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5 NEWMAN, Ph.D.

6 DR. RUSS NEWMAN

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1 THE TECH: Okay. We are now on the
 2 record. My name is Henry Marte, videographer on
 3 behalf of Digital Evidence Group.
 4 Today's date is March the 21st --
 5 24th, 2021, and the time is 9:06 a.m.
 6 This deposition is being held by
 7 remote Zoom in the matter of Russ Newman versus
 8 American Psychological Association, et al.
 9 The deponent today is Dr. Russ
 10 Newman.
 11 All parties to this deposition are
 12 appearing remotely and have agreed to the witness
 13 being sworn in remotely.
 14 Counsel, please identify themselves
 15 for the record which after the court reporter will
 16 administer the oath to the witness.
 17 Do you guys want to identify
 18 yourselves for the record? Or should we just say
 19 noted on the stenographic record.
 20 MR. HENTOFF: I, I can start. This
 21 is Thomas Hentoff for the Respondents: Sidley
 22 Austin, LLP; Sidley Austin DC, LLP; and David

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1 Hoffman. And I'm here with my colleague Krystal
 2 Durham.
 3 MS. WAHL: Barbara Wahl on behalf of
 4 the American Psychological Association. And I
 5 believe my partner, Randall Brater, is on the line.
 6 DR. FORREST: Bonny Forrest on behalf
 7 of Claimant, Dr. Russ Newman.
 8 RUSSEL S. NEWMAN, PH.D., called as a witness, having
 9 been first duly sworn by a Notary Public of the State
 10 of New York, was examined and testified as follows:
 11 EXAMINATION
 12 BY MS. WAHL:
 13 Q. Good morning, Dr. Newman?
 14 A. Good morning, Ms. Wahl.
 15 Q. What is the amount of damages you are
 16 seeking in this case?
 17 A. Damages in this case, actual, are
 18 just below 5 million; reputation, between 2 and
 19 3 million.
 20 Q. What are the components of the actual
 21 damages?
 22 A. Actual damages are comprised of the

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1 remainder of the time I would have been on a contract
 2 at Alliant and years between then and my expected
 3 retirement age of 74; of the salary and income I
 4 would have earned, based on my earnings at the time
 5 that I was terminated at Alliant.
 6 Q. Anything else?
 7 A. Interest. I believe it includes
 8 6 percent interest.
 9 Q. Anything else?
 10 A. That's what I recall at the moment.
 11 Q. Okay. Is your compensatory damage
 12 claim set forth, or I should say the basis for it,
 13 set forth in Anna Addleman's report?
 14 A. Correct.
 15 Q. Is there anything in addition to
 16 Ms. Addleman's report that you are claiming as
 17 compensatory damages?
 18 A. No.
 19 Q. Okay. You said a minute ago that the
 20 time left on your contract at Alliant, that was
 21 two years from 2015, wasn't it?
 22 A. Correct.

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1 Q. So, if I'm understanding you
 2 correctly, your calculating your Alliant comp package
 3 for purposes of compensatory damages for the period
 4 July 15th, give or take, to the termination date in
 5 2017; is that right?
 6 A. Yeah. Yes, from the Alliant
 7 contract.
 8 Q. Okay. And how did you, so from 2017
 9 how old would you have been or were you in 2017?
 10 A. I have to calculate those years here.
 11 I was 65 --
 12 Q. Okay.
 13 A. -- in 2017.
 14 Q. So from age to 65 to 74, a 9-year
 15 period, how did you determine what your compensation
 16 would be for that period?
 17 A. I believe Ms. Addleman utilized my
 18 salary range from when I was on contract at Alliant
 19 anticipating similar income through those additional
 20 years.
 21 Q. Just so I'm clear, are you saying
 22 that you would not have been retained as an employee

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1 at Alliant after 2017, but you would have been
 2 receiving the same compensation from a similar type
 3 of employment?
 4 A. I'm not saying that I would not have
 5 been an employee at Alliant. I am saying the
 6 calculation is based on the income of the salary I
 7 was receiving at the time that my contract was
 8 terminated.
 9 Q. So I'm not belaboring this, I just
 10 want to understand.
 11 A. Yeah. Yeah.
 12 Q. So if you made \$10 in the period
 13 2015, before you were, before you separated from
 14 Alliant, is your compensation claim for 2015 through
 15 the end of the year, 2016, 2017 and so forth, is that
 16 based on an assumption that for every such year you
 17 would have also been able to receive as compensation
 18 from some entity other than Alliant \$10?
 19 DR. FORREST: Objection, form.
 20 Compound. This is set forth in the expert report,
 21 Ms. Wahl.
 22 Q. You can answer, Dr. Newman.

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1 A. Yes, in terms of the amount; no, it
 2 would necessarily not have been at Alliant.
 3 Q. I understand. Okay.
 4 A. A lot of double negatives in that.
 5 Q. Right. If I'm understanding
 6 correctly -- again, I'm just trying to make sure I am
 7 clear -- your compensation, your compensatory damages
 8 are premised on your Alliant salary through 2017. So
 9 far, correct? Plus, not finished, plus for every
 10 year thereafter through your age of retirement at 74,
 11 you would receive an amount in compensation equal to
 12 what your comp package was at Alliant prior to 2017?
 13 DR. FORREST: Objection. Objection,
 14 compound.
 15 Let's look at the expert report. Put
 16 it in front of him, Ms. Wahl.
 17 Q. Dr. Newman, you can answer the
 18 question.
 19 A. At least equal to.
 20 Q. Okay. And did you -- how did you
 21 select your retirement age at 74?
 22 A. I believe Ms. Addleman utilized that

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1 in her calculation and analysis.
 2 Q. So she made that determination and
 3 not you?
 4 A. She utilized some DC mandatory
 5 retirement age information, if I recall correctly.
 6 Q. And why did she do that to your
 7 knowledge?
 8 A. You're going to have to ask her that
 9 question.
 10 Q. Okay. Did you tell her that you
 11 planned to retire at age 74?
 12 A. When she asked me if that would be
 13 the retirement age, I said yes.
 14 Q. Okay. And as part of your damages,
 15 your compensatory damages, are you seeking legal
 16 fees?
 17 A. Correct.
 18 Q. What's your basis for that?
 19 A. The amount of money that I've paid
 20 for attorneys.
 21 Q. That's the quantum, right, that sum
 22 \$188,000; am I right about that?

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1 A. To my recollection.
 2 Q. Is that out-of-pocket monies that you
 3 have personally spent?
 4 A. Correct.
 5 Q. Who did you pay the legal fees to?
 6 A. To Dr. Forrest, to a firm in
 7 Washington, DC, Williams; and also fees to a firm in
 8 Ohio when the litigation was in Ohio, Arnold
 9 Associates -- & Associates; and to a firm in
 10 Massachusetts where we have an action stayed, pending
 11 action in, in DC; also to a firm in Virginia, Clare
 12 Locke, who engaged during the anti-SLAPP hearing part
 13 of the litigation.
 14 I think for those years, that is my
 15 recollection of the attorneys that were being paid.
 16 Q. What about Mr. Loree who just joined
 17 us?
 18 A. For purpose of the money that would
 19 be reported to the IRS for 2020, yes, Mr. Loree is
 20 included.
 21 Q. Thank you. And for the Arnold &
 22 Porter lawyer who is assisting in your appeal?

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1 A. My recollection is that there have
 2 not been fees paid to them yet.
 3 Q. Do you anticipate paying fees to
 4 them?
 5 A. Likely, yes.
 6 Q. Okay. Do you have a -- what type of
 7 financial arrangement do you have with Ms. Forrest?
 8 A. Ms. Forrest is on a contingency
 9 basis.
 10 Q. And what is that?
 11 A. I believe that she would get
 12 25 percent of the judgment.
 13 Q. Are you paying anything hourly?
 14 A. To Ms. Forrest?
 15 Q. Yes.
 16 A. Not at this point.
 17 Q. So the 188,000, give or take, doesn't
 18 include any fees from Ms. Forrest, am I correct?
 19 A. Ms. Forrest has retained consultants
 20 along the way, for which at times she has initially
 21 put in the money and I have repaid her.
 22 Q. Do you have an idea, ballpark, of how

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1 much that is?
 2 A. I, I don't have that amount separated
 3 out.
 4 Q. Okay. And is your arrangement with
 5 the DC firm, with Mr. Williams, is that hourly?
 6 A. Correct.
 7 Q. And with the Ohio firm, is that
 8 hourly?
 9 A. Correct.
 10 Q. And with the Massachusetts counsel,
 11 is that hourly?
 12 A. Correct.
 13 Q. Clare Locke, hourly?
 14 A. Correct.
 15 Q. And Mr. Loree, hourly?
 16 A. Mr. Loree has done fixed fees for
 17 periods of time, based on an hourly rate.
 18 Q. What does that mean?
 19 A. He's anticipated what the project he
 20 was working on would entail and billed based on how
 21 many hours he anticipated that project would take.
 22 Q. Okay. And you've paid some amount of

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1 fees to him based on that arrangement?
 2 A. Correct.
 3 Q. Okay. So am I correct in -- with
 4 regard to your compensatory -- your claim for
 5 compensatory damages that everything I need to know
 6 about that is set forth in the Addleman report?
 7 A. I believe it is.
 8 Q. What did you, did you meet, either by
 9 in person or by video with Ms. Addleman, prior to
 10 her, the submission of her report?
 11 A. Telephone conference with
 12 Ms. Addleman.
 13 Q. A single conference or more than one?
 14 A. I believe there were two separate
 15 conferences.
 16 Q. Who participated in those
 17 conferences?
 18 A. One conference it was Ms. Addleman,
 19 some of her team, and myself; and one was
 20 Ms. Addleman her team, myself, and Dr. Forrest.
 21 Q. Did you give Ms. Addleman any
 22 documents other than what appears in her report to

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1 assist her with her work?
 2 A. I don't recall any documents provided
 3 to her that weren't referenced in her report or that
 4 we've provided in response to your recent request.
 5 Q. Okay. How long did the meetings --
 6 I'll take them one at a time. How long did your
 7 initial meeting with Ms. Addleman last?
 8 A. I really don't have a good
 9 recollection of that. I would think an hour or so.
 10 Q. And how about your second meeting?
 11 A. 45 minutes.
 12 Q. What did you tell Ms. Addleman during
 13 the first call?
 14 A. I'm not sure what you're asking with
 15 that question.
 16 Q. It's an open-ended question, and to
 17 the extent you have any recollection what you
 18 discussed or specifically what you told her, I would
 19 appreciate your recounting that for us?
 20 DR. FORREST: Ms. Wahl is frozen on
 21 our screen.
 22 MS. WAHL: I see that.

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1 DR. FORREST: It's freezing up.
 2 THE WITNESS: My -- the screen -- the
 3 screen is fine right now. Hope it stays that way.
 4 My recollection of the first call was
 5 to give her background of the case she understood
 6 what it was so she heard something about my work
 7 background prefaced to the materials that I had
 8 provided to her. The second conference was for her
 9 to ask questions and report back what her analysis
 10 was leading her to opine and conclude in the report.
 11 Q. Do you recall any more detail about
 12 you recounted to her in the first call?
 13 A. I really do not.
 14 Q. And do you remember any of the
 15 questions that she asked you in the second call?
 16 A. One of the questions in the second
 17 call that I --
 18 DR. FORREST: Objection; calls for
 19 privileged information. Counsel was on that call.
 20 MS. WAHL: Actually that doesn't --
 21 Q. Would you answer the question, Mr. --
 22 Dr. Newman?

Page 22

1 DR. FORREST: No, Ms. Wahl. I have a
 2 privilege with my experts, and I was on the call. On
 3 what grounds would he answer that question?
 4 MS. WAHL: We have limited time. I'm
 5 not going to debate you.
 6 DR. FORREST: I appreciate that.
 7 Q. Dr. Newman, are you refusing to
 8 respond to the question I just posed?
 9 A. On advice of question.
 10 Q. Okay.
 11 Let's talk now about your
 12 reputational damages. I believe you just testified
 13 that the number you have assessed for that is between
 14 2 and 3 million; am I right?
 15 A. Yes.
 16 Q. What's the basis for that?
 17 A. My conversations with Mr. Fisher and
 18 my understanding of the range of some of the
 19 defamation damages that have occurred in an array of
 20 defamation cases, most notably the Eramo case in
 21 which the plaintiff received 3 million, in a
 22 circumstance where she hadn't lost her job.

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1 Q. What specifically did you discuss
 2 with Mr. Fisher that caused you to believe a 2 to
 3 \$3 million number was appropriate?
 4 A. His opinion as to the level of
 5 damages, the level of reputation damage he felt I had
 6 experienced, with his primary focus on the speed with
 7 which I lost my job following the release of the
 8 report.
 9 Q. And how would the speed of your job
 10 loss impact your reputation number?
 11 A. He believed it connoted the level of
 12 reputation damage in light of it being handled so
 13 quickly.
 14 Q. And that's his expert opinion?
 15 A. Correct.
 16 Q. And is also then your opinion?
 17 A. Correct.
 18 Q. Do you have any expertise in gauging
 19 reputational damage based on speed of job loss?
 20 DR. FORREST: Objection; compound.
 21 Q. You can answer?
 22 A. Can you split the question?

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1 Q. It was a single question. There was
 2 no "or" or "and." I can have the court reporter read
 3 it back if you'd like.
 4 A. Please.
 5 MS. WAHL: Amanda, would you do so.
 6 (Record read.)
 7 A. I'm not a reputational damage expert.
 8 Q. Do you have any knowledge about this
 9 at all?
 10 A. Some of what I saw from other cases
 11 that had been handled in the past.
 12 Q. And what are those other cases?
 13 A. As I mentioned, array of them which I
 14 couldn't recall specifically right now except for the
 15 Eramo case in which there was a university
 16 administrator in a position where defamation
 17 occurred, and the award was 3 million.
 18 Q. Are you aware of whether that number
 19 was --
 20 MS. WAHL: Well, strike that.
 21 Q. We're going to take a break at some
 22 point Dr. Newman and I would appreciate you referring

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1 to whatever would refresh your recollection about
 2 what the other cases are that are included in this
 3 array of cases that comprise your damages. Would you
 4 agree to do that?
 5 A. I don't know that I can get my hands
 6 on that at this point.
 7 Q. Could you try?
 8 A. I can try.
 9 Q. Okay. So, did -- in terms of your
 10 reputational damages, did Mr. Fisher suggest that
 11 there were any case corollaries that could be
 12 benchmarks to denote reputational damage for you?
 13 A. Not other than his general sense of
 14 the experience he had with other cases, but no
 15 specific case were, were named.
 16 Q. Meaning he didn't tell you any
 17 specific cases?
 18 A. Correct.
 19 Q. Okay. How many conversations did you
 20 have with Mr. Fisher?
 21 A. At least a half a dozen conversations
 22 with Mr. Fisher.

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1 Q. Who else was involved in the
 2 conversation? Well, let's start with the first one.
 3 Tell me about the first conversation. When was it,
 4 who was involved?
 5 A. I really couldn't say exactly what
 6 date the first conversation was. My conversation
 7 with Mr. Fisher, two or three additional
 8 conversations with Mr. Fisher, Dr. Forrest was on one
 9 of the conversations with Mr. Fisher, and then I
 10 probably had another two or three conversations with
 11 Mr. Fisher.
 12 Q. So Mr. Fisher's report recounts a
 13 number of facts, if you recall, from looking at it.
 14 Let me back up. Have you seen Mr. Fisher's report?
 15 A. Yes.
 16 Q. And you reviewed it before it was
 17 submitted in this matter?
 18 A. Yes.
 19 Q. Did you make any edits to it?
 20 A. Not that I recall.
 21 Q. So the initial draft that he
 22 presented to you, you made no changes to?

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1 A. I probably -- yes, I made some
 2 changes. I can't recall what those changes were.
 3 Q. Were they substantive?
 4 A. I believe they were dealing with
 5 pieces of fact that needed to be sure they were
 6 accurate.
 7 Q. Did he get some of those facts wrong,
 8 initially, before you corrected them?
 9 A. I think so, yes.
 10 Q. Are there -- and that was the
 11 result -- you had another conversation with him to go
 12 over these facts?
 13 A. Correct.
 14 Q. Okay. And what was the subject of
 15 discussion for the second and third calls to the
 16 extent you can recall?
 17 A. To the best of my recollection, it
 18 was continuing history of the case, complexities of
 19 it, my background, largely the complexities of the
 20 case.
 21 Q. Okay. And what did you describe to
 22 him as the complexities of the case?

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1 A. Well, actually it was Mr. Fisher that
 2 described the case as very complex and then proceeded
 3 to ask questions about things that had gone on during
 4 the course of the litigation.
 5 MS. WAHL: Henry, if you would, pull
 6 up Control Arent Fox 111. That's electronic,
 7 Counsel, if you want to pull up your own version of
 8 it. And hopefully these screens are working. There
 9 it goes. Thank you. Thank you.
 10 (Tech complies.)
 11 BY MS. WAHL:
 12 Q. So this is a lengthy document and
 13 feel free to look at it all you would like,
 14 Dr. Newman, but at pages 27 through 39, there is a
 15 recitation of various facts. You can read it, if
 16 you'd like, but I just want to ask you what your
 17 involvement was in providing these facts or as he
 18 terms them -- he has various headings for them. How
 19 much of this did you provide to Mr. Fisher?
 20 DR. FORREST: Objection; compound.
 21 Q. You can answer.
 22 A. Some of the facts would have been

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1 provided by questions he had asked. Most of the
 2 facts would have been garnered from him -- by him
 3 from the documents that we sent, and he had access to
 4 the Hoffman report APA website for the documents from
 5 the litigation.
 6 Q. How many documents did you send him?
 7 A. I don't recall.
 8 Q. Did you send them?
 9 A. Yes, yes, and, in fact, the specific
 10 documents that were provided to him were recently
 11 provided to you in response to your request. I just
 12 don't recall how many there actually were for
 13 Mr. Fisher.
 14 Q. Well, actually, they were -- there
 15 were documents provided this morning, Dr. Newman, so
 16 obviously I haven't had a chance to look at them.
 17 I've been waited to meet with you.
 18 But we asked for the documents that
 19 were referred to in the report. My question to you
 20 is whether -- what you gave Mr. Fisher, not what was
 21 referred to in the report?
 22 DR. FORREST: Objection; asked and

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1 answered.
 2 Q. Can you tell me what documents you
 3 gave him?
 4 A. I gave him the supplemental
 5 complaint. I gave him the opposition to the first
 6 set of anti-SLAPP motions. And as I said, I gave him
 7 access to -- I pointed him to hoffmanreportapa.com,
 8 where all that -- documents from the litigation were
 9 housed.
 10 Q. How many documents are housed on
 11 hoffmanreportapa.com?
 12 A. I, I have not counted them.
 13 Q. You have a ballpark number?
 14 A. I really don't, given that there's
 15 been Massachusetts action, an Ohio action, a DC
 16 action.
 17 Q. Who's the webmaster for that website?
 18 A. I am not aware there is a webmaster.
 19 Q. Who's the person who puts things on
 20 the web on that, that address?
 21 A. I don't know specifically. My lawyer
 22 handles that.

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1 Q. Okay. Have you paid any sort of fees
 2 in connection with the maintenance of that site?
 3 A. Not that I'm aware of.
 4 Q. That's not part of the 188,000 that
 5 you're asking for, for legal fees?
 6 A. Not that I'm recalling.
 7 Q. Okay. So what documents on that
 8 website did you point Mr. Fisher to?
 9 A. I pointed him to the documents under
 10 the heading "DC LITIGATION."
 11 Q. Well, he could have found those
 12 himself, right? Why did you need to point him --
 13 A. I don't know.
 14 DR. FORREST: Objection, Counsel;
 15 harassment.
 16 Q. What specific documents, if any, did
 17 you point Mr. Fisher to under the DC litigation Tab?
 18 A. None in particular, other than the
 19 ones that I had mentioned that I sent to him. Others
 20 were there for him to look at as he wished.
 21 Q. Okay. Did you direct his attention
 22 to any specific documents, other than the ones that

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1 you physically sent to him?
 2 A. Not that I recall.
 3 MS. WAHL: So would you turn to
 4 Page 44, please, Henry.
 5 Q. Top of the page, the first full
 6 paragraph states, "It would be my recommendation that
 7 the Claimant justifiably receive fair compensation
 8 from the Respondents based on the extent of the
 9 reputational damage and the massive disruption to his
 10 career and life which he has suffered past, present
 11 and into the future. The Claimant has determined
 12 that an amount of 2 million to 3 million is fully
 13 justified and I would concur..." It goes on.
 14 What did you tell him was the
 15 justification for 2 to 3 million?
 16 DR. FORREST: Objection; asked and
 17 answered.
 18 Q. You can answer.
 19 A. Oh, same, same as I, I told you.
 20 Based on my sense of cases out there and, in
 21 particular, the Eramo case and the circumstances
 22 around that case.

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1 Q. Okay. And he refers to future
 2 reputational damage. What did you tell him about
 3 that?
 4 A. My understanding to that is it's
 5 ongoing reputational damage.
 6 Q. Well, who is damaging -- let me
 7 rephrase that.
 8 In what fashion are you -- will you,
 9 in the future, receive reputational damage?
 10 DR. FORREST: Objection; confused.
 11 A. I believe you would need to talk with
 12 Mr. Fisher about his characterization of past,
 13 present, and future. My understanding is
 14 reputational damage has occurred and will continue to
 15 occur as long as the information continues to be out
 16 there online and posted by APA.
 17 Q. And what's your basis for that
 18 statement, with regard to a future, future damage?
 19 A. Nothing has been done to correct the
 20 inaccuracies and mischaracterizations in that report
 21 and will continue to damage me.
 22 Q. And how is it going to damage you?

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1 A. The same way as it has damaged me.
 2 It will prevent me from opportunities, income,
 3 employment.
 4 Q. Did you, you did not, did you,
 5 Dr. Newman, retain a recruitment professional to
 6 assist you in seeking new employment after your
 7 separation from Alliant, correct?
 8 A. Right.
 9 Q. And you could have hired such a
 10 person, right?
 11 A. I did not.
 12 Q. Okay. You have responded, or your
 13 counsel did, to an interrogatory on the question of
 14 your efforts to seek employment. And I'm not trying
 15 to hide the ball, we'll look at that. But tell me
 16 what you did to obtain new employment in 2015.
 17 A. 2015, I began to set up what I hoped
 18 would be a consulting operation to provide coaching
 19 and consulting services.
 20 Q. What type of coaching and consulting?
 21 A. Executive coaching and life coaching.
 22 Q. And that was not Bogies2Birdies,

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1 right?
 2 A. I'm sorry?
 3 Q. That was not Bogies2Birdies, correct?
 4 A. Yes, yes, it is what is represented
 5 in the website Bogies2Birdies.com.
 6 Q. Okay. Was the focus of
 7 Bogies2Birdies an executive coaching functionality?
 8 A. The focus was both organizational
 9 and/or life coaching.
 10 Q. Did it have anything to do with
 11 golf --
 12 A. Oh, absolutely.
 13 Q. Okay. What was your business plan
 14 for Bogies2Birdies in 2015, if you had one?
 15 A. The concept to Bogies2Birdies is to
 16 work in conjunction with a, a golf professional who
 17 provides golf coaching to individuals in combination
 18 with my work with the individual. An instance, if
 19 they were an organization and were working on work
 20 issues, it would be organizational executive coaching
 21 or, in fact, if it was just an individual interested
 22 in life coaching, it would be life coaching.

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1 Q. That was your idea in 2015, right?
 2 A. Correct.
 3 Q. Okay. Did you actually create a
 4 business plan?
 5 A. I worked with, I worked with a golf
 6 course, golf course people in the DC area and worked
 7 with some golf course people in, in San Diego as
 8 well.
 9 Q. And who were the golf course people
 10 you worked with in DC?
 11 A. Pine Ridge golf course.
 12 Q. Who there?
 13 A. Julia -- Julieta Stack.
 14 Q. Julia, is that what you said?
 15 A. Julieta.
 16 Q. Julieta. Stack?
 17 A. Stack.
 18 Q. S-T-A-C-K?
 19 A. Correct.
 20 Q. Okay. Anyone else at Pine Ridge?
 21 A. No.
 22 Q. How much time did you spend with

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1 Ms. Stack trying to work on Bogies2Birdies?
 2 A. Oh, over a period of months. I
 3 really couldn't say how much time was involved with
 4 that.
 5 Q. Was it less than 100 hours?
 6 A. I, I don't know.
 7 Q. You have no recollection?
 8 A. The amount, no. It was numerous
 9 trips back to DC meetings --
 10 Q. Well, I'm asking you --
 11 A. -- conversations.
 12 Q. Sorry. I'm asking you only about the
 13 time you spent consulting with Ms. Stack?
 14 A. Well, all of that, I was engaged in
 15 work with Ms. Stack.
 16 Q. I'm not asking you about time you
 17 spent on an airplane. How much time did you actually
 18 spend consulting with Ms. Stack?
 19 A. I really couldn't put a figure on it.
 20 Q. Did you pay her anything?
 21 A. No.
 22 Q. So she was doing this gratuitously?

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1 A. She was doing this from the
 2 perspective of her interest in being the golf coach
 3 for clients.
 4 Q. So the idea was that she would team
 5 up with you to provide coaching services in
 6 connection with Bogies2Birdies?
 7 A. Correct.
 8 Q. And how was she going to be
 9 compensated for that?
 10 A. We didn't get to that point.
 11 Q. Why not?
 12 A. It became too difficult to try to do
 13 it at long distance.
 14 Q. Okay. And when did you abandon your
 15 efforts with Ms. Stack?
 16 DR. FORREST: Objection; calls for a
 17 conclusion.
 18 A. I would say sometime in 2017.
 19 Q. Where is Ms. Stack located today?
 20 A. Pine Ridge.
 21 Q. Who did you consult with at the other
 22 golf course?

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1 A. Stadium golf course in -- golf in
 2 San, in San Diego.
 3 Q. Was there an individual you consulted
 4 with there?
 5 A. A number of the staff people there.
 6 Q. Can you give me some names?
 7 A. Off the top of my head, I cannot.
 8 Q. Did you have any financial
 9 arrangements with any of the staff people at Stadium
 10 golf course?
 11 A. I did not.
 12 Q. Did you anticipate that any one of
 13 them would be providing golfing services in
 14 connection with Bogies2Birdies?
 15 A. Yes, that was the original idea.
 16 Q. Okay. Is it fair to say that when it
 17 didn't work out with Ms. Stack you switched to
 18 Stadium golf course to put efforts there?
 19 A. I don't know what you mean by "is it
 20 fair to say." When things didn't work in DC, because
 21 of the distance, I began to talk with people in
 22 San Diego.

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1 Q. Did you ever write up any documents
 2 with anyone, at Pine Ridge or Stadium about how the
 3 arrangement would work with Bogies2Birdies?
 4 A. There were some things that were
 5 written, yes.
 6 Q. And what were those things?
 7 A. The concept, concept papers.
 8 Q. Do you still have them?
 9 A. I believe so.
 10 Q. What was your plan to monetize this
 11 business?
 12 A. Well, it's essentially a consulting
 13 business so it's an hourly wage fee for consulting
 14 services.
 15 Q. What was your hourly fee going to be?
 16 A. I had not gotten to the point of
 17 deciding what a fee would be.
 18 Q. Have you ever charged a fee for
 19 consulting through Bogies2Birdies?
 20 A. We ran a number of pro bono clinics,
 21 so no.
 22 Q. Do you have any regular clients?

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1 A. I do not.
 2 Q. Who was your target audience for this
 3 business?
 4 A. Golfers.
 5 Q. And how did you go about attracting
 6 their interest?
 7 A. The creation of the website and the
 8 video was a primary step taken towards that.
 9 Q. Who created the website?
 10 A. I did.
 11 Q. Who created the content for the
 12 website?
 13 A. I did.
 14 Q. In some of the, well, how many
 15 episodes -- I'll call it that. I'm sure it's got a
 16 technical name that I'm not using -- but how many
 17 episodes do you have of Bogies2Birdies?
 18 A. I don't understand "episodes."
 19 Q. Programs. Individual presentations.
 20 DR. FORREST: Objection; confusing.
 21 A. I'm still not clear on what you're
 22 asking.

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1 Q. So your website, Bogies2Birdies, is
 2 interactive, correct, somebody can go on the website
 3 and push a button and see you speaking and there are
 4 other people also on the screen, correct?
 5 A. There was video of a sample of what
 6 the process would look like.
 7 Q. Okay. Is there only one?
 8 A. Yes.
 9 Q. And how did you get the individuals
 10 to appear in that video?
 11 A. They were from San Diego Stadium
 12 Golf.
 13 Q. Did you pay them anything to be in
 14 the video?
 15 A. I did not.
 16 Q. They were doing that as friends for
 17 you?
 18 DR. FORREST: Objection; calls for a
 19 legal conclusion.
 20 A. They were doing it as the potential
 21 to develop what was an interesting project.
 22 Q. There was an individual who was shown

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1 as the golfer, the potential client. Is he a friend
 2 of yours?
 3 A. Yes.
 4 Q. Okay. And other than the
 5 Bogies2Birdies website, what else have you done to
 6 promote the Bogies2Birdies business?
 7 A. I had submitted a program proposal to
 8 a health and wellness annual conference.
 9 Unfortunately it didn't get accepted.
 10 Q. What was the conference?
 11 A. I'd have to -- be found out. I can't
 12 recall --
 13 Q. When did you --
 14 A. -- the name of the conference. It
 15 was a health and wellness organization.
 16 Q. Okay. Do you remember the name of
 17 the organization?
 18 A. I do not.
 19 Q. Okay. Do you remember when you made
 20 the submission?
 21 A. It's probably in 2019.
 22 Q. Okay. Anything else that you did to

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1 promote the Bogies2Birdies website -- business? I'm
 2 sorry.
 3 A. At that point it became very
 4 difficult to continue to do that given the time and
 5 effort that was happening with regard to all the
 6 aspects of this case.
 7 Q. What do you mean "at that time"?
 8 A. At some point in which, I'd say 2018,
 9 2019, it became very difficult to try to do, to
 10 develop a business in the middle of this litigation.
 11 Q. And have you ceased efforts in that
 12 regard?
 13 A. They are on hold at this point, yes.
 14 Q. Just to be clear, your Bogies2Birdies
 15 efforts are on hold, right?
 16 A. Correct.
 17 Q. Okay. Did you ever do any speaking
 18 engagements to promote Bogies2Birdies?
 19 A. No.
 20 Q. And you never did any written
 21 articles, did you?
 22 A. Not other than what's on the website.

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1 Q. And you never took out any ads in any
2 publication?

3 A. I did not.

4 Q. You've never put anything on Twitter?

5 A. I did not.

6 Q. You didn't put anything on Facebook?

7 A. No.

8 Q. You didn't put anything on Instagram?

9 A. No.

10 Q. You haven't spoken at any golf club
11 dinners?

12 A. No.

13 Q. You haven't put on any, any
14 presentations for any golf schools, have you?

15 A. No. Although one of the things I did
16 with that in mind, was to apply for a position, at a
17 golf academy as a psychology instructor.

18 Q. And what -- was that in 2018?

19 A. I believe that is.

20 Q. That was the Education Corp of
21 America?

22 A. Correct.

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1 Q. How much have you spent total on
2 Bogies2Birdies?

3 A. I am not aware of how much I've spent
4 on it.

5 Q. So that's not part of your damage
6 calculation, correct?

7 A. No.

8 Q. Okay. As you sit here today, have
9 you spent more than \$5,000 on Bogies2Birdies?

10 A. I don't think so.

11 Q. Have you spent less than \$3,000 on
12 Bogies2Birdies?

13 A. Probably between three and five.

14 Q. And what did you spend it on?

15 A. Some of it was the travel back and
16 forth from here and DC; some of it was, there were
17 some expenses to put together a website through
18 WordPress.

19 Q. Anything else that you recall?

20 A. There were some expenses in putting
21 the video together.

22 Q. Who did the video?

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1 A. The name of the photographer is at
2 the bottom of the video. I don't recall his name at
3 this time.

4 Q. Did you get the rights to the video
5 he created?

6 A. Not in a formal way.

7 Q. Did you sign a document with him?

8 A. No.

9 Q. Okay. Have you now recounted to me
10 all the marketing efforts that you've engaged in with
11 regard to Bogies2Birdies?

12 A. Yes.

13 Q. Did you ever have a single client on
14 the executive coaching aspect of the business?

15 A. Not other than the pro bono clinics
16 that we ran.

17 Q. How many were there?

18 A. I believe there were two.

19 Q. Where were they?

20 A. At Pine Ridge.

21 Q. Was Ms. Stack involved in those in
22 any way?

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1 A. Correct.

