

# EXHIBIT 1



1 Q. Do you ever receive E-mails through  
2 anyone else in your nuclear family?

3 A. No.

4 Q. Are you married to Debra Dunivin?

5 A. Yes.

6 Q. You have children?

7 A. No.

8 Q. Have you ever been party to  
9 litigation other than the litigation with Sidley and  
10 APA?

11 A. As part of the litigation with APA  
12 when I was there over a reorganization.

13 Q. Describe that for us, if you would,  
14 please.

15 A. Individuals, that had been  
16 reorganized out during Dr. Walsh's tenure after he  
17 left, sued APA claiming discrimination in the  
18 reorganization.

19 Q. Were you personally sued?

20 A. No.

21 Q. So you became a witness as part of  
22 this APA litigation?

1 independent consulting project that you did?

2 A. It was part of my private practice  
3 while I was working at Harding Hospital.

4 Q. Okay. Have you ever filed for  
5 bankruptcy?

6 A. No.

7 Q. Have you ever been convicted of a  
8 felony?

9 A. No.

10 Q. Have -- are you, today, taking any  
11 medication that would impair your ability to respond  
12 to the deposition questions?

13 A. No.

14 Q. Do you have any impairment of a  
15 physical sort that would prevent you from being able  
16 to respond to the deposition questions?

17 A. No.

18 Q. So you began working at APA at some  
19 point in your career; is that correct?

20 A. Correct.

21 Q. What year did you begin?

22 A. 1986.

1 Q. Would you describe for us your job  
2 titles until you left at the end of 2007?

3 A. First title was director of the  
4 office of professional affairs, the second title was  
5 assistant executive director for legal and regulatory  
6 affairs, and the third title was executive director  
7 for professional practice.

8 Q. Were you the first professional  
9 practice director at APA?

10 A. No.

11 Q. Who preceded you?

12 A. Dr. Bryan Wolf.

13 Q. Describe for us, if you will, how you  
14 came to leave APA and go to Alliant.

15 A. After 20-plus years at APA, I felt  
16 like beginning to teach what I had thought about  
17 psychology was something I wanted to do at that point  
18 in my career. I initially applied to the dean of the  
19 California School of Professional Psychology  
20 position. And during the course of that interview  
21 process, for that position, the president of Alliant  
22 informed me that there was actually an impending

1 Subject: Defamation Lawsuit against Sidley Austin,  
2 LLP, was marked for identification.)

3 (Whereupon, Exhibit 6, Employment  
4 Agreement, was marked for identification.)

5 Q. Is this your last employment  
6 contract, Dr. Newman, with Alliant?

7 A. Yes.

8 Q. And, I have to ask you this, because  
9 it's a bit confusing, if you would page through this  
10 document, it looks like it's more than one document.  
11 Can you tell me where the break is, or whether this  
12 entire document is a single document.

13 So we've got Page 1 on the screen,  
14 Page 2 --

15 MS. WAHL: Henry, if you would follow  
16 me.

17 Q. Page 3, 4, 5, 6, 7 -- keep  
18 flipping -- 9, 11. We have signatures. And then we  
19 have an Exhibit A, is the next page.

20 Was this blank in your original,  
21 Dr. Newman?

22 A. I believe so.

1 Q. You suggested that you change the  
2 word "pose" to poise?

3 A. Correct.

4 Q. And you did?

5 A. I did, I believe, yep.

6 Q. Okay. I'm going to go take you back  
7 timewise to your employment at APA. I believe that  
8 you testified earlier today that you started in 1986  
9 and your employment ended in 2007; is that correct?

10 A. Correct.

11 Q. What were your duties as the head of  
12 the practice director there?

13 A. Overseeing our departments and the  
14 practice director.

15 Q. What were your departments?

16 A. To the best of my recollection,  
17 public relations, legal and regulatory affairs,  
18 governance, finance. I think that was it.

19 Q. You did not use Rhea Farberman as the  
20 person who did your public relations work related to  
21 the practice director; is that correct?

