounds --
 14 Q. Okay.
 15 A. -- to be honest. I'm not lying.
 16 Q. And that's --
 17 A. I'm sorry.
 18 Q. I appreciate your honesty. So your
 19 weight --
 20 A. Yes.
 21 Q. -- your weight has made you be a little
 22 bit more self-conscious --
 23 A. Absolutely.
 24 Q. -- versus showing something that, you
 25 know --

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1 A. Right. It used to be very cute. Now
 2 it looks like the whole galaxy. But the one on my
 3 foot, I like. I show that to everybody. This is
 4 hard.
 5 Q. So what was on this screen was focused
 6 on her back area; like you knew it was Jen?
 7 A. Um-hum -- well, yeah, she was --
 8 Q. So you saw a profile --
 9 A. Yeah.
 10 Q. -- of her face?
 11 A. Yes.
 12 Q. So you knew it was her. And then you
 13 saw the back, the tattoo area?
 14 A. Yes, of her shoulder -- shoulder blade.
 15 Q. Do you know that even if that file was
 16 deleted from the computer, there's a way that you
 17 can still retrieve it?
 18 MR. BUFALINO: Objection; assumes facts
 19 not in evidence.
 20 You can answer.
 21 THE WITNESS: I have no clue.
 22 MS. POLLICK: That's all I have.
 23 MR. BUFALINO: That's all I have.
 24 * * *
 25 (Whereupon, Exhibit Leandri-1 was

MANDY LEANDRI

1 marked for identification.)
 2 * * *
 3 (Witness excused.)
 4 * * *
 5 (Whereupon, the deposition was
 6 concluded at 12:09 p.m.)
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MANDY LEANDRI
I N D E X

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 2 * * *
 3 WITNESS: Mandy Leandri
 4 QUESTIONED BY: PAGE
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 6 Mr. Bufalino 48
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E X H I B I T S

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MANDY LEANDRI

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I, Marilou S. Kohut, Registered Professional Reporter and Notary Public in and for the Commonwealth of Pennsylvania, certify that the foregoing is a true and accurate transcript of the deposition of said witness, who was first duly sworn by me on the date and place hereinbefore set forth.

I further certify that I am neither attorney nor counsel for, nor related to or employed by, any of the parties to the action in which this deposition was taken, and further, that I am not a relative or employee of any attorney or counsel employed in this action, nor am I financially interested in this case.

Marilou S. Kohut, RPR
Notary Public

MANDY LEANDRI

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

* * *

JANE DOE, : CIVIL ACTION
Plaintiff :
vs :
LUZERNE COUNTY and :
RYAN FOY, :
Defendants : NO. 3:08-CV-1155

* * *

Oral deposition of MICHAEL J. VESEK, JR.,
taken at The Employment Law Firm, 363 Laurel
Street, Pittston, Pennsylvania 18640, on Thursday,
September 17, 2009, beginning at 10:04 a.m. before
Marilou S. Kohut, Registered Professional Reporter
and Notary Public in and for the Commonwealth of
Pennsylvania.

* * *

ACCUSCRIPT, INC.
COURT REPORTERS
218 North Wyoming Street
Hazleton, Pennsylvania 18201
(570) 455-4558 (570) 823-2667 (800) 596-0001

MICHAEL J. VESEK, JR.

* * *

(It is hereby stipulated and agreed by
and between counsel for the respective parties
that signing, sealing, certification, and
filing are waived and that all objections,
except as to the form of the question, are
reserved until the time of trial.)

* * *

THE COURT REPORTER: Usual
stipulations?

MS. POLLICK: Everything except to form
are reserved for trial.

* * *

MICHAEL J. VESEK, JR.,
having been first duly sworn, was
examined and testified as follows:

* * *

EXAMINATION

* * *

BY MS. POLLICK:

Q. You have an opportunity to read it over
and correct it if you want, or you can just waive
that and just have it -- have your testimony be
whatever it will be. It's up to you, whatever you
want to do. A lot of witnesses waive it.