2 Q. Do you remember when they were?

3 A. Early on, so 2016.

4 Q. Why did you choose to set up in 2015
5 a consulting business of this sort?

6 A. At that point I didn't have a job. I
7 was looking to try to do something creative,
8 interesting.

9 Q. Are you a golfer?

10 A. I am.

11 Q. What's your handicap?

12 A. I don't keep a handicap.

13 Q. How often do you golf?

14 A. I try to golf once a week.

15 Q. And in 2015 how often were you
16 golfing?

17 A. I don't recall.

18 Q. Was it more than once a week?

19 A. I don't have a recollection of that.

20 Q. Were you a member at Pine Ridge golf
21 course?

22 A. It's a public course.

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1 Q. Okay. And is Stadium golf course
 2 also public?
 3 A. Public.
 4 Q. Do you belong to a private club?
 5 A. I do not.
 6 Q. Have you since 2015?
 7 A. I'm sorry?
 8 Q. Have you since 2015?
 9 A. I have not, no.
 10 Q. When you set up this Bogies2Birdies
 11 business, were you concerned in any way that it might
 12 adversely impact your reputation?
 13 A. No.
 14 Q. Other than Bogies2Birdies, have you
 15 made any other efforts to set up a consulting
 16 business of any sort?
 17 A. Since?
 18 Q. Sorry. Since 2015.
 19 A. I have not.
 20 Q. If you can approximate in the period
 21 of 2015, how many hours were you working on
 22 Bogies2Birdies?

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1 A. Ten to 20.
 2 Q. And how about 2016?
 3 A. I would say same.
 4 Q. 2017?
 5 A. No. That's when I started to --
 6 after I had gotten set from the initial work and
 7 wasn't working out, I didn't spend much time on it.
 8 Q. Okay. Did you seek any advertisers
 9 to underwrite your website efforts?
 10 A. It didn't get to that point.
 11 Q. You referenced a bit ago your job
 12 application or your efforts to get a job with the
 13 Education Corp of America. How did you apply and --
 14 for that position, or a position?
 15 A. Online.
 16 Q. How did you know -- well, let me back
 17 up. Did you know whether they had a position?
 18 A. Yes, there was an announcement of a
 19 position.
 20 Q. Where was the announcement?
 21 A. I don't recall.
 22 Q. Was it in a publication?

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1 A. It was online.
 2 Q. So is, is there or, I should say, was
 3 there a website that you routinely referred to that
 4 involved the Education Corp of America?
 5 DR. FORREST: Objection; compound.
 6 A. I don't recall how I came across that
 7 announcement.
 8 Q. Okay. Did you cold just apply
 9 online?
 10 A. Yes.
 11 Q. And that was on 2018 right?
 12 A. I believe so.
 13 Q. Was that the first job you applied
 14 for?
 15 A. Yes.
 16 Q. Why did you wait until 2018?
 17 A. I originally hoped that consulting
 18 Bogies2Birdies would be an opportunity.
 19 Q. So you received, well, let me see --
 20 MS. WAHL: Strike that.
 21 Q. If I understand your testimony, in
 22 roughly 2017 you concluded that Bogies2Birdies wasn't

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1 taking off, correct?
 2 A. Correct.
 3 Q. But you didn't apply to the Education
 4 of America position until November 2018, right?
 5 A. Correct. I hoped that would be a way
 6 to reboot it.
 7 Q. What happened in the almost,
 8 whatever, for 11 months of 2018? Why didn't you
 9 apply for jobs then?
 10 A. I was pretty demoralized by all that
 11 had happened with this report and the reactions to
 12 it.
 13 Q. And that was why you didn't apply for
 14 any jobs until November of 2018?
 15 A. I spent part of that time trying to
 16 develop a consulting practice.
 17 Q. I understand your testimony. My
 18 question is whether your -- whether -- why you didn't
 19 apply for an outside position until November of 2018.
 20 A. I would say it's very difficult to
 21 pick back up and go out there, knowing the reaction
 22 to me was going to be in the psychology and education

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1 community in light of the Hoffman report.
 2 Q. Why did you choose November 2018 to
 3 apply to the Education Corporation of America?
 4 A. I'm not sure. What do you mean by
 5 "what did I chose."
 6 Q. Well, let me back up, you haven't
 7 provided to us the letter or communication that you
 8 sent to the Education Corporation of America seeking
 9 a position, correct?
 10 A. It was a filing online. I actually
 11 don't have a copy.
 12 Q. Okay. Do you remember when you did
 13 it?
 14 DR. FORREST: Objection; asked and
 15 answered.
 16 A. Not other than what, what is, is
 17 indicated in some of the documents I've sent.
 18 Q. Well, your documents don't indicate
 19 it. There is a letter, response to you, dated
 20 November 8th -- 30, 2018 that you've produced so,
 21 based on that, do you have a recollection?
 22 A. I didn't get a response from them.

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1 Q. You didn't get a response from the
 2 Education Corporation of America?
 3 A. No.
 4 Other than thanking me for applying,
 5 I don't recall.
 6 Q. Okay.
 7 MS. WAHL: Henry, could you pull up
 8 Control 167.
 9 THE TECH: That's not AF. That's
 10 just 167.
 11 MS. WAHL: Nope -- correct.
 12 THE TECH: Just making sure.
 13 MS. WAHL: In fact, I think it's a
 14 hard copy document, Counsel, if you want to follow
 15 along.
 16 Would you turn, Henry, to Bates No.
 17 RN 164.
 18 DR. FORREST: Counsel, I'm looking at
 19 the document. It's not a document for Educational
 20 Corporation. This is a different position. You've
 21 confused the documents.
 22 MS. WAHL: Let me know when your

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1 there, Henry, 164.
 2 THE TECH: 164?
 3 MS. WAHL: Yes.
 4 THE TECH: One second.
 5 MS. WAHL: Thank you.
 6 BY MS. WAHL:
 7 Q. So do you recall producing this
 8 document, Dr. Newman?
 9 A. Yes, thank you for refreshing my
 10 recollection.
 11 Q. Sure. This is a document that you
 12 did produce, however, correct?
 13 A. Correct.
 14 Q. And this is a rejection letter you
 15 got from Education Corp of America?
 16 DR. FORREST: Objection; misstates
 17 what the document is.
 18 Q. You can answer, Dr. Newman.
 19 A. I wouldn't characterize this as a
 20 rejection letter. It was an acknowledgment of my
 21 application.
 22 Q. Okay. And this is a response to the

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1 online application that you made?
 2 A. Correct.
 3 Q. Seeing the date on the top, left-hand
 4 corner of November 30, 2018, at 2:00 p.m., does this
 5 refresh your recollection as to when you applied?
 6 A. Correct.
 7 Q. Okay. When did you apply?
 8 A. Around the time of November 30, 2018.
 9 Q. Okay. Was this the only
 10 communication that you had with Education Corporation
 11 of America?
 12 A. Correct.
 13 Q. Did you do any follow-up after you
 14 received this?
 15 A. I never heard anything more from them
 16 after this.
 17 Q. What position were you applying for?
 18 A. It was a psychology instructor.
 19 Q. And where had you seen this, if you
 20 recall?
 21 DR. FORREST: Objection; asked and
 22 answered.

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1 A. I do not.
 2 Q. What happened to --
 3 MS. WAHL: Strike that.
 4 Q. So this is the only communication you
 5 received from Education Corporation of America, I
 6 believe you said?
 7 A. Correct.
 8 DR. FORREST: Objection; asked and
 9 answered.
 10 Q. What happened to this company, do you
 11 know?
 12 A. I do not.
 13 Q. So as you sit here today, you don't
 14 know whether they are thriving or went into
 15 bankruptcy or --
 16 DR. FORREST: Objection; compound.
 17 MS. WAHL: Ms. Forrest, you have to
 18 allow me to finish the question so that your
 19 objection can be lodged.
 20 DR. FORREST: Already had two parts
 21 in there. That makes it compound. Thank you.
 22 MS. WAHL: Please stop.

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1 Would you reread the question,
 2 Amanda?
 3 (Record read.)
 4 MS. WAHL: Or anything in between,
 5 that was my question.
 6 DR. FORREST: Objection; compound.
 7 A. I believe that Golf Academy, which is
 8 where the psychology position was is no longer in
 9 business.
 10 Q. And what's the basis for that belief?
 11 A. Hearing that from my golf instructor.
 12 Q. Who is your golf instructor?
 13 A. Tom Wischmeyer.
 14 Q. And where is he located?
 15 A. San Diego.
 16 Q. And is he affiliated with any
 17 particular golf club?
 18 A. Not that I'm aware of.
 19 Q. Is he a private consultant of some
 20 sort?
 21 A. Correct. Independent.
 22 Q. Independent, thank you. Am I right

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1 that after you sent this letter in November 2018,
 2 that you didn't send any further letters until
 3 January 2020?
 4 A. That's correct.
 5 Q. Why not?
 6 A. I hadn't seen any job that I might
 7 apply for that would allow me to stay in the area.
 8 Q. Did you have geographic restrictions
 9 that you were considering?
 10 A. I was hoping to stay in San Diego.
 11 Q. Okay. And where were you looking for
 12 possible positions? Let me rephrase that.
 13 Not, not location-wise, how were you
 14 seeking possible positions?
 15 A. I would look online for possible
 16 provost positions.
 17 Q. And where online would you look?
 18 A. If you google higher education, there
 19 are a variety of websites that list openings,
 20 positions, announcements.
 21 Q. You're familiar, obviously, with The
 22 Chronicle of Higher Education, right?

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1 A. Yes.
 2 Q. Did you look there?
 3 A. Not unless it was one of the websites
 4 that would come up when you would look for positions.
 5 Q. Okay. Did you look on the webpages
 6 of various educational facilities or academies in the
 7 San Diego area?
 8 A. They would usually be posted on many
 9 of the websites that you can find that lists
 10 positions.
 11 Q. What websites were you looking at?
 12 A. I don't recall the specific ones.
 13 Q. Well, you said you would google, and
 14 I'm trying to get a sense of what you googled, what
 15 kind of words you put in for your Google search.
 16 A. Provost, vice president, academic
 17 affairs.
 18 Q. Okay. And those searches would
 19 provide with some -- provide you with some hits for
 20 openings that had been advertised?
 21 A. Correct.
 22 Q. Is that how you came upon the

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1 university -- the provost position at Cal State
 2 San Marcos?
 3 A. Correct.
 4 Q. And for Kent State?
 5 A. Correct.
 6 Q. But Kent State is in Ohio, right?
 7 A. Correct.
 8 Q. How did you come to apply for the
 9 Kent State position?
 10 A. Well, I hadn't had any luck so far in
 11 San Diego. Kent State was my alma mater. I thought
 12 it would be worth an application.
 13 Q. Okay.
 14 DR. FORREST: Counsel, you've been
 15 going for a bit over an hour. If we could take a
 16 break, that would be great. Thank you.
 17 MS. WAHL: Absolutely.
 18 THE TECH: Do you want to go off the
 19 record now?
 20 MS. WAHL: Yes, please.
 21 THE TRIAL TECH: The time is
 22 10:09 a.m. Off the record.

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1 (Recess taken.)
 2 THE TECH: The time is 10:22 a.m.
 3 Back on the record.
 4 BY MS. WAHL:
 5 Q. Doctor --
 6 DR. FORREST: Counsel, you asked
 7 Dr. Newman to refresh his recollection with respect
 8 to something, and I was able to help him with that
 9 over the break. If you would like to get that
 10 information now.
 11 MS. WAHL: Sure.
 12 Q. Dr. Newman, what have you and your
 13 counsel conferred about to refresh your recollection?
 14 A. Two points. The chart of the cases
 15 related to damage award that I referred to had been
 16 submitted to all parties during the prior mediation
 17 we had a while back. And the second point is that
 18 Arnold & Porter are not serving as counsel currently
 19 for me in the arbitration. They are counsel for the
 20 plaintiffs who are undertaking the appeal in the DC
 21 Superior -- in the DC Court of Appeals, and it's pro
 22 bono.

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1 Q. Okay. Thank you. Actually, I
 2 appreciate your -- your going back and looking at
 3 that.
 4 MS. WAHL: Let's mark on this point,
 5 if you would, Exhibit 1 is going to be the Addleman
 6 report.
 7 And, Henry, that is Control AF110.
 8 It's electronic, for counsel who are following it
 9 that fashion -- in that fashion.
 10 (Whereupon, Exhibit 1, Declaration of
 11 Anna Addleman, was marked for identification.)
 12 MS. WAHL: Okay. If you would turn
 13 to Page 5 of 5. There you go. And if you would
 14 highlight the "Direct Costs - Legal" and "188,324."
 15 Q. Do you see that?
 16 DR. FORREST: I'm sorry. Direct
 17 costs - legal is 188,000?
 18 MS. WAHL: Yes.
 19 BY MS. WAHL:
 20 Q. So if I understand your testimony
 21 correctly, Dr. Newman, with that clarification of
 22 what you discussed with your counsel at the break,

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1 the components of that 188,324 are fees paid to
 2 Mr. Loree, some costs that were incurred by
 3 Ms. Forrest that you've paid, the Williams firm in
 4 DC, the Ohio firm, and the Massachusetts firm, and
 5 Clare Locke.
 6 Did I get them all right?
 7 A. Correct.
 8 Q. Okay. Do you have a litigation
 9 funder who is helping underwrite the case for you?
 10 A. No.
 11 Q. Do you know what I mean by
 12 "litigation funder"?
 13 A. Perhaps not if you asked that
 14 question. Describe it to me.
 15 Q. Okay. It's somebody who invests in
 16 your litigation.
 17 A. Yeah, that's what I thought. No.
 18 Q. Okay. All right. So Exhibit 1 was
 19 the Addleman report that we've just been looking at.
 20 So the -- that number, the 188,324, is there any
 21 component in that that I didn't just describe in my
 22 question to you? Did I leave anything out?

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1 A. Not that I recall.

2 Q. MS. WAHL: Okay. Let's mark, just

3 for housekeeping purposes, as Exhibit 2 the Fisher

4 report.

5 And that, Henry, is Control Arent

6 Fox 11 -- AF111. It's an electronic document.

7 (Whereupon, Exhibit 2, Expert Report

8 of Robert J. Fisher, was marked for identification.)

9 MS. WAHL: Okay. And we were talking

10 about, and you had on the screen, the Education Corp.

11 of America. Let's mark as Exhibit 3 Control 167.

12 It's a whole packet of documents. Okay.

13 (Whereupon, Exhibit 3, Education

14 Corp. Of America documents, was marked for

15 identification.)

16 Q. So before we took a break,

17 Dr. Newman, we were talking about your process for

18 applying for positions. And you said that you were

19 submitting -- you were doing Google searches which

20 turned up certain hits, and then you moved and made

21 an application to some of those things that you saw

22 online; is that correct?

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1 A. Correct.

2 Q. Okay. Did you go to specific schools

3 in the San Diego area to look for positions that you

4 might be interested in?

5 A. I had looked at San Diego State.

6 Q. Anything else?

7 A. I don't recall anything else.

8 Q. Okay. What search terms were you

9 using when you did the Google search?

10 DR. FORREST: Objection; asked and

11 answered.

12 A. As I mentioned provost, vice

13 president, academic affairs.

14 Q. Okay.

15 A. Those -- those search -- those terms

16 separately, not necessarily together.

17 Q. And if I understand correctly, your

18 primary focus was in the San Diego area until that

19 didn't produce results and then you looked further;

20 is that correct?

21 A. Correct.

22 Q. And where, besides Kent State, did

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1 you look?

2 A. That was the only position that I

3 applied to outside of San Diego.

4 Q. All right. Did you apply for any

5 legal positions?

6 A. I did not.

7 Q. Did you apply for any association

8 positions?

9 A. I did not.

10 Q. Did you apply for any golf

11 instruct -- instruction positions?

12 A. Well, actually, that would've been a

13 psychology instructor position that I applied for

14 with the golf academy.

15 Q. Okay. Other than that, did you apply

16 for any others?

17 A. I have not seen any others.

18 Q. Okay. Did you apply for any

19 psychology positions?

20 DR. FORREST: Objection; asked and

21 answered.

22 A. I did not.

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1 Q. We have -- on the screen we have the

2 first page of what has been marked as Exhibit 3. And

3 this is a letter that you sent to Cati

4 Mitchell-Crossley and Joe Kralick at Isaacson Miller,

5 correct?

6 A. Correct.

7 Q. What caused to you send this letter

8 on January 10, 2020?

9 A. When I saw a position of provost at

10 Cal State San Marcos.

11 Q. And where did you see that position

12 advertised?

13 A. On one of the Google searches that I

14 did for possible positions.

15 Q. Isaacson Miller is a search firm,

16 isn't it?

17 A. Correct.

18 Q. Did you speak with either

19 Ms. Mitchell-Crossley or Joe Kralick about this

20 matter?

21 A. I did not. The process was laid out

22 in the materials from the website.

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1 Q. And what was the process?
 2 A. To write the letter to the search
 3 firm.
 4 Q. And am I correct that you did not
 5 receive a response?
 6 A. I did not receive a response.
 7 Q. What follow-up did you engage in?
 8 A. I did not follow-up.
 9 Q. So am I correct that from the time
 10 you received the November 30, 2018, Education of
 11 America letter, until January 10, 2020, you did not
 12 apply for any other positions?
 13 A. Correct.
 14 MS. WAHL: Let's turn to the next
 15 page, if you would, Henry. The one after that,
 16 letter dated April 28, 2020.
 17 BY MS. WAHL:
 18 Q. This is a letter you referenced a
 19 moment ago where you applied to Kent State, correct.
 20 DR. FORREST: I don't see the letter.
 21 MS. WAHL: You're quite right.
 22 Next page, Henry. It's Bates

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1 numbered 159 at the bottom -- no -- yeah, yeah,
 2 that's it.
 3 Q. This is a letter that you sent to
 4 Kent State; is that correct, Dr. Newman?
 5 A. Correct.
 6 Q. Okay. And how did you learn about
 7 this position?
 8 A. Same process, searching, coming up
 9 with a position announcement.
 10 Q. Did you google provost positions, or
 11 did you look at Kent State?
 12 A. No, I googled provost, vice
 13 president, academic affairs type positions.
 14 Q. All right. Did you, you didn't put
 15 out any, you didn't apply for any jobs between
 16 January 10, 2020, and April 28, 2020, correct?
 17 A. Correct.
 18 Q. And you did get a response, didn't
 19 you, from --
 20 A. Correct.
 21 Q. -- someone, and they told you that
 22 they were not -- you were not proceeding -- they were

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1 not proceeding with your application, correct?
 2 A. Correct.
 3 Q. And that was --
 4 MS. WAHL: If you would turn, Henry,
 5 to page Bates numbered 163.
 6 Q. That was this letter from Melissa
 7 Trotta, correct?
 8 A. I actually was looking at Jean
 9 Melloni, but, yeah, I see the signatories.
 10 Q. It's from Jean Melloni, but it's
 11 signed, so-called signed, by Ellen Meyer and Melissa
 12 Trotta; am I right?
 13 A. Correct.
 14 Q. Okay. And you received this on
 15 September 16, 2020, correct?
 16 A. Yes.
 17 Q. What did you do between April 28th,
 18 2020 and September 16, 2020, to pursue this position?
 19 A. There was no additional steps
 20 outlined in their process.
 21 Q. So Kent State is your alma mater?
 22 A. Correct.

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1 Q. Which degree did you get there?
 2 A. PhD, clinical psychology.
 3 Q. Did you stay in touch with anyone at
 4 Kent State after you left?
 5 A. I've run into people from Kent State
 6 during my work at the American Psychological
 7 Association.
 8 Q. Did you contact any of these people
 9 you've run into to pursue this position at Kent
 10 State?
 11 A. It had not gotten to that point where
 12 I did that.
 13 Q. What do you mean "it had not gotten
 14 to that point"?
 15 A. They were not contacting references
 16 at that point in the process.
 17 Q. So my question is a little different
 18 one. In connection with your pursuit of this
 19 position, that you applied for on April 28, 2020, did
 20 you enlist the efforts of anyone you knew who was
 21 affiliated with Kent State to help you get this job?
 22 A. I did not as at that point I felt it

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1 was outside of the process they had outlined.
 2 Q. Well, you're a skilled strategist in
 3 your job, correct?
 4 DR. FORREST: Objection, counsel;
 5 harassment.
 6 Q. You can answer that.
 7 A. I'm not sure what the question is.
 8 Q. Sure. Your colleagues, for example,
 9 Dr. Harvey and others have affectionately referred to
 10 you as a skilled strategist from time to time.
 11 A. I don't know.
 12 DR. FORREST: Objection; compound.
 13 Q. Okay. Do you consider yourself a
 14 skilled strategist?
 15 A. I have demonstrated strategy in the
 16 past.
 17 Q. Okay. That was one of the things
 18 that you needed to do at Alliant, wasn't it, be able
 19 to figure out how to get something through as the
 20 provost?
 21 A. Correct.
 22 Q. And as head of the practice director

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1 at APA you had to use those skills as well, didn't
 2 you?
 3 A. All the time.
 4 Q. So did you use those -- you didn't
 5 use those skills in connection with trying to get the
 6 job at Kent State?
 7 A. I didn't believe I had gotten to the
 8 point of the process where that was appropriate.
 9 Q. Okay. So, other than these
 10 communications with San Marcos, Kent State and the
 11 Education Corporation of America, is it correct you
 12 have applied for not a single other position since
 13 2015?
 14 A. I have not applied for other
 15 positions.
 16 Q. Okay. So you mentioned in response
 17 to an answer, before we took a break, that if I'm
 18 getting the -- if I'm recalling it correctly -- I
 19 didn't write it down, but I'm not infallible -- that
 20 you had not applied for any positions until the
 21 Education of America position in November of 2018
 22 because you felt demoralized by the report and the

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1 reactions to it. Does that fairly characterize what
 2 you said?
 3 A. That's what I said, yes.
 4 Q. Okay. Did you seek professional help
 5 of any sort for your reaction?
 6 A. I did not.
 7 Q. I'm going to ask you a couple of
 8 questions, Dr. Newman, and they are not intended to
 9 be an affront in any way or too, too personal, but
 10 they are the kind of questions I've learned over the
 11 years I need to ask witnesses. So bear with me.
 12 They are not intended to be offensive.
 13 Have you -- would you state your full
 14 name and your address for the record, please?
 15 A. Russell Stewart Newman, 5265 Cromwell
 16 Court, San Diego, California.
 17 Q. And are you currently employed?
 18 A. No, I'm not.
 19 Q. What E-mail addresses do you use?
 20 A. RNewmanPh.D. at gmail.com.
 21 Q. Any others?
 22 A. No.

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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?

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1 A. I was named as a staff person in APA.
 2 Q. You were named in the Complaint?
 3 A. Correct.
 4 Q. So you were identified as an actor
 5 but not a party; is that correct?
 6 A. Correct. Correct. APA was the
 7 party.
 8 Q. Right. Did you give testimony in the
 9 case?
 10 A. No.
 11 Q. And by that I mean deposition or
 12 trial?
 13 A. No.
 14 Q. Have you been a party other -- so you
 15 weren't a party in that case, correct?
 16 A. I was not a party.
 17 Q. Okay. Have you been a party to any
 18 litigation?
 19 A. No.
 20 Q. Or any business, like, that you had
 21 personally been associated with, not APA or Alliant?
 22 A. No.

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1 Q. Have you ever been a witness in
 2 litigation?
 3 A. No.
 4 Q. Have you ever been an expert witness?
 5 A. Yes.
 6 Q. In what circumstance?
 7 A. I did forensic psychological testing
 8 when I was practicing as a psychologist back in Ohio.
 9 Q. When was that?
 10 A. 1980s, late '70s early '80s.
 11 Q. And in how many instances were you an
 12 expert witness?
 13 A. I don't recall.
 14 Q. Less than a dozen?
 15 A. Probably more.
 16 Q. What type of testimony would you give
 17 in these cases?
 18 A. I would conduct psychological
 19 assessments on plaintiffs, defendants, parties in
 20 actions and provide testimony as to what I found in
 21 the assessment.
 22 Q. Were you independently -- was this

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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.

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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

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1 opening as provost and vice president for academic
 2 affairs and was I interested in applying for that
 3 position. After some discussion and thought, I
 4 decided I was interested in applying for that
 5 position, which I did and was awarded the position.
 6 Q. So the individual is that you're
 7 referring to, is that Dr. Geoffrey Cox?
 8 A. Correct.
 9 Q. Before you applied for the psychology
 10 position, did you know Dr. Cox?
 11 A. I did not.
 12 Q. You met him during the course of the
 13 interview process?
 14 A. Yes.
 15 DR. FORREST: Sorry, Ms. Wahl. Your
 16 voice is dropping at the end, can you move your
 17 microphone closer? Because when you drop your voice
 18 at the end, we can barely hear you. Thank you.
 19 MS. WAHL: Yeah.
 20 DR. FORREST: Thank you.
 21 MS. WAHL: Well, it's because I'm
 22 very soft spoken. I'll try to do better.

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1 DR. FORREST: Much better just now.
 2 Thank you very much.
 3 BY MS. WAHL:
 4 Q. Did you become personal friends with
 5 Dr. Cox during the course of your work as the vice
 6 provost?
 7 A. We were colleagues.
 8 Q. Would you see Dr. Cox socially?
 9 A. No.
 10 Q. When was the last time you spoke with
 11 him?
 12 A. When I separated from the university.
 13 Q. Have you communicated with him in any
 14 fashion since then?
 15 A. No.
 16 Q. Has anyone on your behalf
 17 communicated with Dr. Cox?
 18 A. Not to my knowledge.
 19 Q. Dr. Cox left Alliant within the year
 20 that you did, correct?
 21 A. That, I don't know what the timeline
 22 was.

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1 Q. Well, you're aware that he is no
 2 longer employed by Alliant, correct?
 3 A. Correct. Yes.
 4 Q. What are the circumstances, to the
 5 best of your knowledge, as to why he departed?
 6 A. I do not know.
 7 Q. Never heard any scuttlebutt?
 8 A. No.
 9 Q. Okay. While you were still there,
 10 Alliant became a for-profit institution, correct?
 11 A. It was a public benefit corporation.
 12 Q. Thank you. Did that have -- what,
 13 what does that mean exactly?
 14 A. I think --
 15 DR. FORREST: Ms. Wahl, you're now on
 16 mute.
 17 MS. WAHL: Okay.
 18 BY MS. WAHL:
 19 Q. What does that mean exactly?
 20 A. In California, there is a
 21 categorization of -- a corporate structure where
 22 providing services to the public and benefits to the

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1 public is part of the requirement of the corporation.
 2 So it's different from a typical for-profit
 3 organization, and we utilized that public benefit
 4 corporation structure to transition the university
 5 from a not-for-profit into a public benefit
 6 corporation.
 7 Q. Was that financially successful for
 8 the university?
 9 A. Has it been?
 10 Q. Yes.
 11 A. I, I don't know.
 12 Q. Were you part of that migration from
 13 nonprofit to the other status?
 14 A. I assisted Dr. Cox in that
 15 transition, yes.
 16 Q. Do you know whether it was
 17 successful?
 18 A. I do not know.
 19 Q. Do you know whether Dr. Cox's
 20 departure from the university had anything to do with
 21 the change over from nonprofit status?
 22 A. I do not, no.

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1 Q. Have you spoken with any members of
 2 the board of trustees of Alliant since your
 3 separation in 2015?
 4 A. I have not.
 5 Q. Have you spoken with Charlie Rose
 6 since 2015?
 7 A. I have.
 8 Q. Who is Charlie Rose?
 9 A. He was the attorney for Arist at the
 10 time that we were undertaking the transition.
 11 Q. What is Arist?
 12 A. It's -- it was the corporate name,
 13 that was the public benefit corporation, initially
 14 Alliant Arist.
 15 Q. And Mr. Rose was the lawyer for Arist
 16 on all matters?
 17 A. I believe so. I believe so.
 18 Q. How did you become familiar with
 19 Mr. Rose?
 20 A. As he was representing the corporate
 21 entity that now became part of the public benefit
 22 corporation, issues of legal significance were issues

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1 that I would, not every issue, but many issues, talk
 2 with Charlie about.
 3 Q. Was he in a private firm at that
 4 time?
 5 A. He was at Hogan.
 6 Q. Hogan -- well, it might not have been
 7 Lovells, but Hogan --
 8 A. Yeah, it was.
 9 Q. Hogan Lovells then? Okay.
 10 A. Yeah.
 11 Q. What kinds of issues would you
 12 discuss with him?
 13 A. I can't recall at this point. The
 14 kinds of issues that come up at a university related
 15 to -- that, that have legal consequences.
 16 Q. So your consultations with him went
 17 beyond the transition from nonprofit to en- -- to
 18 encompass other areas as well?
 19 A. Correct. Education, higher education
 20 was, I believe, his area of expertise.
 21 Q. What was Mr. Rose's connection with
 22 your separation from Alliant?

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1 A. He represented them in the
 2 development of the separation agreement.
 3 Q. Did he conduct any sort of review of
 4 the situation, to your knowledge?
 5 A. I -- I do not know.
 6 Q. Did --
 7 MS. WAHL: Strike that.
 8 Q. When you got the phone call from
 9 Dr. Cox that the report had been issued, do you
 10 remember what date that was?
 11 A. I do. Friday was July 10. I first
 12 heard from Dr. Cox on Sunday, so it would be the
 13 12th.
 14 Q. Between July 10 and July 12, did you
 15 communicate in any fashion with Mr. Rose?
 16 A. I did not.
 17 Q. Did you communicate with Mr. Rose in
 18 any fashion between July 12 and the 15th?
 19 A. I don't remember exactly what date,
 20 but it was during that week that Dr. Cox requested
 21 that my attorney convene with Charlie Rose to work
 22 out the details of the separation.

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1 Q. Did Charlie Rose have anything to do
 2 with your termination?
 3 A. Not that I'm aware of.
 4 Q. Who made the decision to terminate
 5 you?
 6 A. The board of trustees.
 7 Q. Why did they terminate you?
 8 A. As was described to me by Dr. Cox,
 9 they would not second-guess the report and didn't
 10 believe now I could be in a position of leadership
 11 for a university, 75 percent of the faculty of which
 12 were psychologists.
 13 Q. 75 percent of the faculty at Alliant
 14 in 2015 were psychologists?
 15 A. Somewhere in that neighborhood. That
 16 was the biggest school of any of the schools of
 17 Alliant.
 18 Q. Okay. This statement that you made
 19 about the board was not going to "second-guess the
 20 report," is that the exact term that Dr. Cox used
 21 with you on the phone?
 22 A. Correct.

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1 Q. What did you understand that to mean?
 2 A. That they took the report for what it
 3 said.
 4 Q. And what did you think that it said
 5 in that context?
 6 A. That I had done bad things.
 7 Q. Did you ask Dr. Cox what he meant
 8 when he said, "We're not going to second-guess the
 9 report"?
 10 A. I knew what he meant.
 11 Q. No, that's not my question. Did you
 12 ask him what he meant?
 13 A. I didn't ask him, no.
 14 Q. When did he make this statement to
 15 you?
 16 DR. FORREST: Objection; asked and
 17 answered.
 18 Q. Do you remember --
 19 A. He called me, again, after the
 20 subcommittee of the board had met. As I put in
 21 some -- in the interrogatories, it was either Monday
 22 or Tuesday of the following week.

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1 Q. You don't remember if it was the 13th
 2 or 14th?
 3 A. I don't --
 4 Q. Okay.
 5 A. -- remember.
 6 Q. And you had a phone call with him
 7 where he said the Board or the subcommittee of the
 8 board is not going to second-guess the report?
 9 A. He said the Board was not going to
 10 second-guess the report.
 11 Q. Did he tell you that anybody had read
 12 the report?
 13 A. He said that the members of the
 14 subcommittee had read the report.
 15 Q. And who were the members of the
 16 subcommittee?
 17 A. I, I don't know.
 18 Q. Did you know them?
 19 A. Yeah, probably. I can't recall them.
 20 Q. Did you ask him who they were?
 21 A. I asked him if the member of the
 22 board who was a psychologist had been a part of the

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1 subcommittee and he said no.
 2 Q. So it's your testimony that Dr. Cox
 3 told you sometime on Monday or Tuesday, after the
 4 report was issued on Friday that the Board had read
 5 the 540-page report?
 6 DR. FORREST: Objection, Counsel;
 7 compound harassment of the witness.
 8 A. That's correct.
 9 Q. Okay. And did you question him about
 10 that?
 11 A. I didn't question him about that.
 12 Q. Seemed implausible, didn't it?
 13 A. He didn't say they read off
 14 540 pages.
 15 Q. Okay. Did he convey to you what they
 16 had read?
 17 A. He said they reviewed the report.
 18 Q. All right. Did he outline for you
 19 what they found objectionable related to you?
 20 A. He did not.
 21 Q. And you didn't ask him, did you?
 22 A. I did not.

