

STATE OF WISCONSIN
DEPARTMENT OF WORKFORCE DEVELOPMENT
EQUAL RIGHTS DIVISION
MILWAUKEE COUNTY

MARILYN FIGUEROA.

Complainant,

-VS-

CITY OF MILWAUKEE,

Respondent.

ERD Case No.
CR200003454

Deposition of:

FLORENCE DUKES

Milwaukee, Wisconsin
February 26, 2002

Reporter: Taunia Northouse, RDR, CRR

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(Original transcript filed with Attorney Arellano)

I N D E X

WITNESS

FLORENCE DUKES

Examination by Mr. Arellano

5

E X H I B I T S

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(Attached to the original transcript and
copies provided to counsel)

DEPOSITION of FLORENCE DUKES, called as a

witness, taken at the instance of the Complainant, under the provisions of Chapter 804 of the Wisconsin Statutes, pursuant to notice and subpoena duces tecum, before Tania Northouse, a Registered Diplomate Reporter and Notary Public in and for the State of Wisconsin, at the offices of Murphy, Gillick, Wicht & Prachthauser, Attorneys at Law, 330 East Kilbourn Avenue, City of Milwaukee, County of Milwaukee, and State of Wisconsin, on the 26th day of February 2002, commencing at 9:15 in the forenoon.

A P P E A R A N C E S

VICTOR M. ARELLANO, Attorney,
for LAWTON & CATES, S.C., Attorneys at Law,
10 East Doty Street, Madison, Wisconsin,
appearing on behalf of the Complainant.

BRUCE D. SCHRIMPF and LEONARD A. TOKUS, Assistant City Attorneys, for CITY OF MILWAUKEE, OFFICE OF THE CITY ATTORNEY, 200 East Wells Street, Milwaukee, Wisconsin, appearing on behalf of the Respondent.

Also present: Cheri Garcia and
Barbara Teipner Wargolet

<p>1 <u>FLORENCE DUKES</u></p> <p>2 called as a witness, being first duly sworn,</p> <p>3 testified on oath as follows:</p> <p>4</p> <p>5 (Exhibit No. 1 marked for</p> <p>6 identification)</p> <p>7</p> <p>8 <u>EXAMINATION</u></p> <p>9 By Mr. Arellano:</p> <p>10 Q Good morning, ma'am.</p> <p>11 A Good morning.</p> <p>12 Q My name is Victor Arellano. I represent</p> <p>13 Marilyn Figueroa in these proceedings, and with me</p> <p>14 is my paralegal, Ms. Cheri Garcia. I'm going to be</p> <p>15 asking you questions this morning. Obviously those</p> <p>16 questions will be asked of you while you are under</p> <p>17 oath. I suspect we have taken care of that aspect.</p> <p>18 You probably noticed that I have this German</p> <p>19 accent. If for some reason you don't understand my</p> <p>20 question, please let me know.</p> <p>21 If you need me to rephrase it, modify it,</p> <p>22 change it in any manner so that you can understand</p> <p>23 it, please let me know. Is that fair?</p> <p>24 A Yeah.</p> <p>25 Q How old are you, ma'am?</p> <p style="text-align: center;">5</p>	<p>1 A No.</p> <p>2 Q Who, if anyone, suggested that you review a video</p> <p>3 deposition?</p> <p>4 A I requested it.</p> <p>5 Q You requested it? And who, if anyone, provided you</p> <p>6 with a copy of the video?</p> <p>7 A City Attorney's Office.</p> <p>8 Q Was there any reason why you felt the need to review</p> <p>9 a video deposition?</p> <p>10 A Yes. Because I have never experienced being deposed</p> <p>11 before.</p> <p>12 Q Okay, very good. And did you request the video</p> <p>13 deposition pursuant to, or in anticipation of your</p> <p>14 deposition?</p> <p>15 A Right. I had been subpoenaed.</p> <p>16 Q And did you actually receive a subpoena?</p> <p>17 A Yes.</p> <p>18 Q Do you have that with you?</p> <p>19 A No.</p> <p>20 MR. ARELLANO: Do you have a copy</p> <p>21 of her subpoena, counsel?</p> <p>22 MR. SCHRIMPF: I don't have it</p> <p>23 unless Barb has it.</p> <p>24 MS. TEIPNER WARGOLET: No, I don't</p> <p>25 have it.</p> <p style="text-align: center;">7</p>
<p>1 A 54.</p> <p>2 Q Wonderful. And again, what's your business address?</p> <p>3 A 200 East Wells, Room 706, Milwaukee, Wisconsin</p> <p>4 53202.</p> <p>5 Q And what type of business is this?</p> <p>6 A A municipality.</p> <p>7 Q All right. You work for the City of Milwaukee?</p> <p>8 A Yes.</p> <p>9 Q And have you ever given testimony before?</p> <p>10 A No.</p> <p>11 Q As you notice, your testimony is being recorded, and</p> <p>12 one of the very first things that the professional</p> <p>13 reporter will instruct you not to do is to nod.</p> <p>14 A Okay.</p> <p>15 Q What she will -- you can nod, but as long as you can</p> <p>16 also answer verbally.</p> <p>17 A Okay.</p> <p>18 Q Have you reviewed any video depositions before</p> <p>19 coming here today?</p> <p>20 A One.</p> <p>21 Q When did you do that?</p> <p>22 A About two months ago.</p> <p>23 Q And where did you see that video deposition?</p> <p>24 A In my office.</p> <p>25 Q And was anyone else present?</p> <p style="text-align: center;">6</p>	<p>1 MR. ARELLANO: What about</p> <p>2 Mr. Tokus? Does he have a copy of it?</p> <p>3 MR. TOKUS: Probably not. If I</p> <p>4 have, it's buried somewhere in my briefcase.</p> <p>5 MR. ARELLANO: All right. That's</p> <p>6 an old trick from attorneys. You never know</p> <p>7 where it is.</p> <p>8 (Exhibit No. 2 marked for</p> <p>9 identification)</p> <p>10 Q Let me show you what has been marked as</p> <p>11 Exhibit No. 2 of your deposition.</p> <p>12 MR. SCHRIMPF: Can I look at it</p> <p>13 please?</p> <p>14 (Exhibit No. 3 marked for</p> <p>15 identification)</p> <p>16 Q The Exhibit No. 2 that I have just shown you</p> <p>17 constitutes a copy of a subpoena, notice of</p> <p>18 deposition and subpoena that was sent to you. Did</p> <p>19 you receive --</p> <p>20 A Yes.</p> <p>21 Q -- an identical copy?</p> <p>22 A Yes.</p> <p>23 Q Is that correct? Did you review it?</p> <p>24 A Yes, I did.</p> <p>25 Q Did you understand every aspect of it?</p> <p style="text-align: center;">8</p>

1 A Yes.
 2 Q Now, let me show you what has been marked as
 3 Exhibit No. 3 of your deposition. Exhibit No. 3 is
 4 a supplemental notice of a deposition. Do you
 5 recall receiving a document similar to that?
 6 A Yes.
 7 Q Did you review it?
 8 A Yes.
 9 Q Do you understand each and every question?
 10 A Yes.
 11 Q The contents of the document?
 12 A Yes.
 13 Q Okay, very good. Now, other than reviewing a video
 14 deposition, what else have you reviewed before
 15 coming to this deposition, Ms. Dukes?
 16 A Just the subpoena.
 17 Q Have you reviewed any type of transcript testimony
 18 of other witnesses --
 19 A No.
 20 Q -- involved in these proceedings?
 21 A No.
 22 Q And the video deposition that you reviewed before
 23 coming here, did the video provide you with
 24 instructions about what a deposition is?
 25 A Yes.

9

1 Q Did the video talk about the fact that you're
 2 providing testimony under oath?
 3 A Yes.
 4 Q And I suspect your attorneys have also explained to
 5 you that every answer you give must be truthful and
 6 it must be based on your recollection?
 7 A Right.
 8 Q Let me just clarify for you that you are not being
 9 named as a party to this lawsuit. You're being
 10 called at least at this instant as a potential
 11 witness who has been employed for the City of
 12 Milwaukee during periods which are part of this
 13 lawsuit. You understand that?
 14 A Yes.
 15 Q Okay, very good. Has anyone given you information
 16 about testimony of anyone else that has been deposed
 17 in this -- as part of these proceedings?
 18 A No.
 19 Q As you sit here telling me things under oath, has
 20 anyone spoken to you about the testimony of
 21 Michael Soika?
 22 A No.
 23 Q Has anyone shown you any documents that were
 24 produced during Mr. Soika's deposition?
 25 A No.

10

1 Q And, well, let me first clarify a couple things.
 2 Are you familiar with Michael Soika?
 3 A Yes.
 4 Q How long have you known Mr. Soika?
 5 A Probably about eight years.
 6 Q How do you know Mr. Soika?
 7 A He is the chief of staff for the Mayor.
 8 Q For the Mayor?
 9 A Yes.
 10 Q Have you known him -- during the eight years that
 11 you have known Mr. Soika, has he worked for the City
 12 of Milwaukee? If you know.
 13 A I think so.
 14 Q Did you meet Mr. Soika pursuant to your employment
 15 with the City of Milwaukee?
 16 A Could you repeat that again?
 17 Q Yes. Did you meet Mr. Soika as an employee of the
 18 City of Milwaukee?
 19 A Yes.
 20 Q When you met Mr. Soika, do you know what his
 21 position was within the City of Milwaukee?
 22 A At that time he was the director of the community
 23 block grant office.
 24 Q Did you have any interaction, professionally
 25 speaking, as part of your employment, did you have

11

1 any interaction with Mr. Soika when he worked at
 2 this particular office that you just referenced?
 3 A No.
 4 Q Did you ever work under the supervision of
 5 Michael Soika?
 6 A No.
 7 Q Did you ever work under the direct supervision of
 8 Mayor Norquist? Direct as opposed to indirect.
 9 A I would say indirect.
 10 Q Have you ever worked under the supervision of
 11 Mr. Bill Christofferson?
 12 A No.
 13 Q Do you know Mr. Christofferson?
 14 A Yes.
 15 Q How long have you known Mr. Christofferson?
 16 A I don't know the dates. I met him when he became
 17 chief of staff for the Mayor.
 18 Q Have you, during the years that you have worked for
 19 the City of Milwaukee, have you ever engaged in any
 20 type of political campaign activity on behalf of
 21 Mayor Norquist?
 22 A Outside of the workplace, yes.
 23 Q Tell me approximately how many times. If they are
 24 hundreds of times, I'm not going to hold you to
 25 specific number. Just give me a rough idea.

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1 Let me put it this way. Have you participated
 2 in political campaign elections on behalf of the
 3 Mayor every time he has run for re-election?
 4 A And before.
 5 Q Is that correct? And when you say before, what do
 6 you mean?
 7 A Well, when he ran the first time.
 8 Q The very first time, okay. When he ran the very
 9 first time, were you an employee of the City of
 10 Milwaukee?
 11 A No, I wasn't.
 12 Q Where did you work?
 13 A I was employed at Milwaukee Area Technical College.
 14 Q And how soon after the Mayor was elected for the
 15 first time did you switch to begin your employment
 16 with the City of Milwaukee?
 17 A Immediately after his swearing in.
 18 Q Were you part of his initial election team?
 19 A I worked on the campaign.
 20 Q On the campaign. Who, if anyone, offered you a
 21 position with the City of Milwaukee after he was
 22 elected for the first time?
 23 A The Mayor.
 24 Q The Mayor? So is it fair and accurate to say that
 25 you have been a consistent supporter of the Mayor

13

1 right about the first time that he ran for Mayor all
 2 the way to the present?
 3 A Yes.
 4 Q Have you ever contributed in any manner
 5 financially --
 6 A Yes.
 7 Q -- to the Mayor? Have you done that every time he
 8 runs for re-election?
 9 A Yes.
 10 Q Have you ever belonged to the Mayor's Club?
 11 A I am a member.
 12 Q What does it require in order for you to be a member
 13 of the Mayor's Club?
 14 A There's a contribution of \$250 annually.
 15 Q When the Mayor runs for re-election or at least the
 16 times when he has done so, how do you bill your time
 17 when you're working on his political campaign?
 18 A I don't bill my time.
 19 Q How are employees compensated for time that they
 20 spent in the political campaign?
 21 A I'm not paid. I'm a volunteer outside of the
 22 workplace.
 23 Q Do you have any knowledge as to how employees,
 24 including the staff assistants, and I'm talking
 25 about assistants to the Mayor, how are they

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1 compensated when they work on his political
 2 campaigns?
 3 A I have no knowledge.
 4 Q You have absolutely no knowledge as you sit here
 5 today?
 6 A No knowledge of that, no knowledge.
 7 Q When people work in the Mayor's political campaigns
 8 during working hours, are they required to submit
 9 some type of slip or sign-up or sign-out, any type
 10 of record document that would indicate that they are
 11 not working on City time?
 12 A I have no knowledge of that.
 13 Q You have none?
 14 A And -- no, no knowledge. And it's a violation of
 15 the Hatch Act.
 16 Q Do you have any knowledge as to how people within
 17 the Mayor's office or anyone working for the City
 18 maintains a record of how they spend their time?
 19 A No.
 20 Q Do you know if there's such a record within the City
 21 of Milwaukee? I'm talking, let's assume that you
 22 take -- you work eight hours but four of those hours
 23 are working outside in a political campaign. What
 24 would you expect that person to do?
 25 A I have no knowledge of that. We do time cards

15

1 but --
 2 Q What's the purpose of the time cards?
 3 A Well, we have measures that we have to meet. And so
 4 your time is allocated per measure in my department.
 5 I can only speak for what I do.
 6 Q I understand. Do you know of anyone that has worked
 7 in the Mayor's political re-election campaigns who
 8 has been given comp time whenever they work during
 9 regular working hours?
 10 A I'm not aware of that.
 11 Q You're not aware of any of that?
 12 A No.
 13 Q Do you -- besides you, do you have any other
 14 relatives, including husband, distant relatives,
 15 that were hired by the City of Milwaukee after you
 16 became an employee for the first time?
 17 A No.
 18 Q Now, let's talk a little bit about your education.
 19 What's your education, ma'am?
 20 A I have a bachelor's degree in education and history
 21 and a management degree -- a master's degree, I'm
 22 sorry, in management administration and a couple of
 23 various certifications.
 24 Q What are the certifications in?
 25 A The AAAA equal opportunity manager, I was a

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1 certified teacher. I think I've let that lapse now.
 2 Taken some courses in worker's comp through the
 3 extension which I receive certification in.
 4 Q Anything else?
 5 A No.
 6 Q Your college degree, where did you go to school?
 7 A St. Augustus College in Raleigh.
 8 Q Was that a four-year college?
 9 A Four-year.
 10 Q When did you graduate?
 11 A In 1969.
 12 Q And what about your master's? Where did you go to
 13 school?
 14 A Cardinal Stritch University.
 15 Q Here in Milwaukee?
 16 A Yes.
 17 Q Was that a one-year, two-year?
 18 A It was a one-year accelerated master's program.
 19 Q And again, what was the specific area of interest?
 20 A Management administration.
 21 Q And then you also have some certification in the
 22 area of equal opportunities; is that correct?
 23 A Equal opportunity manager.
 24 Q And what exactly is the certification all about?
 25 A Well, it was a comprehensive, I think it was five

17

1 classes. We took classes in negotiations, one in
 2 affirmative action, one on developing affirmative
 3 action plans. I can't think of the other one, but
 4 it was four classes.
 5 Q And who sponsored these?
 6 A The American Association for Affirmative Action.
 7 Q Is that an association located here in Milwaukee?
 8 A It's a national organization.
 9 Q It's a national organization? And I suspect you
 10 completed the course?
 11 A Yes.
 12 Q Is that correct? Was that a semester course, or
 13 tell me the length.
 14 A I did it over a two-year period.
 15 Q How many credits did you have to accumulate, or was
 16 this by course?
 17 A It was 120 hours. You had to put in so many hours.
 18 When we went to the classes, it was like three full
 19 days each time, so --
 20 Q Tell me approximately the period of time in which
 21 you attended this equal opportunities course.
 22 A I would say between '99 and 2000.
 23 Q Did you receive any type of scholarship to attend
 24 this course?
 25 A It was through training, through our training.

18

1 Q Was that through the City of Milwaukee?
 2 A Yes.
 3 Q So the City of Milwaukee sponsored this particular
 4 course?
 5 A Right. They provided the funds.
 6 Q How many classes were you attending?
 7 A There were four major core classes.
 8 Q How many hours a week?
 9 A Well, it was usually a three-day period, so like
 10 from nine to five with assignments in the evening to
 11 be completed and brought back the next morning.
 12 Q And did you cover the entire area of equal
 13 opportunities?
 14 A Yes.
 15 Q Did you cover Title VII?
 16 A Yes.
 17 Q Did you cover the state Fair Employment Act?
 18 A I'm quite sure I did. I mean it was real broad and
 19 comprehensive.
 20 Q So under Title VII did you cover the entire
 21 discrimination provision --
 22 A Yes.
 23 Q -- of the act as it pertains to race?
 24 A Yes.
 25 Q As it pertains to age?

19

1 A Age, yes.
 2 Q Sexual harassment?
 3 A Yes.
 4 Q Retaliation?
 5 A Yes.
 6 Q Religious discrimination?
 7 A Yes.
 8 Q So on and so forth? Very good. Before you
 9 completed your certification did you feel you
 10 learned enough about civil rights?
 11 A Adequate.
 12 Q Okay, good. And have you ever given any training on
 13 anything related to the EOC or Title VII, civil
 14 rights discrimination?
 15 A No. I've been a facilitator but not the actual
 16 trainer.
 17 Q Facilitator in areas of civil rights?
 18 A Well, workplace violence, you know, discrimination,
 19 ADA, FMLA as it relates to all of the areas of that.
 20 Q When you were taking this course on equal
 21 opportunities, did you also cover the FMLA?
 22 A Well, no. I mean I've taken so many different
 23 things as it relates to the whole field of
 24 employment, but --
 25 Q Have you done any research or studies on the FMLA?

20

1 A Yes.
2 Q You feel you understand it well?
3 A Yes.
4 Q What about the ADA? Do you feel comfortable?
5 A I feel comfortable.
6 Q Okay, good. You were saying that you have been a
7 facilitator in various areas of discrimination or
8 conferences. I suspect you're referring to
9 conferences or workshops?
10 A In-house.
11 Q In-house, okay. In-house training?
12 A For the City of Milwaukee.
13 Q During the years that you have worked for the City
14 of Milwaukee, how many workshops do you recall have
15 been offered to the City of Milwaukee employees in
16 the areas of civil rights?
17 A I don't feel that I can answer that question.
18 Q Well, I'm talking just based on your experience.
19 A Can I confer with Bruce?
20 Q Well --
21 A Well, my problem is prior to my current job I was
22 doing something different. I was employee benefits
23 director, so I wasn't really --
24 Q We're going to get into what you've done.
25 A Okay.

21

1 Q And it sounds to me like you have been a very busy
2 lady, but we'll get into that.
3 A Okay.
4 Q And in all fairness to you, unless you think there
5 is a privacy matter or some attorney-client
6 privilege issue, I would prefer that you do not --
7 A Okay.
8 Q -- interrupt these proceedings.
9 A Okay.
10 Q Because counsel really cannot help you on how to
11 answer. He can protect certain rights that you
12 have.
13 A Okay.
14 Q And I will respect those rights.
15 A Okay.
16 Q But if you feel that my question will invade your
17 private personal life --
18 A Oh. No.
19 Q -- then you have the right to talk to counsel. If
20 you think that I am requesting that you provide me
21 with information that you discussed with counsel,
22 with any of them, then you have the right to talk to
23 counsel. Is that okay?
24 A That's fine.
25 Q And similarly, I didn't go through the whole ordeal

22

1 of rights that you have during a deposition, but one
2 very important right is the right to go to the
3 bathroom. Okay? I want you to understand that.
4 They don't have that right, but you do. So if you
5 need a break for some reason, not just to get help
6 but just because you need to go, let me know. Is
7 that fair?
8 A That's fair.
9 Q Okay, thank you. I was asking you to tell me with
10 respect to the number of years that you have worked
11 for the City of Milwaukee how many civil rights
12 discrimination of any kind, how many of these
13 conferences do you recall having attended in-house?
14 A That I personally --
15 Q Correct. Whether attending as a listener or
16 attending as a facilitator, as an instructor.
17 A I would think between 30 and probably 35.
18 Q And these have been all in-house?
19 A Right.
20 Q And are these workshops or in-house conferences to
21 provide training and education to Milwaukee
22 employees on the areas of civil rights?
23 A Yes.
24 Q Including race discrimination, sexual harassment and
25 things of that nature?

23

1 A Yes.
2 Q Is that right? Very good. Now, you also mentioned
3 that you have some other certification as a teacher.
4 Is that correct?
5 A Yes.
6 Q Was that related to your education in, did you say
7 North Carolina?
8 A Yes.
9 Q Is that correct? Did you ever work as a teacher?
10 A Yes.
11 Q How many years?
12 A About maybe two.
13 Q Where was that?
14 A I taught first grade deaf children at the
15 Governor Moorhead School for the Blind and Deaf.
16 Q In North Carolina?
17 A Right. And I ran an early childhood center when we
18 first moved here.
19 Q Very good. And then you mentioned that you have
20 attended some type of worker's compensation
21 training?
22 A Yes.
23 Q Tell me the nature of this training.
24 A It was basically to provide a comprehensive overview
25 of the worker's comp laws and how it applies.

24

1 Q And for how long have you attended that training?
 2 A Well, I did that between '88 and '89.
 3 Q And all of this I understand while you've been a
 4 City of Milwaukee employee?
 5 A Yes.
 6 Q Did you complete whatever training you were taking
 7 in the areas of worker's compensation?
 8 A Yes.
 9 Q Is that right? Did you get a certificate?
 10 A I think I did.
 11 Q You must have lots of them, a fair share? Do you
 12 feel that you have received adequate training in the
 13 areas of employment?
 14 A Yes, I do.
 15 Q All right, very good. Is it fair and accurate to
 16 say, ma'am, that other than your formal academic
 17 education, and I'm talking about your undergraduate
 18 studies and your master's studies, the most
 19 extensive training that you have received is in the
 20 areas -- as far as leading to a certificate, would
 21 have been the one that you took in the areas of
 22 equal opportunities?
 23 A Yes.
 24 Q And I suspect at some point you have been able to
 25 implement what you learned throughout your job?

