UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

MARK PASEK, an individual and
MEREDITH CARR, an individual,

Plaintiffs,

vs. Case No. 2:21-cv-020

CRYSTAL K. KINZEL, in her
official and individual
capacities,

Defendant.

DEPOSITION OF: JAMES MOLENAAR

DATE TAKEN: May 3, 2022

TIME: 1:02 p.m. to 3:39 p.m.

PLACE: All parties appearing remotely

BEHALF OF: The Defendant(s)

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Thereupon,

JAMES MOLENAAR,

a witness, being first duly sworn for and in his own behalf, was examined and testified upon his oath as follows:

THE WITNESS: Yes.

DIRECT EXAMINATION

BY MR. POTANOVIC:

Q. Mr. Molenaar, my name is John Potanovic. I have the privilege of representing the clerk of court for Collier County, both in the official capacities and in her individual capacity, in a lawsuit currently pending against both her and the office, filed by Meredith Carr and by Mark Pasek. You're familiar with that lawsuit, correct, sir?

A. Yes.

Q. All right. And at one point in time you were actually a plaintiff in that lawsuit; is that correct?

A. Yes.

Q. Okay. You're no longer a plaintiff in the lawsuit; correct?

A. Correct.

Q. Your name in this last, when it existed, was essentially a claim against the clerk's office and the clerk for wrongful termination essentially; correct?

A. Yes.

Q. Okay. That claim has been dismissed by the federal court that has jurisdiction over the claim, and you're no longer a party or plaintiff in this lawsuit; is that accurate?

A. Yes.

Q. Okay. Do you have legal representation for this deposition today?

A. Yes, I do.

Q. Who is your legal representative for this deposition today, sir?

A. Mr. Benjamin Yormak.

Q. And other than Mr. Yormak, who I assume you've had some communications with, discussions, et cetera, about this deposition, with whom have you discussed the fact of your deposition today with?

A. Mr. Pasek and Ms. Carr, and I believe that's all.

Q. Okay. And how many times have you discussed your deposition today with Mr. Pasek?

A. Two times.

Q. And how many times have you discussed the topic of your deposition today with Ms. Carr?

A. One time.

Q. Were any of the discussions about your

deposition today with both of them at the same time?

A. No.

Q. And the one discussion you had with Ms. Carr was when?

A. Several days ago.

Q. Was it in person or through some other medium?

A. Over the telephone.

Q. And what was the substance of the conversation you had with Ms. Carr about your deposition today?

A. It was regarding the date of the deposition, the time of the deposition, the location of the deposition. That was about it. None of the facts or anything were discussed.

Q. Did you discuss with Ms. Carr anything about any potential testimony that you would be giving today in this deposition?

A. No.

Q. The discussions that you had with Mr. Pasek, were they in person or some other medium?

A. They were some other medium.

Q. And how were those conducted?

A. Over the telephone.

Q. And when were those phone discussions?

A. Last week. Late last week.

Q. Both were late last week?

A. Yes.
Q. Same day?
A. Same day or two, yeah. Within a day or two. Could have been. Probably not. Probably were two different dates. Probably an evening one day and then a morning the next day.
Q. Okay. Did you call him, or did he call you?
A. He called me.
Q. Both times?
A. Yes.
Q. And did Ms. Carr call you, or did you call her in the discussion you had with her about this deposition?
A. I don't recall.
Q. Do you have your cell phone nearby?
A. No, I do not.
Q. And what was discussed with Mr. Pasek about the fact of your deposition today?
A. He informed me that he had his deposition taken, I think it was last week, whenever it was, and some of the things that were discussed, some of the questions that you asked, and some of the responses he gave.
Q. Okay. And what questions were asked and responses did he give that he shared with you?

A. Oh, broad general topics, his work history, his work location, the facts surrounding his termination, where he's been since -- since he's been terminated, what he's been doing.

Q. Okay. And why would he have been sharing that information with you?

MR. YORMAK: Objection to form.

THE WITNESS: I don't know.

BY MR. POTANOVIC:

Q. I believe you can answer the question, Mr. Molenaar.

A. I'm sorry. I didn't hear what Mr. Yormak said.

Q. Why do you believe he was sharing that information with you?

A. Because I think he was interested in the things you had to say. Some of the questions you had asked, I think he was interested in those as well, and he and I have a friendly relationship, and so he discussed it with me; and as you said, we were co-plaintiffs. That's why he thought I was interested as well. That's my guess. I didn't ask why he was telling me.

Q. At the time you had your discussion with Mr. Pasek, had you received your subpoena for

deposition?

A. No.

Q. Were you aware you were being subpoenaed for deposition at the time you either had a discussion -- either discussion with Mr. Pasek?

A. No.

Q. Were you aware that you were either about to be subpoenaed for the deposition or had received the subpoena for deposition when you spoke to Ms. Carr?

A. I guess I was aware that I was about to receive the subpoena perhaps. I don't know if I was aware of that. I was aware a subpoena was attempted to be served on me and had not been.

Q. And where do you currently work?

A. I work in Monroe County, Florida.

Q. For the Monroe County Attorney's Office?

A. Yes, sir. The Board of County Commissioners.

Q. Okay. And you're an assistant county attorney for Monroe County? Is that your title?

A. Yes.

Q. And how long have you been there?

A. Seven months plus a few days.

Q. And do you have a particular role for the county attorney's office?

A. Yes. I'm an assistant county attorney.

Q. Any kind of particular specialization in the type of law you practice with them?

A. No. Whatever's assigned to me, that's what I do.

Q. Who is your supervisor?

A. Bob -- Robert Shillinger.

Q. Can you spell that last name?

A. I can try. S-c-h-i-l-l-i-n-g-e-r (sic).

Q. Okay. And is Robert Shillinger the county attorney?

A. Yes.

Q. Okay. You started there about seven months ago you said, I believe?

A. Yeah.

Q. Okay. From the time you left the clerk's office in May of 2020 to the time that you took employment with the Monroe County Attorney's Office, did you work anywhere in between?

A. No.

Q. And where are you currently located for this deposition?

A. I am located in Bonita Springs, Florida.

Q. Okay. Is that at your home?

A. No.

Q. Okay. Where are you?

A. I am at 22 -- I don't know. 27200 Riverview Court, Suite 107.

Q. And is there a business that operates out of that address and suite you just gave me?

A. Yes.

Q. What business?

A. Yormak Law.

Q. All right. Are you and Mr. Ycrmak in the same conference room?

A. He's not in the conference room with me, no.

Q. Okay. Is there anybody in the room that you're in while you're providing this testimony?

A. No.

Q. Okay. And what's your current residence address, sir?

A. Well, that's confidential under Florida Statute 119. If you think I need to give it to you, I will, but I prefer --

Q. Nope. Is it in Bonita Springs?

A. No, it is not.

Q. Is it in [redacted]?

A. Yes, it is.

Q. Okay. And is it a home that you own?

A. Yes.

Q. And how long have you owned the home that you

currently live in?

A. I think June of 2014 is when I purchased it.

Q. Okay. And do you own it with somebody else?

A. Yes.

Q. Okay. Who do you own it with?

A. My spouse.

Q. And I assume your spouse lives in the home with you?

A. Yes.

Q. Do you have any kids?

A. Yes.

Q. What are their ages?

A. [redacted].

Q. And do I understand correctly that your wife's name is [redacted]?

A. No. That's incorrect.

Q. What's your wife's name?

A. [redacted]

Q. Okay. Does she go by [redacted]?

A. Yes, she does.

Q. [redacted] is spill [redacted]?

A. Yes.

Q. And does she use your last name?

A. No, she does not.

Q. Uses her maiden name?

A. Yes.
Q. Which is what?
A. [redacted].
Q. And how long have you been married?
A. 19 years.
Q. Ever married before?
A. No.
Q. And [redacted] is [redacted] --
A. [redacted].
Q. [redacted]?
A. Yes. I'm sorry. [redacted]
Q. And both kids, [redacted] and [redacted], reside at home?
A. Yes.
Q. Anyone else live at the house?
A. No.
Q. You obviously know Mark Pasek and Meredith Carr; correct?
A. Yes.
Q. You understand that they're the remaining plaintiffs in this lawsuit?
A. Oh, yeah.
Q. And do you consider Mark Pasek a friend?
A. Yes.
Q. And do you consider Meredith Carr a friend?
A. Yes.

Q. You think highly of Mark Pasek?
A. I think -- yes.
Q. Do you think highly of Meredith Carr?
A. Yes.
Q. Do you believe that Mark Pasek is an honest person?
A. Yes.
Q. Do you believe Meredith Carr is an honest person?
A. Yes.
Q. Do you believe Mark Pasek is a trustworthy patient -- trustworthy person?
A. Yes.
Q. Do you believe Meredith Carr is a trustworthy person?
A. Yes.
Q. Be fair to say you get along with Mark Pasek?
A. Yes.
Q. And be fair to say you get along with Meredith Carr?
A. Yes.
Q. Mark Pasek work with you on your campaign to become the elected clerk in 2020?
A. Yes.
Q. Meredith Carr worked with you in your campaign

in your effort to become the elected clerk in 2020?

A. Yes.

Q. Do you have sort of a social friendship with Mark Pasek where you would maybe go out or do activities of any sort together?

A. Not that I recall, no.

Q. Okay. To your knowledge has Mark Pasek ever done anything to harm you to your knowledge?

A. No.

Q. To your knowledge, has Mark Pasek ever done anything to harm your reputation?

A. No.

Q. You indicate that you're friends with Ms. Carr?

A. Yes.

Q. Any reason -- I'm sorry. Has Meredith Carr ever done anything to harm your reputation to your knowledge?

A. No, she has not.

Q. Do you know of any reason why Meredith Carr would want to do any harm to you in any respect?

A. No.

Q. Is it accurate that, I believe I've seen in your resume, that you were at one time an assistant state attorney with the state attorney's office for the

20th Judicial Circuit?

A. Yes.

Q. And did that for about seven years; is that accurate?

A. Yes.

Q. Was that when Steve Russell was the state attorney?

A. Yes.

Q. Were you ever an assistant state attorney when Amira Fox was the elected state attorney?

A. No.

Q. But you worked -- Amira Fox would have worked in executive management at the state attorney's office when you were there; is that a fair statement?

A. Yes.

Q. Okay. When did you leave the state attorney's office?

A. October of 2013.

Q. Okay. And why did you leave?

A. Took a position in the private sector.

Q. Okay. So you would have resigned?

A. Yes.

Q. Was it a voluntary resignation?

A. Yes.

Q. Okay. Was there -- did you resign in lieu of

being terminated?

A. No.

Q. Okay. Was there any pressure on you to resign?

A. No.

Q. And how long have you been licensed in the state of Florida to practice law?

A. Since May of 2006.

Q. Okay. And you recognize that, as an attorney licensed to practice law in the state of Florida, that you operate in the capacity -- in a capacity as an officer of the Court?

A. Yes.

Q. As an attorney and officer of the Court, you understand the importance of giving truthful information when under oath; correct?

A. Yes.

Q. Is it your intention to give truthful information in this deposition?

A. Yes.

Q. You understand that you're under oath, and if you do not give truthful information, you may have committed perjury?

A. Yes.

Q. You ever had a romantic relationship with

Meredith Carr?

A. Can you define the word "romantic," please?

Q. Have you ever had a romantic relationship with Meredith Carr?

A. No.

Q. Why did you ask me to define the word "romantic"?

A. I want to understand what your meaning of the word "romantic relationship" means.

Q. You don't understand the difference between a friendly relationship and a romantic relationship?

A. Oh, I do.

Q. Okay. So why did you ask me to define the word "romantic"?

A. I was curious what "romantic" meant to you. I wanted to --

Q. Okay. And your testimony under oath in this deposition, subject to perjury and all that comes with it, is that you have never had a romantic relationship with Meredith Carr?

A. That is correct.

Q. You understand it's widely understood, when you were in the clerk's office, that it was widely understood that you were involved in a romantic relationship, an affair, with Meredith Carr, don't you?

A. Was that two questions or one question?

Q. Don't you -- aren't you aware that, when you worked at the clerk's office, it was widely recognized that you were involved in a romantic affair and relationship with Meredith Carr?

A. No.

Q. You had no knowledge at all that there was any suspicion that you were involved in a romantic relationship with Meredith Carr when you worked at the clerk's office?

A. That's a different question than what you asked me.

Q. Well, let's answer the question that's pending.

A. Can you please repeat the question?

MR. POTANOVIC: Madam Court Reporter, can you read back the question for Mr. Molenaar so he can answer it under oath?

(The record was read.)

THE WITNESS: Okay. I heard the question. That's a different question than what you asked me previously. I don't know what people -- I don't -- I can't read people's minds. I don't know what people are thinking. Romantic relationship to me, I don't think so. Do people think we were

involved, perhaps.

BY MR. POTANOVIC:

Q. Involved romantically; right? Isn't that what you mean when --

A. No.

Q. When you say people think we were involved, you are saying that there may have been suspicion that you and Meredith Carr were involved romantically; correct, sir?

A. No.

Q. Okay. What did you mean when you just said, "There were people that thought we were involved"? What did you mean about that?

A. Having a relationship outside of the workplace.

Q. That was something more than friendly?

A. Yes.

Q. Okay. You recognize that there were people, correct or not, there were people that believed that you and Meredith Carr had a romantic relationship when you worked at the clerk's office; correct?

A. I wouldn't use the word "romantic." That's the word I'm not understanding.

Q. Okay. Something other than friendship involving some affection and some sexual connotation.

A. Yes.

Q. Did you have that type of relationship with Meredith Carr at any point in time?

A. A sexual relationship, yes.

Q. You don't consider a sexual relationship to fall within the definition of or the words romantic relationship, sir?

A. I do not.

Q. Okay. So you think a romantic relationship excludes a sexual relationship?

A. I do not.

Q. Do you understand that romantic relationship would include a sexual relationship?

A. Under some circumstances, yes.

Q. Okay. And why would you say that the relationship you had with Meredith Carr was a sexual relationship but it was not a romantic relationship in any way, shape, manner, or form?

A. It was not romantic. I did not give her flowers, we didn't do weekend escapades, I didn't do sleepovers. It was merely sexual as I stated earlier.

Q. You gave her a ring, didn't you?

A. No. Well -- well, wait. Yes, as a matter of fact, I think I did, yes.

Q. Yeah. You gave her a ring that you bought at

Pandora's in Mercato, didn't you?

A. Yes, I did.

Q. I got a picture of it a little while ago. Wouldn't that be romantic?

A. It wasn't romantic -- you asked me if I thought it was romantic. It was not romantic to me.

Q. Did you intend it to be romantic when you gave a woman who you were having sex with a ring?

A. No.

Q. Did you intend for her to think it was romantic?

A. No.

Q. What did you intend it to mean when you gave a woman that you are having sexual relations with a ring that you purchased at Mercato at Pandora?

A. It was a friendship ring.

Q. And that friend you were having sexual relations with; correct?

A. Yes.

Q. And you don't combine the two and say that it was intended as a romantic gesture, do you?

A. No, I do not.

Q. And you're being honest today under oath, aren't you, sir?

A. Yes, I am.

Q. Were you being honest in the deposition that you gave back in June of this year when you denied under oath in a direct question from the state attorney as to whether or not you had a romantic relationship with Meredith Carr and, your answer was flat out no?

A. That is my answer I gave then; that's the answer I'm giving today, correct.

Q. And you believe, sir, as an officer of the Court and under oath today, that that was an honest answer?

A. Absolutely.

Q. You don't think it was an intent to be deceptive while under oath?

A. No.

Q. And you can say that with a straight face?

MR. YORMAK: To the extent there was not a question pending at the end of Mr. Potanovic's last statement, we'll move to strike.

BY MR. POTANOVIC:

Q. I'm going to read your deposition testimony that was given under oath on June 11, 2021, in the State of Florida against Meredith Carr lawsuit -- case, okay, sir?

A. Okay.

Q. And you recognize that this was a criminal

action brought by the state attorney's office against Meredith Carr; correct?

A. Yes.

Q. In which you were named as a witness; correct?

A. Yes.

Q. And you were named as a witness by Meredith Carr; correct?

A. Yes.

Q. Beginning at page 14, I'm going to read from the transcript, beginning at page 14:

"QUESTION: I forgot to ask you, how do you know Meredith Carr?

"ANSWER: Oh, she's a colleague, a co-worker at the clerk's office.

"QUESTION: And how long have you known Meredith?

"ANSWER: I don't know, probably about six years by now, five years, six years.

"QUESTION: And have you ever been in a relationship with Meredith?

"ANSWER: No. We're friends. I'll tell you that she's worked on my campaign. We have a very friendly relationship. We have a very congenial relationship; so I'll leave it at that.

"QUESTION: Have you ever been in a romantic

relationship with Meredith?

"ANSWER: No.

"QUESTION: Okay.

"ANSWER: I know Meredith well. I've helped her with -- I've helped her with some of her legal documents, I've helped her with her husband, I've helped her with her daughter with things that I do. I live at my house. I'm married. I have two children -- two children," period, end of quote, and that ends on page 15.

Is it accurate, sir, that what I've just read indicates you indicated under oath that you did not have a romantic relationship with Meredith Carr in answer to that question; correct?

A. I said I did not have -- yes, that's correct.

Q. And then you went on to give what I just read in, a fairly lengthy answer, wherein you tried to give the impression that the relationship that you had with her was simply as a friend in that you helped her with some legal documents, you helped her with her husband and her daughter. That's the way you described the relationship, correct, sir?

A. Those are the words I used, yes.

Q. Right. And nowhere in giving that answer where you were explaining the relationship, did you

indicate that the relationship with her included a sexual relationship, did you?

A. I was not asked that question.

Q. Well, you weren't asked about whether you ever helped her daughter or her husband or helped her with legal documents either, were you?

A. No.

Q. But you chose to volunteer that, didn't you?

A. I gave the answer at the time that it was in.

Q. And when you were asked the question whether you were in a romantic relationship with Meredith Carr, didn't you understand that to include whether you were in a romantic relationship that involved any form of sex or sexual relations with Meredith Carr?

A. No.

Q. And when you gave the answer -- I'm sorry. When you gave the voluntary information about the nature of the relationship which included helping with her husband, helping with legal documents, helping with her daughter, wasn't your intent in giving that answer and those specific facts to separate it from a romantic or a sexual relationship; isn't that true, sir?

A. No.

Q. Okay. Isn't it true that you provided no information in that deposition in response to that

question to indicate that you had a sexual relationship with Meredith Carr?

A. You heard the words. However you interpret it is the way you interpret it. I did not use the word "sex" or "intercourse" in response to that question, correct.

Q. Would you agree, sir, that you are parsing words in an effort to distinguish between a romantic relationship and a sexual relationship?

A. No.

Q. Do you believe your testimony that I just read to you that you gave under oath in the State of Florida vs. Meredith Carr case was 100 percent honest, forthright, and accurate?

A. I answered the questions that were posed to me honestly; so yes.

Q. Okay. At this point in time, would you like to amend that answer, or do you have any intention to try to amend that answer on the record with the state attorney's office, knowing that you have had a sexual relationship with Meredith Carr and that that's likely what they were seeking to find out when they asked you that question?

A. I can't presume what a highly skilled, highly trained prosecutor was intending to do. I have no

intent on going back and amending that answer. Just like the answers I gave you earlier today, I have no intent on going back to answer.

Q. As an attorney, sir, would you be upset at some level if a witness under oath said that he was not involved in a romantic relationship with somebody to only later find out that he was involved in a sexual relationship?

A. No.

Q. Other than the ring that you gave Meredith Carr, did you ever give her anything else?

A. Oh, I don't know. Not off the top of my head as I sit here now, no. I don't recall anything else.

Q. Okay. Did you ever buy her dinner?

A. I have bought her dinner.

Q. Did you ever buy her drinks?

A. I probably bought her drinks, yes. I bought her chlorine for her pool some time ago.

Q. Okay. That's not very romantic.

Have you been out to dinner with her where it was just the two of you?

