

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

MARILYN FIGUEROA,
Complainant,

-vs-

CITY OF MILWAUKEE,
Respondent.

ERD CASE NO.
CR200003454

VOLUME II

Videotape Deposition of:

MICHAEL SOIKA

Milwaukee, Wisconsin
February 8, 2002

Reporter: Peggy S. Christensen, RPR, CRR

REQUESTS

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VIDEOTAPE DEPOSITION of MICHAEL SOIKA,

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 Peggy S. Christensen, a
Registered Professional Reporter and Notary Public
in and for the State of Wisconsin, at the offices of
Murphy, Gillick, Wicht & Prachthausen, Attorneys at
Law, One Plaza East Tower, 330 East Kilbourn Avenue,
Suite 1200, City of Milwaukee, County of Milwaukee,
and State of Wisconsin, on the 8th day of February
2002, commencing at 9:10 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.

LEONARD A. TOKUS, Assistant City Attorney,
for CITY OF MILWAUKEE, OFFICE OF CITY ATTORNEY,
200 East Wells Street, Suite 800,
Milwaukee, Wisconsin, appearing on
behalf of the Respondent.

Also present: Marilyn Figueroa and Cheri Garcia
Emily Aurit (videographer)

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1 not Ms. Figueroa was returning to work?
2 A On the 5th?
3 Q At any point after January 4th.
4 A At any point between January 4th and --
5 Q Correct.
6 A -- forever?
7 Q Right.
8 A What you're asking me is when did I --
9 Q Hold on a second. If you don't understand my
10 question, let me know.
11 A Okay. Could you rephrase the question?
12 Q Yes. I just want to understand if there was a time
13 when someone notified you or did you talk to anyone,
14 did you inquire or investigate whether or not
15 Ms. Figueroa was returning to work. That's
16 basically what I want to know.
17 A Yeah. I don't know exactly the time frame. At some
18 point I did try to call Marilyn and say, what's
19 going on, are you coming back to work. It was a
20 short conversation as I had previously testified.
21 Q Do you know when you made that phone call?
22 A I have no idea.
23 Q Was it during the same week of January 4th? Was it
24 after?
25 A You know, I can't say. I really don't, don't

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1 remember.
2 Q You stated that you did make notes of your
3 discussions with Ms. Figueroa over the telephone.
4 A Right.
5 Q And I believe you also testified that you only spoke
6 to Ms. Figueroa once after January 4th.
7 A That's correct.
8 Q And you also stated that you kept those notes.
9 A Right.
10 Q And where are those notes?
11 A I believe they're in the City Attorney's office.
12 Q Did you bring those notes with you?
13 A No, I did not.
14 MR. ARELLANO: Counsel, how long
15 would it take for us to get those notes this
16 morning?
17 MR. TOKUS: As I sit here, I
18 have no idea where those notes are. I can
19 certainly -- we'll be happy to send them to you,
20 but I do not know of the location of those notes
21 as I sit here.
22 MR. ARELLANO: All right.
23 MR. TOKUS: They've never been in
24 my personal possession. That doesn't mean
25 they're not in my office. I have no knowledge of

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1 them at this point.
2 MR. ARELLANO: All right.
3 Madam Reporter, can you read back his last
4 answer as it relates to where those notes are?
5 (Last question and answer
6 read back)
7 Q When did you turn those notes to the City Attorney's
8 office?
9 A Well, first of all let's clarify, it's not those
10 notes; it's one page of legal pad.
11 Q Whatever notes you took related to the phone
12 conference you claim you had with Ms. Figueroa after
13 January 4th of 2000.
14 A I couldn't say when I turned it over. Sometime
15 after Marilyn had left.
16 Q Did somebody request those notes be turned over to
17 the attorney's office, district -- excuse me, the
18 legal attorney's office?
19 A No. I believe that I had provided them.
20 Q As far as notes that you have made in the course of
21 Marilyn Figueroa's departure from January 4th, 2000
22 to the present, what other notes have you maintained
23 regarding this case?
24 A There is roughly a handful of handwritten notes.
25 Q And where would those notes be kept, sir?

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1 A I have copies at my office. There are copies in the
2 City Attorney's office.
3 Q Other than the notes related to the telephone
4 conference that you claim you had with Marilyn
5 Figueroa after January 4th, what other types of
6 issues do you have in the notes that you just
7 identified this morning?
8 A Okay. As far as I can remember, there is a note of
9 a conversation with Jim Rowen in his capacity as
10 Deputy Director of the Department of Administration
11 regarding I believe it was a phone conversation
12 because I'm not -- as I looked at the note, I
13 couldn't draw up the context, but I believe it was a
14 phone conversation where he was volunteering that
15 the money to help with the Census had been acquired
16 and that he thought if we wanted he could have -- he
17 could find enough money to hire Marilyn. And the
18 reason I kept that note was that he had had a
19 conversation with Pedro Colon on that matter, and I
20 remember the note saying Colon had said that's not
21 likely.
22 Q Any other notes, sir?
23 A There is a note of a conversation that a staff
24 person had with -- a staff person in the Mayor's
25 office had with a staff person at the Development

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1 A Correct.
 2 Q And is there a reason why you did not produce those
 3 notes today, or for that matter on Wednesday when
 4 your first deposition was scheduled?
 5 A I conferred with the City Attorney and asked him if
 6 they thought these were documents that were covered
 7 under the subpoena and the answer was no.
 8 Q Was Mr. Langley present when this opinion was given
 9 to you?
 10 A No. I talked only to Bruce Schrimpf.
 11 Q Okay. What other documents do you recall disclosing
 12 which were -- have not been produced?
 13 A That's all I recall.
 14 Q Since Ms. Figueroa left her office on January 4th of
 15 2000, to your knowledge has anyone on behalf of the
 16 Mayor or the City of Milwaukee conducted an
 17 investigation on Marilyn Figueroa?
 18 A To my knowledge?
 19 Q Correct.
 20 A Is there an investigation?
 21 Q Correct.
 22 A You mean beyond what the City Attorney might be
 23 looking at?
 24 Q Correct.
 25 A Not to my knowledge.

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1 Q To your knowledge since January 4th of 2000 has
 2 anyone, including the Mayor and/or on behalf of the
 3 Mayor or the City of Milwaukee, hired any freelance
 4 reporters to write on Marilyn Figueroa or John
 5 Norquist?
 6 A I have no knowledge of such matter.
 7 Q To your knowledge has anyone, including the Mayor,
 8 had conducted any type of surveys since January 4th
 9 regarding how the Mayor has been affected by the
 10 Marilyn Figueroa dispute?
 11 A You mean like a poll?
 12 Q Correct.
 13 A I don't believe so.
 14 Q Have you seen any that may have been conducted just
 15 on that issue?
 16 A No.
 17 Q To your knowledge has anyone, including the Mayor or
 18 any member of his political campaign organization or
 19 any member of the Mayor's office or the City of
 20 Milwaukee, had conducted investigations of any of
 21 Marilyn Figueroa's friends?
 22 A No.
 23 Q Interviews of Marilyn Figueroa's friends?
 24 A Interviews of Marilyn's friends?
 25 Q Correct.

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1 A I have no idea of who the City Attorney's office has
 2 been interviewing in preparation for their
 3 deposition of Marilyn, but outside of that, I have
 4 no knowledge.
 5 Q To your knowledge has anyone from the City,
 6 including the attorney's office, conducted any
 7 interviews of any Mayor's office staff member?
 8 A Interview of Mayor's office staff members?
 9 Q Right.
 10 A Including the City Attorney?
 11 Q Correct.
 12 A Well, myself. I believe they've talked to Bill
 13 Christofferson.
 14 Q Anyone else?
 15 A You will have to ask them. Those are the only --
 16 Q I'm asking you, sir.
 17 A Right. Well, I --
 18 Q If you don't know, just let me know.
 19 A Okay.
 20 Q If you don't want to tell me, then I'll find out a
 21 way to find out.
 22 A I didn't say I didn't want to tell you.
 23 Q All right. Have you ever been present when any
 24 potential witness has been interviewed in relation
 25 to this case?

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1 A Yes.
 2 Q And why don't you provide me with a list of --
 3 A John Norquist.
 4 Q Anyone else?
 5 A No.
 6 Q Were you present when Mr. Christofferson was
 7 interviewed?
 8 A No.
 9 Q Has Ms. Susan Mudd been interviewed?
 10 A I don't know.
 11 Q To your knowledge has anyone from the City or
 12 Mayor's campaign organization or the Mayor's office
 13 conducted any interviews of any campaign
 14 organization members regarding the dispute between
 15 Norquist and Ms. Figueroa?
 16 A Did you include the City Attorney's office in that
 17 list?
 18 Q Correct.
 19 A I said the City Attorney's office talked to Bill
 20 Christofferson.
 21 Q Other than Mr. Christofferson, to your knowledge has
 22 anyone else been interviewed?
 23 A Possibly Barb Candy, but I don't know that.
 24 Q Since January 4th of the year 2000 have you seen any
 25 documents, reports, notes, memoranda related to any

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1 A I'm not -- no. My intent was to have the District
2 Attorney investigate him.
3 Q Are you disappointed that he did not press criminal
4 charges against Mr. Colon?
5 A Am I disappointed? I'm surprised.
6 Q You felt that Mr. Colon warranted some type of
7 prosecution for his conduct?
8 A Again, I'm not qualified to say that.
9 Q I didn't ask you for qualifications. I'm asking you
10 if you felt that Mr. Colon warranted some type of
11 criminal prosecution for his conduct.
12 A You're asking me to make a judgment that appears to
13 be a legal judgment that I'm not qualified to
14 answer.
15 Q After Mr. Feiss decided not to charge Mr. Colon
16 criminally, did you discuss that matter with
17 Mr. Norquist?
18 A Yes.
19 Q And what was his reaction to Mr. Feiss' decision not
20 to charge Mr. Colon?
21 A Surprised.
22 Q Did he express a desire to have Mr. Colon criminally
23 prosecuted?
24 A Again, you use the word criminally prosecuted. I
25 can't remember us ever saying anything like that.

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1 Q When Mr. Norquist acted surprised, what did he say
2 that led you to believe he was surprised?
3 A That the activity that we were bringing to Feiss
4 seemed to be out of the ordinary and worthy of
5 investigation.
6 Q When you spoke to Mr. Norquist over Mr. Feiss'
7 decision not to prosecute Mr. Colon, who if anyone
8 else was present besides you?
9 A I have no idea. I don't recall if it was a
10 conversation I had with the Mayor or if it was a
11 conversation that we had as a group of people. I
12 don't know.
13 Q I counted the number of times you responded during
14 your last deposition that you don't recall to
15 certain specific questions, and here again let me
16 ask you this, are you under the influence of
17 anything that may impair your ability to recall --
18 A No.
19 Q -- or remember? You are not?
20 A I am not.
21 Q You're not taking any medication?
22 A No, I'm not.
23 Q Did you ever discuss with Mr. Christofferson the
24 decision of District Attorney Feiss not to prosecute
25 Mr. Colon?

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1 A I'm sure I did.
2 Q Do you recall what if anything Mr. Christofferson
3 said?
4 A I really don't recall specific conversations. I
5 recall kind of having conversations. There has been
6 so many conversations over the last two years and so
7 many documents, it's hard to segment, you know, who
8 said what, when, where.
9 Q You testified that in the year 2000 there were many
10 strategy meetings to deal with the Marilyn Figueroa
11 problem.
12 A Correct.
13 Q Correct? And you identified during that period of
14 time, in the year 2000 when these meetings were
15 held, you identified among the participants in these
16 strategy meetings Mr. Norquist; correct?
17 A Correct.
18 Q Yourself?
19 A Correct.
20 Q Mr. Christofferson?
21 A Correct.
22 Q Correct? Ms. Susan Mudd; correct?
23 A Correct. I'm not sure she attended all of them
24 but --
25 Q But she was a participant?

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1 A She was a participant, right.
2 Q Okay. Did you miss anybody else that --
3 A Sure, Anne Shindell.
4 Q Ms. Shindell. As I understand at some point
5 Ms. Shindell stopped representing Mr. Norquist?
6 A Correct.
7 Q Correct? Do you recall approximately when that
8 occurred?
9 A You know, I -- no. It was fall of 2001. I really,
10 I'm not sure.
11 Q You also included the office of the District
12 Attorney as participating in some of those meetings
13 in the year 2000.
14 A I never said that.
15 Q Well, the record will speak for itself.
16 A The record will never say I said the District
17 Attorney was part of the meetings.
18 Q Yeah, well, since you like to debate so much, I
19 don't think that the record will debate with you
20 this time, so let's move on.
21 A The answer is the City Attorney.
22 Q All right. The City Attorney.
23 A Yes.
24 Q Thank you. You stated that the City Attorney's
25 office was also involved in these strategy meetings

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1 don't know whether or not he had recommended him.
 2 Q All right. You were explaining or disclosing to me
 3 the number of people that participated in the
 4 strategy meetings after January 4 related to the
 5 Figueroa situation.
 6 Other than Mr. Christofferson, Mr. Soika,
 7 Mr. Norquist, the City Attorney's office,
 8 Mrs. Norquist, anyone else that you believe
 9 participated at any point for any period of time in
 10 any of those meetings?
 11 A There was one other person that we brought in right
 12 before the Mayor made his public announcement. That
 13 was Jeff Gillis. G-i-l-l-i-s, I believe.
 14 Q And who -- At that point who was Jeff Gillis? What
 15 did he do?
 16 A Jeff Gillis in the past was a member of the Mayor's
 17 staff. He occasionally works on campaigns. He was
 18 also working on the Mayor's last reelection
 19 campaign.
 20 Q Is he still to your knowledge a member of the
 21 Mayor's campaign organization?
 22 A Well, the Mayor doesn't have a campaign organization
 23 now other than a fundraiser.
 24 Q Is Mr. Gillis in any way still doing business with
 25 the Mayor, if you know?

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1 A Yes.
 2 Q Has he ever been an employee of the City of
 3 Milwaukee?
 4 A Yes; he was. He was a member of the Mayor's staff
 5 at one point.
 6 Q To your knowledge did he ever supervise Ms. Figueroa
 7 in any capacity?
 8 A His title was policy director, so he would not have
 9 been her supervisor.
 10 Q And do you recall how many meetings Mr. Gillis
 11 attended? And I'm talking about the strategy
 12 meetings to deal with the Figueroa problem.
 13 A Gillis was really brought in to help with the media
 14 part of the public announcement. Specifically at
 15 some point Christofferson was going on a vacation
 16 and we needed somebody outside of the office who
 17 could do that.
 18 Q Was Christofferson pretty much leading the strategy
 19 meetings?
 20 A I wouldn't say anybody led them. They were general
 21 discussions.
 22 Q Well, was anyone coordinating these meetings?
 23 A Not really.
 24 Q Who would schedule the meetings?
 25 A I think it would happen as needed. I don't think

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1 any one person would schedule them.
 2 Q Where did these meetings take place, Mr. Soika?
 3 A Sometimes at Shindell's office; sometimes at
 4 Christofferson's home.
 5 Q Any other place?
 6 A Those are the only ones I remember.
 7 Q Were there any meetings ever held at Mr. Norquist's
 8 residence?
 9 A I don't believe so. None that I was present at.
 10 Q Were any of these strategy meetings ever held at
 11 City Hall?
 12 A Yes.
 13 Q Where?
 14 A Either my office or the Mayor's office. Excuse me.
 15 I don't -- Those meetings would have been myself,
 16 Christofferson and/or Gillis.
 17 Q When these meetings were held at City Hall, did the
 18 City legal attorneys participate in any of them to
 19 your knowledge?
 20 A No.
 21 Q When these strategy meetings were taking place was
 22 Ruth Wyttenbach present?
 23 A No.
 24 Q At any point?
 25 A Never.

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1 Q And given that you don't remember how many meetings
 2 there were, did anyone keep any notes of any kind
 3 during those meetings?
 4 A I don't -- I can't speak for others. I did not.
 5 I'm assuming that Anne may have in her capacity as
 6 an attorney.
 7 Q Was Ms. Anne Shindell at every single meeting?
 8 A No.
 9 Q Was she ever a participant in some of the meetings
 10 that took place at City Hall?
 11 A Only on -- with a meeting where Anne and the City
 12 Attorney were dealing with some issue. I don't
 13 remember what it was.
 14 Q You testified -- strike that. Have you cited or
 15 disclosed for me all of the individuals you believed
 16 participated in any of the strategy meetings in the
 17 year 2000 and 2001?
 18 A Yes.
 19 Q All right. And is it your sworn testimony that you
 20 never made any notes of any of those meetings?
 21 A Yes.
 22 Q And is it your testimony that you never made any
 23 notes during any of the meetings that you have
 24 disclosed so far?
 25 A The only notes I would have made were of things that

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1 A I did review Ms. Figueroa's file. I believe it was
2 after we had a request from one of the news media to
3 see it.
4 Q Did you report your review, the review that you
5 conducted on Ms. Figueroa's file, to the strategy
6 group that you have identified?
7 A Did I report to the group, no. Did I say, geez,
8 there is nothing in there, probably.
9 Q Is that what you said, there is nothing in there?
10 A I said probably.
11 Q I'm kind of confused about your last answer.
12 MR. ARELLANO: Can you read my last
13 question and his last answer, please?
14 (Last two questions and answers
15 read)
16 Q So you believe that it's probable that you reported
17 to them that there was nothing in Marilyn's files?
18 A The difficulty I have is when you talk about report.
19 Q Okay, share. Let's talk about the word share.
20 A Yes, I feel better about that.
21 Q Okay. You feel that at some point during the
22 strategy meetings you shared your findings with the
23 group by saying that you didn't find anything in
24 there?
25 A Right.

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1 Q Is that right? During any of these strategy
2 meetings that you have identified here during your
3 two days of deposition, day and a half to be more
4 precise, did you undertake the task of interviewing
5 any other staff member from the Mayor's office?
6 A No.
7 Q Do you know -- Other than the City Attorney, do you
8 know if anyone did on behalf --
9 A Yeah, I don't know.
10 Q -- of the Mayor? Okay. After January 4th do you
11 have any knowledge as to whether any staff member
12 employee volunteered any information in any fashion
13 related to Marilyn Figueroa?
14 A There was a -- yes.
15 Q Who would that have been?
16 A Michael Miller.
17 Q And who is Michael Miller?
18 A He was a staff assistant to the Mayor's office.
19 Q And what is your knowledge as far as to what
20 Mr. Miller volunteered regarding Ms. Figueroa?
21 A He came in my office and started to tell me that he
22 had lunch with Marilyn on or around January 4th. I
23 stopped him and said, you know, I don't want to have
24 this conversation.
25 Q Tell me specifically, what did he relate to you

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1 other than what you just put on the record?
2 A He said that he had lunched with Marilyn, and I
3 believe her brother, and that she was complaining
4 about the office.
5 Q Was that before January 4th or after?
6 A It was after.
7 Q After January 4th?
8 A (Nodding)
9 Q Okay.
10 COURT REPORTER: I need you to
11 answer out loud rather than nod.
12 THE WITNESS: I'm sorry.
13 A My conversation with him was after January 4th.
14 Q Have you stated on the record everything you recall
15 that was related to you by Mr. Miller, Michael
16 Miller --
17 A Yes.
18 Q -- regarding Ms. Figueroa?
19 A Yes.
20 Q Anyone else from the Mayor's staff that may have
21 volunteered any type of information regarding
22 Ms. Figueroa?
23 A I think you need to narrow, you need to narrow that
24 question for me.
25 Q Okay. After June 4th, after Ms. Figueroa left --

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1 MS. GARCIA: January.
2 Q Excuse me, January --
3 MR. ARELLANO: See, you are slow.
4 That's all right.
5 MR. TOKUS: The morning is getting
6 late.
7 MR. ARELLANO: All right.
8 Q After January 4th, 2000, after Marilyn left her
9 office, did anyone from the Mayor's staff, including
10 the Mayor, ever volunteer any type of information
11 regarding Marilyn?
12 A There was a lot of conversation regarding Marilyn.
13 Q Okay. Involving staff members?
14 A Yes.
15 Q Okay. We'll start, how many staff members were
16 there after January 4th?
17 A How many staff members do we have in the Mayor's
18 office?
19 Q Correct.
20 A Approximately 15.
21 Q Okay. And were there any other individuals outside
22 the Mayor's office who volunteered any type of
23 information, statements, comments, rumors, gossip
24 related to Marilyn Figueroa after January 4th, 2000?
25 A I just testified previously there was June Moberly,

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1 Mayor and Ms. Figueroa?
2 A No.
3 Q Any type of romantic involvement?
4 A No.
5 Q All right. You mentioned that some of the issues
6 that were discussed before the Mayor became public
7 had to do with job dissatisfaction on the part of
8 Ms. Figueroa.
9 A Ms. Figueroa's allegation, yes.
10 Q All right. Did you learn of this alleged job
11 dissatisfaction before Ms. Figueroa left on
12 January 4th?
13 A Yes.
14 Q Okay. And did these discussions about Marilyn's job
15 dissatisfaction continue after January 4th?
16 A The discussions of Marilyn's alleg -- version of job
17 dissatisfaction, yes.
18 Q All right. Did Marilyn ever discuss with you
19 anything related to an affair or romantic
20 involvement with the Mayor before the Mayor became
21 public?
22 A Never.
23 Q Did Marilyn ever discuss with you any job
24 dissatisfaction before January 4th of 2000?
25 A Yes.