25

1 A Yes.
 2 Q Is that correct? Let's talk about your job for a
 3 little while. What is your current job title?
 4 A Deputy director employee relations.
 5 Q And for how long have you held that title? Just
 6 give me the period of time.
 7 A Since October '96.
 8 Q And before that what, if any, title did you have?
 9 A The employee benefits director.
 10 Q And from what time to what time?
 11 A From April '88 to October '96.
 12 Q And before that?
 13 A Milwaukee Area Technical College.
 14 Q What period of time?
 15 A June '86 to April '88.
 16 Q What was the specific title there, Milwaukee Area
 17 Technical College?
 18 A I was manager of career planning and staff
 19 development.
 20 Q And before that?
 21 A I had my own management consultant firm, I would say
 22 from '85 to '86.
 23 Q What specific area were you engaged in as a
 24 consultant?
 25 A Fund development and grantsmanship, fund development

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1 and grantsmanship and coordinated special projects.
 2 Q Explain to me in lay terms what is it that you were
 3 trying to do. Was it training on how to obtain
 4 funding?
 5 A I would write proposals.
 6 Q You would write proposals?
 7 A For organizations.
 8 Q And your business was in existence only for about a
 9 year?
 10 A Yes.
 11 Q And before that what did you do?
 12 A I was executive director for the Milwaukee Inner
 13 City Arts Council from 1974 to 1985.
 14 Q What was the nature of your responsibility?
 15 A I was executive director. I was responsible for
 16 staffing, fund development, like the CEO of a major
 17 organization.
 18 Q Well, now we're back in 1974-1985. What did you do
 19 before that?
 20 A I was executive director of the Martin Luther King
 21 Early Childhood Center from --
 22 Q Here in Milwaukee?
 23 A Yes. I would say '71-73.
 24 Q Go ahead. Tell me what was before that.
 25 A We moved here in '71 and I was at the Governor

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1 Moorhead School for the Deaf and Blind prior to
 2 moving here.
 3 Q What was the nature of your duties as an executive
 4 director of the Martin Luther King Center?
 5 A Early Childhood Center. It was a day-care center.
 6 We provided educational enrichments for preschool
 7 children.
 8 Q When you worked for Milwaukee Area Technical
 9 College, how did you get that job?
 10 A I applied for it. I mean it was an open process I
 11 applied for.
 12 Q Who, if anyone, hired you?
 13 A I was hired by the director of human resources, and
 14 I guess confirmed by the MATC Board of Directors.
 15 Q Do you know who was the human resources person that
 16 hired you?
 17 A JoAnn Craft was there at that time.
 18 Q And you left in April of 1998.
 19 A '88.
 20 Q '88, that's correct. Is that when Mayor Norquist
 21 was re-elected and offered you a position --
 22 A Yes.
 23 Q -- within the City?
 24 A Yes.
 25 Q And I believe you testified previously that the

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1 first position title that you held once you became a
 2 City employee, and when I say City employee, at all
 3 times I'm referring to the City of Milwaukee; is
 4 that fair?
 5 A That's fair.
 6 Q I believe you testified that the first position that
 7 you held was as an employee benefits director?
 8 A Yes.
 9 Q Is that correct? Can you give me a summary of
 10 duties and responsibilities you had while working in
 11 that capacity as a director of the employee
 12 benefits?
 13 A Well, I was responsible for overseeing the
 14 administration and coordination of the worker's comp
 15 benefits program, not only for City of Milwaukee
 16 employees but the Milwaukee public school system,
 17 also responsible for administering health and dental
 18 benefits for City of Milwaukee employees as well as
 19 employees doing inter-governmental contract with
 20 HACM/RACM, the Housing Authority-City of Milwaukee,
 21 the Redevelopment Authority-City of Milwaukee, Pabst
 22 Theater, Mecca, and was also responsible for
 23 ensuring a safety program for the City of Milwaukee,
 24 administered the long-term disability insurance
 25 program, as well as a flexible choices program which

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1 is --
 2 Q Flexible choices program?
 3 A Right. Which is a component of Section 125, which
 4 allows employees to withhold monies out of their
 5 payroll checks to cover medical expenses that are
 6 not covered through the health plan.
 7 Q Regular insurance, okay.
 8 A And also for day-care, child care, so forth, for
 9 children.
 10 Q Anything else?
 11 A I think that was it.
 12 Q I suspect as a director you had people reporting to
 13 you?
 14 A Yes.
 15 Q Approximately how many people reported to you? I
 16 suspect this was the employee benefits department?
 17 A Well, when I was first hired, it was a separate
 18 entity. And then in 1989 it became a division of
 19 the Department of Employee Relations. You asked me
 20 how many employees.
 21 Q Just rough estimate.
 22 A Maybe about 35.
 23 Q And at that time who did you report to?
 24 A John Tries.
 25 Q And who was John Tries?

30

1 A He was the director of employee relations. That was
 2 in '89.
 3 Q And did there come a time when John Tries left?
 4 A Yes.
 5 Q Where did he go?
 6 A I think he became chief of staff.
 7 Q After he left?
 8 A Danae Davis Gordon.
 9 Q You became a subordinate of?
 10 A Danae Davis Gordon.
 11 Q And who else have you reported to?
 12 A Jeffrey Hansen.
 13 Q Is Mr. Hansen still there?
 14 A Yes.
 15 Q How long has he been there?
 16 A In that position?
 17 Q Yes.
 18 A Since October of '96.
 19 Q And his title is that of?
 20 A Director, employee relations.
 21 Q Is the employee relations and the employee benefits
 22 division a part of the same department?
 23 A Right. Employee benefits division is one division
 24 of the Department of Employee Relations.
 25 Q So the department of employee -- employee or

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1 employer?
 2 A Employee.
 3 Q -- employee relations is basically the main
 4 department?
 5 A Right.
 6 Q Benefits is a component of the main department?
 7 A Right.
 8 Q What other departments exist within the employment
 9 relations office?
 10 A Labor relations, the labor relations division. And
 11 then we have an operations division.
 12 Q Anything else?
 13 A No.
 14 Q Is the employment relations department also
 15 responsible for processing of discrimination
 16 complaints?
 17 A Yes. That's the department responsible for it.
 18 Q Is there a special unit within the Department of
 19 Employment Relations?
 20 A We use a team approach.
 21 Q And that's wonderful, but my question is is there a
 22 specific name for, or a unit that is identified as
 23 the employment opportunities or discrimination unit
 24 or EOC unit?
 25 A We don't have those titles.

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1 Q So it's just employment relations department?
 2 A Right.
 3 Q And within the employment relations department --
 4 A We have a process action team on EEO issues, and so
 5 complaints --
 6 Q I suspect there is some literature that outlines the
 7 process --
 8 A Yes.
 9 Q -- that's supposed to be followed?
 10 A Right.
 11 Q And what kind of literature would that be?
 12 A Well, there's a policy that each City of Milwaukee
 13 employee should have at hand, and it gives an
 14 overview of the policy as well as the process. If
 15 someone wants to file a complaint, what the
 16 procedures are, who he or she can contact within
 17 their own individual department or who they should
 18 contact at the Department of Employee Relations.
 19 Q And this policy that you're referring to applies to
 20 all people that are in the payroll for the City of
 21 Milwaukee?
 22 A Yes.
 23 Q Is that correct? Including the Mayor's office?
 24 A Yes.
 25 Q We'll talk about that in a minute, okay? I just

33

1 want to finish a little bit of your chronological
 2 employment history. When you started as the
 3 director of employee benefits, I suspect you
 4 received some training in this area in addition to
 5 your extensive background that you brought with you
 6 to the City of Milwaukee?
 7 A That's when I took the worker's compensation class
 8 to get a better -- I mean I knew what worker's comp
 9 was, but I needed to know how the laws apply.
 10 That's when I took that class at the extension.
 11 Q Obviously you had a master's in a related field,
 12 employment or management relations; is that correct?
 13 A Management, right.
 14 Q When you were the director of the employee benefits,
 15 I suspect you also had to become familiar with rules
 16 and policies applicable to the City of Milwaukee?
 17 A Yes.
 18 Q Including policies on equal rights?
 19 A Just a general overview.
 20 Q Well, as a manager, you would want to know --
 21 A Right.
 22 Q -- policies that pertain to --
 23 A Employee.
 24 Q -- hostile environment?
 25 A Correct, yes.

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1 Q Discrimination and things of that nature? And did
 2 you learn of those facts?
 3 A Yes.
 4 Q How did you happen to become a deputy director of
 5 the employment relations department?
 6 A I was appointed by the Mayor.
 7 Q And again, that was --
 8 A October '96.
 9 Q Was that immediately after any type of re-election
 10 campaign?
 11 A No, not immediately after, no.
 12 Q Were you -- on what basis were you appointed a
 13 deputy director, if you know?
 14 A Danae Davis Gordon took a position outside of City
 15 government. Jeff Hansen who had been the deputy
 16 director was moved to the director slot and I was
 17 promoted to the deputy director's slot.
 18 Q Did you apply for that position?
 19 A No.
 20 Q Or were you just hand picked by the Mayor?
 21 A I was appointed by the Mayor.
 22 Q Has he been good to you, do you think?
 23 A I guess. I mean I don't know what you mean by that.
 24 MR. ARELLANO: I mean I'm serious,
 25 Mr. Tokus. I'm asking her serious questions.

35

1 What are you laughing about? He's laughing
 2 because we don't have a camera today.
 3 THE WITNESS: May I get a warm-up
 4 on my coffee, please?
 5 MR. ARELLANO: You bet.
 6 Q My question before Mr. Tokus invaded my space here
 7 was that do you feel the Mayor has been good to you?
 8 A I don't understand the meaning of that question.
 9 Q Well, he has appointed you to various positions
 10 without you having to compete; true?
 11 A It's a cabinet form of government.
 12 Q I understand that. But he appointed you to the
 13 directorship position after his political campaign;
 14 true?
 15 A Right.
 16 Q You didn't have to compete for that one; true?
 17 A Not to my knowledge.
 18 Q And then you were promoted to deputy director in
 19 1996. You didn't have to compete for that one;
 20 true?
 21 A Not to my knowledge.
 22 Q So he has recognized your --
 23 A My skills and my competence.
 24 Q And abilities, good. And it sounds like you have a
 25 very well rounded amount of knowledge in various

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1 areas of management, which I'm proud to say that.
 2 A Thank you.
 3 Q And I sincerely mean that in spite of the little
 4 snickering that goes on around here. We have --
 5 counsel is friendly. Don't pay attention to us.
 6 Now, let's go back to employee benefits. And
 7 I don't know if I should say fortunately or
 8 unfortunately, but I have never worked for a city or
 9 city government. I want you to tell me based on
 10 your knowledge the number of benefits that are
 11 available for employees within the City of
 12 Milwaukee.
 13 A Okay.
 14 Q And you can structure it in any way you want.
 15 A Okay.
 16 Q Is that okay?
 17 A Okay. The City of Milwaukee provides health, dental
 18 and long-term disability benefits for I would say --
 19 well, let me do it separate.
 20 Q That's fine.
 21 A For all City employees. It's health insurance,
 22 dental insurance, worker's compensation benefits,
 23 benefits under the flexible choices program. We
 24 also have a long-term disability program, but those
 25 benefits are negotiated. So all City employees -- I

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1 don't think the police union has that benefit in
 2 their plan. It was something they did not
 3 negotiate.
 4 Q No wonder they're always upset.
 5 A But they do have a donor program whereby if one of
 6 their members becomes seriously ill, then the
 7 members can donate some of their sick time toward
 8 them. So that's the trade-off.
 9 Q You mentioned a number of them. Anything else?
 10 A I would say another benefit is vacation as well as
 11 sick leave is accrued on a pro rata basis per pay
 12 period. We do provide tuition reimbursement to our
 13 employees to further their education.
 14 Q Famous pension, anything on that, pension,
 15 retirement, 401?
 16 A Pension.
 17 Q Don't forget the important part.
 18 A Our employees are able to participate in the
 19 deferred comp program which is a 457 program. I
 20 guess life insurance and -- I think I've covered
 21 everything.
 22 Q Let's talk about a few other things. What about
 23 medical leave?
 24 A Medical leave.
 25 Q Is that available?

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1 A Yes.
 2 Q What about -- go ahead.
 3 A No, that would fall under, well, medical, sick
 4 leave. You get both of those.
 5 Q What about unpaid leave?
 6 A You have to take a leave of absence. And it's not
 7 automatic. It has to be approved by the department
 8 head.
 9 Q Anything else? Sabbatical, any such?
 10 A Well, under tuition reimbursement would fall the
 11 sabbatical.
 12 Q Did you include everything?
 13 A I think I did.
 14 Q Where would I find these specific policies? What
 15 source can you guide me to?
 16 A We have a policy manual that's housed in the
 17 Department of Employee Relations which spells out
 18 all of our benefits.
 19 Q What about comp time? Is that another benefit? If
 20 you know. Have you ever heard that term before?
 21 A Yeah. Yeah, comp time and we have flex schedules
 22 for employees. I mean it's the whole gamut.
 23 Q I want you to give me everything we can get.
 24 A Comp time, flex schedule, it's right on the tip of
 25 my tongue. That's all I can think of.

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1 Q That's all you can think of?
 2 A Right now, yeah. It may come to me later.
 3 MR. ARELLANO: Counsel, you have
 4 given me a couple manuals or employment
 5 handbooks, but this policy manual of
 6 employment benefits, how can I get a copy of
 7 that?
 8 MR. SCHRIMPF: I will have to get
 9 ahold of a copy of it. You want a copy of
 10 the -- this is one -- let me ask the witness.
 11 Is this one manual, Florence?
 12 THE WITNESS: It's one book that's
 13 separated with all the policies in. It's
 14 called a policy and benefits manual.
 15 MR. SCHRIMPF: Policy and benefits
 16 manual. Do you have a copy of it in your
 17 office?
 18 THE WITNESS: Yes.
 19 MR. SCHRIMPF: Are copies available
 20 to other department heads?
 21 THE WITNESS: We would have to make
 22 copies. We have most of the policies on the
 23 website now.
 24 MR. SCHRIMPF: Well, but I don't
 25 think that's going to suffice for counsel's

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1 purpose.
2 MR. ARELLANO: We need it for an
3 exhibit. Let me ask you this. Consistent
4 with Judge Lawent's directive that we try to
5 consult with each other --
6 MR. SCHRIMPF: Yes. You want a
7 copy of this.
8 MR. ARELLANO: I'm going to bring
9 my movie camera from now on so I can have
10 Mr. Tokus on video, on candid camera all the
11 time.
12 MR. SCHRIMPF: Mr. Tokus will enjoy
13 that.
14 MR. ARELLANO: He speaks greatly
15 with his features, which I truly enjoy.
16 MR. SCHRIMPF: You want a copy of
17 this manual. How thick is it, Florence?
18 THE WITNESS: It's about like this.
19 MR. SCHRIMPF: About four inches
20 thick or so?
21 THE WITNESS: We can call Barb and
22 ask her to start making copies.
23 MR. SCHRIMPF: We can do that.
24 Q At least all of these benefits that you have
25 carefully in detail outlined --

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1 A Did I say family medical leave?
2 Q I believe so. I did include that, but I call it
3 medical leave. And I suspect we're talking about
4 two different; right?
5 A Right, right.
6 MR. SCHRIMPF: Counsel, do you want
7 the one that currently exists or do you want
8 one --
9 MR. ARELLANO: The one that was
10 applicable from '95 through 2000.
11 MR. SCHRIMPF: I guess the concern
12 that I would have is this updated on a regular
13 basis?
14 THE WITNESS: Yes.
15 MR. SCHRIMPF: Is there any way to
16 see what the manual would have looked like in
17 the year, January of 2000?
18 MR. ARELLANO: 2000 would be fine,
19 '99, 2000 would be fine.
20 MR. SCHRIMPF: Is there a way to do
21 that?
22 THE WITNESS: Yeah, I mean I can
23 call Barb and ask her to bring it up.
24 MR. SCHRIMPF: I just wanted to
25 nail that myself.

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1 MR. ARELLANO: All right, thank
2 you.
3 Q And all of these benefits that you have outlined for
4 us this morning, these were benefits that existed
5 back then when you were the director of employee
6 benefits --
7 A No.
8 Q There are some that did not exist at that time?
9 A Right. Overall.
10 Q But to finish my entire question, these are all of
11 the benefits that existed during the last two, three
12 years?
13 A Yes.
14 Q Is that correct?
15 A Yes.
16 Q Including the year 2000?
17 A Yes.
18 Q Is that right? Family leave was in existence in the
19 year 2000?
20 A Oh, yes.
21 Q And sick leave was in existence obviously?
22 A Yes.
23 Q Is that correct? Comp time was in existence in the
24 year 2000?
25 A Yes.

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1 Q Now, what I want you to tell me, as I understand
2 you're quite knowledgeable about these benefits; is
3 that correct?
4 A I think so.
5 Q Good, good. With respect to flexible schedule, can
6 you tell me how that policy is implemented?
7 A Well, we have pay grades at the City of Milwaukee,
8 so any manager that is a pay grade four or above
9 don't accrue comp time for the time that he or she
10 works beyond the 40-hour week period. And so the 40
11 hours is a benefit that throughout the year would
12 capture some overtime that they would have spent
13 beyond their 40 hours.
14 Q It's flexible schedule. When does a flexible
15 schedule apply? Can you give me some illustrations?
16 A Well, I guess when I think of flexible schedule, it
17 may be two things. The work hour for the City of
18 Milwaukee is from eight to 4:45. We have some
19 employees because of child care needs, they may
20 start at seven and leave at 3:45. So that would be
21 considered flexible time.
22 Q So the City still expects somebody to put eight
23 hours?
24 A Right.
25 Q But the schedule can be flexible?

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1 A Right.
 2 Q Kind of self-explanatory; true?
 3 A Right.
 4 Q What about comp time? How does comp time work
 5 under, pursuant to the City policies?
 6 A If you're in a pay grade four, management pay grade
 7 four or above, you don't accrue comp time.
 8 Q When you say you don't approve, what --
 9 A Accrue.
 10 Q Oh, you don't accrue, okay.
 11 MR. SCHRIMPF: An accounting term.
 12 MR. ARELLANO: Yes, fine.
 13 Q So are you telling me that anyone that is grade four
 14 or above is not entitled to comp time?
 15 A Right. Management employees.
 16 Q So only, this only applies to management employees,
 17 this policy that you just mentioned?
 18 A Right, the 40 hours flex time.
 19 Q Anyone else that is not a management employee is
 20 entitled to comp time?
 21 A Yes.
 22 Q Is that right?
 23 A I would think so.
 24 Q And how does that work?
 25 A It's kind of hard for --

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1 Q Take your time.
 2 A I mean we have 19 different unions. So unions
 3 negotiate contracts, and there are certain benefits
 4 and things in the contracts that, you know, I don't
 5 know.
 6 Q Let's talk about people that don't have a union.
 7 A Okay.
 8 Q And specifically let's talk about --
 9 A Me.
 10 Q -- people working for the Mayor.
 11 A Like me.
 12 Q Okay. But you're a manager?
 13 A Right.
 14 Q So you wouldn't be entitled to comp time?
 15 A No.
 16 Q Let's talk about the Mayor's assistants. Would they
 17 be entitled to comp time?
 18 A See, I don't know how they run that office.
 19 Q Is that a specific policy that applies, that is
 20 separate than the one that you just mentioned that
 21 applies to the Mayor?
 22 A Not that I'm aware of. But I think in the Mayor's
 23 office they work more flexible schedule. Like I
 24 said, you know, because of child care needs somebody
 25 may come in at seven and leave at 3:45. Because of

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1 the nature and magnitude of their jobs, I think
 2 their schedules are flexible.
 3 Q And I think this is very important. I want you to
 4 take a second to think about my questions, okay, if
 5 you need to.
 6 A Okay.
 7 Q You seem to be quite knowledgeable, but I still want
 8 you to think about these questions. The City has a
 9 policy that includes as one of the benefits comp
 10 time; correct?
 11 A Right.
 12 Q And it also has a policy related to flexible time;
 13 true?
 14 A Right.
 15 Q Is that yes?
 16 A Yes, I'm sorry.
 17 Q And your understanding of the comp time policy is
 18 that it applies with the exception of certain
 19 contractual provisions, it applies to anyone that is
 20 not in a grade four?
 21 A Or above.
 22 Q Is that correct?
 23 A Yes.
 24 Q And as I understand based on what you're informing
 25 me here, grade four or above basically pertains to

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1 managers?
 2 A Yes.
 3 Q Is that correct? But your understanding of the
 4 Milwaukee policy, at least as far as comp time is
 5 concerned, is that it applies to everyone that
 6 receives wages from the City of Milwaukee who is not
 7 in a grade four or above position?
 8 A Yes.
 9 Q Is that correct?
 10 A Yes.
 11 Q And you're not aware of any specific exception that
 12 the City of Milwaukee policy with respect to comp
 13 time, you're not familiar or aware of any exception
 14 that relates to the Mayor's staff; correct?
 15 A Correct.
 16 Q You may be talking about certain practices; true?
 17 That may or may not be different than the rest of
 18 the City employees; correct?
 19 A I'm not aware what their practices are.
 20 Q So any mayoral staff that is not considered a
 21 manager would be entitled to comp time; true?
 22 A True.
 23 Q Within the Mayor's office, based on your knowledge
 24 of City government, how many people would qualify as
 25 managers? Obviously the Mayor.

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1 A The Mayor, the chief of staff, the assistant chief
2 of staff, the manager in that office, all of the
3 Mayor liaisons, the P. R. person, the policy person.
4 I would say everybody except for the clerical
5 support staff.
6 Q Well, let's talk about that for a minute. In the
7 year 2000 I suspect you were working for the City of
8 Milwaukee?
9 A Yes.
10 Q The chief of staff as I understand was
11 Michael Soika?
12 A Yes.
13 Q And you mentioned the assistant chief of staff. In
14 the year 2000, '99-00, who was the assistant chief
15 of staff?
16 A I think it was Brenda Wood.
17 Q Do you know when she became the assistant chief of
18 staff?
19 A Not offhand.
20 Q Before Brenda Wood, who was the assistant chief of
21 staff?
22 A Well, maybe I used the wrong term, not assistant
23 chief of staff but assistant to the chief of staff.
24 Not assistant chief of staff but assistant to the
25 chief of staff.

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1 Q Before Brenda Wood --
2 A I think it was Michal Dawson.
3 Q And is it your understanding that these two
4 positions are managerial positions?
5 A Yes.
6 Q And then you mentioned the P. R. person?
7 A Right.
8 Q Is the P. R. person also considered a managerial
9 position?
10 A Yes.
11 Q And who was the P. R. person?
12 A Well, I can tell you who it is now. I can't
13 remember. It's Steve Filmanowicz now.
14 Q Was Jeff Gillis?
15 A That was a long time ago.
16 Q Mr. Fleming?
17 A Yeah, Jeff Fleming.
18 Q What's his name?
19 A Jeff Fleming.
20 Q Do you know, was he the P. R. person in the year
21 2000?
22 A I don't know exactly when he left.
23 Q You mentioned the Mayor liaisons.
24 A Right.
25 Q Who are you referring to?

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1 A Like his staff assistants.
2 Q The Mayor's staff assistants?
3 A Yeah. I think the title we use is staff assistants
4 liaisons or liaisons.
5 Q To the Mayor?
6 A Right.
7 MR. SCHRIMPF: Counsel, could we go
8 off the record for a second?
9 MR. ARELLANO: Sure.
10 (Recess)
11 (Several questions and answers
12 read)
13 By Mr. Arellano: (Continuing)
14 Q Again, I think I did ask you this question, ma'am.
15 You're not aware of any specific exclusive policy
16 that applies solely to the Mayor's staff?
17 A No, I'm not.
18 Q They all are obviously entitled to the same
19 benefits; correct?
20 A Yes.
21 Q And they are subject to the same rules and
22 procedures?
23 A Yes.
24 Q Correct? Now, we were talking about comp time. Who
25 determines when an employee is entitled to comp

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1 time?
2 A It has to be okayed prior to a person taking comp
3 time. So the manager/supervisor approves comp time.
4 Q So what's the procedure? Manager approves comp
5 time; correct?
6 A Yes.
7 Q And to your understanding, I always hear my staff
8 talking about comp time. All I know is that they
9 are not going to be coming back to work. How does
10 comp time work? Tell me. You gave me a very good
11 illustration of flexible time. Now, give me an
12 illustration of comp time.
13 A Okay. The normal work hours for City of Milwaukee
14 employees are from eight to 4:45. If they work
15 beyond the 4:45, then the clock starts ticking.
16 Q And any time that they work past eight hours would
17 be turning into comp time?
18 A Right.
19 Q Is that correct?
20 A Yes.
21 Q Anytime someone wants to work only eight hours but
22 with a different schedule, that would be flexible
23 time?
24 A Yes.
25 Q Is that correct? And under these two components,

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1 flex time and comp time, these are benefits that
 2 would allow an employee pursuant to the supervisor's
 3 approval --
 4 A Yes.
 5 Q -- the right to deviate from the regular eight
 6 hours; is that correct?
 7 A Yes, that's correct.
 8 Q How is comp time compensated?
 9 A You can either take it in payment or in time off.
 10 Q With respect to payment, is there a rule or policy
 11 that requires any type of paperwork to be submitted
 12 before the City issues payment for comp time?
 13 A It's noted on your time card.
 14 Q Does the time card policy within the City of
 15 Milwaukee apply to all employees?
 16 A Yes.
 17 Q And this time card, tell me what's the processing of
 18 the time card for each employee.
 19 A Well, we have this new system now at the City.
 20 Q Let's talk about the year 2000.
 21 A You have time sheets. You have to fill them out.
 22 Your supervisor has to okay them, sign off on them.
 23 And you turn them into the payroll clerk who then
 24 processes everything.
 25 Q And I suspect the payroll clerk needs the time

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1 sheets in order to determine whether or not the City
 2 is getting eight hours from each employee?
 3 A Well, I would think the managers would need that
 4 foremost.
 5 Q So the managers, but still the policy is that
 6 eventually those time sheets will end at payroll?
 7 A Right.
 8 Q Is that correct?
 9 A That's correct.
 10 Q And this policy applies to all branches of
 11 government --
 12 A Yes.
 13 Q -- within the City?
 14 A Yes.
 15 Q Including the Mayor's office?
 16 A Yes.
 17 Q Have you ever given training on comp time, flex
 18 time?
 19 A No.
 20 Q Who would be the person assigned to do that training
 21 if there's such training available?
 22 A There was a person in our office who used to work in
 23 our office, Tom Bolton. He would give training
 24 sessions to payroll clerks.
 25 Q But payroll is basically where the buck stops as far

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1 as collecting data regarding time?
 2 A Right.
 3 Q Is that correct? Managers are responsible for
 4 gathering the time cards pertaining to the
 5 respective units and then forward those time sheets
 6 to payroll?
 7 A To the payroll clerk.
 8 Q Is that basically --
 9 A Yes.
 10 Q -- how the policy works?
 11 A Yes.
 12 Q And is that the way it works since you've been an
 13 employee of the City of Milwaukee?
 14 A Yes.
 15 Q Pretty much?
 16 A Yes.
 17 Q All right, thank you. Now, you gave me an
 18 illustration of comp time that gets compensated
 19 through money; correct?
 20 A Correct.
 21 Q Now, let's talk about comp time that is compensated
 22 by providing someone time off. No. 1, there is a
 23 policy within the City of Milwaukee that allows an
 24 employee the option to either obtain comp time via
 25 or via money or comp time via time off?