A P P E A R A N C E S:

CYNTHIA L. POLLICK, ESQUIRE
THE EMPLOYMENT LAW FIRM
363 Laurel Street
Pittston, Pennsylvania 18640

-- Representing the Plaintiff

MARK BUFALINO, ESQUIRE
ELLIOTT, GREENLEAF & DEAN
39 Public Square, Suite 1000
Wilkes-Barre, Pennsylvania 18701

-- Representing the Defendants

* * *

MICHAEL J. VESEK, JR.

A. Okay.

Q. You know, almost always I have even my
clients waive it just so that it's not a headache
to you. Because then if you get it, you have to
look over it. And you know, your testimony is what
it is. You can't change the substantive part of
it. You can only -- if she makes a spelling
mistake or something like that or a word choice is
wrong, you can correct that. So I'd waive it.

A. Okay. I waive it. That's fine. This
is my first one. So --

Q. Okay. Well, that's good. We're going
to talk a little bit about that.

Could you state name for the record?

A. Michael J. Vesek, Jr..

Q. Okay. How do you spell your last name?

A. V-e-s-e-k.

Q. Okay. And as you said, you've never
had a deposition taken before?

A. Not a formal one. I had a lawyer come
in for a lawsuit. He asked like two questions and
then left -- to our office. But this is the first
time in this kind of setting.

Q. With a stenographer here?

A. Yes.

MICHAEL J. VESEK, JR.

1 Q. Yes. A lot of times a lot of people
2 don't have this formal exposure. But what we do
3 today is, I ask you questions, and then you answer
4 the questions. And opposing counsel can place
5 objections on the record. He's only objecting to
6 the way I'm phrasing the questions and things like
7 that, but he has an opportunity to do that because
8 he's preserving the record.

9 A. Okay.

10 Q. But it's not going to be that long of a
11 process. I'm just going to ask you some
12 information about an incident involving when two
13 deputies were infested with fleas. So that's
14 primarily all I'm going to go at. It should be
15 pain-free and quick.

16 At any time when I ask a question, if I
17 ask it -- sometimes I'll ask it confusingly or --
18 that's obviously not a word. That's a prime
19 example. But sometimes I ask questions that don't
20 make sense.

21 A. Okay.

22 Q. If that happens, let me know, and I'll
23 rephrase it until you understand whatever I'm
24 trying to get at, okay?

25 A. Okay.

MICHAEL J. VESEK, JR.

1 Q. And you're doing a good job. You're
2 giving me verbal answers, which is what we need. I
3 don't care if people fly their hands, you know,
4 talk with their hands, as long as they give me a
5 verbal as well because the court reporter doesn't
6 take down all that stuff. She only takes words.

7 A. I know.

8 Q. Now, who do you currently work for?

9 A. Luzerne County Sheriff's Department.

10 Q. How long have you been with them?

11 A. 17 years.

12 Q. Wow. And what did you do -- what was
13 your position you started at?

14 A. Deputy sheriff. I was started deputy
15 sheriff part-time.

16 Q. Okay. And what year was that?

17 A. '92.

18 Q. '92. When did you become a full-time
19 deputy?

20 A. July of '95.

21 Q. Now, as I told you, I'm going to talk
22 about a specific situation involving when two
23 deputies were infested with fleas.

24 A. Yes.

25 Q. Do you recall that situation?

MICHAEL J. VESEK, JR.

1 A. Yes.

2 Q. Okay. Were you working that day?

3 A. Yes, I was.

4 Q. Were you involved in any of the
5 activities involved with taking -- transporting the
6 individuals?

7 A. No.

8 Q. What were you -- what was your
9 involvement?

10 A. At the time, I was on the road and I
11 heard the call. And at first, I thought they
12 needed assistance. So I was in the same area as
13 they were. So I tried calling them on the radio,
14 because I thought they needed help with the house
15 with somebody. It turned out that they didn't need
16 help with the house. And Deputy Szumski and
17 Roberts asked me to meet them at the prison. So I
18 met them at the prison, at which time I found out
19 about what happened at the house and their little
20 friends that they got in the house.

21 Q. The fleas?

22 A. Yes.

23 Q. Okay. Now, you went to the prison. So
24 was that -- did you go anywhere else? Because I
25 know they went to the EMA building and then also

MICHAEL J. VESEK, JR.

1 down to the medical facility. So I wanted to see
2 if -- you know, what your involvement was.