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1 Q I'm sure that if you didn't understand it, I can
2 rephrase it for you.
3 A Your question is testify on behalf of Marilyn
4 Figueroa. I would rather answer testify as part of
5 a witness, because I'm not sure they're the same
6 thing.
7 Q I just want you to tell me, who did you disclose in
8 response to the City Attorney's concerns,
9 specifically with respect to who you believed could
10 be identified as possibly testifying on behalf of
11 Ms. Figueroa.
12 A Kimberly Pratt; Michael Miller because I knew that
13 he and she were close; Sherry Street because I had
14 seen an e-mail between Marilyn and Sherry that
15 showed that they may have been close.
16 Q Anyone else?
17 A Linda Valesco, who was the Mayor's security guard at
18 one point, and I recognized that there were frequent
19 conversations between she and Marilyn.
20 Q Anyone else?
21 A Steve Taylor and Roland Perry because they were both
22 asked to leave the Mayor's office.
23 Q Steve Taylor and who else?
24 A Roland Perry.
25 Q Anyone else?

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1 Q All right. Now, when the strategy group -- Can I
2 identify it as the strategy group?
3 A Sure.
4 Q Involving the people that you have identified that
5 met in order to deal with the Figueroa problem,
6 okay. When the strategy group was meeting, were you
7 ever assigned or did you volunteer to look for
8 potential witnesses that may provide information
9 about Marilyn Figueroa?
10 A I was asked by the City attorneys to identify people
11 that might either help or would be witnesses for the
12 other side.
13 Q For the other side meaning for Ms. Figueroa?
14 A Correct.
15 Q And did you do that?
16 A That's a good question.
17 Q Well --
18 A Yeah, I believe I did.
19 Q Okay. And who did you identify as a witness that
20 would testify on behalf of Ms. Figueroa?
21 A Kimberly Pratt.
22 Q Anyone else?
23 A Let me rephr -- Can I rephrase your question?
24 Q No.
25 A Okay.

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1 A That's all I can remember.
2 Q To your knowledge did anyone from the City,
3 including the City Attorney's office, the Mayor's
4 office or any member of the City of Milwaukee, ever
5 interview any of these individuals that you just
6 cited here today on the record?
7 A Yeah, I can't say who the City Attorney has
8 interviewed. I know of no one outside the City
9 Attorney's office that would have interviewed these
10 people.
11 Q Do you have any knowledge as to whether anyone ever
12 interviewed Ms. Linda Valesco with respect to --
13 A I have no knowledge.
14 Q -- this matter?
15 A No.
16 Q What about Kimberly Pratt, do you know if anyone has
17 interviewed Ms. Pratt?
18 A From the City Attorney's office?
19 Q Or from any body or department representing the
20 City.
21 A I suspect that Kimberly Pratt was one of the
22 anonymous witnesses in the Hearing Examiner's
23 inquiry.
24 Q My question is do you know if anyone from the City
25 Attorney's office or your office, the Mayor's

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1 following: Judge, I issued a subpoena to this
2 witness, and he has testified during the first
3 day of his deposition that he did receive the
4 Notice of Deposition and the Subpoena Duces Tecum
5 which contains an extensive request for
6 production of records, and I bring to the Court's
7 attention that at least under Request No. 1,
8 among the many things that we requested included
9 notes, job descriptions, performance reviews,
10 records of any kind, telephone messages and the
11 like.

12 This witness has testified under oath that
13 he has kept certain notes and that he handed
14 those notes to legal counsel. Those notes have
15 not been produced. I will, after covering other
16 records, request that this witness be given --
17 how much time do you need, sir, half hour, 20
18 minutes, ten minutes, two minutes?

19 THE WITNESS: 45 minutes.

20 MR. ARELLANO: Well, 45 minutes,
21 it's too much.

22 THE WITNESS: A half --

23 MR. ARELLANO: 30 minutes will be
24 fine.

25 THE WITNESS: 30 minutes, right.

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1 MR. ARELLANO: And again, I'd
2 request -- before I file a Motion to Compel that
3 those records be produced, I'd request that you
4 make a thorough, conscientious, good faith effort
5 to find every record that you have related in any
6 way, shape or form to Marilyn Figueroa, John
7 Norquist or any person or issue related to this
8 matter. Is that fair?

9 THE WITNESS: That's fair. The
10 only caveat I would have is the one original
11 record that is in the City Attorney's office.
12 Mr. Schimpf would have to do that. I'm not sure
13 we can find him and get that.

14 MR. ARELLANO: Well, I want you to
15 identify which records you believe shall be
16 reviewed by counsel before you disclose them, but
17 I don't want to take a lot of time to be
18 searching for records that should have been
19 produced.

20 Q Now, I also requested that you bring personnel
21 files.

22 A Correct.

23 Q Did you produce those personnel files?

24 A No.

25 Q Any files?

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1 A I produced a box of files.

2 Q Did you produce the file of Ms. Marilyn Figueroa?

3 A I have that, yes.

4 Q All right. Can I see that file?

5 (Witness handed documents to

6 Attorney Arellano)

7 A Is there one copy or two there?

8 Q You tell me.

9 A I think I asked them to make two, one for you and
10 one for the City Attorney. I believe there is only
11 one here. Did you want the rubber band?

12 Q Yes.

13 MR. ARELLANO: Let me ask you to
14 mark Exhibit -- Where are we as far as exhibits?

15 COURT REPORTER: I believe 24.

16 MR. ARELLANO: Okay, 24.

17 (Exhibit No. 24 marked
18 for identification)

19 Q Let me direct your attention to Exhibit 24, sir.

20 Can you please describe for the record what
21 Exhibit 24 purports to represent?

22 A This is a -- I believe it's a copy of Marilyn's
23 personnel file.

24 Q And how did you obtain that file, sir?

25 A I asked Pat Stawicki to make a copy of it.

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1 Q Where was this file kept?

2 A In the file where all of the personnel files are
3 kept, in the banker's files in the Mayor's office.

4 Q And who compiled this file for you, if anyone?

5 A I believe it was Pat Stawicki.

6 Q And was -- Did you review the file before bringing
7 it here today?

8 A I did not.

9 Q To your knowledge, based on your previous reviews
10 that you have described this morning, have you ever
11 removed any aspects of Marilyn Figueroa's personnel
12 file?

13 A No.

14 Q Did you find any medical records in the personnel
15 file the first time you reviewed such file?

16 A Medical records such as --

17 Q Any kind of medical record.

18 A -- health, signing up for healthcare. There may
19 have been something in there about -- I don't
20 remember what was in the file. The only medical
21 stuff I remember was the application for healthcare.

22 Q If you did disclose, and I'm not saying you did
23 because you don't seem to recall, if you did
24 disclose any medical records belonging to Marilyn
25 Figueroa, did you or anyone from the City ever

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1 the staff assignment transfer that we gave you two
2 days ago.
3 Vacation/sick leave. The last time I had
4 mentioned a block grant file that I keep at my desk.
5 There is a copy for you. The -- I can't remember
6 why it's called the VO. The visual organizational
7 index for the years requested, the positions and the
8 pay rates, copies.
9 Telephone numbers. The last time we did not
10 have the phone numbers all completed. They are
11 completed. That's it.
12 Q All right. Let me ask you some questions with
13 respect to the records that you have produced today.
14 The time cards that you have produced, these time
15 cards pertain to every member of the Mayor's office?
16 A The only reason I'm hesitating is I'm not sure that
17 we included the secretarial staff. It would be the
18 professional staff.
19 Q Okay. And when you say professional staff, that
20 would mean all of the aids to Mayor Norquist?
21 A Correct.
22 Q Is what correct?
23 A Yes.
24 Q Would that also include Mayor Norquist's time?
25 A No.

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1 Q Why is it that you did not produce Mayor Norquist's
2 time cards?
3 A I don't think the Mayor actually does time cards.
4 Q Did you inquire as to whether or not there is any
5 type of time keeping record for the Mayor?
6 A No, I did not, but I would be happy to do that.
7 Q Please do that. That's another little task that I
8 ask you to undertake.
9 (Exhibit No. 25 marked
10 for identification)
11 Q With respect to the time cards for each individual,
12 to your knowledge was any document or record removed
13 in any manner?
14 A I doubt. I simply asked the support staff to give
15 us all the copies from the originals, and I'm pretty
16 confident that's what they did.
17 Q Do these records include the sign-in sheet
18 maintained by Ms. Delaney?
19 A That sign-in sheet is kept only on a temporary
20 basis, so it wouldn't have covered the time period
21 that you have.
22 Q When you say for a temporary basis, how much period
23 of time are we talking about?
24 A I asked Ms. Delaney that. She says we keep those
25 for three or four weeks and then throw them away.

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1 Q Who is responsible for throwing them away?
2 A I assumed Ms. Delaney.
3 Q All right. Now I am marking time cards. Again,
4 similar to my previous question, are these time
5 cards for all of the staff assistants to the Mayor?
6 A I believe so.
7 Q Do they include the Mayor's time cards?
8 A I don't know. I don't believe so.
9 Q Well, who keeps track of the Mayor's activities?
10 A Activities?
11 Q Correct.
12 A The Mayor's schedule?
13 Q Correct.
14 A Ruth Wyttenbach.
15 Q Have you produced those records?
16 A The Mayor's schedule?
17 Q Correct.
18 A We have produced the Mayor's calendars for you last
19 time.
20 Q Okay. Is there any other way to keep track of the
21 Mayor's time and/or activities other than by
22 maintaining a schedule as the one that you just
23 referenced here this morning?
24 A Ruth keeps pretty much a draft schedule that she
25 keeps at her desk and then she updates it to the

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1 hard copy which we gave you.
2 Q All right.
3 MR. ARELLANO: Please mark this.
4 (Exhibit No. 26 marked
5 for identification)
6 Q You also produced time cards for the year 2000, and
7 I notice that Ms. Delaney's time cards are also
8 included here.
9 A Oh, okay, then we did produce the secretaries.
10 Q And the time cards that you have produced here also
11 pertain to the Mayor's assistants?
12 A I believe so.
13 Q And again, are the Mayor's time cards in any way
14 included in here?
15 A I can't tell you that. I don't know.
16 Q Did you review any of these records before bringing
17 them in here, sir?
18 A No. I got them 15 minutes before I got here.
19 Q Okay.
20 MR. ARELLANO: Let's mark this.
21 (Exhibit No. 27 marked
22 for identification)
23 Q Now let me show you, sir, another set of records
24 that you produced which you have identified or
25 somebody has identified as vacation/sick leave, item

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1 A I'm sorry, a City-issued cell phone to me.
 2 Q And have you ever billed the City of Milwaukee for
 3 your cellular phone statements?
 4 A No.
 5 Q All right. Another record that I believe you
 6 produced today are the telephone numbers for
 7 Mr. Norquist; is that correct?
 8 A Correct.
 9 Q How did you obtain those telephone numbers, sir?
 10 A I asked Ms. Stawicki to produce them.
 11 Q Do you know where she got those phone numbers?
 12 A I do not.
 13 Q Let me see it.
 14 MR. ARELLANO: Let's mark this.
 15 (Exhibit No. 29 marked
 16 for identification)
 17 Q You also produced records pertaining to the block
 18 grants; is that correct?
 19 A Correct.
 20 Q What period of time -- I'm sorry -- are we covering
 21 here?
 22 A At our last encounter you had asked for block grant
 23 records. Assistant City Attorney Bruce Schimpf
 24 said they were being compiled by the block grant
 25 office.

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1 Q Okay.
 2 A You asked me if I had records. I said I only keep
 3 kind of the current issues at my desk. This is what
 4 I produced, the one that was at my desk.
 5 Q So that would be for the period of what year?
 6 A 2001, 2002. It's an allocation summary.
 7 Q Who if anyone would keep block grant records for
 8 years '98 through 2000?
 9 A The block grant office.
 10 Q And who would that --
 11 A The director is Juanita Hawkins.
 12 Q All right.
 13 MR. TOKUS: Excuse me, Counsel, a
 14 point of information. Can I get where we are
 15 currently in terms of what exhibits have been
 16 marked and the numbers?
 17 MR. ARELLANO: Mr. Tokus, we are on
 18 Exhibit 29, and we're about to mark Exhibit 30.
 19 MR. TOKUS: Okay. Thank you.
 20 MR. ARELLANO: Absolutely.
 21 (Exhibit No. 30 marked
 22 for identification)
 23 Q Is there a reason why you did not produce records
 24 for the years '95 through 2000, sir? And I'm
 25 talking about block grant records.

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1 A We don't keep those records.
 2 MR. ARELLANO: Counsel, I request
 3 that the block grant records for 1995 through
 4 2000 be produced pursuant to our various requests
 5 that we have made of the respondent, City of
 6 Milwaukee. You can tell me later on what your
 7 position will be, hopefully today.
 8 Q All right. You also produced the VOI reports; is
 9 that correct?
 10 A Correct.
 11 Q Tell me, sir, educate me on City matters. What is
 12 VOI? What does that stand for?
 13 A I can't remember either. I think it's visual
 14 organizational --
 15 MR. TOKUS: Inventory I think.
 16 A Inventory, thank you. I was going to say index.
 17 Q It's looks more like a visual punishment.
 18 A It's City bureaucracy.
 19 Q What's the purpose of these records?
 20 A I believe it's an annual basis the City produces a
 21 record of every employee, what their salary grade
 22 is. You requested that from the Mayor's office for
 23 various years, so the face page is who was employed
 24 and their salary grade. The following pages would
 25 be what those salary grades would be.

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1 Q Do the assistants to the Mayor, the staff assistants
 2 to the Mayor, fall within the salary classifications
 3 contained in this report that you produced today?
 4 A Yes.
 5 MR. ARELLANO: Okay. Let's mark
 6 that as well.
 7 (Exhibit No. 31 marked
 8 for identification)
 9 Q Can I have that back?
 10 (Witness handed document to
 11 Attorney Arellano)
 12 Q All right. After Ms. Figueroa left the City of
 13 Milwaukee employment, has anyone replaced her in her
 14 previous position?
 15 A Yes and no. We downsized the Mayor's office so
 16 we're short I believe it's a position and a quarter
 17 or a position and a half, but there have been people
 18 hired to do the same job, yes.
 19 Q Who in your view has been assigned to do the work
 20 that Ms. Figueroa was doing before she left?
 21 A Daisy Cubias.
 22 Q Is Ms. Cubias' name -- I see a Daisy here. Is that
 23 Daisy Cubias?
 24 A Yeah. There might be one -- let me see it. There
 25 are several years here. Yes, that would be Daisy.

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1 thing that he has are items that Mr. Schriepf had
2 already advised him were not responsive to the
3 subpoena.
4 MR. ARELLANO: Did you produce
5 those records, Mr. Tokus?
6 MR. TOKUS: No.
7 MR. ARELLANO: Well, what records
8 do you believe are not subject to the subpoena?
9 MR. TOKUS: That was the advice
10 that he had when he determined that he would not
11 produce them in the first instance, so you may
12 feel free to interrogate him about it to the
13 extent of his knowledge but he's already been
14 advised that the material that he had in mind was
15 not responsive.
16 MR. ARELLANO: And what I
17 understand you're telling us, I don't
18 necessarily -- well, I shouldn't put it that way.
19 I'm not so much interested in what Mr. Soika
20 thinks regarding the records and the requirement
21 to produce them. What I want to understand is is
22 it the position of the City of Milwaukee that
23 those records will not be produced?
24 MR. TOKUS: I think that would
25 simplify it, yes.

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1 MR. ARELLANO: Okay. And on what
2 basis are those records not being produced?
3 MR. TOKUS: They are not responsive
4 to the subpoena.
5 MR. ARELLANO: Just so Judge Lewent
6 can make an educated decision on your refusal to
7 provide those records or produce them, in what
8 manner do you believe those records are not
9 required to be produced?
10 MR. TOKUS: They are not responsive
11 to any item on the subpoena, and that's about as
12 far as I can go as far as specificity.
13 Q Mr. Soika, you took 45 minutes to go and find
14 records that counsel is objecting and not producing
15 pursuant to such objection. Which records did you
16 review during the 45 minutes?
17 A They were the records that we discussed previously,
18 my handwritten comments of conversations, the ones I
19 fairly well detailed.
20 Q Conversations with Marilyn Figueroa?
21 A No.
22 Q Well, one of the records that we requested were the
23 notes that you made, you state you made after having
24 contact with Marilyn Figueroa; correct?
25 A That was the note, it's on a legal pad piece of

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1 paper, the original of which is in the City
2 Attorney's office. I have no copy.
3 Q Okay. And are you producing that document?
4 A I don't have a copy of it.
5 MR. ARELLANO: Counsel, is that one
6 of the documents that you believe is not going to
7 be produced today?
8 MR. TOKUS: Correct.
9 Q What other record did you review during the 45
10 minutes that you took for the purposes of reviewing
11 and bringing those records here today, sir?
12 A I talked to Pat Stawicki about the Mayor's time
13 cards and vacation schedule and whatnot. Her
14 comment was that the Mayor has not been keeping time
15 cards since the new computer system was instituted
16 in the City; however, that prior to she believed '99
17 the Mayor did produce time cards and those were
18 copied and are included in the packet we provided
19 this morning.
20 Q Mr. Soika, I'm referring to the records that you
21 reviewed which counsel has taken the position that
22 they will not be produced. Did you review the notes
23 of your conversation with Marilyn Figueroa?
24 A I did not review that.
25 Q But that was one of the records that you were

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1 supposed to bring; correct?
2 A Yes.
3 Q All right. The notes of your --
4 A Excuse me.
5 MR. TOKUS: Excuse me, Counsel,
6 just a point of clarification. In terms of you
7 were supposed to bring, you're speaking of what
8 you wanted from the witness before lunch, is that
9 clear, as opposed to what was demanded by the
10 subpoena? That's the distinction I want to make.
11 MR. ARELLANO: Well, I don't think
12 there is any distinction, but --
13 MR. TOKUS: Okay.
14 MR. ARELLANO: -- I'll move on
15 here.
16 MR. TOKUS: Sure.
17 Q The comments that you wrote after talking to Marilyn
18 Figueroa --
19 MR. TOKUS: You're shaking your
20 head there.
21 A Yes, I'm listening.
22 Q -- in January of 2000, at what point did you make
23 those notes?
24 A I'm not sure. I would not have made that note as I
25 was talking to her. It would have been on a piece

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1 Q All right. And after you had your telephone
2 conference with Marilyn Figueroa after January 4th
3 of 2000, where did you keep those notes?
4 A I had a file at my desk that was just a manila
5 folder with a piece of paper in it and I kept that
6 in my desk credenza, desk drawer.
7 Q Was that a file that pertained to Marilyn Figueroa?
8 A It was a file with that piece of paper on it.
9 Q Did you have any other items in there other than the
10 items that you just --
11 A No.
12 Q -- described here today?
13 A No.
14 Q And you kept that file in your desk for how long?
15 A I don't know when I started it. I kept it.
16 Whenever the City Attorney, more specifically
17 whenever Bruce Schimpf got involved in the case, I
18 remember turning it over to him. So I don't know
19 what that time period would be. Likely at the first
20 filing that I believe you did.
21 Q So is it your testimony that you kept those notes in
22 your desk until Marilyn Figueroa filed some legal
23 claim?
24 A Yes.
25 Q Is that correct? At which point you turned them

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1 over to legal counsel?
2 A Correct.
3 Q Is that correct? Did you ever provide those notes
4 to Ms. Shindell?
5 A No.
6 Q And you would agree with me, would you not, that
7 those notes would have pertained to one of your
8 subordinates, Marilyn Figueroa?
9 A Yes.
10 Q Which would have belonged to Marilyn Figueroa's
11 file; true?
12 MR. TOKUS: Objection. I don't
13 think that characterizes what he just said.
14 Q Go ahead, sir.
15 A No, I don't see it as part of our personnel file.
16 Her personnel file was keeping her official record
17 of days off and vacations. I wanted to make sure
18 that I had a running record of what that looked
19 like.
20 Q All right. You also stated that you kept notes on
21 other issues related to Marilyn Figueroa that came
22 from conversations you had with other individuals?
23 A Correct.
24 Q Correct? Where did you keep those notes?
25 A I kept them in a spiral bound notebook.

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1 Q And I suspect you kept them because they related to
2 Ms. Figueroa?
3 A Yes.
4 Q Did you ever keep notes on any other employee,
5 assistants to the Mayor?
6 A I keep a spiral bound notebook with me all the time,
7 and I use it for notes as I deem necessary. So
8 there would likely be conversations with other
9 people, meetings with other people.
10 Q Where is that spiral bound notebook?
11 A It's actually a bank of them. It's in my home.
12 Q Have you provided copies of that bound book to legal
13 counsel?
14 A I provided the copies of the documents that I
15 thought related to this matter to them and that was
16 what they said was, they deemed was not responsive
17 to the deposition.
18 Q All right. All of the notes that you identified or
19 described before we took the 45 minutes time that
20 you requested, all of the notes would have been kept
21 in that bound book?
22 A There is a series of books.
23 Q And those books would be also kept at your home?
24 A Right. As they get old, I keep them, they're at my
25 home.