55

1 A Yes.
 2 Q Is that correct? And based on your understanding of
 3 City policies, specifically for the last three
 4 years, is there any type of policy that would limit
 5 the amount of time off that a person can take as
 6 comp time? Or is that pretty much at the directive
 7 of management?
 8 A I would say a directive of management.
 9 Q So if management feels that you have been working
 10 extensively and you're entitled to two, three months
 11 of time off --
 12 A Oh, I don't -- I mean within reason.
 13 Q Within reason. And that is why I was asking you
 14 whether or not there is any written policy that
 15 would help me to understand where the limitations,
 16 if any, of comp time. What are the boundaries of
 17 comp time?
 18 A Well, I can only share with you what we do in the
 19 Department of Employee Relations.
 20 Q Well, tell me.
 21 A When a person accrue comp time, you know, in our
 22 budget, we allocate so much money for comp time in
 23 the budget, so it's usually budgeted comp time. So
 24 we know up front how much dollars we have to pay
 25 people for comp time. When that figure has

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1 exceeded, you know, that number, then people have to
 2 request comp time, but it's only granted if the
 3 needs of the organization, the business needs of the
 4 organization can still be met in their absence.
 5 Q So the only thing that you know of that would limit
 6 the amount of comp time is based on budgeted
 7 figures?
 8 A For my department.
 9 Q Just for your department, all right. Are you
 10 familiar with how comp time would be implemented at
 11 the Mayor's office?
 12 A No, I'm not.
 13 Q Obviously the Mayor's office would be subject to the
 14 City rules and procedures pertaining to comp time as
 15 well?
 16 A Could you repeat that?
 17 Q Yes, that was a poor question. Let me rephrase it.
 18 The Mayor's office would be subjected to the same
 19 rules that everybody else with respect to benefits;
 20 true?
 21 A Yes.
 22 Q Including comp time; true?
 23 A Yes.
 24 Q Do you know what's the difference between comp time
 25 and overtime?

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1 A It's the same.
 2 Q Is that the same, pretty much the same principle?
 3 Overtime means when somebody wants to get paid
 4 instead of taking time off?
 5 A Overtime means hours worked beyond the eight hours
 6 workday.
 7 Q And how they want to obtain that benefit is really
 8 up to the employee as long as they stay with those
 9 two options, right, time off or money?
 10 A Right.
 11 Q Is that correct? Do you know of any employee that
 12 has been granted more than a week or two weeks of
 13 comp time?
 14 A Not to my knowledge, no.
 15 Q Do you know of any one incident when an employee
 16 requested comp time for more than two weeks that was
 17 denied? If you know.
 18 A I don't know.
 19 Q With respect to comp time, who would be the record
 20 keeping, or record keeper of these particular
 21 documents, comp time?
 22 A The department's payroll clerk.
 23 Q Okay, very good. And I suspect the Mayor's office
 24 is also required to follow the same format and
 25 procedure as far as submission of records, comp time

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1 requests; correct?
 2 A Yes.
 3 Q And they would make the comp time requests through
 4 the Department of Employment Relations?
 5 A No. It's done on a departmental basis. Each
 6 department handles their own payroll, any comp time.
 7 Q So those records would be kept within the same
 8 department?
 9 A Within the individual department.
 10 Q Okay.
 11 A We keep all of our employees in the Department of
 12 Employee Relations. Comptroller does their own.
 13 Each department.
 14 Q Okay, very good. But you don't know of any policy
 15 that would preclude someone from taking a week, two
 16 weeks, three weeks of comp time, any specific
 17 written policy?
 18 A No.
 19 Q I think we covered quite a bit of employee benefits.
 20 Now let's talk a little bit about your current
 21 position as the deputy of the employment relations
 22 department. What's the nature of your duties and
 23 responsibilities?
 24 A I serve as the assistant to the director basically.
 25 Q And tell me, give me the structure within the

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1 employment relations department. How many units are
 2 there?
 3 A We have the director, the deputy director and then
 4 we have three divisions: the employee benefits
 5 division, the labor relations division and the
 6 operations division. Well, I would say four,
 7 operations division and administration division.
 8 Q Let's go back to one other benefit that I needed to
 9 cover before I let you go on this issue. Okay? You
 10 mentioned that among the various benefits that are
 11 available for City employees, one includes vacation
 12 and sick leave; is that correct?
 13 A Right.
 14 Q Is there a sick leave policy that applies to all
 15 City employees?
 16 A Yes.
 17 Q And what is your understanding of that sick leave
 18 policy?
 19 A Well, you accrue so many hours per pay period. You
 20 can accrue I think up to 960 hours of sick leave.
 21 Q In a given year?
 22 A Well, total.
 23 Q Total in your lifetime?
 24 A Right. And then after the 960 then it's accrued at
 25 50 percent.

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1 Q And how does the sick leave policy benefit kick in,
2 trigger? What are the procedures for somebody to
3 take sick leave? Is that a departmental decision?
4 A No. It's City wide. I mean a person calls in sick,
5 have the flu or if you're out more than three days
6 you need a doctor's excuse.
7 Q And is that a written policy? Is that yes?
8 A Yes, I'm sorry.
9 Q Is this policy subject to approval of the -- in
10 other words, if the supervisor decides I don't need
11 a doctor's excuse, you can take five days if you
12 want to of sick leave, is that acceptable?
13 A Well, the rule says after three days you bring in a
14 doctor's excuse.
15 Q To your knowledge --
16 A I can only refer to the Department of Employee
17 Relations.
18 Q To your knowledge, do you know if all of the
19 departments have abided by this three-day rule since
20 you've been an employee?
21 A I don't know.
22 Q Is there any type of penalty or discipline issued to
23 any supervisor that fails to request this medical
24 leave or this medical authorization? Let's assume
25 that a department decides not to use that. I guess

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1 what I'm trying to understand is what happens if
2 this policy is not applied consistently?
3 A Well, we wouldn't know.
4 Q You would not have any knowledge?
5 A No.
6 Q So as far as you are concerned, you don't know how
7 the Mayor's office has applied the sick leave
8 policy --
9 A No, I don't.
10 Q -- throughout all these years; is that correct?
11 A Right, I don't. That's correct.
12 Q Before the year 2000 do you recall ever getting any
13 type of inquiry from the Mayor's office regarding
14 the sick leave policy before the year 2000?
15 A I don't recall that.
16 Q Who handles all of the records related to sick
17 leave?
18 A It's done on a departmental basis.
19 Q So each department would be responsible for keeping
20 those records?
21 A Right.
22 Q The employment relations does not monitor or inspect
23 these records?
24 A No.
25 Q Isn't there a quality control system in place?

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1 A Well, every pay period there's a time owed and
2 allowed report which each department receives -- I
3 think it's called time owed and allowed -- which
4 captures an employee's sick leave balance as well as
5 vacation balance.
6 Q And is this how, I mean what's the title of this
7 record or system that you're referring to?
8 A It's called a time owed and allowed report.
9 Q Okay. And who would keep this -- I suspect these
10 reports are for the entire City of Milwaukee?
11 A Right.
12 Q Who would keep these records?
13 A I think it's generated from the comptroller's
14 office.
15 Q So if we need to see records with respect to time
16 owed and/or allowed, the comptroller's office would
17 be the record keeper?
18 A I would think so.
19 Q For all employees within the City of Milwaukee?
20 A I would think so.
21 Q I suspect that is because managers of each
22 department or unit are required to eventually funnel
23 those records to the comptroller?
24 A Right.
25 Q Is that correct? What about records related to comp

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1 time? You may have already answered that question,
2 but I just want to make sure I put it in the proper
3 perspective.
4 A See, now I'm familiar with that report, but --
5 Q What department would be the record keeper of comp
6 time records?
7 A It would be individual departments. Each department
8 would be responsible.
9 Q But isn't some type of --
10 A I don't know if that report captures comp time.
11 Q The time owed and allowed report?
12 A Right.
13 Q If you know, what's the objective or what's the
14 purpose of the time owed and allowed report?
15 A So that we can inform employees of what their
16 outstanding, I mean how much vacation time they have
17 or how much sick time they have.
18 Q Well, let me give you a scenario and see if you can
19 help me to understand this because you're really
20 educating me on how, at least to the extent that I'm
21 able to follow you, as to how the City works. Let's
22 assume that the time owed and allowed report shows
23 that an employee has taken four, five, six days of
24 sick leave, you know, sporadically from time to
25 time, but there is no medical authorization on file.

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1 What happens then? If you know.
 2 A Well, we do have a program, I can't think of the --
 3 it's on the tip of my tongue, but we do have a
 4 program if managers recognizes that an employee has
 5 a history of taking time off a lot without
 6 appropriate documentation, then there's like a
 7 three-step process. They provide them with the
 8 number of days that they've been out sick. It's
 9 like a warning letter. And they tell them that if
 10 that pattern continues, then he or she will be
 11 placed on the sick leave control program. So that
 12 means that every time that he or she is absent from
 13 work for sick or any medical thing, they have to
 14 provide a doctor's excuse.

(Last sentence read)

16 Q This tool that you just identified, what's the name
 17 of this program?

18 A The sick leave control.

19 Q And who would be in control of that?

20 A Each department.

21 Q And is there a general pool or a general location
 22 where eventually these reports end up to, or are
 23 they maintained within each department?

24 A In the individual's personnel files.

25 Q Is there a policy that addresses this program?

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1 A Yes.

2 Q Leave control? And where would that be?

3 A In the Department of Employee Relations.

4 Q And based on your knowledge and practice, has this
 5 policy been in effect since you've been an employee
 6 of the City?

7 A I think it started around '92.

8 Q So it was in effect in the year 2000?

9 A Yes.

10 Q Is that correct?

11 A Yes.

12 Q And if I understood at least the gist of what you're
 13 telling us with respect to this sick leave control
 14 program, this appears to be some type of gradual,
 15 potentially gradual disciplinary system?

16 A Right.

17 Q Is that correct?

18 A Yes.

19 Q And you believe that the City of Milwaukee abides by
 20 the gradual disciplinary approach instead of quick
 21 termination when somebody's abusing sick leave?

22 A I would hope so.

23 Q That's your understanding as the director of
 24 employee relations; correct?

25 A Deputy director.

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1 Q Deputy; is that correct?

2 A Yes.

3 Q And your understanding of this program is as part of
 4 the disciplinary approach or gradual disciplinary
 5 approach a warning letter should be issued first;
 6 true?

7 A If departments are following the policy.

8 Q Do you know of any department that has been exempted
 9 from that policy?

10 A No.

11 Q The Mayor's office obviously is not exempted from
 12 that policy; true? I mean employees that work for
 13 the Mayor's office?

14 A All departments, I mean no department --

15 Q Are bound by the same policies?

16 A Yes.

17 Q Including the Mayor's office?

18 A All departments.

19 Q Thank you. At least I want to be clear on what
 20 you're telling me with respect to the sick leave
 21 policy. You mentioned that anyone that is absent
 22 three days or more must produce a medical
 23 authorization?

24 A According to the policy.

25 Q I just want to understand what is the function of

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1 employment relations.

2 A Well, we're responsible for providing --

3 MR. ARELLANO: See, Mr. Tokus keeps
 4 laughing because I don't understand how the
 5 bureaucracy works. But he's got advantage
 6 over me. He's been a bureaucrat all these
 7 years. So I don't understand it, so Mr. Tokus
 8 has to bear with me for a minute.

9 A We're responsible for providing the staffing needs
 10 of all departments. So we do the recruitment for
 11 departments.

12 Q Do you also provide guidance on policy and
 13 procedures?

14 A Yes. We also, because we have the various divisions
 15 that I mentioned earlier, we're responsible for
 16 administering all those benefits. Our office, the
 17 labor negotiations comes out of our office.

18 Q Is there an attorney, in-house attorney within the
 19 employment relations office?

20 A We have one attorney.

21 Q And what's the function of that attorney?

22 A Well, she is a human resource representative.

23 Q Is the Human Resources Department within the
 24 Department of Employment Relations?

25 A It's the same.

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1 Q It's exact -- I suspected that to be the case.
 2 Employment relations basically is the Human
 3 Resources Department; correct?
 4 A Right.
 5 Q And now that you use the key word, human resources,
 6 I can now relate to you in some way.
 7 A Okay.
 8 Q Is it fair and accurate to say that human resources
 9 basically provides guidance and advice on employment
 10 policies?
 11 A Yes.
 12 Q Procedures?
 13 A Procedures.
 14 Q Including disciplinary actions and the like?
 15 A Yes.
 16 Q Is that correct? And I suspect that the way the
 17 City works pursuant to policy and practice, most
 18 departments that have any type of question with
 19 respect to employer/employee relations, they would
 20 refer to the Human Resources Department; correct?
 21 A Yes.
 22 Q Meaning the employment relations department; true?
 23 A True.
 24 Q With respect to the office of the Mayor, before the
 25 year 2000 do you recall any one time when the

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1 employment relations office was consulted with
 2 respect to the termination of an employee, not
 3 including Marilyn Figueroa?
 4 A No.
 5 Q Do you know Marilyn Figueroa?
 6 A Yes.
 7 Q How long have you known Marilyn Figueroa?
 8 A I would say since about 1992. I think I met her
 9 then.
 10 Q Sometimes I do entertain requests from the public.
 11 Here is one for you.
 12 A Oh, okay.
 13 Q We want to know what is a transitional TVA as it
 14 relates to account vacation?
 15 A Oh, okay.
 16 Q She has the smart questions.
 17 A We do have that TVA on the time owed and allowed.
 18 Prior to the City using the current method of how
 19 they calculate vacation time, and I really don't
 20 know what the old method was, but when we commenced
 21 with the new calculation on how vacation time is
 22 accrued, people had hours, and so those hours were
 23 placed in a TVA account, so that's what that is.
 24 Q So it's some sort of a monitoring tool?
 25 A Well, it was vacation that was earned prior to the

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1 implementation of the new system so that people
 2 wouldn't lose the vacation that they had accrued
 3 earlier.
 4 Q Are you familiar with the SLCIP account? Do you
 5 know what that stands for?
 6 A Sick leave incentive.
 7 Q Can you describe for --
 8 A I forgot about that.
 9 Q Don't worry. I have somebody that can keep us going
 10 here.
 11 A That's a program whereby if an employee does not
 12 take any sick days within a, I think a four-month
 13 time period, we get it three times a year I think,
 14 four-month time period, then he or she is entitled
 15 either to an extra day of vacation or they can be
 16 compensated for one day's pay.
 17 Q Let me ask you, before the year 2000 do you recall
 18 any one time when you received, the Department of
 19 Employment Relations received any requests from the
 20 Mayor's office on behalf of any of its liaisons for
 21 comp time?
 22 A No.
 23 Q No? All right. Now, you were telling me that you
 24 have known Marilyn Figueroa since roughly 1992?
 25 A I would think so.

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1 Q How did you meet Marilyn Figueroa?
 2 A When she became an employee of the City.
 3 Q Of the City?
 4 A Uh-huh.
 5 Q Do you remember what was her first initial title?
 6 A I think she worked in the Department of City
 7 Development.
 8 Q But do you know what the title was?
 9 A No, I don't.
 10 Q And I suspect the Department of Employment Relations
 11 would have records of her entire employment history
 12 with the City of Milwaukee?
 13 A I would think so.
 14 Q And I would say -- I would assume that those records
 15 would be under your jurisdiction as an employee of
 16 the department?
 17 A We would be able to retrieve it.
 18 Q Obtain those records?
 19 A Right, through our department.
 20 Q Now, do you know what was the last position
 21 Marilyn Figueroa held within the City of Milwaukee?
 22 A She was a Mayor's staff assistant/liaison, whatever
 23 that title is.
 24 Q And do you remember the date when she stopped --
 25 strike that. Do you remember the year when she

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<p>1 stopped working for the City of Milwaukee?</p> <p>2 A I think it was 2001, I think.</p> <p>3 Q Would it help you if I were to tell you that she</p> <p>4 left in the year 2000?</p> <p>5 A Oh, okay.</p> <p>6 Q Is that okay? From 1992 through the year 2000, did</p> <p>7 you have a close working relationship with</p> <p>8 Ms. Figueroa?</p> <p>9 A Not a close working relationship, no.</p> <p>10 Q No? Did you ever work on political campaigns on</p> <p>11 behalf of Mayor Norquist in conjunction with</p> <p>12 Ms. Figueroa?</p> <p>13 A She may have been on a committee, yes.</p> <p>14 Q Is that correct? Do you remember when was the last</p> <p>15 year when she was on a committee where you were also</p> <p>16 a member of?</p> <p>17 A It had to be the last election, 2000.</p> <p>18 Q Do you remember, was there a name for this</p> <p>19 committee?</p> <p>20 A No. It was a fund raiser in the African-American</p> <p>21 community that she worked with a number of people</p> <p>22 on.</p> <p>23 Q Did you work with her on this particular fund</p> <p>24 raiser?</p> <p>25 A Well, I was one of the persons, you know, that --</p> <p style="text-align: center;">73</p>	<p>1 A Encounters like seeing her?</p> <p>2 Q Having any type of exchange or social discussions,</p> <p>3 business discussions, employment discussions.</p> <p>4 A Very rarely.</p> <p>5 Q Do you recall any specific ones in 1999?</p> <p>6 A I can't recall specific, no.</p> <p>7 Q Do you recall whether or not you ever had any</p> <p>8 contact with Marilyn Figueroa in 1999 other than at</p> <p>9 the fund raiser?</p> <p>10 A I would see her in the halls at City Hall.</p> <p>11 Q But nothing specific --</p> <p>12 A No.</p> <p>13 Q -- that comes to mind?</p> <p>14 A No meetings, no nothing.</p> <p>15 Q No business contacts; true?</p> <p>16 A No.</p> <p>17 Q What about the year 1998? Do you recall any</p> <p>18 specific contacts with Marilyn Figueroa?</p> <p>19 A Not any specific, no.</p> <p>20 Q 1997?</p> <p>21 A No.</p> <p>22 Q What about 1996?</p> <p>23 A Nothing specific.</p> <p>24 Q 1995?</p> <p>25 A No.</p> <p style="text-align: center;">75</p>
<p>1 Q Facilitating?</p> <p>2 A -- that brought people there.</p> <p>3 Q So my question is did you work in conjunction, did</p> <p>4 you coordinate the fund raiser with</p> <p>5 Marilyn Figueroa?</p> <p>6 A I wouldn't say I coordinated it. I would just say</p> <p>7 usually --</p> <p>8 Q I guess my question is did you work on plans,</p> <p>9 develop --</p> <p>10 A No.</p> <p>11 Q -- roles, coordinated plans?</p> <p>12 A No. I was just one -- she and I were one of several</p> <p>13 people that were responsible. I'll put it like</p> <p>14 that.</p> <p>15 Q What about the previous election?</p> <p>16 A I don't remember working with Marilyn.</p> <p>17 Q On a given year how often did you get to see</p> <p>18 Marilyn Figueroa, if you did?</p> <p>19 A I can't give you a number.</p> <p>20 Q In the year 2000 do you recall how many contacts you</p> <p>21 had with Marilyn Figueroa?</p> <p>22 A No.</p> <p>23 Q What about the year 1999?</p> <p>24 A No.</p> <p>25 Q Did you have any in 1999?</p> <p style="text-align: center;">74</p>	<p>1 Q '94?</p> <p>2 A No.</p> <p>3 Q 1993?</p> <p>4 A No.</p> <p>5 Q What about 1992 when she was working at a different</p> <p>6 place?</p> <p>7 A Nothing specific, no.</p> <p>8 Q Nothing of significance?</p> <p>9 A No.</p> <p>10 Q Never asked for your help or requested anything from</p> <p>11 you?</p> <p>12 A No, just general conversation.</p> <p>13 Q Now, you have known Marilyn Figueroa since 1992?</p> <p>14 A I would say so, yes.</p> <p>15 Q Do you feel you know Marilyn Figueroa well? I mean</p> <p>16 from a professional angle?</p> <p>17 A No, no.</p> <p>18 Q Do you think you know of Marilyn Figueroa from her</p> <p>19 professional work?</p> <p>20 A Not really, no.</p> <p>21 Q You mentioned that she did some political</p> <p>22 campaigning for the African-American community?</p> <p>23 A A fund raiser for the Mayor, yes.</p> <p>24 Q Do you know if she did other fund raisers within the</p> <p>25 African-American community before?</p> <p style="text-align: center;">76</p>

1 A I don't know.
 2 Q You don't have any idea?
 3 A No.
 4 Q Did you ever make any notes of any contacts or
 5 discussions that you may have had with
 6 Marilyn Figueroa?
 7 A No.
 8 Q Nothing that would help you to refresh your
 9 recollection?
 10 A No.
 11 Q Is that correct? You look quite alert today. I
 12 suspect you're understanding my questions?
 13 A Of course.
 14 Q Okay, thank you. You're not -- I don't mean to
 15 offend you, but I just want to make sure that the
 16 record is clear, okay? I suspect you're not under
 17 any medication or any type of medication that may
 18 inhibit your ability to remember?
 19 A No.
 20 Q I do from time to time take some back medication.
 21 God knows what it does to me, but it's the only time
 22 when I act funny against Mr. Tokus.
 23 In any event, you know who Barb Candy is?
 24 A Yes.
 25 Q Have you worked with Barb Candy before?

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1 to run?
 2 A Yes.
 3 Q Your position is a political appointment position;
 4 correct?
 5 A I'm appointed, yes, by the Mayor.
 6 Q If someone were to replace the Mayor, obviously
 7 there's no assurance that you will remain in that
 8 position?
 9 A That's correct.
 10 Q Has the Mayor ever complained about your performance
 11 in any shape or manner?
 12 A Not to my knowledge.
 13 Q What about your immediate supervisors, any
 14 complaints that you know of?
 15 A Not to my knowledge.
 16 Q Do you get performance reviews on a regular basis?
 17 A We used to.
 18 Q You don't do that anymore?
 19 A No.
 20 Q Is that a City policy that requires performance
 21 reviews of employees?
 22 A Not anymore. I mean we -- no.
 23 Q Is that left up to each department?
 24 A Yeah.
 25 Q If you know? Okay. Do you feel you know Barb Candy

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1 A On campaign stuff.
 2 Q On political campaigns? Political campaigns on
 3 behalf of the Mayor?
 4 A Yes.
 5 Q Mayor Norquist?
 6 A Yes.
 7 Q Is that correct? Have you worked with Ms. Candy
 8 every summer? I mean excuse me, every re-election?
 9 A Yes.
 10 Q Is that correct? Has she coordinated fund raisers
 11 with you?
 12 A No, not with me.
 13 Q Has she coordinated fund raisers that you have
 14 participated in?
 15 A Yes.
 16 Q And I suspect you have done that continuously for
 17 every re-election?
 18 A Yes.
 19 Q True? Obviously you're not ready for retirement,
 20 are you?
 21 A No.
 22 Q And I don't think you should. You look very young
 23 and healthy.
 24 I suspect you are interested in making sure
 25 that the Mayor gets re-elected again, if he decides

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1 fairly well?
 2 A No.
 3 Q But based on political campaign re-elections, you
 4 have had more contact with Ms. Candy than with
 5 Ms. Figueroa; would that be fair?
 6 A About the same.
 7 Q About the same, all right. By that I understand
 8 you're telling me that you have also worked with
 9 Marilyn Figueroa on previous campaigns on behalf of
 10 Mayor Norquist?
 11 A Right.
 12 Q Is that correct? Do you know chief of police
 13 Arthur Jones?
 14 A Yes.
 15 Q Do you know him personally?
 16 A I would say no.
 17 Q Did he ever work in political campaigns on behalf of
 18 Mayor Norquist with you or in conjunction with what
 19 you were doing?
 20 A Well, I would say he has been an attendee at fund
 21 raising events.
 22 Q A what?
 23 A He has been an attendee, he has been in attendance
 24 at fund raising events.
 25 Q I'm sorry, I didn't hear you.