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1 Q. Dr. Cox was reluctant to see you go,
 2 wasn't he?
 3 A. You'd have to ask him that, but I
 4 believe so.
 5 Q. Right. He thought that you were a
 6 contributor correct?
 7 A. Correct.
 8 Q. And do you know whether -- do you
 9 know Dr. Dalia Ducker?
 10 A. I do.
 11 Q. Have you spoken to her about your
 12 separation from Alliant?
 13 A. I have not.
 14 Q. Did you ever speak with her about the
 15 report?
 16 A. I have not.
 17 Q. Do you know whether she took a
 18 position about your staying or leaving?
 19 A. There is an E-mail in the documents
 20 that you secured from Alliant, that indicates she had
 21 written to Dr. Cox wanting to know what the decision
 22 of the board was going to be and they needed to make

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1 it quickly.

2 Q. Do you know what the follow-up from

3 that was?

4 A. I do not.

5 Q. Do you recall the follow-on or the

6 responsive E-mail in that chain that was produced by

7 Alliant?

8 A. Not specifically, no.

9 Q. Something about "the chips are

10 falling," does that refresh your recollection?

11 A. Not sure I recognize that term but...

12 Q. Okay. What had you told, if

13 anything, Dr. Cox about the report, I'm referring now

14 to the Sidley report, prior to his contacting you on

15 that Monday or Tuesday in July?

16 A. I'm not sure I know what you're

17 pinpointing on the question in terms of --

18 Q. Sure. I'll rephrase it.

19 A. Thanks.

20 Q. I believe you testified that the

21 report came out on Friday, July 10th, and that you

22 spoke with Dr. Cox either the following Monday or

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1 Tuesday. That would have been the 15 or 16th,

2 correct? Sorry.

3 A. Correct.

4 Q. Off by a couple of days. That would

5 have been the 13th or 14th, correct?

6 A. Correct. Yes.

7 Q. Okay. And prior to that conversation

8 on 13th or 14th, what had you told Dr. Cox about

9 your, about the report?

10 A. I guess what I'm not clear about is

11 about the report, after the report was issued or

12 about the report as in an impending report.

13 Q. Thank you, as an impending report?

14 A. I kept Dr. Cox apprised of the

15 independent review process as it was unfolding.

16 Q. Did you tell him you had been

17 interviewed by Sidley?

18 A. I did, yes.

19 Q. Why did you tell him that?

20 A. I thought he had a right to know what

21 was happening.

22 Q. And why did he have a right to know?

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1 A. He was my boss.

2 Q. And that was before you -- he was

3 your boss, the events -- let me rephrase that. The

4 Sidley report involved events that didn't -- that

5 preceded your connection to Alliant, right?

6 A. Correct.

7 Q. So why did you think you -- he as

8 your boss needed to know about this?

9 A. Well, at that point, I didn't know

10 what the report would say, but I described to Dr. Cox

11 that involvement of the activity of PENS and the

12 issues and why there was an independent review and,

13 he, in my opinion, needed to be alert and aware of

14 that, in the event that I was described in some

15 fashion in the report.

16 Q. How many conversations did you have

17 with Dr. Cox about this?

18 A. I couldn't tell you.

19 Q. Less than ten?

20 A. It was ongoing periodically given how

21 long the independent review took place. So maybe

22 there was a half a dozen check-ins about haven't

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1 heard anything, haven't heard anything, not sure of

2 what the timeline is.

3 Q. Were you uncomfortable about what the

4 report might show?

5 A. I was confident the report wasn't

6 going to show anything bad, but I also felt like he

7 needed to be aware that there could be a report

8 coming out that could speak about events I was

9 involved with and I was a high-level official at

10 Alliant International University.

11 Q. When you got hired for the provost

12 position, did he know that you had been involved at

13 PENS?

14 A. I don't recall.

15 Q. Did you tell him?

16 A. I don't recall.

17 Q. Did you tell him at any time prior to

18 the independent review being launched by APA?

19 A. I don't recall.

20 Q. What is your understanding of the

21 process that Alliant engaged in to determine that you

22 should be offered the opportunity to resign?

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1 A. Just what Dr. Cox told me.

2 Q. And that was that --

3 A. We need to move ahead with your

4 separation.

5 Q. Well, that's not a process, is it?

6 DR. FORREST: Objection, Counsel;

7 asked and answered, harassment.

8 Q. Did he tell you that -- other than

9 telling you we need to move ahead with your

10 separation, did he tell you how that had been

11 decided?

12 A. He told me it had been decided. The

13 Board was not going to second-guess the report.

14 Q. Was it the Board? I thought you said

15 a moment ago it was a subcommittee of the board.

16 DR. FORREST: Objection; asked and

17 answered. We can go back to the testimony. You went

18 through and talked about subcommittee versus the

19 Board we went through this several times. We can go

20 back and have the court reporter read the testimony

21 if you like.

22 Q. Did you ever speak with any of the

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1 individuals who were on the Board about this?

2 A. I did not.

3 Q. Does the name Terese Cannon ring a

4 bell?

5 A. No.

6 Q. How about Robert Dickeson?

7 A. He was a member of the board of

8 trustees at that point.

9 Q. Did you ever speak with him about the

10 Sidley report or your separation?

11 A. No.

12 Q. Elizabeth Fetter?

13 A. I know who Elizabeth Fetter is.

14 Q. Did you speak with her on either of

15 those topics?

16 A. No.

17 Q. David Figuli?

18 A. You mean Dave Figuli.

19 Q. That sounds better?

20 A. I did not talk with him, but I

21 believe Dr. Cox talked with him.

22 Q. How do you know that?

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1 A. I do recall Dr. Cox saying he had

2 talked to Dave who is Dave Figuli.

3 Q. And that's the Dave that's referenced

4 in some of the E-mails that you've reviewed related

5 to -- that Alliant produced?

6 A. Correct. He was the head of Arist.

7 Q. Okay. How about Jeffrey Keith, did

8 you speak with him?

9 A. No.

10 Q. And how about James Lyons?

11 A. No.

12 Q. Is it correct that -- well, let me

13 back up. Your lawyer was Steve Hoffman; is that

14 right?

15 A. Correct.

16 Q. How did you come to retain

17 Mr. Hoffman?

18 A. He was recommended to me by

19 Dr. Forrest.

20 Q. So you first went to Dr. Forrest to

21 represent you, or not?

22 A. Not.

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1 Q. Okay. You went to Dr. Forrest and

2 asked for a recommendation for what type of lawyer?

3 A. Dr. Forrest had contacted me, having

4 seen what came out in the report, just to touch base.

5 And ultimately I needed to have an attorney to work

6 out my separation agreement, and she recommended

7 Steve Hoffman.

8 Q. After Dr. Forrest recommended

9 Mr. Hoffman -- let me back up.

10 Did you know Mr. Hoffman before

11 Ms. Forrest recommended him?

12 A. I did not.

13 Q. And what did you do to determine

14 whether you thought he was an appropriate lawyer for

15 you in this matter?

16 A. I talked to him, and I was

17 comfortable with Dr. Forrest's recommendation.

18 Q. Okay. How much did he charge you to

19 represent you in connection with this?

20 A. I don't recall.

21 Q. Did he negotiate the contract

22 directly with Charlie Rose?

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1 A. I believe so.
 2 Q. Were you shown drafts of the
 3 agreement prior to signing or --
 4 A. I don't recall specifically, but
 5 there were conversations about the development of it.
 6 Q. How was it determined that you would
 7 get a year of severance -- well, let me back up.
 8 Did you get a year's worth of
 9 severance in your --
 10 A. I did.
 11 Q. -- salary?
 12 Did you ask for more?
 13 A. I did not.
 14 Q. And you did ask for benefits,
 15 correct?
 16 A. Correct.
 17 Q. And Dr. Cox agreed to that, right?
 18 A. Correct.
 19 Q. And that was based on your latest
 20 contract that you had signed with Arist?
 21 A. Correct.
 22 Q. Did it include a bonus?

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1 A. The severance did not.
 2 Q. Okay. Let's -- this is actually
 3 probably a good place to -- for us to break and come
 4 back at like 2:40 our time, for people who want a
 5 snack or lunch or whatever it is. And we'll be back
 6 on the record at 2:40.
 7 DR. FORREST: If you mean local time,
 8 11:40, which is the time of the deposition, that
 9 would be helpful to record. Thank you.
 10 THE TRIAL TECH: Stand by, please.
 11 The time is 11:05 a.m. Going off the record.
 12 (Whereupon a lunch recess was taken
 13 at 11:05 a.m. PST.)
 14
 15
 16 * * *
 17
 18
 19
 20
 21
 22

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1 AFTERNOON SESSION
 2 (Time noted: 11:41 a.m. PST.)
 3
 4 * * *
 5
 6 THE TRIAL TECH: All right. The time
 7 is 11:41 a.m. Back on the record.
 8 BY MS. WAHL:
 9 Q. Dr. Newman, during our break, did you
 10 speak with your counsel about anything?
 11 A. San Diego Padres.
 12 Q. Anything about the deposition?
 13 A. Oh, no.
 14 Q. How are the San Diego Padres doing?
 15 A. Well, their shortstop got hurt.
 16 Q. Oh, okay. Henry is going to pull up
 17 on the screen what is Exhibit 4. For counsel who are
 18 following along in the copies that we sent, it's
 19 Control 166.
 20 (Whereupon, Exhibit 4, 10/24/20
 21 Letter to Williams & Connolly and Arent Fox, was
 22 marked for identification.)

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1 Q. Please feel free to tell Henry to
 2 leaf through the 10-pages of this document for you,
 3 Dr. Newman, but I'm going to be asking you questions
 4 about this. Tell me when you're ready.
 5 A. Ready.
 6 Q. Okay. Looking at the first page of
 7 this document, do you recognize this as a document
 8 that was submitted by your counsel in this
 9 arbitration matter?
 10 A. Yes.
 11 Q. How much of the work on this document
 12 did you prepare?
 13 A. I reviewed it.
 14 DR. FORREST: Ms. Wahl, are you
 15 asking about the cover letter or the actual
 16 interrogatories?
 17 MS. WAHL: The whole document. I
 18 said document. If I wasn't clear, I meant the whole
 19 document.
 20 DR. FORREST: Thank you.
 21 A. Well, I reviewed it, and I
 22 particularly wrote -- I believe it's Interrogatory 1,

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1 which is very specific to my experience.
 2 BY MS. WAHL:
 3 Q. Are you talking about --
 4 MS. WAHL: Henry, can we turn to
 5 Page 3?
 6 Q. -- the portion that begins, "In
 7 contrast to defamation actions prompted by..." and it
 8 carries over to Page 4? Did you write that?
 9 A. No, actually, I'm mistaken. It
 10 was -- if you could flip, I could tell you which
 11 interrogatory it is. Flip to the next page.
 12 THE TRIAL TECH: Okay.
 13 THE WITNESS: Okay. Next page,
 14 please. I provided information for Interrogatory 2,
 15 for sure. What I was thinking of, though -- if you
 16 flip again, Henry. Flip again. Interrogatory 4 is
 17 what I was referring to.
 18 BY MS. WAHL:
 19 Q. Okay. Is it a fair conclusion for me
 20 to draw, then, that, other than Interrogatory 4, most
 21 of the rest of the document was prepared by your
 22 counsel?

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1 A. The provision of the information that
 2 was very specific to my records.
 3 Q. Okay. You didn't sign the document,
 4 did you?
 5 A. No.
 6 Q. You -- why not?
 7 A. I didn't know I was supposed to.
 8 Q. Okay. You're not familiar with the
 9 concept that under the Federal Rules of Civil
 10 Procedure, Rule 33, it is call -- it calls for the
 11 client to sign -- or I should say a party to sign the
 12 document?
 13 DR. FORREST: Counsel, objection.
 14 Calls for a legal conclusion. The Federal Rules of
 15 Civil Procedure don't automatically apply in
 16 arbitration. Move on.
 17 Q. Dr. Newman, my question stands. Were
 18 you not familiar with Rule 33 that required your
 19 signature on this document, your attestation?
 20 A. I wasn't aware my signature was
 21 required.
 22 Q. Okay. You reviewed the document

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1 before it was submitted, correct?
 2 A. Correct.
 3 Q. And are you aware, as you sit here
 4 today, of any errors in the document?
 5 A. Not that I'm aware of.
 6 Q. When was the last time you looked at
 7 this?
 8 A. Probably sometime last week.
 9 Q. Did you review it in connection with
 10 today's deposition?
 11 A. Correct.
 12 Q. If you would turn please to Page 7,
 13 there we go, Paragraph B at the bottom of the page.
 14 This is an interrogatory, just to put it in a frame
 15 of reference, about the matters we've been talking
 16 about, your termination with Alliant.
 17 And it states, the second to last
 18 sentence beginning with the word "a subcommittee," "A
 19 subcommittee of the Board was convened at the
 20 beginning of the week of July 13 (either Monday or
 21 Tuesday, as I recall)."
 22 Do you know who -- if you've already

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1 answered this fine, but do you know, as you sit here,
 2 who you were referring to in that response?
 3 A. I do not know who the members of the
 4 subcommittee were.
 5 Q. Okay. And you don't whether it was
 6 Monday or Tuesday, correct?
 7 A. I do not.
 8 Q. Okay. The next sentence says,
 9 "President Cox again telephoned me following the
 10 Board subcommittee's meeting and informed me that the
 11 board was 'not going to second-guess the report.'"
 12 What is that quoting?
 13 DR. FORREST: Objection, Counsel.
 14 This was asked and answered already this morning. We
 15 can go back to the record and look at his response.
 16 It's exactly the same words he used this morning.
 17 MS. WAHL: Dr. Forrest, stop
 18 interfering.
 19 BY MS. WAHL:
 20 Q. Do you have a recollection of what
 21 you were quoting in this response?
 22 A. Yes.

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1 Q. What was that?

2 A. Dr. Cox's statement to me when he

3 called after the board subcommittee meeting.

4 Q. Did you take notes of that call?

5 A. No.

6 Q. You just remember?

7 A. It's hard to forget that.

8 Q. Okay. So roughly 5 years after you

9 still remember that that was the exact phrase that he

10 used such that you felt comfortable quoting it?

11 A. Correct.

12 Q. Okay. The next sentence says, "He

13 stated that the report indicated that I was 'more

14 involved than previously disclosed.'" Where does

15 that quote come from?

16 A. Dr. Cox.

17 Q. Did he say it in that same

18 conversation?

19 A. That, I'm not entirely sure, whether

20 it was the first conversation I had with him or the

21 second conversation.

22 Q. And, again, you have no notes from

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1 which you purport to be quoting?

2 A. Correct.

3 Q. Okay. So, what was, to your

4 knowledge, Dr. Cox's understanding of your

5 involvement that you had previously disclosed?

6 A. I described to him events, as I

7 understood them to have taken place, around PENS.

8 Q. And what, to the best of your

9 recollection, did you tell him?

10 A. That I was an observer for the Task

11 Force that dealt with the various issues.

12 Q. Anything else?

13 A. Something about the issues

14 themselves.

15 Q. Okay. Did you tell him that your

16 wife, who he obviously knew, had also been involved

17 in the selection of PENS Task Force members?

18 DR. FORREST: Objection, Counsel;

19 compound.

20 Q. You can answer.

21 A. I don't recall if I specifically told

22 him that she had been involved in nominations of Task

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1 Force members.

2 Q. So, did -- what did President Cox

3 mean when he said that you were more involved than

4 previously disclosed?

5 A. My understanding was that the report

6 describes me as being involved in a collusion that

7 has a whole host of activities involved with it which

8 is certainly not what I had disclosed to him

9 previously.

10 Q. Other than telling him your role with

11 the PENS Task Force, did you tell him anything else

12 about the matters that were under investigation by

13 Sidley?

14 A. I don't recall what other information

15 may have been shared.

16 Q. When you say "information had been

17 shared," you were the only one sharing this?

18 A. Yes, from me, from me, from me.

19 Q. Thank you. The, the answer goes on

20 beginning the sentence, "The following week."

21 "The following week involved a

22 negotiation between my attorney and the university

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1 attorney to determine provisions of my separation

2 agreement with" --

3 A. Can we flip the page or -- can we

4 flip the page here or take off the -- and get the

5 other one which is --

6 Q. Thank you.

7 "...negotiation between my attorney

8 and the university attorney to determine provisions

9 of my separation agreement with an agreed-upon

10 resignation date of July 15, 2015."

11 Was the university attorney Charlie

12 Rose?

13 A. I believe it was.

14 Q. And your attorney was Mr. Hoffman,

15 Steven Hoffman?

16 A. Correct. Steven Hoffman.

17 Q. Were there multiple drafts of the

18 agreement?

19 A. That, I don't recall.

20 Q. Okay.

21 MS. WAHL: Don't put those too far

22 away, Henry, because we're going to come back to it,

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1 but if you would turn, Dr. Newman, and, Henry, to
 2 what we've previously marked as Exhibit 3, which is
 3 the documents that were produced in connection with
 4 these interrogatory answers.
 5 Yes, you got the right document on
 6 the screen. Thank you. And if you would turn,
 7 Henry, to what is Bates numbered RN INT 165.
 8 (Tech complies.)
 9 MS. WAHL: Exactly. Okay. Thank
 10 you.
 11 BY MS. WAHL:
 12 Q. Dr. Newman, do you recognize this
 13 document as the separation agreement that you signed
 14 with Alliant?
 15 A. Yes.
 16 Ms. WAHL: And if you would turn,
 17 Henry, to page Bates-numbered 173.
 18 (Tech complies.)
 19 Q. Signed by you and by Dr. Cox; is that
 20 correct? I think you're muted.
 21 A. No, I -- you should be able to hear
 22 me. The answer to your question was yes.

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1 Q. Okay. Thanks. Attached to it is an
 2 Exhibit B, Agreed Letter of Reference.
 3 MS. WAHL: Henry, if you would, turn
 4 to Exhibit B. This is a letter -- keep going. It's
 5 Bates No. 175.
 6 THE TRIAL TECH: 175?
 7 MS. WAHL: Yes.
 8 THE TRIAL TECH: Okay.
 9 MS. WAHL: Thanks.
 10 BY MS. WAHL:
 11 Q. You recognize this as attachment B to
 12 your separation agreement, right?
 13 A. Correct.
 14 Q. How did this document come to exist?
 15 A. I asked Dr. Cox if he would write
 16 one.
 17 Q. And he agreed?
 18 A. He did.
 19 Q. Who drafted the letter?
 20 A. He did.
 21 Q. Have you ever used it to assist you
 22 in getting a job?

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1 A. I have not.
 2 Q. Did you have concern that Dr. Cox
 3 would not be available to provide you with a
 4 reference in the short term, such that you might need
 5 this letter?
 6 A. No, that wasn't my concern.
 7 Q. Why did you ask for the letter?
 8 A. I didn't know what might be in store
 9 in the future.
 10 Q. In your efforts to obtain employment
 11 after your separation from Alliant, did you approach
 12 Dr. Cox and ask for his assistance?
 13 A. I did not.
 14 Q. Why not?
 15 A. None of them got to the point where
 16 the letter of recommendation was a required part of
 17 the process.
 18 Q. Well, aside from the jobs that you
 19 applied for, did you consider asking Dr. Cox to
 20 assist you with his own contacts for you to get
 21 further employment?
 22 A. I have not previously.

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1 Q. You know Colonel Banks, don't you,
 2 Morgan Banks?
 3 A. I do.
 4 Q. Did you approach him to assist in
 5 getting a job after you left --
 6 A. I did not.
 7 Q. How about Larry James?
 8 A. I did not.
 9 Q. Is Larry James still at Wright State?
 10 A. I believe he is.
 11 Q. Okay. And you haven't applied for
 12 any positions there?
 13 A. No.
 14 MS. WAHL: Henry, if you would turn
 15 back to Exhibit A. It's the preceding page,
 16 Bates 174.
 17 (Tech complies.)
 18 Q. So this says, "Newman Employment
 19 Agreement Effective February 1, 2015." Why is that
 20 blank?
 21 A. I don't know. You have to ask the
 22 other side.

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1 Q. What is the other side?
 2 A. Of the separation agreement.
 3 Q. Was it Mr. Rose's job to put
 4 something in there, and he didn't?
 5 A. I believe that's right.
 6 Q. Okay. And you didn't ask at any
 7 point for that to be --
 8 DR. FORREST: Ms. Wahl, you're going
 9 to have to get closer to your microphone, again.
 10 You're getting muffled. We couldn't hear the first
 11 part of your question.
 12 MS. WAHL: Let's see if this helps,
 13 microphone right in my face.
 14 DR. FORREST: Much better.
 15 MS. WAHL: Okay. Thanks.
 16 Q. So you didn't ask that Exhibit A be
 17 substituted or put in there at any point?
 18 A. No.
 19 Q. Okay. You continued to have contact
 20 with Charlie Rose after this transaction, didn't you?
 21 A. Yes.
 22 Q. How many times in the last six years

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1 have you been in contact with Mr. Rose?
 2 A. With Mr. Rose?
 3 Q. Charlie Rose, uh-huh?
 4 A. One time.
 5 Q. And that was the time that you asked
 6 for assistance in reaching out to journalists; is
 7 that correct?
 8 A. Correct.
 9 MS. WAHL: Henry, if you would pull
 10 up Control AF0081. It's an electronic document.
 11 (Tech complies.)
 12 Q. This is a document your counsel has
 13 produced on your behalf, Dr. Newman. Do you
 14 recognize this?
 15 A. Yes.
 16 Q. Who is S. M. Mills at the Chicago
 17 Tribune?
 18 A. A reporter, I assume.
 19 Q. And how was it that you came to use
 20 Charlie Rose, Esquire, in your contact with this
 21 reporter?
 22 A. Charlie said he was a friend of his,

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1 and I could feel free to contact him and use
 2 Charlie's name.
 3 Q. How did this conversation with
 4 Mr. Rose come up?
 5 A. The telephone call you mentioned.
 6 Q. Which telephone call?
 7 A. Where I called him and asked if he
 8 had any contacts or knowledge in Chicago area of
 9 journalists that might be interested in this case.
 10 Q. And that was sometime in July 2018?
 11 A. Correct.
 12 Q. Did you ask Mr. Rose anything about
 13 getting a job?
 14 A. I did not.
 15 Q. He had been in the Obama
 16 administration as the general counsel for The
 17 Department of Education, correct?
 18 A. Correct.
 19 Q. And you didn't ask him anything about
 20 possible employment?
 21 A. I did not.
 22 Q. Why did you reach out to Mr. Rose, at

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1 this particular time, to get the name of a reporter?
 2 A. Sidley and Hoffman was the primary
 3 firm in Chicago.
 4 Q. Is there any magic to the fact that
 5 you did this in July, end of July 2018?
 6 A. The July 2018 press release.
 7 Q. Oh, there was a press release attach
 8 today this document?
 9 A. Correct.
 10 Q. Okay. Did you get any response from
 11 this individual at the Chicago Tribune?
 12 A. I did not.
 13 Q. Why did you reference the
 14 Massachusetts case?
 15 A. I believe that's the timing that
 16 triggered the July 2018 press release.
 17 Q. What do you mean by that?
 18 A. My recollection -- to the best of my
 19 recollection, it was when we filed in Massachusetts,
 20 and the press release had the information about the
 21 case, as it was triggered by the filing in
 22 Massachusetts.

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1 Q. So prior to the Massachusetts case
 2 being filed, there was first an Ohio case and then a
 3 DC case, correct?
 4 A. Correct.
 5 Q. Did you issue press releases of the
 6 same sort in connection with the Ohio and DC cases?
 7 A. I believe we did.
 8 Q. But you haven't produced those, have
 9 you?
 10 A. Sure.
 11 Q. You have?
 12 A. Yeah.
 13 Q. Okay. When did you produce them?
 14 A. My understanding is that they are
 15 part of the documents that were produced during
 16 discovery.
 17 Q. Okay. We'll look into that.
 18 Did you send personal notes, like
 19 this one to the Chicago Tribune reporter?
 20 A. No.
 21 Q. Why did you choose to send personal
 22 notes out this time?

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1 A. Because we hadn't got any pick-up on
 2 any of the other press release information we had
 3 sent out.
 4 Q. When you filed the Ohio lawsuit, what
 5 press releases did you send? Or let me rephrase
 6 that.
 7 A. I don't recall. I don't recall
 8 exactly what it was.
 9 Q. Let me rephrase that.
 10 DR. FORREST: Counsel, when you're
 11 using the term "press release," are you referring to
 12 the section of the website all that says "releases,"
 13 or are you referring to something else? If you could
 14 clarify, that would be great.
 15 Q. Using the language that you just did,
 16 Dr. Newman, when you referred to "press release," to
 17 whom did you issue a press release when you filed the
 18 Ohio lawsuit?
 19 A. To the best of my recollection it was
 20 posted on the website.
 21 Q. That's the website we talked about
 22 before, the APA Hoffman --

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1 A. That's correct.
 2 Q. -- Report. Okay. That's the only
 3 thing you did?
 4 A. To the best of my recollection, yes.
 5 Q. Okay. You didn't sent it to any news
 6 outlets or distributed in any other fashion?
 7 A. I don't recall.
 8 Q. Okay. And when the DC lawsuit was
 9 filed, what was the publicity or promotion that you
 10 Did for the filing of that case?
 11 DR. FORREST: Objection, Counsel;
 12 compound. "Publicity" -- you're using --
 13 Q. You can answer --
 14 DR. FORREST: -- terms and --
 15 Q. You can answer, Dr. Newman.
 16 DR. FORREST: -- he is using a
 17 different term. Let's clarify the record, please.
 18 Q. You can answer the question,
 19 Dr. Newman.
 20 A. I don't recall if anything was posted
 21 specifically about the filing of the DC litigation.
 22 Q. Okay. But that, is that where you

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1 believe it was posted, if anything was?
 2 A. Correct.
 3 Q. Okay. Again, no outreach to the
 4 Washington Post or anything like that, correct?
 5 A. I did not.
 6 Q. Did someone else on your behalf?
 7 A. Not that I'm aware of.
 8 Q. You had four co-plaintiffs, correct?
 9 A. Correct.
 10 Q. Do you know if any of them did that?
 11 A. I do not know.
 12 Q. Okay.
 13 MS. WAHL: Henry, if you would go
 14 back to -- let's see.
 15 It's Control No. AF0056, which is an
 16 electronic document.
 17 THE TRIAL TECH: That last exhibit we
 18 just looked at, can I mark that -- are we marking
 19 that as Exhibit 5.
 20 MS. WAHL: Yes, please. Thank you
 21 for, for keeping me on the straight and narrow here.
 22 (Whereupon, Exhibit 5, E-mail

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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.

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1 Q. Okay. And Exhibit B comes next. And
 2 these were parameters that would apply for a bonus;
 3 is that correct?
 4 A. Correct.
 5 Q. All right. Exhibit -- then we have
 6 another Exhibit B. Do you know what this is?
 7 A. I'm looking at the same one right
 8 now.
 9 MS. WAHL: Sorry. Flip page, Henry,
 10 please. Yeah.
 11 Q. And then, behind that there is
 12 another Arist Education Systems document but this one
 13 is dated, like the first page we looked at, 2015, was
 14 this supposed to be a new attachment, or did this
 15 just get garbled?
 16 A. It may have gotten garbled. It
 17 doesn't have the change that I believe Dr. Cox made
 18 and initialled on the first draft you looked at.
 19 Q. Yeah, you're right. Okay.
 20 The tab that we --
 21 MS. WAHL: I'm sorry. If you, Henry,
 22 would scroll to the Page 15 of the second employment

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1 agreement. I don't know what else to call it. Keep
 2 going. Keep going. Keep going. There's something
 3 that says "Alliant" at the top. Go back, yes.
 4 Q. It says "File Copy." What is this
 5 document? And is it supposed to be attached to this?
 6 A. Well, the document is a letter with
 7 my promotion to the extension of my employment
 8 earlier.
 9 Q. Do you know if this is supposed to
 10 be --
 11 A. I don't know if it was supposed to be
 12 attached or not.
 13 Q. Okay. Let's set this one aside.
 14 MS. WAHL: Henry, if you would pull
 15 up Control AF0058, which is an electronic document.
 16 Q. This is a document that -- have you
 17 seen this before, Dr. Newman?
 18 A. I have.
 19 Q. Okay. The top of the document --
 20 MS. WAHL: If you would scroll up,
 21 please.
 22 Q. Was this something that Dr. Cox sent

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1 you, after you had a first conversation with him
 2 about the report?
 3 A. No.
 4 Q. What is this document?
 5 A. This is the E-mail I sent to Dr. Cox.
 6 Q. Sorry. Yep. Okay. But this was
 7 after your initial conversation with him?
 8 A. Correct.
 9 Q. Okay. And Dr. Cox went on to say to
 10 you, in response to this -- and it should be on this
 11 document. But if not -- let's see.
 12 MS. WAHL: Is this the top document,
 13 Henry? Is this the top of the page?
 14 THE TRIAL TECH: So this is a
 15 one-page document.
 16 MS. WAHL: Okay. And this is all
 17 that is on the document, right?
 18 THE TRIAL TECH: Yep.
 19 MS. WAHL: Okay.
 20 BY MS. WAHL:
 21 Q. Dr. Cox responded to you this same
 22 day, the following, "The posture of the board and

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1 most especially Dave, is to make this as favorable to
 2 you as is reasonable. I would assume that a year's
 3 compensation includes benefits. It might be best to
 4 raise this with Charlie. And if you get any push
 5 back, I'll take it up with Dave."
 6 Is that Dave Figuli that you referred
 7 to earlier today?
 8 A. Dave Figuli.
 9 Q. Figuli. Thank you.
 10 And was it necessary for Dr. Cox to
 11 get involved in your request for compensation and
 12 benefits?
 13 A. Not to my knowledge.
 14 Q. Okay.
 15 MS. WAHL: If you would pull up,
 16 Henry, Control AF0059.
 17 (Tech complies.)
 18 Q. This is an E-mail that you sent to
 19 Dr. Cox, correct? Tell me when you're --
 20 A. Correct.
 21 Q. Okay. It says, "I have a call in to
 22 Charlie, who is apparently out of town. Though they

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1 are conveying my message, I thought the attached from
 2 a couple former APA members offers an interesting
 3 perspective on the investigation."
 4 Do you know what was attached to
 5 this?
 6 A. I don't recall.
 7 Q. And do you recall what the
 8 attached -- the APA members, former APA board members
 9 said?
 10 A. Without looking at the attachments, I
 11 would not be able to recall.
 12 Q. Okay. Do you know who they were?
 13 A. I don't recall.
 14 Q. Was this something that you thought
 15 needed to be brought to Dr. Cox's attention because
 16 it was favorable to you?
 17 A. Correct.
 18 Q. And at this point you had not been
 19 told by Dr. Cox that you were being terminated or
 20 asked to resign; is that correct?
 21 A. I wouldn't say that is necessarily
 22 correct.

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1 Q. You think that by the time you sent
 2 this -- I didn't mean to cut you off. Go ahead?
 3 A. Yeah, again, because my recollection
 4 of whether the second conversation, whether the Board
 5 met, the Board subcommittee met on Monday or Tuesday
 6 and the second conversation following that was Monday
 7 or Tuesday, I can't say whether this was before or
 8 after.
 9 Q. Okay. When you said, at the top,
 10 "FYI" and then you used the word "interesting
 11 perspective," were you trying to convince Dr. Cox to
 12 keep you at Alliant?
 13 A. To the best of my recollection, I
 14 would have been trying to rehabilitate my reputation.
 15 Q. And in what capacity -- or what's
 16 your -- what is the basis for your recollection of
 17 that?
 18 A. My recollection is that if something
 19 was sent to him it would be people who had been
 20 critical of the report and questioned its accuracy.
 21 Q. And so the couple former APA board
 22 members that you're referring to here, they --

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1 whatever it was they said, you thought that -- as you
 2 sit here today, you think that it was positive about
 3 you; is that correct?
 4 A. That's my recollection.
 5 Q. Okay. You sent out a notice to the
 6 Alliant community; is that correct?
 7 A. Correct.
 8 MS. WAHL: And, Henry, would you pull
 9 up Arent Fox -- Control AF0063.
 10 Q. This is the document that you sent
 11 out, isn't it?
 12 A. Correct.
 13 Q. Who did you send it to?
 14 A. The Alliant LISTSERV.
 15 Q. Who was on the Alliant LISTSERV?
 16 A. Faculty and staff from Alliant.
 17 Q. Okay. And Dr. Cox -- you'd asked
 18 Dr. Cox to review this message before you sent it
 19 out, right?
 20 A. Correct.
 21 Q. And he did?
 22 A. Correct.

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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.

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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

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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?