3 A. I met them at the prison. And then
4 later on, I went up to EMA with them.

5 Q. When they were at the prison, was
6 anyone else present besides yourself and those two?

7 A. No. When I met them at the prison, I
8 pulled my cruiser in behind theirs. They stayed in
9 the cruiser. And basically I talked to them

10 through the window because I didn't want to catch
11 the fleas that they had because they can jump
12 pretty far. So I talked to them. And they still
13 didn't know what was going to happen, whether they
14 were going to the prison to get decontaminated or
15 what was going to happen.

16 Q. And at any time that you were either at
17 the prison or the EMA building, did you see Ryan
18 Foy with a video camera?

19 A. At the EMA building.

20 Q. Now, who was present at the EMA
21 building while you were there?

22 A. While I was there, Deputy Chief Foy was
23 there -- showed up, Chief Bobbouine, Deputies
24 Joyce -- Erin Joyce, Timmy Gardzalla -- Deputy
25 Gardzalla and Deputy Patterson -- Michael

MICHAEL J. VESEK, JR.

1 Patterson.

2 Q. Now, did you witness Jen Roberts ever

3 stating about the video camera to get -- you know,

4 get it out of her face or --

5 A. At the time, we were all standing

6 around, because EMA was trying to put together a

7 decontamination shower. They weren't having good

8 luck with it. And Deputy Chief Foy did have the

9 camera. I saw him holding it and shooting. Do I

10 recall? I can't say for certain.

11 Q. Now, do you know why he had the video

12 camera?

13 A. No, I don't.

14 Q. Did you witness him laughing while he

15 was videotaping?

16 A. Yes.

17 Q. Did it seem like it was a serious

18 documentary in order to have for a training?

19 A. No.

20 Q. What did you witness Deputy Chief Foy

21 doing on that day?

22 A. Like I said, I was at EMA. The rest of

23 the deputies showed up a little bit later after we

24 were already there. And basically, when he got

25 there, he got it out of the car. And he walked up.

MICHAEL J. VESEK, JR.

1 (Witness excused.)

2 * * *

3 (Whereupon, the deposition was

4 concluded at 10:12 a.m.)

5 * * *

10

MICHAEL J. VESEK, JR.

1 He had the camera. He was holding the camera. And

2 then he just started filming, taking pictures of

3 different things.

4 Q. Okay. Did you ever hear him or Chief

5 Bobbouine state, you know, do we have your

6 permission to videotape you?

7 A. No.

8 Q. Have you ever seen the video?

9 A. No.

10 Q. Okay. Have you ever seen still photos

11 from the video?

12 A. No, I haven't.

13 Q. Okay. Now, Deputy Chief Foy, he

14 actually had cards that said Deputy Chief Foy --

15 MR. BUFALINO: I'm just going to object

16 to the form.

17 But you can answer.

18 BY MS. POLLICK:

19 Q. -- like business cards?

20 A. As far as I can remember, yes. But

21 through my own recollection I --

22 MS. POLLICK: That's all I have.

23 MR. BUFALINO: I have no questions.

24 MS. POLLICK: That's it.

25 * * *

12

MICHAEL J. VESEK, JR.

1 I N D E X

2 * * *

3 WITNESS: Michael J. VeseK, Jr.

4 QUESTIONED BY: PAGE

5 Ms. Pollick 3

6

7

8 E X H I B I T S

9 * * *

10	NUMBER	DESCRIPTION	MARKED
11			FOR ID
12		(None marked.)	

MICHAEL J. VESEK, JR.
C E R T I F I C A T E

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I, Marilou S. Kohut, Registered Professional Reporter and Notary Public in and for the Commonwealth of Pennsylvania, certify that the foregoing is a true and accurate transcript of the deposition of said witness, who was first duly sworn by me on the date and place hereinbefore set forth.

I further certify that I am neither attorney nor counsel for, nor related to or employed by, any of the parties to the action in which this deposition was taken, and further, that I am not a relative or employee of any attorney or counsel employed in this action, nor am I financially interested in this case.

Marilou S. Kohut, RPR
Notary Public

MICHAEL J. VESEK, JR.