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1 A Okay.
 2 Q I apologize. Do you have any reason to believe that
 3 Barb Candy is not a truthful individual?
 4 A I have no reason to believe that.
 5 Q Do you have any reason to believe that Chief Jones
 6 is not a truthful individual?
 7 A I really don't know them.
 8 Q Do you have any reason to believe that
 9 Marilyn Figueroa is not a truthful individual?
 10 A I really don't know her that well either.
 11 Q You don't have any basis to question her
 12 credibility?
 13 A I don't know her.
 14 Q All right, very good. When you had an opportunity
 15 to work with Marilyn Figueroa, based on your
 16 observation, do you believe she was a hard working
 17 individual?
 18 A I think that's subjective.
 19 Q Well, let me tell you, Barb Candy and Chief Jones
 20 have described Marilyn Figueroa as a very hard
 21 working and respectful individual.
 22 MR. SCHRIMPF: Object as to -- I'm
 23 sorry, counsel, you're not done.
 24 Q Do you have any opinion that that would not be
 25 accurate based on your observation?

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1 MR. SCHRIMPF: Object as to
 2 foundation laid.
 3 Q Go ahead.
 4 A Oh, do I answer?
 5 Q Yes.
 6 MR. SCHRIMPF: Yes. You go ahead
 7 and answer.
 8 A I think like all of us, we supported the Mayor, so
 9 we worked.
 10 Q No, my question to you is do you have any reason to
 11 believe that Marilyn Figueroa is not a hard working,
 12 respectful individual?
 13 A I don't know her in that light.
 14 Q So you have no opinion?
 15 A I have no opinion.
 16 Q During the years that you worked with
 17 Marilyn Figueroa, do you recall any one time when
 18 Marilyn Figueroa led you to believe that she was a
 19 promiscuous woman?
 20 A I was never in a conversation with her with that.
 21 Q No, I'm talking about based on your observation.
 22 Did you ever see Marilyn Figueroa acting in any type
 23 of disrespectful or offensive manner?

24 MR. SCHRIMPF: Object as to
 25 foundation.

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1 Q If you know.
 2 MR. SCHRIMPF: Go ahead and answer
 3 the question if you can.
 4 A I would say no.
 5 Q I cannot invade what counsel may have told you, but
 6 I do want to remind you that, and I think you're
 7 doing fine, that you are here to provide testimony
 8 under oath and to not tell me everything you know
 9 certainly would not comply with the standard.
 10 Obviously if you don't know, tell me that. But at
 11 the same time, I think it's fair to you that if you
 12 take the position that you don't know, you don't
 13 know, you don't know, later on that may hurt you if
 14 I find out that you do know certain things that you
 15 were not willing to tell me. And I think it's fair
 16 for you to know that.
 17 All right. Let's talk about sick leave for a
 18 minute.
 19 A Okay.
 20 Q Do you recall any one time when the Mayor's office,
 21 anyone representing the Mayor's office contacted the
 22 employment relations office, including you, for the
 23 purpose of determining what to do with
 24 Marilyn Figueroa?
 25 A I think there was one meeting.

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1 Q And do you recall when this occurred?
 2 A Not offhand.
 3 Q Do you recall the year?
 4 A Well, I -- this is 2000 -- this is 2002. Probably
 5 2000.
 6 Q In the year 2000? And how did this meeting develop?
 7 A I was called into it.
 8 Q Who, if anyone, called you into the meeting?
 9 A My boss which is Jeff Hansen.
 10 Q What did he tell you?
 11 A Well, there was just a conversation on how people
 12 should be carried on sick leave, whether they were
 13 on sick leave, if it was a family medical leave.
 14 Q Tell me everything that Mr. Hansen said to you as a
 15 reason for attending the meeting, if he did.
 16 A I do not remember.
 17 Q All you know is that there was a meeting --
 18 A Right.
 19 Q -- pursuant to an inquiry --
 20 A Right.
 21 Q -- from the Mayor's office?
 22 A Right.
 23 Q Correct? Related to Marilyn Figueroa?
 24 A Right.
 25 Q True? And you mentioned that there was only one

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1 meeting?
 2 A That I was involved in.
 3 Q Who was present at the meeting?
 4 A Jeff Hansen and Mike Soika.
 5 Q And where did the meeting take place?
 6 A In Jeff Hansen's office.
 7 Q And why were you called into that meeting?
 8 A Well, I'm Jeff's deputy, so I'm involved in --
 9 Q All the exciting work?
 10 A Yes.
 11 Q And tell me who, if anyone, talked at that meeting.
 12 A Well, there was a discussion. I guess we all --
 13 Q Let's talk about who initiated the discussion?
 14 A I guess I would say Mike. There was some inquiry
 15 about how people should be carried or something
 16 about sick time.
 17 Q Did Mr. Soika specifically address Marilyn Figueroa
 18 as being the main issue at that meeting?
 19 A Yes.
 20 Q What did he say about that?
 21 A I don't recall exactly what was said.
 22 Q Well, tell me the gist of what you understood based
 23 on what he said at that meeting.
 24 A It was my understanding that she had been in a car
 25 accident, okay?

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1 Q Who mentioned that?
 2 A Mike.
 3 Q What did he say about that?
 4 A I don't remember the details, but it was my
 5 understanding it was a car accident. And the
 6 questions -- and that's when we came up with family
 7 medical leave because you have six weeks' worth of
 8 time.
 9 Q Six weeks' worth of time?
 10 A Well, under family medical leave act you're entitled
 11 to --
 12 Q Six weeks?
 13 A Right. And so you have to make sure that you're
 14 carrying people correctly. You should.
 15 Q And so tell me, just what happened next? He
 16 mentioned to you, as I understand, Soika mentioned
 17 that Marilyn Figueroa had been involved in a car
 18 accident?
 19 A That was my understanding.
 20 Q From Mr. Soika?
 21 A Right.
 22 Q And what was he asking you to do?
 23 A He wanted to have some clarity on what the policies
 24 were.
 25 Q And it was at that time when you mentioned the six

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1 weeks carrying?
 2 A Well, that's when we talked about the family medical
 3 leave act that employees were entitled to six weeks'
 4 worth of leave under the state. You could
 5 substitute two weeks of sick time under the state.
 6 Under the feds you can go up to 12 weeks.
 7 Q So who is the person who suggested the family leave
 8 act? Was that you?
 9 A I don't think so.
 10 Q Was that Mr. Hansen?
 11 A I don't know -- I don't know who suggested it. That
 12 was the outcome.
 13 Q That she would be entitled to six weeks of family
 14 leave?
 15 A Right.
 16 Q Is that correct? And you have been involved not
 17 only in courses but training in the areas of family
 18 leave act; correct?
 19 A Yes.
 20 Q And what is your understanding as to family leave
 21 act; what are the requirements in order for somebody
 22 to be entitled to family leave act?
 23 A Well, the doctor has to certify the statement. And
 24 it's kind of broad. It's not just for the
 25 individual employee, but it could be for a seriously

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1 ill child or seriously ill parent. The leave time
 2 doesn't have to be consistent. It could be
 3 intermittently, you know, if you have to go for
 4 doctors' appointments or get chemo treatments or
 5 whatever.
 6 Q Or counseling?
 7 A Right.
 8 Q Whatever; true?
 9 A Right.
 10 Q And obviously notice is required to the employer;
 11 true?
 12 A We have a form that must be certified.
 13 Q What's the name of that form?
 14 A It's probably called the family medical leave act
 15 form.
 16 Q How does that form trigger? At what point is
 17 that --
 18 A The payroll clerks have the form.
 19 Q So the City first has to receive notice from the
 20 employee? Just give me your whole understanding of
 21 an employee that is requesting sick leave under the
 22 family leave act.
 23 A The City receives a signed form from the sick
 24 person's doctor. I mean the best way I can explain
 25 it is my father was sick. I had to take a family

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1 medical leave. So the doctor in Miami sent the
2 forms here. I requested the time. It was approved.
3 So it has to be certified by the doctor.
4 Q Through that form that the City provides?
5 A Right. And it also, it gives a time of duration.
6 Q Obviously the employee has to notify the City that
7 he or she is taking sick leave; correct?
8 A Yes.
9 Q And then the City responds by sending a form that
10 the physician must complete?
11 A It's the employee's responsibility to get the form
12 signed by the treating physician.
13 Q But the form is issued by the City?
14 A Right.
15 Q Is that correct?
16 A Right.
17 Q And again, is that the form is known as what, the
18 family leave act form?
19 A Right, family medical leave act form.
20 Q And that form is issued by?
21 A Each department's payroll clerk should have adequate
22 copies of that form.
23 Q And it is that department's responsibility to issue
24 that form as soon as they learn --
25 A Right.

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1 Q -- that an employee is requesting sick leave; is
2 that correct?
3 A Right. It can be done too after the fact.
4 Q So, in other words, as long as the employee provides
5 a medical -- that medical authorization, that is
6 still a valid and good medical leave act benefit?
7 A Right.
8 Q Let's take a look at your scenario which you were
9 kind enough to share with us when your relative was
10 ill.
11 A Uh-huh.
12 Q Tell me how that happened. You requested a medical
13 leave for yourself?
14 A No. What I did, my parents informed me that my
15 father needed to have surgery. I faxed the forms to
16 the doctor's office. The doctor filled out the form
17 and faxed them back to the City. And then I put the
18 dates in that I would be gone.
19 Q And if I understand what you're telling me, let's
20 assume that you are away for some emergency reason,
21 all right? And you're an employee of the City of
22 Milwaukee and you call and say I need some medical
23 leave because I can't return to work. Then my
24 understanding is that the City of Milwaukee then
25 will respond by sending you the form and say I need

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1 your physician to complete this form?
2 A Right.
3 Q Is that correct? And once the physician signs that
4 form, then the City validates that family leave; is
5 that correct?
6 A Right.
7 Q And obviously that form is a requirement; true?
8 A Correct.
9 Q Is that correct? What about if a doctor just sends
10 a letter without the form? Is that still valid?
11 A No. The form is the driving.
12 Q In that case what would the City do, send the doctor
13 the form so that he can complete it?
14 A Yes.
15 Q He or she? Okay. And that has been the practice
16 and policy since your --
17 A That has been done before.
18 Q Since you've been an employee?
19 A I mean I could give you another example just of
20 myself with my daughter.
21 Q Okay. Why don't you do that.
22 A In November. She had to have emergency surgery. I
23 flew out to D.C. I didn't know what the condition
24 was, got there, they told me. Called back to the
25 office. They faxed me the form and the doctor

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1 filled it out and faxed it back.
2 Q Okay. Nice and easy?
3 A Yeah.
4 Q How long were you in D.C. before you realized that
5 you were going to need a family leave?
6 A Oh, just for a day.
7 Q For one day?
8 A Uh-huh.
9 Q And you called from D.C.?
10 A Right.
11 Q And told them to send you the form; true?
12 A Right. Fax the forms to my son-in-law's office.
13 Q Where did you call to request the form?
14 A To my department.
15 Q Who did you talk to?
16 A Our payroll clerk.
17 Q So you received the form, you take the form to your
18 doctor, the doctor signs it, you send it back and
19 you were in fine shape?
20 A Right.
21 Q How long were you gone at that time?
22 A I was gone for about two weeks.
23 MR. ARELLANO: Now let's take just
24 a second.
25 (Recess)

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1 By Mr. Arellano: (Continuing)
 2 Q You have stated quite eloquently that you have
 3 participated in extensive training on EOC, civil
 4 rights issues; correct?
 5 A Yes.
 6 Q And you understand, do you not, that anyone that
 7 participates in a proceeding such as this or that
 8 opposes any type of discrimination is protected by
 9 Title VII as well as by the Fair Employment Act?
 10 You understand that?
 11 A Yes.
 12 Q So that, for example, in your case anyone were to be
 13 critical or tell you not to tell the truth, you
 14 understand you will be protected by the law?
 15 A Yes.
 16 Q Thank you.
 17 MR. ARELLANO: Let's take a break.
 18 (Recess)
 19 By Mr. Arellano: (Continuing)
 20 Q Ms. Dukes -- is that the proper pronunciation of
 21 your last name?
 22 A Uh-huh.
 23 Q Before coming here you were required to bring
 24 certain records; true? Do you understand that,
 25 pursuant to the subpoenas that you received?

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1 A I didn't realize that I was to bring them.
 2 Q So by that I suspect you did not search for any
 3 records; true?
 4 A No, I didn't have any.
 5 Q The records that have been identified as Exhibits 2
 6 and 3, you stated that you read them?
 7 A Right.
 8 Q Correct? And those records required that you
 9 produce certain records?
 10 A If they were in my preview (sic). I didn't have
 11 them.
 12 Q Did you make a search for any records?
 13 A Not personally, no.
 14 Q Did anyone ever tell you not to bring records?
 15 A No.
 16 Q Did anyone ever tell you that certain records that
 17 you felt could respond to the subpoenas should not
 18 be produced?
 19 A No.
 20 Q Sometimes witnesses get caught in the middle of
 21 litigation, and that is why I continuously remind
 22 them that they are not parties to the litigation.
 23 Has anyone, including counsel, told you not to
 24 answer my questions truthfully?
 25 A No.

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1 Q And I believe you are answering my questions. Now,
 2 you testified that in the year 2000 there was one
 3 meeting regarding Marilyn Figueroa; correct?
 4 A Correct.
 5 Q And you also stated that Mr. Hansen and Mr. Soika
 6 were at that meeting; true?
 7 A Correct.
 8 Q And as I understand based on your prior testimony,
 9 Mr. Soika was the person initiating that meeting;
 10 correct? At least he --
 11 A I was called into the meeting.
 12 Q Where Mr. Soika was there?
 13 A Yes.
 14 Q For the purposes of determining how to address
 15 Marilyn Figueroa's situation regarding sick leave?
 16 A Sick leave.
 17 Q Is that correct?
 18 A That's correct.
 19 Q And I believe so we can move on to some other
 20 things, I believe you used the following terminology
 21 to describe what happened at that meeting. I
 22 believe you stated, correct me if I'm wrong, that
 23 the end result of that meeting was that Marilyn
 24 would be entitled to six weeks of FMLA?
 25 MR. SCHRIMPF: I'm going to object

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1 for lack of foundation as well as not
 2 reflecting the record correctly.
 3 Q Go ahead. That was the --
 4 A We advise. We advise departments when they come to
 5 us. That was our advice.
 6 Q To Mr. Soika?
 7 A Right.
 8 Q And that would have given Marilyn Figueroa six weeks
 9 of family leave, correct, pursuant to the City
 10 policies; true?
 11 A Right.
 12 Q Do you recall whether or not Mr. Soika objected to
 13 the advice that you and Mr. Hansen --
 14 A I don't recall him objecting.
 15 Q -- provided?
 16 A I don't recall him objecting.
 17 Q Do you recall whether or not he agreed that
 18 Marilyn Figueroa was entitled to six weeks under the
 19 family leave act pursuant to City policy?
 20 A I think he did.
 21 Q Okay, thank you. Other than providing him with
 22 advice -- strike that. Did you also mention to
 23 Mr. Soika that -- strike that. Did you explain to
 24 Mr. Soika the entire policy and procedure regarding
 25 family leave at that time?

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<p>1 A I think we did.</p> <p>2 Q Did you also explain to him that in order for her to</p> <p>3 be entitled to the family leave benefit she would be</p> <p>4 required to have the family leave form signed by her</p> <p>5 doctor?</p> <p>6 A Yes.</p> <p>7 Q Did Mr. Soika object to any of --</p> <p>8 A No.</p> <p>9 Q -- of the information you provided to him?</p> <p>10 A No.</p> <p>11 Q And did you inform Mr. Soika how he could or how the</p> <p>12 employee could obtain the family leave form that the</p> <p>13 doctor was required to sign?</p> <p>14 A Could you repeat that?</p> <p>15 Q Yes. My question is with respect to that form that</p> <p>16 the City requires to be signed by a doctor, what, if</p> <p>17 anything, did you discuss with Mr. Soika regarding</p> <p>18 that form?</p> <p>19 A Well, that it had to be mailed to the employee.</p> <p>20 Q That's something you informed to Mr. Soika?</p> <p>21 A Right.</p> <p>22 Q Do you know if Mr. Soika mailed that form to the</p> <p>23 employee?</p> <p>24 A No, I don't.</p> <p>25 Q You obviously didn't mail that form to</p> <p style="text-align: center;">97</p>	<p>1 And I guess he wanted to know how that time should</p> <p>2 be documented.</p> <p>3 Q Before that meeting in the year 2000, did you ever</p> <p>4 talk to Mr. Soika about Marilyn Figueroa before</p> <p>5 that?</p> <p>6 A Not before that.</p> <p>7 Q Before that meeting?</p> <p>8 A No.</p> <p>9 Q So before January 2000, before that meeting that you</p> <p>10 have explained thoroughly, you never discussed</p> <p>11 Marilyn Figueroa with Mr. Soika?</p> <p>12 A Not before that meeting.</p> <p>13 Q Is that correct? All right. Was there a time after</p> <p>14 that meeting when you talked to Mr. Soika about</p> <p>15 Marilyn Figueroa?</p> <p>16 A Not after that meeting, no.</p> <p>17 Q Did you have any type of contact with Mr. Soika</p> <p>18 about Marilyn Figueroa after that one meeting?</p> <p>19 A Not after that one meeting, no.</p> <p>20 Q At that meeting that you have described did you</p> <p>21 discuss any type of legal, potential legal problems</p> <p>22 on the part of Marilyn Figueroa against the City of</p> <p>23 Milwaukee?</p> <p>24 A My supervisor, Jeff Hansen, advised him.</p> <p>25 Q What did he advise him? You're talking about</p> <p style="text-align: center;">99</p>
<p>1 Marilyn Figueroa; true?</p> <p>2 A I didn't, no.</p> <p>3 Q And to your knowledge, do you know if Mr. Hansen or</p> <p>4 anyone from the Department of Employment Relations</p> <p>5 mailed any such form to Ms. Figueroa?</p> <p>6 A It would not be our department's responsibility.</p> <p>7 Q It would have been Mr. Soika's responsibility;</p> <p>8 correct?</p> <p>9 A Right, correct.</p> <p>10 Q Other than that one meeting in the year 2000, do you</p> <p>11 recall any other meetings involving or pertaining or</p> <p>12 relating in any form, shape or manner to</p> <p>13 Marilyn Figueroa?</p> <p>14 A There was only one meeting.</p> <p>15 Q And that is the meeting that you have already</p> <p>16 explained?</p> <p>17 A Right.</p> <p>18 Q The one where you advised Mr. Soika that</p> <p>19 Marilyn Figueroa would be entitled to six weeks of</p> <p>20 family leave?</p> <p>21 A Based upon the information that we received.</p> <p>22 Q What information did you receive from Mr. Soika?</p> <p>23 A Just through conversation that she had been -- it</p> <p>24 was our understanding that she had been in a car</p> <p>25 accident and she had been off for a period of time.</p> <p style="text-align: center;">98</p>	<p>1 Mr. Hansen advising Mr. Soika?</p> <p>2 A Right.</p> <p>3 Q What did he advise him?</p> <p>4 A That Marilyn had inquired about filing a complaint.</p> <p>5 That if she did, we would have to farm it out.</p> <p>6 Q Tell me specifically what Mr. Hansen said, other</p> <p>7 than what you just said.</p> <p>8 A That Marilyn had inquired of our office about filing</p> <p>9 a complaint. The form was sent to her. And if she</p> <p>10 completed the form, we would have to farm the</p> <p>11 complaint out. We would not do the investigation</p> <p>12 ourselves.</p> <p>13 Q Prior to that meeting, and I understand you're</p> <p>14 telling me that there was only one meeting?</p> <p>15 A One meeting.</p> <p>16 Q In which you participated?</p> <p>17 A Yes.</p> <p>18 Q Involving matters pertaining to Marilyn Figueroa and</p> <p>19 the City?</p> <p>20 A Yes.</p> <p>21 Q Before that one meeting occurred, did you know that</p> <p>22 Marilyn Figueroa was intending to file a</p> <p>23 discrimination complaint against the City and</p> <p>24 Mayor Norquist?</p> <p>25 A I knew she had inquired about one from the day</p> <p style="text-align: center;">100</p>

1 before.
 2 Q So the day before the meeting you learned from
 3 Marilyn Figueroa that she was going to be filing a
 4 complaint against the City and Mayor Norquist?
 5 A Well, what I recall is that she called and said that
 6 she wanted to file a complaint.
 7 Q Let me represent to you that Mr. Soika testified
 8 under oath that he received a phone call from your
 9 office in which you related that Marilyn Figueroa
 10 was intending to file a complaint against the City
 11 and Mayor Norquist.
 12 A Okay.
 13 Q Is that an accurate recitation on the part of
 14 Mr. Soika?
 15 A If he said from our office, yes.
 16 Q Correct, all right. Did you ever contact Mr. Soika
 17 directly?
 18 A No, I didn't.
 19 Q You obviously knew that when Marilyn Figueroa was
 20 requesting a form, a complaint form, you obviously
 21 knew she was inquiring about filing a discrimination
 22 complaint form; true?
 23 A Yes, that's what she said to me.
 24 Q And when did you talk to Ms. Figueroa?
 25 A Marilyn must have called me between I would say

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1 right after 4:30.
 2 Q Of the day before the meeting?
 3 A Right.
 4 Q And she contacted you via telephone?
 5 A Yes.
 6 Q Before that phone call when was the last time that
 7 you had had any contact with Marilyn Figueroa?
 8 A I hadn't seen her. Yeah, I hadn't seen her around.
 9 Q Do you know why Marilyn Figueroa would be calling
 10 you for the purpose of obtaining a discrimination
 11 form?
 12 A Well, she knew that in my position the complaints
 13 came through me.
 14 Q So you would have been the contact person for the
 15 purposes of investigating a discrimination
 16 complaint?
 17 A Yes.
 18 Q And when she called you, tell me, did you make any
 19 notes of your discussion with Ms. Figueroa?
 20 A It was very brief.
 21 Q Tell me as best as you can recall --
 22 A Okay.
 23 Q -- what she said.
 24 A Okay. She called and said, Flo, I don't know if she
 25 said, if she said Marilyn -- Flo. She said I want

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1 to file a complaint against the City. And I said
 2 about what? And her response, can I say what her
 3 response was?
 4 Q Yes.
 5 A And her response was, "You know." And I said no, I
 6 don't know. Why don't you come in and let's talk
 7 about it. And she said she wasn't going to come in.
 8 And then she said she was going to file an
 9 employment discrimination suit. So once she said
 10 that she was not coming in, then I know that with my
 11 training that once it's brought to your attention
 12 you have to act. And I would not want Marilyn or
 13 anybody else to say they called and I didn't
 14 respond. So when I got off the phone with her, all
 15 of my clerical support was gone, so I went to my
 16 typewriter. I typed her maybe a two liner or so
 17 saying per our conversation enclosed is the form
 18 that you requested.
 19 I gathered the form and the procedures, mailed
 20 them to her because I knew that they picked up mail
 21 at 5:30 at City Hall. And I wanted to make sure
 22 that the letter was mailed out because that's what
 23 the law tells me to do.
 24 Q Okay.
 25 A So that's what I did.