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1 DR. FORREST: I object because you're
 2 switching terms. The head of the practice
 3 directorate, he also had a role in the 50C6. So when
 4 you use the term "practice," you have to be
 5 particular, please. Thank you.
 6 Q. Dr. Newman, you can answer the
 7 question.
 8 A. Yeah, I'm not sure I understand the
 9 Monitor question.
 10 Q. Yeah. You know what the Monitor is,
 11 right?
 12 A. Oh, yes.
 13 Q. And there was an electronic version,
 14 correct?
 15 A. Correct.
 16 Q. And there was a hard copy version,
 17 right?
 18 A. Correct.
 19 Q. Do you know anything about the
 20 distribution numbers of the hard copy version?
 21 A. No.
 22 Q. And you don't know anything about the

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1 distrubution of the electronic version, do you?
 2 A. Correct.
 3 DR. FORREST: Counsel, I'm going to
 4 ask you to clarify your time period. He started in
 5 1986 so you're asking a whole lot there.
 6 MS. WAHL: Okay.
 7 Q. So your answer to the last two
 8 questions about your lack of knowledge related to the
 9 Monitor's distrubution, that was the case throughout
 10 your entire time as the practice director head; isn't
 11 that right?
 12 A. I knew it was all the membership
 13 plus.
 14 Q. Okay. Other than that, did you have,
 15 when you were head of the practice directorate any
 16 knowledge about the distinction between hard copy
 17 versus electronic copy?
 18 A. I knew the difference between the
 19 hard copy and the electronic copy.
 20 Q. Which one -- again, all of these
 21 pertain to head of the practice directorate. Which
 22 one got broader distrubution?

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1 A. That I don't know.
 2 Q. And you don't know, as you sit here
 3 now, the answer to that question either, do you?
 4 A. Correct.
 5 Q. Okay. And when you were head of the
 6 practice directorate, you didn't know whether an
 7 electronic version had broader circulation than a
 8 hard copy, correct?
 9 DR. FORREST: I'm going to again ask
 10 you to clarify. The internet wasn't invented until
 11 1983 [sic]. So '86, you're talking about a broad
 12 period here. No more compound on this.
 13 Q. Did you have anything to do with
 14 photo of your wife appearing in the Monitor in the
 15 October 2002 version?
 16 A. Not that I recall.
 17 Q. Did you have anything to do with the
 18 photo of your wife appearing in the October of 2002
 19 electronic version of the Monitor?
 20 A. Not that I recall.
 21 Q. Did your wife submit, to your
 22 knowledge, the photo that ran in the Monitor?

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1 A. I do not know.
 2 Q. Okay. It wasn't you, was it?
 3 A. It was not me.
 4 Q. Okay. While you were at APA, were
 5 there any circumstances for which you were
 6 reprimanded, as an employee?
 7 A. Not that I recall.
 8 Q. And were there any circumstances
 9 where you were sanctioned for issues in the
 10 workplace?
 11 A. Not that I recall.
 12 Q. Do you recall having to take a
 13 special class because of your poor handling of a
 14 sexual harassment claim in your department?
 15 A. I do not recall that. I recall
 16 taking a class.
 17 Q. Do you remember that a complaint was
 18 made about how you mishandled a situation where one
 19 of your employees was sexually harassed by another
 20 one of your employees?
 21 A. I do not recall that.
 22 Q. While you were an APA employee you

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1 were required to sign certain conflict of interest
 2 policies, weren't you?
 3 A. Correct.
 4 Q. That was routine?
 5 A. Correct.
 6 MS. WAHL: Henry, would you pull up
 7 Control AF49, which is a hard copy document.
 8 Q. There are a number of these,
 9 Dr. Newman, I just want to confirm that you recognize
 10 your signature and you signed each of those
 11 documents.
 12 So, the first one, the first page
 13 seems to be dated 12 something '03, 12/18/03. Is
 14 that your signature?
 15 A. Correct.
 16 MS. WAHL: Can we turn to the next
 17 page, Henry.
 18 (Tech complies.)
 19 Q. Okay. That's the following year,
 20 '04, that's your signature?
 21 A. Correct.
 22 MS. WAHL: The next page, Henry,

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1 please. Next page.
 2 Q. That's your signature for 12/13/05,
 3 correct?
 4 DR. FORREST: Sorry. Can you go back
 5 to the prior page, please?
 6 MS. WAHL: No. We're going to stay
 7 here.
 8 DR. FORREST: No I'd like to see the
 9 whole document, Ms. Wahl. You can't tell us to have
 10 him verify his signature and put a document and not
 11 show it to the witness. We want to see the document.
 12 MS. WAHL: You know what, we'll go
 13 back when I say we go back, and we are not going back
 14 right now.
 15 DR. FORREST: Then he's not answering
 16 any more questions if you're not allowing him to look
 17 at the whole document.
 18 MS. WAHL: I can assure you I will
 19 allow him to look at anything he wants. I'm asking
 20 him right now on this page we are on, whether that is
 21 his signature.
 22 Q. Can you see that?

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1 A. That is my signature.
 2 Q. Okay. Let's go to the next page.
 3 Let's go to the one after that.
 4 Is that your signature, on this page
 5 that's dated 1/3/'07?
 6 A. Yes.
 7 Q. Okay.
 8 MS. WAHL: Next page, please. Next
 9 page.
 10 THE TRIAL TECH: That's the last
 11 page.
 12 MS. WAHL: Okay.
 13 Q. Would you like to go back,
 14 Dr. Newman, and look at any other pages on this
 15 document?
 16 A. Are you asking me other questions
 17 about this document?
 18 Q. No, I'm not.
 19 A. Then I don't need to look at other
 20 pages.
 21 Q. Okay.
 22 THE TRIAL TECH: And, Barbara, just

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1 so that we don't confuse the transcript, so this was
 2 Exhibit 10, if we're following in sequential order
 3 from all --
 4 MS. WAHL: Thank you.
 5 THE TRIAL TECH: Just I want to
 6 identify it for Amanda's sake.
 7 Exhibit 6 is Tab 56; Exhibit 7 is 58;
 8 Exhibit 8 is AF59; Exhibit 9 is AF63; and Exhibit 10
 9 is AF49.
 10 (Whereupon, Exhibit 7, 07/14/2015
 11 E-mail, was marked for identification.)
 12 (Whereupon, Exhibit 8, 07/14/2015
 13 E-mail, was marked for identification.)
 14 (Whereupon, Exhibit 9, 07/16/2015
 15 E-mail, was marked for identification.)
 16 (Whereupon, Exhibit 10, Financial
 17 Conflict of Interest Certificate Russel Newman
 18 12/18/03, was marked for identification.)
 19 MS. WAHL: Thank you, Henry.
 20 BY MS. WAHL:
 21 Q. We've already looked at the letter,
 22 or I should say E-mail that you sent out to someone

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1 at Mr. Rose's -- a name Mr. Rose gave you. And you
 2 say that you sent out other such E-mails, correct?
 3 A. Correct.
 4 Q. Do you remember how many?
 5 A. My recollection is half a dozen,
 6 perhaps.
 7 Q. Okay. And, again, this was for the
 8 purpose of publicizing the Massachusetts lawsuit?
 9 A. Supplying the press release that was
 10 done at that time.
 11 Q. Okay.
 12 MS. WAHL: Henry, would you pull up
 13 Control AF77, this is an electronic document.
 14 (Tech complies.)
 15 BY MS. WAHL:
 16 Q. Is this one of the ones that you
 17 sent, Dr. Newman?
 18 A. Yes.
 19 Q. This is to someone named
 20 Flaherty@ALM.com. Can you see it on the screen?
 21 A. Yes.
 22 Q. What is ALM.com?

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1 A. You know, I'm not recalling
 2 exactly --
 3 Q. Okay. --
 4 A. -- but --
 5 Q. Go ahead. Sorry.
 6 A. I'm -- it's the acronym of whatever
 7 the publication was.
 8 Q. Do you know what the publication was?
 9 A. I do not recall.
 10 Q. Do you know where you got this name
 11 from, Mr. Flaherty's name meaning?
 12 DR. FORREST: Sorry, Counsel. Is
 13 this an exhibit?
 14 MS. WAHL: It will be. We are going
 15 to mark it.
 16 In fact, why don't we mark it now.
 17 Henry, is this 11?
 18 THE TRIAL TECH: That is right, 11.
 19 MS. WAHL: Okay. Exhibit 11.
 20 (Whereupon, Exhibit 11, 07/25/2018
 21 E-mail with attached Press Release, was marked for
 22 identification.)

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1 BY MS. WAHL:
 2 Q. Okay. Dr. Newman, do you know where
 3 you got the name from to send this document to
 4 Mr. Flaherty, or Ms. Flaherty -- Mr. Flaherty?
 5 A. Someone who had written about legal
 6 issues for the publication.
 7 Q. What is the publication -- oh, the
 8 publication that you sent this to?
 9 A. The one I don't recall what the
 10 acronym stands for.
 11 Q. Okay. Did you do the research to
 12 find Mr. Flaherty's name?
 13 A. Yes.
 14 Q. Okay. And what response did you get
 15 to this?
 16 A. I did not get a response.
 17 Q. Did you follow up with Mr. Flaherty
 18 in any way?
 19 A. Not that I recall.
 20 Q. Did Mr. Flaherty call your counsel
 21 as -- do you know whether he did?
 22 A. Not to my knowledge.

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1 Q. All right. Let's look --
 2 MS. WAHL: Henry, if you would, at
 3 Control AF78.
 4 (Tech complies.)
 5 BY MS. WAHL:
 6 Q. This is another nearly identical
 7 document that you sent out, this time to Greg Miller
 8 at the Washington Post?
 9 MS. WAHL: Let's make this
 10 Exhibit 12.
 11 (Whereupon, Exhibit 12, E-mail to
 12 Greg Miller, was marked for identification.)
 13 Q. If you would look down to the line
 14 that says, "working to help prevent abuse," do you
 15 see that there. "...working to help prevent abuse of
 16 detainees in Guantanamo, Iraq, and Afghanistan."
 17 That letter was not -- that language
 18 was not in the prior document. Do you recall that?
 19 A. I do not recall that.
 20 Q. We can go back and look at them side
 21 by side if you would like?
 22 A. I take your word for it.

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1 Q. Okay. Why did you add the language
 2 in this letter to Mr. Miller at the Washington Post?
 3 A. I don't recall specifically. It
 4 would have been --
 5 Q. Do you recall --
 6 A. -- typical to address an issue that a
 7 reporter I was writing to was writing about.
 8 Q. Did you know Mr. Miller?
 9 A. I did not.
 10 Q. How did you find his name?
 11 A. Research.
 12 Q. And, and by "research," what do you
 13 mean by that?
 14 A. Research online.
 15 Q. So you looked at old copies of the
 16 Washington Post and looked at who covered lawsuits?
 17 A. That may not have been the
 18 methodology, but that was the use of the internet.
 19 Q. Okay. So maybe you didn't look at
 20 who covered lawsuits, but you looked at who covered
 21 Guantanamo, Iraq, and Afghanistan?
 22 DR. FORREST: Objection; compound.

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1 Q. Is that correct?

2 A. I don't remember. I don't remember

3 the search words that that I would have used for

4 that.

5 Q. Okay. Did you get any feedback from

6 this?

7 A. I did not.

8 Q. Did your lawyer get any feedback?

9 A. Not to my knowledge.

10 MS. WAHL: Henry, if you would pull

11 up the next one, Control AF0079.

12 Q. So this is another press release, an

13 E-mail that you sent out, is that right, Dr. Newman?

14 A. Yes.

15 Q. And this is to Mr. Novak at The

16 Sun-Times?

17 A. Correct. Correct.

18 Q. Where is the Sun-Times located?

19 A. Chicago.

20 Q. And did you send that to Mr. Novak

21 because of the Sidley connection in Chicago?

22 A. Correct.

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1 Q. All right. How did you get

2 Mr. Novak's name?

3 A. Research.

4 Q. Same kind of research that we talked

5 about a minute ago; is that right?

6 A. Correct. Yes.

7 Q. Okay. Attached to this is a

8 document.

9 MS. WAHL: If you would pull that up,

10 Henry. It's Bates No. 255 in the bottom right-hand

11 corner.

12 THE TRIAL TECH: So this is a

13 one-page document.

14 MS. WAHL: Okay. So I don't quite

15 know how this happened, but there was an attachment,

16 and I guess it's not here. What's the next -- nope,

17 it wouldn't be in the next thing.

18 Okay. We'll come back to that. If

19 you would pull up Control No. AF80, please.

20 Q. Is this another one of the E-mails

21 that you sent out?

22 A. Correct.

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1 Q. And by the way, all of these had

2 attached to them a press release; is that right?

3 A. Correct.

4 Q. Okay. This one is to Mr. Keeshan,

5 and how did you get Mr. Keeshan's name?

6 A. Research.

7 Q. Where is the Daily Herald?

8 A. I believe it's Chicago also.

9 Q. Okay. Was there any follow-up to

10 this, to your knowledge?

11 A. There was not.

12 Q. Did Mr. Keeshan contact your lawyer?

13 A. Not to my knowledge.

14 Q. Okay.

15 MS. WAHL: Let's pull up, if you

16 would, Henry, Control AF81? Actually we don't need

17 to. We already looked at this one. This is Charlie

18 Rose. Let's pull up AF0083.

19 BY MS. WAHL:

20 Q. This is one that you sent out to a

21 Ms. Randazzo, correct?

22 A. Correct.

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1 Q. And she was employed at the Wall

2 Street Journal; is that right?

3 A. Correct. Yes.

4 Q. Okay. Same press release was

5 attached?

6 A. Correct.

7 Q. And did you get any response to this?

8 A. No response to my attempt to mitigate

9 the damages.

10 Q. Did you do any follow -- okay. That

11 wasn't my question. My question to you was: Did you

12 get any response?

13 A. Nope.

14 Q. Okay. Did your lawyer get any

15 response?

16 A. Not to my knowledge.

17 Q. Okay. Did you follow up with

18 Ms. Randazzo?

19 A. I did not.

20 Q. What efforts did you undertake with

21 Ms. Randazzo to mitigate your damages?

22 A. I sent her the press release of

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1 the -- the case.
 2 Q. And how did that mitigate your
 3 damages?
 4 A. It has information in it that
 5 presents another side to what the Hoffman report
 6 says.
 7 Q. And how does that help you get a job?
 8 A. I can't speak for what somebody else
 9 would see to that. I would see that, knowing that I
 10 didn't do the bad things the report says I did.
 11 Q. Well, the press release only talks
 12 about your lawsuit, correct?
 13 A. Correct.
 14 Q. It doesn't talk about your
 15 reputation; is that right?
 16 A. Correct. Correct.
 17 Q. Okay.
 18 MS. WAHL: If you would pull up,
 19 Henry -- I forget what exhibit --
 20 DR. FORREST: Are all of these being
 21 admitted as exhibits or what are we doing? Is this
 22 one an exhibit or what are we doing here?

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1 MS. WAHL: We are marking them all as
 2 exhibits. The one that was 78 is Exhibit 12, and the
 3 one that is Control 80 is Exhibit 13.
 4 THE TRIAL TECH: So Exhibit AF79
 5 should be Exhibit 13. AF80 is 14, and AF83 is 15.
 6 (Whereupon, Exhibit 13, 07/25/2018
 7 E-mail with attached Press Release, was marked for
 8 identification.)
 9 (Whereupon, Exhibit 14, 07/25/2018
 10 E-mail with attached Press Release, was marked for
 11 identification.)
 12 (Whereupon, Exhibit 15, 07/26/2018
 13 E-mail with attached Press Release, was marked for
 14 identification.)
 15 (Whereupon, Exhibit 16, 04/29/2019
 16 E-mail with attached Supplemental Complaint, was
 17 marked for identification.)
 18 MS. WAHL: Thanks.
 19 THE TRIAL TECH: Tell me if you have
 20 anything different than that. I think that's the
 21 correct order.
 22 MS. WAHL: Okay. Good. So we're up

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1 to 16; is that right?
 2 THE TRIAL TECH: Yeah, that's right.
 3 MS. WAHL: Okay. Would you pull up,
 4 Henry, Control No. 90, AF90.
 5 BY MS. WAHL:
 6 Q. And you sent in one out as well
 7 didn't you?
 8 A. Correct.
 9 Q. Okay. And this is to
 10 abovethelaw.com, right?
 11 A. Correct.
 12 Q. And this is in a different time
 13 period than the last ones you sent, correct?
 14 A. The date on it is different, yes.
 15 Q. Right. It's almost a year later,
 16 right, 8, 10 months later?
 17 A. Correct.
 18 Q. And this one is sent to somebody at
 19 a -- at Above the Law, right?
 20 A. Correct.
 21 Q. It has a different attachment too,
 22 doesn't it?

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1 A. Correct.
 2 Q. And did you get any feedback from
 3 this?
 4 A. I did not.
 5 Q. Did you speak with Ms. Rubino?
 6 A. I did not.
 7 Q. Did your counsel?
 8 A. Not to my knowledge.
 9 Q. Okay. You would expect, wouldn't
 10 you, that if there had been a conversation with your
 11 counsel, that she would have told you this, right?
 12 A. You'll have to ask her that.
 13 Q. Well, I'm asking you that, which is
 14 given your attorney-client relationship, and your
 15 personal relationship, that --
 16 DR. FORREST: Objection, Counsel; our
 17 personal relationship, if there is any, is
 18 irrelevant. Ask one question at a time, please.
 19 Q. Dr. Newman, given your professional
 20 and personal relationships with Dr. Forrest, you
 21 would expect that if she had spoken with Ms. Rubino
 22 she would have told you that, right?

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1 A. I would assume unless there was a
 2 reason to not.
 3 Q. Okay. Are you aware --
 4 MS. WAHL: Strike that.
 5 Next numbered exhibit, Henry,
 6 whatever it is, 17, I guess.
 7 THE TRIAL TECH: Yeah, 17.
 8 MS. WAHL: Okay, let's pull up
 9 Control AF12.
 10 (Whereupon, Exhibit 17, APA
 11 Responses, six pages, was marked for identification.)
 12 BY MS. WAHL:
 13 DR. FORREST: Counsel, before we do
 14 that, can we go back, please, to Exhibit 10?
 15 MS. WAHL: Is there a reason why?
 16 DR. FORREST: Yeah, because they
 17 don't have Bates Nos. on it. I'm looking at the
 18 document both in my document folder and as displayed
 19 on the screen and there are no Bates numbers. It
 20 says AF49, and that's it. I'd like Bates numbers,
 21 please.
 22 MS. WAHL: I'll get that for you at a

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1 break.
 2 DR. FORREST: Thank you.
 3 THE TRIAL TECH: I don't have an
 4 AF12. Is that something that was uploaded?
 5 MS. WAHL: Okay. All right. Sure.
 6 Okay. All right.
 7 THE TRIAL TECH: Is that something
 8 that I'm missing that maybe you guys uploaded?
 9 MS. WAHL: I don't know. There's so
 10 many pieces of paper flying around, it's hard to know
 11 what exactly.
 12 THE TRIAL TECH: Yeah, I don't -- I
 13 don't see anything...
 14 DR. FORREST: Counsel, we've been
 15 going about an hour now. We'd like to take a
 16 five-minute break, please. And if you could get
 17 those Bates stamp numbers for us, that would be
 18 great.
 19 MS. WAHL: I'll do the best I can. I
 20 can't promise.
 21 DR. FORREST: Then it's not going to
 22 be entered as an exhibit or we're going to have a

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1 conversation about why it's not been produced.
 2 MS. WAHL: Are we off the record?
 3 THE TRIAL TECH: We can be.
 4 DR. FORREST: We're not going finish
 5 the conversation until we're off the record. We're
 6 not going to go off the record to finish the
 7 conversation. The document that you've moved into
 8 that -- into the exhibit has no Bates stamp numbers
 9 and you've tried to get me to not look at specific
 10 pages so I've got big problems with this, so let's
 11 find the Bates stamp numbers --
 12 MS. WAHL: I just --
 13 DR. FORREST: -- or get a Bates stamp
 14 copied number and introduce that into evidence as an
 15 exhibit and not an unBates stamp numbered document
 16 and don't tell me not to look at pages.
 17 MS. WAHL: We're off the record now.
 18 DR. FORREST: Thank you. We can go
 19 off the record.
 20 THE TRIAL TECH: All right. Stand
 21 by, please. The time is 12:40 p.m. Off the record.
 22 (Recess taken.)

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1 THE TRIAL TECH: We are back on the
 2 record. The time is 12:47 p.m.
 3 MS. WAHL: Okay. Dr. Forrest,
 4 although I'm not obligated to tell you anything about
 5 Bates numbers, Exhibit 10 is APA292 through 299.
 6 Would you pull up, Henry --
 7 DR. FORREST: Sorry, Ms. Wahl,
 8 Ms. Wahl, can we pull backup Exhibit 10, please,
 9 Henry.
 10 MS. WAHL: We are not doing that.
 11 DR. FORREST: No, we are not doing
 12 that, Ms. Wahl. Ms. Wahl, I can make my record.
 13 MS. WAHL: This is my examination.
 14 No, no. We're not doing it. That's
 15 not the way this works, Ms. Forrest. You don't.
 16 DR. FORREST: Yes, I actually do know
 17 the way it works. And when you put up an exhibit
 18 without Bates numbers, I get to clarify the record,
 19 Ms. Wahl.
 20 MS. WAHL: You can clarify all you
 21 want on your time.
 22 DR. FORREST: I'm doing it right now.

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1 MS. WAHL: No, you're not.
 2 DR. FORREST: While we're at the
 3 exhibit. I'm not going back.
 4 MS. WAHL: No, you're not doing that.
 5 DR. FORREST: Yes, I am. Well, then
 6 we are not going to move forward.
 7 MS. WAHL: Are you ending the
 8 deposition?
 9 DR. FORREST: I'm not ending the
 10 deposition, I'm going back to Exhibit 10 to clarify
 11 while we're there. You provided documents with Bates
 12 numbers, and the Bates numbers you just provided
 13 don't seem to fit with the document that's there so I
 14 want to clarify it on the record now. And I want to
 15 clarify again that you would not allow us to look at
 16 all of the pages.
 17 MS. WAHL: You've now hijacked the
 18 deposition for two minutes of speechifying and I'm
 19 adding --
 20 DR. FORREST: I'll give you two
 21 more minutes, Ms. Wahl. It's not an issue, just go
 22 back to Exhibit 10. Why are you so hesitant?

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1 MS. WAHL: No.
 2 DR. FORREST: Why are you so
 3 hesitant?
 4 MS. WAHL: I'm not hesitant.
 5 DR. FORREST: Is it not what you're
 6 representing it to be, Barbara? Is that the problem?
 7 So let's just go back to Exhibit 10
 8 and look at the fact that there are no Bates stamp
 9 numbers, and I want you to put Bates stamp numbers
 10 with the pages so I can go look it up. That's fair
 11 game for a deposition. I have no idea if it was
 12 actually produced or not.
 13 MS. WAHL: You can go look.
 14 DR. FORREST: The document you put up
 15 on the screen does not have Bates numbers. I'm not
 16 going to wait until after the deposition or later on.
 17 I'm doing it now.
 18 BY MS. WAHL:
 19 Q. Dr. Newman, would you look at Control
 20 AF0091.
 21 MS. WAHL: And Henry --
 22 DR. FORREST: Ms. Wahl, are you

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1 refusing to clarify the record about Bates stamp
 2 numbers for Exhibit 10?
 3 MS. WAHL: I just told you what the
 4 Bates numbers were --
 5 DR. FORREST: No. I want to affix
 6 them to specific pages. We're going back to
 7 Exhibit 10. Now.
 8 MS. WAHL: Exhibit 1-C.
 9 DR. FORREST: We are going to back to
 10 Exhibit 10.
 11 Q. If you would look at the first page
 12 of this document, please?
 13 DR. FORREST: Ms. Wahl, we're going
 14 back to Exhibit 10. This is pointless. We're going
 15 back to clarify the record now.
 16 Q. If you would look at the third page
 17 of this document, please?
 18 DR. FORREST: Ms. Wahl, we're not
 19 looking or answering any questions until you go back
 20 and clarify the record and that you put an exhibit in
 21 refusing to allow us to look at all the pages that
 22 didn't have Bates stamp numbers.

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1 So when you're prepared to do that,
 2 we'll proceed. And we will sit here for another
 3 five hours not answering any questions if that's how
 4 you want to spend your time. That's your choice.
 5 Q. Dr. Newman, would you look at the
 6 page on the screen, please. Have you seen this
 7 document before?
 8 THE WITNESS: Counsel?
 9 DR. FORREST: We're going back to
 10 Exhibit 10. If it's in fact is what she's saying, it
 11 shouldn't be an issue. The fact she doesn't want to
 12 go back makes it more likely it's problematic. It's
 13 very easy to go back, it's not a problem and she's
 14 just refusing. She's threw up some Bates stamp
 15 number --
 16 MS. WAHL: Here's what we're going to
 17 do. Here's what we're going to do. Aside from your
 18 completely improper and unprofessional behavior, I'm
 19 going to take a break. Hold on --
 20 DR. FORREST: No. No. No. It's not
 21 unprofessional to require --
 22 MS. WAHL: We're going off the record

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1 now --

2 DR. FORREST: No. We're not.

3 MS. WAHL: -- so you can go look at

4 Bates numbers --

5 DR. FORREST: No. I want the

6 document pulled up. I want the document and the

7 exhibit pulled up now.

8 MS. WAHL: You don't get to do this.

9 We're going --

10 DR. FORREST: -- pages.

11 MS. WAHL: We're going off the record

12 now.

13 DR. FORREST: We're not going off the

14 record, Ms. Wahl.

15 MS. WAHL: And it is 3:51.

16 DR. FORREST: We're not going off the

17 record, Ms. Wahl. We are not going off the record.

18 We are back to Exhibit 10 and affixing Bates stamp

19 numbers to the actual pages of the exhibit that was

20 entered in.

21 MS. WAHL: Counsel.

22 DR. FORREST: And then you would not

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1 allow us to look at pages when you were going through

2 it. I have no idea if this document has been

3 actually produced or not.

4 MS. WAHL: Does it matter?

5 DR. FORREST: I want to see the

6 document that was actually put in as Exhibit 10.

7 It's very simple. It will take two minutes.

8 MS. WAHL: We're going to take a

9 break, so that Dr. Forrest can satisfy her curiosity

10 about this document.

11 DR. FORREST: It's not curiosity.

12 It's called you have to produce things, Barbara.

13 MS. WAHL: We now are --

14 DR. FORREST: Feel free to go off the

15 record. Everybody else is staying on and we're

16 staying on. Feel free.

17 MS. WAHL: You can stay on all you

18 want --

19 DR. FORREST: Your deposition time,

20 Barbara. Your deposition time. Let's go back to

21 Exhibit 10 and wrap this up quickly.

22 MS. WAHL: We are going to take a

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1 break and go off the record, please, Henry. Because

2 this is my deposition. I noticed the deposit -- you

3 can sit there.

4 DR. FORREST: That's fine. Your

5 deposition time.

6 MS. WAHL: Go off the record, please.

7 THE TRIAL TECH: I can go off the

8 record.

9 The time is 12:52 p.m.

10 Off the record.

11 (Recess taken.)

12 THE TRIAL TECH: The time is

13 12:59 p.m.

14 Back on the record.

15 BY MS. WAHL:

16 Q. Dr. Newman, the document that's on

17 the screen, do you recognize this as something that

18 was posted on the APA website on your behalf?

19 A. Yes.

20 Q. And this was posted by your wife,

21 Debra Dunivin?

22 A. Can I see the last page?

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1 Q. You can see anything you want.

2 A. Yeah, it was posted by Banks,

3 Dunivin, James, and Newman.

4 Q. Did you have any role in preparing

5 this document.

6 A. Yes.

7 Q. What did you prepare?

8 A. I don't recall exactly. The three --

9 the four of us as plaintiffs -- we weren't plaintiffs

10 at the time -- wrote -- the four of us who are named

11 in the report wrote this response.

12 Q. Do you remember when the posting was

13 done?

14 A. I think this was written July 31st,

15 but I'm not sure.

16 Q. Okay. When you say "written" was it

17 posted shortly thereafter?

18 A. I believe it was.

19 Q. Okay.

20 MS. WAHL: Henry, if you would turn

21 to Control AF107. It's a hard copy document. Thank

22 you.

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1 (Whereupon, Exhibit 18, Response to
 2 the Hoffman Independent Review The Society for
 3 Military Psychology (APA Division 19) Presidential
 4 Task Force, 62 pages, was marked for identification.)
 5 Q. I will represent to you that this was
 6 from the Division 19 website. Do you recognize this
 7 document?
 8 A. I do.
 9 Q. And was this a document that was
 10 prepared by Division 19 members at the time?
 11 A. I believe it was.
 12 Q. Do you know roughly when it was
 13 prepared?
 14 A. My recollection is October 2015.
 15 Q. Did you have any role in connection
 16 with the preparation?
 17 A. I did not.
 18 Q. Did you consult with any of the
 19 members who prepared this document?
 20 A. I don't recall that I did.
 21 Q. Okay. Do you recall whether it
 22 mentions you at all in the document?

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1 A. I recall that at least that, it
 2 describes me in a way that I would be identifiable.
 3 I cannot recall whether it has my name in it or not.
 4 Q. Okay. Have you been ever a
 5 Division 19 member?
 6 A. I have not.
 7 MS. WAHL: If you could turn, Henry,
 8 to Control AF0068. This is also a hard copy document
 9 for those who are following in that fashion.
 10 (Whereupon, Exhibit 19, Hoffman's Key
 11 Conclusion Demonstrably False: The Omission of Key
 12 Documents and Facts Distorts the Truth October 2015,
 13 was marked for identification.)
 14 DR. FORREST: Again, Counsel, can we
 15 have a Bates stamp number, please?
 16 MS. WAHL: This is no Bates stamp
 17 number. This was pulled off the Division 19 website,
 18 so it's not a Bates number.
 19 DR. FORREST: So you haven't produce
 20 it in this litigation?
 21 MS. WAHL: I can't say that. I don't
 22 know, but you clearly have the document because it's

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1 on the Division 19 website and Dr. Newman is --
 2 DR. FORREST: I'm not a member of
 3 Division 19 nor is Dr. Newman. So let's be clear
 4 what you've produced, Counsel.
 5 MS. WAHL: Doesn't matter what I've
 6 produced. This document is on the screen. It is
 7 apparently --
 8 DR. FORREST: Actually, it is,
 9 Counsel, relevant about what you produced because I
 10 get documents before depositions take place. That's
 11 the way it works.
 12 MS. WAHL: You had this before the
 13 deposition took place.
 14 DR. FORREST: Didn't say I didn't,
 15 but let's use documents that have Bates stamp
 16 numbers, please.
 17 MS. WAHL: I'm using what I'm using.
 18 You can object and whatever else.
 19 BY MS. WAHL:
 20 Q. So, Dr. Newman, did you prepare this
 21 document?
 22 A. I recall contributing to it, yes.

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1 Q. Okay. What did you contribute?
 2 A. I don't recall specifically, but I
 3 contributed to it.
 4 Q. Is it correct that it was prepared
 5 approximately October 2015?
 6 A. That's my recollection.
 7 Q. Do you know if this is on the
 8 Division 19 website?
 9 A. I do not know that.
 10 Q. Okay. Do you know where it was
 11 published, if at all, by anyone?
 12 A. I know that it's on the Hoffman APA
 13 website.
 14 Q. Okay. Anywhere else?
 15 A. Not that I know of.
 16 Q. Did you send this document to any
 17 journalists?
 18 A. I don't recall having done that.
 19 Q. Okay. Do you know whether any of
 20 your coauthors sent this document to any journalists?
 21 A. I do not know that.
 22 Q. Okay. Was this something that you

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1 considered in effort to mitigate your damages?
 2 A. If by that you mean to say there was
 3 another side to the circumstances that were described
 4 in the Hoffman report, yes.
 5 Q. Okay. Well, I'm, I'm actually using
 6 a phrase that you used earlier and -- in one of your
 7 answers. So I'm repeating back to you however you
 8 used it.
 9 So is this, in the way you used those
 10 words, an effort -- was this an effort to mitigate
 11 your damages?
 12 A. This was an effort to show there was
 13 another side to what the Hoffman report said.
 14 Q. Okay.
 15 MS. WAHL: If you would pull up
 16 Control AF67, please.
 17 Q. So this was on the Division 19
 18 website as well. Do you recall preparing this
 19 document?
 20 DR. FORREST: Again, Counsel, this
 21 doesn't have a Bates stamp number. I have no idea if
 22 this document has been produced in this litigation.