A. No.

Q. Have you and her -- have you and Meredith Carr traveled anywhere together?

A. We did one time.

Q. Where did you travel?
A. We went to Key West, Florida.
Q. Was that -- in the nature of a vacation?
A. It was a work outing.
Q. Okay. Did you stay in the same room?
A. Yes, we did.
Q. And did you invite her to go?
A. No.
Q. Well, whose trip was it?
A. It was her trip.
Q. Did she invite you to go?
A. Yes.
Q. During that entire trip, do you think there was any, any level of romance involved between you and her?
A. No.
Q. When you've engaged in sexual relations with her, have you told her endearing things?
A. No.
Q. Have you ever been engaged in any discussion with her when you've engaged in sexual relations with her?
A. I'm sorry. Can you repeat that question?
Q. Have you engaged in any discussion with her -- have you made any comments to her when you've been

engaging in sexual relations with her?

A. Yes.

Q. Did you make endearing comments to her when you were engaged in sexual relations with her?

A. No.

Q. Have you ever told her that you love her?

A. Oh, sure, yes.

Q. Did you mean it?

A. I meant it like an agape love, like a friendship love, yes, not a romantic love.

Q. Okay. So it was not eros love. We're going to go to the Bible now, are we? It was not eros love, it was agape love?

A. Wait. I don't understand what the Bible -- what does that mean? I know what the Bible --

Q. Are you referring -- I'm sorry. I thought you were referring to agape, the four or five different forms of love that are recited in the Bible. Are you referring to some other source?

A. I was thinking Greek mythology, but yes.

Q. Okay. Well, I guess we're on a different plane, but agape love is unconditional love, isn't it?

A. I think it's a friendship love, my understanding of it.

Q. No. Friendship love is Philos, p-h-i-l-o-s.

That's friendship love.

A. It was a friendship love.

Q. Okay. But you told her you loved her. Did you tell her it was agape or Philos love when you told her that?

A. No. No. No. No. No.

Q. What do you think she thought when you told her you loved her?

A. She probably felt that it was a nice thing for somebody to say.

Q. Do you think that she took it as a romantic gesture that you told her you loved her?

A. No.

Q. Did you tell her that I don't love you in the -- I'm sorry. "I don't love you in the eros way, I love you more in the agape and Philos type of love," is that the way you explained it?

A. No.

Q. Did you tell her that you loved her after you had had sexual relations with her?

A. I suppose afterwards, sure, yes.

Q. Okay. And was it, like, in bed after you had made love to her?

A. No.

Q. Well, let me strike that. Let me strike that.

When you engaged in sexual relations with her, do you consider that making love?

A. No.

Q. What do you consider that?

A. Intercourse.

Q. Okay. Did you ever call -- refer to it as making love when discussing sexual relations with Ms. Carr?

A. I don't recall.

Q. Is it possible you may have referred to it as making love or suggested that you make love rather than saying, "Meredith, would you like to have intercourse"?

A. I'm sure that's possible, yes.

Q. You're sure it's very possible that you would have said, "Would you like to make love"; isn't that true?

A. I don't know that I would ever say that, but I probably wouldn't say, "Would you like to have intercourse." That's not something I would say.

Q. Okay. It's much more likely you would have referred to it as making love; correct?

A. Probably, if I was going to use those words. I certainly wouldn't say, "Would you like to have intercourse?"

Q. Okay. Well, assuming that the topic was

raised, wouldn't it -- do you recall actually having used the words "making love" for that topic?

A. I don't recall.

Q. But you believe it's possible that you have used it?

A. Certainly it's possible.

Q. Is there some other word or phrase that you ever used in preparation for or in anticipation of having sexual relations with Ms. Carr?

A. I don't recall as I sit here right now.

Q. Okay. How long have you had a sexual relationship with Ms. Carr?

A. About four years.

Q. When did it first start?

A. About four years ago.

Q. Is it ongoing?

A. It hasn't been for a while, several months, but no -- actually, probably longer than that, but several months at least.

Q. Was it an intent that there's a hard stop, that it's not going to happen again, or has it just been a bit of a dry spell?

A. We have not had any discussions about it, just hasn't happened, the opportunity hasn't presented itself, and the availability hasn't presented.

Q. Okay. But are you willing in the future, if the opportunity presents itself, to have sexual relations again with Ms. Carr?

A. I have not given it any consideration; so no.

Q. No meaning what?

A. No, meaning I don't know the answer to that.

Q. Okay. So it may happen in the future?

A. It may. As I sit here right now, I have no intent on it.

Q. Okay. Is your wife aware of the sexual relationship?

A. I don't know.

Q. Okay. Is it true that Meredith Carr showed up at your house a couple years ago at your doorstep, banging on your door to see you?

A. That's not true.

Q. Did Ms. Carr ever show up at your house unannounced when your wife was home?

A. Yes.

Q. Okay. How long ago was that?

A. Maybe in 2020, several years ago. I don't recall.

Q. Okay. At the time -- at that time was your wife home?

A. You just asked me that. I said yes, my wife

was home.

Q. Okay. And what -- did you know Ms. Carr was coming to your home?

A. No.

Q. Did you want her to come to your home?

A. I didn't know she was coming; so I didn't -- no, I didn't want her to -- no.

Q. Had she ever been to your home before?

A. Not that I recall.

Q. And did she indicate to you, when she arrived, why Ms. Carr was there?

A. No.

Q. So did you answer the door?

A. No.

Q. Did somebody answer the door?

A. No.

Q. Did she try to get somebody to answer the door by either ringing the bell or knocking on the door?

A. No.

Q. How do you know she was there?

A. Because I saw her.

Q. Okay. Did she just stand at your front window?

A. No.

Q. Okay. How did you see her?

A. I went outside, and I saw her in her car.
Q. How did you know to go outside?
A. Because I heard a noise.
Q. And it was her car?
A. No.
Q. You heard a different noise, but her car happened to be there when you went out to check on a different noise?
A. Correct.
Q. What time of -- was this at night?
A. Yeah. Yes.
Q. What time?
A. Oh, I don't know. It was dark out. Maybe -- I'd have to guess. I'm guessing. If you'd like me to guess, I could do that.
Q. What time do you think it was?
A. 7:30.
Q. Okay. And did your wife know that you went out -- outside?
A. Yes.
Q. Okay. Did your wife come outside?
A. Yes.
Q. Okay. So at one point the three of you, Ms. Carr; yourself; and your wife, [redacted], were outside?
A. Yes.

Q. Was anything said?
A. I don't think so. Not that I recall, no.
Q. Okay. So was Meredith Carr on your driveway?
A. No.
Q. Did she get out of the car?
A. Yes.
Q. So was she on the road right in front of your home?
A. No.
Q. Where was she located when you came outside?
A. On the front lawn.
Q. Was she standing?
A. I think she was in her car, getting in her car. I don't really recall, but she was in her car, and she drove off.
Q. And there was never a word exchanged?
A. I don't recall. This was some time ago. It was a short interaction.
Q. Okay. Were your neighbors outside and witness to what happened that you're describing?
A. I'm not aware that they were.
Q. Do you recall seeing your neighbors?
A. No.
Q. Okay. Did your wife ask you who that person was that just pulled up on your lawn?

A. Yes.
Q. And what did you tell her?
A. I told her it was Meredith Carr.
Q. And did she know who that was?
A. Yes.
Q. Did she ask you why Meredith Carr was there?
A. I don't recall.
Q. Do you recall anything about the discussion you had with your wife after Meredith Carr drove away?
A. No, I don't.
Q. So you don't remember anything that Meredith Carr may have said, and you don't remember anything that your wife would have said during this -- during this situation?
A. I could speculate, but I don't remember, no.
Q. Okay. I'll let you speculate. What do you speculate that Meredith Carr said when she was there?
A. I don't know that she said anything. I can speculate what my wife would say, and I will do that because I'm sure you're going to tell me to do that.
Q. So you can't even speculate on what Meredith Carr may have said when she was there? You don't have any speculation?
A. I don't know that she said anything. I don't recall her saying a thing.

Q. Okay. I would assume you saw her at some point either the next day or within the next few days at work; correct?

A. I'm sure that's true, yes.

Q. And you would have asked her why she was at your house on your lawn; correct?

A. Sure.

Q. And what did she say?

A. I don't recall. I don't recall asking her, I don't recall her giving an answer. I recall her being there, I recall her being in her car.

Q. You do recall asking her why she was there, but you don't recall her answer?

A. I could speculate that I asked her that. I don't recall. I remember her driving away.

Q. I move to strike. We're past that. That's not my question. My question was -- we'll pick up where it was.

I would assume that either the next day or within the next few days you would have asked Meredith Carr why she was at your house standing on your lawn, and I believe you said, "Yes"?

A. I assume I did. I assume I asked her that. I don't recall asking her, I don't recall her giving an answer to a question I don't recall asking, but I do

recall having a discussion about it after.

Q. So as you sit here today, you're telling me under oath that you have no idea why Meredith Carr pulled up to your house and was standing on your lawn the night that you were describing?

A. Well, that's a different question. I could speculate as to why she was there.

Q. Okay. What's your speculation as to why she was there?

A. Perhaps she didn't -- I'm speculating perhaps she didn't want me to be there at that time at home, and maybe she wanted me to be someplace else.

Q. And that speculation would continue that she wanted you to be with her somewhere else; correct?

A. That's certainly plausible, yes.

Q. Okay. And was she texting you that night about meeting her somewhere?

A. I don't recall. I have no idea.

Q. Yeah. Do you and she text quite a bit?

A. We text sometimes. That's right.

Q. Do you keep the texts, or do you delete them?

A. I do not keep them.

Q. You delete the texts?

A. I delete almost all texts, yes.

Q. Do you delete her texts in particular because

of the sexual relationship with her?

A. I just delete texts. I don't keep them. As a matter of course, I don't keep texts. That's probably part of the reason because of the sexual relationship; although, I delete most texts.

Q. Well, you don't want your wife to find out about the sexual relationship; so you have delete the texts, sir; right?

A. That's incorrect.

Q. And do you want your wife to find out about the sexual relationship?

A. I didn't say that. I said I don't delete them because I don't want my wife to find out about the sexual relationship.

Q. Do you want your wife to find out about the sexual relationship?

A. No.

Q. Okay. So it would then follow that it would then make sense to delete those texts so that she doesn't think there's a sexual relationship with Meredith Carr, doesn't it?

A. That's a logical conclusion, sure, yes.

Q. Is it an accurate conclusion?

A. I delete most texts. At the end of the day, I delete many texts. I don't have that big of a phone; so

I delete them.

Q. Okay. But I'm not asking you about many texts, I'm asking you specifically about Meredith Carr's texts, sir. That's what we're talking about, and isn't it true that you delete those because of the sexual relationship you're engaged in with her?

A. No. I delete all texts.

Q. That's not fair?

A. I delete most texts, not all, most texts at the end of the day.

Q. Okay. So Meredith Carr leaves, you can't remember whether anything was said. If there was anything said, you have no recollection of it, but you're standing there with your wife outside your house; correct?

A. Yes.

Q. And your wife asked you who it was, and you told her Meredith Carr; correct?

A. I'm sure I did, yes.

Q. And did she ask you why Meredith Carr was at your house?

A. I don't recall, but I'm sure she would have. I'm speculating, but I think so.

Q. And what did you tell her?

A. Well, as I said earlier, if I said anything, I

told her it was Meredith Carr.

Q. Okay. And wouldn't it stand to reason that a wife would say, "Why would Meredith Carr be at our house at 7:30, standing on the lawn"?

A. That stands to reason, I agree with you, yes.

Q. Okay. And what was your answer to that question?

A. I'm sure my answer was I don't know. I do know that she had worked on my campaign during that period of time.

Q. Yeah. Have you purposely -- would you purposely be deceptive with your wife if she was asking questions about Meredith Carr?

MR. YORMAK: Object to form.

You can answer if you're able.

THE WITNESS: Again, I don't know what my wife thinks. If you want to ask me the question again, you can ask me again. I'm not quite sure. I forgot now.

BY MR. POTANOVIC:

Q. Wouldn't you purposely try to be deceptive with regard to your answer about Meredith Carr when answering a question from your wife about Meredith Carr?

MR. YORMAK: Object to form.

You don't need to be disclosing anything that

you may have said in a spousal relationship with your wife.

MR. POTANOVIC: I'm not asking --

(Multiple people speaking simultaneously.)

MR. POTANOVIC: I'm not asking you about any communication, I'm asking --

MR. YORMAK: Let me get the objection on the record. Let me get it on the record.

To the extent he's asking you to speculate, the objection to form stands.

MR. POTANOVIC: You can answer the question, sir.

THE WITNESS: Mr. Yormak, can I answer the question now?

MR. YORMAK: Without disclosing anything that was communicated in the spousal relationship, yes.

THE WITNESS: Yes, I would -- what were the words you used? I would -- I don't know what the word was, but --

BY MR. POTANOVIC:

Q. The word was deceptive.

A. Yes.

Q. The answer is yes, you would be deceptive if your wife was asking you questions about the nature of your relationship with Meredith Carr?

A. Yes.

Q. Have you been deceptive towards your wife about the nature of your relationship with Meredith Carr?

A. Yes.

Q. Have you been deceptive with others about the nature of your relationship with Meredith Carr?

A. Yes.

Q. What others have you been deceptive with?

A. Family members, congregates at church, I'm sure. I don't know who else. I mean, if you want to give me a list, I could tell you yes or no. I don't really know. I suppose many people.

Q. Were you deceptive with your supervisory managers at the clerk's office, when you worked at the clerk's office, about the relationship?

A. No. I don't think so, no.

Q. Have you spoken to -- at any point in time have you spoken to Mark Pasek about your romantic and/or sexual relationship with Ms. Carr?

A. No.

Q. And you believe Mr. Pasek to be an honest and trustworthy person, don't you?

A. I do.

Q. Do you know a [redacted]

A. Yes, I do.
Q. How do you know [redacted]?
A. She was a subordinate, and now she's a colleague of mine.
Q. She was a subordinate when you worked at the clerk's office?
A. Yes, she was.
Q. Okay. And you supervised her when she was at the clerk's office and you were in the internal audit position; is that correct?
A. Yes.
Q. You were the manager of the internal audit department, and she was an internal auditor; is that correct?
A. Yes.
Q. You actually listed her as a reference on your application to Fort Myers Beach to become their finance director; correct?
A. Yes.
Q. And when she was your subordinate employee whom you supervised at the clerk's office, you were involved in a sexual relationship with her as well, weren't you?
A. No.
Q. Were you ever involved in a sexual or romantic

relationship with [redacted]?

A. Yes.

Q. Okay. So let me figure out which words I didn't use correctly. You said you were not in a sexual relationship with her?

A. I said I was in a sexual relationship with her.

Q. Okay. You were in a sexual relationship. Were you in a romantic relationship with her?

A. Not that I recall, no. No.

Q. And were you in the sexual relationship with [redacted] at the same time you were in the sexual relationship with [redacted] Carr (sic)? Did those relationships overlap?

MR. YORMAK: Object to the form.

BY MR. POTANOVIC:

Q. You can answer the question, sir.

A. Oh, no.

Q. So the sexual relationship with [redacted] ended before you started the one with Meredith Carr?

A. Correct.

MR. POTANOVIC: I'm going to screen share an exhibit that we'll mark as Exhibit Number 1, and there's some information I want to go through with you, sir.

(Exhibit 1 marked for identification.)

BY MR. POTANOVIC:

Q. All right. I'm going to represent to you that Exhibit 1 is a text exchange that was had on December 29, 2017, between Meredith Carr and Robin Sheley, S-h-e-l-e-y.

Do you know Robin Sheley?

A. Yes.

Q. And how do you know her?

A. She was a colleague of mine.

Q. And did she supervise you at the clerk's office?

A. No.

Q. Did you supervise her?

A. No.

Q. Okay. Back in December -- late December, December 29th of 2017, were you aware that Meredith Carr and Robin Sheley knew one another?

A. Yes.

Q. Okay. All right. I'm going to start. I think this is several pages, and we'll go through, and we'll scroll through it.

At the top it reads, quote "I'll keep you posted if it really happens. Meeting him at Pandora in (sic)," close quote. Do you see that language?

A. Yeah. I'm not seeing the word "Pandora," but I see "Keep me posted if it really happens."

Q. And then it says, "Meeting him at Pandora in." Do you see that in the very next sentence?

A. Oh, yeah. I see it.

Q. Okay. And I'll represent to you that this is a text exchange from Meredith Carr, that was her words in the text change. So her texting will be on the left column, if you will, on the screen; and I'll represent to you that Robin Sheley's comments, replies, et cetera, will be along the right column of this text exchange, okay?

A. Okay.

Q. So the text that I've represented that was sent by Meredith Carr to Robin Sheley was sent at 3:37 p.m. Do you see that?

A. Yes.

Q. Okay. And do you see right below that at 4:54 that there was a response that was partially blocked out from Robin Sheley indicating the word "Wow." Do you see that?

A. At 5:54, yes, I see that.

Q. At 4:54.

A. Yes, I see it.

Q. Okay. Oh. Then next at 6:18 p.m., the text

from Ms. Carr reads, quote, "Got it. He picked it," close quote. Do you see that?

A. Yes.

Q. And if we scroll down to the next page where it begins with at the top at 9:56 p.m., "Robin, I am the happiest girl in the world right now." Do you see that?

A. I do.

Q. And do you see the word "happiest" is in all capital letters?

A. It's in all capital letters, yes.

Q. Okay. And, again, I'll represent left column this is Meredith Carr text at 9:56 to Robin Sheley, okay?

And actually, why don't we -- we're going to come back to this. Why don't we scroll to the very last page.

Do you recognize that ring?

A. No.

Q. Do you recognize that ring as the ring that you purchased for Ms. Carr at the Pandora in the Mercato shopping center?

A. I really don't recall.

Q. You do recall purchasing a ring for Ms. Carr at the Mercato shopping center; correct?

A. Yes.

Q. And you recall that it was purchased from a store called Pandora; correct?

A. Yes.

Q. Okay. But looking at this ring, you don't recognize if that is, in fact, the ring?

A. I don't recall.

Q. Do you have any reason to believe it's not the ring if it was -- if this picture was attached to the text exchange?

A. I have no reason to believe that is not the ring, right. Correct.

Q. Going back to Ms. Carr's text about being the happiest girl in the world.

Are we back there? Okay.

Right below that at 10:06, I'll represent Ms. Carr's text writes, "Do you think honestly he wouldn't have done that if he didn't mean it?" Do you see that text --

A. I do.

Q. -- that I'm representing was sent by Ms. Carr?

A. Yes, sir.

Q. Okay. And below that at 10:12 p.m., I'm representing that Ms. Carr texted to Ms. Sheley, quote, "But for him, don't you think it's a big emotional deal? Robin, he was so kissy and lovey publicly tonight it was

shocking to me." Do you see those texts I'm representing from Ms. Carr at 10:12 and 10:13 p.m.?

A. Yes, I do.

Q. Okay. Do you recall being kissy and lovey in public with Ms. Carr on the night that you gave her the ring you purchased at Pandora?

A. The night we purchased it, I don't recall that, and I don't know about giving it to her. She was present with me, but the answer is I don't recall being lovey or kissy that evening.

Q. Okay. Do you think she was lying in the texts?

A. I think she -- no. I believe those are her texts.

Q. Okay. Do you believe that it happened since she put it in the text presumably on the very same night that you gave her the ring?

A. I don't recall. I can't speculate. I don't recall. I can't speculate.

Q. My question is do you have any reason to believe that Ms. Carr would have been lying about being lovey and kissy in public on the night that you gave her the Pandora ring?

A. I have no reason to believe that she was lying, correct, that night.

Q. But you can't remember that, if she -- but she may; is that a fair statement?

A. Yes. I do not remember.

Q. All right. On the next page at the very top Ms. Carr texts, quote, "I guess I'm asking you because you are familiar with the [redacted] thing." Do you see that text at 10:19 p.m.?