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1 Q You testified previously that all of those notes
2 that you identified earlier this morning were
3 submitted to counsel; correct?
4 A Copies, correct.
5 Q All right. Do you have a copy of your subpoena with
6 you?
7 A Yes.
8 Q Let's go to Request No. 1.
9 A Okay.
10 Q This request demands that you produce not only the
11 certified file of Marilyn Figueroa but in the second
12 sentence of this first paragraph, Request No. 1,
13 states that you are required to produce all the
14 official and unofficial records maintained anywhere
15 within City government.
16 MR. TOKUS: Objection, Counsel. I
17 object to the form of the question. That does
18 not say what the sentence says. The sentence
19 limits itself to personnel files.
20 Q Did you understand this, personnel files requested
21 herein for each individual shall include but is not
22 limited to official and unofficial records
23 maintained anywhere within City government? Did I
24 read that correctly?
25 A Yes, you did.

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1 A Partially.
2 Q What other funding sources did you have?
3 A A variety of grant dollars. We also ran a couple of
4 businesses, so we had some money that came from the
5 businesses.
6 Q And before that?
7 A Before that I worked for the Archdiocese of
8 Milwaukee.
9 Q What did you do there?
10 A My title was associate director, Office of Social
11 Concerns.
12 Q What was the nature of your work?
13 A I was primarily a lobbyist on poverty issues at the
14 state level.
15 Q So you lobbied for money, funding?
16 A No, no, no. On social issues. I would have lobbied
17 against punitive welfare reform issues, would have
18 lobbied for child care for low income individuals,
19 et cetera.
20 Q How long did you work for this?
21 A About seven years I think.
22 Q So that would have been --
23 A '84 I think.
24 Q -- '84 through '91?
25 A Right.

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1 Q Okay. And before that where did you work?
2 A I worked at the Wisconsin Environmental Network.
3 Wait a minute. Right before that I worked at that
4 organization we discussed previously where there was
5 a job action that I can't disclose.
6 Q The job that led to a confidential settlement, how
7 long did you work there?
8 A Four, maybe five months.
9 Q And the previous position with the Wisconsin
10 Environmental Network?
11 A I was the executive director.
12 Q And how long did you work there?
13 A About a year.
14 Q All right. Were you ever asked to it resign in any
15 of these jobs that you cited?
16 A Asked to resign?
17 Q Correct.
18 A Yes.
19 Q Which ones?
20 A The Assisi one.
21 Q What was the nature of your resignation?
22 A I don't understand the question.
23 Q Why were you asked to resign?
24 A Well, two primary reasons. The person who brought
25 me to the organization had suffered a debilitating

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1 stroke. He was the vision of the organization, and
2 when he left I became at loggerheads on what the
3 direction of the organization should be.
4 Q What was the name of this person?
5 A Bob Makowski.
6 Q What reasons did they give you for requesting your
7 resignation?
8 A We weren't getting along.
9 Q Any other job where you may have been asked to
10 resign?
11 A Well, the one job action that I talked about. I was
12 technically fired there.
13 Q What reasons did they provide for your resignation?
14 A That they provided, they gave me no reason.
15 Q You were just terminated?
16 A Yes.
17 Q Okay. Any other place where you were either fired
18 and/or involuntarily terminated or asked you to
19 resign?
20 A The Environmental Decade. They did not like the
21 idea that I was organizing a statewide environmental
22 coalition which became the Environmental Network.
23 Q You're talking about the Wisconsin Environmental
24 Network?
25 A No, I worked at the Decade before I worked at the

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1 Environmental Network.
2 Q What was the specific title of that employer?
3 A Wisconsin Environmental Decade.
4 Q How long did you work there?
5 A I got there in '82, so about a year I would say.
6 Q A year. And again, let me clarify this, were you
7 asked to resign or were you fired? Actually there
8 is --
9 A Well, it was kind of neither. What I was doing in
10 my capacity at the Environmental Decade, I saw my
11 job as organizing the environmental movement of
12 Wisconsin, to bring a lot of groups together for
13 collective action, and we were moving down that road
14 with these collective agencies gaining a sense of
15 identity. The Environmental Decade wanted me only
16 to work on Environmental Decade issues, and what
17 they said is, listen, if you want to start this
18 Environmental Network, we'll help you do that. You
19 can have the equipment that you have, you can have
20 the office, you can have all of your files, but
21 maybe we should part way.
22 Q So are you telling me that it was a
23 mutually-agreeable decision that you would be
24 separated from --
25 A Relatively so.

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1 A I think that the materials that I read that I
2 referred to at block grant covered sexual
3 harassment.
4 Q Are you referring to the City policy on sexual
5 harassment?
6 A Yeah. I believe so.
7 Q Okay. Have you ever attended any workshop,
8 conference, talks, public functions where sexual
9 harassment may have been disclosed?
10 A I don't recall that.
11 Q Have you attended any type of training in the areas
12 of battered women, abused women?
13 A No.
14 Q You have I believe stated on the record that you
15 have been divorced?
16 A Correct.
17 Q And remarried?
18 A Yes.
19 Q
20
21 A
22 Q
23 A
24
25

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1
2 Q
3
4 A
5
6
7 Q
8 A
9
10
11 Q All right. Now, when you became the Chief of
12 Staff -- well, let's start with your position as a
13 block grant director. I believe that's what you
14 said.
15 A Right.
16 Q Okay. That would have been late Nineties, '98, I
17 believe?
18 A Beginning March '98.
19 Q All right. At that time were you given any
20 supervisory training of any kind?
21 A No.
22 Q Were you responsible for supervision of employees?
23 A Yes.
24 Q How many?
25 A About 15 I believe.

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1 Q Did you have any assistant director working under
2 you?
3 A Yes.
4 Q Who was that?
5 A Juanita Hawkins.
6 Q Do you know how long Ms. Hawkins had been working
7 for the block grant department before you arrived?
8 A More than twenty years.
9 Q To your knowledge before you came on board do you
10 know if she ever applied or requested to be assigned
11 to the block grant directorship position?
12 A I do not know.
13 Q Is Juanita Hawkins an Afro-American person?
14 A African-American, yes.
15 Q Is that correct? To your knowledge has she ever
16 filed any type of discrimination complaints?
17 A Not to my knowledge.
18 Q Okay. To your knowledge when was she given the
19 directorship position of the block grant department?
20 A When I left.
21 MR. TOKUS: Excuse me?
22 THE WITNESS: When I left.
23 Q And who if anyone appointed her to that position?
24 A The Mayor appoints.
25 Q What if any input did you have in the appointment of

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1 Ms. Juanita Hawkins to the position of block grant
2 director?
3 A I had recommended Juanita.
4 Q While you were the director of the block grant area,
5 were you required to conduct performance reviews of
6 your employees?
7 A Required? I don't know if I was required.
8 Q Did you conduct any performance reviews?
9 A That's why I'm scratching my head here. I'm not
10 sure that I -- I may have, but I don't remember.
11 Q Did you know if Ms. Hawkins may have conducted any
12 performance reviews?
13 A Ms. Hawkins likely did. She actually oversaw what
14 was termed the monitoring staff, it's the staff --
15 Q All right. Just, I don't work for a City and I
16 never did, but if I understand what you're telling
17 me, Ms. Hawkins was the immediate supervisor of the
18 staff?
19 A Half the staff.
20 Q Half the staff.
21 A Well, more than half, three-quarters.
22 Q Tell me how the structure worked.
23 A Okay. I created the position of Deputy Assistant
24 Director, or whatever the title is, and promoted
25 Ms. Hawkins into that. Prior to that her title was

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1 Q Was it also after you had met with Ms. Shindell and
2 Mr. Christofferson to discuss Marilyn Figueroa?
3 A It could have been. I'm not sure.
4 Q Well, you met with Ms. Shindell immediately after
5 Mr. Norquist disclosed to you his sexual contact
6 with Figueroa; isn't that true?
7 A I didn't say immediately. I think within five,
8 seven days. I'm not sure.
9 Q Is it your testimony that the first meeting you held
10 with Ms. Shindell in which Mr. Norquist was present
11 would have been six or seven days after Ms. Figueroa
12 left? And I don't want to dictate this?
13 A No, no, no.
14 Q I just want you to tell me what's the chronology
15 here.
16 A It would have been, there is this period, is it the
17 5th, is it the 6th, it's probably not the 7th, but
18 it's in those days that I had the conversation with
19 the Mayor about his affair with Marilyn. It was
20 also in those days that clearly Marilyn hadn't been
21 reporting to work. She hadn't been there all week
22 after the 4th.
23 Q Right.
24 A So it would have -- within that time frame. From is
25 it the 5th, is it the 6th, I'm not sure.

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1 Q Well, --
2 A I'm not sure what the date is that --
3 Q How soon -- After the Mayor disclosed his sexual
4 exchanges with Figueroa, how soon did you meet with
5 Ms. Shindell to --
6 A Less than a week.
7 Q Okay. At what point did you contact the Department
8 of Employment Relations, before you met with
9 Ms. Shindell or after?
10 A I don't know. It could have been either.
11 Q At what point did you call the Department of
12 Employment Relations, before you spoke to Marilyn
13 Figueroa or after, after January 4th, 2000?
14 A It would have been after January 4th.
15 Q So you called the Department of Employment Relations
16 after you spoke with Ms. Figueroa over the phone?
17 A In that very short conversation.
18 Q Is that correct?
19 A Yes.
20 Q All right. After you spoke to Marilyn Figueroa
21 after June 4th, that phone conversation that you
22 have identified.
23 MR. TOKUS: January, Counsel.
24 Q January.
25 MR. ARELLANO: I don't know why I

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1 like June. It's the summer, but I do want you to
2 keep reminding me because this chronology is
3 important. Thank you.
4 MR. TOKUS: You've given me a
5 purpose in life.
6 Q As a result of your conversation with Ms. Figueroa,
7 did you write everything that was discussed with
8 Ms. Figueroa, did you write it down on that paper?
9 A No, no.
10 Q Are there things on that paper that you wrote that
11 you didn't write down that you remember? In other
12 words --
13 A I wrote down the gist of the conversation.
14 Q Okay. Do you remember anything else beyond what you
15 wrote in the document?
16 A No.
17 Q All right. When you spoke to Marilyn Figueroa, you
18 obviously already had had contact with Ms. Shindell;
19 correct?
20 A I didn't say that. I don't recollect.
21 Q I'm asking you.
22 A I don't recollect that.
23 Q You obviously had had contact with Mr. Norquist?
24 A Correct.
25 Q True? And you obviously had already known about

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1 Mr. Norquist's disclosure of his sexual contact with
2 Ms. Figueroa; correct?
3 A Correct.
4 Q You obviously had already known that Marilyn
5 Figueroa had gone to the Department of Employment
6 Relations to obtain a discrimination form; correct?
7 A Correct.
8 Q All right.
9 MR. TOKUS: Objection, Counsel.
10 Object to the form of the question. I don't
11 think he indicated that she went to the
12 department.
13 MR. ARELLANO: Okay. Counsel, you
14 know, I have never had the joy of working with
15 you.
16 MR. TOKUS: I can understand that.
17 MR. ARELLANO: But I would prefer
18 that you just register your objection in a
19 lawyer-like manner and not engage in
20 characterizing what was said, and I understand
21 your objection and I think that the record will
22 be protected. Thank you.
23 MR. TOKUS: I think it has been
24 thus far, Counsel.
25 MR. ARELLANO: All right. Thank

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1 the Department of Employment Relations regarding
2 Marilyn Figueroa in January of the year 2000?
3 A Well, absolutely because that would have been, you
4 know, January 5th, 6th or something like that. Let
5 me -- I'm hesitating.
6 Q I am the one who wants to understand this
7 chronology. I know eventually you want to tell us a
8 lot of things.
9 The first contact was specifically related to
10 notifying you that Marilyn had gone to obtain a
11 discrimination form?
12 A Had called to obtain, yes.
13 Q All right. Who from the employment relations
14 department called you?
15 A I'm remembering Flo Dukes, but it might have been
16 Jeff.
17 Q Jeff, what's the last name?
18 A Hanson.
19 Q And Jeff is the director?
20 A Right.
21 Q Was that the very first time in the year 2000 that
22 someone from the Department of Employment Relations
23 had called you with respect to Marilyn Figueroa?
24 A I believe so.
25 Q All right. When was the very next time that you had

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1 any contact with the Department of Employment
2 Relations regarding Ms. Figueroa?
3 A It would have been sometime between that first
4 contact and the 14th of January.
5 Q All right. Was the very next contact after the
6 first call, was that when the meeting took place
7 between you, Florence Dukes and Mr. Hanes (sic)?
8 A Hanson.
9 Q Hanson, okay.
10 A It would have been probably. It would have been a
11 phone call to say, I want to come up and talk to
12 you.
13 Q During the first call of the year 2000 when they
14 notified you with Marilyn's desire to obtain a
15 discrimination form, was there anything else
16 discussed between these individuals and you
17 regarding Marilyn Figueroa, other than telling you
18 that she was interested in obtaining a
19 discrimination complaint form?
20 A In the meeting that I had to talk about what are the
21 parameters and how do I deal with this?
22 Q Correct. No, no, I'm talking about the first
23 contact that they made with you where they notified
24 you that Marilyn had called requesting a complaint,
25 a discrimination complaint form.

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1 A Right, right, okay.
2 Q At that time did they discuss anything else with
3 you?
4 A Yes.
5 Q What else did they discuss?
6 A What they had said was they had had some contact
7 with Marilyn previously, I believe it was regarding
8 her request to reclassify her position, and that
9 because of the contact or its context, I'm not sure,
10 they might not be able to investigate the matter and
11 may have to recommend an outside investigation.
12 Q Anything else?
13 A I believe that is it.
14 Q Okay. Now, the very second -- the next, second
15 contact would have been when you held a meeting with
16 them before the 14th; correct?
17 A Again, I'm assuming there was a meeting. It could
18 have been handled over the phone. I'm not sure.
19 Q The second contact, who initiated the second
20 contact?
21 A I would have.
22 Q Okay. What was the nature of your call or contact?
23 A Marilyn is not coming in, she's not calling in, what
24 do I have to do...
25 Q And again, who was present when you were discussing

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1 these matters?
2 A Well, if it was a phone call, it would have been
3 either to Hanson or Dukes. If it was a meeting, it
4 would have been likely both of them.
5 Q Was there -- was there a meeting at any point?
6 A You know --
7 Q You don't recall?
8 A I don't.
9 Q That's one other thing you don't?
10 A I really don't. I meet with them often on personnel
11 issues.
12 Q Okay. But nevertheless, you do recall discussing
13 Marilyn Figueroa and the fact that she was not
14 coming to work?
15 A Right.
16 Q Is that correct? Do you recall approximately when
17 the second meeting may have occurred?
18 A No, I don't.
19 Q Obviously the second meeting or the second contact
20 would have been before, did you say January 14?
21 A Right.
22 Q All right. And any -- what if anything did you get
23 out of your discussion with the Department of
24 Employment Relations regarding Marilyn's
25 absenteeism?

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1 admitted, but that was all the information that we
2 were given.
3 Q Subsequent -- Other than Ruth Wytenbach, do you
4 know of anyone employed by the City of Milwaukee,
5 including the Mayor's office, who may have had any
6 contact with Ms. Figueroa while she was in the
7 hospital?
8 A While she was in the hospital?
9 Q Correct.
10 A No.
11 Q Do you know for how long Ms. Figueroa was
12 hospitalized?
13 A I do not.
14 Q Did you ever inquire?
15 A No.
16 Q Okay. When you learned that Ms. Figueroa had been
17 hospitalized, did you discuss that fact with the
18 Mayor?
19 A Yes.
20 Q Tell me the nature of your discussion regarding
21 Ms. Figueroa's hospitalization.
22 A I would have related to him the conversation that
23 Ruth had and the fact that Ruth had tried to call to
24 verify that Marilyn was indeed in the hospital, what
25 Ruth found out.

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1 Q What if anything did the Mayor say?
2 A I don't recall.
3 Q As I understand, at some point after Marilyn was
4 hospitalized I believe you testified that a relative
5 of Marilyn Figueroa's called Ruth Wytenbach?
6 A Correct.
7 Q And do you know when that call was made?
8 A January 19th.
9 Q All right. And as I understand, based on your prior
10 testimony, the relative of Ms. Figueroa happened to
11 be her sister?
12 A Said it was her sister, right.
13 Q
14
15
16 A
17 Q
18 A
19
20
21 Q By the time this information came to you -- by the
22 way, did Ruth inform you of this phone call the very
23 same day that the call came in?
24 A Yes.
25 Q Is that right? Before that call came in, did you

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1 know that Marilyn had been hospitalized?
2 A No.
3 Q Did you learn by virtue of this telephone call?
4 A Yes.
5 Q Okay. When this call came in, did there come a time
6 when you learned where Marilyn Figueroa had been
7 hospitalized?
8 A Yes.
9 Q And where was that?
10 A I can't remember.
11 Q All right.
12 A I'm not sure.
13 Q When did you learn where she had been hospitalized?
14 A I don't know how Ruth figured it out, but she called
15 the hospital.
16 Q When Ruth conveyed the message to you that Marilyn's
17 sister had called and allegedly made the comments
18 you made, how did she convey that message to you?
19 A Actually I was at lunch and she called me at lunch
20 and said, you have to come here now, and I did.
21 Then she told me verbally once I arrived that she
22 had received this phone call.
23 Q Was anyone present when Ruth conveyed that message
24 to you?
25 A I don't believe so, but I'm not sure.

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1 Q Were you having lunch with the Mayor --
2 A No.
3 Q
4
5
6
7 A Well, I don't know. It would have depended on
8 whether the Mayor was in the office or out of the
9 office. If he was out of the office, I would have
10 waited for him to come back. If he was in the
11 office, I would have waited until his appointment
12 with whomever he was with was over.
13 Q So is it fair to assume that as soon as you saw the
14 Mayor the next time, you would have --
15 A Right.
16 Q -- reported to him this incident?
17 A Right. That would be what I would likely do.
18 Q What exactly did you tell the Mayor with respect to
19 that phone call?
20 A Again, I don't remember the exact conversation.
21 What I would normally do is report so it was like
22 this is what we've got, this is the situation.
23 Q What did he say in response?
24 A I don't know, I mean.
25 Q Your conversation with Ms. Ruth Wytenbach regarding

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1 date of the letter was February 2nd.
 2 Q Was there any other correspondence after
 3 February 2nd to Ms. Figueroa?
 4 A I don't know if -- yes, there would have been
 5 correspondence on reporters requesting documents.
 6 Q I'm talking about any other correspondence regarding
 7 her employment with the City of Milwaukee after
 8 February the 2nd.
 9 A Other than the routine of where is your phone and
 10 those kinds of things, I don't believe so.
 11 Q All right. At what specific point -- strike that.
 12 When you issued the letter of voluntary quit, I
 13 suspect you consulted with the Mayor before doing
 14 that?
 15 A I'm not sure.
 16 Q Well, was the Mayor apprised of the fact that you
 17 were going to terminate an employee?
 18 A Yes. The Mayor was apprised that my understanding
 19 was that Marilyn had until X date, I think it was
 20 before the 2nd but we processed on the 2nd, had
 21 until X date to produce a doctor's excuse. If she
 22 didn't, then I was definitely going to proceed and
 23 process a voluntary quit.
 24 Q Well, my question is did the Mayor know that you
 25 were going to terminate Ms. Figueroa?

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1 A Yes.
 2 Q All right. At what point did he learn that you were
 3 going to terminate Ms. Figueroa?
 4 A He knew that if she did not provide the
 5 documentation within the prescribed time that I was
 6 going to terminate her.
 7 Q Okay. How soon -- Before you issued the
 8 February 2nd, 2000 termination, if that's when you
 9 sent it, how soon before that did you discuss the
 10 fact that you were planning to terminate
 11 Ms. Figueroa with Mr. Norquist?
 12 A I was not planning to terminate Ms. Figueroa.
 13 Q Well, before you issued the letter that eventually
 14 led to terminating her employment.
 15 A I had informed the Mayor that if Marilyn doesn't
 16 provide the documentation that I was going to
 17 terminate her, and I had done that, informing the
 18 Mayor, January 14th, before January 14th, I don't
 19 know when I actually just calculated the days, but
 20 when I calculated the days, that's when I told him.
 21 Q On February the 2nd, just before you decided to
 22 issue the letter, did you confirm with the Mayor
 23 that you were in fact going to send the letter
 24 terminating her employment?
 25 A I don't remember if I said, Mayor, you know, if I

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1 held up a letter and said, Mayor, here it is, I'm
 2 sending it out.
 3 Q Irregardless of how you did it.
 4 A I don't remember doing that at all.
 5 Q Do you remember notifying him in some fashion,
 6 regardless of how you did it, that you were going to
 7 terminate her employment?
 8 A I've said that twice, yes.
 9 Q Okay. Did you do that on February 2nd when you did
 10 it? Did you actually notify him, I have issued the
 11 letter?
 12 A Probably, yes.
 13 Q All right. Did he at any point tell you that you
 14 were not to terminate Ms. Figueroa?
 15 A No.
 16 Q All right. You testified that there were several
 17 meetings, strategy meetings after the Mayor
 18 disclosed his sexual contact with a subordinate,
 19 Ms. Figueroa. Was the subject of terminating
 20 Marilyn Figueroa ever raised during any of those
 21 meetings?
 22 A Yes.
 23 Q Was the decision that you made to issue the
 24 termination letter addressed at any of those
 25 meetings?