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Bernhard v. City of Ontario, 270 Fed. Appx. 518

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*270 Fed. Appx. 518, *; 2008 U.S. App. LEXIS 6404, **;
27 I.E.R. Cas. (BNA) 495*

ROBERT BERNHARD; SCOTT ANDERSON; CRIAG PEFFERLE; CRAIG ANSMAN; WILL RIVER; JEFF QUON; STEVEN TRUJILLO, Plaintiffs - Appellees, v. CITY OF ONTARIO, a Municipal corporation, Defendant, and CITY OF ONTARIO POLICE DEPARTMENT, a Department thereof; LLOYD SCHARF, individually and as Chief of Ontario Police Department; TONY DEL RIO, individually and as Captain of Ontario Police Department; BRAD SCHNEIDER, individually and as Sergeant of Ontario Police Department; MICHAEL THOMPSON, Defendants - Appellants.

No. 06-55736

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

270 Fed. Appx. 518; 2008 U.S. App. LEXIS 6404; 27 I.E.R. Cas. (BNA) 495

February 6, 2008, Argued and Submitted, Pasadena, California

March 13, 2008, Filed

NOTICE:

PLEASE REFER TO FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1 GOVERNING THE CITATION TO UNPUBLISHED OPINIONS.

SUBSEQUENT HISTORY: Settled by, Dismissed by [Trujillo v. City of Ontario, 2009 U.S. Dist. LEXIS 79309 \(C.D. Cal., Aug. 24, 2009\)](#)

PRIOR HISTORY: [1]**

Appeal from the United States District Court for the Central District of California. D.C. No. CV-04-01015-VAP. Virginia A. Phillips, District Judge, Presiding.

[Trujillo v. City of Ontario, 428 F. Supp. 2d 1094, 2006 U.S. Dist. LEXIS 45196 \(C.D. Cal., 2006\)](#)

DISPOSITION:

For the foregoing reasons, the district court's denial of qualified immunity is AFFIRMED.

COUNSEL: For ROBERT BERNHARD, SCOTT ANDERSON, CRIAG PEFFERLE, CRAIG ANSMAN, WILL RIVER, JEFF QUON, STEVEN TRUJILLO, Plaintiffs - Appellees: Della Bahan, Esq., Attorney, Berkeley, CA; Peter J. Eliasberg, Esq., Attorney, ACLU FOUNDATION OF SOUTHERN CALIFORNIA, Los Angeles, CA; Allan Ides, Esq., Attorney, LOYOLA LAW SCHOOL, Los Angeles, CA.

For CITY OF ONTARIO, a Municipal corporation, Defendants - -: Bruce E. Disenhouse, Esq., Attorney, KINKLE RODIGER & SPRIGGS, Riverside, CA.

For CITY OF ONTARIO POLICE DEPARTMENT, a Department thereof, LLOYD SCHARF,

individually and as Chief of Ontario Police Department, TONY DEL RIO, individually and as Captain of Ontario Police Department, BRAD SCHNEIDER, individually and as Sergeant of Ontario Police Department, MICHAEL THOMPSON, Defendants - Appellant: Bruce E. Disenhouse, Esq., Attorney, KINKLE RODIGER & SPRIGGS, Riverside, CA.

JUDGES: Before: PREGERSON and WARDLAW, Circuit Judges, and LEIGHTON **, District Judge.

**

The [**2] Honorable Ronald B. Leighton, United States District Judge for the Western District of Washington, sitting by designation.

OPINION

[*518] MEMORANDUM *

----- Footnotes -----*

This disposition is not appropriate for publication and is not precedent except as provided by [9th Cir. R. 36-3](#).

----- End Footnotes-----

Before: PREGERSON and WARDLAW, Circuit Judges, and LEIGHTON**, District Judge.

Plaintiffs are several officers in the Ontario Police Department. They brought this action under [42 U.S.C. § 1983](#) against various Defendants, including former Ontario Police Detective Brad Schneider ("Schneider"), alleging that Schneider violated their [Fourth Amendment](#) rights by arranging for the warrantless, covert video surveillance of their employee locker room while investigating a reported flashlight theft. On partial summary judgment, the district court held that Schneider had violated the [Fourth Amendment](#) and that he was not entitled to qualified immunity. Schneider filed this interlocutory appeal.