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1 Q. Do you recognize this document,
 2 Dr. Newman?
 3 A. I don't actually recall this. I see
 4 my name is there, so...
 5 Q. Okay. Is this on your website?
 6 A. I am not certain.
 7 Q. Okay. Do you recall whether this
 8 document was prepared for you?
 9 DR. FORREST: Ms. Wahl, you haven't
 10 established this is his document. It says
 11 PsychCoalition in the top left. So would lay a
 12 little bit of foundation, please.
 13 MS. WAHL: I believe Dr. Newman just
 14 said his name is at the bottom.
 15 BY MS. WAHL:
 16 Q. Which is true, right, Dr. Newman?
 17 A. It is at the bottom, correct.
 18 Q. Okay. And you see the date, 8/26/15?
 19 A. I see the date.
 20 Q. Right. Do you recall preparing this?
 21 A. I do not recall this document.
 22 Q. Okay. Do you recall anybody

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1 preparing it on your behalf?
 2 A. I don't recall the document.
 3 Q. Okay. So when you spoke earlier
 4 about press releases, you didn't have this in mind;
 5 is that correct?
 6 A. Not specifically.
 7 Q. Okay. Can you say categorically, as
 8 you sit here today, that you've never seen this
 9 before?
 10 DR. FORREST: Counsel, when you say
 11 "this," what are you referring to?
 12 Objection; vagueness.
 13 MS. WAHL: Yeah, an objection would
 14 be a good thing. This is -- we're looking at Control
 15 No. AF67. And what number -- document is this,
 16 Henry?
 17 THE TRIAL TECH: You mean the exhibit
 18 number right?
 19 MS. WAHL: Yes, uh-huh.
 20 THE TRIAL TECH: Okay. So this is
 21 Exhibit 20.
 22 (Whereupon, Exhibit 20, 8/26/18

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1 PsychCoalition article, was marked for
 2 identification.)
 3 MS. WAHL: Exhibit 20.
 4 DR. FORREST: And, again, for the
 5 record, we'll note there's no Bates stamp number on
 6 the document.
 7 MS. WAHL: Correct.
 8 BY MS. WAHL:
 9 Q. So can you say --
 10 DR. FORREST: And are you
 11 representing, Ms. Wahl, that this document has been
 12 produced to us in this litigation for --
 13 MS. WAHL: I'm not, I'm not
 14 representing anything.
 15 DR. FORREST: You're not representing
 16 that this has been produced to us? Are you saying
 17 it's not been produced to us, Ms. Wahl?
 18 MS. WAHL: I don't know. As I sit
 19 here, I don't know.
 20 DR. FORREST: You do not know if this
 21 document has been produced to us?
 22 MS. WAHL: We're not doing this.

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1 We're going to finish the deposition, and you can ask
 2 all the questions you want.
 3 BY MS. WAHL:
 4 Q. Dr. Newman, can you say, as you sit
 5 here today, categorically, that you've never seen
 6 this document before?
 7 A. What I can say is my name is on it,
 8 so I likely have seen this before. But I can also
 9 say I don't recall this document.
 10 Q. Okay.
 11 MS. WAHL: If you would pull up,
 12 Henry, Exhibit -- it's going to be 21, right?
 13 (Whereupon, Exhibit 21, 2/24/18 Open
 14 Letter to the APA Membership, was marked for
 15 identification.)
 16 MS. WAHL: Exhibit 21, Control
 17 AF0071. This was provided in hard copy.
 18 BY MS. WAHL:
 19 Q. Do you recognize this document? You
 20 might want to look at the second page. And take as
 21 long as you need to to look at all of it.
 22 THE TRIAL TECH: You want me to go --

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1 THE WITNESS: Skip to the next page,
 2 Henry. Okay.
 3 BY MS. WAHL:
 4 Q. Do you recognize this?
 5 A. I recognize this.
 6 Q. Okay. Did you have any role in
 7 drafting this document?
 8 A. I and Banks and Dunivin and James
 9 prepared this document.
 10 Q. Okay. Did you also prepare a
 11 June 10, 2018, document that is referenced on the
 12 first page?
 13 THE WITNESS: Henry, can you
 14 highlight where that's referenced? Oh, right at the
 15 top.
 16 Q. Right at the top.
 17 A. I don't know. I'd have to look at
 18 the January 10th.
 19 Q. Okay. Why did you prepare this
 20 document or participate in its preparation?
 21 A. I am just reading it a bit.
 22 Q. Yeah, take as long as you need to to

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1 read it.
 2 A. My recollection is we prepared this
 3 because we had understood ourselves and from others
 4 who saw mischaracterizations in the Hoffman report
 5 and yet didn't feel anything was being done by APA in
 6 order to make corrections to those things that were
 7 mischaracterized.
 8 Q. And is there any particular reason
 9 that it was dated February 24, 2018?
 10 A. Things were ongoing for a long time
 11 without resolution, which is why it was prepared.
 12 Q. Okay. Who received copies of this?
 13 A. Anybody who went to our website.
 14 Q. Was this circulated in some other
 15 way, besides on your website?
 16 A. Not to my knowledge.
 17 Q. So the title of the document is
 18 "An Open Letter to the APA Membership."
 19 How would APA membership know to go
 20 to your website?
 21 DR. FORREST: I believe, Counsel --
 22 objection -- he called -- said he had -- he didn't --

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1 not to his knowledge. So you're asking him to
 2 speculate when he says he doesn't know whether the
 3 document was distributed.
 4 MS. WAHL: It's a speaking objection,
 5 Counsel. We can move on.
 6 BY MS. WAHL:
 7 Q. Do you need the question again,
 8 Dr. Newman?
 9 A. Yes, please.
 10 Q. Okay. How -- if this, this was on
 11 your, your website, correct?
 12 A. Correct.
 13 Q. And it still is?
 14 A. I believe so.
 15 Q. Okay. How were AP -- this is
 16 directed to APA membership, right?
 17 A. That's the title.
 18 Q. Right. How were APA members to know
 19 to look at your website to access this document?
 20 A. I have no specific knowledge, and I
 21 really can't speculate. The only place we had for
 22 information was the website.

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1 Q. Okay. You didn't send this out to
2 journalists, no?

3 A. I have no recollection of ever doing
4 that with this one.

5 Q. Okay. And did you circulate this at
6 any -- or have it circulated at any APA convention?

7 A. Not to my knowledge.

8 Q. Okay. There was a fact sheet that
9 you had circulated at an APA convention, correct?

10 A. What fact sheet were you referring
11 to?

12 Q. A document that was titled "Fact
13 Sheet." Do you have any recollection of that?

14 A. Can I see the document?

15 Q. Yeah. We'll get there. I promise
16 you. I just wanted to know if you had any specific
17 recollection now.

18 A. Without seeing it, I can't say.

19 Q. Okay.

20 MS. WAHL: Henry, would you put up on
21 the screen AF0066. This was a document provided in
22 hard copy.

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1 (Whereupon, Exhibit 22, Society for
2 Military Psychology Letter 29 July 2015, was marked
3 for identification.)

4 BY MS. WAHL:

5 Q. Are you familiar with this document?

6 A. I've seen this document.

7 Q. In fact, this is a document that's
8 referenced in your interrogatory answers, right?

9 A. Correct.

10 Q. Okay. And did Dr. Williams send this
11 on your behalf?

12 A. Can you say what on my behalf?

13 Q. Yes. That was my question.

14 A. No, can you tell me what on behalf --
15 what you mean by "on my behalf."

16 Q. Sure. Sure. In response to -- I'll
17 tell you what, let's pull this up, so you feel like
18 you can see it.

19 A. Yeah. Thank you. Thank you.

20 MS. WAHL: Henry, I don't know what
21 document exhibit this is, but it's the interrogatory
22 answers. So it's Control 166.

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1 (Tech complies.)

2 MS. WAHL: Also not Bates numbered.

3 There you go, Page 10. It's the last
4 page of the document. Actually let's go to the prior
5 page.

6 Bottom of the page. "Identify all
7 communications or, alternatively, produce documents
8 reflecting such communications regarding any alleged
9 inaccuracies in the report concerning you personally
10 that you communicated to APA or Sidley or were
11 communicated on your behalf prior to September 4,
12 2015."

13 And then let's go to the next page.

14 Okay. You see in the middle paragraph, "Dr. Thomas
15 Williams on behalf of Division 19 and others wrote a
16 letter to the APA special committee of the board
17 regarding the inaccuracies of the report on or about
18 July 29, 2015."

19 Do you see that?

20 A. I do. And thank you for pulling this
21 back up.

22 Q. Sure. So was this document, that

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1 we're looking at that's exhibit, whatever it is, 22,
2 this July 29, 2015, letter written by Dr. Williams to
3 Nadine Kaslow, was that written on your behalf?

4 A. Based on the language in the
5 interrogatory, it was written I would say on my
6 behalf. I did not ask it to be written, however.

7 Q. Okay. Do you know where this was
8 published?

9 A. I do not know.

10 Q. Okay. Have you communicated with
11 Dr. Williams about it being published?

12 A. I have not.

13 Q. Okay.

14 MS. WAHL: Henry, what exhibit number
15 is this?

16 THE TRIAL TECH: Hold on, let me
17 check.

18 MS. WAHL: Thanks. Sorry.

19 THE TRIAL TECH: It will take me a
20 second to check -- no worries. So this is Exhibit 4.

21 MS. WAHL: Thank you.

22 Now, sorry, not the interrogatory

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1 answers, the July 29th letter.
 2 THE TRIAL TECH: Was that the last
 3 exhibit we looked at?
 4 MS. WAHL: Yeah. July 29th.
 5 THE TRIAL TECH: So that was
 6 Exhibit 22.
 7 MS. WAHL: Thank you. All right. If
 8 you would pull up Control AF69. This was also
 9 provided in hard copy.
 10 BY MS. WAHL:
 11 Q. Have you seen this document --
 12 MS. WAHL: Let's mark this one as
 13 Exhibit 23.
 14 DR. FORREST: Sorry, Counsel. What
 15 was provided in a hard copy and to whom?
 16 MS. WAHL: Hard copy, in the boxes
 17 that you declined to receive.
 18 DR. FORREST: Oh, Ms. Wahl. Now
 19 we're going to have to go on and clarify this.
 20 I didn't decline to receive anything,
 21 Ms. Wahl. I didn't receive them. And I said this
 22 morning by E-mail I wasn't going to go into this

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1 unless you chose to make it an issue on the record.
 2 So here we go. All right. Let's be clear, and I
 3 have no need to call out anybody at Williams &
 4 Connolly, but I was supposed to get contact
 5 information. The story changed. We were going to
 6 get electronic. I have no idea if they're at my
 7 other location or not. As a way to move forward,
 8 what I offered to do this morning is just get
 9 documents electronically. And unfortunately, as is
 10 consistent with your behavior throughout the case,
 11 you then made derogatory remarks to try to imply that
 12 I declined and somehow not taken in something.
 13 The documents were not provided in a
 14 hard copy. I would suggest you stop with the
 15 behavior. Thank you.
 16 Now, if you want to go back and make
 17 it clear that this was only provided to us,
 18 beforehand, and doesn't have a Bates stamp number,
 19 and we got it this morning, and that you're asking
 20 about electronic copy, I'm happy to have the witness
 21 go forward.
 22 BY MS. WAHL:

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1 Q. Dr. Newman, would you look at
 2 Exhibit 23?
 3 (Whereupon, Exhibit 23, Letter dated
 4 November 9, 2015, was marked for identification.)
 5 Q. Have you seen this document before?
 6 A. I think this is the same one you
 7 showed me a few minutes ago I believe.
 8 Q. No, the other one was dated July 29,
 9 2015, to Nadine Kaslow.
 10 A. Oh, thank you.
 11 Q. This one is different. We can go
 12 back and put them on the screen, if you'd like.
 13 A. No, just give me a minute to read
 14 this.
 15 Q. Sure. Take your time.
 16 A. Yes, I have seen this.
 17 Q. Okay. Did you have any role in
 18 preparing this document?
 19 A. I did not.
 20 Q. Did you have any role in circulating
 21 this document?
 22 A. I did not.

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1 Q. Did you receive a copy of it?
 2 A. I did receive a copy of the Task
 3 Force report.
 4 Q. So what we're looking at is not the
 5 Task Force report, the November 9, 2015, document?
 6 A. It's possible it wasn't with the Task
 7 Force report then, so I misspoke.
 8 Q. Okay. Do you know, as you sit here,
 9 whether you received a copy of this document that's
 10 been marked as Exhibit 23?
 11 A. If it didn't come with a Task Force
 12 report, I do not know if I received this document.
 13 Q. Okay.
 14 MS. WAHL: Would you pull up, Henry,
 15 Control AF104. This was communicated electronically.
 16 (Whereupon, Exhibit 24, E-mail from
 17 Sally Harvey dated 2/24/2020, was marked for
 18 identification.)
 19 BY MS. WAHL:
 20 Q. Take a minute, Dr. Newman, and
 21 familiarize yourself?
 22 DR. FORREST: Can you scroll to the

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1 bottom of the document, please, Henry?
 2 THE WITNESS: Can you blow it up a
 3 little bit, Henry. Thanks.
 4 (Tech complies.)
 5 BY MS. WAHL:
 6 Q. Tell me when you're ready,
 7 Dr. Newman, and there is an attachment I'm going to
 8 be asking you about as well.
 9 A. Okay.
 10 Q. Ready?
 11 A. Yes.
 12 Q. Okay. So the first page of this
 13 document begins with -- well, it's an E-mail exchange
 14 between you and Dr. Sally Harvey, correct? Either
 15 I'm muted or you are. Are you with me?
 16 A. I had said correct.
 17 Q. Oh, I didn't hear you. Are you okay?
 18 Dr. Newman, are you all right?
 19 A. Yeah, I don't know why you didn't
 20 hear me. My mic is not muted.
 21 Q. Okay. You looked like you were in
 22 distress. Do you need to take a break?

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1 A. No, I was actually waiting for you to
 2 respond.
 3 Q. Oh good. And you said correct?
 4 A. Correct.
 5 Q. And this has to do with a fact sheet
 6 that is the attachment that you and Dr. Harvey
 7 prepared together; is that right you're going to have
 8 to look at the attachment?
 9 A. I'm going to have to see the
 10 attachment, yes.
 11 Q. Right. Does this look familiar?
 12 A. Generally.
 13 Q. So did you and Dr. Harvey prepare
 14 this together?
 15 A. My recollection is she prepared it
 16 and I reviewed it for some factual accuracy.
 17 Q. And you made some changes to it?
 18 A. I suggested some changes to it, yes.
 19 Q. Did she incorporate your changes to
 20 the best of your knowledge?
 21 A. I think the E-mail seemed to suggest
 22 she did, so I don't know if they were all

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1 incorporated.
 2 Q. Okay. How was this fact sheet
 3 distributed?
 4 A. You'd actually have to ask her that.
 5 Q. You're not aware, as you sit here
 6 today?
 7 A. I'm not, I'm not clear or
 8 recollecting how this was being distributed.
 9 Q. Do you recall that there was a fact
 10 sheet that was distributed to counsel members during
 11 an APA meeting?
 12 A. I wasn't there, I wouldn't know that.
 13 Q. Aside from your personally not being
 14 there, do you recall that a fact sheet was prepared
 15 for distribution at an APA meeting?
 16 A. I don't have a specific recollection
 17 of that. Given the date on this, it certainly is
 18 possible.
 19 Q. Okay. Do, do you know whether this
 20 was prepared for distribution at an APA meeting?
 21 A. I do not know specifically.
 22 Q. Do you recall having any

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1 conversations with Dr. Harvey about how fact sheets
 2 were placed on people's chairs anonymously?
 3 A. I do not recall that.
 4 Q. Okay. So you had no role in any such
 5 distribution; is that correct?
 6 A. That's correct.
 7 Q. Okay. I'm going to --
 8 MS. WAHL: Did we mark that as an
 9 exhibit? Let's do that. That would be 24?
 10 THE TRIAL TECH: Hang on, let me
 11 check. So it should be -- sorry, lost my window.
 12 Yeah, that was Exhibit 24 --
 13 MS. WAHL: Great.
 14 THE TRIAL TECH: -- which is AF 104.
 15 MS. WAHL: All right. Thank you.
 16 BY MS. WAHL:
 17 Q. So it's correct, isn't it,
 18 Dr. Newman, that you have had a role in connection
 19 with various new business items that have come up
 20 in -- at APA in the last several years; is that
 21 right?
 22 A. I'm not exactly clear on what you

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1 mean by "role."
 2 Q. Have you had any participation with
 3 any new business items at any time since 2015?
 4 A. I've reviewed documents periodically.
 5 Q. Who provided, provided the documents
 6 to you?
 7 A. The ones that I recall was
 8 Dr. Harvey.
 9 Q. Have you met with others, besides
 10 Dr. Harvey, to strategize about how an NBI would be
 11 proposed?
 12 A. I have not.
 13 Q. Have you edited NBIs, the actual
 14 language?
 15 A. I don't specifically recall. But
 16 I -- that's the documents that I believe I have
 17 edited -- reviewed and edited periodically.
 18 MS. WAHL: Okay. Let's pull up,
 19 Henry, if you would, Control AF093, and I believe
 20 this is going to be Exhibit 25.
 21 (Whereupon, Exhibit 25, 1/19/20
 22 E-mail thread, was marked for identification.)

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1 MS. WAHL: And this does have an
 2 attachment.
 3 BY MS. WAHL:
 4 Q. Do you recognize this document,
 5 Dr. Newman?
 6 A. That is an E-mail from Dr. Harvey to
 7 me, yes.
 8 Q. Okay. Do you know what the first
 9 draft is in reference to?
 10 A. I do not.
 11 Q. Okay. Do you know whether "NBI HR
 12 Off APA.docx" means?
 13 A. I do know NBI is a new business item.
 14 Q. Okay. And is -- do you know what "HR
 15 off APA.docx" is?
 16 A. I do not.
 17 Q. All right.
 18 MS. WAHL: I believe, Henry, that
 19 there is an attachment to this. That should be part
 20 of Control 093. There we go. Thank you.
 21 BY MS. WAHL:
 22 Q. Take a moment, if you would, and

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1 review this, please. I'm not going to ask -- you can
 2 read it word for word. I'm not going to ask you word
 3 for word. I'm going to direct you to certain
 4 provisions. Let me know when you're ready.
 5 A. Okay.
 6 Q. Okay. So the first page of this
 7 document is, at the top, it says "Mover(s): Carrie
 8 Kennedy, PhD and Rebecca Blais."
 9 Is it Blais; is that how you
 10 pronounce it, PhD?
 11 A. I don't know.
 12 Q. You don't know Rebecca Blais?
 13 A. I do not.
 14 Q. Okay. So was -- is this a NBI that
 15 you've had involvement with?
 16 A. I recall the issue. I don't recall
 17 this document.
 18 Q. Okay.
 19 MS. WAHL: If you would turn to,
 20 Henry, the page that is -- let's see. Of the
 21 attachment, it's -- one, two -- the second page of
 22 the attachment.

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1 (Tech complies.)
 2 Q. Okay. In the middle of the page,
 3 there is a statement that says "APA now describes."
 4 Do you see that?
 5 A. I do.
 6 Q. Yeah. Okay. Did you -- do you know
 7 where that came from, that direct quote or any of the
 8 language?
 9 A. I have -- I don't know where it comes
 10 from.
 11 Q. Okay. Had you -- have you provided
 12 any pleadings in any of the litigation involving APA
 13 to Dr. Harvey?
 14 A. I believe they are all on the
 15 website.
 16 Q. So other than what's on the website,
 17 have you provided any pleadings to Dr. Harvey?
 18 A. Not that I recall.
 19 Q. Have you told her where certain
 20 pleadings are on the website?
 21 A. I likely have, yes.
 22 Q. Okay. Do you know whether the

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1 paragraph that we're looking at comes from any
 2 pleadings?
 3 A. Issue does. I couldn't say if it's
 4 language directly taken out of the pleading, a
 5 pleading.
 6 Q. Have you given Dr. Harvey any of the
 7 pleadings from the arbitration?
 8 A. I have not.
 9 Q. Do you know whether she's obtained
 10 them in some other fashion?
 11 A. I don't know that.
 12 Q. Okay.
 13 MS. WAHL: Henry, would you pull up
 14 AF -- Control AF094? I believe this is going to be
 15 Exhibit 26.
 16 (Whereupon, Exhibit 26, 1/20/20
 17 E-mail thread, was marked for identification.)
 18 BY MS. WAHL:
 19 Q. So this was an E-mail to you from
 20 Dr. Harvey in 2020, correct?
 21 A. That's what the date is on this, yes.
 22 Q. Okay. And it involves the same NBI

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1 that we looked at in the last exhibit, right?
 2 A. Correct.
 3 Q. Okay. If you would look at the
 4 attachment. Let's go to the third page of the
 5 attachment.
 6 Between the time that Dr. Harvey sent
 7 you the first draft in the exhibit we looked at
 8 before, that was January 19th, and this document, do
 9 you recall whether you responded to her?
 10 A. I don't recall.
 11 Q. Okay. All right. Let's move on to
 12 the next. We can put 26 aside.
 13 MS. WAHL: Henry, if you would pull
 14 up Control AF096.
 15 (Tech complies.)
 16 (Whereupon, Exhibit 27, 1/20/20
 17 E-mail thread, was marked for identification.)
 18 BY MS. WAHL:
 19 Q. Okay. Do you recognize the first
 20 page of this document as a series of E-mails between
 21 yourself and Dr. Harvey?
 22 A. I see that, yes.

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1 Q. Okay. And your comments are
 2 beginning at the bottom of the page. On
 3 January 20th, you said, "This is good. A few
 4 suggestions highlighted in the attached draft."
 5 Do you see that?
 6 A. Correct.
 7 Q. Okay. So looking at the attachment,
 8 which is not highlighted on our version, do you know
 9 what you added?
 10 A. I do not recall what I added.
 11 Q. Okay. Moving up the page, you'll see
 12 a further comment from you at, what looks like,
 13 January 20, 11:30. Looks like you say, "Though I" --
 14 "Though I know you wouldn't want to specifically name
 15 Mel, a bit more description of the point you were
 16 making would make it less of a 'head scratcher.'"
 17 Do you see that?
 18 A. I do.
 19 Q. What did that mean?
 20 A. Trying to put it into context. It
 21 sounds like there was a piece to it that left open
 22 questions about what was being discussed, a/k/a "head

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1 scratcher."
 2 Q. Okay. Let's move up to your next
 3 comment, which looks like it's 11:43, where you say
 4 "Try this." What did that refer to?
 5 A. Seems to still be working on the
 6 issue of whatever this provision was in it, is trying
 7 to get more specific.
 8 Q. Okay. Is there a separate attachment
 9 that you were referring to?
 10 A. Without seeing an attachment to the
 11 e-mail, I don't recall.
 12 Q. Right. Let's move up to the response
 13 from Dr. Harvey, she says, "We've incorporated and
 14 tweaked...what do you think? Plan is to have it sent
 15 to some 'friendlies' seeking co-sponsorship, and then
 16 Eric will post on the COR listserv about a week
 17 before counsel meets to further socialize it...and
 18 the games will begin again."
 19 Who's Eric?
 20 A. An Eric that I'm aware of was
 21 President of Division 19, I believe.
 22 Q. And what's his last name?

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1 A. I couldn't tell you actually.
 2 Q. Okay.
 3 MS. WAHL: Let's look at Control
 4 AF097. Sorry. That last one was Exhibit No. 27,
 5 right?
 6 THE TRIAL TECH: Sorry. I was on
 7 mute myself. That was Exhibit 27, yes.
 8 MS. WAHL: The next one Control AF097
 9 is Exhibit 28, right?
 10 THE TRIAL TECH: Yep.
 11 (Whereupon, Exhibit 28, E-mail
 12 subject: Re: Background of tomorrow's call, was
 13 marked for identification.)
 14 Q. And you've got that on your screen.
 15 Can you see that, Dr. Newman?
 16 A. Yes.
 17 Q. All right. This looks like at least
 18 one E-mail from you, is at just right below the top
 19 of the page -- do you see that on January 21, 2020,
 20 333 --
 21 A. Yes, I see that, yes.
 22 Q. 3:33 p.m.?

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1 A. Yes.
 2 Q. All right. Were you providing some
 3 strategy guidance to Dr. Harvey, as she requested
 4 about how to roll out this NBI?
 5 A. I appear to be.
 6 Q. Okay. And did what you recommended
 7 happen?
 8 A. That I don't recollect.
 9 Q. Okay. The title of Dr. --
 10 MS. WAHL: Strike that. Okay. Let's
 11 turn to exhibit Control AF098.
 12 DR. FORREST: Counsel, it's 1:36. We
 13 haven't taken a break, even though you did. Can we
 14 take 10 minutes, please?
 15 MS. WAHL: Sure.
 16 DR. FORREST: Thank you.
 17 THE TRIAL TECH: All right. Stand
 18 by, please. The time is 1:36 p.m.
 19 Off the record.
 20 (Recess taken.)
 21 THE TRIAL TECH: All right. The time
 22 is 1:47 p.m.

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1 Back on the record.
 2 BY MS. WAHL:
 3 Q. Okay. Dr. Newman, when we went off
 4 the record we were marking as Exhibit 29 a document
 5 that is marked as Control AF098.
 6 (Whereupon, Exhibit 29, E-mail
 7 subject: Some additions for your review, was marked
 8 for identification.)
 9 MS. WAHL: Could you put that up on
 10 the screen, please.
 11 (Tech complies.)
 12 BY MS. WAHL:
 13 Q. This has an attachment as well. The
 14 first page is -- and you can look at, if you'd like
 15 the whole document or piece by piece, whatever you'd
 16 like.
 17 A. Yeah, I'd like to see, like, the
 18 whole document.
 19 Q. Okay.
 20 A. Is that the whole document?
 21 Q. No, keep going. Keep going. At your
 22 speed, Dr. Newman.

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1 THE WITNESS: Just flip through. I
 2 want to see what the document is.
 3 (Tech complies.)
 4 A. Okay.
 5 Q. The first page of this document is an
 6 E-mail that Dr. Harvey sent to you on January 26,
 7 2020, correct?
 8 A. Correct.
 9 Q. The sentence that begins, "Final
 10 question," do you see that right up. Yeah. "Final
 11 question - do we identify early on the alternative
 12 (the black box warning) or do we keep that in our
 13 back pocket?"
 14 Did you respond to this?
 15 A. I don't recall.
 16 Q. Okay. Did you give a recommendation,
 17 one way or the other to Dr. Harvey about that?
 18 A. I don't recall that.
 19 Q. Okay.
 20 MS. WAHL: If you would flip, Henry,
 21 to the second-to-last page of the attachment under
 22 the section that says "Main Motion."

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1 BY MS. WAHL:
 2 Q. So this is being requested by the
 3 movers, correct?
 4 A. I believe that's true.
 5 Q. Okay. Well, if you need to check it,
 6 you can go back to a prior page. This is what is the
 7 main motion in that document.
 8 A. That's correct. I can see that.
 9 Q. And the movers are Carrie Kennedy and
 10 Rebecca Blais?
 11 A. I remember that, yeah.
 12 Q. Sally Harvey is not a movant was she?
 13 A. She wasn't on this motion, no.
 14 Q. She wasn't a member of council at
 15 this point, was she?
 16 A. I don't recall what her term was.
 17 Q. Okay. So let's look at this main
 18 motion.
 19 "Council requests that the HR be
 20 removed from the APA's website until the inaccuracies
 21 contained in the report are corrected. Absent this
 22 step, APA will add a 'black box warning' to the

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1 report with a clear and unambiguous statement
 2 indicating that the Hoffman Report contains
 3 significant flaws and that a review remains pending."
 4 Was a review actually pending?
 5 A. I don't know what they are referring
 6 to as "review." I couldn't speculate on that.
 7 Q. Well, you've had interaction with
 8 this, a related document, haven't you?
 9 DR. FORREST: Objection, Counsel;
 10 form. What's the related document? Ambiguous.
 11 Q. The attachment is called NBI
 12 August 2020 document, correct?
 13 A. Correct.
 14 Q. And did you receive this?
 15 Let me state it a different way. Do
 16 you have any reason to believe you didn't receive?
 17 A. According to the E-mail, I've --
 18 according to the E-mail, I've offered some
 19 suggestions related to it.
 20 Q. Right. Have you reviewed prior
 21 iterations of this NBI form?
 22 A. I, I don't have a recollection of how

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1 many, if there were, prior iterations.
 2 Q. Okay. As you sit here today, are you
 3 aware of any review of the Hoffman Report that
 4 remains pending?
 5 A. I don't understand what the main
 6 motion means by "review that remains pending."
 7 Q. Okay. And in January 2020, did you
 8 have an understanding of what that language meant, "a
 9 review of the Hoffman Report remains pending"?.
 10 A. I don't recall that.
 11 Q. Okay.
 12 MS. WAHL: Henry, if you would pull
 13 up Control AF099, and this will be Exhibit 30.
 14 (Whereupon, Exhibit 30, E-mail
 15 subject: Compare 2 paragraphs, was marked for
 16 identification.)
 17 BY MS. WAHL:
 18 Q. Take a moment. Let me know when
 19 you're ready to answer some questions.
 20 THE WITNESS: Henry, could you blow
 21 that first paragraph up?
 22 (Tech complies.)

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1 A. Okay.
 2 Q. Is this another E-mail sent to you
 3 from Dr. Harvey, right?
 4 A. Correct.
 5 Q. It's got an attachment. You're free
 6 to look at that as well.
 7 MS. WAHL: Why don't you scroll
 8 through that, Henry, so the witness knows what we're
 9 referring to here.
 10 THE TRIAL TECH: So again this is a
 11 one-page document.
 12 MS. WAHL: Right. Okay. Yeah. It
 13 is. Sorry. I got a step ahead of me.
 14 Q. The first line refers -- states,
 15 "Your colleague was pretty adamant about how the
 16 links to the HR work."
 17 Do you know what Dr. Harvey is
 18 referring to?
 19 A. I do not.
 20 Q. Who is your colleague that she was
 21 referring to?
 22 A. I don't know.

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1 Q. Do you recall discussing with her who
 2 she meant by "your colleague"?

3 A. I don't recall that.

4 Q. Okay.

5 MS. WAHL: Henry, if you would pull
 6 up AF100, this will be Exhibit 31.
 7 (Whereupon, Exhibit 31, E-mail
 8 subject: Final?, was marked for identification.)
 9 BY MS. WAHL:

10 Q. This is the one with the attachment.
 11 And you can take a look at that, if you want to.
 12 I'll be asking you a couple of questions about it.
 13 Let me know when you're ready.

14 A. Okay.

15 Q. The first line says, "We have had a
 16 long debate about including references to court
 17 documents."

18 Do you see that?

19 A. Yes.

20 Q. Who is Dr. Harvey referring to there?

21 A. I, I don't know.

22 Q. Okay. Let's look in terms of the

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1 attachment at the third page of the attachment,
 2 please.

3 (Tech complies.)

4 Q. Three paragraphs down there is a
 5 reference to H -- at the bottom -- "https://tinyURL."
 6 Do you see that?

7 A. Yes.

8 Q. Is that something that you added to
 9 this NBI?

10 A. I'm not sure what the tiny URL goes
 11 to.

12 Q. As you sit here today, you don't know
 13 that?

14 A. I do not know what the tiny URL goes
 15 to.

16 Q. Okay. Do you know if -- who, who
 17 would know that, besides Dr. Harvey?

18 A. I don't.

19 Q. All right. I'm going to shift
 20 your -- well, before we leave here, do you know
 21 whether this NBI was ever before counsel?

22 A. I don't have a clear recollection of

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1 what ultimately happened with it.

2 Q. Do you know whether it's still
 3 pending?

4 A. I do not know that.

5 Q. Have you consulted with Dr. Harvey
 6 about an NBI with this substance coming before
 7 counsel in 2021?

8 A. I don't recall talking about it
 9 coming in 2021.

10 Q. Have you -- are you aware one way or
 11 the other about whether anyone is still sponsoring
 12 this NBI?

13 A. I'm not aware of any continuing
 14 sponsorship.

15 Q. Have you spoken to Dr. Koocher about
 16 this NBI?

17 A. I have not.

18 Q. Okay. You have plans to continue to
 19 assist movers if this NBI is moving forward?

20 A. It depends on what they ask me to do.

21 Q. Well, consistent with what they have
 22 asked you to do in the past, would you assist them

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1 going forward?

2 DR. FORREST: Objection; compound.
 3 Witness has said he doesn't know if it's going
 4 forward and now you're asking, if it goes forward,
 5 what is his plan.

6 MS. WAHL: Do you need to have the
 7 question reread, Dr. Newman?

8 THE WITNESS: Please.

9 MS. WAHL: Okay. Amanda, would you
 10 reread the question, please?
 11 (Record read.)

12 A. I wouldn't want to speculate about a
 13 circumstance that has yet to develop in the future.

14 Q. Okay. If they ask you to strategize
 15 about the passage of a similar NBI, would you do
 16 that?

17 A. I'd say the same. I wouldn't want to
 18 speculate about a circumstance not yet occurring in
 19 the future.

20 Q. Okay. I'm going to shift your
 21 attention away from these.
 22 Your wife, I believe we established

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1 earlier, is Debra Dunivin, correct?
 2 A. Correct.
 3 Q. And during the period 2004 to 2007
 4 she was in the military, correct?
 5 A. You're, you're starting to fade out
 6 again.
 7 Q. Sure. Let me do this. How's that?
 8 A. Great. Thank you.
 9 Q. Does that help?
 10 A. Thank you.
 11 Q. It is the end -- it's coming to the
 12 end of the day for us, I probably need to have a
 13 chocolate.
 14 During 2004 to 2007, was Dr. Dunivin
 15 in the military?
 16 A. I'm trying to think when she
 17 finished, yes.
 18 Q. And what was her rank?
 19 A. Colonel.
 20 Q. And what was her title?
 21 DR. FORREST: Objection; compound.
 22 There is a lot of years in there, Counsel.