22 A. We did.

1 Q. You did?

2 A. We did, yes.

3 Q. Did you primarily use the people  
4 within the practice directorate to do your public  
5 relations work?

6 A. Correct.

7 Q. As part of your, your official duties  
8 did not include ethics complaints and adjudication,  
9 correct?

10 A. Correct.

11 Q. Did not include APA policy on ethics  
12 issues, correct?

13 A. Correct.

14 Q. Did not include APA public statements  
15 about military psychologists work at off-site  
16 national security detention centers?

17 DR. FORREST: Objection, Counsel;  
18 compound.

19 A. I don't understand the latter to the  
20 department.

21 Q. No, I'm not talking about the  
22 department. Whether your duties as a practice

1 director head did not include on behalf of APA making  
2 public statements about military psychologists' work  
3 at off-site detention centers?

4 A. Correct.

5 Q. And your duties did not include, as  
6 the APA practice directorate, interaction with  
7 department of defense psychologists; is that correct?

8 A. That's not correct.

9 Q. Tell me what your duties did include  
10 in that regard.

11 A. The primary one was over a long  
12 period of time dealing with the Department of Defense  
13 psychopharmacology demonstration project.

14 Q. And what was that project?

15 A. Training psychologists in the  
16 military to prescribe.

17 Q. Okay. Your job duties as the  
18 practice directorate, executive director did not  
19 include interaction with the CIA; is that correct?

20 A. That's correct.

21 Q. And your practice duties did not  
22 include what got published in the Monitor, correct?

1           A.           I believe her title was director of  
2 behavioral health services for the newly combined  
3 Walter Reed Bethesda Naval Medical Center.

4           Q.           She was a medical officer, wasn't  
5 she?

6           A.           She was a psychologist.

7           Q.           Okay. That's not the same thing as a  
8 medical officer, is it?

9                       DR. FORREST:  Objection, Counsel;  
10 calls for a legal conclusion.

11          Q.           You can answer.

12          A.           I'm not entirely clear on what  
13 personnel are incorporated into the category of  
14 medical with the Army and who is not.

15          Q.           During the time period 2004 through  
16 2007, was Dr. Dunivin ever stationed at Guantanamo?

17          A.           Yes.

18          Q.           Was she ever stationed at Abu Ghraib?

19          A.           No.

20          Q.           Where were the other places that she  
21 was stationed?

22          A.           Washington, DC.

1 Q. Any place else?

2 A. And --

3 Q. Go ahead.

4 A. Camp Cropper in Baghdad, Iraq.

5 Q. Okay. How long did she spend at  
6 Guantanamo?

7 A. Was at least 9 months. It could have  
8 been 12 months.

9 Q. Okay. Do you have an understanding  
10 as to whether she personally assisted with detainee  
11 interrogations?

12 A. She was a BSCT providing support for  
13 interrogators.

14 Q. And do you have any understanding as  
15 to whether she advised others with regard to detainee  
16 interrogations?

17 A. That, I do not know.

18 Q. What was your wife's connection with  
19 SERE training, if any?

20 DR. FORREST: Objection, Counsel. I  
21 don't know what term you're using. If you mean SERE,  
22 we can talk about that.

1 2007, about what she did as a -- in connection with  
2 the military?

3 A. I do not recall specifically what she  
4 said about it.

5 Q. Okay. So you participated as an  
6 observer in the PENS Task Force, correct?

7 A. Correct.

8 Q. And is it also correct that on the  
9 PENS Task Force LISTSERV you did not at any time  
10 disclose that you were married to Debra Dunivin?

11 A. I did not participate in the  
12 LISTSERV.

13 Q. What do you mean by "participate"?

14 A. I never went on to the LISTSERV.

15 Q. You were -- you had access to it,  
16 though, right?

17 A. I don't recall that. I've seen the  
18 E-mail getting subscription, but I don't recall ever  
19 having been told I was subscribed to the LISTSERV.

20 Q. Did you ever access the LISTSERV?

21 A. No.

22 Q. So it's fair to say you didn't use

1 the LISTSERV to make any disclosure about your  
2 marriage to Dr. Dunivin, correct?

3 A. That's correct.

4 Q. Okay. And at the beginning of the  
5 PENS meeting that you attended, you didn't make a  
6 disclosure about your marriage to Dr. Dunivin, did  
7 you?