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1 Q In other words, once you know that someone is
 2 intending to file a complaint, your responsibility
 3 to provide the complaint triggers; true?
 4 A Right.
 5 Q And you know, do you not, that once a person has
 6 given you notice that he or she wants to file a
 7 complaint, that person is protected from
 8 retaliation?
 9 A Right.
 10 Q You understand that?
 11 A I understand that.
 12 Q Did you ever inform Mr. Soika --
 13 A What I did, the next morning when my boss came in,
 14 Jeff Hansen, I said to him that Marilyn had called
 15 the evening before and inquired about filing a
 16 complaint, and that if she did, we would have to
 17 farm it out. And that's when he called Mr. Soika to
 18 set the meeting up.
 19 Q Mr. Hansen called Mr. Soika?
 20 A Yes.
 21 Q Were you present when Mr. Hansen called Mr. Soika?
 22 A Yes.
 23 Q Did you hear the conversation?
 24 A Yes.
 25 Q Did Mr. Hansen notify Mr. Soika that Marilyn was

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1 , inquiring about filing a --
 2 A Well, he --
 3 Q Let me finish my question.
 4 A Oh, I'm sorry.
 5 Q Did Mr. Hansen notify Mr. Soika that it had come to
 6 his attention that Marilyn was planning to file a
 7 discrimination complaint against the City?
 8 A The way the conversation went was Jeff called Mike
 9 and indicated that Flo had had a conversation with
 10 Marilyn the evening before and that he felt that we
 11 needed to meet. He did not share with him over the
 12 phone what the issue was. Mike came down and the
 13 meeting took place.
 14 Q And I thank you for putting it in proper context.
 15 So what you're telling me is that what prompted the
 16 meeting initially first and foremost was Marilyn's
 17 intent to file a discrimination complaint; true?
 18 A Her inquiry, yes.
 19 Q And then from that meeting discussions regarding the
 20 family leave act then occurred?
 21 A Right.
 22 Q Is that correct? And during -- once Mr. Soika came
 23 to the meeting did you at any point inform Mr. Soika
 24 that Marilyn Figueroa was protected whenever she
 25 intended or decided to file this complaint?

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1 A We did not have that conversation.
 2 Q Obviously you knew --
 3 A Right.
 4 Q -- that retaliation is a prohibited act?
 5 A Right.
 6 Q Whether the complaint is filed or not, once the
 7 employee intends to file, protection triggers?
 8 A Right.
 9 Q And that is your understanding?
 10 A Right.
 11 Q Is that correct? And I believe that is the policy
 12 of the City?
 13 A Right.
 14 Q Is that correct? And as I understand, based on your
 15 experience, the City abides or is supposed to abide
 16 by that civil rights policy?
 17 A Policy, yes, that's correct.
 18 Q Let's go back to the initial contact that
 19 Marilyn Figueroa had with you.
 20 A Okay.
 21 Q As I understand, when Mr. Hansen and Mr. Soika --
 22 when Mr. Hansen and Soika met with you and you
 23 explained to Mr. Soika that if Marilyn Figueroa
 24 proceeded with her discrimination complaint, you
 25 would have to farm it out --

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1 A Yes.
 2 MR. SCHRIMPF: Objection, counsel,
 3 that's not the state of the record.
 4 MR. ARELLANO: She did say yes, but
 5 that's for the record to decide.
 6 Q Why did you feel that a complaint coming from
 7 Marilyn Figueroa would have to be farmed out?
 8 A Well, first and foremost, for any complaint one must
 9 be objective. I felt that we were too close to
 10 working with our office and the Mayor's office for
 11 us to be involved.
 12 Q Did you also inform that to Marilyn Figueroa?
 13 A I didn't -- she didn't allow me to.
 14 Q Do you believe that you were open with respect to
 15 how you felt, when you were talking to Soika, do you
 16 feel you were as open as possible with respect to
 17 how you felt the complaint should be investigated if
 18 Marilyn had decided to file?
 19 A Yes. It should go outside.
 20 Q When Marilyn called, did you conclude that her
 21 complaint would be against the Mayor's office?
 22 A I didn't. Oh, she told me she wanted to file the
 23 complaint against --
 24 Q The Mayor's office?
 25 A I don't know if she said the Mayor's office.

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1 Against the City. She may have said the Mayor's
 2 office.
 3 Q Obviously if you were telling Mr. Soika --
 4 A Yeah.
 5 Q -- that she was going to be filing a complaint
 6 against the Mayor's office and that you would not
 7 want to be involved, obviously that notion came from
 8 Marilyn Figueroa; is that correct?
 9 A Right.
 10 Q Obviously you also felt that you were going to be
 11 investigating your boss in this case,
 12 Mayor Norquist; true?
 13 A Well --
 14 Q And that is why you felt that the complaint had to
 15 be farmed out?
 16 A No, I didn't know what the content of the complaint
 17 was going to be.
 18 Q I understand that. But you did know she was going
 19 to file a discrimination complaint; true?
 20 A What she said she wanted to file, yes.
 21 Q In fact, you sent her pursuant to your --
 22 A I sent her the form.
 23 Q Let me finish my statement here. You're picking up
 24 bad habits from somebody else, but that's fine.
 25 That's fine. I don't mind.

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1 In fact, you sent her a discrimination
2 complaint form?
3 A Yes, I did.
4 Q And the discrimination complaint form that you sent
5 included protection to sexual harassment or from
6 sexual harassment; true?
7 A Yes.
8 Q Race?
9 A Everything.
10 Q Gender, the whole nine yards; true?
11 A Yes.
12 Q Did you -- I think you did state that you may have
13 said to Marilyn Figueroa that the complaint would
14 have to be farmed out?
15 A I didn't say that to Marilyn.
16 Q But did you lead her to believe that the complaint
17 against the Mayor's office would place your
18 department in a tough predicament?
19 A No, I didn't.
20 Q Did you ever tell Marilyn Figueroa that she would in
21 essence be filing a complaint against --
22 A I don't recall saying that.
23 Q -- your boss?
24 A I don't recall saying that.
25 Q You have read in the papers --

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1 A I have read everything.
2 Q -- that Marilyn Figueroa claims that you told her
3 that, Marilyn, you would be filing a complaint
4 against my boss, the person that we work for?
5 A Yes, I've read that.
6 Q Do you have any reason to believe that that is a
7 lie?
8 A I don't recall saying that.
9 Q But you certainly don't have any reason to believe
10 she's lying?
11 A About what?
12 Q About what I just said, she claims that you told her
13 that, Marilyn, you're putting me in a difficult
14 position.
15 A I don't recall that conversation.
16 Q Well, did you tell her that she would be actually
17 filing a complaint against your boss?
18 A I don't recall that conversation.
19 Q In essence she was going to be filing a complaint
20 against your boss; true?
21 A If it's against the City of -- if it was against the
22 Mayor's office, yes.
23 Q She was going to be filing a complaint against the
24 man who has appointed you to all these positions;
25 true?

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1 A You know, I never thought of that.
2 Q But obviously you would agree with me, would you
3 not, that just like you told Mr. Soika that if
4 Marilyn filed a complaint against the Mayor's
5 office, you folks would have to be removed; true?
6 A We would have to be removed from the process.
7 Q And it's likely that you would have used the same
8 principle when talking to Ms. Figueroa; true?
9 A No. The conversation was very brief.
10 Q Well, can you explain to me why you would disclose
11 such important information to the employer, meaning
12 that you would not be the place to process a
13 complaint and not to disclose it to the complainant
14 or the would-be complainant? What led you to
15 intimate your position with respect to the Mayor's
16 office and not to intimate, if that's what you claim
17 you didn't do, not to intimate your position with
18 respect to the complainant?
19 A Because I recognize that in any complaint that's
20 filed that it has to be objective. It has to be
21 fair to all parties.
22 Q And consistent with what you're telling me, it would
23 not be unreasonable to suspect that Marilyn would be
24 concerned about whether or not your department would
25 be fair; right?

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1 A I didn't -- could you repeat that.
2 Q Yes. She would have -- it would be unreasonable for
3 her to suspect whether or not the employment
4 relations was the proper place to file her complaint
5 against the proximity between the employment
6 relations and the Mayor?
7 MR. SCHRIMPF: Objection,
8 speculation.
9 Q True?
10 A I don't know.
11 MR. ARELLANO: Here's what we're
12 going to do. We're going to take a 45-minute
13 break and then we will continue with the rest
14 of the story when you come back; all right?
15 (Recess for lunch)
16 By Mr. Arellano: (Continuing)
17 Q Ms. Dukes, before we took a short recess we were
18 discussing your participation in a meeting that
19 occurred early in the year 2000, I believe in
20 January of 2000; is that correct?
21 A That's correct.
22 Q And you were basically stating your position with
23 respect to how you handled a phone call from
24 Marilyn Figueroa regarding her interest in filing a
25 discrimination complaint against the City; is that

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1 accurate?
 2 A That's correct.
 3 Q Just to bring you back into the record. And I
 4 believe you testified that Ms. Figueroa was not, at
 5 least in your view -- strike that. I believe you
 6 testified that Mr. Soika was informed that if
 7 Ms. Figueroa proceeded with her complaint of
 8 discrimination against the City or the Mayor's
 9 office, that the complaint would have to be farmed
 10 out; is that correct?
 11 A That's correct.
 12 Q Do you recall any other time in the short history
 13 that you have had with the City of Milwaukee where
 14 the internal complaint discrimination was farmed out
 15 outside the City boundaries?
 16 A Yes.
 17 Q And when was that?
 18 A I don't know the years, but I know of two other
 19 cases.
 20 Q And let's talk about the first one. Do you recall
 21 what was the nature of -- well, let's talk about the
 22 two of them. What was the nature of these two
 23 complaints which prompted the City to farm them out
 24 of the internal investigation system, if that's what
 25 you're telling me?

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1 A Right. One dealt with a complaint in the City
 2 Clerk's office.
 3 Q And the other one?
 4 A Was in the water department.
 5 Q And the complaint involving the City Clerk's office,
 6 what was the nature of this complaint?
 7 A Sexual harassment.
 8 Q And who was the target of such sexual harassment
 9 complaint?
 10 MR. SCHRIMPF: I'm going to -- at
 11 this point it's -- well --
 12 MR. ARELLANO: Go ahead, ma'am.
 13 MR. SCHRIMPF: I'm going to object
 14 because of the -- well, I'll withdraw the
 15 objection.
 16 MR. ARELLANO: Thank you.
 17 Q Who was the target of the sexual harassment
 18 complaint involving the City Clerk's office?
 19 A It was an employee.
 20 Q What's the name of the employee?
 21 A I don't know. I can't recall.
 22 Q And who was the complainant in that case?
 23 A Other employees within that office.
 24 Q Was it the complainants or complainer, were they
 25 females?

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1 A Both.
 2 Q And what prompted -- strike that. Was the employee
 3 who was the target of this sexual harassment
 4 complaint, was he a member of management?
 5 A I don't think so.
 6 Q And what was the other complaint about, the water
 7 department complaint?
 8 A That was just so wide, I mean a wide array of sexual
 9 harassment complaints and employment discrimination.
 10 Q Were you the deputy to the director of employment
 11 relations when these two complaints were filed?
 12 A Yes.
 13 Q Did these two complaints come to your attention
 14 directly from the complainants themselves?
 15 A One did.
 16 Q Which one?
 17 A From the water department.
 18 Q What specific factor or factors led you or your
 19 department to farm this particular complaint
 20 involving the City Clerk's office out of the City
 21 investigation system?
 22 A It was the magnitude of it and the fact that we were
 23 dealing with an elective office.
 24 Q Was the alleged offender or offender, was he an
 25 elected official?

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1 A No.
 2 Q So why would that require that this complaint be
 3 farmed out?
 4 A It was very complex and it involved a number of
 5 people.
 6 Q Was it a matter of not having the skills and the
 7 capabilities to investigate this type of complaint
 8 given the magnitude of it as you portrayed?
 9 A I don't think so.
 10 Q I guess I'm trying to understand specifically what
 11 was the point or the specific factor that led the
 12 City to farm this particular sexual harassment
 13 complaint out of the system, out of the City?
 14 A Well, in regards to the one with the City Clerk's
 15 office, the officials that we met with felt that
 16 because of the magnitude, and it was other employees
 17 involved, that it should be taken out of the preview
 18 (sic) of the Department of Employee Relations.
 19 Q Well, we haven't gotten too far, but let's see if we
 20 can break it down. The magnitude, what about the
 21 magnitude? It was a sexual harassment complaint;
 22 true?
 23 A Yes.
 24 Q How many employees were involved in this particular
 25 complaint?

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1 A There may have been four.
 2 Q And then you mentioned because of the involvement of
 3 other employees.
 4 A Well --
 5 Q Well, the magnitude and the involvement of other
 6 employees, which other employees are you referring
 7 to which prompted you or your department to farm
 8 this sexual harassment complaint out?
 9 A It was in consultation with the department itself.
 10 Q I understand.
 11 A And they felt that it should be farmed out.
 12 Q I understand that. But what aspect --
 13 A I can't tell you anything.
 14 Q You don't know?
 15 A I don't know. I can't tell you anything else.
 16 Q It didn't involve the Mayor's office, did it?
 17 A No.
 18 Q It did not --
 19 MR. ARELLANO: Was that an
 20 objection, Mr. Tokus?
 21 MR. TOKUS: You didn't hear one
 22 from me.
 23 MR. ARELLANO: I heard some noise
 24 but --
 25 MR. TOKUS: I was amused.

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1 MR. ARELLANO: I have a tendency to
 2 do that.
 3 THE WITNESS: Oh, okay.
 4 Q It was not involving an elected official?
 5 A No.
 6 Q Did it involve a director, supervisor of some kind?
 7 A Supervisor.
 8 Q What department? Of the clerk's office?
 9 A It was part of the City Clerk's office.
 10 Q Was this a supervisor of the -- was it the director
 11 of the City Clerk's office?
 12 A No, it wasn't.
 13 Q What was the end result? Where was this complaint
 14 farmed out to?
 15 A I don't know specifically.
 16 Q Do you know what was the end result of this
 17 particular complaint?
 18 A I know that there was a discharge. I know that
 19 there was a suspension. And I know that individuals
 20 had to get some training.
 21 Q Was the supervisor accused of this sexual
 22 harassment, was he discharged?
 23 A I think he was discharged.
 24 Q The training, were members of management sent to
 25 training on sexual harassment?

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1 A Supervisors.
 2 Q Did you attend that training?
 3 A No, I didn't.
 4 Q Did you provide any type of input?
 5 A Not directly.
 6 Q Indirectly?
 7 A I would say so.
 8 Q What did you do?
 9 A Well, we had hired -- what was his name. He's from
 10 Madison -- Bob Gregg to come in and do some
 11 training.
 12 Q Did he do a good job?
 13 A He did an excellent job.
 14 Q He's a friend of mine. I want you to know that.
 15 A He did an excellent job.
 16 Q If he didn't do a good job, I don't want to know
 17 about it.
 18 What about the other complaint? Why was this
 19 other complaint regarding the water department
 20 farmed out?
 21 A It was just so complex.
 22 Q Complex in what --
 23 A Everything.
 24 Q -- way?
 25 A I mean -- there were so many different allegations.

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1 I mean, you didn't know where to put your finger on
 2 anything. And so we hired an outside firm to look
 3 into that whole department.
 4 Q Did that incident involve a member of management,
 5 supervisor, director?
 6 A Well, there were allegations.
 7 Q I understand.
 8 A Against --
 9 Q Against a?
 10 A Manager, supervisor.
 11 Q And what was the end result of that particular case?
 12 A You know, I don't know because it was a confidential
 13 document, and I don't know.
 14 Q This water department is one of the departments that
 15 belongs to the City of Milwaukee; true?
 16 A Right.
 17 Q And is it your testimony that the City of Milwaukee
 18 entered into some type of confidential agreement
 19 regarding that sexual harassment claim?
 20 A No. I know the report was issued, but it was
 21 confidential and the department received a copy of
 22 it, not DER, not the Department of Employee
 23 Relations.
 24 Q Any other case that you may recall regarding the
 25 need to farm out complaints?

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1 A Those were the only two I've been aware of.
 2 Q Are you familiar with Eloisa Gomez?
 3 A Yes.
 4 Q Have you known her for some time?
 5 A Many years.
 6 Q To your knowledge, did Ms. Gomez ever file an
 7 internal or external complaint of discrimination
 8 against the City?
 9 A Not to my knowledge.
 10 Q That you know?
 11 A Not to my knowledge.
 12 Q Have you ever filed a discrimination complaint
 13 against anyone within the City?
 14 A No, I haven't.
 15 Q Have you ever attempted to file a discrimination
 16 complaint?
 17 A No.
 18 Q In your entire professional life have you ever filed
 19 a discrimination complaint?
 20 A Never.
 21 MR. ARELLANO: Now, counsel, I
 22 would request as part of our ongoing informal
 23 contacts that I be provided with copies of
 24 these two sexual harassment complaints,
 25 including any settlements that the City of

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1 Milwaukee entered into pursuant to these two
 2 complaints. And we'll follow up with a
 3 letter.
 4 MR. SCHRIMPF: I'll look into it.
 5 I don't know that I can provide them.
 6 MR. ARELLANO: Just so you
 7 understand my approach, because I don't want
 8 you to make any innuendo, let alone
 9 allegations, I believe this record should be
 10 provided. And if I don't get them within
 11 10 days or at least your position, I will file
 12 a motion along with the transcript of this
 13 particular witness. And then the judge will
 14 have to make a determination.
 15 Q Okay. Let me move on. When you notified Mr. Soika,
 16 I believe you and Mr. Hansen, that it was your
 17 intent to farm out Marilyn Figueroa's complaint had
 18 she decided to file one, did Mr. Soika object in any
 19 manner?
 20 A No.
 21 Q Did he make any comments at all?
 22 A No.
 23 Q Did he inform you, did he give any opinions as to
 24 why Marilyn would want to file a complaint?
 25 A No.

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1 Q As I understand, when Marilyn talked to you about
 2 filing a complaint, you questioned her as to why;
 3 true?
 4 A I asked her what was it about.
 5 Q And then she responded, well, Florence, you know?
 6 A Right.
 7 Q But she never quite told you --
 8 A What it was.
 9 Q -- the basis of her complaint?
 10 A Right.
 11 Q Is that correct? So when she notified you of her
 12 intent to file a complaint, as far as you knew, it
 13 could have been under any of the various protective
 14 reasons that the civil rights laws allow; true? It
 15 could have been any of them?
 16 A Can we backtrack? When I asked her what it was
 17 about, she said "you know." And I said no.
 18 Q Right.
 19 A That's when she said discrimination. So I knew it
 20 was that.
 21 Q But you didn't know on what basis she was planning
 22 to file that discrimination?
 23 A No.
 24 Q True? Up to that point when Marilyn Figueroa talked
 25 to you over the phone about filing a discrimination

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1 complaint, did you have any knowledge of any rumors
 2 or any innuendo that Mayor Norquist and
 3 Marilyn Figueroa had something going?
 4 A Never.
 5 Q Did Mr. Hansen ever share any opinions about
 6 knowing, about whether or not he knew that
 7 Marilyn Figueroa and John Norquist had something
 8 going?
 9 A Never.
 10 Q But obviously up to that point the only thing you
 11 learned was that she was filing a discrimination
 12 complaint; true?
 13 A That's correct.
 14 Q And that could, discrimination could apply to any of
 15 the items that were included in the form that you
 16 sent her?
 17 A Right.
 18 Q The discrimination form; correct?
 19 A Correct.
 20 Q And I believe you testified that you sent her a
 21 letter?
 22 A Yes.
 23 Q Correct? Did you bring that letter with you?
 24 A No.
 25 MR. SCHRIMPF: It should be in the

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1 documents.
 2 Q Here, let me show you what has been marked as
 3 Exhibit No. 1. Take a second to review those
 4 records and tell me whether or not you did in fact
 5 send, I mean produce a letter for me today.
 6 (Discussion off the record)
 7 Q Did you find that letter in your records, ma'am?
 8 A I looked through here.
 9 (Witness looking through exhibit)
 10 A I don't see the letter in here.
 11 Q Let me take a look at those records.
 12 MR. ARELLANO: Let the record
 13 reflect that I have shown this witness what
 14 has been marked Exhibit No. 1 of her
 15 deposition, which contains a cover letter
 16 dated February 19th, 2002 from a
 17 Ms. Barbara Teipner Wargolet, which I believe
 18 is the person here. And in those records she
 19 provides me with records for this deposition.
 20 I have reviewed these records, I believe the
 21 witness has reviewed these records, and the
 22 letter and attachments that were apparently
 23 sent to Ms. Figueroa are not contained herein.
 24 A Right.
 25 Q Is that correct?

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1 A That's correct.
 2 MR. ARELLANO: I want to try to
 3 finish, no matter how late we can go, but I'm
 4 going to try to finish with this witness
 5 today, but it doesn't look like I will.
 6 However, I request that someone obtain those
 7 records.
 8 MR. SCHRIMPF: You're talking about
 9 the letter of the 5th of January and its
 10 attachments.
 11 MR. ARELLANO: Right. But I would
 12 like to get them today. Let's continue and
 13 hopefully we can get those records soon and
 14 any other records pertaining to my subpoenas.
 15 Q To your knowledge, when you sent Marilyn Figueroa --
 16 MR. SCHRIMPF: Excuse me, could I
 17 go off the record for a second and make a
 18 phone call?
 19 MR. ARELLANO: Sure.
 20 (Discussion off the record)
 21 Q Do you recall, Ms. Dukes, notifying Marilyn in that
 22 letter that you sent her about the fact that if she
 23 proceeded with her complaint you would have to farm
 24 it out of the City?
 25 A No.

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1 Q Is there a reason why you did notify Mr. Soika and
 2 did not notify Ms. Figueroa?
 3 A I notified my boss Jeff Hansen.
 4 Q And he then --
 5 A Who notified --
 6 Q Okay, very good. Do you recall whether or not you
 7 had any other contacts with Mr. Soika regarding
 8 Ms. Figueroa after that meeting that you described
 9 this morning?
 10 A I don't recall having any more contact.
 11 Q Did you have any further discussions with
 12 Jeff Hansen regarding the Marilyn Figueroa matter?
 13 A No.
 14 Q You were satisfied that after that meeting you and
 15 Mr. Hansen provided Mr. Soika with the required
 16 advice under the circumstances?
 17 A Right.
 18 Q And as I understand -- as I understand, if
 19 Marilyn Figueroa would not have submitted a medical
 20 leave, the City has a policy that would consider
 21 Marilyn Figueroa on leave of absence; is that
 22 correct?
 23 A Repeat that because I'm confused.
 24 MR. ARELLANO: Could you read that
 25 back.

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1 (Question read)
 2 A I don't know if that's the correct term.
 3 Q Well, are you familiar with form CBP 129?
 4 A If you give me the heading.
 5 Q That's the only heading that I know. That's why I'm
 6 relying on your expertise.
 7 A There's so many different numbers.
 8 Q Well, is there a form that you use when somebody is
 9 on leave of absence?
 10 A I don't know, I mean --
 11 MR. ARELLANO: Let me ask the
 12 professional reporter to help us by adding
 13 this additional exhibit.
 14 (Exhibit No. 4 marked for
 15 identification)
 16 Q I'm showing you what has been marked as Exhibit 4
 17 which is a record that we obtained from Mr. Soika's
 18 deposition; okay? I want to walk with you along.
 19 When you spoke to Mr. Soika, you talked about the
 20 family leave act; is that correct?
 21 A Right.
 22 Q And the family medical leave act record that we
 23 obtained from Mr. Soika has the following outline:
 24 That Marilyn Figueroa would be entitled to 12 weeks
 25 of unpaid leave. Would that be accurate?