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1 A Yes.
 2 Q When that decision was made, was Mr. Christofferson
 3 present?
 4 A I don't remember the particular meeting so I can't
 5 say.
 6 Q Well, who of the group working on the strategy
 7 meetings was present?
 8 A You're asking me to remember two years ago when a
 9 specific meeting was held and a specific subject was
 10 discussed.
 11 Q Mr. Soika --
 12 A I cannot do that.
 13 Q Mr. Soika --
 14 MR. TOKUS: Counsel, will you let
 15 the witness finish his answer before you begin
 16 another question, please.
 17 Q Mr. Soika, I understand your job quite well. This
 18 is different. I'm not asking you to do anything
 19 other than tell me what you remember.
 20 A I'm trying to do that.
 21 Q All right. I understand your job is to debate and
 22 deal with difficult people, but right here I just
 23 want you to tell me what you know, okay, and if you
 24 don't, just tell me, I don't. No need to get
 25 debatable here.

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1 discrimination complaint form, how was that contact
2 made?
3 A It was made -- a phone call was sent to the Mayor's
4 office. I was in a meeting. I was asked to come
5 out of the meeting, as I recall.
6 Q What was the nature of the message?
7 A I don't remember but it was enough to say that I
8 have to go upstairs and meet with Jeff and Flo.
9 Q And again, would it have been the very first time
10 that the Department of Employment Relations wanted
11 to discuss anything related to Marilyn Figueroa;
12 correct?
13 A Yes.
14 Q Is that correct? And again, did you meet with these
15 folks?
16 A I remember talking to Flo Dukes because she had the
17 contact with Marilyn. I'm assuming Jeff was there,
18 but I'm not sure.
19 Q What was Flo Dukes' position at the time?
20 A Deputy Director, Department of Employee Relations.
21 Q Up to that point had you already -- strike that.
22 What was the nature of the discussion with Flo
23 Dukes?
24 A For the third time --
25 Q Well, the reason why I keep asking you, sir, is

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1 sufficient for them to say that because of that
2 maybe they would have to take it outside of DER to
3 investigate the matter if there indeed was something
4 filed. The result was to say, fine, you have to do
5 what you have to do and follow standard procedure.
6 Q Anything else?
7 A That's all I remember.
8 Q Obviously based on your previous testimony you
9 concluded that Marilyn Figueroa was at least
10 intending to file a discrimination complaint;
11 correct?
12 A No, I think you -- Could you please restate that for
13 me?
14 Q No, my question to you is based on your discussion
15 with Flo Dukes regarding Marilyn's request for an
16 EEOC complaint, which is what I understand you
17 learned.
18 A Right.
19 Q Did that lead you to conclude that Marilyn was at
20 least exploring a discrimination complaint against
21 the Mayor's office?
22 A Yes.
23 Q All right.
24 A Excuse me. I remembered one other item that Flo had
25 said.

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1 because you're like a moving target in my view.
2 A I'm sorry. I think I've been very consistent.
3 Q Well, you either make it a contact via phone, then
4 you make it a meeting, you keep switching, and that
5 is why I keep chasing you, so just tell me for the
6 third time if that's what you think, what
7 specifically did Flo Dukes say to you with respect
8 to Marilyn Figueroa?
9 A For the record, I received a phone call and then I
10 went upstairs so it wasn't a moving target.
11 Q All right. You went upstairs and you met with --
12 A And for the third time I'm recounting this
13 conversation with Flo Dukes.
14 Q Okay. What was the nature of your conversation?
15 A She received a phone call from Marilyn. Marilyn had
16 requested an EEOC or whatever the form is, EEO form.
17 Flo had recommended that she come in and talk about
18 it because that's her standard practice. Marilyn
19 refused. Flo had then volunteered that she would
20 mail the form to Marilyn, which she subsequently
21 did.
22 Q Anything else?
23 A Flo informed me that she and Jeff had had previous
24 conversation with Marilyn. And again, I don't know
25 what the content or context of that was but it was

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1 Q See, that's what I'm talking about. Tell me
2 everything you remember.
3 A I'm sure it was in the other record.
4 Q Go ahead.
5 A That the complaint, Marilyn said the complaint would
6 be or was against the Mayor and the office is what I
7 remember.
8 Q Now have you told me everything that they related to
9 you with respect to Marilyn's intention to file a
10 complaint?
11 A That I remember, yes.
12 Q Did Flo Dukes or anyone explain to you why they felt
13 that Marilyn should go outside the City?
14 A Yeah. My understanding is that Marilyn had been, in
15 my term, agitating about having her job reclassified
16 so she could get a higher pay.
17 Q Okay, I understand that that is the position you
18 want to espouse here.
19 A No, but I'm trying --
20 Q What I want you to tell me -- Sir, hold on. Hold
21 on. I know you --
22 A You interrupted me, and I'm sorry.
23 Q No, no, I'm not. I am telling you that you continue
24 to be nonresponsive because you're so eager to
25 inject your own position and my question to you is

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1 Q And I believe you also testified that you disclosed
2 this information to your staff as well?
3 A Correct.
4 Q At what point did you disclose this information to
5 the staff?
6 A It would have been -- Because the staff was all at
7 our Friday staff meeting, it would have been
8 whatever that Friday date was.
9 Q What did you say at that point?
10 A I'm not sure. I would have said probably that we've
11 learned that Marilyn has taken out forms, EEOC forms
12 and might be filing a complaint.
13 Q Did you mean by that a discrimination complaint of
14 some type?
15 A Yes.
16 Q Did you in any -- did you say anything beyond that?
17 A That's all I remember.
18 Q Did you at any point convey to them what type of
19 discrimination complaint she was intending to file?
20 A That's all I remember.
21 Q Up to that point you didn't know what kind of
22 discrimination complaint she was going to file;
23 correct?
24 A Absolutely right.
25 Q All right. Did anyone make any comments in response

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1 to your disclosure?
2 A I don't recall.
3 Q When you spoke to Flo Dukes about Marilyn's
4 intention to file a discrimination complaint, did
5 she at any point request that you maintain that
6 information private or confidential?
7 A I don't recall that. If she had, I would probably
8 not have shared it with the staff.
9 Q So she never instructed you not to disclose that
10 information to the Mayor?
11 A Again, I said I don't recall that.
12 Q All right.
13 A Given that there is no complaint filed though.
14 Q
15
16
17
18
19
20
21
22 A
23 Q At that point did you bring this information to any
24 of the strategy meetings that were being held during
25 that month of January?

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1 A Again, I'm not sure that there was a strategy
2 meeting during that time period.
3 Q Or did you bring it to the attention of anybody
4 other than the Mayor?
5 A I would have called Bill Christofferson. I would
6 have called Anne Shindell.
7 Q Do you recall what Ms. Shindell said with respect to
8 the claim made by, allegedly made by Marilyn's
9 sister?
10 A No, I don't.
11 Q What about Mr. Christofferson?
12 A I don't.
13 Q What about Mr. Norquist, what did he -- I understand
14 based on your prior testimony that you notified
15 him --
16 A Uh-huh.
17 Q -- that Marilyn's sister had called and made that
18 statement.
19 A Right.
20 Q What if any was his response?
21 A I don't remember.
22 Q Did he direct you to do anything as a result of that
23 phone call?
24 A No. I don't remember him doing that.
25 Q Did you provide Ms. Shindell with a copy of the

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1 written statement that you directed Ruth Wytenbach
2 to prepare?
3 A I don't believe so.
4 Q Did you provide a copy of that written statement to
5 Mayor Norquist?
6 A No, I don't think so.
7 Q You don't recall that one. Do you recall whether or
8 not Mr. Norquist requested to see the written
9 statement that Ruth Wytenbach prepared as a result
10 of that phone call?
11 A Yeah, again, I don't recall. It would have been
12 enough that I reported to him.
13 Q That phone call would have come sometime in January,
14 correct, of 2000?
15 A Well, January 19th is what Ruth wrote down.
16 Q All right. Other than notifying the Mayor,
17 Ms. Shindell, Mr. Christofferson, did you inform or
18 notify anybody else?
19 A I notified security.
20 Q Who did you talk to?
21 A I can't remember who the lead security officer was
22 at the time because we were just -- it was either
23 Conrad Zavara or his predecessor whose name I don't
24 recall right now.
25 Q Did you provide a copy of the written statement to

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1 MR. TOKUS: I'm going to object at
2 this point. He's told you why he has a
3 difficulty with your questions. It's that
4 simple.

5 MR. ARELLANO: Either you direct
6 him not to answer or he's got to answer,
7 Mr. Tokus. I don't really enjoy -- I don't mean
8 to be rude with you --

9 MR. TOKUS: Well --

10 MR. ARELLANO: Hold on, let me
11 finish.

12 MR. TOKUS: Well --

13 MR. ARELLANO: Let me finish.

14 MR. TOKUS: Tell me when you've
15 finished.

16 MR. ARELLANO: I really don't mean
17 to offend you, but I really don't enjoy a lot of
18 exchanges with you but I just want --

19 MR. TOKUS: I don't enjoy being
20 lectured by you.

21 MR. ARELLANO: I'm not. I'm giving
22 you my position. Just tell me, are you directing
23 this witness not to answer?

24 MR. TOKUS: I am not directing him
25 not to answer. I am directing you to inform him

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1 so that he can answer you.

2 MR. ARELLANO: I just want you to
3 answer my question, sir, and if anyone is going
4 to object here, obviously you probably understand
5 it's your counsel.

6 THE WITNESS: Go ahead.

7 MR. ARELLANO: Can you please read
8 that very last question?

9 (Following question read: "Well, I
10 just want you to tell me whether
11 or not the Mayor told you when he
12 had the last sexual encounter with
13 Marilyn Figueroa.")

14 A He did, but I don't remember the specific date.

15 Q Do you remember the month?

16 A It was November or December. I'm not sure.

17 Q Of 1999?

18 A Correct.

19 Q All right. Did he tell you how many contacts he had
20 with Marilyn Figueroa in 1999?

21 A I don't believe so.

22 Q Did he tell you how many contacts he had with
23 Marilyn Figueroa in December of 1999?

24 A I don't believe so.

25 Q Did he tell you how many contacts he had with

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1 Marilyn Figueroa in November?

2 A I don't recall those kinds of detailed
3 conversations.

4 Q Did he identify any contact sexual in nature in the
5 month of November?

6 A I can't recall.

7 Q Did he disclose any sexual contact in October of
8 1999?

9 A I don't remember that. You're asking me --

10 Q I know what I'm asking you. In December of 1999,
11 Mr. Soika, did he disclose to you the location where
12 the sexual contact occurred?

13 MR. TOKUS: I'm going to object.

14 That mischaracterizes the state of this record.
15 He wasn't informed --

16 MR. ARELLANO: Okay, yeah, I got
17 your objection.

18 MR. TOKUS: All right, you have it.

19 MR. ARELLANO: Okay.

20 MR. TOKUS: You have it?

21 MR. ARELLANO: Yeah.

22 MR. TOKUS: All right. Very well.

23 Q Go ahead, sir.

24 THE WITNESS: Could you read the
25 question, please?

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1 (Question read)

2 MR. TOKUS: I have an objection and
3 the objection is to the form of the question and
4 it deals with the time when he was first informed
5 of this relationship.

6 MR. ARELLANO: Now you just went
7 beyond the proper lawyer-like objection. Your
8 objection is noted.

9 MR. TOKUS: Well --

10 Q Go ahead, sir.

11 MR. TOKUS: I also note that I'm
12 not to be lectured by you.

13 MR. ARELLANO: I am not. And I
14 would not do that to my superiors.

15 MR. TOKUS: You may have anything
16 you like.

17 MR. ARELLANO: Except, Mr. Tokus,
18 that you understand that my objection goes to the
19 intentional or unintentional coaching and --

20 MR. TOKUS: I understand exactly --

21 MR. ARELLANO: Thank you.

22 MR. TOKUS: -- what your, your
23 comments go to.

24 MR. ARELLANO: Thank you.

25 MR. TOKUS: I fully understand it,

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1 Marilyn Figueroa's employment, do you recall whether
2 or not anyone notified -- In the process of
3 obtaining the information from the Department of
4 Employment Relations, do you know whether or not
5 anyone, including you, notified them that Marilyn in
6 fact was not feeling well for whatever reason?
7 A Well, having called in sick one day doesn't exempt
8 her from having to produce the documentation
9 required.
10 Q Listen to my --
11 A It goes to the material.
12 Q Listen to my question. I am not asking you to
13 debate with me the reality of it. I want you to
14 give me information of which you know.
15 (Question read)
16 A I don't recall.
17 Q All right. That was quick. In February of the year
18 2000 when you decided to terminate Ms. Figueroa, did
19 you have the authority to fire and/or hire employees
20 within the Mayor's office?
21 A Yes.
22 Q And during the period in which you were the Chief of
23 Staff, do you recall firing anyone other than
24 Marilyn Figueroa?
25 A Yes.

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1 Q Who did you fire?
2 A Roland Perry. I also had transferred Jeff Fleming.
3 Q When did you fire Mr. Perry?
4 A Probably April of 2000.
5 Q Was that after Ms. Figueroa was let go?
6 A Yes.
7 Q All right. What about Mr. Fleming, when was he
8 transferred?
9 A April or May 2000, I believe.
10 Q Anyone else that you may have disciplined in any
11 manner, including but not limited to firing,
12 demotions, transfers, pro -- I mean promotions
13 wouldn't be a disciplinary action, but for any
14 nature, any type of disciplinary action that you may
15 have taken against anybody else other than, is that
16 Ms. Perry or Mr. Perry?
17 A Mr.
18 Q Mr. Perry and Jeff Fleming.
19 A I'm trying to walk down the offices. I believe
20 those are the only ones.
21 Q Do you recall during the time when you made the
22 decision to terminate Mr. Perry and transfer
23 Mr. Fleming, do you recall whether or not you
24 consulted with Mayor Norquist?
25 A I did.

400

1 Q Was that -- Has that been your practice, that before
2 you take any type of disciplinary action, you
3 consult with Mr. Norquist?
4 A Yes.
5 Q All right. With respect to the two years that you
6 have been the Chief of Staff, do you recall any one
7 time when you admonished anyone for absenteeism?
8 A No.
9 Q Is absenteeism one of the rules and regulations that
10 is contained within the City policies?
11 A I believe so.
12 Q All right. And what's your understanding about the
13 rule of absenteeism? What's the criteria?
14 A It's the same thing, if you're gone for more than
15 three days, I believe, you have to provide a
16 doctor's excuse.
17 Q Marilyn Figueroa left on January the 4th.
18 A Right.
19 Q And as I understand, she never returned; correct?
20 A Correct.
21 Q Is there a reason why she was not dismissed on the
22 7th?
23 A I really think that given Marilyn's tenure at the
24 City that we needed to provide her as much
25 opportunity as possible.

401

1 Q So you had the option not to apply the three-day
2 rule?
3 A Right.
4 Q Is that correct? Did you suggest to anyone,
5 including the Mayor, after three days of her
6 absenteeism in January of 2000, did you suggest to
7 anyone that she be terminated for failure to provide
8 a medical authorization of some kind?
9 A No.
10 Q Did the Mayor make any comments about her
11 absenteeism at some point before you decided to
12 issue the termination letter?
13 A Well, certainly everybody was concerned that she was
14 absent and not coming to work.
15 Q My question is did the Mayor --
16 A There were comments, yes.
17 Q What comments did he make?
18 A I'm not sure. I just know that I had general
19 discussions with the Mayor and, you know, I don't
20 know the particulars. There was no substantive
21 issues. It was just I know we had conversations on
22 the matter.
23 Q Well, did he share your views in any way with
24 respect to whether or not she should be held to the
25 three-day rule that the City had in place after she

402

1 pertain to any communication from any source related
2 to Marilyn taking sick leave in January of the year
3 2000?

4 A I think I'm -- Could you read me back the question
5 one more time, please.

6 (Question read)

7 A I think there are two copies of this.

8 Q Let me see that. Let me see the two copies that you
9 have identified.

10 A No, no, no, I'm sorry, I think there is two copies
11 of the file. We'll identify it as the e-mail from
12 myself to Pat Stawicki saying Marilyn had called in
13 today and to say that she was ill and will provide a
14 doctor's excuse next week.

15 Q What other documents have you removed?

16 A I removed --

17 Q Let me just -- hand them over to me.

18 A Sure. Then I took the vacation because I assumed
19 that there are items dealing with her sick leave in
20 this as well.

21 Q All right. And what else did you do?

22 A I pulled out the vacation/sick leave.

23 Q All right. Very good. Okay, let's go -- you have
24 produced as part of Marilyn Figueroa's e-mail
25 information; correct?

407

1 A Correct.

2 Q Can you explain to me why this information was in
3 Marilyn Figueroa's file?

4 A Well, do you want me to go page by page?

5 Q No, no, the e-mails, why were the e-mails placed in
6 Ms. Figueroa's file?

7 A To document a record of communication regarding her
8 either being away or her calling in ill one day or
9 our actions on that matter.

10 Q Do you keep intramemoranda or e-mail correspondence
11 in other employees' records as well?

12 A Only if there is a problem that needs to be handled.

13 Q Okay. When you decided to insert these e-mails in
14 Ms. Figueroa's file, did you perceive that a problem
15 was ensuing or happening?

16 A Right.

17 Q Is that correct?

18 A Yes.

19 Q The other notes that you did not place in Marilyn's
20 file, the notes that counsel has taken the position
21 will not be produced pursuant to my subpoena, did
22 you consider those notes part of Marilyn Figueroa's
23 file?

24 A No.

25 Q What did you consider those notes to be a part of?

408

1 A The note that is the yellow legal pad was my notes
2 to myself on recording Marilyn's days off. It had
3 nothing to do with her record.

4 Q All right. So if I understand what you're telling
5 me, in essence there were two sections where records
6 pertaining to Marilyn Figueroa were kept; correct?
7 One was the regular place where the personnel file
8 is kept; true?

9 A Yes.

10 Q And the other one would have been the note or notes
11 that you kept in your desk somewhere?

12 A The one note, yes.

13 Q Is that correct? What was the reason why you felt
14 that those notes should not be added to the
15 personnel file?

16 A They were my personal notes. They involved no
17 action that was taken on behalf of or against the
18 individual.

19 Q Well, are you telling us that only records that need
20 action or are a problem should be in an employee's
21 personnel file?

22 A I think that basically an employee's personnel file
23 should be as clean as possible and shouldn't include
24 superfluous notes.

25 Q All right. So you made a decision to keep a

409

1 different type of file in your desk regarding
2 Ms. Figueroa?

3 A I kept a sheet of paper in my desk, yes.

4 Q Regardless of the number of pages. Right?

5 A A sheet of paper, yes.

6 Q All right. Now, you also made notes from
7 conversations of other individuals pertaining to
8 Marilyn Figueroa that you did not include in the
9 personnel file; correct?

10 A Correct.

11 Q Before you submitted those notes to the legal
12 department, where did you keep those notes within
13 the office?

14 A I kept them in the original spiral bound book.

15 Q And where was that book kept?

16 A Well, as the books fill up and I don't use them
17 anymore, I take them home.

18 Q That book was kept in your desk as well?

19 A Yes.

20 Q All right. So information that people were
21 providing you regarding Marilyn Figueroa would be
22 kept in a separate file --

23 A No.

24 Q -- other than her personnel file; correct?

25 A No.

410

1 Q Did you ever suggest that she be disciplined for
2 hanging up on you?
3 A Never.
4 Q All right. Let's see, can I have the rest of the
5 file, sir? I want to make sure I don't --
6 A You can even have the rubber band.
7 Q Thank you. All right.
8 MR. ARELLANO: I want to mark these
9 separately.
10 (Exhibit No. 24-A marked for
11 identification)
12 Q Let me ask you, sir, to review that document and
13 identify the record.
14 A Okay.
15 Q What does that document purport to represent?
16 A This is a January 14th letter I sent to Marilyn
17 indicating that she had been absent since
18 January 5th, that I received a message that day that
19 she was absent from work due to illness and as a
20 result of that message was considering her request
21 to be a family medical leave request and then
22 explaining to her that she has -- we will need to
23 receive treatment from her provider of the medical
24 absence within 15 days and informing her that she
25 has 30 1/2 hours of compensated time yet.

415

1 Q All right. Up to that time did you consider Marilyn
2 Figueroa on leave, medical leave?
3 A No.
4 Q All right. Why not?
5 A There had been no communication from her at all.
6 Q At some point you learned that she was notifying
7 your office that she had taken sick leave; correct?
8 A That she had called in sick and said she would
9 provide a doctor's excuse.
10 Q Did you at any time consider granting her sick leave
11 at that point?
12 A I guess I saw this as the same.
13 Q I don't understand.
14 A Granting her sick leave --
15 Q Correct. Consider her an employee while on sick
16 leave.
17 A I guess I didn't.
18 Q All right. So from January 4th, just to speed up
19 things, from January 4th, 2000 until she was
20 notified of her termination, you never considered
21 Marilyn Figueroa to be on sick leave?
22 A From January 5th, the first day she did not appear,
23 to January 14th, Marilyn was in my view AWOL, away
24 without leave. She had not communicated; she had
25 gone.