The parties are familiar with the facts of this case, and we do not repeat them here. We review de novo the district court's qualified immunity determination on summary judgment. See [Boyd v. Benton County, 374 F.3d 773, 778 \(9th Cir. 2004\)](#). We have jurisdiction under [**3] [28 U.S.C. § 1291](#), see [Mitchell v. Forsyth, 472 U.S. 511, 530, 105 S. Ct. 2806, 86 L. Ed. 2d 411 \(1985\)](#), and we affirm.

"The determination of whether a law enforcement officer is entitled to qualified immunity involves a two-step analysis." [Moreno v. Baca, 431 F.3d 633, 638 \(9th Cir. 2005\)](#) (citing [Saucier v. Katz, 533 U.S. 194, 201, 121 S. Ct. 2151, 150 L. Ed. 2d 272 \(2001\)](#)). First, we must determine whether the officer's conduct violated a constitutional right. See *id.* If we find that the officer violated a constitutional right, we next consider whether that right was clearly established at the time the alleged violation occurred. See *id.*

[*519] The undisputed facts demonstrate that Schneider violated Plaintiffs' [Fourth Amendment](#) right to be free from unreasonable searches. Whether a particular governmental intrusion constitutes an "unreasonable search" depends on whether the persons searched had an expectation of privacy against the intrusion, and whether that privacy expectation was reasonable. See [Bond v. United States, 529 U.S. 334, 338, 120 S. Ct. 1462, 146 L. Ed. 2d 365 \(2000\)](#); [United States v. Nerber, 222 F.3d 597, 599 \(9th Cir. 2000\)](#). Here, Plaintiffs clearly expected that they would not be secretly videotaped in their locker room. There were no signs in the locker room, or anywhere else [**4] in the building, announcing that the locker room was subject to video, audio, or photographic surveillance. Plaintiffs were never informed by management, either orally or in writing, that they might be subject to such surveillance. They

engaged in private activities in the locker room, such as changing clothes, using the bathroom, and showering. n1 See [Bond, 529 U.S. at 338](#) (holding that plaintiffs must show that they sought "to preserve something as private" to satisfy the subjective part of the [Fourth Amendment](#) inquiry (internal quotation marks and alteration omitted)). Finally, each Plaintiff submitted a declaration stating that he had a subjective expectation of privacy against the covert video surveillance of the locker room. Accordingly, we find that Plaintiffs had an expectation of privacy against Schneider's search.

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Schneider argues that the presence of other officers in the locker room belies Plaintiffs' subjective expectation of privacy. However, as we have previously noted, "[p]rivacy does not require solitude." [United States v. Taketa, 923 F.2d 665, 673 \(9th Cir. 1991\)](#). That Plaintiffs expected to undress in front of their colleagues does not mean that they expected to undress **[**5]**for the camera.

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We also find that Plaintiffs' expectation was "one that society is prepared to recognize as reasonable." [Bond, 529 U.S. at 338](#) (internal quotation marks omitted). Although there is no "talisman that determines in all cases those privacy expectations that society is prepared to accept as reasonable," [O'Connor v. Ortega, 480 U.S. 709, 715, 107 S. Ct. 1492, 94 L. Ed. 2d 714 \(1987\)](#) (plurality opinion), here, the totality of the circumstances weighs in Plaintiffs' favor. First, Schneider's intrusion, installing a covert video surveillance camera in the locker room, was severe. See [Nerber, 222 F.3d at 603](#) (finding that the nature of the governmental intrusion is a factor courts should consider, and "[h]idden video surveillance is one of the most intrusive investigative mechanisms available to law enforcement"). Second, the place searched -- an employee locker room -- was not open to the public and was used for private behavior. See [Minnesota v. Carter, 525 U.S. 83, 88, 119 S. Ct. 469, 142 L. Ed. 2d 373 \(1998\)](#) ("[T]he extent to which the [Fourth Amendment](#) protects people may depend upon where those people are." (internal quotation marks omitted)). Finally, common sense dictates that reasonable persons, including police officers, do not expect **[**6]**to be secretly videotaped by other police officers while changing clothes in their workplace locker rooms. See [O'Connor, 480 U.S. at 715](#) (explaining that "our societal understanding that certain areas deserve the most scrupulous protection from government invasion" is a relevant [Fourth Amendment](#) factor). Accordingly, we conclude that Plaintiffs' expectation of privacy was reasonable, and that Schneider's search was not. n2