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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.

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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.

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1 Q. Can you answer my question,
 2 Dr. Newman?
 3 A. Is, is that what you're talking
 4 about, SERE?
 5 Q. Yeah. Yeah. For those of us who --
 6 A. She underwent, she underwent SERE
 7 training.
 8 Q. Okay. Who was the trainer or
 9 trainers?
 10 A. I don't know who all was involved.
 11 It's a, it's a multiple-source training program.
 12 Q. Okay. Has your wife, to your
 13 knowledge, publicly disclosed her work for the
 14 military?
 15 A. Any part of her work?
 16 Q. Well, let's focus year-wise, for the
 17 period 2004 to 2007.
 18 A. She publicly disclosed she was in
 19 Guantanamo and publicly disclosed she was, then, back
 20 at Walter Reed Naval Bethesda Medical Center.
 21 Q. Is there anything else that you
 22 recall that she said during this time period, 2004 to

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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

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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?

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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

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1 been defamed?
 2 A. It's been posited that I had a
 3 conflict that violated my duty of loyalty that I did
 4 not disclose and therefore was behaving improperly.
 5 Q. Well, you didn't disclose it,
 6 correct? That part --
 7 A. There wasn't -- because there wasn't
 8 a conflict.
 9 Q. Okay. Other than -- backup.
 10 Have you been treated in an adverse
 11 way? Setting aside your Alliant situation, have you
 12 been treated in an adverse way specifically because
 13 of the statements in the report regarding you having
 14 a conflict of interest?
 15 A. Yes.
 16 Q. How?
 17 A. I've got no response to some
 18 opportunities I've tried to get from a job. I've had
 19 people write messages that talk very negatively based
 20 on the report of the independent review.
 21 Q. Anything else?
 22 A. I think that's plenty.

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1 Q. Okay. Is it your position that the
 2 job you applied for with the San Marcos University,
 3 that you didn't get that because of the report
 4 statement that you had a conflict of interest?
 5 A. More that I had a conflict of
 6 interest that was part of a collusion to support
 7 torture.
 8 Q. I'm asking you specifically,
 9 Dr. Newman, about the statement about a conflict of
 10 interest.
 11 A. Right. Right. Again, I understand.
 12 Q. Okay. So is it your position that
 13 you're not getting a position, in fact, not even
 14 getting a response from San Marcos, was because of
 15 the report's statement about a conflict of interest?
 16 A. Yes.
 17 Q. And what's your basis for saying
 18 that?
 19 A. Because it was not just a conflict of
 20 interest that was stated.
 21 Q. Well, San Marcos didn't even respond
 22 to you, did they?

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1 A. They did not.
 2 Q. How do you know they knew anything
 3 about the report?
 4 A. You're right. I couldn't be certain
 5 about that.
 6 Q. In fact, other people had, prior to
 7 the report, accused you of having a conflict of
 8 interest repeatedly, didn't they?
 9 A. I'm sorry?
 10 Q. Others prior to the Sidley report had
 11 accused you of having a conflict of interest, isn't
 12 that true?
 13 DR. FORREST: Objection, Counsel;
 14 calls for -- it's ambiguous. "Others," "repeatedly";
 15 compound.
 16 A. No one had said to me that I had a
 17 conflict.
 18 Q. Are you aware of James Risen accusing
 19 you in writing of a conflict?
 20 A. That accusation. Right.
 21 Q. Yeah.
 22 A. Not said to me. Not said to me.

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1 Q. Not said to you. I see.
 2 A. Correct. Correct. I was going by
 3 your specific question.
 4 Q. Okay. Let's go back to San Marcos.
 5 As you sit here, you have no knowledge that they
 6 didn't respond to your inquiry about a job because
 7 they knew anything about the conflict of interest
 8 allegations?
 9 A. That's correct.
 10 Q. Okay. And same question about Kent
 11 State. Kent State didn't know about -- didn't reject
 12 you because of the conflict of interest conclusion in
 13 the report, did they?
 14 A. I don't know whether they did or they
 15 didn't.
 16 Q. Well, Kent State was rejecting you,
 17 did reject you for other reasons that they stated,
 18 right? They didn't reference the report?
 19 A. They did not reference the report,
 20 correct.
 21 Q. And do you have any reason to believe
 22 that Kent State would lie to you?

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1 A. I believe the letter was pro forma.
 2 Q. Well, not my question.
 3 Do you have any reason to believe
 4 that Kent State lied when they told you that you were
 5 not among the candidates selected to advance?
 6 A. I don't believe they lied. I was not
 7 among the candidates selected to advance.
 8 Q. Okay. And do you have any reason to
 9 believe that Kent State was aware of the report's
 10 conclusion that you had a conflict of interest?
 11 A. I don't know that either way.
 12 Q. And Education Corp went into
 13 bankruptcy right after you sent them a letter, right?
 14 Do you know that one way or the other?
 15 DR. FORREST: Objection, Counsel;
 16 asked and answered.
 17 A. Well, I understood that the Golf
 18 Academy is no longer functioning. That's all I know.
 19 Q. The Golf Academy didn't reject your
 20 job inquiry because of the report's conclusion that
 21 you had a conflict of interest, did it?
 22 A. They didn't share their reasons.

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1 Q. Okay. Do you have any reason to
 2 believe that the reason why they didn't make you a
 3 job offer was because of the statement in the report
 4 about you having a conflict of interest?
 5 A. I don't know that either way, whether
 6 they did or they didn't.
 7 Q. Let me say it differently. Do you
 8 have any proof as you sit here today that the reason
 9 you got no follow-up from the Golf Academy, was
 10 because someone there read the report and the
 11 conclusion about you having a conflict of interest,
 12 and on that reason, rejected you?
 13 A. I don't know why they rejected.
 14 Q. So it stands to reason that if you
 15 don't know why, you can't say it was because of the
 16 report, correct?
 17 A. I can't say it wasn't because of the
 18 report.
 19 Q. Okay. As you sit here today, do you
 20 have any reason to believe they actually read the
 21 report?
 22 A. I, I wouldn't know.

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1 Q. Right. You mentioned in your answer,
 2 people wrote messages to you based on the report.
 3 Who were the people that you were referring to in
 4 your answer?
 5 A. Well, one example is an E-mail you
 6 secured from your discovery of Alliant, Barbara
 7 Milanin.
 8 Q. And what happened about that?
 9 A. She said I should be ashamed of
 10 myself that I said there was no conflict.
 11 Q. Did Barbara -- did you apply for a
 12 job with Barbara Milanin?
 13 A. Barbara Milanin is the former wife of
 14 a faculty at Kent State.
 15 Q. And do you have any reason to believe
 16 that your -- the reason why your application did not
 17 go forward with Kent State was because Barbara
 18 Milanin somehow interfered with it?
 19 A. I don't know whether it was or it
 20 wasn't.
 21 Q. Not my question. Not was or wasn't.
 22 As you sit here, tell me all the proof that you have,

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1 that Barbara Milanin interfered with your effort to
 2 get a position at Kent State.
 3 A. I don't know that.
 4 Q. Other than the Barbara Milanin
 5 message, is there anything else that you believe was
 6 a negative message that you've been subjected to?
 7 A. Nothing that I've seen in writing.
 8 Q. All right. How about things you
 9 haven't seen in writing?
 10 A. Conversation at Alliant at which time
 11 the report came out.
 12 Q. A conversation with someone other
 13 than Dr. Cox?
 14 A. Conversation among the faculty.
 15 Q. And what was that?
 16 A. Questioning whether I was going to
 17 get any severance because of what I had done;
 18 questioning whether I should have ever had been hired
 19 because of what they believed I had done.
 20 Q. Did you participate in these
 21 conversations?
 22 A. I did not.

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1 Q. How did you hear about it?
 2 A. I can't recall how I heard about it.
 3 Q. Was there more than one conversation?
 4 A. I believe my recollection it was a
 5 LISTSERV sort of conversation.
 6 Q. What kind of LISTSERV?
 7 A. Among the faculty.
 8 Q. Were you on the LISTSERV?
 9 A. I believe. I saw the E-mails.
 10 Q. Did you respond to any of the
 11 comments?
 12 A. Did not respond.
 13 Q. Who were the people making these
 14 statements?
 15 A. I don't recall at this point.
 16 Q. So you made no effort to, in your
 17 words, mitigate your damages, in this regard?
 18 DR. FORREST: Objection, Counsel;
 19 calls for a legal conclusion.
 20 Q. You can answer.
 21 A. At the time there was an APA Council
 22 Member who was a faculty and I asked her whether

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1 there was a way she could contribute to the
 2 conversation so that it wouldn't continue to evolve
 3 the direction it was going. And she replied that she
 4 thought that would make matters worse and she wasn't
 5 going to do that.
 6 Q. And who was this councilmember?
 7 A. I have to have refresh my
 8 recollection to get the name.
 9 Q. So other than asking this unnamed
 10 councilmember to speak up on your behalf, did you do
 11 anything else --
 12 A. I did not.
 13 Q. -- to respond to this --
 14 A. I did not.
 15 Q. Okay. I'm going to pass the witness
 16 to Mr. --
 17 DR. FORREST: Ms. Wahl, I'm going to
 18 ask you to speak up again. You're dropping your
 19 voice at the end of sentences and we can't hear you.
 20 MS. WAHL: You will be really happy
 21 to hear this because what I said is I'm passing the
 22 witness to Mr. Hentoff.

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1 DR. FORREST: Thank you.
 2 MR. HENTOFF: I'm ready to begin the
 3 questioning right now. If that's okay with
 4 everybody.
 5 THE WITNESS: You're going to have to
 6 speak up also.
 7 DR. FORREST: We can't hear you
 8 hardly at all.
 9 MS. WAHL: Really? Wow. I hear you
 10 just loud as a bell.
 11 DR. FORREST: Well, then, we're deaf,
 12 Barbara.
 13 What matters is the witness can hear
 14 him and the witness can't.
 15 MS. WAHL: I quite agree.
 16 MR. HENTOFF: Give me a moment.
 17 DR. FORREST: Thank you.
 18 MR. HENTOFF: Is this any better?
 19 MS. WAHL: Not much. You're still
 20 pretty muffled, Tom. It's like the mic is under your
 21 tie or something. Is that possible?
 22 MR. HENTOFF: No. It's on my

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1 computer. It's the exact same set up I had on
 2 Monday.
 3 DR. FORREST: Oh. It's -- I have to
 4 tell you it's a world of difference and we're using
 5 the same computer too I don't know what else to say
 6 other than pull up closer, if possible.
 7 MR. HENTOFF: Let me see if I can get
 8 a headphone. Hold on.
 9 DR. FORREST: Thank you.
 10 THE TRIAL TECH: Should we, should we
 11 go off the record for this?
 12 MR. HENTOFF: Let's go off the
 13 record, while I get this done.
 14 THE TRIAL TECH: I'm sorry. Say that
 15 again, Tom?
 16 MR. HENTOFF: Let's go off the record
 17 while I --
 18 THE TRIAL TECH: Okay. I'm going to
 19 do it right now. The time is 2:20 p.m. Off the
 20 record.
 21 (Discussion held off the record.)
 22 THE TRIAL TECH: All right. The time

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1 is 2:23 p.m. Back on the record.
 2 EXAMINATION
 3 BY MR. HENTOFF:
 4 Q. Good afternoon, Dr. Newman. Can you
 5 hear me?
 6 A. I can.
 7 Q. You attended Dr. Behnke's deposition
 8 on Monday, didn't you?
 9 A. Yes.
 10 Q. Was there anything about Dr. Behnke's
 11 testimony that refreshed your recollection on any
 12 subject?
 13 A. On which subject?
 14 Q. On any subject.
 15 A. In general, I couldn't recall
 16 anything in particular.
 17 Q. Was there any aspect of Dr. Behnke's
 18 testimony on Monday that you believe was factually
 19 inaccurate?
 20 A. You trailed off again. Did you say
 21 factually inaccurate?
 22 Q. Yes.

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1 A. I don't recall anything factually
2 inaccurate.

3 Q. You don't recall from Monday, if
4 there was anything that you thought was inaccurate?

5 A. I don't remember anything being
6 factually inaccurate.

7 Q. What year and month did you leave
8 APA?

9 A. December 2007.

10 MR. HENTOFF: Henry, would you please
11 take us back to Exhibit 4, the interrogatory answers.
12 Henry, please take us to PDF page 8.

13 Q. Dr. Newman, please direct your
14 attention to the bottom of this page and your
15 response to Interrogatory No. 4. Do you see that?

16 A. Yes.

17 Q. And you see at the bottom of this
18 page in this interrogatory, you say that Dr. Cox told
19 you that the Board was "not going to second-guess the
20 report." Do you see that?

21 A. Yes.

22 Q. When did you first record that

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1 statement in writing?

2 A. It's in an interrogatory.

3 Q. Never before that?

4 A. Not in writing, no.

5 Q. You also testified earlier today that
6 Dr. Cox told you that members of the subcommittee had
7 reviewed the report. Do you remember saying that?

8 A. Correct.

9 Q. When did you first record that
10 statement, in writing?

11 A. I did not record that in writing.

12 Q. Now, next on the next page, which is
13 PDF Page 9, you said that Dr. Cox stated that the
14 report indicated that you were "more involved than
15 previously disclosed." Do you see that?

16 A. I do.

17 Q. When did you first record that
18 statement in writing?

19 A. In preparation of the interrogatory.

20 Q. Did you ask Dr. Cox to elaborate in
21 any respect, regarding what he meant by that?

22 A. I did not.

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1 Q. Did Dr. Cox tell you that was his
2 view or the view of the special committee?

3 A. In which statement are you referring
4 to for that question.

5 Q. More involved than previously
6 disclosed?

7 A. He didn't say whether it was
8 specifically him or the Board.

9 Q. And you didn't ask?

10 A. I did not.

11 Q. We mentioned the James Risen book
12 earlier, Pay Any Price, do you remember that?

13 A. Yes.

14 Q. When was that book published?

15 A. I'm trying to recall whether it was
16 2014.

17 Q. When did you first learn that you
18 were mentioned by name in that book?

19 A. I don't specifically recall when.

20 Q. Was it also in 2014?

21 A. End of, beginning of 2015.

22 Q. Well, did you learn that you were

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1 mentioned by name in that book before or after APA
2 issued any public statements about the book?

3 A. I don't recall.

4 Q. After you learned that you were
5 mentioned by name in the book, did you get a copy of
6 the book?

7 A. I did.

8 Q. Did you read it?

9 A. I did.

10 Q. At some point did you tell Dr. Cox
11 that you were mentioned by name in Pay Any Price?

12 A. I did.

13 Q. When did you do that?

14 A. Would have been right after I got a
15 copy and read it, but I don't exactly remember when
16 that was.

17 Q. Would it have been before or after
18 APA announced it had retained Sidley to conduct an
19 investigation?

20 A. It would have been after.

21 Q. Did Dr. Cox ask you any questions
22 about the discussion of you and James Risen's book?

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1 A. No.

2 Q. Tell me everything that you told

3 Dr. Cox about the nature of your involvement in the

4 PENS Task Force.

5 A. I told him that I was an observer.

6 Q. Did you tell him anything else?

7 A. He knew my wife was in the military.

8 I told him that I didn't participate in the vote and

9 believed I had an appropriate role as an observer.

10 Q. Did you tell him anything else other

11 than your participation as an observer in the PENS

12 Task Force during the three days that it met?

13 A. Not that I can recollect right now.

14 Q. Did you tell anyone else at Alliant

15 about your participation in the PENS Task Force?

16 A. There were discussions with people

17 once in a while, no one in particular that I can

18 recall.

19 Q. So when Dr. Cox said that you were

20 more involved than previously disclosed, was he

21 referring to anyone at Alliant other than him?

22 A. I'm not sure I understand the

Page 238

1 question.

2 Q. You reported that Dr. Cox said to you

3 that you were, quote, more involved than previously

4 disclosed --

5 A. Right.

6 Q. -- in the report?

7 A. Right.

8 Q. Was he referring to a disclosure by

9 you to anyone at Alliant other than him?

10 A. He was referring to the report.

11 Q. No, I mean the disclosure of your

12 involvement to Alliant?

13 A. Not that I'm aware of.

14 Q. Did you disclose --

15 MR. HENTOFF: Strike that.

16 Q. In the period of time before the

17 Sidley report issued in July 2015, did you disclose

18 any information about your involvement in the PENS

19 Task Force to any attorney working for Alliant?

20 A. Charlie Rose.

21 Q. When did you do that?

22 A. Probably. I don't recall the exact

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1 date. I can give you a window.

2 Q. What was the window?

3 A. May or June, when I was anticipating

4 there would be a report coming before the convention,

5 which is what I thought would happen.

6 Q. How did it come to be that you told

7 Charlie Rose in particular about this?

8 A. Dr. Cox suggested that I have a

9 conversation with him in order to determine whether

10 we should be telling the Board about it at that time.

11 Q. Was there any precipitating event in

12 that timeframe that caused you to speak with Dr. Cox

13 about this issue?

14 A. Not other than getting close what I

15 expected would be the release of the report.

16 Q. You're aware that an article or

17 report called "All the President's Psychologists" was

18 released prior to the Sidley report in 2015, correct?

19 A. Correct.

20 Q. And you were mentioned in that

21 article also?

22 A. I actually didn't read that.

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1 Q. Did you speak with Dr. Cox or

2 Mr. Rose about the All the President's Psychiatrists

3 article -- Psychologists article?

4 A. I did not talk to them about the

5 article.

6 Q. Have you told us everything that

7 Dr. Cox told you about members of the subcommittee

8 having reviewed the Sidley report?

9 A. Everything I can recall.

10 Q. And have you -- do you have any notes

11 anywhere that reflect --

12 A. I do not.

13 Q. Did Mr. Rose tell you anything about

14 Alliant's decision with regard to the Sidley report?

15 A. Not that I recall.

16 Q. If you look at the top of this same

17 page, you say in parentheses, "I had kept

18 President Cox and the university attorneys apprised

19 of the ongoing independent review, along with my

20 understanding of the events that were being

21 investigated." Do you see that?

22 A. Correct.

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1 Q. So who were you referring to when you
 2 said "university attorneys"?

3 A. Charlie Rose and -- thank you for
 4 refreshing my recollection -- Joe Connaughton who was
 5 the attorney for the university before the transition
 6 to the public benefit corporation.

7 Q. And when did you speak with or how
 8 did you communicate with Mr. Connaughton, about the
 9 ongoing independent review?

10 A. I met with him to talk about it.

11 Q. When did you do that?

12 A. Sometime between Thanksgiving and
 13 Christmas, 2014.

14 Q. Was anyone, was anyone else present?

15 A. No.

16 Q. What was the substance of the
 17 conversation?

18 A. I filled him in on it. He told me he
 19 wanted to go get Risen's book.

20 Q. Did you tell Mr. Connaughton anything
 21 more about your participation in the PENS Task Force
 22 than you told Dr. Cox?

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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.

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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

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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

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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

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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?

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1 THE TRIAL TECH: Sure. So exhibit --
 2 so this is Exhibit 32.
 3 MR. HENTOFF: And please turn to PDF
 4 Page 11, and please highlight the first paragraph on
 5 this page.
 6 BY MR. HENTOFF:
 7 Q. Dr. Newman, would you please read
 8 that paragraph and let me know when you're done.
 9 Actually, let me back up. Go to the, the page before
 10 and go to the bottom paragraph.
 11 So please read that bottom paragraph
 12 and then the next paragraph and let me know when
 13 you're done.
 14 THE WITNESS: Okay. You can go to
 15 the next page. Okay.
 16 Q. Is there anything in either of the
 17 two paragraphs that you just read about you that you
 18 believe is inaccurate?
 19 THE WITNESS: Henry, can you enlarge
 20 that again?
 21 (Tech complies.)
 22 MS. WAHL: Henry? Thank you.

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1 THE WITNESS: Thanks.
 2 THE TRIAL TECH: Yeah. So just so
 3 you know, any time I do a highlight, Zoom takes a
 4 little bit to show it, so...
 5 THE WITNESS: Right.
 6 THE TRIAL TECH: I'm doing that right
 7 away --
 8 MS. WAHL: I wanted to make sure you
 9 actually heard us. Thanks.
 10 THE TRIAL TECH: Yeah. Okay.
 11 A. I did not believe that I had said,
 12 "We have to put out the fires of controversy," and,
 13 in fact, told Mr. Hoffman that during my interview
 14 with him.
 15 Q. Is there any other statement in these
 16 two paragraphs that you believe -- about you that you
 17 believe is inaccurate?
 18 A. You could ask a question about
 19 helping to set the Task Force's agenda, but I don't
 20 really understand what -- what's intended to be said
 21 there, so...
 22 Q. Well, do you believe that's an

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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?

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1 A. No.
 2 Q. And did you do anything at all to
 3 contact the author or the publisher of this book to
 4 assert that anything about you was inaccurate?
 5 A. I did not.
 6 MR. HENTOFF: I'm done with this
 7 exhibit.
 8 Q. Do you recall my asking questions on
 9 Monday to Dr. Behnke about whether he had given you
 10 materials -- reading materials in connection with the
 11 PENS Task Force?
 12 A. I do.
 13 Q. Did he, in fact, give you reading
 14 materials for the PENS Task Force?
 15 A. I don't recall.
 16 Q. Did you do any reading in connection
 17 with the PENS Task Force?
 18 A. I don't recall.
 19 Q. Do you have any awareness of the
 20 reading materials that were circulated to the members
 21 of the PENS Task Force?
 22 A. I've seen the list of them in the

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1 course of accumulating information for the
 2 litigation.
 3 Q. In connection with the litigation,
 4 have you seen any copies of the PENS Task Force
 5 materials that were distributed to members?
 6 A. Not that I can think of.
 7 Q. If you looked at a copy of materials
 8 sent to PENS Task Force members, would that refresh
 9 your recollection?
 10 A. Can you ask that again?
 11 Q. Might it help refresh your
 12 recollection if I showed you a copy of the PENS Task
 13 Force materials that were given to members?
 14 A. It might.
 15 Q. So as you sit here today, are you
 16 saying that you didn't read materials or you don't
 17 remember whether you read materials?
 18 A. I don't remember.
 19 DR. FORREST: Counsel, it's -- we
 20 went been back on the record, Ms. Wahl did, at 16:36,
 21 and you looked at your microphone, but we haven't had
 22 a break in over an hour and we worked through lunch.

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1 So can we take five or ten minutes, please, to get a
 2 protein bar?
 3 MR. HENTOFF: Yeah. You want to take
 4 a ten-minute break?
 5 DR. FORREST: That would be great.
 6 Thank you.
 7 THE TRIAL TECH: Standby, please.
 8 The time is 2:55 p.m. off the record.
 9 (Recess taken.)
 10 THE TRIAL TECH: Okay. The time is
 11 3:01 p.m. Back on the record.
 12 BY MR. HENTOFF:
 13 Q. Earlier, Dr. Newman, you testified
 14 about negative statements about you in faculty
 15 E-mails at Alliant that might have been on a
 16 LISTSERV. Do you remember that?
 17 A. Yes.
 18 Q. Did you save or record any of those
 19 statements at the time?
 20 A. I did not.
 21 Q. I'm going ask you some questions
 22 about the PENS Task Force. Can you describe, just in

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1 a thumbnail way, your understanding of what the PENS
 2 Task Force was?
 3 A. The Task Force looked to see whether
 4 the APA ethics code was applicable to psychologists'
 5 activities in interrogation support and other
 6 national security activities.
 7 Q. Was it the only task force that APA
 8 formed while you worked there?
 9 A. No.
 10 Q. Was it the only Task Force in which
 11 you participated while you were at APA?
 12 A. No.
 13 Q. How many other Task, Task Forces did
 14 you participate in when you were at APA?
 15 A. I have no idea what the number would
 16 be. Over 20 years, dozens.
 17 Q. Were you -- did you participate in
 18 other Task Forces at APA as an observer?
 19 A. I had been in and out of Task Forces
 20 that were convening, and I would be an observer if I
 21 were coming into those Task Forces.
 22 Q. Did you participate in other APA Task

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1 Forces as a member of the Task Force?
 2 A. No, I was staff.
 3 Q. How did you first hear about the
 4 possibility that APA would form a Task Force that
 5 ultimately became known as the PENS Task Force?
 6 A. Discussion in the executive
 7 management group and in the board of directors.
 8 Q. In what timeframe?
 9 A. I'm trying to think of what, what
 10 the, the time on that was. January/February time
 11 frame of 2005.
 12 Q. So in preparation for this
 13 deposition, did you do anything to refresh your
 14 recollection about the events surrounding the PENS
 15 Task Force in 2005?
 16 A. I read materials that had been a part
 17 of the discoveries.
 18 Q. Roughly how much time did you spend
 19 reading materials to refresh your recollection in
 20 preparation for this deposition?
 21 A. It would be very difficult to hazard
 22 a guess on that.

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1 Q. Would it about a total of more than
 2 eight hours or fewer than eight hours?
 3 A. More than eight.
 4 Q. Would it be more than 20 hours or
 5 fewer than 20 hours?
 6 A. That would be hard to say.
 7 Q. Would it be more than 30 hours or
 8 fewer than 30 hours?
 9 A. I couldn't recall whether it was 20
 10 or more, I would not be able to recall whether it was
 11 30 or more.
 12 Q. Would, would you be -- is it possible
 13 you spent 50 hours reading materials to refresh your
 14 recollection in preparation of this deposition?
 15 A. That's probably high.
 16 Q. Did you speak to anybody in order to
 17 refresh your recollection in preparation for this
 18 deposition?
 19 A. Other than talking with my counsel.
 20 Q. The answer is no --
 21 A. No.
 22 Q. -- other than your counsel?

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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

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1 related to Morgan Banks and having a security
 2 clearance, the incomplete characterization of my
 3 conversation related to conflict of interest. And if
 4 you'd like me to go further, I would need to see the
 5 document in front of me.
 6 Q. I'll, I'll show you the notes a
 7 little bit later.
 8 When you, when you say inaccuracy
 9 regarding what you said about Morgan Banks and
 10 security clearance, please elaborate.
 11 A. My recollection of the issue was that
 12 the question of having a classification -- having,
 13 having security clearance for classified information
 14 on the Task Force was so that people in the field
 15 would be able to provide information that the Task
 16 Force wouldn't otherwise be privy to because of the
 17 need for security clearance.
 18 Q. And that's a topic that you covered
 19 in your November 2019 affidavit submitted in the DC
 20 Superior Court case, isn't it?
 21 A. I believe that's correct.
 22 Q. When you say there was an incomplete

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1 representation of the conversation regarding conflict
 2 of interest, please elaborate on that.
 3 A. My recollection of that interview was
 4 to speak about the variety of issues that could come
 5 up in the Task Force versus those that did or did not
 6 come up in the Task Force. And some issues could
 7 materialize into conflict, others would not. And I
 8 don't believe the notes reflect that degree of
 9 specificity in the conversation.
 10 Q. To aid your memory, did you take any
 11 notes about other inaccuracies that you believe are
 12 in the Sidley notes?
 13 A. No.
 14 Q. We saw yesterday that you were --
 15 MR. HENTOFF: Well, strike that.
 16 Q. When did you first become aware that
 17 there was any possibility that you might become a
 18 PENS Task Force observer?
 19 A. I don't have a recollection of when
 20 Barry Anton talked to me about that.
 21 Q. Was Barry Anton the first person to
 22 speak to you about possibly being an observer?

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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 therefore, 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

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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

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1 conversations based on my role in representing the
 2 practice community.
 3 Q. I believe you saw on Monday that you
 4 were nominated on the PENS Task Force LISTSERV on
 5 June 3, 2002, and you contacted Dr. Behnke on reading
 6 materials on May 31. Do you remember seeing that?
 7 A. I do.
 8 Q. Does that help you remember when you
 9 first learned that you might be an observer on the
 10 PENS Task Force?
 11 A. I don't recall. I wouldn't have
 12 looked for materials, if Dr. Anton hadn't already
 13 raised it with me, but I don't recall specifically
 14 when he did.
 15 Q. Other than Dr. Anton and Dr. Behnke,
 16 before you were nominated on the LISTSERV, did you
 17 speak to anyone else about becoming an observer on
 18 the PENS Task Force?
 19 A. None that I have a recollection of.
 20 Q. Where did the PENS Task Force meet?
 21 A. My recollection it was in the APA
 22 building.

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1 Q. And where in the APA building?
 2 A. The sixth floor conference room, I
 3 believe.
 4 Q. Where was your office at the time?
 5 A. The fourth floor.
 6 Q. And what was the first day of the
 7 meeting?
 8 A. I'm sorry.
 9 Q. What was the first day of the PENS
 10 Task Force meeting?
 11 A. Thursday of whatever the date was of
 12 that weekend. I'm sorry. Friday. I'm sorry,
 13 Friday. Thursday night was when the committee -- the
 14 Task Force members came to town. It was Friday.
 15 Q. There was a dinner of Task Force
 16 members on Thursday night?
 17 A. I believe that's correct.
 18 Q. But you didn't go to that?
 19 A. I don't believe so.
 20 Q. On, on Friday morning, you attended
 21 the Task Force meeting, correct?
 22 A. Correct.

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1 Q. You were there all three days,
 2 correct?
 3 A. Two and a half.
 4 Q. Friday, Saturday, half a day on
 5 Sunday correct?
 6 A. Correct.
 7 Q. Did you bring any materials with you?
 8 A. I do not recall whether I brought
 9 something with me or not.
 10 Q. People sitting around the table at
 11 the PENS Task Force, did other people have materials,
 12 reading materials?
 13 A. The packet of materials, I believe,
 14 was handed out at the meeting.
 15 Q. I want to ask you to be sure. Was
 16 there materials handed out at the meeting, sent
 17 before the meeting or both?
 18 A. You know, I don't specifically
 19 recall.
 20 Q. Do you remember holding in your hand
 21 any reading materials for the PENS Task Force while
 22 you were at the meeting?

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1 A. I do not recall. I likely did.
 2 Q. So the first day of the Task Force
 3 was Friday, June 24th; is that correct?
 4 A. Friday, yeah, I believe that's
 5 June 24th. That's when it would be.
 6 Q. And the New York Times article came
 7 out that day, that actually mentioned the Task Force.
 8 Do you remember that?
 9 A. I do not remember that.
 10 MR. HENTOFF: Henry, could you
 11 identify Control Number 207, and let me know what's
 12 next -- let me know what exhibit number that is.
 13 (Whereupon, Exhibit 33, 6/24/2005
 14 E-mail thread, was marked for identification.)
 15 THE TRIAL TECH: So this is going to
 16 be Exhibit 33.
 17 MR. HENTOFF: 33?
 18 THE TRIAL TECH: Yes.
 19 MR. HENTOFF: Henry please, go to the
 20 second page of this exhibit. And if you go toward
 21 the bottom of that page -- although, I guess, I'm
 22 sorry. Yeah, yeah, that's good.

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1 Q. We see an E-mail from Kanika Lewis
 2 and please go ahead a page so we can see what's the
 3 rest of the E-mail, just to the next page after that,
 4 right. Let's go back to the page before this with
 5 the Kanika Lewis E-mail. Do you see this E-mail,
 6 Dr. Newman, from Kanika Lewis dated Friday, June 24th
 7 at 11:35 a.m.?
 8 A. I do.
 9 Q. And do you see you're listed as one
 10 of the recipients?
 11 A. I do.
 12 Q. What was Kanika Lewis's job at APA?
 13 A. I have no recollection of that.
 14 Q. Do you see her signature block there?
 15 A. Right.
 16 Q. What does that say?
 17 A. Public affairs specialist.
 18 Q. Does that refresh your recollection
 19 as to her position at APA?
 20 A. Worked in the public affairs office.
 21 Q. You see her E-mail says, "Good
 22 morning, I'm distributing this New York Times article

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1 on Rhea Farberman's behalf?
 2 A. Correct.
 3 Q. What was Rhea Farberman's job?
 4 A. She directed public affairs.
 5 Q. Why were you among the people to
 6 receive this E-mail?
 7 A. I don't have a specific understanding
 8 of why it was sent to me. Everything -- I could
 9 speculate about it, but I don't want to speculate.
 10 Q. If you look at the bottom of this
 11 page, it says, June 24, 2005, and the headline says,
 12 "Interrogators cite doctors' aid at Guantanamo." Do
 13 you see that?
 14 A. Yes.
 15 Q. So let's go to the next page, and you
 16 see a by line, New York Times, by line Neil A. Lewis,
 17 Washington, June 23rd. It says, "Military doctors at
 18 Guantanamo Bay, Cuba, have aided interrogators in
 19 conducting and refining coercive interrogations of
 20 detainees including providing advice on how to
 21 increase stress levels and exploit fears according to
 22 new detailed accounts given by former interrogators.