A. Yes.

Q. And that would be [redacted] that we were talking about earlier; correct?

A. Yes.

Q. Okay. And then below that, right below it, there's a response from Robin Sheley at 10:19 p.m. that reads, quote, "I'll feel better if he gets his own bank account, moves in with his mom, et cetera. Those are things that show that he's pulling away from [redacted] and that she knows it," close quote. Do you see that what I've just read?

A. Yes.

Q. Okay. And your wife's name is [redacted], correct, or she goes by [redacted]?

A. Yes. Yes.

Q. Had you discussed with Ms. Carr at any point in time moving out of your home, the home that you share with [redacted]?

A. Yes.
Q. Did you indicate to Ms. Carr that you were considering moving out of the home that you share with [redacted] because of your relationship with Ms. Carr?
A. No.
Q. Did you share with Ms. Carr that you were considering moving out of the home that you share with [redacted]?
A. Yes.
Q. Okay. So I guess what you're saying is you told her that, but it had no connection to the affair that you were having with Ms. Carr?
A. Correct.
Q. Okay. Would you agree that moving out of the home that you share with your wife would make it easier to have the affair with Ms. Carr?
A. No.
Q. That would not make it easier?
A. I don't think so.
Q. Was it easy to have the affair while living at home?
A. Yes.
Q. And right below that it says, "Right." And then it says "[redacted], Robin, not [redacted]." Do you see that one?

A. "Right, true, we all know for sure. I want to know what [redacted] knows." I see all that, yes.

Q. Right below that at 10:20, there's a quote that reads quote, "Right. [redacted], [redacted], Robin, not [redacted], [redacted]." Do you see that text?

A. Yes, I do see that, yes.

Q. Okay. So that appears to be Ms. Carr correcting the spelling from [redacted] to [redacted]. Do you see that?

A. Yes.

Q. And does your wife go by [redacted]?

A. I don't think so. I think it's [redacted].

Q. Sir, you said you don't think so. You've been married to her for 19 years. Does she go by -- let me ask you the question. Does she go by [redacted], or does she go by [redacted]?

A. [redacted].

Q. And you're certain of that?

A. Yes.

Q. Okay. The text below that appears to be from Robin Sheley at 10:20 p.m. says, quote, "He moved out when he was with [redacted]. That's undeniable." Do you see that?

A. Yes.

Q. Is that correct?

A. Is that --

Q. Did you move out when you were having the affair with [redacted]?

A. No.

Q. Did you tell Ms. Carr that you had moved out of your home during -- at some point in time when you were having the affair with [redacted]

A. Yes.

Q. But you were not being truthful?

A. It was -- I was exaggerating. I spent a few days away from the house, my house.

Q. Were you out of town?

A. Yes.

Q. So you had not moved into a hotel, you just went out of town on some kind of pleasure trip?

A. No.

Q. Okay. What was the nature of going out of town that you're referring to?

A. I stayed at my mother's condominium.

Q. And was it as a result of the affair with [redacted]?

A. Yes.

Q. And did your wife learn about the affair with [redacted] and have you moved out?

A. Yes.

Q. And did that end the affair with [redacted] when your wife found out?

A. No.

Q. What ended the affair with [redacted]?

A. [redacted]. You'd have to ask [redacted]. I don't know. It was [redacted] decision.

Q. Little further down, the left column at the bottom on the [redacted] Carr (sic) side of the text exchange, it reads, quote, "But he knows Bill knows, my parents, and he asked if you know about the ring," close quote. Do you see that?

A. Yes.

Q. Okay. Bill is Bill Murphy, Meredith's neighbor; correct?

A. I don't know who Bill is.

Q. Do you know Bill Murphy, Meredith Carr's neighbor?

A. No. I know Bill Murphy. It's not Meredith Carr's neighbor though.

Q. Okay. Who is Bill Murphy?

A. Bill is a guy who is retired who lives in Naples someplace.

Q. Is he a friend of Meredith Carr's?

A. Yeah.

Q. And did Bill Murphy know about the ring you

had purchased for Meredith Carr?

A. I don't know.

Q. Well, the text suggests that you know that Bill Murphy knows about the ring. Is that an accurate statement to your knowledge?

A. I don't know what Robin knows. "You" is Robin. I don't know what Robin knows.

Q. I'm asking you about Bill. I'm not asking about Robin, and what I'm asking you is in that text exchange Meredith Carr indicates that you know that Bill Murphy knows about the Pandora ring, and I'm asking you if that is accurate. Did Bill Murphy to your knowledge know about the Pandora ring?

A. He certainly may have. I don't even know if I know, but he certainly may have. They were friends.

Q. Okay. Did you ever have a discussion with Bill Murphy about the Pandora ring?

A. Not that I recall, no.

Q. Were you familiar with Meredith Carr's parents?

A. Yes.

Q. Were you aware at any point in time whether her parents knew about the Pandora ring?

A. I'm not aware.

Q. And if I asked you this before, I apologize.

I try not to repeat the questions, but sometimes it happens.

Other than Meredith Carr, who have you had discussions with concerning your sexual relationship with Meredith Carr?

A. I don't really recall. I don't know. I mean, it's not the type of thing I talk about; so as I sit here, I don't recall anybody -- having discussions with anybody about sexual relationships with Ms. Carr.

Q. Did you -- I'm sorry? Did you finish?

A. I said with Ms. Carr. That's all.

Q. Did you become aware at any point in time that Meredith Carr was having discussions with others about the sexual relationship between the two you?

A. She certainly may have. I'm aware that she probably did.

Q. Well, my question was did you become aware -- did you gain knowledge that she was having discussions with others about your sexual relationship?

A. I can speculate that she did. Was I aware, was I present, no.

Q. I'm not asking you about speculation. I'm asking you did you become aware. Did you gain knowledge, did you become aware, sir, that Meredith Carr was having discussions with others about your sexual

relationship?

A. And I would like to answer your questions honestly. I intend to. It's difficult for me to sit here and recall any conversations where I heard her talking about sexual relationships between she and I; however, I suspect that she did based upon comments that I've heard from others.

Q. Okay. And who did you hear comments from, what others?

A. Oh, she has several friends, lady friends, who she's communicated that with.

Q. And those lady friends made comments to you indicating that they were aware of the sexual relationship?

A. I think, when I was in their presence, it came up; but again, I don't recall a specific instance, but it seems to me like they knew.

Q. Okay. And who are the people you're referring to?

A. She has one friend who is named Diane, and she has another friend named Alison. Those are the two I'm thinking of at the moment.

Q. Either of them ever work at the clerk's office?

A. No.

Q. Is Diane, Diane Baldasaro?
A. Yes.
Q. And the other one was Alison?
A. Yes.
Q. Do you recall the last name?
A. Yeah, I do.
Q. What's Alison's last name?
A. It's Kelly.
MR. POTANOVIC: I'm going to do another screen share for Exhibit 2 -- no, Exhibit 3. No, it is Exhibit 2.
(Exhibit 2 marked for identification.)
BY MR. POTANOVIC:
Q. And I'm going to represent to you that this is a page from Mark Pasek's answers to interrogatories that were served in this lawsuit, and you'll see at the very top or near the top your name is listed. Do you see that, sir?
A. I do, yes.
Q. And I'll represent that in Mr. Pasek's answers to interrogatories, he wrote, as you'll see there, that you are a witness who, quote, "has knowledge pertaining to my claims regarding violations of free speech and my termination," close quote. Do you see that?
A. I do.

Q. Okay. What knowledge do you have pertaining to Mark Pasek's claims regarding violations of free speech and Mark Pasek's termination?

A. What are his claims?

Q. Well, I'm asking you the question I asked you, which is, based on Mr. Pasek's representation that you have, quote, "knowledge pertaining to Mark Pasek's claims regarding violations of free speech and his termination," close quote. Do you see that language?

A. I do. I do.

Q. Okay. That's what Mr. Pasek wrote; so I'm asking you if you, indeed, have knowledge pertaining to Mark Pasek's claims regarding violations of free speech and Mark Pasek's termination, and if you do, I will then ask you what that knowledge is. Do you have such knowledge?

A. Yes.

Q. And what is that knowledge that you possess?

A. The knowledge is -- secondhand is the knowledge -- it's the communication he gave to me on the day he was terminated, that he was terminated by the clerk, and he asked her why, and from what I recall, he told -- she told him, "If you think about it long enough, you'll figure it out."

Q. Okay. Do you have any other knowledge

pertaining to his claims and his termination?

A. I may, but as I sit here and look at one sentence, that's all that comes to mind. If you have any details, I'd be happy to go through them with you, but I don't -- that's the best I can do for you at the moment.

Q. Okay. Mr. Pasek provided the testimony that you've just testified to?

A. I don't know if he provided it to you. I have no idea.

Q. No. No. He provided it to you. Mr. Pasek provided that information to you about his termination and what he says was said in the termination conference; correct?

A. Yes.

Q. Okay. You were not there; correct?

A. No.

Q. Okay. So it was hearsay to you. He was telling you what somebody else said in a meeting, termination meeting; correct?

A. That's what I said up front, yes, sir. Right.

Q. Okay. And if he was terminated at the beginning of September of 2020, you had not worked in that office for a few months at least; correct?

A. Correct.

Q. Your employment ended at the clerk's office around May 12th of 2020?

A. Yes.

Q. So a little over three months had passed since you had even actually been employed in that office; correct?

A. Yes, correct.

Q. When you left the office in May of 2020, were you Mr. Pasek's supervisor?

A. No.

Q. Who was Mr. Pasek's supervisor when you last worked at the clerk's office in May of 2020?

A. Robin Sheley.

Q. Okay. Were you a decision maker in the decision made to terminate Mr. Pasek's employment?

A. No.

Q. Were you consulted by the decision makers on the decision to terminate Mr. Pasek's employment?

A. I don't know who the decision makers were, but I was not consulted by anybody.

Q. Okay. So it would stand to reason that you would have no personal knowledge as to what the decision makers relied upon or will state as grounds for Mr. Pasek's termination; is that a fair statement?

A. Yes.

Q. Had you at one point been Mr. Pasek's supervisor at the clerk's office?
A. Yes.
Q. And that was when you were in internal audit?
A. Yes.
Q. And that would have ended sometime in late 2018; correct?
A. Yes.
Q. And after that Robin Sheley became his supervisor?
A. Yes.
Q. And Robin Sheley would have been Mr. Pasek's supervisor throughout the end of 2018, all of 2019, and up through and including September -- I'm sorry. Up through and including all of August 2020; correct?
A. Yes.
Q. Would you agree that Robin Sheley, as Mr. Pasek's direct supervisor, was in a better position to evaluate his job performance from October 2018 until the time that Mr. Pasek left employment?
A. I'm not sure about Mrs. Sheley's skills and how well she is and able she is to determine somebody's job performance; so I can't honestly answer that, but I can agree that she was a supervisor.
Q. Would you agree that Ms. Sheley, as his direct

supervisor from October 2018 all the way through August of 2020, was in a better position than you to evaluate Mr. Pasek's job performance as an internal auditor?

A. During that period of time, yes.

Q. And as you sit here today, do you have any reason to contest or dispute the opinions or evaluation -- evaluation or evaluations Ms. Sheley may have issued to Mr. Pasek during that timeframe, October --

A. I'm sorry, were you finished?

Q. -- from October of 2018 through August of 2020?

A. I don't know what she provided him, but I have no reason to dispute what she wrote as I sit here. I have not seen them.

Q. Ms. Kinzel was the clerk when your employment ended on or about May 12th of 2020; correct?

A. Yes.

Q. You were hired in 2013 into the clerk's office; correct?

A. Yes.

Q. And Dwight Brock would have been the elected clerk at that time?

A. Yes.

Q. Okay. So you worked there -- do you remember

what month it was that you were hired in?

A. Yes.

Q. What month was that?

A. It was April.

MR. POTANOVIC: All right. Let's go to Exhibit Number 3.

(Exhibit 3 marked for identification.)

BY MR. POTANOVIC:

Q. And I think I may have misspoke. I may have said "2013." Exhibit 3 appears to be the offer letter that you signed on April 17th of 2014. If we scroll down, you'll see your signature at the bottom. Do you see that?

A. Yes, I do. Yes.

Q. So if, indeed -- and I think we did -- spoke about 2013 as your hire in date, it was actually 2014; is that accurate?

A. Yes. That's the -- that appears to be the correct date, April 28, 2014 (sic). That seems about right.

Q. And in that Exhibit 3 that we're looking at, it indicates in the -- well, indicates in the first line of the letter that your position would be a full-time position of internal audit manager. Do you see that?

A. Yes.

Q. Okay. And that was your first position?
A. Yes.
Q. Okay. And then third paragraph down it reads, quote, "Your supervisor will be Crystal Kinzel," close quote. Do you see that?
A. Yes.
Q. Okay. And at that point in time, do you remember what Crystal's job position was?
A. At the point I signed the letter, I don't remember. I later learned what it was, but at the time I signed the letter, I don't remember.
Q. Okay. What did you later learn was her position?
A. She was the director of finance, the director of internal audit, the director of accounting. She may have been one or two other -- I think that's it. I remember those three. I think that's it. What I learned her positions to be after that -- sometime after that time.
Q. Okay. But it was one position. She was director of all three of those areas?
A. No. I really don't think so. I think she was taking up -- so I think there were positions -- from what I remember, there were positions -- those positions -- each one of those positions could have been

filled by a separate person. She was more like wearing three hats. One person was filling three positions. It's a minor technicality, but I wanted you to understand that those were three different positions, and she was filling all three.

Q. Okay. And you believe that to have been the case when you were hired in April of 2014?

A. Yes.

Q. And there's no question she was your supervisor when you were hired in; correct?

A. No question.

Q. Okay. And is it an accurate statement that Crystal Kinzel was -- strike that.

Is it an accurate statement that you were a subordinate employee to Crystal Kinzel during the entirety of your tenure at the clerk's office?

A. Yes.

Q. Or stated otherwise, at all times during your employment at the clerk's office she was supervisory to you in whatever role you held at the clerk's office?

A. Except for one time she was not.

Q. And when was that one time?

A. There was one assignment that the clerk, Dwight Brock, put me on maybe two years after being hired, and it was to review Ms. Kinzel's actions as it

related to her supervision of the accounts payable position.

Q. Okay. Was it some sort of an investigation that you did?

A. Yes.

Q. Okay. And what was the result of the investigation?

A. The investigation -- there was no evidence of any wrongdoing --

Q. And did you --

A. -- by Ms. Kinzel.

Q. Did you conclude that in writing?

A. I don't recall. I don't think so.

Q. It was just a verbal report to the then clerk, Mr. Brock?

A. Yes.

Q. Was Ms. Kinzel aware of the investigation?

A. She later became aware.

Q. Okay. Well, how did you do the investigation without her becoming aware?

A. I didn't need to interview her. I looked at the -- from what I recall, I looked into the clerk's accounting system. Had discussions with -- I think I had discussions with staff who carried out her directives on a payment of a warrant or a check to a

vendor. It's been some time. I don't recall. I wasn't thinking about this until you brought it up; so it was probably -- I know it was looking at documents, looking at records in the clerk's accounting system, and I believe it was having conversations with staff about their policies and procedures and about why they made the decisions they did, and I'm thinking it was because it came from the directives of Ms. Kinzel.

Q. Other than Mr. Brock, who else was aware that you were doing the investigation you're describing?

A. Nobody. I was instructed to keep it confidential.

Q. And what documents did you prepare that had anything to do with the investigation you're talking about?

A. I don't recall preparing any documents. I don't think I created any documents.

Q. Did you do any emails with Mr. Brock about the investigation you're talking about?

A. No. Not that I recall, no. I'm fairly confident I did not.

Q. Okay. So it was completely verbal as between you and Mr. Brock, the nature of the investigation?

A. Yes.

Q. And there were no documents that memorialize

the investigation in any way, shape, manner, or form to your knowledge?

A. Not that I know of, no.

Q. Okay. And was there a particular -- what staff members did you talk to during the course of the investigation?

A. I don't recall. I could tell you they were women because they were all women. They -- whatever manner this was assigned to, they were probably the staff members that dealt with this particular vendor. I don't recall the name of the vendor. I think it might have been a demolition company, a construction company, or a concrete company.

Q. Okay. You don't remember -- you do not even remember the name of the vendor?

A. No, not at the moment.

Q. Okay. And did you indicate that your conclusion that you reached, albeit not in writing, was a conclusion that there was no wrongdoing by the clerk's office?

A. That's correct.

Q. And did you indicate that at some point you believe Ms. Kinzel became aware of the investigation you're describing?

A. I'm sorry. I need to go back to that last

question. When I say wrongdoing, I mean criminal wrongdoing or malfeasance, which is worse than misfeasance. Perhaps there were other things that could have been done better. Again, I don't recall, but I want to say there was no criminal wrongdoing when I say that.

Q. And did you indicate that Ms. Kinzel became aware of the investigation after you had finished it?

A. She did.

Q. And how did she become aware?

A. I don't recall. I don't know.

Q. How do you know she became aware?

A. Because I recall having a conversation with her about it.

Q. And what about that conversation made you conclude that she became aware of the investigation?

A. I think she told me she was aware of it and aware that Dwight was looking at her work in that whatever, let's call it an investigation.

Q. Would you call it an investigation, or was it something else?

A. Investigation is a good word. I'm good with that.

Q. All right. And just so I'm clear here, you don't remember the name of the vendor?

A. No.

Q. Was it a particular vendor in a particular industry?

A. I think it was a demolition company, but again, I'm speculating, and I can tell you they may have an office located on the corner of Airport Road -- Airport Pulling Road and Radio Road -- no, and Davis Road -- Davis Boulevard in Naples, Florida, but I don't recall the name of the company.

Q. Was it a complaint -- as you understood it, was it a complaint registered by the vendor or something that Mr. Brock brought to your attention and that he initiated?

A. It was something -- it was not a complaint from the vendor.

Q. Okay. So what was the genesis of the complaint to your understanding?

A. It's -- again, I'm speculating. It's been a long time, but the best I can remember, I hate to do this, but I'm guessing I think it had to do with a payment that I think Mr. Brock thought should not have been paid or should not have been paid at that time.

Q. And the result of the investigation was that the payment that was made was made appropriately?

A. Oh, I didn't -- I'm not going to go that far.

I don't recall -- I don't think that was what the resolve was. I think it was not criminal, and Crystal wasn't involved in any criminal activity when that payment was made.

Q. Was there any improper activity that you advised Mr. Brock about?

A. I don't recall.

Q. And when to the best of your recollection did this take place?

A. I think it was about two years after I had gotten there; so if I started in 2014, maybe 2017, but again, really I'm guessing.

Q. Okay. And you never advised anybody else in the clerk's office before or after that you conducted the investigation?

A. No.

Q. Okay. And you've never -- well, is this the first time that you're advising anybody other than Mr. Clark about the investigation -- I'm sorry, except Mr. Brock about the investigation?

A. As far as I recall. I don't recall having any conversations other than with Mr. Brock, and he told me to keep it confidential; although, I did tell you I had a conversation with Ms. Kinzel about it.

Q. Okay. The last question I gave was very

awkward; so I want to repeat it again for the record.

Is it fair to say that, other than the discussions you had with Mr. Brock about the investigation and the conversation after the investigation that you may have had with Ms. Kinzel, that today in this deposition is the only other time that you have brought up this particular investigation or talked about it?

A. To the best of my recollection, yes, that is correct.

Q. Okay. And you believe that was either in '16 or '17?

A. Yeah. Again, I -- pure speculation. I think so, yes. That seems right.

Q. Okay. And in 2018, Mr. Brock passed away; correct?

A. Yes. So it didn't happen after that. I can tell you it happened sometime before that; so yes, it did.

Q. Okay. Do you remember what month in 2018 he passed away?

A. Yes.

Q. What month?

A. June.

Q. And is it accurate that Ms. Kinzel became the

interim clerk?

A. I don't know the exact word, but yeah, she became a clerk, the clerk. I need to clarify -- I need you to -- you know, we had (unintelligible) the clerk for five days. He might have been clerk ad litem, and I guess her title was interim clerk; so yes, I think that's correct.