416

1 Q Let me ask you to listen to my question and answer
2 my question, sir.
3 A I thought I did answer your question.
4 MR. ARELLANO: Go ahead. Well, go
5 ahead.
6 (Question read)

7 Q
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11
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13 A
14
15 Q
16
17
18 A
19 Q Now, on January 14th, 2000, up to that point do you
20 recall whether or not Ms. Shindell had called
21 Marilyn Figueroa directly?
22 A I think she had.
23 Q Up to that point, January 14th, 2000, did --
24 Mr. Pedro Colon had already come into the picture?
25 A I can't say that I knew that.

417

1 Q Up to that point you obviously knew that there had
2 been at least minimally a dispute between Figueroa
3 and the Mayor; true?
4 A A dispute between Figueroa and the Mayor. Yes.
5 Q And up to that point you knew she was contemplating
6 filing a discrimination complaint against the Mayor
7 and the City, prior to January 14th, 2000?
8 A I knew that she had requested a form, yes.
9 Q Other than sending her this letter, do you recall
10 ever sending her any letter of inquiry as to why she
11 was absent from work?
12 A I don't believe I did.
13 Q Do you recall assigning anyone to ever inquire as to
14 why Marilyn was absent from work before you issued
15 the termination letter?
16 A I'm sorry, did you ask me did I direct anybody to
17 call her?
18 Q Right.
19 A I don't believe so.
20 Q Before you issued the letter, did the Mayor ever
21 direct you to investigate why Marilyn was not coming
22 to work?
23 A Direct me to investigate? I probably talked to the
24 Mayor prior to making my call to Marilyn.
25 Q Okay. I don't want you to tell me probabilities or

418

1 Q When did you instruct Ms. Stawicki to consider these
2 days as vacation? After Marilyn had left?
3 A It would -- Pat would have come to me at the time
4 the payroll had to be submitted and asked me how to
5 do that. Whatever date that was is when I made the
6 decision.

7 MR. ARELLANO: I know it's getting
8 late, but can you read that back again?
9 (Answer read)

10 Q Going back to my previous question, was that
11 directive given to Ms. Stawicki by you after Marilyn
12 had left on January 4th, 2000?

13 A I don't know. That's why I specified the date
14 payroll had to be prepared because whatever that
15 date was, that's when that would have to be made.

16 Q Okay. Whenever that date was --

17 A Right.

18 Q -- that was the date that you decided to include
19 December 28th, 29th, 30th, January 5th, 6th, 7th,
20 January 10th, 11th and 12th; correct?

21 A No. Those are probably two different pay periods.
22 The first line is one pay period, the second line is
23 another.

24 Q And I'm not asking you to define the number of pay
25 periods. I just want to know when these dates were

423

1 jotted down in this record.

2 A And I'm telling you that I don't know when. They
3 were jotted down by Pat Stawicki.

4 Q And you did tell me that. However, I want you to
5 tell me whether or not they all, the ones that are
6 reflected on Exhibit 24-B, first page, whether or
7 not they were all recorded the same day, whenever
8 that day was.

9 A And I'm telling you I don't know.

10 Q Well, you approved that these days be taken as
11 vacation; correct?

12 A Correct.

13 Q So if you approved that, obviously it would have
14 happened after January the 12th?

15 A I just said that I'm thinking, I'm suspecting that
16 we're talking about two different pay periods. The
17 top line might have been one pay period, the second
18 line might have been another.

19 Q Okay, well, let's break it down. Do you recall when
20 you suggested to Ms. Stawicki to use December 28th,
21 29th and 30th, January 5th, 6th and 7th as a
22 vacation?

23 A I do not recall. Obviously it was after
24 January 7th.

25 Q Mr. Soika, based on these records it shows that

424

1 Marilyn Figueroa was absent from her office on
2 December 28th, 29th, 30th; correct?

3 A Correct.

4 Q And the record somewhat by silence indicates that
5 she was in the office on the 4th; correct?

6 A Yes.

7 Q So on the 4th she's given credit for working?

8 A Correct.

9 Q True? When did you learn that Marilyn -- strike
10 that. Did you know that Marilyn was absent on the
11 28th, 29th and 30th?

12 A Yes.

13 Q How did you learn that?

14 A I don't know. Marilyn may have requested time off
15 after Christmas.

16 Q Okay, now we're assuming I suspect.

17 A Well, I'm trying to remember.

18 Q Well, do you have any other record that would help
19 us to determine what type of leave she took? Other
20 than what we got here as vacation, is there any
21 other record that could help you to, could help us
22 to determine what type of request she made on the
23 28th, 29th and 30th?

24 A Yes, her time cards.

25 Q Let's take a look at them. Do you have them with

425

1 you?

2 A Well, you've got them here, and they might be in
3 2001 because -- well, no, they would be in 2000.

4 Q Here, I'll let you take over this. You know better.
5 Have you got them with you?

6 A Yes.

7 Q All right.

8 A Okay. I have Marilyn's time card here, pay period
9 one, January 8th, 2000. It shows that Marilyn took
10 holiday on the 27th, vacation on the 28th, 29th and
11 30th, holiday on the 31st, holiday on the 8th. I
12 believe those are days off.

13 Q Are we talking about January now?

14 A We're talking about January.

15 Q Week two?

16 A Week two, right.

17 Q Okay.

18 A She worked the 4th and then it looks like vacation.
19 Well, we would have made the decision then to call
20 this vacation.

21 Q Okay. Is this the only other record that is
22 available to help us to determine whether or not
23 Marilyn Figueroa also took sick leave for
24 December 28th, 29th and 30th?

25 A I don't -- I don't know of any other record.

426

1 A No.
2 Q Now --
3 A She has it.
4 Q Yeah. Let me ask you to look at Exhibit 24-B, and
5 the record reflects that Ms. Figueroa was absent --
6 (Discussion held off record)
7 Q The record reflects that in December Ms. Figueroa
8 was absent for at least three days; correct?
9 A Correct.
10 Q And you were the Chief of Staff at that time;
11 correct?
12 A Correct.
13 Q You were her immediate supervisor at that time?
14 A Yes.
15 Q Correct? Up to that point, December 28th, 29th and
16 30th, you have testified you had no idea that the
17 Mayor was engaging in sexual conduct with his
18 subordinate, Marilyn Figueroa; correct?
19 A Could you say that again?
20 MR. ARELLANO: Could you read that?
21 (Question read)
22 A Correct.
23 Q And assuming for just one moment that those days
24 which were recorded also as a vacation were not
25 vacation but sick leave, you did not -- prior to
431

1 January 4th, you did not request that Ms. Figueroa
2 provide a medical absence record, did you?
3 A They are recorded as vacation, so I would not have
4 required a medical absence -- release.
5 MR. ARELLANO: Let's go off the
6 record.
7 MS. AURIT: Going off the record.
8 (Discussion held off record)
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12 (adjourning at 4:00 p.m.)
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432

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

23 Dated: February 19, 2002.

24
25 Registered Professional Reporter
Notary Public, State of Wisconsin
433

1 Q Okay. Is it fair and accurate to say, Mr. Soika,
2 that this record, 24-B, is not accurate with the
3 facts?
4 A I wouldn't say that.
5 Q Well, Marilyn Figueroa was not on vacation on
6 January 5th, 6th, 7th, 10th, 11th and 12th; true?
7 A We have recorded it as vacation.
8 Q She never requested vacation, did she?
9 A She did not request vacation.
10 Q So it's not accurate with the procedure or what
11 happened in January; correct? She walked out of the
12 office; she did not ask for vacation?
13 A Correct.
14 Q True? You decided to note vacation instead;
15 correct?
16 A For the January dates.
17 Q Right.
18 A I'm starting to believe that Marilyn asked for the
19 December dates off.
20 Q I know that you're starting to believe that. But if
21 Marilyn took sick leave on 28th, 29th, 30th, you
22 have no other way to verify that, correct, other
23 than assuming?
24 A Correct. I could ask Pat Stawicki what her
25 recollection is.

427

1 Q Let me see the time cards that you were referring
2 to. Are those --
3 A Let's see. It's the second page.
4 Q Okay. Thank you. Let me direct your attention to
5 Exhibit 27 which contains -- oh, I'm sorry. I'm
6 looking at Exhibit 27, and this record appears to
7 show the name of --
8 A Yes. That's why I said, it's the second page in.
9 Q It's the second page. Thank you. All right.
10 Looking at Exhibit 27, second page, which pertains
11 to Marilyn Figueroa, this record indicates that she
12 took one holiday on Monday, the 12th, through the
13 27th and then the rest, but for Friday the 31st,
14 indicates that she was on vacation for the most part
15 with the exception of the 4th; is that correct? It
16 indicates that the first week of January she was on
17 vacation three days, she worked on the 4th,
18 according to this record.
19 A Right.
20 Q And she took a holiday on Monday, the 3rd.
21 A Correct.
22 Q Is that correct?
23 A Yes.
24 Q That is not factually accurate; true?
25 A Did Marilyn request --

428

1 Q Sir --
2 A -- vacation, no, in January.
3 Q In fact, in your letter to Marilyn, the
4 January 14th, you indicate that she was absent since
5 January 5th, 2000?
6 A Right.
7 Q True?
8 A Correct.
9 Q Then at the bottom of this Exhibit 27, the second
10 page, Marilyn Figueroa still identified as an
11 employee of the City of Milwaukee; correct?
12 A Correct.
13 Q Having worked 8 hours, taken 24 hours of holiday and
14 on vacation for 48 hours; true?
15 A Correct, correct.
16 Q All right. For 1999, 1998 Marilyn Figueroa shows
17 her sick leave records; is that true?
18 A Right.
19 Q Do you find any sick leave that Marilyn Figueroa
20 took at any of those years for more than three days?
21 A Yes.
22 Q Can you identify the dates?
23 A March 22nd, 23rd, 24th, 25th, 26th.
24 Q Were you the Chief of Staff at that time?
25 A No.

429

1 Q Who was the Chief of Staff?
2 A Jim Rowen.
3 Q Do you know if Ms. Figueroa was requested to produce
4 a medical absence record?
5 A I have no idea.
6 Q Have you ever seen one for those days in her
7 personnel file?
8 A I don't believe so.
9 Q All right. What about -- that was 1999; correct?
10 A Correct.
11 Q What about 1998, do you find any time when
12 Ms. Figueroa took more than three days of medical
13 leave?
14 A Yes.
15 Q Can you identify the dates, please?
16 A September 23rd, 24th, 25th, 29th four hours, the
17 30th and October 1 and 2.
18 Q Do you know who was the Chief of Staff at that time?
19 A Rowen was Chief of Staff roughly a year and a half
20 before me, so that would have been Rowen.
21 Q To your knowledge did -- Ms. Figueroa was asked to
22 provide a medical absence --
23 A I have no way of knowing.
24 Q Have you ever seen any records in her personnel file
25 for those dates?

430

1 assumptions. I want to know if he instructed you to
2 investigate why Marilyn was not coming back to work.
3 A No.
4 Q Before you issued this letter of January 14th, did
5 the Mayor ever share an opinion with you as to
6 whether or not Marilyn was coming back?
7 A I don't believe so.
8 Q To your knowledge did the Mayor ever tell anyone
9 immediately after Marilyn Figueroa left that in his
10 view he didn't think Marilyn coming back -- Marilyn
11 Figueroa was coming back to work?
12 A I don't recall that.
13 Q Did you ever discuss Marilyn Figueroa, after she
14 left, Marilyn Figueroa's situation with Barbara
15 Candy before you sent this January 14th, 2000
16 letter?
17 A Never.
18 MR. ARELLANO: Let me now mark
19 this as 24-B.
20 (Exhibit No. 24-B marked for
21 identification)
22 Q Let me ask you, Mr. Soika, to review this document
23 and explain to me what, for the record what the
24 document purports to represent.
25 A This is the record of Marilyn's vacation and sick
419

1 leave for the years '96 to 2000.
2 Q Thank you. Exhibit 24-A indicates that you sent her
3 this letter on January 14th which would have been
4 about ten days after she left the workplace;
5 correct?
6 A Right.
7 Q According to your letter it says nine days.
8 A I think it says eight days but...
9 Q All right. At what point did you reach the
10 conclusion that you needed Marilyn to provide you
11 with a medical absence?
12 A Again, my basic thrust was to ensure that this
13 situation was treated as much as possible like any
14 other situation for any other employee.
15 Q All right. Now answer my question.
16 A I am.
17 Q At what point did you decide that Marilyn needed to
18 provide you with a medical absence document?
19 A After I conferred with DER to find out what the
20 standard procedure was.
21 Q How soon before January 14th?
22 A I don't remember that.
23 Q Was it the same day, the day before, two days, three
24 days?
25 A I don't know.
420

1 Q All right. Looking at Exhibit 24-B, I'm looking at
2 the first page that indicates December 28th, 29th,
3 30th, January 5th, 6th and 7th. Did I read that
4 correctly?
5 A Yes.
6 Q And then the second column indicates January 10th,
7 11th and 12th. Did I read that correctly?
8 A Yes, in parenthesis 7.6 hours.
9 Q Thank you. What's the significance of
10 December 28th, 29th and 30th?
11 A That says that those are vacation days.
12 Q And what about the dates of January 5th, 6th, 7th,
13 10th, 11th and 12th?
14 A Those also indicate vacation days.
15 Q And then you have a document for the year 2000,
16 January 12th, 13th, 14th, 18th, 19th, 20th, 21st.
17 What's the significance of those dates?
18 A Those would be the dates that were recorded as sick
19 leave.
20 Q Okay. So according to the personnel records, is it
21 fair to say that Marilyn Figueroa was or at least
22 the City accepted December 28th, 29th and 30th,
23 January 5th, 6th, 7th, 10th, 11th and 12th as
24 vacation days; correct?
25 A We recorded those as vacation days, yes.
421

1 Q Did Marilyn request a vacation date?
2 A I believe she did not.
3 Q Who made the decision to consider those days as
4 vacation?
5 A When -- I discussed this with -- We were trying to
6 accommodate as much pay for Marilyn as possible
7 while she was gone. So I made the determination,
8 let's take vacation day, let's take sick day, let's
9 run it out as far as we can so she can maintain
10 income.
11 Q Who did you discuss -- Did you discuss that with the
12 Mayor?
13 A No.
14 Q Did you discuss that with Mr. Christofferson?
15 A I don't believe I did.
16 Q Did you discuss that with Ms. Shindell?
17 A I don't -- I don't believe so. I think that --
18 Q Based on your understanding of recordkeeping within
19 your office, who if anyone kept these records?
20 A Pat Stawicki.
21 Q All right. And who if anyone instructed
22 Ms. Stawicki to include these days as vacation?
23 A I did.
24 Q And when were these days noted in here?
25 A I don't know.
422

1 Q Well, they certainly was not -- they were not kept
2 in the personnel file ever; true?
3 A What are you talking about was not kept in the
4 personnel file?
5 Q The notes that you wrote regarding conversations you
6 had with others.
7 A The only conversation I had with others that was
8 prior to Marilyn leaving I believe is the one with,
9 whom I'm guessing was Kimberly Pratt.
10 Q Those notes were not kept in Marilyn Figueroa's
11 regular personnel file?
12 A I don't believe that those are personnel file notes.
13 Q That wasn't my question, Mr. Soika. Those notes
14 were not kept in her personnel file; correct?
15 A Those notes did not belong in her personnel file,
16 correct.
17 Q And therefore you didn't place them in the personnel
18 file?
19 A Yes.
20 Q All right. The notes that you made from the
21 telephone conference you held with Marilyn Figueroa
22 after January 4th of 2000, is there a reason why you
23 didn't place them in the personnel file?
24 A Again, there is a page. When I looked at the page
25 after the fact, months after the fact, there was a

411

1 note on there that I assumed was as a result of that
2 conversation. At that point I gave it to the City
3 Attorney.
4 Q Okay. Let me go back to my question. Is there a
5 reason why, whether it was one note, one sentence,
6 one paragraph, is there a reason why you didn't make
7 that note a part of Marilyn's personnel file? Just
8 give me the reason.
9 A The reason was that I didn't see this as an official
10 document.
11 Q All right.
12 A And when I saw it had potentially pertinent
13 information, the City Attorney was already involved
14 and I handed it over.
15 Q Okay. That telephone call and the notes you made
16 was to maintain a record of your contact with
17 Ms. Figueroa; correct?
18 A You asked me two questions. The telephone call was
19 to find out what Marilyn was planning to do, was she
20 coming back to work.
21 Q Right. And you made that phone call as her
22 supervisor?
23 A Correct.
24 Q True? And obviously those notes would help you to
25 determine how many contacts you have made with

412

1 Figueroa in January; correct?
2 A Would you say that again, please?
3 Q That note would help you to refresh your
4 recollection as to whether or not you had made a
5 contact with a subordinate in January of 2000;
6 correct?
7 A Yes.
8 Q What was so special or significant in that note that
9 led you to conclude that it should not be placed in
10 her personnel file?
11 A Well, first, it wasn't special or significant
12 because I had forgotten about it until I looked back
13 at that paper months later.
14 Q All right. Now we're moving, we're getting back to
15 the moving target here. I just want to know why you
16 didn't place that note in the personnel file.
17 A Had you let me finished --
18 Q I thought I did.
19 A No, you did not.
20 Q But go ahead. Without giving me an extensive
21 political spin, I want you to tell me, did you think
22 that that note was part of Marilyn's personnel file
23 or not?
24 A No.
25 Q All right. And why not?

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1 A Because it was an unofficial record.
2 Q What constitutes an official record?
3 A As I explained, it's one where there would be, lead
4 to an action. If you look at the e-mails that are
5 included in there, it would talk about Marilyn
6 called in sick today or would you process this
7 paper. There are not random notes.
8 Q I thought you stated that Ms. Figueroa hung up on
9 you.
10 A Correct.
11 Q And you didn't think that that would be sufficient
12 basis to take some type of action?
13 A No.
14 Q All right. And I believe you testified that she
15 refused to discuss things with you.
16 A Yes.
17 Q You didn't think that that would be sufficient to
18 lead to some type of action?
19 A No.
20 Q Did you ever make a recommendation to any member of
21 this group that was strategizing what to do with
22 Marilyn Figueroa's problem, including the Mayor, did
23 you ever suggest that she be disciplined for
24 refusing to talk to you?
25 A Never.

414

1 left on January 4th of 2000?
2 A He shared my view that we should do as much as
3 possible to treat her like any other employee.
4 Q All right. Do you recall any other employee within
5 the Mayor's office who was absent more than three
6 days during the years that you have been in office
7 as the Mayor's Chief of Staff?
8 A You mean other than vacation?
9 Q Well, let's talk about absenteeism. Anyone that
10 left, other than vacation.
11 A No, I don't.
12 Q All right. Do you know if there were some that may
13 have left the office for more than three days
14 regardless of --
15 A I just said no.
16 Q Okay. What about you, have you ever taken more than
17 three days?
18 A Not without it being a vacation.
19 Q Okay. Have you ever been sick at all during the
20 last two years, three years that required you to be
21 at home?
22 A Very rarely.
23 Q What about the Mayor, has he --
24 A Very rarely.
25 Q -- been away in the year, the last three years ever

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1 been away from the office more than three days?
2 A That weren't vacation days?
3 Q Correct.
4 A Or weren't away at convention or travel?
5 Q Correct.
6 A No.
7 Q When the Mayor traveled were you notified at all
8 times as to his whereabouts if they were related to
9 the office?
10 A I was -- We do try very hard to make sure that we
11 know how to get ahold of the Mayor wherever he
12 travels so we know where he's staying, what his
13 itinerary is.
14 Q Let me revisit probably something that you really
15 won't enjoy. Do you recall approximately how soon
16 Mr. Pedro Colon came into the picture after
17 January 4th?
18 A No, I don't.
19 Q Was it -- Do you recall whether or not he was
20 involved at any point during the month of January?
21 A Well, I know for a fact he was in the month of
22 January.
23 Q All right. Marilyn was in an appointed position;
24 correct?
25 A Correct.