8 A. I did not.

9 Q. And you didn't have anyone else do  
10 that either, did you?

11 A. No one else did.

12 Q. Okay. Is it your position that the  
13 report's conclusion about you having a conflict of  
14 interest by your participation in the PENS Task  
15 Force is a fact?

16 DR. FORREST: Objection, Counsel.  
17 Calls for a legal conclusion.

18 Q. You can answer.

19 A. The statement is not accurate.

20 Q. Okay. And why is it not accurate?

21 A. I don't believe I had a conflict.

22 Q. And why not?

1           A.           The charge of the Task Force was not  
2 one that would materialize a conflict. I never voted  
3 on anything in the Task Force. I didn't participate  
4 in the LISTSERV discussions of the Task Force. It  
5 was not a Task Force about whether psychologists  
6 should or should not be involved in interrogations.

7           Q.           Is that your complete answer?

8           A.           It was a Task Force about whether the  
9 ethics code applied to the work of national security  
10 psychologists, including those providing  
11 interrogation support in the military.

12          Q.           And that would include your wife?

13          A.           That would include my wife, yes.

14          Q.           Okay. Have you been defamed because  
15 of the report's conclusion about you having a  
16 conflict of interest?

17          A.           I have.

18          Q.           And how is that the case?

19          A.           I'm sorry?

20          Q.           How is that the case? I'll keep my  
21 voice up, sorry.

22                       How is that the case? How have you

1 A. Not that I recall.

2 Q. Is there anything that you told  
3 officers at, officers, board of directors, board of  
4 trustees, lawyers, at Alliant about your  
5 participation in the PENS Task Force that you haven't  
6 already testified to?

7 A. No, that I recall.

8 Q. Do you know what a LISTSERV is?

9 A. I do.

10 Q. Were you on LISTSERVs while you  
11 worked at APA?

12 A. Periodically I was on LISTSERVs at  
13 APA, yes.

14 Q. And how did you receive E-mail  
15 messages?

16 A. An E-mail would come that was a  
17 product from a LISTSERV, so everybody on the LISTSERV  
18 received the same E-mail.

19 Q. You testified earlier you saw an  
20 E-mail that indicated you had been subscribed to the  
21 PENS Task Force LISTSERV, correct?

22 A. Correct.

1 Q. Did you also see an E-mail that  
2 indicated you had been unsubscribed from the PENS  
3 Task Force LISTSERV when you left APA?

4 A. I did see that.

5 Q. Do you have any reason to believe  
6 that you were not receiving PENS Task Force E-mails  
7 during the time that you were subscribed?

8 A. I have no recollection of being on  
9 the LISTSERV or receiving those E-mails.

10 Q. But do you have any reason to believe  
11 that those E-mails did not come to your inbox, since  
12 you were subscribed to the PENS Task Force LISTSERV?

13 A. Not based on the procedure of a  
14 LISTSERV.

15 Q. And earlier in this litigation, you  
16 submitted an affidavit that said that you were not  
17 subscribed to the LISTSERV, the PENS Task Force  
18 LISTSERV, correct?

19 A. Correct.

20 Q. And at some point you realized that  
21 that was factually inaccurate?

22 A. I had my recollection refreshed by

1 the documents that came from APA.

2 Q. And then, the next time you submitted  
3 a declaration that talked about the LISTSERV, in  
4 2020, you no longer made the assertion that you were  
5 not subscribed to the LISTSERV?

6 A. I would have to see that, but...

7 Q. After Pay Any Price was published,  
8 did you take any steps to contact either the author  
9 or the publisher?

10 A. I did not.

11 Q. Do you believe that what is written  
12 about you in Pay Any Price is inaccurate?

13 A. It said I was married to Dr. Dunivin  
14 and I was on PENS and there was quotes from Jean  
15 Marie Arrigo. I have questions about the quote from  
16 Jean Marie Arrigo.

17 Q. Did you tell anybody at the time that  
18 you believed that any statement about you in Pay Any  
19 Price was inaccurate?