Q. And do you know how Ms. Kinzel became the interim clerk?

A. Yes.

Q. How was that?

A. It was an appointment by the then governor, whoever the governor was at that time.

Q. And do you know why -- did you ever learn why the governor appointed Ms. Kinzel as opposed to anybody else?

A. I can give you a pretty strong speculation.

Q. What do you think -- well, first of all, you don't have any personal knowledge?

A. I've never spoken to the governor nor looked at his paperwork or anything else; so --

Q. But you're willing to speculate as to why she was appointed?

A. Right. Yes.

Q. And tell me what your speculation is.

A. From what I recall, she was the only person that applied.

Q. Okay. You did not apply?

A. No.

Q. Why not?

A. I had discussed it with Ms. Kinzel, and she indicated that she wanted to finish her projects and take the position. That's it.

Q. Okay. All right. So you just -- she indicated that she had interest in it, and you either did not, or you decided that you were going to allow her to pursue it? Is that a fair statement?

A. Yes.

Q. Was it more that you just wanted to allow her to pursue it or more that you just didn't have interest in it or both?

A. The prior. She said to me, "I guess I'll do it."

Q. And that's -- that's all it took for you to decide not to pursue it?

A. No.

Q. Okay. What else was it that caused you not to pursue it?

A. It was a series of conversations and discussions.

Q. With who?
A. With Ms. -- only with Ms. Kinzel.
Q. Okay. Anyone else involved in those discussions, or was it just between you and Ms. Kinzel?
A. I don't recall anybody else but Ms. Kinzel and me.
Q. Okay. And she served in that interim position based on the governor's appointment for a few months; is that accurate?
A. Until they -- well, until she was sworn -- until she won the election and was sworn in. I don't know how many months it was, but yeah, it was a period of time.
Q. And there was an election in August of 2018; is that correct?
A. Yes.
Q. And was she opposed in that election?
A. Yes.
Q. Who was she opposed by?
A. A gentleman who used to work for the Collier County Property Appraiser.
Q. Do you remember his name?
A. No, not as I sit here.
Q. Okay. It would have been a Republican primary challenger?

A. Yes.
Q. There was no Democrat in the November election?
A. That's correct.
Q. Okay. And before Ms. Kinzel became the interim clerk, isn't it accurate that she was the chief deputy clerk?
A. Yes.
Q. Okay. And how did she become the chief deputy clerk to your knowledge?
A. Mr. Brock wrote a letter and declared that she was the chief deputy clerk.
Q. Okay. And do you believe that Mr. Brock voluntarily made the decision without any undue pressure or coercion to elevate Ms. Kinzel to chief deputy clerk status?
A. I believe that's true.
Q. Okay. And do you recognize that the chief deputy clerk is considered the position one step below the actual elected clerk?
A. Yes.
Q. Okay. And in the -- were you involved in Ms. Kinzel's election campaign for the election in August of 2018?
A. Yes.

Q. Did you work on her campaign in support of her election?

A. Yes.

Q. Did you have a particular role in the campaign?

A. Yes.

Q. What was your role?

A. I oversaw -- well, she oversaw her campaign. I oversaw volunteers. I oversaw the volunteers, I oversaw the accountant who dealt with the finances, I oversaw the people -- lined people up as to when they were supposed to come and go and do things and volunteer their time, those who selected to do so for her campaign.

Q. So would it be fair to say that you publicly supported her election in the 2018 campaign?

A. Yes. And if you're asking me -- I guess, let me go a little bit back, but yes, she told me I was her campaign manager.

Q. Okay. Was that an actual title that was conferred on you for that campaign?

A. I don't recall it being in writing. I don't recall her using it either, but I think it was -- she and I had a conversation, and that's what we agreed. That's the terms we agreed between the two of us.

Q. Okay. You agreed with Ms. Kinzel that you would serve as the campaign manager?

A. Yes.

Q. Okay. And a little while ago you described some of the duties that came along with the campaign manager role; correct?

A. Yes.

Q. Would have included in general publicly supporting and endorsing Ms. Kinzel for the elected clerk position in 2018; correct?

A. Yes.

Q. And that would include lobbying for, trying to persuade voters, doing everything you can to get votes for Ms. Kinzel so she would be the elected clerk in August of 2018; correct?

A. Everything legally I could, yes, that's correct.

Q. Okay. All right. Were you doing anything secretively to undermine the campaign?

A. No.

Q. So you were in good faith and in good conscience trying to help her the best you could so she would become the elected clerk in August of 2018; correct?

A. Yes.

Q. And you would have been pleased that the candidate that you supported, Ms. Kinzel, was elected in 2018; correct?

A. I would have been, and I was pleased, yes.

Q. Okay. And at that time, during that election, you were the internal audit manager; correct? That was your title at the clerk's office?

A. Yes.

Q. And it would have been shortly after the election in August of 2018, a couple of months later that you became the senior legal counsel to the clerk; correct?

A. Yes.

Q. Do you recall why -- the reason why you were moved from the internal audit manager to the senior legal counsel position?

A. I was never given a reason.

Q. Is it a position change that you sought?

A. No.

Q. Were you pleased that you were moved from internal audit manager to senior legal counsel?

A. No.

Q. Why not?

A. I didn't want the role. There was no -- I didn't have a job description, and I didn't have any

work.

Q. Okay. And you don't recall there being any problems with regard to what was occurring in the internal audit department at the time the move was made?

A. I don't recall any problems, period.

Q. Do you recall having any discussions with Clerk Kinzel about concerns she had about your job performance?

A. Yes.

Q. Okay. Was she critical of your job performance prior to moving you to senior legal counsel?

A. Yes.

Q. And do you recall what she was critical of?

A. No, I don't recall.

Q. Did she give you specifics when she spoke to you about criticisms?

A. Well, I think she -- I'm speculating, but this is a pretty good -- from what I recall, she wanted more audit reports published. I think that was the major -- I mean, that's what auditors do. We write reports. That was the job; so she wanted more deliverables, more things that could be looked at. That's about all I recall.

Q. You don't recall any other deficiencies or problems that she communicated to you about your

performance?

A. No.

Q. When did you first decide that you were going to run against Clerk Kinzel in the 2020 election?

A. Oh, that's a difficult question for me to answer as I sit here because it would have been after I was terminated.

Q. You were terminated on May 12th of 2020; correct?

A. Yes.

Q. Okay. By that time you had actually filed papers with Tallahassee to run; correct?

A. I don't think it was Tallahassee, I think it was the supervisor of elections in Collier County.

Q. But by that time you had actually filed to qualify to run in the election; correct?

A. I don't understand your question.

Q. Okay. You have to file papers to become -- to qualify to run for office; correct?

A. That's one step, yes.

Q. Okay. And as of May 12th of 2020, had you filed the qualification papers with the supervisor of elections office?

A. Again, I have to correct you. It's not qualifications, it's prequalification paperwork. I

filed -- I'm going to be honest with you. I need to be clear. It was prequalification paperwork.

Q. Okay. And what's the difference between the prequalification paperwork and some later qualification paperwork, if any?

A. I don't think there is any qualification paperwork. I don't know that there is, not that the candidate files.

Q. Okay. Did you have to do something -- make some sort of official act or take some sort of more official act other than filing the paperwork that you've just described in order to run in that election?

A. I don't know what an official act is.

Q. Did you have to do anything else, did you have to take any other action --

A. Yes.

Q. -- in order to become a candidate for the elected clerk position in 2020 other than filing what you, I think have described, as the prequalification paperwork?

A. Yes.

Q. Okay. And what was that action or actions?

A. Well, you asked me -- again, that's -- okay. I'm going to stop you there because you're asking me something that doesn't make sense to me.

What I did -- there are several ways you can become a candidate. One is filing pre-qualifying paperwork. That's only one step. There's another step after that. Then you either have to file the requisite number of signatures, they have to be correct, or you can pay money; but until you pay the money, until it's received by the supervisor of elections, you're still not a candidate.

Q. And did you pay the money when you initially filed the paperwork?

A. No.

Q. And do you have a -- under the law, do you have a period of time to pay that money?

A. Yes.

Q. How much time do you have under the law to pay that money?

A. I don't think it's a fixed number of days. I think it's a date on a calendar.

Q. Okay. Do you recall what the date was?

A. No.

Q. Okay. Did you pay the money to become a candidate?

A. Yes.

Q. Okay. Do you recall when you did that?

A. No.

Q. Did you do it in May? June? July? Do you recall what month?

A. May.

Q. I'm sorry?

A. May, month of May.

Q. So it was somewhere during the 19 days between May 12th and the end of May?

A. Yeah. If you look at a calendar, you can go back and look. I mean, I think it was a Thursday or Friday the last day of the period when the money needed to be paid. Again, I don't recall what day that was.

Q. When you filed the prequalification papers without paying, was it your intention, when you did that, that you were going to pay whatever amount it was that was necessary to become a candidate?

A. I was prepared to. I don't know if that was my intention at the time. I don't recall, but I was prepared to.

Q. Okay. Was there something that triggered a desire or caused you to pay the fee, whatever that fee was, to become a candidate, other than the desire you had that existed on May 12th of 2020?

A. I didn't have a desire in May of 2020 of paying the money.

Q. You had the desire on May 12 to file the

prequalification paperwork; correct?

A. Actually, let me -- the paperwork was filed four days before that, and the supervisor of elections failed to go check the mailbox that was filed, and didn't realize it.

Q. Okay. Whenever you filed it, May 8th or May 12th, the prequalification paperwork, isn't it true that, when you filed that, you were doing it because it was your intent to become a candidate for the elected clerk position in 2020?

A. My intent was to have the clerk have a conversation with me so we could work out the other problems, and if she refused to have a conversation with me, at that point I would have made the decision to run for clerk and paid the fee.

Q. Okay. And under what circumstances would you not have paid the fee? What would have had to have happened in a conversation which would have caused you not to pay the fee and not to pursue the elected clerk's position in the campaign in 2020?

A. It was my understanding, based on previous conversations with the clerk, that she was going to fill out one term, she was only going to do the one term. At which point she would support me to be the clerk.

Q. Okay. Why didn't you just ask her that before

you went through the trouble of filing the prequalification paperwork?

A. I could not get a conversation with her. It's very difficult to communicate with her. She had taken all of my work away. She had -- I don't know if ostracized is right, but she had put me in the corner and taken away all my responsibilities and roles.

Q. You couldn't get five minutes with her at any point in time prior to May 12th of 2020 to ask her that question?

A. It was very difficult to communicate with her. She became very angry and upset and refused to communicate with me. That was my feeling.

Q. You texted with her; correct?

A. Oh, I have, yes.

Q. Did you think about shooting her a text to let her know what you were thinking before you filed the prequalification paperwork?

A. No.

Q. Why didn't you do that?

A. I wasn't able to have a conversation with her. Every time I spoke with her she was very angry.

Q. I didn't ask you about a conversation. I asked you about a text. A text is not a conversation. Text is communication, but it's non-verbal. You

indicated that you texted with her. My question is why didn't you just shoot her a text and explain to her that you were thinking about filing the prequalification paperwork, and explain to her what you needed to know from her to decide one way or the other?

A. It didn't cross my mind as being the proper way to communicate with a supervisor -- or the clerk, an elected official, about something this important. She wasn't a big fan of written communication. She discouraged text messages; although, of course, we did do it, but she really discouraged it, and certainly about work matters, she didn't like to have those things in writing from me.

Q. Okay. And isn't it true you had been having discussions with people about running for the position as early as February of 2020?

A. Yes.

Q. Okay. Who would you have been having discussions with about running for that position, let's say, any time prior to May 12th of 2020?

A. Dwight Brock.

Q. Who else did you have discussions with?

A. Crystal Kinzel.

Q. Who else?

A. Derek Johnssen.

Q. Who else?

A. Robin Sheley, various other staff members at the clerk's office, my wife, maybe my children. I don't recall. My father.

Q. Anyone else you can remember?

A. Cyndee Wooley, a campaign consultant. I don't know if I -- no, it was before. It was before I did with Cyndee Wooley.

Q. Okay. When did you first have discussions with Cyndee Wooley, the campaign consultant?

A. It was after I -- after I thought I did -- after I did file the paperwork with the supervisor of elections office; although, they didn't register it, receive it. I properly filed it. They didn't pick it up, but that's what I remember. I don't recall exactly when.

Q. Did you have discussions with Meredith Carr about running for the position prior to May 12th -- have the discussions with her prior to May 12th of 2020?

A. Yes.

Q. How early a time would you have had discussions with her? As far back as January and February of 2020 even?

A. Yes. You know, I think discussion -- I'm going to say, yes. Yes.

Q. Would it have even been in 2019?
A. It could have been, yes.
Q. Okay. Do you recall when you first had discussions with anybody about your intention or desire to run for the clerk's position in 2020?
A. I think it was 2015, maybe '16, 2015 or '16.
Q. Is it your position that Dwight Brock had promised you the clerk's position in some way, shape, manner, or form?
A. No.
Q. Is it your position that he was grooming you to take his position when he retired?
A. He took me under his wing, showed favor on me. Grooming me, that's a weird word for me. I don't know what that means, but yeah, he certainly showed favoritism towards me when it came to those things, yes.
Q. Is it your position that he told you that he wanted you to be his successor?
A. Yes.
Q. And who else was present when he told you that?
A. I don't know who was present. Maybe Ms. Kinzel. I think it was during his election -- during the period of his 2016 election, he had mentioned it. I don't recall who else was there. There might

have been -- you're asking me to speculate, and I don't really remember, but I think the other folks that were involved in this lawsuit certainly were aware of it.

Q. Well, Mr. Pasek said he was aware of it because you told him. Is there anybody that was aware of that that was present when Mr. Brock stated it?

A. I don't recall. Maybe Mrs. Brock, his wife.

Q. Okay. You indicated that Ms. Kinzel was present in the discussion?

A. I don't know -- you know, it was not one discussion, it was a series of discussions. Many discussions with Mr. Brock were very short and brief. It was a sit-down powwow type meeting.

Q. And did Mr. Brock specifically in front of Ms. Kinzel say that "I am going to do what I can to make Jim Molenaar my successor as the elected clerk of court"?

A. No.

Q. What did he say?

A. I don't know that he said anything. It was a series of actions. He took me with him to meet citizen groups. When he made presentations, he took him with me -- took me with him. I worked on his campaign, he showed me the inner workings, he introduced me to some of his network of supporters and friends and colleagues.

He had invited me to come to a speaking engagement with him, which ultimately was canceled. It was in another part of the state. I forget where it was, in the panhandle somewhere. So it was a series of actions.

Q. The actions you just described, did you understand that Ms. Kinzel may have been privy to many, if not all, of those same actions?

A. Oh, absolutely. Sure.

Q. So what was it about those actions that made you conclude that that he wanted you to be his successor?

A. He told me he'd help me get there. He said, "I will help you get to the position -- this position."

Q. To what --

A. "I will help get you to where you want to go," and my understanding was, based on prior conversations that he knew I wanted to be the clerk when he was finished being the clerk, whether he retired or resigned.

Q. All right. So his statement was specifically, as you recall it, was, "Jim, I will help you get to where you want to go," close quote; right?

A. Yes. That's what I recall.

Q. And you surmised that that meant he would help you become the elected clerk; correct?

A. Yes.

Q. Okay. Can you think of a single more important thing that he could have done to help you become the elected clerk than to appoint you as a chief -- appoint you as the chief deputy clerk?

A. Yes. I can think of many things that were more important.

Q. What more -- what would be better than being appointed by the sitting clerk, the elected clerk? What would be better than being appointed by that person as the chief deputy clerk?

A. Well, telling me during his campaign of 2016, to tell people, "Hey, you're running next time." That would be more important, and that's what I did.

Q. Right. He told you that he would help you get to where you wanted to go; correct?

A. Yeah. That's right.

Q. That's what he stated. He did not state, "I will help you become the elected clerk," he told you, "I will help you get to where you want to go." That's what he said; correct?

A. In that conversation, yes.

Q. Okay. Okay. If he wanted you to become the elected clerk, wouldn't it have been valuable to you for you to have been appointed by Mr. Brock as the chief

deputy clerk?

A. You're asking me to speculate. I don't know. I can tell you that, when Ms. Kinzel was appointed -- would you like me to continue?

Q. Go ahead.

A. When Ms. Kinzel was appointed, it involved an awful lot of work. There are a lot of things that she needed to clean up. From what I recall, there were many discussions and what appeared to be arguments between Mr. Brock and Ms. Kinzel; so I'm not sure that would have been very valuable for me to be in that position. It was very valuable for me to be in the position that I was in because in the community I was seen as the auditor. Now, of course, Mr. Brock was the auditor (sic), Ms. Kinzel was the supervisor, but I was the auditor, who has a staff, who would go out and work with county staff, work with vendors; and for me that was valuable. It gave me the insight, the knowledge, the contacts that I would not have received sitting in an office on the second floor of a government building. So I'm sure that would have been valuable. I never had the position; so it's hard for me to judge.

Q. So is it your belief then that Mr. Brock did not appoint you as the chief deputy clerk to put you in a better position to become the clerk by leaving you as

a manager of internal audit?

A. I think --

(Multiple people speaking simultaneously.)

Q. Do you believe -- do you believe that he thought that was better for a career path for somebody who wanted to become the elected clerk?

A. Yes.

Q. Okay. You don't see appointment as the chief deputy clerk as a clear advantage to the person occupying that position than becoming the elected clerk?

A. My understanding --

Q. I didn't ask you --

A. The answer is no. I did not see that.

Q. You don't -- in your world you don't see the position as chief deputy clerk being appointed by the elected clerk as being a -- an advantage over all others in the clerk's office should that person want to become the elected clerk?

A. From the outside world, I can perceive that some people might think that, and some people might not, but yes, I can see it might be an advantage by some voters, potential voters.

Q. And you're saying that you didn't want to be the chief deputy clerk?

A. I didn't even know he was considering making a

chief deputy clerk.

Q. Well, let me ask you, if you were offered the chief deputy clerk position instead of Ms. Kinzel, would you have accepted it?

A. It's very likely.

Q. Okay.

A. Yeah, I guess it's very likely.

Q. And wouldn't you have been honored to have been offered that by Mr. Brock?

A. I certainly would have been honored, yes.

Q. And isn't the chief deputy clerk considered the number two person in the office right behind the deputy clerk?

A. I think there are two. I think there's the chief deputy clerk, and I think there's an inspector general. I think they're both about equal.

Q. And you were neither of those; correct?

A. That's correct.

Q. And at all times that you worked at the clerk's office, you were a subordinate to Ms. Kinzel; isn't that true?

A. Yes.

MR. POTANOVIC: Let's go ahead and take about a five-minute break, and then we'll wrap up.

(Recess held from 2:52 p.m. to 3:02 p.m.)

MR. POTANOVIC: I'm going to screen share what we're going to mark as Exhibit 4.

(Exhibit 4 marked for identification.)

BY MR. POTANOVIC:

Q. And it should be a document called a self-appraisal. Mr. Molenaar, can you see that document okay?

A. I do.

Q. All right. Just going to point out at the top of the document it says it's a Collier County clerk of circuit court self-appraisal report. Do you see that?

A. Yes.

Q. And in the first block up on top, do you see where it says, "Performance and development review report," and there's information in those blocks?

A. Yes.

Q. Okay. Now, would this have been a self-appraisal report that you would have filled out yourself? Is that the idea behind a self-appraisal report?

A. Yes.

Q. Okay. And at the very top would you have filled out the date, position, title, et cetera?

A. Yes.

Q. Okay. And the date of this self-appraisal

report that you did was April 4th, 2018; correct?

A. That's the date on there, yes.

Q. All right. And your name's there as the employee; correct?

A. Yes.

Q. And this was done when you were the internal audit manager in the finance department; correct?

A. Yes.

Q. All right. And I noticed that --

A. I don't know that it was in the finance department. Internal audit is a separate area. I don't think it was in the finance department.