404

1 Q All right. And obviously she was not -- well,
2 strike that. Was she subject to the civil service
3 system?
4 A No.
5 Q Okay. She served at the pleasure of the Mayor;
6 correct?
7 A Right.
8 Q Under your supervision; correct?
9 A Correct.
10 Q As well as under his supervision; correct?
11 A Under my direct supervision but ultimately under
12 his, yes.
13 Q All right. And were employees required to notify
14 you whenever they traveled with the Mayor?
15 A Required to notify me? I would know because we --
16 if employees travel with the Mayor, we try to note
17 it on the schedule.
18 Q Okay. Were employees -- If they serve at the
19 pleasure of the Mayor, the Mayor can decide whether
20 or not somebody should be terminated or not;
21 correct?
22 A Yes.
23 Q That would be ultimately his decision; true?
24 A Is it ultimately the Mayor's decision, yes, it is.
25 Q And even though you were the Chief of Staff, the

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1 Mayor ultimately approved and/or disapproved of your
2 decisions; correct?
3 A Yes.
4 Q And that was the case with Marilyn Figueroa; true?
5 A Yes.
6 Q All right. The original personnel file for Marilyn
7 Figueroa, where would that be kept, sir? At your
8 office? I think you told me that previously?
9 A This is the third time now.
10 Q Yes.
11 A In the bank of offices --
12 Q Your legal objection is noted.
13 A Okay.
14 Q And the reason why I ask you that question again, so
15 you can rejoice at the end with the number of
16 questions that I ask you, is because I would like to
17 see the original file.
18 A Sure.
19 Q And as we select a date for your next depositions, I
20 would request, and I will make it quite clear
21 through a communication with counsel, that I want to
22 see the original. Is that okay?
23 A I believe -- yes. That's absolutely fine.
24 Q All right. In the records that you have produced
25 today, do you find anything in these records that

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1 and I fully appreciate it.
 2 MR. ARELLANO: All right. Let me
 3 ask you to read it back.
 4 (Following question read: "In
 5 December of 1999, Mr. Soika, did
 6 he disclose to you the location
 7 where the sexual contact
 8 occurred?")
 9 A I'm not sure that there was sexual contact in
 10 December or November. I'm not sure.
 11 Q What about November?
 12 A I'm not sure.
 13 Q What about October?
 14 A I don't know.
 15 Q All right.
 16 MR. ARELLANO: We're about to
 17 change tapes. We're going to take another short
 18 minute. Okay.
 19 MS. AURIT: Off the record.
 20 (Tapes changed)
 21 (Recess)
 22 MR. ARELLANO: Let's get back on
 23 the record here. Back on the record.
 24 Q Mr. Soika, do you recall whether or not when
 25 Mr. Norquist after he received the detailed
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1 complaint, which as I understand it is when he began
 2 to talk about the details of the sexual contact;
 3 correct?
 4 A Correct.
 5 Q Do you recall whether or not during these sessions
 6 or meetings where he was relating these contacts, do
 7 you recall whether or not his wife was in
 8 attendance?
 9 A I believe not.
 10 Q Okay. At any point when he was relating his side of
 11 the relationship do you recall whether or not she
 12 was in attendance?
 13 A I believe not.
 14 Q All right. Let me just get back to my -- all right.
 15 You had testified that at some point the decision
 16 was made to terminate Ms. Figueroa for failure to
 17 produce medical notification from a doctor; correct?
 18 A Correct.
 19 Q And who made that decision?
 20 A Ultimately I made that decision.
 21 Q Okay. And of course just not to spend too much time
 22 on this, you consulted with the other members of the
 23 group, including the Mayor; correct?
 24 A First I consulted with DER to find out what was
 25 standard procedure. Then I did talk to members of
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1 the group about what the standard procedure was and
 2 that I was intending to follow it.
 3 Q All right. During the two years that you have been
 4 involved as the Chief of Staff for the City of
 5 Milwaukee, has anyone explained to you the reason
 6 why the City requires a medical slip or a medical
 7 document in order to obtain sick leave from the City
 8 of Milwaukee?
 9 A I don't believe so.
 10 Q Okay. What is your understanding as to with respect
 11 to that requirement?
 12 A My premise -- Again, not having asked specifically,
 13 my premise was that if you're away for more than for
 14 the prescribed time that you need a doctor's excuse
 15 because otherwise that might have been a frivolous
 16 or unauthorized leave.
 17 Q And when you say your premise, where did you obtain
 18 such basis for --
 19 A It was just my understanding.
 20 Q Okay. And as I understand, anyone that has been
 21 away for more than three days --
 22 A Again, don't hold me to that three days, but that's
 23 what I'm remembering.
 24 Q I'll hold you to whatever you're telling us here.
 25 Or the judge will, not me.
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1 A Well, I'm remembering three days.
 2 Q Well, this information came from the Department of
 3 Employment Relations?
 4 A Right.
 5 Q Is that correct?
 6 A But I'm not sure I'm remembering what they said.
 7 Q Did you ever notify the Department of Employment
 8 Relations -- As you were attempting to obtain
 9 information about policy and procedures, did you
 10 ever notify them that in fact you had investigated
 11 whether or not Marilyn was in the hospital? Did you
 12 ever tell them, our investigation concludes that she
 13 was hospitalized?
 14 A First, I wouldn't term it an investigation.
 15 Q Well, did you notify them in any way that Marilyn
 16 was hospitalized, regardless of the terminology?
 17 A I'm not sure.
 18 Q Did you ever notify the Department of Employment
 19 Relations that Ms. Delaney had received notice that
 20 Marilyn was taking sick leave?
 21 A I don't believe that Marilyn -- well, she called in
 22 sick one day. Taking sick leave. Did I, I don't
 23 know.
 24 Q Well, do you recall whether or not at any point
 25 before February 2nd when you decided to terminate
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1 security?
 2 A I don't believe so.
 3 Q How did you convey the message?
 4 A It would have been verbally.
 5 Q Who if anyone directed you to share that information
 6 with security?
 7 A No one. I felt that it was a security risk for the
 8 Mayor. In fact, we went on 24-hour security for the
 9 Mayor, which we never do.
 10 Q Did you ever question the Mayor as to why Marilyn
 11 Figueroa's family would feel he would be responsible
 12 if anything would happen to Marilyn?
 13 A No.
 14 Q Do you know if Mr. Christofferson or anyone
 15 questioned the Mayor as to why Marilyn's family
 16 would feel that way?
 17 A I do not know.
 18 Q You testified that the first time that the Mayor
 19 began to address Marilyn Figueroa's allegations of
 20 sexual harassment for the first time was when he
 21 received the detailed allegations in Marilyn's
 22 complaint; correct?
 23 A Could you say that again, please?
 24 MR. ARELLANO: Could you read that
 25 back for me.

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1 (Question read)
 2 A Could you restate that? I'm not sure what you're
 3 asking.
 4 Q Yeah. You testified during the first day that the
 5 Mayor began to address some of the sexual acts for
 6 the first time once he received the detailed
 7 complaint that Marilyn Figueroa filed against him;
 8 true?
 9 A The specifics, yes.
 10 Q Okay. You also testified that after you notified
 11 Mayor Norquist that Marilyn was intending to file a
 12 discrimination complaint, the next day or thereafter
 13 he then disclosed his alleged relationship with
 14 Ms. Figueroa; correct?
 15 A I said it was sometime in between the 5th and the
 16 7th.
 17 Q All right. Did you at any point inquire from the
 18 Mayor as to why Marilyn Figueroa was absent?
 19 A That would be highly unusual. No.
 20 Q Did the Mayor in any way relate to you any opinions
 21 as to why Marilyn Figueroa was absent after
 22 January 4th?
 23 A No, but this was not the first time that she had
 24 disappeared like this.
 25 Q That wasn't my question, Mr. Soika. Did the Mayor

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1
 2
 3
 4 A
 5 Q Between the time -- When the Mayor talked to you the
 6 first time about his sexual encounters with a
 7 subordinate, did he tell you when was the last
 8 sexual encounter, if there was one?
 9 A I don't believe so.
 10 Q Did he ever tell you when was the last contact that
 11 he had had with Ms. Figueroa?
 12 A He did but I'm remembering it to be within the
 13 context of answering a filing.
 14 Q The detailed complaint that was filed by
 15 Ms. Figueroa?
 16 A A filing. I don't know.
 17 Q All right. But before that he did not disclose to
 18 you when was the last time he had any contact?
 19 A I don't believe so.
 20 Q All right. Once the complaint was filed, the
 21 detailed complaint was filed, did he tell you when
 22 was the last time that he had had any contact with
 23 Ms. Figueroa? Let's talk about sexual contact.
 24 A Yeah. We're at the same place we were the last
 25 time.

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1 Q Sir, listen to my question, and if you don't -- it's
 2 very simple. Yes, I know, I don't know, I don't
 3 recall, it's simple.
 4 A Well, there is another alternative.
 5 Q Listen. Yeah, you may not want to answer.
 6 A There is another alternative.
 7 MR. ARELLANO: Go ahead.
 8 (Question read)
 9 A It's unclear to me in what context I had that
 10 conversation with the Mayor. It could easily have
 11 been when he was detailing his response with the
 12 City Attorney's staff. I think that creates some
 13 problems in terms of what I can discuss or not, and
 14 I would need the advice of Mr. Tokus on how to
 15 proceed.
 16 Q Well, I just want you to tell me whether or not the
 17 Mayor told you when he had the last sexual encounter
 18 with Marilyn Figueroa.
 19 A I'm saying that I'm unsure whether the context of
 20 that discussion came under a conversation he was
 21 having with the City Attorney's representatives in
 22 filing the response to one of your complaints.
 23 Q And it's not for you to object on legal grounds,
 24 Mr. Soika. It's for you to answer my questions
 25 pursuant to my subpoena, so --

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1 what if anything was said, not what you assumed.
2 MR. ARELLANO: Okay, now let me ask
3 you to read my previous question.
4 THE WITNESS: Please would you.
5 (Following question read: "Did Flo
6 Dukes or anyone explain to you why
7 they felt that Marilyn should go
8 outside the City?")
9 Q The question is did they explain anything as to why
10 she should go outside the City?
11 A And I was answering that and you interrupted me.
12 Q Did they -- So the answer is yes, did they explain
13 to you why they felt Marilyn should go outside the
14 City?
15 A Not that Marilyn should go outside the City.
16 Q What did they say?
17 A They said that they would have to hire somebody
18 outside the City to investigate the internal
19 complaint.
20 Q Did they explain to you why they felt that Marilyn
21 should go outside the City to investigate the
22 complaint?
23 MR. TOKUS: Counsel, you're --
24 MR. ARELLANO: Are you going to
25 object?

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1 MR. TOKUS: Yes, I'm objecting.
2 MR. ARELLANO: I didn't even finish
3 my question.
4 MR. TOKUS: Well, because you keep
5 mischaracterizing his testimony.
6 MR. ARELLANO: You also suffer from
7 the same illness that your colleague. Lower your
8 voice.
9 MR. TOKUS: It's infectious and I
10 think it's a --
11 MR. ARELLANO: Lower your voice.
12 MR. TOKUS: The problem is
13 something to do with the atmospherics.
14 MR. ARELLANO: Lower your voice,
15 and we can understand you.
16 MR. TOKUS: My voice is low.
17 MR. ARELLANO: All right. Can you
18 read my previous question again?
19 (Question read)
20 Q Or have someone investigate from the outside. Did
21 they explain that to you?
22 A Yes. Can I --
23 Q Now you can tell me.
24 A -- answer? Marilyn has been agitating for a job
25 reclassification.

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1 Q Is that what Ms. Flo Dukes said to you?
2 A That's the context of Ms. Flo Dukes' comments.
3 Q Did she say to you that Marilyn had been bringing
4 employment problems to her attention before?
5 MR. TOKUS: Objection, Counsel.
6 That's not his testimony.
7 A That is not my testimony.
8 Q And nobody is saying that that is his testimony.
9 It's a question, sir.
10 Did Flo Dukes say to you in any manner that
11 Marilyn had come previously to complain about
12 employment discrimination?
13 A Flo Dukes said that because she had a private
14 conversation with Marilyn outside of the campaign
15 offices in which Marilyn said that because Mike is
16 now Chief of Staff, I don't want to pursue a
17 reclassification anymore, she felt that because they
18 had these outside conversations and she had this
19 information that maybe they needed to go other
20 places to have it investigated.
21 Q Anything else that Flo Dukes said?
22 A That's what I remember.
23 Q All right. When she -- when Flo Dukes said to you
24 that Marilyn had notified her that her complaint
25 would be against the City and the Mayor, did Flo

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1 Dukes provide you any additional information as far
2 as to why Marilyn was suing the Mayor and the City
3 or attempting to?
4 A The only information I had to remember was against
5 the Mayor and the office.
6 Q Nothing more?
7 A Nothing more.
8 Q All right. You at some point -- strike that. When
9 you had this meeting with Flo Dukes, was anyone else
10 present?
11 A Again, I can't remember if Jeff Hanson was present
12 or not.
13 Q Did you -- did there come a time when you also spoke
14 to Mr. Jeff Hanson about Marilyn Figueroa?
15 A Yes.
16 Q At what point?
17 A That --
18 Q And let me clarify it, with respect to her intent to
19 file a discrimination complaint.
20 A I never talked to him -- If he was not in that
21 initial meeting, I didn't have a further
22 conversation with him about that.
23 Q You then at some point disclosed this information to
24 the Mayor; correct?
25 A Correct.

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1 You testified that the issue related to the
2 decision to terminate Ms. Figueroa was addressed at
3 some of the strategy meetings; correct?
4 A Correct.
5 Q But you don't remember who was present?
6 A I do not.
7 Q All right. Obviously during the strategy meetings
8 you have testified that Ms. Shindell was almost
9 always present; correct?
10 A Yes.
11 Q Mr. Christofferson was also part of the strategy
12 meetings?
13 A Yes.
14 Q Ms. Susan Norquist was part of the meetings?
15 A Part of the meetings, in and out.
16 Q Did you consult or was any member of the City
17 Attorney's office present when the decision to
18 terminate Ms. Figueroa was made?
19 A No, because, again, I don't remember the City
20 Attorney's office being involved. My benchmark on
21 that is until the time of John Fuchs being involved,
22 so I would say no.
23 Q Was the hospitalization of Marilyn Figueroa raised
24 at any of these strategy meetings before you issued
25 the letter of termination on February 2nd of 2000?

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1 A I don't know that we had a meeting between
2 January 19th and February 2nd. I don't remember.
3 Q Did you ever discuss with Mr. Christofferson the
4 hospitalization of Ms. Figueroa?
5 A Yes.
6 Q Before you issued the termination letter of
7 February 2nd, 2000?
8 A I can't say for sure, but I would bet, yes.
9 Q Did you ever discuss the hospitalization of Marilyn
10 Figueroa with Ms. Shindell before she was
11 terminated?
12 A Yes.
13 Q Do you recall whether or not she suggested anything
14 with respect to whether or not she should be
15 terminated?
16 A I remember Ms. Shindell verifying what I had heard
17 from DER, that you have so many days or whatever.
18 Q So she felt that if Marilyn Figueroa did not comply
19 with City policies that it was okay to terminate
20 her?
21 A I said that she verified what I had learned from
22 DER.
23 Q Right. And did you understand that to mean that she
24 approved also of what the Department of Employment
25 Administration was telling you as well?

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1 A Yes.
2 Q All right. Just so I am clear on what you did
3 before you decided to terminate Ms. Figueroa's
4 employment, did you or did you not request a legal
5 opinion from the legal office of the City of
6 Milwaukee regarding Marilyn's termination, before
7 you issued the February 2nd, 2000 letter.
8 A I don't remember doing that.
9 Q All right. Did anyone before February 2nd, 2000,
10 before you terminated Ms. Figueroa, did anyone,
11 including the Mayor, any of the people that were
12 involved in any strategy meetings, did anyone
13 suggest that you not issue that termination letter?
14 In other words, anyone objected or opposed to you
15 issuing the termination letter?
16 A No, because part of the strong determination was
17 that it's a mistake to treat this differently than
18 we treat any other employee.
19 Q During the years of being the Chief of Staff for
20 Mayor Norquist, how many other similar incidents
21 developed or how many times did you feel the need to
22 terminate someone for failure to produce a medical
23 leave within your staff?
24 A That was the only time.
25 Q All right. During your tenure with the block grant

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1 department, how many times did you feel the need to
2 fire someone because of failure to submit medical
3 evidence?
4 A Again, none.
5 Q Okay. All right.
6 MR. ARELLANO: We're going to take
7 a required break for five minutes. Let's go off
8 the record.
9 MS. AURIT: Going off the record.
10 (Recess)
11 MR. ARELLANO: Back on the record.
12 MS. AURIT: We're back on the
13 record.
14 Q Mr. Soika, after January 4th of the year 2000 when
15 you received a phone call from the Department of
16 Employment Relations, I just want to be clear that
17 you can tell us who exactly made that contact with
18 you from that department.
19 A You want to know who called me or who --
20 Q Did you understand my question?
21 A I'm asking to clarify it. Who called me or who did
22 I meet with?
23 Q Well, the first contact that was made with you from
24 the Department of Employment Relations where they
25 notified you that Marilyn was requesting a

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1 the alleged phone call she received from Marilyn's
 2 sister, how long did that discussion last?
 3 A My conversation with Ruth?
 4 Q Correct. Where she was conveying to you the message
 5 she had allegedly received from Marilyn's sister.
 6 A The conversation, geez, I don't know, five minutes,
 7 ten minutes.
 8 Q What was your response, if any, to that information
 9 that Ruth had conveyed to you regarding the phone
 10 call from Marilyn's sister?
 11 A I remember I had two responses. One is, let's
 12 verify indeed that Marilyn has been admitted to a
 13 hospital. And two, this seems pretty significant.
 14 You might want to just write down what you remember
 15 right away.
 16 Q Anything else?
 17 A That's all I remember.
 18 Q Did you instruct Ruth to verify whether or not
 19 Marilyn was okay?
 20 A To find out what had happened, yes.
 21 Q And what were her findings?
 22 A The hospital would not release any information
 23 unless you were family.
 24 Q So is it fair and accurate to say that the only
 25 thing she was able to report to you was that she,

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1 Marilyn Figueroa, had, in fact, been hospitalized?
 2 A Correct.
 3 Q Is that correct? And as far as writing down the
 4 phone call, how soon after your conversation with
 5 Ruth Wytenbach did she, if you know, did she write
 6 the contents of her discussion with Marilyn
 7 Figueroa's sister?
 8 A I don't know. It would likely be within -- it would
 9 definitely have been within that afternoon.
 10 Q How soon -- strike that. Did Ruth Wytenbach
 11 provide the written account to you?
 12 A Yes.
 13 Q And what did you do with it?
 14 A I kept it.
 15 Q Where did you keep it?
 16 A I kept it in a file in my office that was locked.
 17 Q And where is that document today?
 18 A The original?
 19 Q Yes.
 20 A I don't know if I have the original or the City
 21 Attorney has the original. It's in one of those two
 22 places.
 23 Q Have you produced that record today?
 24 A I believe so.
 25 Q Where would that record be?

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1 A It would be maybe -- I don't know.
 2 Q Well, is it your testimony that that record has been
 3 produced pursuant to the subpoena?
 4 A Well, you know what, that might have been documents
 5 that I had -- I believe -- see, now I'm drawing a
 6 blank. I produced them for -- I may have produced
 7 them for last night and not here. I don't -- I
 8 don't remember.
 9 Q All right. Once you learned that Marilyn had been
 10 hospitalized pursuant to the verification made by
 11 Ruth Wytenbach, did you discuss that
 12 hospitalization with the Office of the Employment
 13 Relations?
 14 A I don't know. That would not -- I would doubt that,
 15 but I don't know.
 16 Q To your knowledge did you ever disclose to the
 17 Office of Employment Relations that Marilyn had
 18 called sick via Ms. Delaney?
 19 A Sure.
 20 Q All right. And to your knowledge did anyone,
 21 including you, disclose to the Office of Employment
 22 Relations that Marilyn had been hospitalized?
 23 A I don't know.
 24 Q Obviously you disclosed that fact to the Mayor;
 25 true?

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1 A Yes.
 2 Q You also told the Mayor, did you not, that Marilyn
 3 had called sick around January 14th?
 4 A Yes.
 5 Q She had called sick?
 6 A Right.
 7 Q Correct? At what point was it determined that
 8 Marilyn needed to produce a medical authorization
 9 for sick leave?
 10 A After she was absent without notice for the
 11 prescribed number of days. I'm remembering three
 12 days.
 13 MR. ARELLANO: Can you read that
 14 back?
 15 (Answer read)
 16 Q Three days, okay.
 17 A Let me clarify. My understanding is that you
 18 have -- if you were gone beyond three days without a
 19 verified notice, you need a doctor's excuse.
 20 Q Where did you learn that fact?
 21 A I would have had to have learned that from the
 22 Department of Employee Relations.
 23 Q When did you actually notify Ms. Figueroa that she
 24 was no longer considered an employee of the City?
 25 A It would have been early February. I believe the

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1 A Well, what I'm remembering is the resolution and
2 that was that Marilyn is an employee that has to
3 abide by the rules of the City and if she's absent
4 without notice, then you have to deal with it
5 according to the rules of the City.

6 Q Who said that to you?

7 A I'm saying that now, but that was the result of the
8 meeting or the conversations.

9 Q I want to know what they said to you, not what you
10 concluded, they meaning Florence Dukes or
11 Mr. Hanson.

12 A Jeff Hanson. It would have been -- I'm assuming
13 that their advice would have been you have --

14 Q Sir, and I understand that you're assuming a lot of
15 things. I just want you to first try to remember
16 what if anything they said to you with respect to
17 your concerns regarding Marilyn Figueroa's
18 absenteeism without assuming anything.

19 A I have said repeatedly that I'm remembering the
20 context of the conversation, not the verbatim.

21 Q Okay. And the context is what you're assuming now
22 may have been said?

23 A Right, right.

24 Q Okay. You don't remember if they told you follow
25 step A, B or C?

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1 A Right. I don't remember that.
2 Q Okay. Before you had the discussion with the
3 Department of Employment Relations, before
4 January 14th, did you keep the Mayor informed that
5 Marilyn Figueroa was not coming to work?