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Schneider argues that his use of video surveillance constituted a "public employer search," subject to the relaxed "reasonableness" standard articulated by a plurality of the Supreme Court in [O'Connor v. Ortega](#). See [O'Connor, 480 U.S. at 722-25](#) (holding that government employers need not comply with the warrant and probable cause requirements of the [Fourth Amendment](#) to conduct certain types of legitimate, work-related, non-investigatory searches). This argument fails for two reasons. First, the undisputed facts demonstrate that Schneider conducted his search as part of a criminal investigation. Thus, [O'Connor](#) does not apply. Second, Schneider's search was broader than necessary. Therefore, even if [O'Connor's](#) "reasonableness" standard did apply, Schneider's actions **[**7]**would fall short of it. See [Schowengerdt v. Gen. Dynamics Corp., 823 F.2d 1328, 1336 \(9th Cir. 1987\)](#) (explaining that an [O'Connor](#) search is too broad "[i]f less intrusive methods were feasible, or if the depth of the inquiry or the extent of the seizure exceeded that necessary for the government's legitimate purposes, such as its interest in security").

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[*520] Because we find that Schneider's conduct violated Plaintiffs' [Fourth Amendment](#) rights, we next consider whether those rights were clearly established in 1996. We hold that,

as of 1996, no reasonable officer would have believed that Schneider's conduct was constitutional.

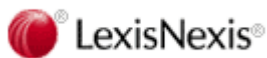
First, several courts, from this Circuit and elsewhere, had recognized prior to 1996 that secret video surveillance is especially intrusive on the privacy interests protected by the [Fourth Amendment](#). See, e.g., [United States v. Koyomejian](#), 970 F.2d 536, 551 (9th Cir. 1992) (Kozinski, J., concurring) ("As every court considering the issue has noted, video surveillance can result in extraordinarily serious intrusions into personal privacy."); [United States v. Taketa](#), 923 F.2d 665, 677 (9th Cir. 1991) (finding that warrantless video surveillance of an office violated the **[**8]** [Fourth Amendment](#) rights of those who were recorded, including a person recorded in an office that was not his); [United States v. Falls](#), 34 F.3d 674, 680 (8th Cir. 1994) ("It is clear that silent video surveillance results . . . in a very serious, some say Orwellian, invasion of privacy."); [United States v. Mesa-Rincon](#), 911 F.2d 1433, 1443 (10th Cir. 1990) ("Because of the invasive nature of video surveillance, the government's showing of necessity must be very high to justify its use."); [United States v. Cuevas-Sanchez](#), 821 F.2d 248, 251 (5th Cir. 1987) ("[I]ndiscriminate video surveillance raises the spectre of the Orwellian state.") The basic principle articulated in these cases -- that covert video surveillance is highly intrusive and justifiable only in rare circumstances -- was sufficient to put Schneider on notice that *warrantless* covert video surveillance of a locker room would violate the [Fourth Amendment](#).

Moreover, in 1991, this Circuit held that the covert video surveillance of an employee *in his co-worker's office* violated the [Fourth Amendment](#). See [Taketa](#), 923 F.2d at 677. For obvious reasons, the privacy expectation against video surveillance in one's own locker room is **[**9]** greater than in another's office. Unlike most offices, employee locker rooms are usually same-sex. They do not have windows and are typically inaccessible to the public. Furthermore, people do not regularly engage in the private behavior of changing clothes, using the bathroom, or showering within their offices. Accordingly, if an office is a place where people have a privacy interest against covert video surveillance, a locker room is also such a place. Thus, our decision in *Taketa* provided Schneider with fair warning that his actions would violate the [Fourth Amendment](#). See [Hope v. Pelzer](#), 536 U.S. 730, 741, 122 S. Ct. 2508, 153 L. Ed. 2d 666 (2002) ("[O]fficials can still be on notice that their conduct violates established law even in novel factual circumstances [T]he salient question . . . is whether the state of the law . . . gave [the defendant] fair warning that [his] alleged treatment . . . was unconstitutional.").

[*521] For the foregoing reasons, the district court's denial of qualified immunity is **AFFIRMED**.

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