Q. Okay. Would that have been a mistake to put finance?

A. I think that's what I was instructed to put in there, but I don't recall. Remember, as I said, Ms. Kinzel was wearing three different hats. One was finance director, one was audit director, and one was internal audit director. I'm not positive, but I think she was being paid out of finance funds; so I think that's why it was finance, but I really don't recall. I'm parsing here. It's not really relevant, I don't think, to your question, but finance. I'm going with it.

Q. And you listed supervisor here as Derek

Johnssen. Do you see that?

A. Yes.

Q. Okay. And Johnssen is spelled for the record, J-o-h-n-s-s-e-n; correct?

A. Yes.

Q. And then the name of the director is listed as Crystal Kinzel. Do you see that?

A. Yes.

Q. All right. And so as of April 4th, 2018, you were actually two layers removed from Crystal Kinzel's supervision it looks like here, correct, sir?

A. If you look at that piece of paper, that's what it looks like.

Q. Well, you filled it out, didn't you?

A. I don't know. Is my signature at the bottom? Yes. I'm sure -- nobody else would have filled it out except me. I don't know that it was submitted. Yes, if you have it, it must have been submitted someplace; so yes, I filled it out.

Q. Okay. Well, were you being honest, when you filled it out, to the best of your ability?

A. Yes.

Q. Okay. So by looking at the document that you filled out, it would appear to one, looking at it as we are, that Crystal Kinzel was actually your supervisor's

supervisor; correct?

A. Looking at the paper, yes.

Q. And you were actually a subordinate to Crystal Kinzel two layers removed?

A. That's not true. That's not true.

Q. Well, if you look at the order of things in the document that you prepared, it looks like, if there are arrows, they would start with you pointing up to your supervisor Derek Johnssen, and then pointing up to -- from Derek Johnssen to the director Crystal Kinzel; isn't that accurate?

A. I agree that's what the paper says. That wasn't your question you just asked me though.

Q. Okay.

MR. POTANOVIC: Let's go to Exhibit 5.

(Exhibit 5 marked for identification.)

BY MR. POTANOVIC:

Q. And I'll represent to you that this is a job description for the position of senior legal counsel. Have you ever seen that document before?

A. Not that I recall.

Q. In the first paragraph, first line, it reads under "Position overview," it reads, quote, "Senior legal counsel provides legal advice and assistance to the Collier County Clerk of the circuit courts and

comptroller," close quote. Do you see that?

A. Yes.

Q. Does that accurately describe part of the job?

A. I was not given a job description.

Q. I'm not asking about whether you received a job description, I just asked if what I just read would be part and parcel of what your duties included?

A. I had no duties. All my duties were taken away from me. When I got the position, I was given no more duties.

Q. At no point in time, when you held the position of senior legal counsel, did you provide legal advice and assistance to the clerk?

A. No, I did that.

Q. Okay. And that's what I'm asking. In that first sentence where it says, you, as senior legal counsel, provided legal advice and assistance to the clerk; that's accurate, isn't it?

A. Yes.

Q. Okay. If we scroll down to about the middle of the page, do you see where it says, "Advise the clerk of alleged violations of rules, statutes, policies, and procedures"? Do you see that?

A. Yes.

Q. Do you recognize that part of your duties as

senior legal counsel would have been to advise the clerk of any alleged violations of rules, statutes, policies, and procedures?

A. Yes.

Q. Okay. Just below that it reads, quote, "Review policies and procedures for the clerk's agency to ensure compliance and to mitigate legal action," close quote. Do you see that?

A. Yes.

Q. Do you recognize that part of your job and your duties, as senior legal counsel, would have included that?

A. Yes.

Q. Little further down or actually near the bottom it reads, quote, "Develops, implements corrective action plans for resolution of problematic issues," close quote. Do you see that?

A. Yes.

Q. Do you recognize that that would be a job duty or one of the job duties of the senior legal counsel in the clerk's office?

A. Yes.

Q. On the next page where it talks about knowledge, abilities, and skills, and there's a bunch of bullet points, I wanted to read through a bunch of

those.

Do you see in the second bullet point, quote, "Knowledge of the Florida laws, rules, and statutes applicable to the clerk of courts," close quote. Do you recognize that as an ability, skill, and some knowledge that you should possess as senior legal counsel?

A. Yes.

Q. And just a couple down from that, quote, "Knowledge of ordinances, statutes, and court decisions," close quote. Do you see that?

A. Yes.

Q. And that would also be some knowledge that somebody in that position, senior legal counsel to the clerk, should have; correct?

A. Yes.

Q. Do you feel like you have it?

A. Yes.

Q. And do you feel like you had knowledge of Florida laws, rules, and statutes applicable to the clerk of courts?

A. Yes.

Q. And a little further down it talks about the ability to interpret laws, rules, statutes, and court decisions. Do you see that bullet point?

A. Yes.

Q. And do you feel like you possessed that sort of knowledge and skill set to interpret laws, rules, statutes, and court decisions?

A. Yes.

Q. Okay. When you were senior legal counsel, did you counsel Clerk Kinzel at any point in time about any rules, statute, ordinance, law that she was violating in some way?

A. No, not that I recall. Not that I recall. I didn't bring -- I don't have notes. Not that I recall. The answer's no.

Q. Do you recall, when you were senior legal counsel, Clerk Kinzel violating any particular law, statutes, ordinances, rule, procedures, anything along those lines?

A. No, I don't recall.

MR. POTANOVIC: If you go to the next document, screen share, which will be Exhibit 6.

(Exhibit 6 marked for identification.)

BY MR. POTANOVIC:

Q. I'll represent to you it's a text from you to Clerk Kinzel from March 13th of 2020. It makes reference to the onset of COVID. That's how I know the year, okay? Okay. Go ahead and read -- I won't read it into the record, but can you read that entire text to

yourself?

A. Yes, I can do that. I will do it now.

I've read it.

Q. Okay. Is it accurate that you were reaching out to Clerk Kinzel by text to give her advice as her attorney?

A. I don't recall this text message, but if I wrote it, it sounds like that's what I was doing, yes.

Q. Okay. Well, has it refreshed your recollection at all having read it? It was only March of 2020.

A. No, it doesn't refresh -- no, it really doesn't.

Q. Do you have any reason to believe that that is not a text message that you authored?

A. I have no reason to believe it is not the text message that I authored. I'm sure it's not made up if that's what you're asking.

Q. And in it in two spots you wrote to her, quote, "As your attorney," close quote, and then lower down, quote, "As your counsel," close quote. Do you see that?

A. Yes.

Q. And you were giving her advice on what she needed to do; correct?

A. I think I was attempting to have a conversation with her. Yes. Yes.

MR. POTANOVIC: All right. And then, if we go to Exhibit 7.

(Exhibit 7 marked for identification.)

BY MR. POTANOVIC:

Q. At the top there, do you see in sort of the gray or the uncolored area where it says, "My job is to," do you see that?

A. Yes.

Q. All right. Do you recall that being the continuation of your text from May 13 of 2020?

A. No.

Q. Okay. Do you have any reason to believe that this is not a text that you authored?

A. No. No. No, I don't believe -- I'm sure I must have authored that. Yes, that's correct.

Q. And here in this text at -- well, actually, if we go back to -- actually, we won't go back, but I'll represent to you that the first text we were just looking at, which was Exhibit 6, it was at 9:08 p.m. on a Friday night. It's up there now. Do you see that?

A. Yes.

Q. Okay. So Friday night at 9:08 p.m., and you ended that text at 9:08 p.m. with this language, quote,

"My job is to represent you. You need to trust me and use me to make you succeed," close quote. Do you see that language?

A. Yes.

Q. All right. Do you see right below that at 10:19 p.m. on March 13, 2020, you received a response from Clerk Kinzel?

A. Yes.

Q. Earlier you said that Clerk Kinzel wasn't communicating with you. You couldn't even get a minute with her in the office, she wouldn't talk to you. Does this indicate to you that you were able to text to her on a late Friday night and get nearly an immediate response?

A. I texted her, and she responded to me, yes.

Q. And you agree it was on a late Friday night, and she responded within about an hour of your text; correct?

A. I thought you said it was at about 7:00, but yes, she responded at 10:19, yes.

Q. Yours was at 9:08, and the response was 10:18 on Friday, March 13th; is that accurate?

A. Yes.

Q. Doesn't that indicate that the clerk was willing to communicate with you and communicate in a

timely fashion even on a late Friday night by text?

A. I did not receive it that way, no.

Q. Okay. Is there anything about the response she gave you that indicated to you that she was perturbed or that she didn't want to receive your text or that she was telling you in any way, shape, manner, or form, "How dare you text me or try to communicate with me"?

A. Yes.

Q. Okay. That's the way you received it?

A. Yes.

MR. POTANOVIC: Okay. Let's go to Exhibit Number 8, which is a letter you wrote.

(Exhibit 8 marked for identification.)

BY MR. POTANOVIC:

Q. I'll represent it's a letter you wrote September 16, 2019. Do you see that?

A. Yes.

Q. And if you scroll down, do you recognize it's a letter that you prepared and signed?

A. Yes.

Q. Okay. Do you recall having sent the letter to Clerk Kinzel as an actual maybe application for or solicitation for the position of human resources director?

A. Yes.

Q. In September of 2019, it seems to indicate that you wanted to become the human resources director for some reason; is that accurate?

A. Yes.

Q. Okay. And why is it that you would want to become the human resources director in September of 2019?

A. Because I wanted -- there was a deficiency in the human resources department. We had gone -- at this point we had gone through several human resources directors. I knew that I had the skills, abilities, and knowledge to perform the tasks. I wanted to better the clerk of court, we'll use the word, agency, organization, and I knew that I would make a positive step forward.

I understand communications between people and I know I would have done the job very well and made Crystal Kinzel successful by doing that.

Q. Okay. You did not get that position; correct?

A. I did not become the human resources director, correct.

Q. If you had become the human resources director, do you think that would have been a good springboard position to become the elected clerk of

court?

A. I think any position within the organization would be; so yes.

Q. And the human resources director would have been a better springboard position than the chief deputy clerk in your opinion?

A. Probably not, no.

MR. POTANOVIC: Let's go to what we'll mark as Exhibit 9.

(Exhibit 9 marked for identification.)

BY MR. POTANOVIC:

Q. You applied for a position at Fort Myers -- Town of Fort Myers Beach; correct?

A. Yes.

Q. And does that Exhibit 9 look like the application you filled out for the finance director position?

A. Yes.

Q. Applied for it in September of 2020, September 4th of 2020, it looks like?

A. Yes.

Q. And did you interview for the position?

A. Yes.

Q. Who did you interview with?

A. The town manager, city manager, whatever it

is. Fort Myers Beach -- Fort Myers Beach manager.

Q. Was it just the manager that you interviewed with, or was it others?

A. There might have been somebody else in the room. I don't recall.

Q. Do you recall names?

A. No.

Q. Okay. I'll represent to you that this is the document that we received in a public record -- response to public records request, and I'll represent to you that up in the right-hand corner of the first page here in handwriting it's written, quote, "No accounting experience. Not qualified for finance," close quote. Do you see that?

A. Yes.

Q. Okay. Do you recall being advised that you were not getting the position for that reason or reasons?

A. No.

Q. What were you advised?

A. I wasn't getting the position. There was no reason given.

Q. Did you receive a verbal communication or an email? How did you find out?

A. I recall having a telephone conversation.

There may have been others. I just recall a phone conversation.

Q. Phone conversation wherein they told you that you were not getting the position?

A. That they weren't filling the position at this time and the man who had the job at that time was going to keep the job and wasn't leaving.

Q. Okay. And during your interview, did it become apparent to you, based on the questioning perhaps, that you felt you did not have accounting experience and weren't qualified for a finance director position?

A. No.

Q. Of course, you felt like you were qualified for finance director?

A. Oh, no. I didn't say that either.

Q. Okay. Did you feel like you were unqualified for finance director?

A. I wasn't certain.

Q. I'm sorry?

A. I was not certain if I was qualified or not.

Q. Okay. During the process did you learn that you were not qualified for it?

A. No.

Q. Do you dispute -- if it is their position you

weren't qualified, do you dispute whether you were qualified or unqualified for the position?

A. I don't dispute it.

Q. On the third page of the application -- I'm sorry, on the fifth or sixth page where it lists references. It says, "List references." Do you see where you listed references?

A. Yes.

Q. You listed [redacted] as one of the references?

A. Yes.

Q. That's the same [redacted] that you had a sexual relationship with?

A. Yes.

Q. Okay. And why would she have been listed as a reference for a job application?

A. She was familiar with my supervisory skills, she was familiar with my work product, and my knowledge and understanding of audit -- the audit function.

Q. Okay. And who is Tammy Strohl?

A. She's an attorney.

Q. And how would she -- why would she have been listed as a reference for finance director position with the City of Fort Myers beach?

A. She knows my skills and my abilities and my

temperament. She knows my ability to supervise people.

Q. Has she witnessed you supervising people?

A. Yes.

Q. In what capacity?

A. She was in the room when I was doing it.

Q. In the room when you were supervising who?

A. Volunteers.

Q. Okay. So she saw you supervise when you ran for elected clerk in the campaign?

A. Yes, sir.

Q. Was that the extent of her knowledge of your supervisory ability, watching you supervise volunteers during your campaign?

A. No.

Q. What other experience does she have witnessing you supervise others?

A. We served on, I think, one or two continuing legal education committees together in which we performed and created one-hour CLEs, continuing legal educations.

Q. Okay. So she never witnessed you supervise during any compensated employment that you had?

A. That's correct.

Q. Isn't it fair to say that the three people that you listed, that none of the three people that you

listed were either co-level employees or supervisory employees from the clerk's office?

A. That's true.

Q. And the clerk's office was the employment that you held for years prior to applying for the finance director position; correct?

A. Yes, sir.

MR. POTANOVIC: Next one we're going to look at is -- actually, a couple of emails. We'll start with Exhibit Number 10.

(Exhibit 10 marked for identification.)

BY MR. POTANOVIC:

Q. And I'll represent to you that this is an email dated July 2nd of 2020, sent from an email address identified as, quote, "Collierregisteredvoter@protonmail.com." Do you see that?

A. I do.

Q. And it was sent to a variety of people. You can see the list, but sent specifically to Governor DeSantis. Do you see that?

A. I do.

Q. You had reviewed this letter -- this email before it was sent; isn't that accurate?

A. I don't recall ever seeing this letter.

Q. Can you -- we'll scroll it a little bit.
Are you able to read it as we're scrolling it?
A. I see -- yeah, I mean, I guess. It says something about COVID-19.
Q. Have you seen this letter prior to this deposition -- this email prior to this deposition?
A. No.
Q. Were you aware that your campaign was behind sending this, in essence, anonymous email to Governor DeSantis and other elected officials?
A. My campaign wasn't behind sending this email.
Q. Are you certain of that?
A. Yes.
Q. Well, if you've not seen it before, how do you know that somebody in your campaign didn't send it?
A. Because that's not an email address that's associated with my campaign.
Q. If Mark Pasek testified otherwise, would you then conclude that Mark Pasek was lying, that he was involved in the email, and that the email was a product of your campaign?
A. That's a lot of questions.
Q. All right. Let's break it down.
I will represent to you that Mark Pasek testified that he was familiar with this email and that

the email was connected to your campaign. That's my representation to you. My question to you is do you have any reason to doubt that?

A. Yes. That would not have been something that would have gone out as part of my campaign. That's not something I authorized or not something I'm even familiar with.

Q. Okay. And if it did go out by your campaign as something that your campaign orchestrated, is it something that you on the record would now disapprove of and would be indicating that it's not something you would have approved of if you were aware of?

A. If my campaign would have sent this out, it would have gone out with my name on it from an email address associated to my campaign. So, yes, the answer to your question is yes, I would have disapproved of it.

Q. Okay. Did you ever become aware that anybody associated with your campaign was sending this email in order to tarnish Clerk Kinzel's image, make her look bad with regard to the issues expressed in the email?

A. No, I never became aware of that. I'm not aware of it too at this moment either; so no.

MR. POTANOVIC: Okay. Let's show you then Exhibit Number 11.

(Exhibit 11 marked for identification.)

BY MR. POTANOVIC:

Q. It probably won't take long, but I'll represent to you that this is, again, from that same email address, Collierregisteredvoter@protonmail.com, but this one's dated five days later, July 7, 2020, to several officials but specifically written to "Dear Governor DeSantis." Do you see all that?

A. I do, yes.

Q. Okay. And would it be fair to say that your answer remains that you've never seen that before, and it's your belief that this has no connection to your campaign?

A. That did not go out under my campaign, it did not go out under my name. I have never seen this before.

Q. And you were not aware that anybody connected to your campaign was involved in these emails? Is that a fair statement?

A. I've never seen these emails; so that's correct.

Q. Do you recall there being a phishing scheme that resulted in a $184,000 issue for the clerk's office?

A. I do remember something along those lines, yes.

Q. Okay. Do you recall, when you worked at the clerk's office, that you were the one that worked with the sheriff's office with regard to the report of that crime?

A. Yes.

Q. You were the liaison between the clerk's office and the sheriff's office?

A. Yes, I think so. That's right.

Q. Okay. So you knew, when you were an employee of the clerk's office, the underlying circumstances which occurred with respect to that phishing scheme; correct?

A. I don't know if I knew them all, but I was a liaison; so I communicated between the sheriff's office and the clerk's office employees. I didn't do the investigation, I didn't do the audit; so the answer is no, I didn't really know the details.

Q. Okay. And I'm not saying that you knew all of the details, but of the clerk's office employees that were involved, you were the designated liaison with the sheriff's office; correct?

A. Yeah. I sort of -- I mean, I -- I had the title of liaison I suppose, yes.

Q. And when you worked at the state attorney's office, you actually had a background in economic

crimes; correct?

A. Yes, I did.

Q. So you were an attorney with specific expertise with economic crimes; so you were probably a good candidate to coordinate and liaison with the sheriff's office; correct?

A. Yes.

Q. Okay. And the $184,000 was represented in your campaign as having, quote, gone missing, close quote. Do you recall that?

A. I do recall that, yes.

Q. Now, in your campaign, in the advertisements, including one where Crystal Kinzel was shaded in kind of darkness, the impression your campaign was trying to create was that nobody knew where the money went and it may have been some form of corruption. Isn't that the image you were trying to create in your campaign?

A. I don't recall the exact image I was trying to create. If that's what it looks like, I'm sure whatever was on that piece of paper is something that was approved by me. As to what I was trying to communicate, I don't recall that.

Q. Do you recall seeing the video that was produced by your campaign that I'm referring to where it made it appear by shading that Crystal Kinzel was shady

with respect to the "184,000 that, quote, went missing or has gone missing, close quote?

A. I've seen the video. I don't recall calling her shady. I simply recall the video.

Q. Do you recall the video trying to create the impression that there were some shady involvement or circumstances connected to Clerk Kinzel?

A. I recall the video. I don't recall what was going through anybody's mind when it was created.

Q. All right. And you knew in your campaign that there had been a phishing scheme that had been successful, that the clerk's office believed it was paying a vendor, but it wasn't paying a vendor, it was a phishing scheme; correct?

A. Yeah. At the time it was unsolved. That's what I recall, yes.

Q. Unsolved, meaning they never got the money back, and they weren't able to find the actual person who received the money; isn't that correct?

A. Yes.

Q. Isn't it also correct there was never any doubt that Clerk Kinzel did not do anything corrupt with that money?

A. I did not do the investigation. I don't know what the outcome was.

Q. As you sit here today, do you have any information to suggest that Clerk Kinzel did anything shady or corrupt with respect to the $184,000 we're talking about?

A. I have no evidence she did anything criminal, correct.

Q. Do you have any evidence that she did something less than criminal and that was even inappropriate or malfeasant with regard to that $184,000?

A. I don't ever recall her having anything to do with it.

Q. Okay. And you do recall that your advertising campaign connected her directly to it and was critical of her for that money that went missing; correct?