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1 Do you see that?
 2 A. I do, but, Henry, can you eliminate
 3 the message that's blocking the screen.
 4 DR. FORREST: We've got a blue
 5 message that's on top. I'll check and see if it's on
 6 our end. Do you have a message by chance?
 7 MR. HENTOFF: I don't see any
 8 message.
 9 THE TRIAL TECH: Does the message say
 10 anything about a breakout room?
 11 THE WITNESS: It does.
 12 THE TRIAL TECH: All you have to do
 13 is just click "X" on it. It's just letting you know
 14 that there's been a breakout room created and -- if
 15 want to join one.
 16 THE WITNESS: It did. Thanks.
 17 BY MR. HENTOFF:
 18 Q. Okay. So I've been directing your
 19 attention to the first, I believe, that article. Do
 20 you see that?
 21 A. I do.
 22 MR. HENTOFF: Henry, let's go to the

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1 next page.
 2 (Tech complies.)
 3 Q. And if you go to the top, I'll just
 4 read from the top of this page, "Dr. Spencer F., a
 5 professor of psychiatry at the New York Medical
 6 College and Chairman of the Ethics Committee of the
 7 American Psychiatric Association said in an interview
 8 that there was no way that psychiatrists at
 9 Guantanamo could ethically counsel interrogators on
 10 ways to increase distress on detainees, but in a
 11 statement issued in December, the American
 12 Psychological Association said the issue of
 13 involvement of its members in national security
 14 endeavors was new.
 15 "Dr. Stephen Behnke, who heads the
 16 group's ethics division said in an interview this
 17 week that a committee of 10 members, including some
 18 from the military, was meeting in Washington this
 19 weekend to discuss the issue. Dr. Behnke emphasized
 20 that the codes did not necessarily allow
 21 participation by psychologists in such roles but
 22 rather the issue had not been dealt with directly

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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.

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1 (Whereupon, Exhibit 34, 6/01/2005
 2 E-mail thread, was marked for identification.)
 3 Q. Dr. Newman, Exhibit 34 is the same
 4 E-mail thread that I questioned Dr. Behnke about on
 5 Monday about the materials.
 6 Without reading it aloud but reading
 7 it to yourself, can you tell me whether anything
 8 about this refreshes your recollection about whether
 9 you actually ended up receiving reading materials for
 10 the PENS Task Force?
 11 A. That says that he meant to bring them
 12 down to me and would bring them down tomorrow. I
 13 don't recall what the next step on that might have
 14 been.
 15 Q. So it sounds like it doesn't refresh
 16 your recollection as to whether you actually received
 17 it?
 18 A. It does not.
 19 Q. If you look at the next page which is
 20 the very beginning of this E-mail thread, on
 21 May 31st, you say "Steve, are there any materials for
 22 review, prior to the ethics National Security Task

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1 Forces meeting later this month, Russ." Do you see
 2 that?
 3 A. I do.
 4 Q. Why did you ask for that?
 5 A. They are typically materials that get
 6 distributed in advance of groups, governance groups
 7 that are convened.
 8 Q. And you wanted to have them, so you
 9 could read them?
 10 A. Correct.
 11 Q. At the very top, the last E-mail on
 12 June 1st you say, "Actually, I spent a good part of
 13 the week training with all of the military
 14 psychologists who conduct repatriation with returning
 15 POWs and hostages, as well as who perform other
 16 national security related activities." Do you see
 17 that?
 18 A. I do.
 19 Q. Did that group involve anyone who
 20 ended up participating on the PENS Task Force?
 21 A. I don't recall.
 22 Q. What was the nature of the training?

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1 A. It was continuing education for those
 2 psychologists who had been through the SERE training
 3 program.
 4 Q. Had you ever been through the SERE
 5 training program?
 6 A. I had not been.
 7 MR. HENTOFF: Next up is Control
 8 No. 228, which is going to be Exhibit 35, and this is
 9 a document that Dr. Forrest put in the electronic,
 10 you know, box website, and I, I don't recall whether
 11 there were actually questions about it yesterday, but
 12 that's where I got this document from. If you look
 13 at the holes on that for me it indicates there's some
 14 sort of binding.
 15 DR. FORREST: I'm sorry, Counsel. I
 16 didn't put any documents yesterday in any box. So I
 17 don't know where this document came from.
 18 MR. HENTOFF: Yeah, this was a
 19 document --
 20 DR. FORREST: I have no -- I know
 21 what the document is. It's just where you are saying
 22 you got it, you couldn't have, because I didn't put

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1 any documents in a box yesterday.
 2 MR. HENTOFF: I'm going to take a
 3 look. Give me one moment.
 4 DR. FORREST: It is on our website
 5 and I can direct you towards it. I'm happy to do
 6 that.
 7 MR. HENTOFF: I'm just taking a look
 8 at something.
 9 Well, at any rate, in fact, let's
 10 take that down, because I have another version that
 11 has a Bates No. So it's certainly possible that my
 12 recollection may be incorrect. Let's actually strike
 13 that. I'm not -- I don't have any questions about
 14 it, so let's make the next one Exhibit -- is that 36?
 15 THE TRIAL TECH: Yeah.
 16 MR. HENTOFF: Or 35?
 17 THE TRIAL TECH: Well, the last
 18 document was 35. If you are going to strike that, do
 19 you want to --
 20 MR. HENTOFF: Then this one will be
 21 35.
 22 THE TRIAL TECH: Okay. Got it.

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1 MR. HENTOFF: All right. Please
 2 Henry -- hold on. Let me just double-check this
 3 first. Okay. Please go put up Control No. 229 as
 4 Exhibit 35, and this is a document Bates SAARB14456.
 5 The title is "Presidential Task Force on
 6 Psychological Ethics and National Security." If you
 7 go to the second page, you'll see there is a list of
 8 members. And if you go to PDF Page 5, we see a list
 9 of reading "APA Task Force on ethics and national
 10 security," and a bunch of tabs and that goes on for a
 11 few pages, until Tab 50.
 12 (Whereupon, Exhibit 35, American
 13 Psychological Association - Presidential Task Force
 14 on Psychological Ethics and National Security, was
 15 marked for identification.)
 16 BY MR. HENTOFF:
 17 Q. Could, you please direct Henry to
 18 scroll, Dr. Newman, and let me know whether this
 19 refreshes your recollection, as to whether you
 20 received these materials?
 21 A. I'm familiar with the list of
 22 articles. I have no recollection of whether I got a

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1 packet of materials of those.
 2 MR. HENTOFF: Okay. That's all I
 3 wanted to ask about that document.
 4 Henry, can you get control number 42,
 5 which will be Exhibit 36.
 6 (Whereupon, Exhibit 36, E-mail thread
 7 September 29, 2005, was marked for identification.)
 8 BY MR. HENTOFF:
 9 Q. Exhibit 36 is an E-mail thread where
 10 the top E-mail is dated September 29, 2005, and the
 11 sender is Russ Newman. Can you see in the lower
 12 right that there is a public report control number,
 13 and then at the very bottom, there is a Sidley
 14 arbitration Bates No. 23514.
 15 Do you remember seeing this E-mail
 16 before?
 17 A. I have seen this E-mail.
 18 Q. So I'd like to direct your attention
 19 to the bottom half of this page. There is an E-mail
 20 from Stephen Behnke, dated September 28, 2005. You
 21 are among the recipients. The subject is: Call from
 22 director of mental health. And Dr. Behnke says, "Ron

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1 plans to speak with his wife this evening before he
 2 accepts. Once he does we should think through how
 3 best to prepare him," and if you'd like, you can go
 4 to the next page, and see the E-mail below this, just
 5 to give you some context.
 6 A. Okay.
 7 Q. So do you remember receiving this
 8 E-mail about this trip by Dr. Levant?
 9 A. I remember the trip. I don't
 10 remember receiving the E-mail.
 11 Q. Do you see above Dr. Behnke's E-mail,
 12 there is an E-mail from Ms. Farberman, dated
 13 September 29, 2005. You are among the recipients and
 14 she says, "Prepping him will be critical. Maybe Ron
 15 can come to DC on the morning of the 18th and spend
 16 the afternoon being briefed by Steve, Russ, Heather,
 17 etc.
 18 DoD will probably set down some rules
 19 about taking to the media (don't)...if not, we
 20 should?"
 21 Did you, in fact, brief Ron?
 22 A. I don't recall the conversations.

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1 Q. So then we get to your E-mail,
 2 September 29th at 9:56 a.m. and you say, "Good idea.
 3 I happen to know that there are currently some
 4 prickly interprofessional issues that are alive and
 5 well in terms of who is doing what at GTMO that will
 6 likely surface during a trip of this sort."
 7 What were you referring to here?
 8 A. My recollection is traditional,
 9 professional, territorial issues between
 10 psychologists and psychiatrists.
 11 Q. You go on to say, "Handling them
 12 optimally will cement the good PR we have gotten with
 13 the military and the DoD as result of the PENS
 14 report; handling them otherwise will potentially undo
 15 some of the Association's good work. Russ."
 16 Did you write that?
 17 A. Yes.
 18 Q. And were you being truthful, when you
 19 wrote that?
 20 A. I have no reason to think I wasn't.
 21 MR. HENTOFF: Henry, can you go to
 22 Control 36, which will be Exhibit 37.

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1 (Whereupon, Exhibit 37, 7/18/2005
 2 E-mail thread, was marked for identification.)
 3 BY MR. HENTOFF:
 4 Q. Exhibit 37 is another E-mail thread.
 5 And I'm going to ask some questions about E-mails
 6 starting on Page 2 of this document. I'm going to
 7 start with a question but please decide what you want
 8 to read, before answering the question.
 9 So there is an E-mail from or on
 10 behalf of Rhea Farberman -- I am sorry it's from APA
 11 board of directors' executive management group, on
 12 behalf of Rhea Farberman sent July 15, 2005 to
 13 APABODEMG@LISTS.APA.ORG, and it references --
 14 DR. FORREST: Sorry, Tom, you said
 15 this APAEMG, this is -- what we're seeing is APA
 16 Board and Executive Management Group.
 17 MR. HENTOFF: On Page 2 of the
 18 document I'm referring to the to line.
 19 DR. FORREST: Right. You said it was
 20 the executive management group. We've got APABOD,
 21 which is the APA board, which is separate from the
 22 EMG. So I am just trying to determine, are we on the

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1 right line?
 2 MR. HENTOFF: Yeah, I was just
 3 reading the letters. It says "BOD," and then it says
 4 "EMG," at the end.
 5 DR. FORREST: Got it. Okay. Thanks.
 6 Q. So, Dr. Newman, what was the
 7 APABODEMG list?
 8 A. A LISTSERV comprised of board
 9 members, board of directors' members and exec- --
 10 executive management group members.
 11 Q. Were you on that list?
 12 A. I was a member of the executive
 13 management group.
 14 Q. What does that mean to be a member of
 15 the executive management group at APA?
 16 A. It was the executive directors, CEO,
 17 CFO, COO, the executive group of the association was
 18 the executive management group.
 19 Q. How many -- did you say directors or
 20 executive directors?
 21 A. Executive directors.
 22 Q. How many executive directors were

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1 there any APA at the time?
 2 A. Science, practice, public interest,
 3 and education.
 4 Q. Do you recall a discussion of, at
 5 this time, of a request by physicians for human
 6 rights to place an ad in the Monitor?
 7 A. I do not recall that.
 8 Q. So you see in this E-mail that
 9 Ms. Farberman presents this issue to the list, about
 10 this advertisement. And you respond with an E-mail,
 11 which you can see by looking at the first, bottom of
 12 the first page, and over to second page.
 13 So please take a look at your E-mail,
 14 and let me know when you're done reading and then
 15 I'll ask you a couple of questions.
 16 THE WITNESS: Henry, can you move
 17 this a little? So that -- I don't want to take the
 18 video off of my screen. But I can't read some of it
 19 because the videos are --
 20 THE TRIAL TECH: I can help you out
 21 with that real quick. But you will need to follow my
 22 instructions. It's not that difficult. If you hover

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1 towards the top of your screen, you should see
 2 something that says "view options," do you see that?
 3 It's right next to a green bar.
 4 DR. FORREST: I'm moving it, Henry,
 5 hang on. I'll just move it for him. Hang on.
 6 THE TRIAL TECH: If you click that
 7 view option, you'll be able to go to side-by-side
 8 mode.
 9 DR. FORREST: We just did it. We got
 10 it.
 11 A. Okay. Read it.
 12 Q. Okay. Do you remember sending that
 13 E-mail?
 14 A. I do not remember sending that
 15 E-mail.
 16 Q. But you agree you did, in fact, send
 17 it?
 18 A. It says right here I did.
 19 Q. So this is an E-mail from you in
 20 response to Ms. Farberman's E-mail, dated July 18th,
 21 7:14 a.m. and you say, "The one concern I would have
 22 about running the ad is that the PENS task force and

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1 other activity over the last year has worked to
 2 rebuild a relationship with our psychologist
 3 colleagues who work in national security activities."
 4 Were you being truthful, when you
 5 wrote that?
 6 A. Yes.
 7 Q. Then there is a response from Rhea
 8 Farberman at 2:44 p.m. that day, and she says, "A
 9 possible way to counter this (partially at least)
 10 might be to state in the editor's note that the
 11 opinions expressed in this advertisement are those of
 12 the advertiser and do not necessarily reflect the
 13 opinions of the APA or something to that effect. Do
 14 you think that would be helpful?" And then you
 15 respond at 2:53 p.m., "If you're committed to running
 16 the ad, a disclaimer of that sort couldn't hurt.
 17 What does Steve think about the effect of running
 18 this on the group he has been courting for the last
 19 year (as have I, although not to the degree that
 20 Steve has worked on this)."
 21 Do you see that?
 22 A. I do.

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1 Q. Were you being truthful, when you
 2 wrote that?
 3 A. I was.
 4 Q. And then at the top of this E-mail we
 5 see Rhea Farberman responding to you and CC'ing
 6 Dr. Behnke, and she says, "I think Steve is okay with
 7 our running the ad with a editor's note and is
 8 concerned about PR fallout (with a very different
 9 segment of our audience) if we decline to run the ad.
 10 As I am. Steve's out of town but I'm copying him so
 11 he can weigh in on our discussion."
 12 Does looking at this E-mail refresh
 13 your recollection at all about having a discussion
 14 about this proposed ad to run in the Monitor?
 15 A. It does not.
 16 Q. And do you have any memory of any
 17 further discussion in this E-mail chain?
 18 A. I do not.
 19 MR. HENTOFF: So, let's go to control
 20 Number 225, which would be Exhibit 38. I'm sorry.
 21 Right, 225. Give me a moment.
 22 (Whereupon, Exhibit 38, 7/26/2005

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1 E-mail thread, was marked for identification.)
 2 Q. Okay. So Exhibit 38, you can see,
 3 Dr. Newman, that this picks up on the E-mail
 4 discussion that we were just looking at, but I'd
 5 suggest that you direct Henry to let you scroll down,
 6 so you can get some context as to where we are. I'm
 7 going to be asking you questions starting with PDF
 8 Page 3. You take all the time you need to get
 9 oriented.
 10 A. Okay.
 11 MR. HENTOFF: Okay. So, Henry,
 12 please take us to page PDF Page 3.
 13 (Tech complies.)
 14 Q. And if you see just below, just at
 15 the top of the bottom half, we see that last E-mail
 16 that we looked at from Rhea Farberman, I think Steve
 17 was okay with this. And that's July 18, 2005. So
 18 the next E-mail on this chain is from you, and you
 19 say, "Has Steve weighed in on this decision? Russ."
 20 Do you see that?
 21 A. Yes.
 22 Q. And then if you look a little bit up

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1 on that page, and then go back up to PDF Page 2.
 2 You see that Dr. Behnke says that "It
 3 seems to me untenable not to run the add." And he
 4 says a bunch of things. And I'm not going to ask
 5 about his E-mail. I'm going to ask about your
 6 response. But what I would like you to do is read
 7 your response above that, and read as much of his
 8 E-mail as you'd like, and just tell me when you're
 9 ready for me to ask a question.
 10 A. It's flipping back and forth. I
 11 can't quite get a beat on this.
 12 DR. FORREST: Yeah, can we start --
 13 thanks. Henry.
 14 THE TRIAL TECH: So all I was doing
 15 was --
 16 DR. FORREST: You intuitive what we
 17 were asking. Thank you.
 18 A. I sort of lost the placeholder of
 19 where we were in the chain.
 20 Q. Yeah, so where you were was, you
 21 would have to go to the next page. You have got
 22 Bates Nos. 1608 and 1609 together. It's 1610 is

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1 where you picked up, is where the E-mail thread picks
 2 up from the other one.
 3 So you see where you say on the
 4 right, "Has Steve weighed in on this decision?"
 5 That's the --
 6 A. I do.
 7 Q. -- first new E-mail.
 8 A. I do. And then I wasn't sure where
 9 you pointed me to after that.
 10 Q. Go all the way up to page -- go to
 11 Page 1609 in the middle, under the horizontal line.
 12 I'd like to ask you about your 3-line E-mail, that
 13 starts with "I agree with Steve's concern."
 14 A. Okay.
 15 Q. So, on July 26th you write, "I agree
 16 with Steve's concern about the ad's implication
 17 concerning psychologists engaging in unethical
 18 behavior and/or torture. Anything that can be done
 19 to mitigate this would be important. Russ."
 20 Do you remember writing this E-mail?
 21 A. I do not.
 22 Q. Do you remember what you meant by,

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1 "Anything that can be done to mitigate this would be
 2 important?"
 3 A. Running an ad like that would be
 4 problematic.
 5 Q. For what reason?
 6 A. It's not a position of the
 7 Association, but it's an ad where a group is taking
 8 something that could be perceived as a position of
 9 the Association.
 10 MR. HENTOFF: Can you please, Henry,
 11 take us to the very first page of this exhibit. And
 12 again under a horizontal line, there is an E-mail
 13 from Russ Newman. It's dated July 26, 2005 to Rhea
 14 Farberman and Stephen Behnke, and you say here, "I do
 15 think some pre-ad management is the other important
 16 piece to this, both with Div. 19 and with the PENS
 17 Task Force itself." What's Division 19 in APA?
 18 A. Military psychology.
 19 Q. You go on to say, "We know what it
 20 means that this is simply a paid advertisement
 21 dropped in the 'marketplace of ideas.' But the
 22 reaction of the military psychology community seeing

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1 this for the first time in the Monitor may be nothing
 2 short of shocking, particularly since APA had
 3 previously banned their advertising. I'd just hate
 4 to see all the good work done with this community in
 5 the past year go up in smoke."
 6 Were you being truthful, when you
 7 wrote that?
 8 A. I was.
 9 Q. Why did you believe that it was
 10 important to do some pre-ad management with the PENS
 11 Task Force, in particular?
 12 A. The PENS Task Force had a charge of
 13 providing guidance to military psychologists engaged
 14 in that activity. They believed they got some good
 15 guidance from it. That was the first time in a long
 16 time that constituency had felt like they had gotten
 17 something helpful from APA.
 18 Q. If I showed you the typeset of
 19 Sidley's notes of your interview, it's very lengthy.
 20 But you had said to me if I showed you the notes,
 21 that might help you identify statements in the notes
 22 that you believe inaccurately captured what you said.

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1 So what I would propose to do is present the type
 2 notes to you, and I think it might be most efficient
 3 to take a quick break, so we don't have to look at
 4 you reading, and give you an opportunity to review
 5 those notes, and then I'll ask you some questions
 6 about them.

7 DR. FORREST: I prefer to go -- stay
 8 on the record.

9 BY MR. HENTOFF:

10 Q. Would it be helpful for you,
 11 Dr. Newman, to also look at the handwritten notes?

12 A. I'm afraid those maybe harder to --

13 Q. Let me ask you a question.

14 A. -- decipher.

15 Q. With regard to the handwritten notes,
 16 given that they may be hard to decipher, do you have
 17 in your mind, anything in those notes, that you've
 18 already noted is inaccurate?

19 A. There was some refreshing of my
 20 recollection, just some of what this has presented
 21 for another example of an issue that I believe was
 22 not accurate in the notes.

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1 Q. And what is that?

2 A. That my comments in the interview
 3 about the importance of addressing concerns outside
 4 of the organization being raised about it through
 5 these issues, which was one of the charges of the
 6 committee, the Task Force, was portrayed in the notes
 7 as I was talking about it as a public relations,
 8 like, coverup sort of issue.

9 Q. All right. Well, hopefully you can
 10 identify that part of the note, so I can ask you
 11 questions about it. So --

12 DR. FORREST: All right.

13 Mr. Hentoff, can you clarify what set of notes? Are
 14 you talking about the handwritten notes now, and
 15 there is two sets of typed version notes. So could
 16 you clarify which set you are referring to please, so
 17 we can pull it up.

18 MR. HENTOFF: Yeah, so I believe
 19 there's one lengthy set of type notes, and two sets
 20 of handwritten notes.

21 DR. FORREST: There is two sets of
 22 typewritten notes. One is longer than the other.

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1 MR. HENTOFF: Oh, okay. I know what
 2 you're talking about. So I'm going to show --

3 Henry, can you put up control number
 4 90 and --

5 DR. FORREST: If you all, if you all
 6 want to take a break, and allow him to read, I am
 7 just -- he needs this to count as deposition time,
 8 that's all I'm asking, if he's going to be asked to
 9 read during a break.

10 MR. HENTOFF: Well, it's a very
 11 lengthy document, and I want to find out what
 12 Dr. Newman's allegations are regarding inaccuracies.

13 BY MR. HENTOFF:

14 Q. And, Dr. Newman, how recently did you
 15 read these typed notes to refresh your recollection?

16 A. Within the last few days.

17 Q. Okay. So I hope you can scan the
 18 notes and identify what you had in mind as
 19 inaccurate, so -- and then also, I would just note
 20 that with the box link, and also the electronic
 21 documents that you have previously provided, you
 22 don't have to rely on Henry going up and down. You

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1 can look at the electronic document, at your leisure
 2 and manipulate it however you want, because this is a
 3 very lengthy document.

4 MR. HENTOFF: But at any rate, what's
 5 the next exhibit number here, Henry?

6 THE TRIAL TECH: I'm sorry? Say that
 7 again.

8 MR. HENTOFF: What's the next exhibit
 9 number?

10 THE TRIAL TECH: This is going to be
 11 Exhibit 39.

12 (Whereupon, Exhibit 39, Newman JMA
 13 Notes in Tab A, 28 pages, was marked for
 14 identification.)

15 Q. Okay. So this is Exhibit 39, which
 16 is a set of handwritten notes from both the April
 17 interview of you and the June interview of you.

18 DR. FORREST: I'm sorry, it's a set
 19 of handwritten notes, Mr. Hentoff?

20 MR. HENTOFF: I misspoke. It's a set
 21 of typed notes.

22 DR. FORREST: All right.

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1 A. I am a little unclear as to what
 2 we're doing at this point.
 3 Q. I believe that Dr. Forrest would like
 4 you to read the notes without being on camera but
 5 with the time not -- with the time counting as
 6 deposition time.
 7 DR. FORREST: We're happy to stay on
 8 the camera as long as you need.
 9 Henry, why don't you just, Russel,
 10 read through each page, and he'll tell you when to
 11 flip.
 12 Q. Well, here's what I'm asking,
 13 Dr. Newman, I would like to have the opportunity to
 14 ask you about any allegations that you have that
 15 these notes inaccurately reflect what you said to
 16 Sidley. So I would like you to go through them
 17 yourself and stop when there's an inaccuracy that you
 18 see.
 19 A. And I'm -- am I doing that here on
 20 the record on the cameras?
 21 Q. My preference would be that you take
 22 a break, at your leisure, write a note so you can be

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1 careful, and then come back and let -- and direct us
 2 to what you've noted.
 3 DR. FORREST: Happy to do that if it
 4 counts towards the deposition time. Otherwise, he'll
 5 stay on the record.
 6 MR. HENTOFF: My request is that it
 7 not count toward the deposition time since Dr. Newman
 8 has recently read these notes.
 9 DR. FORREST: That's -- you're asking
 10 him to read this and give you his understanding. If
 11 you're just asking for his recollection, different
 12 issue. But if you're asking, as he sits here today,
 13 inaccuracies, then he needs to go through each page,
 14 Mr. Hentoff, and that does count towards deposition
 15 time. So your choice, your question.
 16 MR. HENTOFF: Before we go page by
 17 page, Dr. Newman -- I'll tell you what, I'd like to
 18 take a break. Because we have been going for about
 19 an hour, and let's take a ten-minute break. If you
 20 could think about how you want to approach those
 21 notes, that would be helpful. And I'll think about
 22 how I'm going to approach those notes during the

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1 break.
 2 THE TRIAL TECH: All right. The time
 3 is 4:00 p.m. Going off the record.
 4 (Recess taken.)
 5 MR. HENTOFF: Henry, please call up
 6 Control No. 39, which will be Exhibit 40.
 7 THE TRIAL TECH: 39. We're not on
 8 the record, all right?
 9 MR. HENTOFF: Oh, sorry.
 10 THE TRIAL TECH: But I can bring it
 11 up now and throw it up on the screen. So you said
 12 39, right?
 13 MR. HENTOFF: Right.
 14 THE TRIAL TECH: Okay. Yeah. That's
 15 on the screen. So that's going to be Exhibit 40.
 16 The time is 4:15 p.m. We are back on
 17 the record.
 18 (Whereupon, Exhibit 40, 8/9/05 E-mail
 19 thread, was marked for identification.)
 20 BY MR. HENTOFF:
 21 Q. Dr. Newman, I'd like to direct your
 22 attention to Exhibit 40, which is a -- an E-mail

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1 thread. It's a three-page document. I'm going to
 2 ask you questions about E-mails on the first page, so
 3 I think it would be helpful if you would read the
 4 E-mails on the first page. And of course read the
 5 earlier E-mails if you'd like, although I won't be
 6 asking you questions about them.
 7 A. I've read the E-mails on this page.
 8 Q. Well, I'm ready to ask you a
 9 question. So do you see in the middle of the first
 10 page in the E-mail from Colonel Dunivin dated
 11 August 9, 2005, to Stephen Behnke and Russ Newman,
 12 "subject re: Ethics panel: Invitation to APA
 13 Convention Event"? And this a document with the
 14 Bates No., at the very bottom, SA_ARB 113233.
 15 So Dr. Dunivin says on August 9,
 16 2005, "Owe both of you, Steve and Russ, and the rest
 17 of your panel a HUGE THANKS!! Confidentially - The
 18 report of the PENS Task Force has enabled the Army
 19 Surgeon General to move forward with interim guidance
 20 and doctrine on functioning of the behavioral science
 21 consultants to this process. Until that's released,
 22 it's close hold, even that it's being done, but I

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1 wanted you to know what an important contribution
 2 your timely intervention has made already. It will
 3 be well-worth the heat coming up at convention, and
 4 beyond. THANKS AGAIN for your efforts."
 5 Do you see this E-mail?
 6 A. I see that.
 7 Q. Do you remember receiving this E-mail
 8 in August of 2005?
 9 A. I don't remember receiving it then.
 10 Q. Where was, where was Colonel Dunivin
 11 stationed in August of 2005?
 12 A. Guantanamo.
 13 Q. Above that E-mail, we see an E-mail
 14 from Dr. Behnke to Colonel Dunivin and you dated
 15 August 9, 2005. He says in the second and third
 16 paragraphs, "I worry that Convention been a variable
 17 festival of mischief. The degree to which the task
 18 force report has been distorted by the press, and the
 19 willingness of people to take strong sides [sic] with
 20 little if any understanding of the facts, is a bit
 21 like sprinkling kerosene on glowing embers.
 22 Convention could be a barbecue.

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1 "I have to say, though, that getting
 2 to know and work with Morgan has really made it all
 3 worth it -- what a great guy."
 4 Who is he referring to with the name
 5 Morgan?
 6 A. Morgan Banks.
 7 Q. So when Dr. Behnke says, "The degree
 8 to which the task force report has been distorted by
 9 the press," do you know what he's referring to?
 10 A. I don't really know what he's
 11 referring to.
 12 Q. All right. That's enough with
 13 Exhibit 40. So I think we may be spending some time
 14 on Exhibit 39, which may require Dr. Newman to borrow
 15 Dr. Forrest's laptop.
 16 DR. FORREST: Which is Exhibit 39,
 17 Tom? Sorry.
 18 MR. HENTOFF: That is the 28-page set
 19 of typed Sidley notes.
 20 DR. FORREST: Can you give me control
 21 number again?
 22 MR. HENTOFF: The control number is

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1 90, and it's Exhibit 39. And it's --
 2 DR. FORREST: Right. I don't have
 3 them on my computer listed by exhibit. I've just got
 4 to find it by control number. Hang on one second.
 5 MR. HENTOFF: 9-0.
 6 THE WITNESS: Had to figure out where
 7 it was.
 8 DR. FORREST: Yeah, sorry.
 9 A. Mr. Hentoff, just to be clear so I'm
 10 not using time that's not effective here. I'm
 11 continuing with the task that I was in before the
 12 laptop was taken away from me?
 13 Q. Yes. What I would like you to do is
 14 scroll through these 28 pages of typed notes and stop
 15 when you see a note from Sidley that you believe
 16 inaccurately reflects what you told Sidley in the
 17 interview.
 18 And I'll tell you what, let me pause
 19 and ask you a couple of questions about the
 20 interviews before we do this.
 21 Just very briefly, how many times did
 22 Sidley interview you in connection with its work on

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1 the report?
 2 A. One in-person interview in April and
 3 one telephone conversation interview in June.
 4 Q. And the in-person interview was in
 5 San Diego?
 6 A. Correct.
 7 Q. Where did it take place?
 8 A. My office at Alliant.
 9 Q. Who were the Sidley attorneys who
 10 participated?
 11 A. David Hoffman and Yasser Latif (ph).
 12 Q. How long did, did you spend with them
 13 for that interview?
 14 A. I'm not sure I recall the exact time,
 15 somewhere in the neighborhood of six or eight hours.
 16 Q. And then the second interview was on
 17 June 15, 2015?
 18 A. Correct.
 19 Q. And that was over Webex?
 20 A. No -- well, it was telephone and
 21 there was a document, I believe, being posted to
 22 review during it.

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1 Q. Okay. So it was a telephone
 2 interview, and you had the ability to see documents
 3 that they showed you during the interview?
 4 A. No, I don't recall that specifically.
 5 Q. And how long did that interview take?
 6 A. An hour.
 7 Q. And who participated from Sidley?
 8 A. I only remember David Hoffman.
 9 Q. Do you remember Yasser Latif
 10 participating in that interview?
 11 A. I do not.
 12 Q. Do you remember E-mails between you
 13 and Yasser Latif setting up the phone call?
 14 A. I do not.
 15 Q. Okay. Well, thank you.
 16 So -- yes, so now I would like you to
 17 undertake this project of scrolling through these
 18 28 typed pages and stopping when you see something
 19 that you believe inaccurately reflects what you told
 20 Sidley in the interview.
 21 DR. FORREST: I'm just going to ask
 22 him, make sure he knows how to use the marking

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1 function on my computer.
 2 Did you get it?
 3 THE WITNESS: Yes. I'm having
 4 trouble finding the things that I'm looking for.
 5 MS. WAHL: If you get to the end, I
 6 could help you if -- maybe go through the whole thing
 7 and then see what's left and we can try to find it
 8 with a search.
 9 DR. FORREST: Tom, can I make a
 10 suggestion that might speed this up a bit? Why don't
 11 we take five minutes and let me go try to get a
 12 printout of just this document? Because I think that
 13 actually might be helpful. It's kind of hard. He's
 14 having kind of a hard time looking at it on the
 15 screen.
 16 So can -- why don't we take
 17 five and -- or actually, let's take five-and-a-half
 18 and let me go try to get this printed out, okay?
 19 MR. HENTOFF: What do others think,
 20 others think? Is that a good way to do it, get a
 21 printout?
 22 DR. FORREST: I think that might

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1 speed things up for you is my point.
 2 MS. WAHL: How far along in the
 3 document is Dr. Newman?
 4 DR. FORREST: Halfway through.
 5 MS. WAHL: I, I think it's really up
 6 to him and what he feels comfortable with.
 7 MR. HENTOFF: Yeah, what -- what's
 8 your preference, Dr. Newman?
 9 THE WITNESS: I wish I could search
 10 this document.
 11 MR. HENTOFF: You can't? It's not
 12 word searchable?
 13 DR. FORREST: No, it's not OCR'd,
 14 Tom. That's the problem. The version that we have
 15 isn't OCR'd, so you can't search a term. And it
 16 won't OCR, that's why it's also hard to mark on.
 17 If you have an OCR version, that
 18 would be great. But I tried to OCR it during the
 19 break, and it won't. So it's --
 20 MR. HENTOFF: My OCR version is on my
 21 work product (inaudible).
 22 MR. HENTOFF: Got you. So that's not

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1 helpful either.
 2 MS. DURHAM: Tom, I have a -- I have
 3 an OCR version that I'll send them now.
 4 MS. WAHL: Okay.
 5 DR. FORREST: Thank you. Is that --
 6 who is -- is that?
 7 MS. WAHL: Krystal.
 8 DR. FORREST: Krystal, thank you.
 9 MR. HENTOFF: All right. Let's --
 10 can we take a 5-minute break so that the word
 11 searchable document can get in the hands of
 12 Dr. Forrest and Dr. Newman.
 13 THE TRIAL TECH: Standby, please.
 14 The time is 4:34 p.m. Going off the record.
 15 (Recess taken.)
 16 THE TRIAL TECH: All right. The time
 17 is 4:49 p.m. Back on the record.
 18 BY MR. HENTOFF:
 19 Q. All right. Dr. Newman, with the
 20 technological assistance of your counsel, you've been
 21 using the search function to do word searches in this
 22 28-page document.