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1 A With state and federal, yes.
 2 Q Is that correct? And then the following paragraph
 3 states, must have a statement from a doctor saying
 4 that employee needs medical leave and stating how
 5 long it is needed. Would that be accurate with the
 6 policies of the City under the family leave act?
 7 A Well, there's a form that the doctor signs.
 8 Q I understand that. I understand that. With the
 9 clarification that a form is required, this would be
 10 consistent; correct?
 11 A Right.
 12 Q And then it says the original doctor's statement
 13 should be placed in the employee's payroll file and
 14 a copy of the statement should be sent to Devon in
 15 DER. Is that the policy and procedure in place in
 16 the year 2000, if you know?
 17 A I don't know.
 18 Q But is this your understanding of how the medical
 19 leave would be processed?
 20 A It's placed in the employee's personnel file.
 21 Q And the next sentence says, "If a doctor's statement
 22 is not issued, the employee must request a regular
 23 leave of absence. On a regular leave of absence a
 24 form CBF 129 must be filled out." Is that
 25 consistent with what you know the policy to be?

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1 A I guess so.
 2 Q Well, let me ask you this, ma'am. Does the City of
 3 Milwaukee allow for a leave of absence; is that one
 4 of the benefits?
 5 A Yes.
 6 Q All right, very good.
 7 MR. SCHRIMPF: Could I look at
 8 that, counsel?
 9 MR. ARELLANO: Hold on a second.
 10 THE WITNESS: I've never seen that
 11 before, I mean that document that he has.
 12 MR. ARELLANO: Now, before I let
 13 this record go, counsel, I will give it to
 14 you -- let me ask you this. I tell you what.
 15 Q You have not seen this document before; right?
 16 A No.
 17 Q Here's what I want to do. I'm going to withdraw
 18 Exhibit No. 4 because probably somebody else can
 19 help me. However, based on your testimony, you
 20 believe that unpaid regular leave of absence is one
 21 of the benefits that the City has in place; correct?
 22 A Correct.
 23 Q And that leave of absence was in place in the year
 24 2000; true?
 25 A Correct.

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1 MR. ARELLANO: Okay. I'll withdraw
 2 my Exhibit No. 4, wait for somebody else.
 3 Now, but I will replace it with this document
 4 that I want you to mark.
 5 MR. SCHRIMPF: So Exhibit No. 4
 6 from Soika --
 7 MR. ARELLANO: Is withdrawn as to
 8 this witness.
 9 MR. SCHRIMPF: As to this witness.
 10 Is Exhibit No. 4 a one-page document or is it
 11 multi-pages and you've only --
 12 MR. ARELLANO: One-page document as
 13 far as I can tell.
 14 MR. SCHRIMPF: And we are now
 15 getting into another document?
 16 MR. ARELLANO: We're getting into a
 17 document which will be marked as
 18 Exhibit No. 5.
 19 (Exhibit No. 5 marked for
 20 identification)
 21 Q Now, let me show you, Ms. Dukes, a document that has
 22 been marked as Exhibit No. 5. I want you to read it
 23 carefully, and then when you're done I want to ask
 24 you some questions.
 25 MR. SCHRIMPF: Could I see the

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1 document, please?
 2 MR. ARELLANO: Surely.
 3 Q I want you to read it carefully.
 4 (Witness reading)
 5 A Okay.
 6 Q Now I want to approach you one more time. You don't
 7 mind, do you?
 8 A Oh, no.
 9 Q Thank you very much.
 10 MR. SCHRIMPF: If you promise not
 11 to beat her as you did the other witnesses.
 12 MR. ARELLANO: Oh, no.
 13 MR. TOKUS: Or me.
 14 Q You have read what has been marked as Exhibit No. 5;
 15 correct?
 16 A Correct.
 17 Q And this document purports to be a memo from
 18 Michael Soika to Pat Stawicki; is that correct?
 19 A Right.
 20 Q Do you know who Pat Stawicki is?
 21 A She's the payroll clerk at --
 22 Q All right. This memo, would you agree with me, is
 23 an explanation from Mr. Soika to Ms. Stawicki
 24 regarding the advice that he received from your
 25 supervisor Jeff Hansen; is that accurate?

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1 A That's correct.
 2 Q Do you believe that the interpretation that
 3 Mr. Soika is providing to Ms. Stawicki in this
 4 Exhibit No. 5 is consistent with the advice that you
 5 and Mr. Hansen provided to him during that meeting
 6 that occurred early in the year 2000? And take a
 7 look at it one more time.
 8 A Right. It was advice that we gave them, that she --
 9 Q So the answer would be yes?
 10 A Yes.
 11 Q This is consistent with the advice that you provided
 12 in your capacity as a member of the employment
 13 relations office; correct?
 14 A Yes.
 15 Q And is it also your position that this is exactly
 16 the same advice that Mr. Hansen provided to
 17 Mr. Soika regarding Marilyn Figueroa in how to deal
 18 with her medical leave?
 19 A Right.
 20 Q Now, I hate to do this to you.
 21 A That's okay.
 22 Q But I want to ask you to do some quick math and tell
 23 me in this document dated January 21st of the year
 24 2000 issued at 12:04 P.M. Mr. Soika states that
 25 Mr. Hansen advised him to simply note that Marilyn

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1 will be on unpaid family and medical leave act.
 2 Correct?
 3 A Correct.
 4 Q And you will agree with me that once she's placed on
 5 medical leave pursuant to Mr. Hansen's directive,
 6 she would be entitled to 12 weeks of unpaid leave;
 7 correct?
 8 A Correct.
 9 Q Can you tell me when the 12 weeks would have expired
 10 so that Marilyn could come back to work? Take a
 11 second.
 12 A I have to preface it before I answer.
 13 Q That's fine, that's fine.
 14 A And the preface is she would be entitled to the
 15 12 weeks of unpaid family medical leave if the City
 16 received the certified form from the doctor.
 17 Q With that clarification, tell me --
 18 A April 21st roughly.
 19 Q Marilyn would have been entitled to continue
 20 employment on an unpaid leave basis; correct?
 21 A FMLA, yes.
 22 Q Until April?
 23 A I would say roughly April 21st, which would be
 24 approximately.
 25 Q And you also informed Mr. Soika that Marilyn would

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1 require the family leave form signed by her doctor?
 2 A Right.
 3 Q And obviously the City provides that form; correct?
 4 A Correct.
 5 (Exhibit No. 6 marked for
 6 identification)
 7 Q And let me ask you this because I think this is
 8 significant, at least for some of us. Would any
 9 medical statement from a doctor do, or is this form
 10 a requirement?
 11 A The form is a requirement.
 12 Q And obviously, based on your knowledge of the
 13 policies and procedures and practices, the employee
 14 would need to know that; correct?
 15 A Right.
 16 Q And the employer is required to notify the employee
 17 of this fact?
 18 A Correct.
 19 Q To your knowledge, do you know if Mr. Soika ever
 20 notified Ms. Figueroa that this medical leave form
 21 that you are referencing here was needed in order
 22 for her to be entitled to 12 weeks of unpaid leave?
 23 A Not to my knowledge.
 24 Q Do you know if anyone within your department,
 25 including yourself, ever sent Marilyn Figueroa this

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1 required form that the doctor was supposed to sign?
 2 A It was not my department's responsibility.
 3 Q Which department's responsibility would it have
 4 been?
 5 A Her employing department.
 6 Q In this case Mr. Soika?
 7 A The Mayor's office, yes.
 8 Q The Mayor's office. Let me ask you to read this for
 9 just a second and tell me if you've ever seen that
 10 record before today.
 11 (Witness looking at Exhibit No. 6)
 12 MR. ARELLANO: He's familiar with
 13 that record. He just wants to read my
 14 highlighted portion.
 15 MR. SCHRIMPF: I just want to see
 16 if you've very craftfully altered anything.
 17 Q Just I want you to review this record that is in
 18 your left hand, now in your right hand.
 19 A I did.
 20 Q Have you ever seen this record before, Ms. Dukes?
 21 A No.
 22 Q Did Mr. Soika share a copy of this record with you
 23 or any member of your department?
 24 A With me, no. That's all I can speak for.
 25 Q This letter which was, as I understand based on the

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1 record, was sent on January 14, do you find anything
2 in that letter that refers or relates, makes
3 reference to the medical leave form that you believe
4 would be required in order for Marilyn Figueroa to
5 obtain 12 weeks of unpaid leave?
6 A Yes. "We will need to receive your treatment
7 provider's verification of the medical absence."
8 Q You're referring to the request for medical absence
9 verification?
10 A From the provider, from the treating physician.
11 Q But my question to you is do you find anything in
12 that record a reference to the form that you believe
13 is required by the City in its policies?
14 A Not directly.
15 Q In fact, there is nothing in that record that
16 relates to any specific form; is that true?
17 A Not the form itself, no.
18 Q And is it your position that if Marilyn would have
19 provided any medical authorization without the form,
20 that would be valid? Is that what you're telling
21 us? Or do you think the form is a must?
22 A The form would accompany.
23 Q So the form is a must?
24 A Right.
25 Q Is that correct?

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1 A Right.
2 Q Yes?
3 A Yes.
4 Q All right. I just want the record to be clear. By
5 the way, to your knowledge, did Mr. Soika ever
6 consult with you or your department on how to
7 terminate Marilyn Figueroa?
8 A Not with me.
9 Q Do you know if he consulted with Mr. Hansen?
10 A I don't know. I don't know.
11 Q Did you ever have -- to your knowledge, did you have
12 any input of any nature with respect to the
13 termination of Marilyn Figueroa?
14 A No, I didn't.
15 Q I want to show you what has been marked as
16 Exhibit No. 1 of your deposition. And as I
17 understand, these records contain a total of 64
18 pages; correct?
19 A Correct.
20 Q On the very first page can you tell me what's the
21 significance of this first page? And pardon me for
22 standing next to you.
23 A No, I'm --
24 Q But I don't have any additional records. What's the
25 significance of this first page? What does that

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1 purport to represent? It's a printout of some type
2 of chronology or history.
3 A Right. Of her employment with the City.
4 Q Let me see. This record contains a chronological
5 history of positions for Marilyn Figueroa with the
6 City of Milwaukee; is that correct?
7 A That's correct.
8 Q And is this a record that comes from your office?
9 A I would say so, yes.
10 Q And your attorneys provided me with these records
11 pursuant to the subpoena that we sent you. So I
12 suspect, giving the benefit of the doubt, that these
13 records pertain to your department?
14 A To the department of --
15 Q Is that correct?
16 A Yes.
17 Q And then as I understand in the first two pages,
18 there is a history of the years that Ms. Figueroa
19 worked for the City of Milwaukee; correct?
20 A But it looks like it's only a two-year period.
21 Q Well, not really. I'm not trying to tell you how to
22 read your records, but if I read these records, it
23 shows that on May -- oh, that's right. There are
24 more records here. You're right.
25 MR. SCHRIMPF: I think, counsel,

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1 you have to go through page 6.
2 MR. ARELLANO: Yes, thank you,
3 counsel.
4 Q Page 6 shows the very first job that
5 Marilyn Figueroa had with the City of Milwaukee;
6 correct?
7 A Correct.
8 Q And that was with the City Development Housing
9 Program; is that correct?
10 A That's correct.
11 Q And that would have been in the year?
12 A 1990.
13 Q 1990; is that correct? And then it shows the title
14 or the department that she held; is that correct?
15 A Right.
16 Q Or where she worked; correct?
17 A Correct.
18 Q What is this numerical column right here,
19 inter-trans?
20 A I don't know.
21 Q You don't understand that?
22 A No.
23 Q What about mgt?
24 A Management employee.
25 Q So she was a management employee from 1990 according

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1 to these records?
 2 A Right.
 3 Q Is that right? And this record, the first page
 4 No. 6 goes from 1990 through 1992 when she worked as
 5 a staff assistant to Mayor Norquist; correct?
 6 A Correct.
 7 Q And then page No. 5 going backwards shows that she
 8 still was employed from 1992 through 1994; correct?
 9 A Correct.
 10 Q And then going back to mgt, management, there is
 11 management one looking at page No. 5, management
 12 two. What's the significance of that?
 13 A I don't know.
 14 Q Is that an upgrade, promotion?
 15 A I don't know.
 16 Q Are the Mayor's assistants classified in some
 17 fashion?
 18 A They all have the same pay rate. Wait, just a
 19 second. Okay. This would be pay rate seven step
 20 one, pay rate seven step two when you get your --
 21 MR. SCHRIMPF: For the record,
 22 could we have an explanation of what this is
 23 so that we know, we can tie it into an exhibit
 24 and a page number.
 25 Q We're looking at records produced by this witness

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1 via her attorneys. And we're looking at the
 2 personnel action history. Is that correct, ma'am?
 3 A Yes.
 4 Q And then it goes on eventually continuing as a staff
 5 assistant to the Mayor. It goes into grade five,
 6 grade six, grade seven.
 7 A Not grade, step.
 8 Q Step. What's the significance of that? She
 9 continues to move up?
 10 A Right. Each year -- if you haven't reached the
 11 maximum of your pay rate, you get an automatic step
 12 in pay until you reach the maximum. There are
 13 12 steps and a management pay rate.
 14 Q Okay. And so when you talk about step, we're
 15 talking about pay increase?
 16 A Right.
 17 Q Is that correct? And to your knowledge, what's the
 18 highest step for an assistant to the Mayor position?
 19 A There are 12 steps in the pay rate.
 20 Q Who makes the determination as to who should be
 21 upgraded to a higher step?
 22 A It's basically done on the anniversary of your
 23 employment. If there are no deficiencies in your
 24 work, it's usually an automatic.
 25 Q Are staff assistants subject to reclassification in

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1 their positions?
 2 A If the department --
 3 Q Requests it?
 4 A -- requests it.
 5 Q And within a given department, who would be the
 6 person assigned to --
 7 A It's the department head.
 8 Q In this case it would be the Mayor?
 9 A I would say the chief of staff.
 10 Q Okay, very good. Then it continues all the way to
 11 step 10 on page 3; correct?
 12 A Correct.
 13 Q Still under the same position, staff assistant to
 14 the Mayor; right?
 15 A Correct.
 16 Q And then --
 17 A I really don't know what --
 18 Q It looks like stops at step 10; correct?
 19 A Correct.
 20 Q On May 2, 1999, correct?
 21 A That's what it appears.
 22 Q Is that right? And then we have page No. 2 which
 23 just simply shows some sort of a computer printout
 24 indicating some dates to the far left related to
 25 Marilyn Figueroa; correct?

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1 A Correct.
 2 Q And it starts from May 2, 1999, and if you look at
 3 page 2 on the left margin at the top it shows
 4 December 26, 1999; correct?
 5 A Correct.
 6 Q And then we go to the first page. Can you read for
 7 me at the top what's the significance of this number
 8 01/22/00?
 9 A Well, it looks like she was terminated on that day.
 10 Q So according to the records for the City of
 11 Milwaukee, Ms. Figueroa was terminated on
 12 January 22nd, 2000; correct?
 13 A That's what the record says.
 14 Q All right. I want to put you to do a little more
 15 math. Don't sleep on me yet. I'm not done with
 16 you.
 17 Looking at Exhibit No. 6 which is a letter
 18 from Mr. Soika dated January 14th, 2000, addressed
 19 to Ms. Figueroa; correct?
 20 A Correct.
 21 Q And in this letter Mr. Soika provides Ms. Figueroa
 22 15 days of receipt of this letter to produce medical
 23 absence authorization, correct?
 24 A Correct.
 25 Q Well, if the letter was sent on January 14th, giving

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1 our glorious post office people the benefit of the
 2 doubt, we started with January 15th, which would
 3 have been the day she received the letter; correct?
 4 A Correct.
 5 Q By what time was Ms. Figueroa required, according to
 6 this letter, by what time was Ms. Figueroa required
 7 to produce a medical authorization from her doctor?
 8 A By January 30th.
 9 Q So based on this letter, would you agree with me
 10 that at least based on what Mr. Soika was implying
 11 here, Ms. Figueroa was still an employee of the City
 12 until up to that time?
 13 A I would say so.
 14 Q But according to the family leave act, is it fair
 15 and accurate to say that you instructed Mr. Soika to
 16 place Marilyn Figueroa on family leave until
 17 April or at least give her the 12 weeks required,
 18 consistent with your prior sworn testimony?
 19 A We didn't tell him how much time he had to place her
 20 on leave. We told him what the benefit was.
 21 Q And the benefit would have been 12 weeks?
 22 A Maximum.
 23 Q Did you advise Mr. Soika to provide her with less
 24 than 12 weeks?
 25 A No. We just advised him of what the benefit was.

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1 Q All right, very good.
 2 (Exhibit No. 7 marked for
 3 identification)
 4 Q Let me show you, Ms. Dukes --
 5 MR. ARELLANO: This is from Soika's
 6 records.
 7 Q Let me show you what has been marked as
 8 Exhibit No. 7 of your deposition. And this pertains
 9 to the Figueroa, Marilyn Figueroa records.
 10 MR. SCHRIMPF: And can we agree,
 11 counsel, that Exhibit No. 7 to Dukes was
 12 actually originally received as
 13 Exhibit No. 24-B to the deposition of
 14 Mr. Soika?
 15 MR. ARELLANO: Indeed. Indeed.
 16 Q Are you familiar with these records, ma'am?
 17 A No.
 18 Q Are you familiar with these forms?
 19 A No.
 20 Q Never seen them before?
 21 A No.
 22 Q Is that your sworn testimony today?
 23 A That's my sworn testimony.
 24 Q Okay, I believe you. This record contains in the
 25 following page a 2000 sick leave title. Is that

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1 correct?
 2 A That's what it says.
 3 Q And it applies to Marilyn Figueroa; is that what it
 4 says also?
 5 A Yes.
 6 Q And this record indicates that Marilyn Figueroa
 7 apparently, according to this record, was absent
 8 January 12th for 0.4 hours 13, 14, 18, 19, 20, 21
 9 and 2.9 hours for a total of 43.3 hours. Did I read
 10 that correctly?
 11 A That's what it says.
 12 Q At what point, based on your knowledge of sick leave
 13 policy for the City of Milwaukee, at what point do
 14 you believe the City was required to request a
 15 medical authorization from Marilyn Figueroa?
 16 A After three days.
 17 Q So on the third day she must provide medical
 18 authorization?
 19 A After the third day.
 20 Q Now, I'm showing you sick leave for 1999, okay? And
 21 it shows that Marilyn Figueroa took in March the
 22 22nd, March 22nd, 23rd, 24th, 25th, 26th days of
 23 sick leave. At what point was the City required to
 24 request a medical authorization?
 25 A After the third day.

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1 Q That would have been the 24th?
 2 A I would say, yeah.
 3 Q The 24th. Okay. On the same page for June 30th and
 4 July 1, 2, 6, 7, 8 and 9 it shows that Marilyn took
 5 56 days of sick leave?
 6 A 56 hours.
 7 Q Thank you. I stand corrected. See, you're not
 8 sleeping.
 9 A No, I'm not.
 10 Q Tell me at what point was the City required to
 11 request medical leave from Marilyn Figueroa's
 12 doctor?
 13 A Well, we need to figure out what day of the week the
 14 2nd was on.
 15 Q Would that make a difference?
 16 A Yeah.
 17 Q If it's a workday, why would that make a difference?
 18 A Well, then is that the beginning?
 19 Q We're talking about all of the time that she took of
 20 sick leave, which is a total of 1, 2, 3, 4, 5, 6, 7
 21 days.
 22 A She should have provided documentation after the
 23 third day.
 24 Q If the City was applying the policy consistently;
 25 correct?

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1 A Yes.
 2 Q In 19 -- excuse me. In 1998 for September it shows
 3 that Marilyn Figueroa took 52 hours of sick leave;
 4 is that correct?
 5 A That's what it shows.
 6 Q And it shows a total of 1, 2, 3, 4, 5, 6 and 7 days.
 7 At what point was the City required to --
 8 A After the third day.
 9 Q After the third day. I should learn that.
 10 A Yes.
 11 Q I'm sorry. And you were working for the Department
 12 of Employment Relations in 1998; correct?
 13 A That's correct.
 14 Q Do you recall whether or not the Mayor's office ever
 15 called your office --
 16 A Didn't call me.
 17 Q To your knowledge, do you know if they called
 18 anybody --
 19 A I don't know.
 20 Q -- to request advice on how to deal with
 21 Marilyn Figueroa's lack of sick leave authorization?
 22 A Not to my knowledge.
 23 Q What about 1999?
 24 A Not to my knowledge.
 25 Q In the year 2000 sick leave was discussed

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1 immediately after you notified them that she was
 2 inquiring about filing a discrimination complaint;
 3 is that correct?
 4 A That's correct.
 5 Q Are complaints, discrimination complaints supposed
 6 to be kept confidential based on the years of
 7 experience and training that you have had?
 8 A Yes and no depending -- I want to say the right
 9 word. Sometimes someone else needs to know.
 10 Q All right. At what point are they kept
 11 confidential? Are they kept confidential before the
 12 filing, immediately after the filing? At what point
 13 are they kept confidential?
 14 A I can only share with you my experiences.
 15 Q Before you do that, I want you to tell me what the
 16 policy is with respect to confidentiality of
 17 discrimination complaints.
 18 A It's kept confidential to protect -- well, sometimes
 19 you have to tell what the situation is.
 20 Q I understand that. But I just want to know what the
 21 policy is before we talk about --
 22 A I can't cite it off I mean to cite it, no.
 23 Q Was there a discrimination, anti-discrimination
 24 policy in place --
 25 A Yes.

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1 Q -- in the year 2000?
 2 A Yes.
 3 Q When Marilyn called you to inquire about filing a
 4 discrimination complaint, was there an
 5 anti-discrimination policy in place?
 6 A Yes.
 7 (Exhibit No. 8 marked for
 8 identification)
 9 Q Let me show you, Ms. Dukes, what has been marked as
 10 Exhibit No. 8 of your deposition. Are you familiar
 11 with this document?
 12 A Yes, I am.
 13 Q Can you describe for the record what the document
 14 purports to represent?
 15 A It provides, first of all, a summary of the City of
 16 Milwaukee anti-harassment policy. It goes into
 17 definitions giving you definitions of what sexual
 18 harassment is and the different types. It could be
 19 verbal, nonverbal and physical. It talks about
 20 harassment based on other protected classes, the
 21 sexual harassment complaint procedure.
 22 Q To your knowledge, in the year 2000 or before 1999
 23 was there an anti-retaliation policy in place for
 24 people who file or intend to file discrimination
 25 complaints against the City?

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1 A I would think that retaliation would fall under the
 2 broader category.
 3 (Exhibit Nos. 9 and 10 marked for
 4 identification)
 5 Q Let me show you -- show you Exhibit No. 9 of your
 6 deposition. And this is?
 7 A An older version.
 8 Q The policy of the City of Milwaukee with respect to
 9 sexual harassment; is that correct?
 10 A Right.
 11 MR. SCHRIMPF: For what year?
 12 Q For the year 1992-1995; is that correct?
 13 A That's correct.
 14 MR. SCHRIMPF: Exhibit what?
 15 THE WITNESS: 9.
 16 Q And in this particular document at the bottom it
 17 indicates that "retaliation against an employee who
 18 has filed a complaint or has assisted in an
 19 investigation is strictly prohibited"; right?
 20 A Yes, correct.
 21 Q Do you know if that same retaliation clause
 22 continued to exist in 1999 and the year 2000 to your
 23 knowledge?
 24 A I don't see it right offhand, but I would think it's
 25 in here.