A. I recall the campaign. Yes, I do recall that.

Q. Do you remember when COVID first hit back in March or April of 2020, having a discussion with Clerk Kinzel and Brittany Lecayo in Brittany Lecayo's office, about some discussion among the ranks, among the employees, about possible furloughs?

A. I recall having a conversation in her office with the clerk and Brittany. I don't recall the content of it, but I recall being in there, yes.

Q. Okay. Do you recall being around -- yeah,

March or April of 2020, after a memo was issued by Clerk Kinzel about COVID and about -- and mentioned the possibility of furloughs or at least the word "furloughs" in it?

A. I don't recall.

Q. Do you recall having a meeting with Brittany Lecayo and Crystal Kinzel in Brittany Lecayo's office --

A. Yes.

Q. -- about the memo I just described?

A. No. I don't recall what the context was about it.

Q. Okay. But you do recall there being a meeting in Brittany Lecayo's office?

A. Yes.

Q. Okay. Let me ask you if this refreshes your recollection: Do you recall going into Brittany Lecayo's office, Clerk Kinzel joining you in that office, and during that meeting, you advising both Brittany Lecayo and Crystal Kinzel that Mark Pasek had been circulating the rumor or the gossip that there might be furloughs, and that if there were going to be furloughs, that meant that money was missing?

A. No, I don't recall having this conversation.

Q. Is there anything about what I've just described that refreshes your recollection about having

the conversation I've just described?

A. No.

Q. Do you ever recall having a conversation with Brittany Lecayo or Crystal Kinzel in which you identified Mark Pasek as the person that had been spreading some gossip or some rumor that money must be missing because the clerk mentioned furlough?

A. I'm not recalling -- no, I'm not recalling.

Q. Okay. Do you recall telling Mark Pasek that there are positions in the clerk's office that are always fully funded either by the County or the State, for example, positions in human resources and in finance?

A. That's the question?

Q. Yes.

A. No, I don't recall that.

Q. Okay. Is it your understanding, from having worked in the clerk's office, that there are positions, employees at the clerk's office, who are in positions that are fully funded and therefore not dependent on revenues that the clerk's office receives, fully funded from outside sources such as BOCC or the State of Florida?

A. I think I recall there are several, one or two, and I don't know what they are, what they're

designated; but I do believe that there are one or two that are funded by the State or by the County. I don't know.

Q. And where did you derive that belief or knowledge?

A. I think from Ms. Kinzel.

Q. And when -- do you recall having a specific discussion with Ms. Kinzel about that?

A. No. I just recall learning it at some point while I worked at the clerk's office, probably early on.

Q. Okay. And do you remember anything other than what you've described? Anything more specific about that topic that was discussed with you?

A. I don't recall that topic, no. So the answer's no, I don't.

MR. POTANOVIC: I have no further questions.

MR. YORMAK: I don't have any cross. He will read.

MR. POTANOVIC: Okay. We will order the deposition transcript, Heather.

(Deposition concluded at 3:39 p.m.)

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DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

IN RE: PASEK vs. KINZEL
DATE: May 3, 2022

PAGE	LINE	CHANGE	REASON

Under penalties of perjury, I declare that I have read my deposition and that it is true and correct subject to any changes in form or substance entered here.

Date Signed JAMES MOLENAAR

CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF LEE)

I, the undersigned authority, certify that JAMES MOLENAAR appeared remotely and, pursuant to Administrative Order AOSC20-16, was duly sworn.

WITNESS my hand and official seal on May 6, 2022.

Heather J. Shelton, CSR, RPR
Notary Public, State of Florida
Commission Expires: 2-28-2024
Commission Number: GG952719

* * * * * * * * * *

STATE OF FLORIDA)
COUNTY OF LEE)

I, Heather J. Shelton, Registered Professional Reporter, do hereby certify that JAMES MOLENAAR was notified via U.S. mail and/or telephone that the transcript of the deposition was available for reading and signing; that as of this date the deponent has not read and signed the transcript for the following reason:

_____.

Dated this_____day of_____, 2022.

_____
Heather J. Shelton, CSR, RPR

REPORTER'S CERTIFICATE

STATE OF FLORIDA)
COUNTY OF LEE)

I, Heather J. Shelton, Registered Professional Reporter, do hereby certify that I was authorized to and did stenographically report and electronically record the foregoing deposition of JAMES MOLENAAR; that a review of the transcript was requested; and that the transcript consisting of pages 1 to 131 inclusive, is a true record of the testimony given by the witness.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in this action.

Dated this May 6, 2022.



Heather J. Shelton, CSR, RPR

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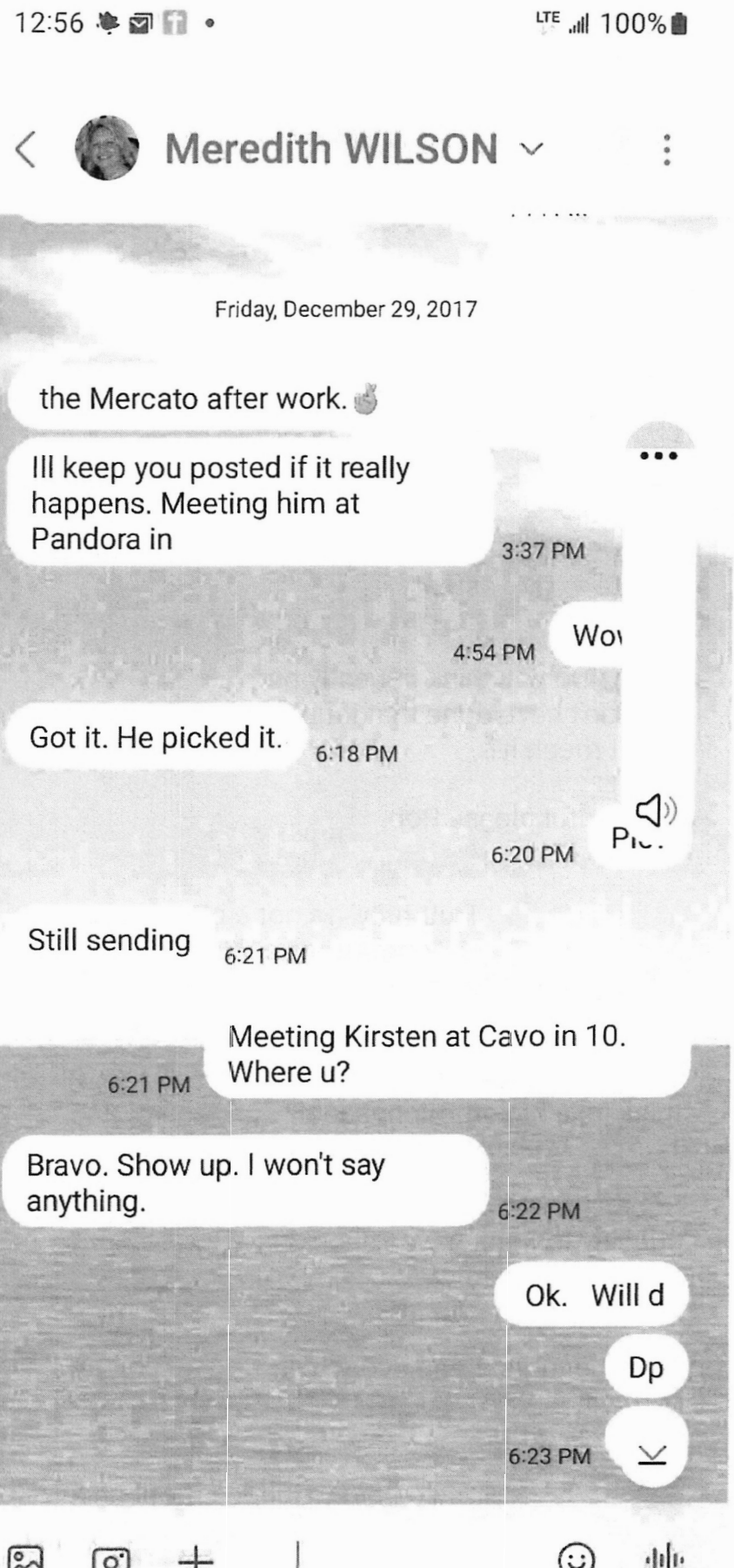
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14:25 16:12 19:3,9 20:21 24:22 43:9 45:15 46:5 63:23 64:12 66:25 94:23 99:19 122:1,2,24 127:18 128:10
workings
94:24
workplace
20:15
world
50:6 51:13 98:14, 19

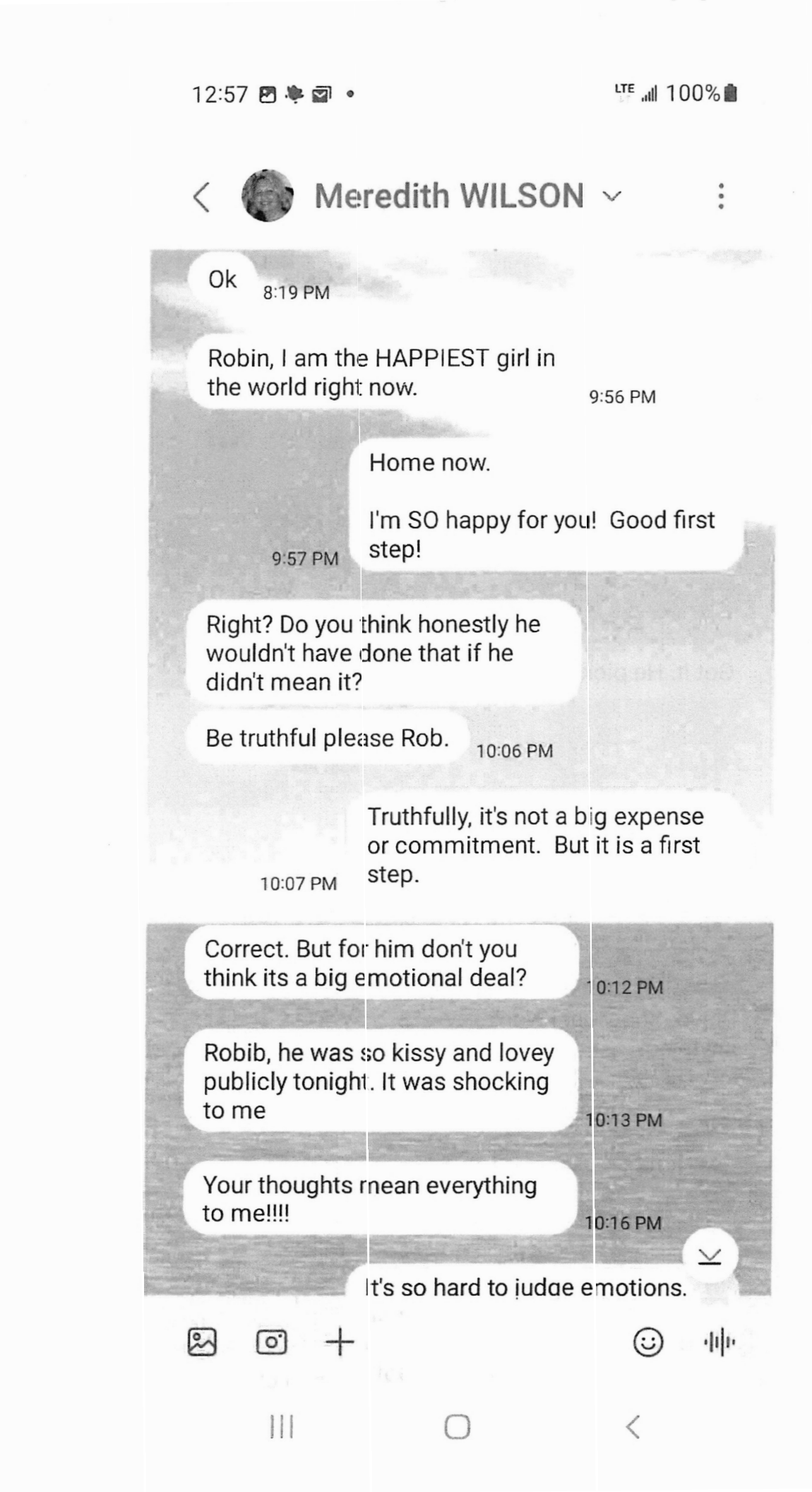
worse
73:2
Wow
49:20
wrap
99:24
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84:20
writes
51:16
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70:12 72:18 81:22 91:13
written
91:9 114:12 121:6
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70:9 72:19 73:1,2, 5
wrongful
4:25
wrote
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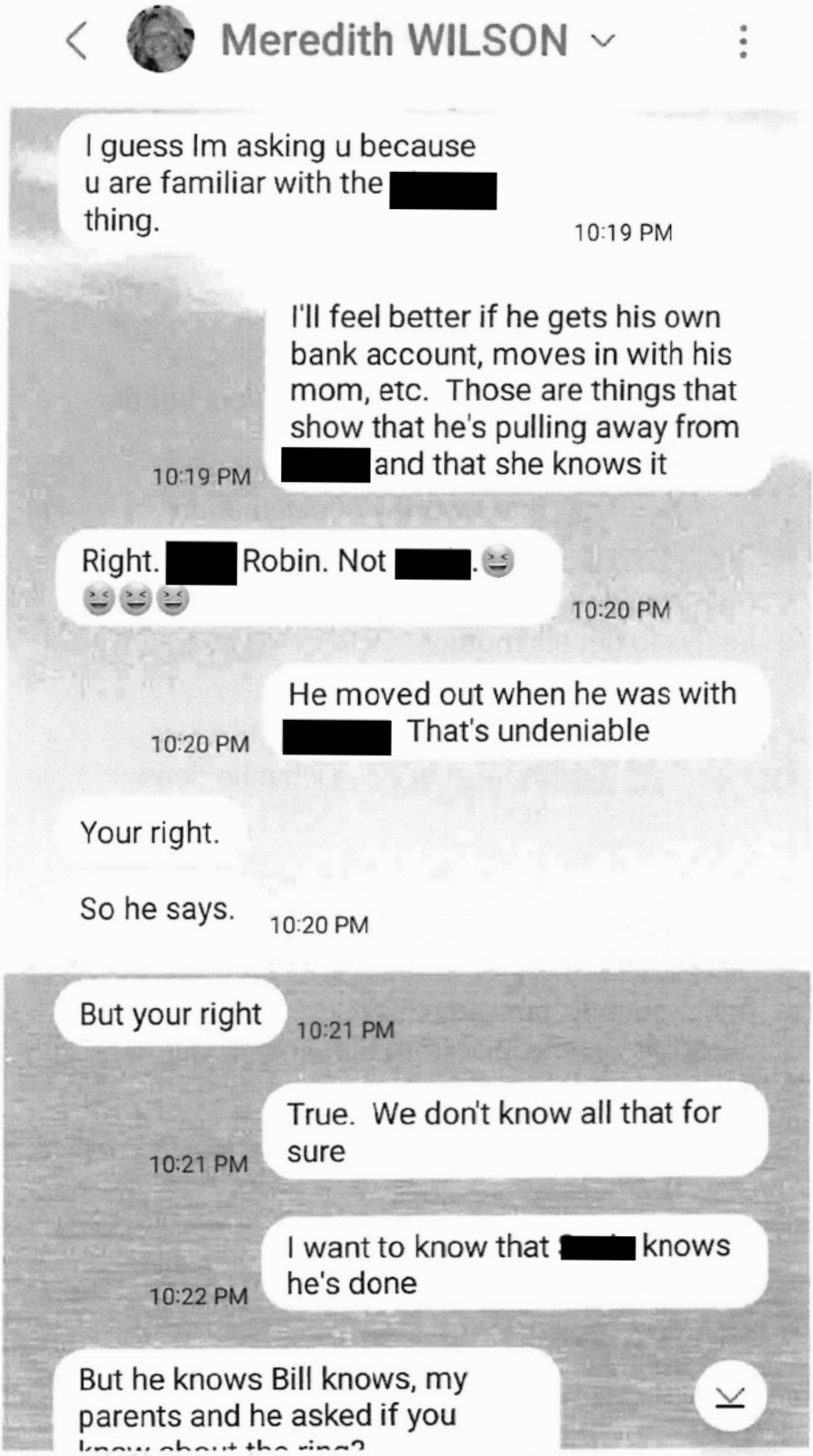
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year
23:2 107:24
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13:5 16:3 24:18 33:13,15 34:14,21 55:14 69:24 75:10 118:5
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5:12,13 8 7,12 11:7,8 23 16 43:14,24 44:7,13, 15 47:15 128:17

EXHIBIT
Molenaar - 1
exhibitsticker.com




12:57
LTE 100%
Meredith WILSON
Ok
8:19 PM
Robin, I am the HAPPIEST girl in the world right now.
9:56 PM
Home now.
I'm SO happy for you! Good first step!
9:57 PM
Right? Do you think honestly he wouldn't have done that if he didn't mean it?
Be truthful please Rob.
10:06 PM
Truthfully, it's not a big expense or commitment. But it is a first step.
10:07 PM
Correct. But for him don't you think its a big emotional deal?
10:12 PM
Robib, he was so kissy and lovey publicly tonight. It was shocking to me
10:13 PM
Your thoughts mean everything to me!!!!
10:16 PM
It's so hard to judge emotions.


12:58
LTE 100%
Meredith WILSON
I guess Im asking u because u are familiar with the [redacted] thing.
10:19 PM
I'll feel better if he gets his own bank account, moves in with his mom, etc. Those are things that show that he's pulling away from [redacted] and that she knows it
10:19 PM
Right. [redacted] Robin. Not [redacted].
10:20 PM
He moved out when he was with [redacted] That's undeniable
10:20 PM
Your right.
So he says.
10:20 PM
But your right
10:21 PM
True. We don't know all that for sure
10:21 PM
I want to know that [redacted] knows he's done
10:22 PM
But he knows Bill knows, my parents and he asked if you

12:59 100%



Meredith WILSON

But he knows Bill knows, my parents and he asked if you knew about the ring?

I know.

10:22 PM

I don't want to burst your bubble

He's made a first move, and that's worthy of celebration

10:23 PM

Im giving him in my mind until he flys to get his mother.

10:24 PM

Obviously, he has to do a lot more. Let's see what he does next

You're wise to let him take it at his own pace

10:24 PM

Don't you think honestly this is the most he has done from the get go?

I welcome your honesty Robin.

10:25 PM

10:25 PM

It Is! Until now, it's been all talk

It's a good step, and I'm happy for you

10:26 PM



EXHIBIT
Molenaar - 2
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Records Custodian, Defendant: Has knowledge pertaining to Plaintiff's damages.

James Molenaar: Has knowledge pertaining to my claims regarding violations of free speech and my termination.

Meredith Carr: Has knowledge pertaining to my claims regarding violations of free speech and my termination.

Patricia Morgan: Has knowledge pertaining to my claims regarding violations of free speech and my termination.

Steven Morgan: Has knowledge pertaining to my claims regarding violations of free speech and my termination.

Giza Hernandez, Mental Health Counselor with Bay Pines VA– Has knowledge pertaining to my claim for emotional damages.

Dr. RonnyValenzuela, Naples VA Clinic – Has knowledge pertaining to my claim for emotional damages.

Dr. Martin Fakiel, Psychiatrist, Southwest Las Vegas VA Medical Clinic 7235 S Buffalo Dr. Las Vegas NV 89113 – Has knowledge pertaining to my claim for emotional damages.

INTERROGATORY NO. 5:

Identify each and every physician, psychiatrist, psychologist, counselor, or other health care provider that you have visited for any reason associated with your allegations and/or damages claimed in your Second Amended Complaint, including but not limited to those visited after your separation from employment with Defendant.