6 A I assume so.

7 Q Did you keep the Mayor informed that you were
8 talking to the Department of Employment Relations?

9 A I may have mentioned it. I don't recall.

10 Q Did anyone suggest that you go to the Department of
11 Employment Relations, including the Mayor and/or
12 Mr. Christofferson?

13 A I don't remember that. It would not have been
14 unusual for me to just say this is the step to take.

15 Q Do you recall whether or not anyone, before
16 January 14th, before you spoke to the Department of
17 Employment Relations about Marilyn's absenteeism, do
18 you recall whether or not anyone had conveyed to you
19 in any way the fact that Marilyn was taking sick
20 leave?

21 A No one in any way had conveyed that.

22 Q Do you recall whether or not anyone in any manner
23 brought to your attention that Marilyn was calling
24 ill?

25 A There was one -- it was January 14th that I got a,

356

1 well, I had a conversation with Deanna Delaney that
2 said, or maybe it was an e-mail, I don't remember,
3 but there was a communication from Deanna Delaney
4 that Marilyn had called in sick that day.

5 Q Was that after you had already discussed her
6 absenteeism with the Office of Employment Relations?

7 A Yes.

8 Q All right. And how did you learn that Marilyn had
9 called in sick from Ms. Delaney? In what fashion?
10 How did she convey the message?

11 A I'm not sure. I don't know whether she told me
12 directly or if she called me. She would not have
13 sent an e-mail because I wouldn't have seen that and
14 remembered it.

15 Q Was that the very first time that it came to your
16 attention that Marilyn was calling in sick?

17 A Yes.

18 Q Do you recall whether or not at any point after
19 Ms. Delaney related to you that Marilyn had called
20 sick, do you recall whether or not anyone at any
21 point after that conveyed to you the message that
22 Marilyn was sick?

23 A You mean prior to the February letter?

24 Q Correct. Between the time that Ms. Delaney notified
25 you that Ms. Figueroa was calling in sick until you

357

1 decided to issue the voluntary termination letter --

2 A Voluntary quit.

3 Q

5 A

10 Q

13 A

15 Q When did you learn this fact, before you issued the
16 temporary quit/termination letter?

17 A January 19th.

18 Q When you learned that she was hospitalized, did you
19 or anyone from the Mayor's office try to contact
20 Marilyn in any way?

21 A Ruth Wyttenbach tried to call the hospital, did call
22 the hospital to verify that Marilyn was there.

23 Q And do you know what her findings were with respect
24 to this issue?

25 A I believe she was told that Marilyn had been

358

1 you.
2 Q Before you contacted the Department of Employment
3 Relations because of your concerns with Marilyn's
4 absenteeism, had you ever done this before, meaning
5 contact the Department of Employment Relations?
6 A Yes.
7 Q When was that?
8 A I did it when I was at block grant, and I did it
9 also while I was at Chief of Staff prior to
10 January 4th.
11 Q The contact that you had with the Department of
12 Employment Relations before, while you were the
13 director of the block grant department, what was the
14 purpose of your contact?
15 A You know, I'm not sure. I was getting ready to
16 terminate an employee. I was asking them for
17 guidance.
18 Q What was the specific subject matter that you
19 discussed with the Department of Employment
20 Relations regarding this employee?
21 A It would have been what's the process that I follow
22 to make sure that we followed the law.
23 Q Do you recall any other occasion -- strike that.
24 Then you mentioned that there was another occasion
25 before June 4th (sic) when you contacted the
347

1 Department of Employment Relations; correct?
2 A There was more than two. I --
3 Q I want to know them all.
4 A You do want to know them all.
5 Q Yes.
6 A I can't remember them all, but I know there was more
7 than two.
8 Q Let's start with the ones that related to getting
9 guidance or obtaining information pursuant to the
10 sick leave policy in effect at that time.
11 A Regarding Marilyn.
12 Q Regarding anybody. Did you have more than one
13 contact with the Department of Employment Relations
14 regarding Marilyn Figueroa?
15 A Yes.
16 Q Okay. How many contacts did you have with the
17 Department of Employment Relations?
18 A Well, I couldn't say specifically.
19 Q Well, let's see if we can break it down.
20 A Let me --
21 Q Prior to January 4th did you have any contacts with
22 the Department of Employment Relations regarding
23 Marilyn Figueroa?
24 A No.
25 Q After Marilyn Figueroa left on January 4th of the
348

1 year 2000, you stated that, and correct me if I'm
2 wrong, you stated that you had contact sometime
3 around the 14th?
4 A Before the 14th.
5 Q Before the 14th. Who did you talk to?
6 A Likely both Jeff Hanson and Flo Dukes together.
7 Q Was there a meeting between the three of you?
8 A Probably.
9 Q Is that right? And when was the next time that you
10 had any contact with the Department of Employment
11 Relations regarding Marilyn Figueroa?
12 A I may have called them on the phone. I really
13 don't, you know, don't --
14 Q How many more contacts did you have with the
15 Department of Employment Relations after you made
16 your -- after your meeting with Florence Dukes and
17 the other individual that you just cited?
18 A Regarding Marilyn.
19 Q Correct.
20 A I really am -- I don't know. I know that I had a
21 meeting and a couple of conversations just to make
22 sure that I knew what the parameters were.
23 Q Okay. But you had several contacts regarding
24 Marilyn Figueroa. I'm talking about several
25 contacts with the Department of Employment
349

1 Relations.
2 A I had a few.
3 Q Okay. And a few meaning what, five, ten?
4 A No, less than five.
5 Q Approximately four, five? Just tell me.
6 A I'm telling you, I --
7 Q Did you make any notes of your contacts with the
8 Department of Employment Relations?
9 A I don't remember.
10 Q Okay. The first contact that you had with the
11 Department of Employment Relations, was that during
12 that meeting? That meeting was the first contact
13 that you had with them regarding Marilyn Figueroa?
14 A Regarding Marilyn Figueroa's leaving the City?
15 Q Any contact regarding Marilyn Figueroa, regardless.
16 I think I understand your confusion. You
17 testified on Wednesday during your first testimony,
18 deposition, that you received a phone call from the
19 Department of Employment Relations where someone
20 notified you that Marilyn Figueroa had obtained a
21 discrimination form.
22 A Right.
23 Q Correct?
24 A Right.
25 Q Was that the very first contact that you had with
350

1 grant monitor supervisor.
2 Q Okay.
3 A And she supervised all the staff that did the grant
4 monitoring. The other side of the operation was
5 fiscal monitoring, and then there was a fiscal
6 manager that supervised the fiscal staff.
7 Q When you were the director of the block grant area,
8 was there a sick leave City policy in place?
9 A I believe so.
10 Q Okay. And what's your understanding of that sick
11 leave policy back in 1998?
12 A That you are provided X number of days of sick leave
13 and you could take it and document it.
14 Q And was the person required to produce any type of
15 medical proof or evidence of illness?
16 A Only if they were gone a certain number of days
17 without notice.
18 Q Do you recall whether or not in January of 2000 that
19 policy changed in any fashion?
20 A I don't know.
21 Q I'm sorry?
22 A I don't recall.
23 Q Okay. What was the policy, the sick leave policy in
24 the year 2000 based on your recollection?
25 A That if you were absent for more than three days you
339

1 had to provide a doctor's excuse.
2 Q Was that also the same requirement back in 1998?
3 A I believe so.
4 Q Okay. When you worked for the block grant
5 department, what if any training did you receive on
6 policy and procedures pertaining to the City of
7 Milwaukee?
8 A None.
9 Q What about when you became the chief, the Mayor --
10 A None.
11 Q -- staff chief?
12 A None.
13 Q With respect to 1998, who was responsible for
14 collecting the paperwork for sick leave?
15 A At the block grant office in '98?
16 Q Correct.
17 A The immediate supervisor, and then that person
18 funneled it to the finance people so they could deal
19 with the payroll issues.
20 Q So back in 1998 I suspect by virtue of the fact that
21 you had Ms. Hawkins supervising the employees, you
22 would not have gotten involved --
23 A Correct.
24 Q -- in sick leave; is that correct?
25 A That is correct.
340

1 Q Did you ever supervise any of the 15 or so employees
2 that were employed under you for the block grant
3 department?
4 A The direct reports to me were Ms. Hawkins as either
5 grant monitor or then assistant director and then
6 the -- prior to her being named assistant director,
7 the finance manager would have reported directly to
8 me.
9 Q All right. Before Ms. Hawkins was promoted, if I
10 can use that term.
11 A Sure.
12 Q Did there come a time in 1998 while you were the
13 block grant director where employees reported
14 directly to you?
15 A Other than the two I just mentioned?
16 Q Correct.
17 A No.
18 Q All right. When you became the block grant
19 department director, did you review handbooks and
20 policies pertaining to sick leave for the City of
21 Milwaukee?
22 A Only if there was an issue, and I can't remember an
23 issue actually coming up.
24 Q All right. What about once you became the Chief of
25 Staff for Mayor Norquist, did you ever review --
341

1 once you became the Chief of Staff, did you review
2 any of the policies and procedures for sick leave?
3 A Yeah. My style tends to be to go to the people that
4 I believe know and ask them. So if I had a
5 question, I would have called the Department of
6 Employee Relations and sought their advice.
7 Q And in 19 -- in the year 2000 did there come a time
8 when you felt the need to consult with the Office of
9 Employment Relations?
10 A Yes.
11 Q And when was that?
12 A It would have been when Marilyn was absent and not
13 reporting to work.
14 Q At what point did you consult with the Employment
15 Relations with respect to Marilyn?
16 A I don't know. Probably when I was getting ready to
17 get a good understanding of what she was required to
18 do and what I was required to do.
19 Q Right.
20 A It would have been prior to January 14th.
21 Q Was it after Mr. Norquist had confided in you --
22 A Yes.
23 Q -- the sexual contact he was having with
24 Ms. Figueroa?
25 A Yes, yes.
342

1 Q All right. Then before that where did you work?
 2 A Before that I was at the Near East Side Community
 3 Organization in Indianapolis.
 4 Q What was your title there?
 5 A Executive director.
 6 Q What was the nature of your work?
 7 A That was a neighborhood-based community
 8 organization. We organized residents around
 9 neighborhood issues.
 10 Q How long did you work for this agency?
 11 A Three years.
 12 Q Why did you leave?
 13 A To take the job with the Environmental Decade.
 14 Q Were you asked to resign or you left voluntarily?
 15 A No, I left. I was there for three years. That was
 16 long enough.
 17 Q And before that what did you do?
 18 A Before that I was with the neighborhood group the
 19 Springfield Project for United Neighbors.
 20 Q What was your title?
 21 A Executive director.
 22 Q How long did you work there?
 23 A Year, year and a half.
 24 Q And before that?
 25 A I had -- My job at the Springfield Project for

331

1 United Neighborhood was the culmination of training
 2 I received at the New England Training Center for
 3 Community Organizers. Under that organization I
 4 worked in Providence, Rhode Island; Hartford,
 5 Connecticut, and then ultimately in Springfield. I
 6 joined that effort in '75.
 7 Q What was the nature of these organizations?
 8 A They're all neighborhood organizations.
 9 Q Just to address social issues?
 10 A Right.
 11 Q Is that correct? Any other employment that you have
 12 not mentioned?
 13 A Yeah. I was a VISTA volunteer for a year, '74 to
 14 '75.
 15 Q Where were you assigned to?
 16 A Baraboo, Wisconsin.
 17 Q There we go. How long did you remain a VISTA
 18 volunteer?
 19 A VISTA is a one-year term.
 20 Q Did you survive Baraboo?
 21 A I loved Baraboo.
 22 Q Oh, okay. Any other employment that you have not
 23 mentioned?
 24 A No. I graduated college in '74, so I'm sure you
 25 don't want my summer jobs.

332

1 Q During your entire professional career, and I'm
 2 talking about employment, have you ever been
 3 involved in the investigation of discrimination
 4 complaints, including sexual harassment? Ever, as a
 5 director --
 6 A We went over this last time as I remember. I was
 7 never involved in complaints for sexual harassment.
 8 There were two complaints lodged against me on
 9 the --
 10 Q You probably didn't understand my question, so I'll
 11 rephrase it.
 12 A Okay.
 13 Q My question is have you ever been involved in any
 14 investigation where you are taking part in the
 15 investigation of any discrimination complaint. I'm
 16 not talking where you have been the defendant or the
 17 accused. I'm just talking about any investigation
 18 involving complaints related to discrimination or
 19 sexual harassment.
 20 A Just the ones that I was involved with.
 21 Q All right. In all of the years that you have been
 22 in the employment field, have you ever received
 23 training on affirmative action?
 24 A At the City of Milwaukee I had -- the City of
 25 Milwaukee had done training on -- I'm trying to

333

1 remember the title, I can't -- affirmative action.
 2 Q What subjects were covered other than affirmative
 3 action?
 4 A Well, here is the deal. I did not attend the
 5 training. I did read the materials.
 6 Q When was this?
 7 A During my tenure at block grant.
 8 Q That would have been what year?
 9 A '98 or '99. Probably '98.
 10 Q And the materials that you read, what subject
 11 matters were included in that?
 12 A I really, I don't remember.
 13 Q Have you ever received training in the areas of
 14 civil rights?
 15 A Civil rights, no. You mean -- well, I don't know
 16 what you mean.
 17 Q Race discrimination.
 18 A No.
 19 Q Gender discrimination.
 20 A No.
 21 Q Have you ever received any training in the areas of
 22 sexual harassment?
 23 A No.
 24 Q Have you ever read any materials in the areas of
 25 sexual harassment?

334

1 Q And that would include job descriptions, performance
2 reviews, disciplinary actions of any kind for any
3 reason, memoranda, notes, complaints of any kind,
4 telephone messages, electronically maintained
5 records, job reclassification information and
6 requests. The notes that you kept, were you told by
7 counsel that they do not apply to this Request No.
8 1?

9 A I showed the notes to counsel. I asked if I needed
10 to provide these. The advice I was given was that
11 they were not covered under the subpoena.

12 Q Did you go over each and every request that is found
13 in your subpoena with counsel?

14 A Yes.

15 Q All right. Very good. We'll go into that
16 eventually.

17 A Okay.

18 Q But let's go?

19 A I'm sure we will.

20 Q So your position is that during the 45 minutes that
21 we were absent you were advised by legal counsel not
22 to produce any of the notes that I requested you
23 produce?

24 A Correct.

25 Q All right. Very good. Let me ask you this, sir,

323

1 let's talk a little bit about your job history.

2 A Okay.

3 Q And before we do that, I want to talk a little bit
4 about your education.

5 A Okay.

6 Q What's your education?

7 A I have a BS degree in social work.

8 Q Where did you obtain your degree in social work?

9 A From a state college in Pennsylvania, amusingly
10 called California State College. It's now a part of
11 the Penn State system.

12 Q When did you graduate?

13 A 1974.

14 Q Do you hold any other academic degrees, diplomas of
15 any other kind?

16 A No, I do not.

17 Q Okay. Did you take any technical training
18 anywhere --

19 A No.

20 Q -- subsequent to your BS --

21 A No.

22 Q -- degree? Okay. Have you obtained any short-term
23 study type certificate, workshops, anything like
24 that?

25 A I've attended workshops but --

324

1 Q Okay. And you have been working for the Mayor's
2 office I believe you mentioned for the last two
3 years?

4 A Since October of '99.

5 Q And before that where did you work?

6 A I was employed in the City of Milwaukee block grant
7 office.

8 Q When did you begin your employment with the City of
9 Milwaukee block grant office?

10 A March of '98.

11 Q And when did you leave that position?

12 A I left that to go to the Chief of Staff position.

13 Q How did you become the manager for the block grant
14 office?

15 A How did I become the manager?

16 Q Yes. Were you appointed by the Mayor?

17 A Yes.

18 Q Is that right? And before that where did you work?

19 A I worked at the Goodwill Industries of Southeastern
20 Wisconsin.

21 Q What was your title?

22 A Economic development specialist, or something
23 similar. I don't really remember.

24 Q And when did you start that position?

25 A You have to help me out here. Seven, eight months

325

1 prior to going to the block grant office, so
2 whatever that time period is.

3 Q Somewhere in 1997?

4 A Yes.

5 Q All right. Why did you leave Goodwill Industries?

6 A To take the block grant job.

7 Q And before working for Goodwill Industries where did
8 you work?

9 A I worked at the Assisi Community Organization,
10 A-s-s-i-s-i.

11 Q What was your title there?

12 A Executive director.

13 Q And for how long did you work there?

14 A About a year.

15 Q So that would have been 1996-'97?

16 A Yes.

17 Q And before that where did you work?

18 A The Lisbon Avenue Neighborhood Development.

19 Q And what was your title there?

20 A Executive director.

21 Q How long did you work there?

22 A I began there in '91.

23 Q Was this a nonprofit community agency?

24 A Yes.

25 Q Was this community agency funded by the City?

326

1 of paper like this where I was starting to record
 2 her time off prior to her January 4th departure.
 3 Q How soon after the telephone conference took place,
 4 how soon after that did you make those notes?
 5 A I really don't know.
 6 Q Was it the same day?
 7 A It would have been likely the same day, at the very
 8 latest the next morning.
 9 Q Okay. And once you made those notes -- by the way,
 10 did anyone assign you to take notes of any
 11 contact --
 12 A No.
 13 Q -- that you may have had with Ms. Figueroa?
 14 A No.
 15 Q And when you note the notes, do you know where those
 16 notes were written, I mean in what location?
 17 A I kept a legal pad.
 18 Q Okay.
 19 A And I was chronicling the dates of when Marilyn was
 20 at work and not at work.
 21 Q Okay. And when you were writing those notes in that
 22 pad, where were you located, in what area?
 23 A At my desk.
 24 Q Okay. When you were writing the notes that you are
 25 referring here today, did anyone assign you to do

315

1 that?
 2 A I already testified to that. No.
 3 Q Okay. Was anyone present when you were making those
 4 notes?
 5 A Likely not.
 6 Q Okay. And were you keeping notes during the period
 7 of time in which Marilyn Figueroa was not returning
 8 to work?
 9 A Prior to January 4th, yes.
 10 Q What about after January 4th?
 11 A She wasn't there.
 12 Q So after January 4th the only notes, if this is what
 13 you're telling me, would have been the notes related
 14 to your phone conversation with Marilyn after
 15 January 4th of 2000?
 16 A Right, right.
 17 Q Correct?
 18 A Right.
 19 Q All right. So you --
 20 A Let me --
 21 Q Hold on a second. We are talking about two
 22 different --
 23 A Do you want me to answer or not?
 24 MR. TOKUS: Let him finish his
 25 question. Give a little pause so that you're

316

1 certain and he's certain that he's through with
 2 his question. Okay. You have to give counsel a
 3 chance to collect his thoughts. Okay.
 4 THE WITNESS: Okay.
 5 Q We are talking about two different types of notes;
 6 is that correct? Notes that you kept before
 7 June 4th?
 8 MR. TOKUS: January, Counsel.
 9 Q Excuse me, January 4th; correct?
 10 A Correct.
 11 Q Regarding Marilyn's absenteeism?
 12 A Correct.
 13 Q Isn't that correct? And then the notes that you
 14 made after January 4th during your phone conference
 15 or as a result of a phone conference that you held
 16 with Marilyn Figueroa?
 17 A The notes on the paper that looks like this, as best
 18 as I can remember in the conversation it is a note
 19 that says something to the effect of, Marilyn,
 20 what's going on, how can I help you, you know, come
 21 back to work. When I looked at that, I assumed that
 22 that was the conversation that I had with her on the
 23 phone.
 24 Q Let's go back to my original question: Are we
 25 talking about two different sets of notes? Notes

317

1 that you took before January 4th, correct, that's
 2 what we're talking about?
 3 A I did keep notes before January 4th.
 4 Q All right. And then we're talking also about notes
 5 that you made pursuant to a telephone conversation
 6 that you had with Ms. Figueroa after she left on
 7 January 4th?
 8 A What I am explaining to you is that on the page
 9 where I made the notes prior to her leaving of her
 10 absences and perhaps one or two conversations I had
 11 with her.
 12 Q Okay.
 13 A When I reviewed that document prior to giving it to
 14 the City Attorney many months ago, there was a note
 15 that appeared to me to be of my conversation with
 16 her at the time.
 17 Q Okay. So if I understand what you're telling me,
 18 all of the notes that you have regarding your
 19 contact with Marilyn Figueroa prior and after
 20 January 4th of 2000 would have been kept in one
 21 particular document?
 22 A On one piece of paper like this.
 23 Q Okay. And when you say a piece of paper like this,
 24 you're referring to a yellow legal pad?
 25 A Correct.