20 A. I did not.

21 Q. Did you ever have anyone threaten a  
22 defamation case against the author or publisher of

1 Pay Any Price?

2 A. I did not.

3 Q. So there's never been a communication  
4 on your behalf alleging that you were defamed by the  
5 book Pay Any Price?

6 A. I'm sorry. I'm losing you.

7 Q. To your knowledge no one has ever  
8 communicated with the author or publisher of Pay Any  
9 Price on your behalf alleging a claim of defamation?

10 A. I know my counsel had conversations  
11 with New York times alleged. I do not know what was  
12 or wasn't alleged.

13 Q. Your counsel had conversations  
14 regarding the New York Times over what publication?

15 A. Not the James Risen.

16 Q. So what publication?

17 A. About the New York Times, about the  
18 New York Times article.

19 Q. Which New York Times article?

20 A. The July 10th article and the report  
21 posting.

22 Q. But not any New York Times article

1 from 2014?

2 A. To my knowledge, no.

3 Q. Did you assert a defamation claim  
4 against James Risen of the New York Times arising  
5 from the July 2015 article?

6 A. I did not.

7 Q. Did anyone do that on your behalf?

8 A. There were no defamation claims  
9 asserted that I know about.

10 Q. Did you ever request a correction  
11 from either James Risen or the publisher of Pay Any  
12 Price?

13 A. What he said, that I was on PENS,  
14 observer on PENS and I was married to Debra Dunivin  
15 was accurate.

16 MR. HENTOFF: Henry, would you please  
17 mark Control No. 193 as next in line.

18 (Whereupon, Exhibit 32, Pay Any  
19 Price: Greed, Power, and Endless War, was marked for  
20 identification.)

21 MR. HENTOFF: And what exhibit is  
22 that?

1 inaccurate factual assertion about you?

2 A. It depends on what is meant by set  
3 the Task Force's agenda, which I don't know and can't  
4 really speculate about that.

5 Q. So you think there is a meaning about  
6 helped set the Task Force's agenda about you that is  
7 accurate?

8 A. I was in the meeting and provided  
9 some information and comments to the Task Force,  
10 so...

11 Q. Do you believe it's accurate or  
12 inaccurate that you were "one of the most powerful  
13 officials in the organization"?

14 A. I, I really don't know whether I  
15 would be characterized that way or not. He  
16 certainly -- she certainly characterized me that way.

17 Q. Well, how would you characterize  
18 yourself?

19 A. Somebody that did a good job at what  
20 I was asked to do for the organization.

21 Q. Anything else in these passages about  
22 you that you believe is inaccurate?

1 A. Correct.

2 Q. You're aware that we've produced in  
3 discovery sets of Sidley notes of interviews of you;  
4 is that correct?

5 A. Correct.

6 Q. Did you study those notes to refresh  
7 your recollection in preparation for this deposition?

8 A. I read those notes.

9 Q. Roughly how much time did you spend  
10 reviewing those notes?

11 A. I didn't look at the clock, so I  
12 really couldn't say.

13 Q. Did you carefully review the notes?

14 A. I read them.

15 Q. Are you aware of anything in the  
16 Sidley notes of the interviews of you that you  
17 believe is inaccurate?

18 A. Yes.

19 Q. What is it? What -- what's  
20 inaccurate in the notes?

21 A. Some examples that I can recall right  
22 now, the note's characterization of my responses

1 A. I believe that's correct.

2 Q. And what do you base that belief on?

3 A. Information that I've come across  
4 during the course of all the various documents and  
5 materials and my recollections, what there are of  
6 them, from the time period in advance of the Task  
7 Force convening.

8 Q. Do you remember anything about a  
9 conversation with Dr. Anton about you joining the  
10 Task Force as an observer?

11 A. I do not remember a specific  
12 conversation.

13 Q. Do you remember your own feelings or  
14 views about whether you wanted to be an observer on  
15 the Task Force?

16 A. It was an important issue with impact  
17 on the practice community that I represented, and  
18 therefor, I was very interested in being on the Task  
19 Force as an observer.

20 Q. Were you ordered by APA to  
21 participate in the Task Force as an observer?

22 A. I was requested by a board of

1 director member about being an observer on the Task  
2 Force.