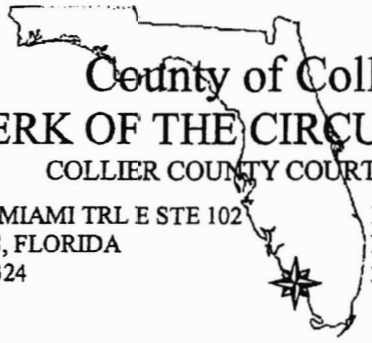
RESPONSE:

Giza Hernandez, Mental Health Counselor at Naples Veterans Affairs Outpatient Center, Naples VA Clinic (Bay Pines)

EXHIBIT

Molenaar - 3

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County of Collier
CLERK OF THE CIRCUIT COURT

Dwight E. Brock
Clerk of Courts

COLLIER COUNTY COURTHOUSE
3315 TAMIAMI TRL E STE 102
NAPLES, FLORIDA
34112-5324

P.O. BOX 413044
NAPLES, FLORIDA
34101-3044

Clerk of Courts
Accountant
Auditor
Custodian of County Funds

April 16, 2014

James Molenaar
3475 Laurel Greens Lane S #203
Naples, Florida 34119

Dear Mr. Molenaar:

It is our pleasure to offer you the full time position of **Internal Audit Manager**. Your anticipated start date will be **Monday, April 28**, 2014, pending successful background and drug screening results.

The Clerk of the Circuit Court is an "at-will" employer. An "At-Will" employer in the State of Florida has the right to terminate employment at any time for any reason, with or without cause. The employee has the same right.

Your supervisor will be **Crystal Kinzel**, with work hours from 8:00 a.m. to 5:00 p.m., Monday through Friday.

The pay rate is **$2,738.88** per bi-weekly pay period. You are eligible to elect benefits coverage effective the **May 1**, 2014. Our benefits include, health, dental, life, Flexible Spending Account and short term and long term disability. You will also be enrolled in the Florida Retirement System. You will be eligible for up to $1000 match for the Nationwide Deferred Compensation program should you choose to participate.

You will be eligible for sick and vacation leaves after your six month probationary period. The leaves are accrued based on years of service as outlined in the Employee Manual.

We are pleased that you will be joining our team. By signing this letter, you acknowledge acceptance of this job offer. Please contact me if you have any questions at 239-252-2761

Sincerely,

Dena Rader, B.S., SPHR
Director of Human Resources

James Molenaar — 17 April 2014
Date

Phone- (239) 252-2646
Fax- (239) 252-2755
Website- www.CollierClerk.com
Email- CollierClerk@collierclerk.com

EXHIBIT
Molenaar - 4
exhibitsticker.com

COLLIER COUNTY CLERK OF THE CIRCUIT COURT

SELF-APPRAISAL REPORT

PERFORMANCE AND DEVELOPMENT REVIEW REPORT			
Date:	Apr 4, 2018	Employee Name:	MOLENAAR, James D
Position Title:	Internal Audit Manager	Supervisor's Name:	Derek Johnssen
Department:	Finance	Name of Director:	Crystal K. Kinzel

Note: The employee shall be provided a copy of the Self-Appraisal Report form prior to the review date. The employee shall use this form to summarize their personal accomplishments, achievements, training and development activities and assess their own performance during the review period. The employee shall return the completed Self-Appraisal Report to their immediate supervisor within 10 (ten) workdays. The immediate supervisor in the assessment of the individual's performance shall consider the information provided by the employee.

INSTRUCTIONS: The text boxes below will expand as you type if you need more space. When finished with one text box, hit tab to move to the next. Shift + tab will take you back to the previous text box.

ACCOMPLISHMENTS / ACHIEVEMENTS: (List and briefly describe your most important accomplishments for the review period. Include achievements such as major goals and/or projects completed, significant contributions, important deadlines met, policies and procedures learned, workflow, efficiency and/or effectiveness, improvements identified or implemented, etc.

The Internal Audit Manager's most important accomplishments and achievements during this review period include the following:
- Perform Internal Audit Management and attorney duties along with providing professional, objective, unbiased legal advice to the Clerk and his employees as necessary for the formulation and implementation of policies and projects;
- Provide clear and consistent direction to the Internal Audit workforce;
- Continued to rebuild the Internal Audit (IA) Department and resolved project based issues;
- Maintain strong working relationships within the Clerk's organization and County Staff; and
- Strive to ensured that audit reports and presentations are accurate, clear, concise and effective, understandable and brief manner.

UNUSUAL CIRCUMSTANCES: (List and briefly describe any unusual circumstances, unplanned projects, changed priorities or special situations that occurred during the review period.

During this review period, there were several unusual circumstances, including interviewing, hiring and training several new internal auditors and unplanned projects, albeit interesting and fulfilling, but nonetheless challenging, including:
- Addressing workload issues when a few Internal Auditors positions remain vacant and one long term employee retired;
- Difficulty attracting and recruiting qualified Internal Auditor candidates to apply and interview for open position(s); and
- Difficulty hiring and retaining qualified Internal Auditors.
- Adapting to new hiring policies and NeoGov- a newly implemented human resources web based application.

SELF-APPRAISAL: Briefly describe your assessment of your overall performance for the review period, and what you consider to be your strengths.

EXHIBIT
Molenaar - 5
exhibitsticker.com

Senior Legal Counsel

Salary Range
Exempt / Non Exempt
$34.24 - $50.35 Hourly
$2,738.88 - $4,027.81 Biweekly
$71,211 - $104,723 Annually
Pay Grade
136

Position Overview:

Senior Legal Counsel provides legal advice and assistance to the Collier County Clerk of the Circuit Courts and Comptroller. This position reports to the Clerk of Courts and has a working relationship with all clerk's staff. The duties performed by this position require the exercise of a substantial degree of initiative and independent judgment. In addition, this position must possess an advanced understanding of Civil Law, Criminal Law, Public Records, Tax Deeds, Legal Briefs, Court Filings and Foreclosures. This position must have superior research and writing skills and be capable of exercising the soundest of judgment and discretion in the performance of duties.

Professional, administrative, and technical work providing legal advice and/or guidance regarding the operations and programs of the Clerk of the Circuit Court and Senior Management.

Essential Job Functions:

Responsible for more complex and advance agency and legal related issues and projects.

Perform more complex legal research and prepare complex written and/or oral opinions on various legal issues as assigned for various departments within the agency.

Must be able to prepare, edit and evaluate court filings.

Advise the Clerk of alleged violations of rules, statues, policies and procedures by evaluating or recommending the best course of action including public records requests.

Reviews policies and procedures for the Clerk's agency to ensure compliance and to mitigate legal action.

Assist in reviewing Tax Deed Surplus Claims, determining lien priority and proper distribution of excess proceeds within the statutory time. Filing interpleader or court actions as deemed necessary for proper disbursements.

Review existing and new laws, statutes, ordinances and/or administrative orders and analyze the impact on the Clerk's office.

Perform a wide variety of special projects as may be assigned by the Clerk of the Circuit Court, managerial personnel, or the judiciary.

Develops/implements corrective action plans for resolution of problematic issues and provides general guidance on how to avoid or manage similar situations in the future.

Review the application of best practice policies and procedures that are efficient and effective, including development and delivery of associated training at various organizational levels.

Maintains a comprehensive, current knowledge of applicable process analysis tools and methodologies and laws/statues; maintains an awareness of new trends and advances in the profession; reads professional literature; attends workshops and training sessions as appropriate.

Performs additional duties and tasks as assigned.

(These essential job functions are not to be construed as a complete statement of all duties performed. Employees will be required to perform other job-related marginal duties as required.)

Job Requirements:

Knowledge, Abilities and Skills:

- Knowledge of the principles and practices of Civil Law
- Knowledge of the Florida laws, rules, and statutes applicable to the Clerk of Courts
- Knowledge of the principles and/or technical concepts, procedures and terminologies related to the Clerk of Courts
- Knowledge of ordinances, statutes and court decisions.
- Knowledge of modern office procedures and practice.
- Ability to communicate effectively both orally and in writing.
- Ability to conduct legal research and prepare sound legal opinions.
- Ability to perform legal work requiring the use of independent judgment.
- Ability to work as a member of a team.
- Ability to analyze and/or prepare a wide variety of legal documents.
- Ability to work independently in the absence of supervision.
- Ability to interpret laws, rules, statutes and court decisions.
- Ability to analyze facts, evidence and legal documents.
- Ability to express legal interpretations or conclusions of the law clearly and logically in oral and written form.
- Ability to maintain effective working relationships with the public and other persons contacted during work.
- Ability to effectively communicate with members of the bar, the public and other constituencies of the agency about complex legal issues.

Education and Experience:

Graduation from an accredited law school and member of the Florida Bar with 3-5 year of experience as an attorney: Federal, State or Local government law preferred.

Must possess and maintain a valid Florida Driver's License.

Background check and fingerprinting required.

Performance Aptitudes:

Data Utilization: Requires the ability to evaluate, audit, deduce, and/or assess data using established

criteria. Includes exercising discretion in determining actual or probable consequences and in referencing such evaluation to identify and select alternatives.

Human Interaction: Requires the ability to apply principles of persuasion and/or influence over others in coordinating activities of a project, program, or designated area of responsibility.

Equipment, Machinery, Tools, and Materials Utilization: Requires the ability to operate, maneuver and/or control the actions of equipment, machinery, tools, and/or materials used in performing essential functions.

Verbal Aptitude: Requires the ability to utilize a wide variety of reference, descriptive, advisory and/or design data and information.

Mathematical Aptitude: Requires the ability to perform addition, subtraction, multiplication and division; ability to calculate decimals and percentages; may include ability to perform mathematical operations with fractions; may include ability to compute discount, interest, and ratios; may include ability to calculate surface areas, volumes, weights, and measures.

Functional Reasoning: Requires the ability to apply principles of influence systems, such as motivation, incentive, and leadership, and to exercise independent judgment to apply facts and principles for developing approaches and techniques to resolve problems.

Situational Reasoning: Requires the ability to exercise judgment, decisiveness and creativity in situations involving the evaluation of information against sensory, judgmental, or subjective criteria, as opposed to that which is clearly measurable or verifiable.

ADA Compliance:

Physical Ability: Tasks require the ability to exert light physical effort in sedentary to light work, but may involve some lifting, carrying, pushing and/or pulling of objects and materials of lightweight (5-10 pounds). Tasks may involve extended periods at a keyboard or workstation.

Sensory Requirements: Some tasks require the ability to perceive and discriminate sounds and visual cues or signals. Some tasks require the ability to communicate orally.

Environmental Factors: Essential functions are regularly performed without exposure to adverse environmental conditions.

_____ _____

Employee Printed Name Employee Signature

_____

Date



Jim >

EXHIBIT

Molenaar - 6

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Fri, Mar 13, 9:08 PM

As your attorney, I would like to meet with you tomorrow about the virus. I would like to discuss rumors about the cancellation of jury trials. I want to put out an official statement to attorneys. As your counsel, you need to get in front of this!





iMessage



EXHIBIT
Molenaar - 7
exhibitsticker.com

JM

Jim >

to get in front of this!

My job is to represent you. You need to trust me and use me to make you succeed.

Mar 13, 2020, 10:19 PM

Jim we have been in contact with the judges. At this time they are not stopping trials. We have been

EXHIBIT
Molenaar - 8
exhibitsticker.com

September 16, 2019

James D. Molenaar
`315 Tamiami Trail E., Ste. 200
Naples, Florida 34112

Hon. Crystal K. Kinzel
Clerk of the Circuit Court and Comptroller

RE: Acting Human Resources Director

Dear Hon. Kinzel:

I am applying for the position of *Acting* Human Resources Director because I am confident that my enthusiasm and dedication for excellence, paired with my varied experience in law, risk management, accounting, management, human resources and auditing make me the ideal candidate for which you are looking. By appointing me as your *Acting* Human Resources Director, you will have the opportunity to observe my strong strategic-thinking skills while I direct your Human Resources Department by acquiring, retaining, and developing employees in accordance with the strategy and structure you envision for your office.

As your direct report for the past five years, you know that I have a strong background in business operations, providing information, assistance and legal guidance regarding city, county, state and federal labor matters. Together, we have successfully managed and supervised a team tasked with auditing government entities and private vendors with a combined budget of 1.2 Billion dollars. This included budgeting, forecasting, implementing new computer systems and procedures, establishing and reviewing internal controls, business and accounting analysis and preparation of audit reports. Presently, I serve as one of the attorneys for the Collier County Clerk of Court and Comptroller, which has a 20 billion dollar budget and 176 employees.

I am skilled in public speaking. I enjoy training and helping people succeed in their positions. My continued education along with my life experiences have provided me the skills to successfully lead staff and meet project objectives. My achievements are indicative of an effective leader who communicates well and has a proven record of success in a fast-paced, challenging work environment.

In summary, I will bring to you my effective communication skills, written as well as verbal, along with my leadership skills and the ability to build strong productive teams, and proven commitment to serve you, the public, and most importantly, protect taxpayer dollars.

After you have reviewed the attached resume, I would appreciate having the opportunity to discuss with you the reasons my personality and qualifications are a good fit to continue to serve you as your *Acting* Human Resources Director.

Respectfully,

James D. Molenaar

EXHIBIT

Molenaar - 9

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Background Ck 10-7-2020

No Accounting Experience Not Qualified for FINANCE

Town of Fort Myers Beach
Application for Employment

Town of Fort Myers Beach
2525 Estero Blvd., Fort Myers Beach, FL 33931
Email: employ@fmbgov.com
Phone # 239-765-0202 ext.1201
Fax # 239-765-0909

You must show original social security card prior to employment
EQUAL OPPORTUNITY AND AT WILL EMPLOYER - Position Open Until Filled

It is important that you answer all questions on this application fully and truthfully. Failure to do so may delay consideration for employment or result in loss of employment opportunities. Print N/A if something does not apply to you. You must complete a separate application for each position for which you are applying.

Position Title: Finance Director Date: September 4, 2020

Last Name: MOLENAAR First Name: JAMES Middle: D.

Street Address: [redacted] City: [redacted] State: [redacted] Zip: [redacted]

Home Phone: NONE Cell Phone: [redacted]

E-Mail Address: [redacted]

Have you ever been employed under any other name(s)? Yes ____ No X If yes, please list other name(s):

Are you legally eligible for employment in the U.S.? Yes X No ____

Hourly Rate expected: ____ Date you can begin: Sept. 21, 2020

How did you learn about this position? Word of Mouth

Do you have any relatives working here? Yes ____ No X If you answered 'yes' that you have a relative that works for the Town of Fort Myers Beach, please provide their name, department, and relationship to you.

Name N/A Department ____ Relationship ____

Do you have a valid Florida driver license? Yes X No ____ Check Class: CDL ____ A ____ B ____ C ____ Regular License EX Have you ever had your driver's license suspended or revoked? Yes ____ No X

CRIMINAL HISTORY INFORMATION -A CRIMINAL HISTORY INFORMATION SCREENING WILL BE CONDUCTED ON THE SUCCESSFUL APPLICANT. IF YOUR ANSWERS TO THE QUESTIONS BELOW DO NOT ACCURATELY AND COMPLETELY REFLECT YOUR CRIMINAL HISTORY, YOU MAY BE ELIMINATED FROM FURTHER CONSIDERATION FOR THE VACANCY.

If you are not sure or cannot remember what happened in a criminal case(s), contact the appropriate county, state, or federal agency so that you can report accurate information on your criminal history. A "Yes" answer to any question(s) will not automatically bar you from employment. The nature, job- relatedness, severity and date of the offense(s) in relation to the duties of the position for which you are applying are considered.

1. Have you ever been convicted of a felony or a first-degree misdemeanor? Yes ____ No X

2. Have you ever had the adjudication of guilt withheld for a felony or first-degree misdemeanor? Yes ____ No X

If you answered "Yes" to one of the above questions and have a conviction or adjudication of guilt withheld, please complete the following information regarding each and every felony and/or first degree misdemeanor:

CHARGE	DATE OF DISPOSITION	COUNTY/STATE
N/A		

Name MOLENAAR, James D.

Employer: Only listed jobs for past 10 years Address: _____

Job Title: _____ Immediate Supervisor's Name & Title: _____

Supervisors Telephone: _____ Supervisor's Email _____

Date of Hire: _____ Date of leaving: _____ Beginning Hourly Rate: _____ Ending Hourly Rate _____

Reason for leaving: _____

Describe your duties: _____

_____

_____

_____

May we contact this employer? Yes _____ No _____

Employer: _____ Address: _____

Job Title: _____ Immediate Supervisor's Name & Title: _____

Supervisors Telephone: _____ Supervisor's Email _____

Date of Hire: _____ Date of leaving: _____ Beginning Hourly Rate: _____ Ending Hourly Rate _____

Reason for leaving: _____

Describe your duties: _____

_____

_____

_____

May we contact this employer? Yes _____ No _____

PRIOR TERMINATIONS

Have you ever been discharged or forced to resign for misconduct or unsatisfactory performance? Yes ____ No X ____
If yes, give details, including the name of employer and supervisor who terminated your employment and the reason you were told you were terminated.

_____

_____

_____

_____

Have you ever been employed by any governmental entity within the State of Florida? Check One: Yes X ____ No _____

Are you a resident of the State of Florida? Check One: Yes X ____ No _____

SKILLS AND QUALIFICATIONS

Summarize your special skills and qualifications.

I am an attorney with a Masters of Law Degree and an MBA from the University of Florida. I have a we
dealing with governmental financial matters and managing government staff.
(Please see attached Resume for further details.)

_____

_____

_____

_____

MOLENAAR, James D.

EMPLOYMENT HISTORY

This section must be completed even if a resume is attached. Include your last ten (10) years of employment history, including periods of unemployment, starting with the most recent and working backwards in time. If you worked multiple positions at one employer please list them individually. Incomplete information could disqualify you from further consideration. Describe in detail your specific duties beginning with your primary duties. Attach additional sheets if necessary.

Employer: Collier Co. Clerk of Cir. Ct. & Comptroll Address: 3315 Tamiami Trail E., Ste. 102, Naples, FL 3
Job Title: Sr. Legal Counsel Immediate Supervisor's Name & Title: Crystal K. Kinzel, Clerk
Supervisors Telephone: (239) 252-2283 Supervisor's Email Crystal.Kinzel@CollierClerk.com
Date of Hire: April 2013 Date of leaving: May 12, 202 Beginning Hourly Rate: Salary Ending Hourly Rate Salary
Day/Month/Year Day/Month/Year
Reason for leaving: Termination of Employment
Describe your duties: Promoted from Internal Audit Manager in October 2018 to Sr. Legal Counsel on October 2018. I advised senior leadership team on legal matters and financial and compliance matters
(See attached resume for further details.)
May we contact this employer? Yes X No ____

Employer: White | Molenaar, Attorneys at Law Address: 1575 Pine Ridge Road, Ste. 10, Naples, FL 3
Job Title: Attorney Immediate Supervisor's Name & Title: John P. White, Esq. Attorney
Supervisors Telephone: (239) 649-7777 Supervisor's Email jwhite@lawnaples.com
Date of Hire: October 2(Date of leaving: April 2014 Beginning Hourly Rate: Salary Ending Hourly Rate Salary
Day/Month/Year Day/Month/Year
Reason for leaving: Accept new employment with a governmental agency.
Describe your duties: Provided legal representation for clients in the area of real estate law, wills, trusts & estates, asset protection, financial law, and probate law.

May we contact this employer? Yes X No ____

Employer: State of Florida Address: 3315 Tamiami Trail E, Ste. 602, Naples, Flori
Job Title: Asst. State Atty. Immediate Supervisor's Name & Title: Dave Scuderi, Esq. Asst. State A
Supervisors Telephone: (239) 252-8470 Supervisor's Email dscuderi@sao.cjis20.org
Date of Hire: May 2006 Date of leaving: October 200 Beginning Hourly Rate: Salary Ending Hourly Rate Salar
Day/Month/Year Day/Month/Year
Reason for leaving: Accept new employment in the private sector.
Describe your duties: Prosecuted crimes assigned to the office of the Economic Crimes Unit.
(See Resume for further details.)

May we contact this employer? Yes X No ____

Name MOLENAAR, James D.