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1 Q To your knowledge, is retaliation for filing or
2 intending to file a complaint a prohibited act?
3 A Yes.
4 Q Very good. Let me show you even an older version,
5 1996 through 1998. Actually it's just before 2000.
6 A Right.
7 Q This policy is also, was in effect through 1996-98;
8 correct?
9 A Correct.
10 Q And it also contains the specific prohibitions --
11 A Right.
12 Q -- which include retaliation; is that correct?
13 A That's correct.
14 Q Let me see the most recent one, which is the one
15 you're holding. Exhibit 8 is the one that was in
16 place in effect from February 17, 1999 through the
17 year 2000; is that correct?
18 A Correct.
19 Q And I believe it was revised on February 17th, 1999;
20 is that correct?
21 A Correct.
22 Q And the City anti-harassment policy included more
23 than just sexual harassment, is that true?
24 A That's correct.
25 Q And specifically it describes the policy of the City

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1 of Milwaukee to provide a work environment that is
2 free from sexual harassment; did I read that
3 correct?
4 A From sexual harassment, right.
5 Q And harassment or discrimination based upon race?
6 A Right.
7 Q National origin, religion, age, disability, creed,
8 color, marital status, ancestry; is that correct?
9 A Correct.
10 Q Did you know that in January of the year 2000
11 Marilyn Figueroa was hospitalized?
12 A No, I didn't.
13 Q Do you know that now?
14 A Just based upon your statement.
15 Q Did Mr. Soika ever inform you or Mr. Hansen to your
16 knowledge that Marilyn Figueroa had been
17 hospitalized?
18 A No.
19 Q Did Mr. Soika ever request advice on anything
20 related to the ADA?
21 A Not to my knowledge.
22 Q Do you know what the ADA stands for?
23 A Americans with Disability Act.
24 Q What does it take to qualify under the ADA?
25 A Well, the person may have injury or medical

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1 condition, but he or she must still be able to do
2 the essential functions of that job. So you provide
3 accommodations.
4 Q What's the policy with respect to medical leave? Is
5 that only the 12-week policy in place, or is there
6 some other benefit that an employee can use when
7 illness lasts longer than 12 weeks, Ms. Dukes?
8 A Well, first of all, usually if a person is out on
9 medical leave, they use accrued sick time that they
10 have on the books. So they may have 800 hours on
11 the books.
12 Q Are they also entitled to use comp time in
13 combination?
14 A They use their sick time. And before you can go on
15 a medical leave of absence you have to exhaust all
16 of your sick time that's on the books.
17 Q Can they also use comp time if they had any comp
18 time coming?
19 A Yes.
20 Q And then the next?
21 A Would be the family medical leave.
22 Q And then what happens when the family leave 12 weeks
23 expire?
24 A The department has to make a decision.
25 Q Can they be on leave of absence indefinitely?

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1 A Well, I wouldn't say indefinitely because you need
2 those positions to do the job.
3 Q All right. But they can use a leave of absence for
4 up to a time; is that correct?
5 A Right.
6 Q What do you think is a reasonable time according to
7 the policy of the City?
8 A Well, I think the rule says that a department can
9 basically fill that position. I think either after
10 30 days or 60 days.
11 Q After all other benefits have been expired?
12 A Right.
13 Q So if I understand what you're telling me,
14 Ms. Figueroa still could have gone on a leave of
15 absence after her 12 weeks of unpaid leave, her
16 accrued sick leave, her comp time expired; true?
17 A True.
18 Q This policy on page No. 4 of Exhibit No. 8, which is
19 the policy in place at the time Ms. Figueroa left or
20 was terminated from her employment, on page No. 4
21 talks about what constitutes sexual harassment;
22 correct?
23 A Correct.
24 Q And also talks about the sexual harassment complaint
25 procedure; is that true?

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1 A Correct.
 2 Q And you would agree with me, would you not, that the
 3 Department of Employment Relations was responsible
 4 for processing any complaint discriminations in the
 5 year 2000; correct?
 6 A Correct.
 7 Q And that is what the policy states; is that right?
 8 A Right.
 9 Q It says, complainant may file a complaint through
 10 DER, which is Department of Employment Relations;
 11 correct?
 12 A Right.
 13 Q Or a complaint intake advisor who is elected by each
 14 department's EEO committee.
 15 A Correct.
 16 Q Was there an EEO committee in the year 2000?
 17 A For all departments, yes.
 18 Q Is that correct? And for the Mayor's office who was
 19 the EEO representative?
 20 A I don't know who that person was offhand.
 21 Q Did Marilyn Figueroa, according to the City policy,
 22 have an option to go outside the City given the
 23 conflict that you perceived at the time you talked
 24 to Mr. Soika? Did she have an option to go and file
 25 with the ERD?

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1 A Well, the employee has an option to go outside
 2 initially. They don't have to come to us.
 3 Q All right. Now, this document No. 5 --
 4 Exhibit No. 8 page No. 5, excuse me, says that
 5 complaints will be investigated in a timely and
 6 confidential manner. Is that correct?
 7 A Correct.
 8 Q And it says, "In no event will information
 9 concerning a complaint be released to or discussed
 10 with anyone who is not involved with an
 11 investigation."
 12 A Correct.
 13 Q When you spoke to Mr. Soika, to your knowledge, was
 14 he involved in investigating Marilyn Figueroa's
 15 intent to file a complaint?
 16 MR. SCHRIMPF: Objection, lack of
 17 foundation and does not accurately reflect the
 18 record.
 19 Q Go ahead.
 20 A There was no complaint.
 21 Q That wasn't my question. Listen to the question.
 22 (Question read)
 23 A I don't know.
 24 Q To your knowledge, did Mr. Soika ever tell you he
 25 was going to investigate Marilyn Figueroa's intent

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1 to file a complaint?
 2 MR. SCHRIMPF: Same objection.
 3 Q Ma'am?
 4 A No.
 5 Q Did you explain to Mr. Soika what was the
 6 investigation procedure should Marilyn Figueroa
 7 decide to file a complaint?
 8 A He was advised by my boss Jeff Hansen that if she
 9 completed the form, it would be farmed out. That's
 10 all that was said to him about that.
 11 Q Do you know if anyone from your office spoke
 12 directly with Mayor Norquist about the fact that
 13 Marilyn Figueroa was intending to file a complaint
 14 against him?
 15 A No.
 16 Q Based on what you have testified, it is fair and
 17 accurate to say that the employment relations
 18 department would not have investigated
 19 Ms. Figueroa's complaint; true?
 20 A True.
 21 Q And is it also fair and accurate to say that you
 22 assumed that by notifying Mr. Soika that Marilyn was
 23 filing a complaint of discrimination against the
 24 Mayor's office, that he would notify Mayor Norquist;
 25 correct?

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1 A I didn't --
 2 MR. SCHRIMPF: Objection, lack of
 3 foundation.
 4 Q True?
 5 A I didn't inform Mr. Soika.
 6 Q Well, Mr. Hansen informed Mr. Soika.
 7 A Right.
 8 MR. SCHRIMPF: Same objection.
 9 Q You assumed that Mr. Soika would notify Mayor
 10 John Norquist; correct?
 11 MR. SCHRIMPF: Same objection.
 12 A I -- yeah, I didn't know what would happen. I mean
 13 I didn't think about that.
 14 Q Well, what would be the specific purpose for
 15 notifying Mr. Soika that Marilyn Figueroa was about
 16 to file a discrimination complaint against the
 17 Mayor's office?
 18 A It was done as an advisement basis and to let them
 19 know that we would not investigate.
 20 Q I understand that, but my question is why would you
 21 notify Mr. Soika and not to Ms. Figueroa that you
 22 would not be processing a complaint?
 23 A Well, you need to ask someone else that because I
 24 didn't notify him personally.
 25 Q Before Marilyn Figueroa called you inquiring about

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1 how to file a discrimination complaint against the
 2 City and Mayor Norquist, did you ever talk to
 3 Marilyn Figueroa before that?
 4 A I mean in casual conversations.
 5 Q Were you ever assigned to work on the
 6 reclassification of Marilyn Figueroa?
 7 A No, I wasn't.
 8 Q Do you know if anyone did?
 9 A Yes.
 10 Q Who was that?
 11 A Allan Weber.
 12 Q And who is Allan Weber?
 13 A He is a retired classification and staffing manager
 14 for the City of Milwaukee.
 15 Q And do you recall when this reclassification study
 16 was done by Mr. Weber?
 17 A Not specifically, no.
 18 Q Did you ever conduct any type of reclassification
 19 study of any staff, any Mayor assistant?
 20 A No, I didn't.
 21 Q No?

MR. SCHRIMPF: I'm going to, just
 so that the record is clear, I'm objecting to
 this line of questioning because of the
 foundation that has been laid. And off the

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1 record privately with counsel I would be happy
 2 to explain in further detail what the problem
 3 is.

MR. ARELLANO: I always, I'm always
 happy to entertain a gentleman invitation to
 talk. But I suspect that Mr. Tokus invited me
 to remove him before if he continues to make
 those noises and interrupting the
 concentration of this witness. I would
 request that he stop. Because every time --

MR. SCHRIMPF: I haven't heard any
 noises, I'm sorry.

MR. ARELLANO: Well, you haven't.
 But this witness has difficulties paying
 attention to so many different questions and
 noises as I proceed. Okay. I'll talk to you
 outside.

(Recess)

(Exhibit No. 11 marked for
 identification)

Q Ms. Dukes, are you familiar with a Marie Pettigrew?

A Yes. She works in my office.

Q She works in your office? What's her job title?

A I think program -- she's a programmer. I don't know
 her exact title.

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1 Q Who does she report to?
 2 A Louise Dumbke.
 3 Q And who does Louise Dumbke report to?
 4 A Jeff and myself.
 5 Q To your knowledge, did you ever tell Mr. Soika not
 6 to place Marilyn Figueroa on medical leave until she
 7 had met any type of requirement?
 8 A No.
 9 Q What he notifies Ms. Pat Stawicki on Exhibit No. 5
 10 is precisely the advice that you and Mr. Hansen
 11 provided to him; is that correct?
 12 A Right.
 13 Q Did Mr. Hansen ever report to you giving Mr. Soika
 14 any type of different advice other than the advice
 15 that was given to Mr. Soika during that one meeting
 16 that you identified this morning?
 17 A No.
 18 Q If he did, would you expect to be informed of that
 19 fact?
 20 A Yes.
 21 Q I am showing you what has been marked as Exhibit 11
 22 of your deposition.
 23 A Okay.
 24 Q And let me ask you to take a look at it and tell me
 25 if you recall this document.

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1 A Yes.
 2 Q And can you look at all of the pages to make sure
 3 that you provide me with accurate answers with
 4 respect to this document?
 5 A The procedure is not attached to this.
 6 Q First of all, tell me how do you recognize this
 7 document?
 8 A I wrote it. I mean I did it.
 9 Q Is that the letter you sent to Ms. Marilyn Figueroa?
 10 A Yes.
 11 Q And when did you send that letter?
 12 A January 5th.
 13 Q So she must have come to see you on January 4th?
 14 A She didn't come to see me.
 15 Q Strike that. I stand corrected. She spoke to you
 16 the day before?
 17 A That same day.
 18 Q The same day, okay. January 5th?
 19 A Yes.
 20 Q True? And was that the same day that you and
 21 Mr. Hansen notified Mr. Soika of this fact, the fact
 22 that Ms. Figueroa was going to be filing a
 23 complaint?
 24 A No.
 25 Q When did you do that?

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1 A January 6.
 2 Q So that would have been the following day?
 3 A Yes.
 4 Q Good memory. When you spoke to Mr. Soika regarding
 5 this discrimination complaint that Marilyn had
 6 requested, or at least the form, did he provide you
 7 with any information about any suspicion that he may
 8 have shared with you as to why Marilyn Figueroa was
 9 intending or trying to file a complaint?
 10 A No.
 11 Q Do you know if Mr. Hansen was writing any notes
 12 during that meeting?
 13 A It was just a general conversation.
 14 Q That wasn't my question. Did you see Mr. Hansen --
 15 A No.
 16 Q What about you?
 17 A No.
 18 Q What about Mr. Soika?
 19 A I don't recall him writing any notes.
 20 Q Can I have that exhibit back? This exhibit shows a
 21 letter issued by you on January 5th, 2000 and
 22 contains your signature; is that correct?
 23 A Correct.
 24 Q And it also contains the City of Milwaukee employee
 25 complaint form; is that correct?

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1 A That's correct.
 2 Q And the first page contains the various types of
 3 discrimination areas; is that correct?
 4 A That's correct.
 5 Q And if Marilyn Figueroa had intended to file a
 6 sexual harassment complaint, under what specific
 7 item would that fall under?
 8 A I imagine under sex.
 9 Q Under sex female?
 10 A Male.
 11 Q Well, I want to make sure that I understand you.
 12 Apparently in this form the complainant's supposed
 13 to state --
 14 A Oh, yes, sex female.
 15 Q It would be sex female; is that correct?
 16 A Right.
 17 Q Discrimination on the basis of sex female; is that
 18 correct?
 19 A That's correct.
 20 Q And that is the item that would also include or
 21 cover allegations of sexual harassment?
 22 A Yes.
 23 Q And obviously all others are obviously described in
 24 here, correct, such as race, background and so on
 25 and so forth; is that correct?

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1 A Correct.
 2 Q Disability; is that correct?
 3 A Correct.
 4 Q And the second page also contains other provisions
 5 pursuant to the complaint system; is that correct?
 6 One of which includes harassment and the other one
 7 is retaliation?
 8 A Correct.
 9 Q Correct? When you sent this form to
 10 Marilyn Figueroa, what did you understand to fall
 11 under retaliation, what type of conduct?
 12 A You know, I never thought of it. First of all, she
 13 didn't ask for a form.
 14 Q But that wasn't my question. My question to you is
 15 what did you understand retaliation is supposed to
 16 cover?
 17 A Well, if someone files and is harassed or
 18 reprimanded because of an action that he or she
 19 took.
 20 Q Including termination?
 21 A Of an action, any disciplinary action.
 22 Q Did you explain to Marilyn Figueroa how this form is
 23 supposed to be completed?
 24 A No, I didn't.
 25 Q Did she ask you to help her to fill it out?

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1 A No.
 2 Q When you talked to Marilyn Figueroa, she described
 3 that her complaint would be filed against the
 4 Mayor's office; correct?
 5 A Yes.
 6 MR. SCHRIMPF: Objection, that is
 7 not the state of the record.
 8 MR. ARELLANO: The record will --
 9 MR. SCHRIMPF: And assumes facts
 10 not in evidence.
 11 Q When you sent this copy to Ms. Figueroa, is there a
 12 reason why you did not insert the information that
 13 Ms. Figueroa had given you during that phone
 14 conference?
 15 A It was at the end of the day. I wanted to get the
 16 form out. I sent her the form.
 17 Q In the last page the complainant is required to file
 18 a release statement; is that correct?
 19 A Correct.
 20 Q And the last sentence of this paragraph under
 21 release statement, it reads as follows: "I
 22 understand the information they gather will be held
 23 in the strictest confidence and obtained and
 24 released only through the proper channels." Did I
 25 read that correctly?

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1 A Yes.
 2 Q Did you ever notify Marilyn that you were going to
 3 disclose her intent to file a discrimination
 4 complaint against the Mayor to Mr. Soika?
 5 A To Jeff Hansen, no.
 6 Q Do you know if Mr. Hansen ever notified Ms. Figueroa
 7 that he was going to be disclosing her intent to
 8 file a complaint of discrimination against the
 9 Mayor's office with Mr. Soika?
 10 A No.
 11 Q Pursuant to this particular provision, assuming that
 12 Ms. Figueroa would have completed the form and
 13 returned it, is it fair and accurate to say that you
 14 were not allowed to speak with Mr. Soika without her
 15 authorization about her complaint?
 16 A Once it was filed and completed.
 17 Q Obviously if you sent this document to Ms. Figueroa
 18 on January 5th and assuming that she received it on
 19 January 6th --
 20 A Right.
 21 Q -- she would still have to fill it out, call you
 22 with any questions and then return it; correct?
 23 A Correct.
 24 Q But as I understand, you spoke to Mr. Soika on the
 25 same day?

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1 A On the 6th.
 2 Q On the 6th, the following day?
 3 A Yes.
 4 Q Is that correct?
 5 A Correct.
 6 Q Which frankly would not have given Ms. Figueroa
 7 enough time to return this record by the time you
 8 talked to Mr. Soika; correct?
 9 A Correct.
 10 Q Now, as I understand, this copy of the document that
 11 you sent to Ms. Figueroa on January 5th which has
 12 now become Exhibit 11 of your deposition is missing
 13 certain records that you sent to her; right?
 14 A Correct.
 15 Q And which records do you believe are missing?
 16 A Just the procedure, a written definition of the
 17 procedures and how you complete the form.
 18 Q Did you or Mr. Hansen ever tell Mr. Soika that he
 19 was required to maintain the information regarding
 20 Ms. Figueroa's intent to file a discrimination
 21 complaint confidential?
 22 A I don't recall.
 23 Q Do you know if Mr. Soika ever disclosed the
 24 information you provided to him or Mr. Hansen
 25 provided to him regarding Marilyn Figueroa's filing

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1 of a discrimination complaint, do you remember or to
 2 your knowledge did he ever disclose that information
 3 to anyone outside your office?
 4 A No.
 5 Q Let's assume -- let me ask you to assume a set of
 6 facts. Let me ask you to assume that Mr. Soika ran
 7 and told the Mayor and his staff that
 8 Marilyn Figueroa was going to file a complaint and
 9 Marilyn learns of that fact. Would that in your
 10 opinion violate the anti -- the confidentiality of
 11 the complaint system if Mr. Soika did that, assuming
 12 that he did that?
 13 A Well, I would say no because it wasn't a complaint.
 14 Q Would you be surprised if Marilyn Figueroa learned
 15 that you disclosed that confidential, would it be
 16 fair to say that she would be reasonably concerned
 17 about confidentiality?
 18 MR. SCHRIMPF: Object as to form of
 19 the question and lack of foundation.
 20 Q Go ahead.
 21 A I don't know.
 22 MR. ARELLANO: Counsel, just so the
 23 record is clear, I really would like to have a
 24 full, complete, true and correct copy of the
 25 Exhibit 11.

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1 MR. SCHRIMPF: Not a problem. And
 2 it's an error that it wasn't enclosed in
 3 there. So we'll certainly cooperate with you
 4 and get that for you.
 5 Q I just want to clarify one more thing, Ms. Dukes.
 6 Exhibit 1 which contains the printout of
 7 Ms. Figueroa's employment history, where would this
 8 record be kept in the regular course of business?
 9 A It would be in the system. We would get information
 10 from the department that would be plugged into the
 11 system.
 12 Q Which would indicate the status of Marilyn Figueroa?
 13 A Right.
 14 Q Okay, very good. Did Mr. Soika ever consult with
 15 you before he decided to issue a notice of
 16 termination of Marilyn Figueroa?
 17 A Not with me.
 18 Q Do you know if he consulted with Mr. Hansen?
 19 A I don't know.
 20 Q Did Mr. Hansen ever report that to you?
 21 A No.
 22 Q You have also produced via your attorneys other
 23 records which are attached to Exhibit No. 1. One of
 24 them -- and I will eventually put them back, part of
 25 Exhibit 1. Can you tell me what's the significance

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<p>1 of that record?</p> <p>2 MR. SCHRIMPF: For the record, the</p> <p>3 witness is looking at Bates pages what of</p> <p>4 what?</p> <p>5 THE WITNESS: Page 7 through 11.</p> <p>6 MR. SCHRIMPF: 7 through 11 of</p> <p>7 Exhibit 1?</p> <p>8 THE WITNESS: Right.</p> <p>9 A What I'm looking at is a record of the actions that</p> <p>10 were taken at the finance and personnel committee</p> <p>11 regarding classification reports which had earlier</p> <p>12 been approved by our City Service Commission.</p> <p>13 Q And those classification reports pertain to what?</p> <p>14 A Do you have copies? There were a number of</p> <p>15 positions. Oh, there were two reports that were</p> <p>16 approved. The first report dealt with a study of a</p> <p>17 vacant staff position in the Mayor's office, and the</p> <p>18 second report dealt with a title change for the</p> <p>19 board of zoning and appeals.</p> <p>20 Q Let me show you another part of Exhibit No. 1 and</p> <p>21 tell me what those records purport to represent.</p> <p>22 MR. SCHRIMPF: For the record, this</p> <p>23 is Bates stamp pages what through what?</p> <p>24 THE WITNESS: 12 through 16.</p> <p>25 MR. SCHRIMPF: Thank you.</p> <p style="text-align: center;">173</p>	<p>1 A Allan Weber did the report.</p> <p>2 Q And is that the gentleman that is no longer --</p> <p>3 A He's retired.</p> <p>4 Q He's retired? All right. And do you know who</p> <p>5 eventually got selected for that position?</p> <p>6 A I don't know offhand.</p> <p>7 Q Was that study ever finalized?</p> <p>8 A It was finalized and approved by both the City</p> <p>9 Service Commission and the FNP.</p> <p>10 Q And just so the record is clear, as I understand,</p> <p>11 one of the mayoral assistant positions was being</p> <p>12 upgraded; is that correct?</p> <p>13 A The correct title was staff assistant to the Mayor.</p> <p>14 Q Correct. Was there anything else in that title,</p> <p>15 senior?</p> <p>16 A They requested the title of senior staff assistant</p> <p>17 to the Mayor.</p> <p>18 Q And this position was going to be upgraded both in</p> <p>19 title as well as in pay?</p> <p>20 A Yes.</p> <p>21 Q Tell me what was the change in title.</p> <p>22 A The recommendation that was approved was staff</p> <p>23 assistant to the Mayor-senior.</p> <p>24 Q And as far as pay, what was the upgrade?</p> <p>25 A The salary grade earlier was salary grade seven,</p> <p style="text-align: center;">175</p>
<p>1 A I'm looking at the agenda item for the October 26th,</p> <p>2 1999 City Service Commission meeting.</p> <p>3 Q I'm sorry, I'm missing a couple pages. These go at</p> <p>4 the bottom.</p> <p>5 MR. SCHRIMPF: What additional</p> <p>6 Bates stamp pages?</p> <p>7 THE WITNESS: Pages 17 through 19.</p> <p>8 MR. SCHRIMPF: Okay.</p> <p>9 A And it identifies the items that would be acted upon</p> <p>10 by the City Service Commission.</p> <p>11 Q And what are the issues?</p> <p>12 A The approval of the minutes from the October 12th</p> <p>13 meeting, a summary of the classification reports,</p> <p>14 report of a receipt for request for finding of</p> <p>15 necessity from an employee. Well, there are two of</p> <p>16 those.</p> <p>17 Q Let's go to the next page. What do you --</p> <p>18 A What we have before us is a copy of the job</p> <p>19 evaluation report for the position of staff</p> <p>20 assistant to the Mayor which have been studied for</p> <p>21 an upgrade.</p> <p>22 Q Were you ever involved in the study of that</p> <p>23 particular request?</p> <p>24 A No, I wasn't.</p> <p>25 Q Do you know who, if anyone, was involved in that?</p> <p style="text-align: center;">174</p>	<p>1 \$41,784 to 58,494. The recommendation that was</p> <p>2 approved was a salary grade 9 at a pay range of</p> <p>3 \$47,472 to \$66,463.</p> <p>4 Q Do you know eventually whether or not that position</p> <p>5 was filled?</p> <p>6 A It probably was. I don't know who the incumbent.</p> <p>7 Q Do you know who had that position in the year 2000</p> <p>8 when Marilyn Figueroa was placed on some type of a</p> <p>9 leave?</p> <p>10 A No.</p> <p>11 Q Do you know who is in that position today?</p> <p>12 A No.</p> <p>13 Q Do you know what was the actual salary that the</p> <p>14 person appointed to that position received after it</p> <p>15 was approved?</p> <p>16 A No, I don't.</p> <p>17 Q But what you do know, pursuant to those records, is</p> <p>18 that the minimum would have been somewhere in the</p> <p>19 higher Forties?</p> <p>20 A 47,000.</p> <p>21 Q As well as in the higher Sixties?</p> <p>22 A Right, the maximum.</p> <p>23 Q Is that correct? All right. Let me have that. And</p> <p>24 as I understand, Ms. Dukes, the study would be</p> <p>25 conducted by the Department of Employee Relations?</p> <p style="text-align: center;">176</p>

1 A Correct.
 2 Q Is that right?
 3 A Correct.
 4 Q Which at the time in 1999 was under your supervision
 5 as the deputy to the director? I'm talking about
 6 the department.
 7 A Right.
 8 Q Is that correct? So obviously you would have known
 9 in some fashion about this study being done?
 10 A Right.
 11 Q And as I understand the study of the position was to
 12 determine the needs, the responsibilities, skills
 13 required for the position; correct?
 14 A Correct.
 15 Q In fact, if you don't mind, I'll approach you one
 16 more time. You would agree with me that the job
 17 evaluation report provides a rationale; is that
 18 correct?
 19 A That's correct.
 20 Q And it says -- and it talks about the history of the
 21 position?
 22 A Right.
 23 Q All of this is part of the study; correct?
 24 A Correct.
 25 Q And the recommendation which is identified right in

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1 the first page; true?
 2 A Correct.
 3 Q That position moved from a salary grade of 007?
 4 A To a nine.
 5 Q To a nine; true?
 6 A Correct.
 7 Q Salary seven was in the range of \$41,784 minimum
 8 with a maximum of \$58,494; correct?
 9 A Correct.
 10 Q So that position was upgraded by about \$10,000 or
 11 so; correct?
 12 A Correct.
 13 Q Give and take?
 14 A Right.
 15 Q Give or take here; right? And the study contains
 16 providing background; is that correct?
 17 A Correct.
 18 Q Analysis; true?
 19 A Right.
 20 Q And the analysis includes the most significant
 21 skills or knowledge required for that position;
 22 true?
 23 A Correct.
 24 Q It talks about research and policy analysis;
 25 correct?