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1 Before I ask you a question about
 2 these specific pages, apart from giving your counsel
 3 search terms and figuring out the search, did you
 4 discuss the substance of the Sidley notes with
 5 counsel during either this break or the previous
 6 break?
 7 I apologize, I couldn't hear.
 8 A. No.
 9 Q. Okay. So I believe you've got three
 10 specific items to talk about and then a 4th item that
 11 at this stage is going to be general.
 12 So I guess the first question is:
 13 Please tell me the search terms that you used.
 14 A. Clearance, conflict, and public.
 15 Q. Okay. And am I correct that -- I
 16 have three PDF page numbers, 19, 17, and 21. Should
 17 I proceed in that order or in page order?
 18 DR. FORREST: Clearance is 19, yeah,
 19 Tom. So if you want to start with clearance first,
 20 that's on page -- PDF Page 19 --
 21 MS. WAHL: Okay.
 22 MR. HENTOFF: And we'll confirm Bate

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1 stamp numbers when you go through.
 2 BY MS. WAHL:
 3 Q. Okay. So we're now going to PDF
 4 Page 19, which is Bates No. 1903. And --
 5 DR. FORREST: Hang on one second,
 6 Tom. He just needs to confirm he's got the right
 7 place. Is that it?
 8 THE WITNESS: No, there was no --
 9 privy will get you there, too.
 10 DR. FORREST: Tom, he just asked me
 11 to search "privy." Hang on a minute.
 12 THE WITNESS: We seem to have lost
 13 that one, but this should get, this should get us
 14 there.
 15 MR. HENTOFF: And that's no --
 16 "privy" doesn't show up anywhere now.
 17 See the word "clearance" on -- let me
 18 just tell you the PDF pages where I see the word
 19 "clearance," would that be helpful?
 20 DR. FORREST: No, hang on one second.
 21 Let me try to just get him oriented. Hang on, sorry.
 22 Did you -- Tom, can you search the

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1 word "privy" and see if -- what, what we were finding
 2 is that this document searched -- and it wasn't
 3 today. It was before. When I tried to go search
 4 both of these documents, different words would search
 5 differently in different documents and wouldn't show
 6 up. We didn't know why that was, and it doesn't
 7 matter. But see if "privy" will search for you.
 8 MR. HENTOFF: It doesn't.
 9 DR. FORREST: It doesn't, okay.
 10 Thanks.
 11 THE WITNESS: Try the next clearance.
 12 MR. HENTOFF: That sentence there.
 13 THE WITNESS: Yes.
 14 DR. FORREST: Okay. We're on
 15 Page 19.
 16 MS. WAHL: PDF Page 19?
 17 DR. FORREST: Correct. We are still
 18 there. About the second clear bullet, Tom, see that,
 19 where clearance shows up? That's where he's at.
 20 BY MS. WAHL:
 21 Q. Okay. So we're on Bates-numbered
 22 Page 1903, and, Dr. Newman, we're at the page, "DH:

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1 References follow-up E-mail." Is that what we're
 2 talking about?
 3 A. Correct.
 4 Q. "References follow-up E-mail that
 5 Banks is not on. And mentions of adding SEC
 6 clearance folks and others."
 7 So please identify for me what here
 8 in the notes is an inaccurate capture of what you
 9 said.
 10 A. What I recall saying was that someone
 11 with clearance being on the Task Force would enable
 12 information to come to the Task Force for
 13 consideration by the Task Force as a whole, in the,
 14 the sort of constructive sense of Task Force, with
 15 information that wouldn't otherwise be able to come
 16 to the Task Force.
 17 Q. So is your testimony that something
 18 written here is inaccurate or that you said something
 19 that's not written here?
 20 A. That is a little hard to say since
 21 there's some of it related to clearance, but it isn't
 22 the description of the clearance issue that I recall

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1 having discussed.

2 Q. So tell me, what's the beginning and

3 what's the end of this part of the notes?

4 A. Do you see the first bullet, where it

5 says "RN: Remembers conversation with Banks"?

6 Q. Yes.

7 A. And then finishes with the "talk

8 about."

9 Q. All right. So the "RN: Conversation

10 with Banks" is a black, square bullet. Where does

11 the discussion that you're referencing, where does it

12 end?

13 A. At the end of that bullet, "talk

14 about."

15 Q. Okay. I'm going to read it. "RN:

16 Remember conversation w/Banks. Goes back to initial

17 convo with dissatisfaction w/APA. And issue to how

18 to discuss ethics issues w/ppl that don't have

19 clearance. Another branch was how this work would

20 make any sense if there isn't the kind of cxn for ppl

21 to take back the info to them. This is a grp in

22 particular bct they don't feel the support and can't

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1 talk abt the things thy want to talk about."

2 Do you see that?

3 A. Yes.

4 Q. So what in there inaccurately

5 captured what you said?

6 A. I don't believe it captures the part

7 of the discussion about a member of the Task Force

8 having clearance.

9 Q. So that would be something that's --

10 that you say you said that we don't see in this

11 passage; is that correct?

12 A. Correct. Correct.

13 Q. And is there anything that's

14 affirmatively inaccurate in terms of capturing what

15 you said in the passage that we just read? Is there

16 anything in here that you didn't say?

17 A. No.

18 Q. All right. So that's one of the

19 three specific items you flagged. I believe the

20 second one would be on PDF Page 17 and was found with

21 the word "conflict."

22 So I'm now on PDF Page 17, Bates

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1 No. 1901, and please do what you did the last time

2 and direct me to the appropriate place.

3 A. In the bullet that begins "RN:

4 First, being asked to be an observer."

5 Q. And where, where does the passage you

6 have in mind end?

7 A. "I see after the fact ppl weren't

8 aware of that."

9 Q. Okay. So once again, I'm going to

10 read the entire passage and then ask you a couple of

11 questions. "RN: First, being asked to be an

12 observer, a) I was being asked by reps of BoD and

13 dare say everyone on the BoD knew and I dare say

14 everyone knew my r-ship w/Debra---they all would've

15 known. Role of observer really is... you have

16 specific role to play in the group. Certainly

17 wouldn't vote on anything, didn't participate in any

18 extra outside meetings/convos or writing of

19 documents. Only participated in meeting itself. I

20 assumed ppl from various POVs, including ppl who had

21 participated interr support, so that my cxn from

22 somebody that was hardly in my opinion a conflict of

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1 interest---it was an interest that needed to be

2 served. No sense that I had to say from the start

3 abt my role/background given the request. I see

4 after the fact people weren't aware of that."

5 What, what in here failed to

6 accurately capture what you told Sidley?

7 A. My recollection is missing from this

8 discussion was my statements about -- from a number

9 of interests -- from a number of issues, certain

10 issues could materialize into a conflict, other

11 issues would not be a conflict.

12 Q. Okay. So once again, am I correct

13 that you're identifying something that you recall

14 saying that you don't see in this passage?

15 A. That's correct.

16 Q. And once again, is there anything

17 that is in this passage that misstates something you

18 remember saying?

19 A. Well, without the absence -- with the

20 absence of that other, it's not an accurate

21 characterization of what I said.

22 Q. Is there any sentence in here that,

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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?

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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

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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

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1 with, tell me the beginning of the passage you have
 2 in mind and the end and then I'll read it.
 3 A. Let me take a quick look again to
 4 make this more efficient, Tom.
 5 Q. Please.
 6 A. The bullet that starts, "RN, I don't
 7 think it's either/or," ending with, "shouldn't do
 8 that."
 9 Q. Okay. So, so I'll read that, "RN, I
 10 don't think it's either/or. If you're gonna engage
 11 in ethics principles, it should start tmrw but can
 12 still have a utility to deal w issues at the time. I
 13 don't recall specific discs abt ethics principles. I
 14 was on my process hat, talking abt what can happen or
 15 not. Doesn't mean you shouldn't do that."
 16 What's inaccurate in this passage in
 17 terms of reflecting what you told Sidley?
 18 A. You know what, Mr. Hentoff, I
 19 apologize. I'm going to have to retract that one. I
 20 think it actually does ultimately say what is said.
 21 Q. So the, the final point is a general
 22 point. Can you please tell me what the general point

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1 is?

2 A. They were a number of places, as I

3 read through it, where the notes referenced an I, as

4 in person I, pronoun I, when it seemed to suggest it

5 should actually be saying he. And I saw that in a --

6 in a number of places, so it, its would be

7 painstaking to try and find that now.

8 Q. To make sure that -- well, let me

9 understand the point. Are you saying that there were

10 references in the note to I, meaning Dr. Newman when

11 instead those points should be have been referenced

12 as to someone else you were talking about?

13 A. Correct, usually Mr. Hoffman.

14 Q. So in other words, when what we just

15 read said, I was on my process hat, who do you take

16 that to be referring to?

17 A. That's me.

18 Q. Okay. And you noted sometimes where

19 the word "I" was used and it looked like it referred

20 to you but it referred to someone else?

21 DR. FORREST: No.

22 A. It, it seemed to be suggesting me,

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1 because it was after an RN with a semi -- with a

2 colon, but I believe it was incorrect, and it should

3 have been a program -- pronoun he.

4 Q. I'm sorry, I'm going to try to

5 understand this.

6 DR. FORREST: Counsel, ask him who he

7 means by he. That will clear it up, I think.

8 Q. Dr. Newman, who do you mean by he?

9 A. Mr. Hoffman.

10 Q. Okay. So in other words, in reading

11 these notes, is it correct that you see some comments

12 in here that are from David Hoffman that could be

13 read as -- could be misread as being comments from

14 you; is that correct?

15 A. Not exactly.

16 Q. Well, let me ask you --

17 A. Usually --

18 Q. Go ahead.

19 A. Let me try this. It's usually after

20 an RN, colon. So it's a note that is referring to

21 something that I said and it's written in such a way

22 where it looks like it's referring to a statement I

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1 made about me. Because it says "I," such as I don't

2 think it's either/or but, in fact, in some instances,

3 the reference really should have been to Mr. Hoffman,

4 not to me so the only thing I could figure, is it

5 should have been an e rather than an I with the

6 notetaker.

7 Q. And I take it, given the length of

8 the document and the difficulty of searching for "I,"

9 you had difficulty pinpointing --

10 A. That's correct. That's correct.

11 DR. FORREST: Wait, Tom. We're happy

12 to try one or two examples, like I said, but to

13 search the whole document, we're going to be here a

14 while.

15 MR. HENTOFF: Let me ask a question,

16 did any of that potential pronoun confusion find its

17 way into the report?

18 A. That I couldn't tell you.

19 Q. I guess I think it would be helpful

20 to see if you could come up with two examples so I

21 have a better understanding of what you're referring

22 to.

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1 DR. FORREST: Okay. You want to go

2 off the record? Let me, let me ask, Henry, how much

3 longer do we have?

4 THE TRIAL TECH: So we used up

5 6 hours and 9 minutes on the record.

6 DR. FORREST: Okay. We've got

7 50 minutes. Tom, how much do you have left? 50

8 minutes, I assume.

9 MR. HENTOFF: 49 minutes and

10 49 seconds.

11 DR. FORREST: 49 minutes? I'll let

12 you go over one minute. I promise. You got --

13 you're going to bump up against that.

14 MR. HENTOFF: I expect I will, but I

15 won't go over.

16 DR. FORREST: Okay. And I've got

17 three or four as of right now. Why don't we take

18 five minutes and let's see if he can pull up two

19 examples. I'm going to help him. I'm being up front

20 about that. We're going to try to put "I" in there

21 and see what we come up with or "he" and see if we

22 can come up with two for you.

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1 MR. HENTOFF: It's the hardest --
 2 it's the hardest letter to search for. Good luck.
 3 DR. FORREST: I know. That's why I'm
 4 going to help. Let's have you guys go off the
 5 record. Give us five minutes, and if we aren't done,
 6 we'll come back and let you know.
 7 MR. HENTOFF: Okay.
 8 DR. FORREST: Thank you.
 9 THE TRIAL TECH: Okay. The time is
 10 5:11 p.m., and we're off the record.
 11 (Recess taken.)
 12 THE TRIAL TECH: Okay. The time is
 13 5:20 p.m. Back on the record.
 14 BY MR. HENTOFF:
 15 Q. Dr. Newman, let me just ask you one
 16 more time. Apart from counsel assisting you in the
 17 search for what you were looking for, did you two
 18 discuss the substance of the notes during the break?
 19 A. No.
 20 Q. Can you direct me to a page in this
 21 exhibit that has an example of what you were talking
 22 about?

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1 A. Do you have PDF pages you can go to?
 2 Q. Yes.
 3 A. PDF 11.
 4 Q. Okay. And where, PDF Page 11 is
 5 Bates No. 1895, where should I look for this?
 6 A. The third black bullet from the
 7 bottom.
 8 Q. "DH: Discs abt who else."
 9 A. And now go to the open bullet right
 10 below that.
 11 Q. Okay. So let me read these and then
 12 ask you a question. "DH," which stands for David
 13 Hoffman, "discs about who else should be on it? RN:
 14 No; DH: Who were decision makers, small bullet,
 15 board in conjunction with Behnke extrapolating from a
 16 grp I would have created."
 17 A. That's it.
 18 Q. And what are you saying about the
 19 word "I" in the sentence I just read?
 20 A. It should not be "I."
 21 Q. In other words it should not be Russ
 22 Newman?

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1 A. Correct.
 2 Q. And I understand your testimony to be
 3 that you believe you saw other examples, but as we
 4 sit here, it's difficult to search for them in this
 5 document; is that correct?
 6 A. That's correct.
 7 DR. FORREST: Tom, I'll renew my
 8 record on the record -- I'll renew my offer on the
 9 record. If you want to propound one or two specific
 10 interrogatories on this issue, we will be happy to
 11 answer those for you.
 12 MR. HENTOFF: Thank you. I'll
 13 consider that and get back to you promptly.
 14 DR. FORREST: Can we close out of
 15 this document or are you --
 16 MR. HENTOFF: No, I'm still taking a
 17 look. I just want to take a look at this passage to
 18 see if I have any other questions.
 19 Q. With regard to these two bullets that
 20 we looked at, on the black bullet, it says, "DH:
 21 Discs abt who else should be on it?" And then, "RN:
 22 No." Is there anything inaccurate about that

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1 passage?
 2 A. No.
 3 Q. So then we have, "DH: Who were
 4 decision makers?" And that's not a statement from
 5 you, and then we have the open bullet, it says,
 6 "Board in conjugation with Behnke"; but let me stop
 7 here. Is that an accurate reflection of what you
 8 said in response to this question?
 9 A. I don't believe so.
 10 Q. Are we talking here about the
 11 decision-makers about who should be on the PENS Task
 12 Force?
 13 A. Correct.
 14 Q. Who do you believe were the
 15 decision-makers as to who should be on the PENS Task
 16 Force?
 17 A. No, I said that was accurate.
 18 Q. Oh, I -- I misheard you.
 19 A. Sorry.
 20 Q. So the inaccurate part is after the
 21 semicolon, "extrapolating from a grp I would've
 22 created," because you did not create any group in

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1 connection with the PENS Task Force that was
 2 extrapolated from --
 3 A. That's correct.
 4 Q. -- that correct?
 5 A. Correct.
 6 Q. Okay. I think we're done with this
 7 exhibit. I now want to direct your attention to a
 8 passage from the Sidley report, which we -- which you
 9 have.
 10 MS. WAHL: But for purpose of this
 11 deposition, Henry, it's Control No. 136 and
 12 Exhibit 41.
 13 (Whereupon, Exhibit 41, 9/4/15 Sidley
 14 Austin Independent Review Report, was marked for
 15 identification.)
 16 Q. And I'm going to direct your
 17 attention to just one passage on PDF Page 22 of the
 18 exhibit. The Page, Page 9 of the report, if you look
 19 at the page numbers at the bottom of the page. And
 20 I'm going to direct you to a passage in the bottom
 21 half of the page that starts "we did not find
 22 evidence."

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1 So I'm going to read you this
 2 passage. "We did not find evidence to support the
 3 conclusion that APA officials actually knew about the
 4 existence of an interrogation program using 'enhanced
 5 interrogation techniques.' But we did find evidence
 6 that during the time that APA officials were
 7 colluding with DoD officials to create and maintain
 8 loose APA ethics policies that did not significantly
 9 constrain DoD, APA officials had strong reasons to
 10 suspect that abusive interrogations had occurred."
 11 Do you see that passage?
 12 A. Yes.
 13 Q. Is it, is it your position that this
 14 statement includes you as one of the APA officials?
 15 A. Correct.
 16 Q. Is it your position that this
 17 statement includes Colonel James as one of the DoD
 18 officials?
 19 A. Correct.
 20 Q. Is it your position that this
 21 statement includes Colonel Banks as one of the DoD
 22 officials?

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1 A. Correct.
 2 Q. Is it your position that this
 3 statement includes Dr. Dunivin as one of these DoD
 4 officials?
 5 A. Correct.
 6 Q. Is it your position that any
 7 statement in the Sidley report says that you colluded
 8 with Dr. Dunivin?
 9 A. Can you repeat that question again,
 10 please?
 11 Q. Is it your position that any
 12 statement in the Sidley report says that you colluded
 13 with Dr. Dunivin?
 14 A. Correct.
 15 Q. When the PENS Task Force met from
 16 June 24th to June 26th, during that 3-day period, did
 17 you have any communications with Dr. Dunivin?
 18 A. I did not.
 19 Q. During the time period when you were
 20 nominated to be on the PENS Task Force and before
 21 the -- before the June 3rd nomination on the
 22 LISTSERV, let's say the end of May/the beginning of

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1 June to June 3rd, did you have any communications
 2 with Dr. Dunivin?
 3 A. I don't recall.
 4 Q. Did you have any communications with
 5 Dr. Dunivin about joining the PENS Task Force prior
 6 to your nomination on the PENS LISTSERV?
 7 A. I don't recall.
 8 Q. At any point in time, in 2005 up
 9 through the issuance of the PENS Task Force report,
 10 did you and Dr. Dunivin communicate about the
 11 substance of the work of the PENS Task Force?
 12 A. I have no recollection of
 13 conversations like that.
 14 Q. Did you mention to Dr. Dunivin that
 15 you were going to be an observer on the PENS Task
 16 Force?
 17 A. I don't have a recollection of it, so
 18 I would be speculating if I said one way or the
 19 other.
 20 Q. Did Dr. Dunivin have any reaction to
 21 your being a -- becoming a member of the PENS Task
 22 Force?

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1 DR. FORREST: Objection; asked and
 2 answered. He stated that he doesn't recall if he had
 3 a discussion.
 4 A. I don't recall.
 5 Q. Did Dr. Dunivin, at any time, ask you
 6 to raise any issue in connection with the PENS Task
 7 Force?
 8 A. I have no recollection of her raising
 9 issues for me to bring to the Task Force.
 10 Q. Was there any piece of information
 11 that Dr. Dunivin asked for you to convey to people
 12 involved in the PENS Task Force?
 13 A. I have no recollection of any piece
 14 of information Colonel Dunivin asked me to convey to
 15 the PENS Task Force.
 16 Q. During the first six months of 2005,
 17 what are the ways in which you communicated with
 18 Colonel Dunivin, technologically speaking?
 19 A. Telephone.
 20 Q. Did you E-mail with her?
 21 A. My recollection is it wasn't possible
 22 to do E-mails given her stat -- her, her location.

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1 Q. Was it possible to text?
 2 A. I don't believe it was.
 3 MR. HENTOFF: I'd like to take a
 4 break to see if I have any final questions.
 5 DR. FORREST: That's fine. What do
 6 you need, Tom, 10 -- 5, 10 minutes?
 7 MR. HENTOFF: Let's make it
 8 10 minutes.
 9 DR. FORREST: Okay. No problem.
 10 MR. HENTOFF: And then, Henry, what's
 11 the total deposition time left?
 12 THE TRIAL TECH: So we're at 6 hours
 13 and 21 -- 22 minutes now.
 14 MR. HENTOFF: Okay. 38 minutes.
 15 Thank you very much. I'll be back in 10 minutes.
 16 THE TRIAL TECH: The time is
 17 5:32 p.m. Going off the record.
 18 (Recess taken.)
 19 THE TRIAL TECH: The time is
 20 5:42 p.m. Back on the record.
 21 EXAMINATION
 22 BY DR. FORREST:

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1 Q. Good evening, Dr. Newman. How are
 2 you holding up?
 3 A. Holding up.
 4 Q. Good. Okay.
 5 MR. HENTOFF: I would like to refer
 6 everybody to Exhibit 32, if we could pull that up on
 7 the screen, please. And could you go to the last PDF
 8 page in this, please?
 9 And can you -- the top two
 10 paragraphs, Henry, can you enlarge those, please?
 11 Q. Dr. Newman, can you read that aloud
 12 for us, please? Or actually, what I'll do is I'll do
 13 it. I'll let your voice rest.
 14 "Arrigo said that Russ Newman, then
 15 the head of APA's practice directorate and one of the
 16 most powerful officials in the organization, attended
 17 the Task Force sessions as an observer, but she later
 18 came to the believe that he was actually helping to
 19 set the task force's agenda. He told the group that
 20 'we have to put out' -- 'we have to put out the
 21 fires of controversy, and we have to do it fast,'
 22 Arrigo recalled. She only learned much later about

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1 Newman's wife's involvement with the military.
 2 Newman was married to Lt. Col. Dunivin, a member of
 3 the Guantanamo Behavioral Science Consultation Team.
 4 'A year after the task force, I talked to a couple of
 5 counterintelligence people I knew, who told me that
 6 this was a social legitimization process,' she added.
 7 'This was an effort by the Bush administration to
 8 gain legitimacy' -- "legitimacy through the APA."
 9 Do you see that paragraph,
 10 Dr. Newman?
 11 A. I do.
 12 Q. Does that paragraph use the words
 13 "conflict of interest" at all?
 14 A. It does not.
 15 Q. I'd like to refer everybody to
 16 realtime transcript 17:10:56, and the question from
 17 Ms. Wahl, "Are you aware of James Risen accusing you
 18 of writing" -- "accusing you in writing of a
 19 conflict?"
 20 Dr. Newman, did Mr. Risen accuse you
 21 of a conflict?
 22 A. Not that I'm aware of.

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1 Q. Thank you.
 2 Next I want to ask you for a moment
 3 about your duties at APA. In addition to your role
 4 as head of the practice directorate, did you have
 5 another title at APA?
 6 A. I was executive director of the
 7 American Psychological Association Practice
 8 Organization.
 9 Q. And could you tell us what the
 10 Practice Organization about -- is -- was --
 11 DR. FORREST: Strike that. Sorry,
 12 guys.
 13 Q. Can you tell us what the Practice
 14 Organization did?
 15 A. As compared to the APA, which was a
 16 501(c)(3) nonprofit organization, the Practice
 17 Organization was a 501(c)(6) organization that
 18 enabled no limitations on advocacy and lobbying.
 19 Q. And so in that role as head of the
 20 practice directorate, were you charged with lobbying
 21 and advocacy on behalf of APA?
 22 A. Advocacy was a part of my job in both

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1 the APA and the APAPO. There were no limits on the
 2 advocacy I could do on the APAPO.
 3 Q. Okay. Thank you.
 4 DR. FORREST: Can we go to
 5 Exhibit 33, please, Henry?
 6 (Tech complies.)
 7 Q. All right. I believe -- and I'm
 8 paraphrasing, I'm not using Mr. Hentoff's exact
 9 words.
 10 MR. HENTOFF: But let's go to the
 11 next page on this, please, Henry. Thank you.
 12 And you see in the middle, where it
 13 says to Norman Anderson, Michael Honaker, Breckler,
 14 can you enlarge that for us, please, Henry?
 15 Q. Okay. So you stated that you were
 16 part of the executive management group; is that
 17 correct?
 18 A. Correct.
 19 Q. Okay. And of those people in the to
 20 line, which of those people were in the executive
 21 management group?
 22 A. All of them.

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1 Q. And is that the entirety of the
 2 executive management group?
 3 A. No.
 4 Q. Who else was in the executive
 5 management group, if you recall?
 6 A. I stand corrected. That, that,
 7 indeed, is the entire group.
 8 Q. So were there times at APA that
 9 E-mails and/or --
 10 DR. FORREST: Strike that.
 11 Q. Were there times at APA that E-mails
 12 were sent to everyone in the executive management
 13 group regardless of whether they had responsibility
 14 of dealing with a specific issue addressed in the
 15 E-mail?
 16 A. There were times, yes.
 17 MR. HENTOFF: Can we go to the next
 18 page, please? And there was a quote by Dr. Behnke, I
 19 think it's maybe the next page. Yes.
 20 Q. So there's two -- so the realtime
 21 transcript, just so you know, refers to Dr. Banks, I
 22 will represent to the group, I actually think

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1 Mr. Hentoff said Dr. Behnke and that's just an
 2 incorrect statement, but if you could read the two
 3 sentences, Dr. Stephen Behnke, who heads the group's
 4 ethics division, said in an interview this week that
 5 of 10 members..., "and you can read the rest of it.
 6 A. "Including some from the military,
 7 was meeting" -- hang on, I need to move this little
 8 box -- "was meeting this week" --
 9 THE WITNESS: I lost the blowup,
 10 Henry, sorry.
 11 A. -- "was meeting in Washington this
 12 weekend to discuss the issue. Dr. Behnke emphasized
 13 that the codes did not necessarily allow
 14 participation by psychologists in such roles, but
 15 rather that the issue had not been dealt with
 16 directly before."
 17 Q. Okay.
 18 DR. FORREST: And can you scroll up a
 19 little bit, Henry, to see what the issue was?
 20 (Tech complies.)
 21 Q. So it says, "But in a statement
 22 issued in December, the American Psychological

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1 Association said the issue of involvement of its
 2 members in 'national security endeavors' was new."
 3 Is that correct?
 4 A. Correct as in that's what the
 5 statement says, or is that a true statement?
 6 Q. First, tell me: Is that what the
 7 statement says?
 8 A. That is what the statement says.
 9 Q. And is that a true statement?
 10 A. I don't believe it is.
 11 Q. And what's wrong with that statement?
 12 A. National security endeavors had
 13 been -- the issue of involvement in national security
 14 endeavors had been looked at before.
 15 Q. Okay. So the next sentence, when it
 16 says, "Dr. Stephen Behnke, who heads up the group's
 17 ethics division, said in an interview this week that
 18 a committee of ten members, including some from the
 19 military, was meeting in Washington this weekend to
 20 discuss the issue," what issue did you feel that the
 21 group was meeting to discuss?
 22 A. Whether the existing APA ethics code

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1 was applicable to activities in national security
 2 endeavors, such as military psychologists doing
 3 interrogation support.
 4 Q. And do you feel that that task was
 5 accurately, accurately reflected in this article?
 6 A. It was not.
 7 Q. I believe Ms. Wahl -- and I'm sorry,
 8 because I'm in multiple time zones, I don't remember
 9 if it was afternoon or morning our time, but she
 10 talked to you about your conversations with Charlie
 11 Rose. And that's not the Charlie Rose of former CBS,
 12 that's a lawyer in Chicago, correct?
 13 A. Correct.
 14 Q. And did you ever have an occasion to
 15 have any conversations with Mr. Rose about
 16 Mr. Hoffman?
 17 A. I did.
 18 Q. And what did those -- what did you
 19 learn from those conversations, if anything, about
 20 Mr. Hoffman?
 21 A. Mr. Rose had -- at one point early
 22 on, when the report first came out and I was talking

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1 with him in regard to my separation, had made mention
 2 of the fact that there was -- and I'll call it a
 3 rumor, I don't know exactly if that's the word he
 4 used, around Chicago that Mr. Hoffman had previously
 5 leaked a report, an investigative report, he had been
 6 working on within the City of Chicago to the press.
 7 DR. FORREST: Thank you. I have no
 8 further questions.
 9 MR. HENTOFF: So I have a couple of
 10 follow-up questions.
 11 CONTINUED EXAMINATION
 12 BY MR. HENTOFF:
 13 Q. First, Dr. Newman --
 14 MS. WAHL: Or, Henry, let's go back
 15 to Exhibit 32, the Pay Any Price book, and let's go
 16 to PDF Page 11.
 17 Q. And you recall, Dr. Newman, that
 18 Dr. Forrest asked you about the passage at the top of
 19 this page, and you said you didn't see any
 20 accusations of conflict of interest against you?
 21 A. Correct.
 22 Q. So let's go one paragraph up, on

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1 Page 199, and I'll -- okay. I'm going to read the
 2 two paragraphs preceding it.
 3 "Jean Maria Arrigo, an independent
 4 social psychologist who was a member of the PENS Task
 5 Force, said that the first she heard about the APA's
 6 plans to deal with the interrogation issue was in
 7 February 2005, when the APA issued a public notice of
 8 its plans for a task force. Arrigo now believes she
 9 was placed on the PENS task force to give the CIA-
 10 and Pentagon-backed psychologists the cover they
 11 needed to make it appear legitimate. 'I was there as
 12 a dupe, purposefully,' she said."
 13 And then the next paragraph, "In
 14 fact, the deck appears to have been stacked on the
 15 task force. Of the ten psychologists appointed to
 16 it, six had connections with the defense or
 17 intelligence communities; one member was the chief
 18 psychologist for U.S. Special Forces. In addition, a
 19 senior APA official who attended meetings of the task
 20 force was married to a psychologist assigned to one
 21 of the military's Behavioral Science Consultation
 22 Teams - military units involved in interrogations."

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1 Do you see that passage, Dr. Newman?
 2 A. I do.
 3 Q. Was your -- is it accurate to say
 4 that your personal participation in the Task Force
 5 was part of the deck being stacked?
 6 A. I don't believe that is true.
 7 Q. So my final set of questions relates
 8 to the testimony that you just gave regarding what
 9 you heard from the lawyer Charlie Rose.
 10 Do you remember talking about that?
 11 A. Correct.
 12 Q. What specifically did he say was the
 13 rumor about David Hoffman leaking a report?
 14 A. My recollection was that in an
 15 investigative endeavor, the report that had been
 16 created got to the press before it was released to
 17 the agency within Chicago that he had been doing the
 18 investigation for.
 19 Q. And where did Mr. Rose tell you he'd
 20 heard that?
 21 A. That is all he said to me.
 22 Q. Did he identify a single person who

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1 told him that there was a rumor of this nature about
 2 David Hoffman?
 3 A. He did not.
 4 Q. Did he tell you that he had read
 5 anything that asserted that information about David
 6 Hoffman?
 7 A. He did not.
 8 Q. Is this the same subject that you
 9 covered in your affidavit in November 2019 in
 10 Superior Court?
 11 A. I'm not sure what in the affidavit
 12 you're referring to.
 13 Q. Just give me a moment.
 14 MS. WAHL: Have we marked that
 15 exhibit?
 16 DR. FORREST: I don't believe so.
 17 Actually, no, we did. Actually, Ms. Wahl, I think,
 18 marked it on Monday, but not today.
 19 MR. HENTOFF: Not today. Just give
 20 me one moment.
 21 DR. FORREST: Tom, if you give me a
 22 control number, I can pull it up here.

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1 MR. HENTOFF: I think I have it.
 2 Thank you. But first, I'm just going to look at it
 3 to see if I have a question.
 4 I don't see it in the affidavit. I
 5 have no more questions.
 6 MS. WAHL: I have none.
 7 DR. FORREST: Thank you, everyone.
 8 Thank you, Henry and Amanda. We appreciate you.
 9 THE TRIAL TECH: Thank you, guys.
 10 Should I go off the record?
 11 MS. WAHL: Yes, please.
 12 THE TRIAL TECH: This marks the end
 13 of today's deposition. The time is 5:58 p.m.
 14 (Time Noted: 5:58 p.m. (PST.))
 15
 16
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1 ACKNOWLEDGEMENT OF DEPONENT
 2 I, RUSSELL STEWART NEWMAN, PH.D, do
 3 hereby acknowledge that I have read and examined the
 4 foregoing testimony, and the same is a true, correct
 5 and complete transcription of the testimony given by
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