EDUCATION (Notes: Must provide copies of transcripts or degrees if required in advertisement)

High School Highest Grade Completed 12 Check One: Diploma X GED _____ or Equivalency _____

High School Name Illiana Christian H.S. Location (City, State) Lansing, Illinois

Your name, if different than application. N/A

Name of College/University/Professional School Purdue University

Location W. Lafayette, Indiana (City/State) Dates Attended Month/Year 1/88 - 5/91

Hours Earned or Total Credits 133 Course of Study or Major Political Science

Degree and Field (AA, AS, BS, MS, PhD) B.A. Political Science

Date awarded Month/Year May 1991 Attended Month/Year FROM 1/88 TO 5/91

Name of College/University/Professional School Michigan State University

Location Michigan State Univ., Michigan (City/State) Dates Attended Month/Year 8/1992 - 5/1995

Hours Earned or Total Credits 89 Course of Study or Major Law School

Degree and Field (AA, AS, BS, MS, PhD) JD _____

Date awarded Month/Year 6/1996 Attended Month/Year FROM 8/1992 TO 5/1996

Name of Tech/Vocational/ Military School N/A

Location _____ (City/State) Dates Attended Month/Year _____

Hours Earned or Total Credits _____ Course of Study or Major _____

Degree and Field (AA, AS, BS, MS, PhD) _____ _____

Date awarded Month/Year _____ Attended Month/Year FROM _____ TO _____

List any current licenses, registrations, or certifications license, registration, or certificate number:

Name	Number	Dates received	Dates expires
Illinois Bar	6230659	December 1995	December 31, 2029
Florida Bar	0022785	May 2006	June 30, 2021
Certified Fraud Examiner (C	707371	August 2008	July 31, 2021
Certified Internal Auditor (CI	175091	October 12, 2019	January 1, 2023
Certified FL Public Records	1047	August 2019	August 1, 2023

Do you speak a language other than English? Yes _____ No X If yes, what language(s) do you fluently speak and write?
N/A

MOLENAAR, James D.

[redacted] From: 07/2006 MM/YY To: 06/2014 MM/YY

[redacted] From: 06/2014 MM/YY To: Present MM/YY

From: ____ MM/YY To: ____ MM/YY

From: ____ MM/YY To: ____ MM/YY

List 3 References:

Reference Name Ms. [redacted] Relationship: Colleague

Phone: [redacted] Email [redacted]

Address: Office of Inspector General, P.O. Box. 16568, West Palm Beach, FL 33416

Reference Name Jeffrey A. Klatzkow Relationship: Colleague

Phone: (239) 288-8207 Email jeffklatzkow@gmail.com

Address: 3299 Tamiami Trail E., Ste. 800, Naples, Florida 34112-5749

Reference Name Tammy Strohl Relationship: Colleague

Phone: (239) 793-7999 Email Tammy@strohllaw.com

Address: 2315 Stanford Court, Ste. 302, Naples, Florida 34112

CERTIFICATION AND AUTHORIZATION FOR RELEASE OF PERSONAL INFORMATION

I certify that all statements made in this application are true. I further acknowledge that should the Town of Fort Myers Beach employ me, any misstatements of fact contained herein may be cause for termination. [Under Florida's Government-in-the-Sunshine Law, applicants for employment with a public agency are subject to public disclosure.] I authorize the Town of Fort Myers Beach to make lawful inquiries regarding both my past and present employment and references listed or supplied by me to release from liability all those supplying information.

Please verify for accuracy before submitting.

Applicant's Printed Name: James D. Molenaar

Applicant's Signature: _____ **Date:** September 4

AL REVIEW SERVICE
Mail: mro@drsmro.com
Phone: (800) 526-9341
Fax: (800) 547-2966

NEGATIVE RESULT

Company Information

TOWN OF FORT MYERS BEACH
LAB TEST SOLUTIONS
2525 ESTERO BLVD
FORT MYERS BEACH, FL 33931
Phone: (239) 765-0202 x1201
Protocol: monica.walton@fmbgov.cc
LAB: LABCORP (JD JD)
Account Number: 588618

Donor Information

Name: MOLENAAR,JAMES
SSN/ID: [redacted]
Spec. #: [redacted]
Accession #: [redacted]
Alt ID:

Test Information

Test Reason: Pre-Employment
Mode: NON-DOT
Date of Collection: 10/3/20
Recv'd CCF: 10/7/20
MRO Verified/Sent: 10/7/20
Print Date: 10/7/20
Spec Type: URINE

Clin Info:

Collection Site Information

2395977799
MELISSA WILLIAMS
2700 IMMOKALEE ROAD SUITE 23 NAPLES FL 3411

TEST(S)

		Screen Cutoff	Confirm Cutoff
Negative	AMPHETAMINES	1000 ng/mL	500 ng/ml
Negative	COCAINE	300 ng/mL	150 ng/ml
Negative	MARIJUANA METABOLITE	50 ng/mL	15 ng/mL
Negative	OPIATES	2000 ng/mL	2000 ng/m
Negative	PHENCYCLIDINE	25 ng/mL	25 ng/mL
	CREATININE	>= 20 mg/dL	
	PH	4.5-8.9	

Neil J. Dash, MD-Chief MRO
N Dash MD-MRO, D Carasig MD-MRO, J Widerspan MD-MRO
546 Franklin Ave.Massapequa NY 11758
(800) 526-9341

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From: collierregisteredvoter <collierregisteredvoter@protonmail.com>
Sent: Thursday, July 2, 2020 8:13 AM
To: COVID-19@flhealth.gov; Patrick.riley@naplesnews.com; bebatten@naplesnews.com; newstips@nbc-2.com; news.tips@abc.com; Rochelle.Alleyne@fox4now.com; Lois.thome@winktv.com; trey@treyradel.com; TaylorPenny <Penny.Taylor@colliercountyfl.gov>; GrecoSherry <Sherry.Greco@colliercountyfl.gov>; McDanielBill <Bill.McDaniel@colliercountyfl.gov>; FilsonSue <Sue.Filson@colliercountyfl.gov>; SaundersBurt <Burt.Saunders@colliercountyfl.gov>; LykinsDave <Dave.Lykins@colliercountyfl.gov>; SolisAndy <Andy.Solis@colliercountyfl.gov>; GoodnerAngela <Angela.Goodner@colliercountyfl.gov>; FialaDonna <Donna.Fiala@colliercountyfl.gov>; BrownleeMichael <Michael.Brownlee@colliercountyfl.gov>
Subject: COVID-19 in Collier County

EXTERNAL EMAIL: This email is from an external source. Confirm this is a trusted sender and use extreme caution when opening attachments or clicking links.

Dear Governor DeSantis,

Today, it was brought to my attention that Crystal Kinzel, the elected Collier County Clerk of the Court, has failed to notify her employees that one of her employees has contracted the Chinese Virus very recently. I am concerned because this is in violation of your Executive Order Number 20-51.

The specific work location of the infected employee is:
Collier County Clerk Court, Finance and Accounting Division
3299 Tamiami Trl. E. Ste. 401
Naples, Florida 34112-5746

I find this unmitigated COVID-19 exposure to be an unsafe working condition because this employee who tested positive for the virus uses the elevators, lavatory, and common break room area. The employee uses the elevator each day in this building and parks in the parking garage which also has four elevators. This employee also walks the hallways, touches door handles, metal detector bowls and may have shed the virus to these and other areas. I have also witnessed this employee enter the Courthouse Annex (3315 Tamiami Trail East) to conduct business. Crystal Kinzel does not seem to take this pandemic threat seriously and will not let employees work from home, nor is she allowing people who came into contact with this employee to quarantine for 14 days. I am scared because Crystal Kinzel has attempted to hide this this positive test result and refuses to be transparent with other agencies that share the building with her offices.

I would like you to send a team of officials and investigate the irresponsible and dangerous behavior of Crystal Kinzel. Due to her years of experience and because she is a governmental official she should have responded in a transparent way. It is obvious that she should let the Florida Department of Health know of this life threating situation, along with every other person who has entered this 8 story building and 6 floor parking garage over the past few days. This building contains several very large meeting rooms, and were used yesterday for a public meeting that was also televised. I saw members of our community enter this building so they could attend the meeting live. I am concerned that some of those citizens may have become infected simply by touching a contaminated area, or by some other means. I understand you

are very busy, and the system may be overloaded, however there are cameras everywhere in these buildings so maybe you could ask the county to send you the tapes to help expedite your investigation. Because Crystal Kinzel's agency employee tested positive, I would also like you to send a team of investigators to confirm the test results and conduct proper contact tracing. Can you also inform my fellow employees and the general public of their possible exposure to COVID-19 in the workplace while still adhering to HIPAA guidelines? I would also like you to educate Crystal Kinzel on the CDC and FDA guidelines for screening employees who have been exposed to COVID-19. Presently, there is no screening or testing before an employee or member of the public enters this particular building. I do not feel safe entering this building and I want all employees and visitors to be tested before entering this building. I understand the guidelines call for a pre-screening of employees for symptoms or fever before starting work each day or entering the building each time.

I think you should notify other government agencies that may have come in contact with Crystal Kinzel's agency employee or have offices in this building.
- The Board of Collier County Commissioners
- The people who run the operations at the courthouse
- The county attorney employees
- Congressman Francis Rooney
- Senator Kathleen Passidomo
- The Collier County Sheriff Deputy who was at the meeting
- The G4S security guards who touch all of the bowl before people are allowed into the building

I look forward to your reply and a resolution to this potentially very dangerous situation. I am very afraid for my health, my family needs me to keep my health insurance and my job, so if you need further information to complete your investigation, please email me at this email address. I need this job and I am afraid that if I give you my name and telephone number I will be bullied or even fired by Crystal Kinzel. She does have a history of retaliation against those who disagree with her. Please help me and my coworkers and the general public. By submitting this email, I certify that the information I have provided is true and correct to the best of my knowledge.

Sincerely,

Collier County Registered Voter

Under Florida Law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by telephone or in writing.



From: collierregisteredvoter <collierregisteredvoter@protonmail.com>
Sent: Tuesday, July 7, 2020 7:51 AM
To: COVID-19@HEALTH.GOV; PATRICK.RILEY@NAPLESNEWS.COM; newstips@nbc-2.com; news.tips@abc.com; Rochelle.Alleyne@fox4now.com; Lois.thome@winktv.com; trey@treyradel.com; TaylorPenny; McDanielBill; SaundersBurt; SolisAndy; FialaDonna
Subject: COVID-19 Collier County

EXTERNAL EMAIL: This email is from an external source. Confirm this is a trusted sender and use extreme caution when opening attachments or clicking links.
7/7/2020

Dear Governor DeSantis,

Please allow this email to be considered a follow-up complaint from my email last week that provides additional information that is important for your team to understand for the investigation (see attached). I read in the Naples Daily News on Saturday, July 4, 2020, Page A4 the article that the Collier County clerk's office cleaned all infected areas (see attached). I am sending this letter to you to point some inaccuracies from the article and concerns that I have based on the misinformation of the article. I feel that the truth needs to be stated and the news article is misleading and contains many inaccuracies that you and the public should be aware of so that everyone can properly protect themselves. Additionally, hopefully this will facilitate proper cleaning for areas exposed to prevent others from being infected; however, it is too late for that since a 2nd employee in the Clerk's Office has tested positive.

Paragraph 1 and Paragraph 2 Comments. The employee tested positive did not limit her work activity to one floor (the 4th Floor). All 8 of the floors should have been disinfected for the general areas (at a minimum) because this employee uses the elevator to travel to and from her work location. Additionally, the employee goes through the front door of the building and the security screening station. By going through the security station area, items in that area have been touched and those guards have been exposed. The company for the security guards (contracted vendor) were not notified of this issue or the exposure. Additionally, the hallways and general areas in this building should have been cleaned, past the normal standard cleanings, to reduce the possible exposure to the virus and germs, it was not cleaned.

Additionally, this employee also frequently accessed the Courthouse Annex, a separate building to complete work assignments. This building was not part of the areas cleaned, so all of the people in this building and the public were exposed and there was no mention of this. The area that the employee passed through to enter the building (employee entrance) also has a metal detector and security guard. This area would have been touched and contain the virus.

Paragraph 2 Additional Comments. Cleaning the "entire fourth floor of Building F" two or three days later seems like a woefully inadequate response to compensate for such a contagious virus. Employees assigned to this building were not promptly notified, some may still not have been noticed of this outbreak. This infected employee used the elevators, lavatory, and breakroom, at a minimum, on the 4th Floor. Additionally, the employee used the main areas on the 1st floor for entering this building and used the elevator. Since the employee used other shared areas, the other shared areas should also be cleaned properly to prevent an outbreak.

Additionally, the employee entered the Courthouse Annex and was in that building while conducting activities while she would have had corona prior to symptoms beginning.

It does not appear that the areas that this employee used were all cleaned and that only a limited area was cleaned. The totality of where this person was should be traced then all areas that were used should be thoroughly and properly decontaminated.

Paragraph 3 Comments. Neither the County Administrator nor his staff was never notified by the clerk of this infected employee. The County Administrator's staff uses the same elevator as the infected clerk employee. Additionally, there are other individuals in this building, such as, the senators and their employees (1st floor), the county attorney's office (8th floor), training room for all other County staff (5th floor), etc. The week prior to the employee being out of the office there was training on the 7th floor for other county employees for purchasing cards. These employees may have been exposed and were not notified.

Additionally, the county employees' contractors to work in this building for security. The security guards and their main company were not notified and may not have been notified to date. It's possible that other contractors were in this building because payments can be made on the 7th floor and checks for vendors picked up on the 7th floor. The individuals who entered into this building during the week prior when the employee would have been pre-symptomatic, but contagious, should be traced and notified to reduce the chance of outbreak in Collier County.

Paragraph 4 and Paragraph 5 Comments. I think when your team comes to investigate, they should ask why the abundance of caution, if only applied selectively? Why is the Clerk only taking the threat seriously now (after-the-fact and after the initial complaint to your office), in July, after she is believed to have suggested to her staff that masks are unnecessary and people need not wear them.

If an abundance of caution is used by the Clerk's office then why aren't the Clerk's employees wearing masks to limit transmission? Also, the building where the employee tested positive does not take people's temperatures prior to them entering the building. There are no questionnaires used to ask if individuals have been exposed and individuals entering the building are not required to wear masks. It does not appear that an abundance of caution has been taken by the Clerk's office. If anything, it seems that they are ignoring the risks of outbreak and not properly protecting the Clerk's employees or the other individuals (county and public) that enter this building.

If the person never came in contact with the public and was properly handled, then why did another person this individual worked with test positive? There is an additional case, which indicates that this person and the situation were not properly managed by the Clerk's office and that the corona virus is spreading at this location.

Paragraph 6 Comments. Regardless of the employee being symptomatic at work, the person can spread the virus. There are many others who are asymptomatic that are responsible for the spread of the virus and outbreaks.

With that in mind, if a questionnaire was completed and the employees or public asked if they had been in contact with someone else who has corona or to areas with corona, then the employee likely would not have been allowed in the first place and others would not have been put at risk. Why is the Clerk's office not completing questionnaires for exposure like other locations and doctor's offices? This would be an abundance of caution and reduce the risk to the Clerk's office, county staff, and the public.

Paragraph 7 Comments. All employees work in close proximity to the infected employee on the 4th floor where the infected individual works. The Finance Department is connected to the

Internal Audit Department area and the Board Minutes and Records area. There are three departments that share space. When the Clerk states that only the three people exposed in close proximity were sent home, there are about 30 others who share the same office areas, break rooms, lavatory, and general hallways. It does not seem that sending only the three people home is sufficient to protect the other 30 employees who share these areas and were likely to be exposed to the virus, since they all share the same air space and areas.

That employee is seated the closest to the entrance of the fourth floor main doors, which means everyone who walked past this area would have been exposed through the shared airspace. There are also no independent work locations and everyone shares the same HVAC system. The majority of employees are in cubicles that do not reach the ceiling or have doors, so they are all sitting in the same areas, sharing hallways and airspace.

It seems as though your investigators should determine if proper guidelines and protocells were indeed followed by not sending everyone home (all 30 individuals sharing the floor) who may have come in contact with the infected employee.

Additionally, all employees on the 4th floor were allegedly notified, but not interviewed to determine if they were specifically in the same area as the infected employee. The "review" by the Clerk is not sufficient to determine if the other employees on the 4th floor really came in contact with the individual.

Paragraph 8 Comments. There is no evidence that every employee of the fourth floor was notified timely. If only the managers were notified, how was it determined that they spoke to all employees on this floor? There is no evidence to prove that anyone was ever notified or contacted, or when they were notified. The staff assigned to the internal audit department were not notified until 4:00 PM on Thursday, nearly a week after the clerk learned of the danger. If the three affected employees were sent home 4 days prior, on Monday then how is 4 days later proper notification for prevention of an outbreak?

Also, if the employees the internal audit employees were not notified until end of day Thursday, when were the other employees notified?

Additionally, this occurred the prior week when the person was at the location after having been exposed. The three employees alleged to be in close proximity were sent home on Monday, yet the building was not cleaned until Wednesday. It does not appear that the risk was taken very seriously or that proper notification of the issue occurred. All employees would have been vulnerable for three days prior to the cleaning and unable to take proper preventative measures since they were notified until days after the initial incident.

Paragraph 8 and Paragraph 9 Additional Comments. There is no evidence that notification was made to all individuals. Where is the written documentation either in emails or management notes.

Additionally, the rest of the building were not notified. Also, the courthouse annex where the person went were not notified which includes the judges and public. Proper notification does not appear to have occurred.

Paragraph 10 and Paragraph 11 Comments. The fourth floor employees are not all working from home. Many of them are in the office. The Clerk indicates that the employees on the floor are all working from home, but that is not true. They have also been required to return to the office.

The prior comments in Paragraph 7 stated that only the three employees in close proximity were sent home at the time of notification of the issue. The other employees on the floor were not all sent home and told to work remote. The internal audit department was not even notified of the issue until Thursday, well after the exposure time period and prior to cleaning the areas on Wednesday.

Paragraph 10 Additional Comments. Your investigators may consider asking to see the policy and procedure in effect at the time of the incident as to how long an infected employee is to remain out of the workplace.

Exposed individuals were not told to quarantine for 14 days, as stated in the executive order or the CDC recommendations.

Paragraph 12 Comments. When the County was made aware of the incident? Also, county staff were asked to clean the location, but the Clerk's office did not notify the Risk Management Department who is responsible for mitigation?

The Clerk's office did not notify the employees, contractors and public that may have come in contact with the virus. The Clerk limited information to the 4th floor which puts many other individuals and employees at risk.

To this date, the public who visited the building for a public meeting have been notified. Additionally, the individuals who were in the building for training were not notified.

Paragraph 15 Comments. What type of touch tracing was conducted by county staff to determine that there was no know contact? It is well know that once a county staff member was sent home because she had contact with the infected Clerk employee. She was requested to be tested and is currently out of the office.

It does not appear that the Clerk's office properly traced the exposure, since there were county employees that were exposed and not notified. Anyone who went to board minutes and records or finance would have been exposed since the air space and hallways are shared. These individuals should have been notified so that they could take proper precautions and potentially self quarantine to avoid spreading the virus if they contracted it.

Paragraph 17 Comments. You may want to have your investigators determine the veracity of the statement that only online services are available. Training was provided to county employees and the clerk's office employees that may have been exposed are providing training and interacting with county staff and the public. It does not appear online services are helping the problem or limiting the exposure.

Additional Comments. It has been observed by the public that the Clerk is allowing people from Miami to come to the courthouse to apply for passports and obtain marriage licenses. This seems counter intuitive if the Clerk is truly interested in protecting her staff by allowing people from highest COVID areas in the state to come in contact with the County's facilities and staff. Again, if questionnaires were used and people who were exposed were not allowed to enter, this would reduce the issue or risk of exposure. However, there is no testing for temperatures or symptions prior to entering the buildings and questionnaires are not completed.

It would seem that the Clerk's office is not taking proper precautions to protect the Clerk's employees, the county employees, or the public. Please investigate these violations and issues. I do not want to see an outbreak in my office. And a second person has tested positive. I am sure many more will test positive after the exposure from the last two weeks. Please help us.

Sincerely,