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1 A Correct.
 2 Q Community and neighborhood relations; true?
 3 A Correct.
 4 Q And a couple other items as well; true?
 5 A Right.
 6 Q And then in page 3 it talks about the evaluation and
 7 the factors required for this position; correct?
 8 A Correct.
 9 Q In this particular page it talks about factors.
 10 Based on your understanding of this study, are those
 11 the factors required for the position in question?
 12 Grade nine that was under study?
 13 A Well, we waited then based upon factors.
 14 Q But as far as criteria, requirements, this page
 15 No. 3 of the October 26, 1999 study which forms a
 16 part of Exhibit No. 1 would be the requirements for
 17 that position; correct?
 18 A Right.
 19 Q You agree with me, would you not, that there is no
 20 college criteria or university criteria or a
 21 master's degree or a Ph.D. required for that
 22 position according to the study; true?
 23 A Correct.
 24 Q So anyone that would meet the factors outlined on
 25 page No. 3 of the October 26, 1999 letter would be

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1 the requirements that the Department of Employment
 2 Relations felt would be needed for this position;
 3 correct?
 4 A I think you're misunderstanding what the factors
 5 are. When we do classification reports, we look at
 6 knowledge, skills and assessments. And --
 7 Q Okay, subject to that clarification.
 8 A Right.
 9 Q Everything else stands; right? Now, when this
 10 study was done, who was primarily responsible for
 11 selecting the qualified individual for that
 12 position?
 13 A The Mayor's office.
 14 Q Do you know if the Department of Employment
 15 Relations was ever involved in the selection of the
 16 qualified individual?
 17 A No, we were not.
 18 Q No input was provided by --
 19 A No, we did not.
 20 Q And this document was signed by Mr. Jeffrey Hansen;
 21 is that correct?
 22 A That's correct.
 23 Q Did you actually work on the study of this
 24 particular position?
 25 A No, I did not.

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1 Q All right. The last page of at least this section
 2 that I showed you which forms part of Exhibit No. 1
 3 talks about summary of classification reports
 4 submitted for action on October 26, 1999. Are those
 5 the reports submitted pursuant to the study for the
 6 upgrading of that position that we just covered?
 7 A Upgrading of the vacant position, yes.
 8 Q That would have been the vacant position which was
 9 the subject of the study of October 26, 1999;
 10 correct?
 11 A Correct.
 12 Q Let me take a look at this. Do you recall or do you
 13 have any knowledge as to whether or not anyone
 14 interested in this position, I'm talking about the
 15 staff assistant to the Mayor senior, was ever
 16 referred to your office for a study or evaluation?
 17 A I am misunderstanding your question.
 18 Q What I'm saying is in addition to studying the
 19 requirements of that position --
 20 A Okay.
 21 Q -- did the Department of Employee Relations receive
 22 resumes' of potential candidates for this position?
 23 A No, we did not.
 24 Q Would that be out of the ordinary?
 25 A No.

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1 Q And one of the items includes the salary grade of
 2 the --
 3 A Right.
 4 Q -- Mayor senior assistant position; is that correct?
 5 A That's correct.
 6 Q It contains an attachment issued by Allan Weber
 7 recommending the upgrading of that position; is that
 8 correct?
 9 A Right.
 10 Q Then going back to the same job evaluation report
 11 conducted on that mayoral assistant senior position,
 12 by looking at that study report, are you able to
 13 tell me whether or not the study considered number
 14 of years on the job?
 15 A No. It was a study, not a job description.
 16 Q Do you know if that study included a determination
 17 of what, if any, academic accomplishments were
 18 required for that position?
 19 A In a study it's usually not identified in a job
 20 study.
 21 Q So that was not included?
 22 A No, it was not a part of the report.
 23 Q All right, very good. Let me show you another
 24 aspect of the documents that I received from your
 25 attorney which have now been marked as

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1 Q Sometimes you do receive resumes'?
 2 A Well, we have a civil service system.
 3 Q System. But this position was not a civil
 4 service --
 5 A It was an exempt position.
 6 Q Now, part of Exhibit 1, I think I have some sort of
 7 a duplicate, but it is a record that contains your
 8 name and your signature. Let me ask you to review
 9 that carefully and tell me if you recognize that
 10 record.
 11 MR. SCHRIMPF: For the record,
 12 we're talking about Bates stamp pages what
 13 through what?
 14 THE WITNESS: 20 through 25.
 15 Q Do you recognize that letter in front of you? Is
 16 that your signature?
 17 A Yes.
 18 Q And what's the subject matter involved in that
 19 letter?
 20 A After a position has been approved at the finance
 21 and personnel committee, we have to place it, update
 22 the position ordinance to include the positions.
 23 And this was just a letter to Mary Landowski
 24 indicating an administrative correction in regards
 25 to the files that were approved for that pay period.

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1 Exhibit No. 1.
 2 MR. SCHRIMPF: Bates stamp pages,
 3 please?
 4 THE WITNESS: 26 and 27.
 5 Q Can you identify for the record what that document
 6 purports to represent? I'm talking about the
 7 records that are before you which form part of
 8 Exhibit No. 1.
 9 A It's an actual copy of the job description which
 10 specifies the duties and responsibilities as well as
 11 the qualifications for the position that has been
 12 upgraded from a staff assistant to the Mayor, pay
 13 range seven, to a staff assistant to the Mayor
 14 senior pay range nine. And it's signed by
 15 Jeffrey Hansen, the director.
 16 Q Who would have been the person conducting that job
 17 evaluation, the one that is before you?
 18 A This is a job description.
 19 Q Job description. Who would have been the person or
 20 department responsible for preparing the job
 21 description?
 22 A The department.
 23 Q Of employment relations?
 24 A Develops -- no. The employing department provides
 25 us with the job description.

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1 Q And then the Department of Employment Relations
2 reviews the job description?
3 A Right.
4 Q For what purpose?
5 A For content and whether or not it meets what we
6 think appropriate.
7 Q Is the job description submitted to the Department
8 of Employment Relations to make sure that it's
9 consistent with the previous study done for the
10 position?
11 A No. It's to actually reflect what the
12 responsibilities of the position are.
13 Q But wasn't the purpose for the study to do that, to
14 study the responsibilities of the position?
15 A To study the current responsibilities and what the
16 increased responsibilities would be.
17 Q So going back to my previous question, what is the
18 objective of the Department of Employment Relations
19 when they receive a job description form like the
20 one that is before you? What is it that the
21 Department of Employment Relations is supposed to
22 do?
23 A We review it and make sure that based upon whatever
24 studies we've done, the duties and responsibilities
25 are accurately reflected in the job description.

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1 Q With the study?
2 A Well, we don't -- there's -- you don't have a study
3 every time, you know.
4 Q But in this particular case there was?
5 A In this particular case, yes.
6 Q And that's what the Department of Employment
7 Relations was attempting to do?
8 A Right.
9 Q Let me take a look at that. Who, if anyone,
10 conducted the review of the job description?
11 A I would think Allan Weber as a part of his study of
12 the position.
13 Q Is it fair and accurate to say based on these
14 records that this would have been a new position
15 open?
16 A It was a new position.
17 Q Did not exist before?
18 A Right.
19 Q To your knowledge, was this document approved as to
20 content?
21 A Yes. Jeff's signature is on it.
22 Q Jeff Hansen?
23 A Yes.
24 Q Let me direct your attention to this document which
25 you have identified as a job description. Under

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1 qualifications required, it outlines the specific
2 qualifications required for that position; correct?
3 A Correct.
4 Q Now, that aspect of qualifications does not in any
5 way identify any academic accomplishments; is that
6 correct?
7 A Correct.
8 Q Let me have that a second. Is the job description,
9 is the practice and policy of the City to have the
10 Department of Employee Relations review the job
11 description before they assign or appoint somebody
12 to the position?
13 A Yes.
14 Q This record which is identified as a job description
15 contains the name of a Patricia Geraghty; is that
16 correct?
17 A Correct.
18 Q Do you know who was eventually assigned to that
19 position?
20 A It looks like she's in the position, according to
21 this.
22 Q To your knowledge, do you know of any other records
23 which indicate that the Department of Employment
24 Relations had reviewed this job description before
25 Ms. Patricia Geraghty was assigned or appointed or

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1 identified in the job description?
2 A I don't think so.
3 Q This is the only one that you know exists?
4 A Right.
5 Q Do you know Mr. Patricia Geraghty?
6 A Yes, I do know her.
7 Q Do you know how long she had been working for the
8 City of Madison -- for the City of Milwaukee by the
9 time this position was approved?
10 A I think that's when she started. I'm not sure.
11 Q So she just came in into this position?
12 A That's what it looks like.
13 Q As a new employee?
14 A Right.
15 Q Do you recall whether or not the Department of
16 Employee Relations was ever furnished as the
17 Department of Employee Relations was reviewing the
18 job description and conducting the study, do you
19 know if the Department of Employee Relations was
20 ever furnished with Ms. Geraghty's resume?
21 A We would not -- that's not a part of the study.
22 Q You don't?
23 A No.
24 Q But in answer to my question is no; is that correct?
25 A No.

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1 Q All right. Very interesting.
2 (Discussion off the record)
3 Q Another document which belongs to this package that
4 I received from your attorneys contains an email
5 from Marilyn Figueroa to Mr. Allan Weber.
6 MR. SCHRIMPF: Bates stamp number?
7 THE WITNESS: 28.
8 Q Do you have any idea as to why Ms. Figueroa would be
9 communicating with Mr. Weber?
10 A Well, Al was the person who conducted the study. So
11 I would imagine that he had requested some
12 additional information as to what she did or what --
13 and this is what she's listed.
14 Q But correct me if I am wrong, but I believe your
15 prior sworn testimony was that during the study of
16 the position the employment relations -- the
17 employee relations department does not get involved
18 into job descriptions or job activities of the
19 employees?
20 A I think you misunderstood me.
21 Q I'm sure I did.
22 A Because when there is a job study done, we meet, we
23 sit down with representatives from the department as
24 well as the individual in those positions and
25 interview them.

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1 There's a job audit form that an individual
2 has to fill out as a part of the study. They do a
3 job, a JAQ, job analysis questionnaire, themselves,
4 the incumbent.
5 Q Do you know if anyone else was interviewed as part
6 of this study?
7 A I was not a part of that study. I don't know.
8 Q All right. By the way, did Mr. Weber ever report to
9 you anything related to the study?
10 A No, he didn't.
11 Q Mr. Hansen would be the person to talk to; is that
12 correct?
13 A That's correct.
14 Q Now, let me show you another document that is part
15 of Exhibit No. 1 and tell me what is the
16 significance of that record.
17 THE WITNESS: Oh, 29.
18 MR. SCHRIMPF: Bates stamp 29.
19 A It looks like a comparison of what Maria Rodriguez
20 did when she was a staff assistant in relationship
21 to what Marilyn Figueroa did as a staff assistant.
22 It looks like a comparison.
23 Q Did anyone ever tell you that Marilyn Figueroa was
24 interested in that staff assistant to the Mayor
25 senior position?

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1 A No.
2 Q No?
3 A They were studying a vacant position, a position
4 where there was no incumbent in it.
5 Q And this may be frustrating to you, but I just need
6 to know certain things.
7 A Oh, that's fine.
8 Q Let me show you another document that comes from
9 Exhibit No. 1 which was produced by your attorneys.
10 I want you to read it carefully.
11 MR. SCHRIMPF: Can you give us the
12 Bates stamp number, please?
13 THE WITNESS: I'm sorry, 032.
14 (Witness reading)
15 Q Have you ever seen the document before?
16 A No.
17 Q Let me approach you one more time. This record as I
18 understand comes from J. R. --
19 A Jim Rowen.
20 Q Jim Rowen. Who is Jim Rowen?
21 A At that time he was chief of staff.
22 Q And at that time meaning 7/13 of '99?
23 A Yes.
24 Q Just a few months before Marilyn Figueroa left; is
25 that correct?

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1 A I guess so, yeah.
2 Q And this document was sent to whom?
3 A Jeff Hansen.
4 Q And Jeff Hansen would have been the director of
5 employment relations?
6 A Yes.
7 Q Is that correct? And in this memo chief of staff
8 Jim Rowen notifies Mr. Jeffrey Hansen that he wants
9 to go ahead with a reclass for Marilyn's position?
10 A Correct.
11 Q Did I read that correctly?
12 A You read it correctly.
13 Q And then he continues and writes, "Can we call it
14 senior staff assistant to the Mayor, separating it
15 from the others." Did I read that correctly?
16 A You read it correctly.
17 Q Was he referring to that position that eventually
18 became grade nine to your knowledge?
19 A I don't know. It could be the same position.
20 Q I am talking about the one that was the subject of
21 the study.
22 A Okay. The confusion for me is this says "I want to
23 go ahead with a reclass for Marilyn's position."
24 The position that was studied was vacant.
25 Q I understand that.

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1 A Yeah. So I don't know.
 2 Q I know. Keep it there. We're not done. We're not
 3 done. We're not done. Mr. Rowen states in his
 4 notice to Mr. Hansen, okay, at the top --
 5 A Right.
 6 Q -- that he wants to go ahead and reclass Marilyn's
 7 position; true? The position that was reclassified
 8 was a vacant position; is that your testimony?
 9 A That's correct.
 10 Q It was a position with the exact same classification
 11 as Marilyn's position; true?
 12 A Correct.
 13 Q And he talks about wanting to give Ms. Figueroa the
 14 senior staff assistant position; is that correct?
 15 A That's correct.
 16 Q And he wrote that memo on 7/13/99 and the position,
 17 the only position that I know of and that I believe
 18 you know of that became staff assistant to the Mayor
 19 senior is the one that was subject to the study
 20 which was completed on December 9th, 1999; correct?
 21 A Well, just a little earlier than that, yeah.
 22 Q That is true. And that is the only senior position
 23 that you are aware of --
 24 A Yes.
 25 Q -- that exists within the Mayor's office; true?

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1 A Yes.
 2 Q And then at the bottom he writes, "This is to
 3 recognize Marilyn's substantial seniority over the
 4 other staff assistants and some additional duties."
 5 GER. Did I read that correctly?
 6 A Yes.
 7 MR. TOKUS: I think that's JER,
 8 counsel.
 9 MR. ARELLANO: JER. I stand
 10 corrected, Mr. Tokus.
 11 Q To your knowledge, to this date there's only one
 12 senior staff assistant to the Mayor; correct?
 13 A Correct.
 14 Q Do you know today what is the pay of that senior
 15 staff assistant?
 16 A I would think a nine.
 17 Q But nine --
 18 A Pay rate nine.
 19 Q Right. But what range?
 20 A Oh, I don't know because there have been contracts
 21 negotiated. I don't know what that --
 22 Q Are Mayor assistants subject to contract
 23 negotiations?
 24 A Well, management usually gets -- it's called ME TOO.
 25 We just get what --

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1 MR. ARELLANO: Here's what I
 2 request, counsel, unless you already provided
 3 this information, and I know that Barb right
 4 away gets ready here. I need an update of
 5 salary for the staff assistant to the Mayor
 6 senior, the grade nine position.
 7 MR. SCHRIMPF: Not a problem.
 8 Q Have you ever spoken to anyone, other than counsel,
 9 about the allegations that Marilyn Figueroa has
 10 filed against Mayor Norquist?
 11 A No.
 12 Q Before Marilyn Figueroa called you, did you know
 13 anything about her complaints against
 14 Mayor Norquist?
 15 A Didn't have a clue, no.
 16 Q Did you know anything about Mayor Norquist's version
 17 of the alleged relationship?
 18 A I was not knowledgeable of anything.
 19 (Exhibit No. 12 marked for
 20 identification).
 21 THE WITNESS: I don't see a number
 22 on here.
 23 Q I'm showing you, ma'am, what has been marked as
 24 Exhibit No. 12 to your deposition. Can you read
 25 this and then when you're done --

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1 A Out loud? Do you want me to read it out aloud?
 2 Q Out loud.
 3 MR. SCHRIMPF: Wait a minute. I'm
 4 going to object until we lay a foundation for
 5 this document.
 6 MR. ARELLANO: To read a document
 7 doesn't require foundation.
 8 Q Go ahead, ma'am.
 9 MR. SCHRIMPF: Well, where is this
 10 from? The record is --
 11 Q Just read it.
 12 MS. GARCIA: Soika's exhibits.
 13 MR. SCHRIMPF: I interpose a
 14 standing objection then.
 15 A It's a December 17th, 1998, "Per Jim Rowen, Marilyn
 16 should get six days of comp time to be used on
 17 December 21st, 22nd, 23rd, 28th, 29th and 30th.
 18 However, she is to make them up by working six
 19 additional weekends during 1999." It doesn't have
 20 who wrote this or anything. I mean --
 21 Q I understand. It says here per Jim Rowen?
 22 A Right.
 23 Q Is that correct?
 24 A That's what it says.
 25 Q And then it has some handwritten notations at the

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1 bottom; right?	1 MR. ARELLANO: Why don't we do the
2 A Right.	2 following if you don't object, counsel. Can
3 Q Do you recognize the penmanship at the bottom?	3 we stipulate to enclose the City of Milwaukee
4 A No.	4 internal discrimination harassment complaint
5 Q Assuming for a second that this is the directive	5 procedure that this witness claims she sent to
6 that Jim Rowen issued in 1998, which I understand	6 Ms. Figueroa as part of her attachment in her
7 was the time when he was the chief of staff for	7 January 5th, 2000 correspondence letter?
8 Mayor Norquist; correct?	8 MR. SCHRIMPF: We can so stipulate,
9 A Right.	9 but I'd like you to recite the number of pages
10 Q And he is allowing Marilyn Figueroa to take comp	10 of the procedure document.
11 time, based on the policies and procedures and	11 MR. ARELLANO: Which pages are you
12 practices of the City of Milwaukee, do you believe	12 referring to? There are no --
13 that it was his prerogative to provide comp time in	13 MR. SCHRIMPF: Yes, there's -- at
14 such manner if he so desired?	14 the bottom.
15 A I don't think it was comp time. It was probably	15 MR. ARELLANO: It's 1 through 5; is
16 flex time.	16 that right?
17 Q But my question is assuming that this is accurate --	17 MR. SCHRIMPF: That's fine. And we
18 A Hey, it's a departmental decision.	18 can so stipulate.
19 Q So he had the right to do that?	19 MR. ARELLANO: So now that we have
20 A Right.	20 incorporated this document, which you have
21 Q All right, very good. See, it wasn't that	21 identified as the document that you sent to
22 difficult.	22 Ms. Figueroa, as I understand, these are the
23 MR. SCHRIMPF: So the record is	23 complaint procedures and they come from
24 clear, I'm objecting to all that information.	24 Mr. Jeffrey Hansen, the director of employee
25 I have failed to see that there's any	25 relations and Florence Dukes, the assistant
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1 connection with this witness.	1 director which is you.
2 MR. ARELLANO: Noted. Before we go	2 A Yes.
3 off the record, any other objections?	3 Q Is that correct?
4 MR. SCHRIMPF: No. I think	4 A Yes.
5 Mr. Tokus, though, is going to make some more	5 Q And in this particular document, it allows the
6 noises.	6 employee the right to a meeting before filing a
7 MR. ARELLANO: I will await for the	7 written complaint?
8 additional records that pertain to the	8 A Right.
9 subpoenas that we sent to you. For X reason	9 Q Is that correct?
10 we find additional information, we will notify	10 A That's correct.
11 your attorneys and ask you to return for	11 Q And the meeting can be with the immediate supervisor
12 additional testimony.	12 unless the supervisor is the subject of the
13 MR. SCHRIMPF: Just off the record	13 allegations?
14 for a second.	14 A Right.
15 (Discussion off the record)	15 Q Correct? So in this case if Marilyn Figueroa was
16 Q On the record, review this attachment. Do you	16 filing a complaint against Mayor Norquist, she had
17 recognize that document, ma'am?	17 the option of not meeting with him with respect to
18 A Yes, I do.	18 this complaint; is that correct?
19 Q Is that a document that you also sent to	19 A He's not her immediate supervisor.
20 Ms. Figueroa with your letter of January 5th, 2000?	20 Q But it is clear that before filing the complaint
21 A Yes.	21 there are certain rules and procedures that the
22 Q Any other records that you may recall?	22 Department of Employment Relations is supposed to
23 A No. Those were the only ones.	23 abide by; is that correct?
24 Q Well now we've got to hold on because I want to see	24 A Right.
25 what you've got in here.	25 Q And then it says if the issues are not resolved at
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1 this level, or if the immediate supervisor is the
2 subject of the allegations, the complainant may file
3 a complaint directly with the DER, which is
4 Department of Employment Relations; right?
5 A Right.
6 Q Or with a complaint intake advisor, an elected
7 member of each departmental EEO advisory committee;
8 correct?
9 A Correct.
10 Q Is it fair and accurate to say that you never wrote
11 Marilyn Figueroa to give her an alternative name or
12 an alternative source where she could file her
13 discrimination complaint since you felt that the
14 Department of Employment Relations was not going to
15 investigate?
16 A No. I mean no. I provided her with the information
17 that she could read so that she would know what the
18 process was.
19 Q And I just want to make sure that you understand my
20 question. Once you became aware that she was going
21 to file a discrimination complaint, she was entitled
22 to a precomplaint meeting; is that correct?
23 A And I asked her if she wanted to meet with me. She
24 said no.
25 Q I understand that.

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1 STATE OF WISCONSIN)
2) ss.
3 COUNTY OF DANE)
4 I, TAUNIA NORTHOUSE, a Registered Diplomate Reporter
5 and Notary Public in and for the State of Wisconsin, do
6 hereby certify that the foregoing deposition was taken
7 before me at the offices of Murphy, Gillick, Wicht &
8 Prachthauser, Attorneys at Law, 330 East Kilbourn
9 Avenue, City of Milwaukee, County of Milwaukee, and
10 State of Wisconsin, on the 26th day of February 2002,
11 that it was taken at the request of the Complainant,
12 upon verbal interrogatories; that it was taken in
13 shorthand by me, a competent court reporter and
14 disinterested person, approved by all parties in
15 interest and thereafter converted to typewriting using
16 computer-aided transcription; that said deposition is a
17 true record of the deponent's testimony; that the
18 appearances were as shown on Page 3 of the deposition;
19 that the deposition was taken pursuant to notice and
20 subpoena duces tecum; that said FLORENCE DUKES before
21 examination was sworn by me to testify the truth, the
22 whole truth, and nothing but the truth relative to said
23 cause.

Dated March 9, 2002.

24
25 Registered Diplomate Reporter
Notary Public, State of Wisconsin
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1 A Right.
2 Q And it says that before filing a written complaint,
3 by that you understood that once you know that, the
4 protection triggers even before she files a written
5 complaint; correct?
6 A Right.
7 Q Before filing a complaint? Is that yes?
8 A I'm not understanding you.
9 Q What I'm saying is that once she notifies you that
10 she wants to file a complaint but before she files a
11 written complaint, she should be protected by the
12 rules and procedures of the department; correct?
13 A Right.
14 Q All right.

15 MR. ARELLANO: I think that's all I
16 have from this witness. And I reserve the
17 right to recall her should I discover
18 additional information or information which
19 contradicts her position. Thank you very much
20 for coming here, ma'am.

THE WITNESS: You're welcome.

(adjourning at 4:18 P.M.)

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