3 Q. Was that an order or a request?

4 A. I wouldn't characterize that as an  
5 order.

6 Q. And what was your response?

7 A. I was interested because there was a  
8 significant potential impact on the practice  
9 community of the work of this future Task Force.

10 Q. And you agreed to participate?

11 A. I did.

12 Q. Did you agree on the spot, or did you  
13 ask for sometime to think about it?

14 A. I don't recall that.

15 Q. What was important about this issue  
16 from a practice perspective?

17 A. This was an activity that a  
18 constituency group of the practice community of  
19 practicing psychologists was engaged in, and the  
20 issues and mischaracterizations and, and confusions  
21 about the work that was going on by practitioners was  
22 a -- an important issue for me to be able to hear the

1 before. The question has arisen that we in the  
2 profession have to address and that is where we are  
3 now. Is it ethical or is it not ethical," he said.  
4 Do you see that?

5 A. Yeah.

6 Q. Do you believe that that is an  
7 accurate characterization by Dr. Behnke of the Task  
8 Force's charge?

9 A. That was not the charge of the  
10 committee -- the Task Force.

11 Q. So this article came out on the day  
12 the Task Force met. Did people discuss it?

13 A. I don't recall that.

14 Q. Having gone over this article, does  
15 it refresh your recollection about your receiving  
16 this New York Times article?

17 A. It does not.

18 Q. Where was Dr. Dunivin stationed at  
19 this time?

20 A. She was stationed at Guantanamo.

21 MR. HENTOFF: Can you, Henry, get  
22 Control No. 26, which will be Exhibit 34.

1 that you recall being affirmatively inaccurate in  
2 terms of what it does cover?

3 A. The words -- each of the words may be  
4 correct, but together the meaning is not.

5 Q. All right. I think it makes sense to  
6 go sentence by sentence here. So the first sentence  
7 is, "First, being asked to be an observer, I was  
8 being" -- "a) I was being asked by reps on the BoD  
9 and dare say everyone on the BoD knew and I dare say  
10 everyone knew my r-ship with Debra---they all would  
11 have know."

12 Is there anything inaccurate here in  
13 terms of what you told Sidley?

14 A. No.

15 Q. And next, "Role of observer really  
16 is...you have specific role to play in the group."

17 Is there anything inaccurate here?

18 A. No.

19 Q. "Certainly wouldn't vote on anything,  
20 didn't participate in any extra outside  
21 meetings/convos or writing of documents."

22 Anything inaccurate there?

1 A. No.

2 Q. "Only participated in meeting  
3 itself." Anything inaccurate there?

4 A. No.

5 Q. I assumed people from various POVs,  
6 including people who had participated in interr  
7 support so that my connection from somebody that had  
8 was hardly, in my opinion, a conflict of interest.  
9 It was an interest that needed to be served. Is  
10 there anything inaccurate in that sentence?

11 A. Well, that's where my recollection  
12 is. I also had talked about the multiple issues,  
13 some of which could potentially materialize; others  
14 of which could not.

15 Q. So apart from not capturing that  
16 thought, is there anything inaccurate in that  
17 sentence?

18 DR. FORREST: Objection; asked and  
19 answered.

20 A. As I said, it's hard to -- it misses  
21 something in the translation without that part of it,  
22 the words themselves may be accurate, but the meaning

1 of the sentence is not the same.

2 Q. So I'll continue in this passage.

3 "No sense that I had to say from the start about my  
4 role/background, given the request." Is there  
5 anything inaccurate there?

6 A. No.

7 Q. Finally, "I see after the fact ppl  
8 weren't aware of that." Anything inaccurate there?

9 A. No.

10 Q. All right. So we've now done two of  
11 the three specific references that you identified.  
12 The next one is on PDF Page 21, which is Bates  
13 No. 1905, and I believe that you located it by  
14 searching for the word "public," so once again,  
15 please --

16 DR. FORREST: Hang on, hang on one  
17 second, Tom. Let us get there.

18 MR. HENTOFF: So it's PDF Page 21.

19 DR. FORREST: Yep. Got it. We had  
20 the wrong Bates stamp number. Thanks.

21 BY MR. HENTOFF:

22 Q. I request, Dr. Newman, just to start