318

1 Q Was Ms. Cubias, Daisy Cubias, was she an employee of
2 the City before Marilyn Figueroa left?
3 A No.
4 Q When was she hired?
5 A May of 2000, I believe.
6 Q Who hired Ms. Cubias?
7 A I did.
8 Q Did you know Ms. Cubias before?
9 A No.
10 Q Was this position advertised?
11 A I don't believe so.
12 Q Was there a recruiting procedure?
13 A No. I don't believe we advertised the position.
14 Q How did she come to become appointed to this
15 position?
16 A We -- I had called people such as Maria Cameron,
17 Ricardo Diaz. I asked people who would know other
18 people to make recommendations. Daisy Cubias
19 actually was recommended by the Mayor.
20 Q What did Ms. Cameron say about Ms. Cubias?
21 A I don't think she was a person that Ms. Cameron
22 referred.
23 Q Did you talk to Ms. Cameron?
24 A Yes.
25 Q What if any recommendation did she make on behalf of

307

1 A I think it was the United Community Center.
2 Q How old is she?
3 A I have no idea.
4 Q Is she under your direct supervision?
5 A Yes, she is.
6 Q Is she married or single?
7 A I believe she's divorced.
8 Q During all of the years that you have been the Chief
9 of Staff, have you ever provided any type of
10 training to the staff assistants in the areas of
11 discrimination?
12 A No. The City provides -- well, it's not regular or
13 routine but it's occasional City-wide trainings.
14 Q Since you've been the Chief of Staff, how many
15 trainings has the City organized where the staff
16 assistants to the Mayor have attended? Let's talk
17 about the last two years.
18 A I don't know whether or not people attended. There
19 was a training on workplace violence that was done
20 in 2001 where people were invited to attend.
21 Q Let me go back to my previous question.
22 A Okay.
23 Q Since you have been the Chief of Staff, has your
24 staff -- As I understand you supervise the entire --
25 A Right.

309

1 Ms. Cubias?
2 A I'm sorry, I was not clear. I didn't ask her to
3 provide a recommendation to Ms. Cubias. I asked her
4 to provide recommendations of good people in the
5 community.
6 Q Did she do that?
7 A Yes, she did.
8 Q Who did she recommend?
9 A I have no recollection.
10 Q Did you write any notes with respect to your
11 discussion with Ms. Cameron?
12 A I have no idea.
13 Q Was Ms. Cubias one of the individuals that she
14 recommended?
15 A I don't believe so.
16 Q What about Ricardo Diaz, who did he recommend?
17 A I may have called Ricardo to ask about his
18 impression of Daisy.
19 Q And what if anything did he say?
20 A He said, you're getting a good person.
21 Q Did you talk to anyone else to request names or
22 recommendations?
23 A I may have. Maria Cameron is the only one I
24 specifically recall.
25 Q Where did Ms. Cubias work before she was hired?

308

1 Q -- Mayor's staff. Has your staff, including you and
2 the Mayor, attended any type of training in the
3 areas of civil rights?
4 A No.
5 Q All right. Since you have been the Chief of Staff,
6 have you personally provided any training to any
7 member of the Mayor's staff in the areas of sexual
8 harassment?
9 A No.
10 Q Since you have been the Chief of Staff, have you
11 issued or the Mayor any rules or regulations on
12 civil rights, including sexual harassment? And if
13 you did, I want to know the date.
14 A No.

MR. ARELLANO: All right. Okay.

You wanted 45 minutes. Let's go off the record.

MS. AURIT: Going off the record.

(Discussion held off record)

(Recess)

MS. AURIT: We're back on the

record.

MR. TOKUS: Let me for the benefit
of counsel and the witness, the witness went back
to his office to look for the records that you
were interested in, and he found that the only

310

1 14.
2 A Right.
3 Q Is that correct?
4 A Uh-huh.
5 Q Tell me, what period of time are these records
6 describing, if you will?
7 A It looks to be '96 through 2000.
8 Q '96 through 2000?
9 A That's what it looks to be.
10 Q And are those the vacation and/or sick leave records
11 for all the professionals within the Mayor's office?
12 A I believe so.
13 Q Otherwise identified as assistants to the Mayor?
14 A Yes.
15 Q Those records include your records as well?
16 A Yes.
17 Q Do they include the Mayor's records as well?
18 A I don't believe so.
19 Q Is there a reason why you didn't produce those
20 records?
21 A Again, I don't think the Mayor keeps a time card.
22 Q So if he takes a two-week, three-week vacation or
23 one-day vacation, isn't the City expecting some type
24 of notice from the public servant, Mayor Norquist?
25 A No. I mean the Mayor is the mayor 24 hours.

299

1 Q Well, I understand that you may think he's the king,
2 but he's still a public servant, isn't he?
3 A The Mayor is a public servant, correct.
4 Q Are you telling me that based on your knowledge the
5 Mayor is not required to notify the City of
6 Milwaukee his whereabouts or when he's taking sick
7 leave and when he's not working?
8 A Yeah, I don't believe there are time cards for the
9 Mayor, but I will be happy to check that.
10 Q Well, you were supposed to. I just want to make
11 sure that you include that.
12 A If they weren't in there, that's why I'm led to
13 believe they aren't there.
14 Q Other than Ruth Wytenbach who is required to
15 process the paperwork that would apply to the Mayor,
16 the paperwork such as payroll records, time records,
17 phone records, who would that be?
18 A Ruth Wytenbach only or deals primarily with the
19 Mayor's schedule.
20 Q Okay.
21 A The payroll records, vacation, if there are such
22 things, would be handled by Pat Stawicki.
23 Q Have you spoken to Ms. Stawicki to determine whether
24 or not she has any records pertaining to the Mayor,
25 the Mayor's activities, sick leave, vacation?

300

1 A I asked her to produce the record -- I gave her a
2 copy of the subpoena, asked her to produce the
3 records we have.
4 MR. ARELLANO: Okay. Let me ask
5 you to mark this.
6 (Exhibit No. 28 marked
7 for identification)
8 Q Let me see if I understand how the Mayor of the City
9 of Milwaukee operates. The only records that you
10 have produced pursuant to our subpoena as far as the
11 Mayor is concerned are some of the schedules of his
12 activities; is that correct?
13 A Correct.
14 Q Are you representing here under oath that there are
15 no other records pertaining to the Mayor's
16 activities, payroll, telephone bills that exist
17 within the City of Milwaukee or that the City of
18 Milwaukee keeps on the Mayor?
19 A I am representing to you that I asked the support
20 staff to compile the records that were listed in the
21 subpoena. I do not know if the Mayor's records are
22 in there or not. I tend to believe that the Mayor
23 does not keep vacation records, sick records.
24 Q Telephone records, who keeps track of telephone
25 calls within the City of Milwaukee?

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1 A Actually the Department of Public Works.
2 Q Have you inquired as to whether or not they have any
3 telephone records that we have requested in our
4 subpoena, sir?
5 A The telephone records for the City of Milwaukee are
6 only maintained for a 30-day period.
7 Q How do you know this fact?
8 A Because we had a Freedom of Information request from
9 the, some reporter on phone records. I asked the
10 Department of Public Works to produce that for the
11 hard line, I mean the phone you use at your office.
12 Q Did you use a cellular phone, sir?
13 A Yes.
14 Q Is that a private telephone?
15 A The cell phone records, as I understand, are only
16 maintained for a five-month period.
17 Q And when you say the cell phone records are
18 maintained, are you referring to the City of
19 Milwaukee?
20 A I'm referring to the City of Milwaukee's agent,
21 the -- I think it's Verizon.
22 Q And again going back, you have a private cellular
23 phone?
24 A Yes.
25 Q Is that correct?

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1 obtain a medical release form from Ms. Figueroa?
2 A I remember specifically now that we did not disclose
3 medical records because the City Attorney's office
4 told us that we did not have to.
5 Q So now let me give you another opportunity to
6 rectify the record if a rectification is needed.
7 A Okay.
8 Q I asked you previously whether or not any records
9 had been removed from the personnel file of Marilyn
10 Figueroa.
11 A Okay. Well, we're talking about two different
12 things.
13 Q Okay.
14 A The medical records were removed prior to
15 providing -- were removed from the copy that was
16 provided to the reporters. They were not removed
17 from the file.
18 Q Okay. Have you made a good faith search pursuant to
19 our subpoena to make sure that all of the files,
20 notes, records requested are contained in this
21 package which has now been marked as Exhibit 24?
22 A Yes, because -- well, yes and no because I did not
23 make copies of the file. I figured that the best
24 way to make sure that everything is contained in
25 there is simply to ask the secretary to make a copy

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1 of the complete file.
2 Q Did you send any type of inquiry to any other
3 department within the City of Milwaukee in order to
4 determine whether or not any other records were kept
5 within City government?
6 A No.
7 Q So is it fair and accurate to say that if there are
8 other records in the human resources office or in
9 any other place, you have not made any inquiry to
10 determine that fact?
11 A No, that's not fair.
12 Q Okay. Well, clarify it for me.
13 A When we received the Freedom of Information request
14 for a copy of Marilyn's personnel record, it
15 actually initially went to the Department of
16 Employee Relations. Their response back to the
17 reporter was, we don't have those records. You have
18 to talk to the Mayor's office.
19 Q And again I think you disclosed the name of the
20 director for the Department of Employment Relations.
21 A Jeff Hanson.
22 Q All right. Have you ever spoken to Mr. Hanson in
23 order to determine whether or not --
24 A Yes.
25 Q -- there were any -- And what was as far as his

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1 response in regard to maintaining the records in
2 that office?
3 A His response is that they don't maintain the
4 records, that the general City policy is for the
5 individual departments to maintain their own
6 personnel records.
7 COURT REPORTER: I'm sorry, could
8 you repeat that? They don't maintain the
9 records, that --
10 A The general City policy is for the individual
11 departments to maintain their own records.
12 Q As far as payroll records, who would be the keeper
13 of such records or the custodian of those records?
14 A That would be kept by the individual departments.
15 Q As far as sick leave records?
16 A It would be kept by the department.
17 Q The department where that employee --
18 A Where that employee is employed.
19 Q Is employed. With respect to reimbursement for
20 expenses?
21 A It would be kept by the employee's division.
22 Q As far as telephone records?
23 A Is kept within the employment department, the
24 department where the employee is working.
25 Q Vouchers of any kind, they would also be kept where

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1 the employee is assigned to work?
2 A Correct.
3 Q Is that correct?
4 A Well, on the financial side, I think that we keep
5 the records we have but then there is another --
6 the controller's office might actually have some
7 information.
8 Q Okay.
9 MR. ARELLANO: Let's go off the
10 record for a second.
11 MS. AURIT: Going off the record.
12 MR. ARELLANO: No, no, no, no,
13 I'm sorry.
14 Q What I want to do is understand what records you
15 have produced so that I can look at them while you
16 are doing your search.
17 A Sure.
18 Q Just generally speaking what do you have here, sir?
19 Just pull them all out here.
20 A 2001 time cards for all employees that you
21 requested. I made two copies.
22 Q Thank you.
23 A 2000, the year 2000 time cards. 1999 time cards.
24 This is a copy for the City Attorney. I'll
25 let you look at it. I don't know. It's a copy of

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1 office, ever interviewed Ms. Kimberly Pratt.
 2 A Well, I asked for that clarification and you said
 3 anybody so --
 4 Q Right, anybody within the City representatives.
 5 A Okay. No.
 6 Q What about Michael Miller, same question.
 7 A Same answer.
 8 Q Sherry Street?
 9 A Same answer.
 10 Q Steve Taylor?
 11 A Same answer.
 12 Q Roland Perry?
 13 A Same answer.
 14 Q The e-mail that you identified between Ms. Street
 15 and Ms. Figueroa or vice versa, how did you come in
 16 contact with this e-mail?
 17 A One of the reporters had asked for a copy of all of
 18 the e-mails that we had in our computer system for
 19 Marilyn. Prior to releasing that, I went through
 20 them all.
 21 Q Which reporter requested all the e-mails?
 22 A I have no idea.
 23 Q Was this request in writing?
 24 A I'm sure it was.
 25 Q Did you release Ms. Figueroa's e-mails?

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1 A Yes.
 2 Q Did you notify Ms. Figueroa that you were going to
 3 do that?
 4 A I believe so. I believe we sent her a letter saying
 5 that her -- there was a request to review her
 6 e-mails and her personnel file and she had a certain
 7 period of time to respond.
 8 Q What did you find in the e-mail that you're
 9 referencing here today between Ms. Street and
 10 Ms. Figueroa that led you to conclude that she was a
 11 sympathizer or someone that would testify on behalf
 12 of Ms. Figueroa?
 13 A I didn't mean to say a sympathizer.
 14 Q Those are my words.
 15 A Right, those are your words.
 16 Q Sir, you know, as it is, we're taking a lot of time
 17 on other procedural issues. If you don't understand
 18 my question, instead of engaging in word games with
 19 me, just tell me -- just to make this a little more
 20 smooth, and it will help you as well because you're
 21 the one who has to answer the questions, just tell
 22 me you don't understand my question or you need
 23 clarification, but let's avoid these word games.
 24 A Well, but if --
 25 Q Sir, sir, just listen to my question. What in the

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1 e-mail that you found, the e-mail that you're
 2 referencing of Sherry Street and Marilyn Figueroa,
 3 what did you find in that e-mail that led you to
 4 believe that she would be a supporter or a witness
 5 on behalf of Ms. Figueroa?
 6 A I can't remember if it was one or an exchange of
 7 e-mails but it was something to the effect, I heard
 8 you're back, how is it going and -- well, it must
 9 have been an exchange because then there was a
 10 response that said something like, yeah, I'm back
 11 but I'm not sure. I don't remember, but it was just
 12 kind of that gist.
 13 Q Kind of personal concern about each other?
 14 A Right, right.
 15 Q Is that correct? Did you make -- I suspect you
 16 review all the e-mails before you release them to
 17 the press?
 18 A Correct.
 19 Q And did you make a list of all the e-mails that you
 20 reviewed?
 21 A No, no.
 22 Q Did you make any notes of any specific e-mail that
 23 you may have found interesting?
 24 A No, no.
 25 Q Did you find anything of significance that may

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1 support either side? Did you find anything of
 2 significance in any of the e-mails that you
 3 reviewed?
 4 A No.
 5 Q You testified yesterday that once Mayor Norquist
 6 disclosed his conduct with Ms. Figueroa shortly
 7 after Ms. Figueroa attempted to file a complaint of
 8 discrimination or obtain a discrimination form that
 9 Christofferson, you and Mr. Norquist began to work
 10 on how to deal with the Figueroa problem. Did I
 11 pretty much identify your position?
 12 A Pretty much, right.
 13 Q All right. And then you also testified that many
 14 meetings occurred, and I just want to know, the
 15 meetings that you have identified which occurred in
 16 the year 2000, I suspect you're including the first
 17 meetings that you had with Ms. Figueroa -- with,
 18 excuse me, with Ms. Shindell, Mr. Norquist,
 19 Mr. Christofferson, Susan and yourself. You're
 20 including those meetings all the way --
 21 A Right.
 22 Q -- until the end; is that correct?
 23 A Yes.
 24 Q All right.

MR. ARELLANO: Let's do the
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1 this individual from the Development Corporation.
2 Q All right. Other than the ones that you identified
3 previously.

4 A Well, this is a broad question because the issue of
5 Marilyn was in the press and a buzz in the City
6 quite a bit, and there were a lot of conversations.

7 Q I want to know who in your view provided any type of
8 statements or comments related to Ms. Figueroa after
9 she left on January 4th, any comments that you
10 deemed significant with respect to the dispute
11 between Norquist and Ms. Figueroa and the City of
12 Milwaukee.

13 A Let me try to get at it this way. There were a lot
14 of general, normal office conversations about when
15 Marilyn worked at the office and some of the
16 activities and friction that was there.

17 Prior to the Mayor's announcement, never did I
18 have a conversation with anybody outside of that
19 group we listed previously about the Mayor having an
20 affair with Marilyn.

21 So the conversations were just kind of the
22 general conversations that would be in the community
23 about an issue that's of public prominence and
24 public interest.

25 Q So is it your sworn testimony that before the Mayor

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1 became public with his version of the relationship
2 in December of 2000, no one from the Mayor's office
3 staff ever volunteered any information pertaining to
4 the issue of Figueroa and John Norquist?

5 A Let me think about that because --

6 MR. ARELLANO: And so you
7 understand where I'm going, I would like you to
8 read his previous question -- his previous answer
9 where he states that he's not including the group
10 that he cited before.

11 (Answer read)

12 MR. ARELLANO: No, before that.

13 (Answer read)

14 Q You stated before that before the Mayor became
15 public you had mentioned 15 members working for the
16 Mayor's office; correct?

17 A Right.

18 Q And I think you excluded a group by saying that
19 before the Mayor became public no one from that
20 group, I believe that's what you said, ever came to
21 you to disclose any pertinent information related to
22 the Figueroa/Norquist dispute. And I just want to
23 clarify what group you believe never came to you
24 with any pertinent information related to the
25 Norquist/Figueroa dispute before December 2000.

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1 A All right. Let me -- The Norquist/Figueroa dispute
2 in my mind kind of breaks down in two areas. One is
3 the area of job dissatisfaction. The other one is
4 in the area of the affair.

5 At no point prior to the Mayor's announcement
6 did I divulge to any staff, other than that small
7 group that we talked about, any information about
8 the Mayor's affair with Marilyn. If ever there was
9 a conversation, I would cut it off right away.

10 Q And I understand that applies to you.

11 A Correct.

12 Q But what I want to know is whether or not any member
13 of the Mayor's staff, the 15 people that you
14 included, whether or not any of those individuals
15 ever to your knowledge have volunteered any
16 information pertaining to Marilyn Figueroa and/or
17 John Norquist's allegations.

18 A Okay. That's what I was getting to.

19 Q Okay.

20 A I said there were two sides to this issue as I look
21 at it.

22 Q I understand that.

23 A There were a fair amount of conversations of people
24 talking about the office atmosphere while Marilyn
25 worked there as it relates to the working

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1 environment and what was perceived and alleged and
2 those kinds of things.

3 Q What about with respect to the Norquist/Figueroa
4 allegations of sexual conduct?

5 A No. The only conversation would be what do you
6 think of these rumors, and I would just kind of cut
7 it off because I'd say we're not talking about this.

8 Q Before the Mayor became public with his version of a
9 consensual affair, is it your testimony that before
10 that no one from the Mayor's staff ever made any
11 comments about any consensual affair or any sexual
12 conduct on the part of Mr. Norquist and/or on the
13 part of Ms. Figueroa, is that your testimony?

14 A That's my testimony. If you're asking me did people
15 say, what do you think about these rumors or
16 something like that, yeah, I was asked that
17 question.

18 Q Okay. Let me be more specific. Did anyone --
19 Before the Mayor became public, did anyone at any
20 point before that ever come to you and volunteer any
21 type of information regarding what the Mayor deems a
22 consensual affair?

23 A No.

24 Q Did anyone ever come to you with any information
25 regarding any type of sexual contact between the

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1 I needed to do. I would have put those on a Post-It
 2 note.
 3 Q Things that you needed to do in relation to the
 4 Marilyn Figueroa matter?
 5 A Follow-up activities.
 6 Q Okay. And what did you do with those notes?
 7 A When I finished the task, I threw them away.
 8 Q I'm going to make a list of the participants that
 9 you have disclosed.
 10 A Okay.
 11 Q Mr. Christofferson.
 12 A Correct.
 13 Q Mr. Soika.
 14 A Correct.
 15 Q Mr. Gillis.
 16 A Correct.
 17 Q Mr. Norquist.
 18 A Correct.
 19 Q Ms. Susan Mudd; is that correct?
 20 A Correct.
 21 Q Ms. Anne Shindell; correct?
 22 A Correct.
 23 Q Did I miss anybody? The City Attorney's office.
 24 A As needed.
 25 Q Anyone else, sir?

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1 A No.
 2 Q All right. And I shouldn't ask you again because
 3 you have given me the same answer three times; is
 4 that correct?
 5 A That is -- well --
 6 Q All right.
 7 A If you say so.
 8 Q With respect to these strategy meetings, was there a
 9 function, specific role that was assigned to each
 10 participant?
 11 A Not necessarily.
 12 Q As far as your participation, what was your role as
 13 far as this meeting was concerned and decisions made
 14 as a result of these meetings that you have
 15 disclosed for the year 2000?
 16 A To participate in the meetings, offer insights as I
 17 deemed appropriate.
 18 Q Anything else?
 19 A No.
 20 Q Were you given any assignments related to how to
 21 deal with the Figueroa problem?
 22 A I'm sure that there were follow-up activities.
 23 Q Cite some of those activities that you were assigned
 24 to follow up on.
 25 A If, for example, the question of does Anne represent

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1 the City or not, whether to get the City Attorney
 2 involved, I called the City Attorney and arranged
 3 the meeting.
 4 Q Any other type of activity?
 5 A I'm sure there were, but that's the only specific
 6 one I can remember.
 7 Q You don't remember any other activity that was
 8 assigned to you pursuant to the meetings that you
 9 have disclosed thus far?
 10 A Not really.
 11 Q So out of the 25 or so meetings that you believe
 12 took place, the only one that you recall is the one
 13 related to whether or not Ms. Shindell could
 14 represent the City of Milwaukee?
 15 A That's the only one I recall, yes.
 16 Q All right. And again, did you keep any of the notes
 17 related to the assignments or follow-up tasks that
 18 you were undertaking --
 19 A No.
 20 Q -- as a result of the strategy meetings related to
 21 the Figueroa problem?
 22 A I did not.
 23 Q All right. Were you ever assigned in any respect to
 24 deal with the press?
 25 A Yes.

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1 Q What exactly was your assignment as far as dealing
 2 with the press was concerned?
 3 A I never called it an assignment. It was -- The
 4 press was calling frequently. Because no one
 5 outside of this small circle knew anything about the
 6 matter, somebody had to talk to them. So when they
 7 called the Mayor's office, all calls regarding the
 8 Figueroa matter were routed to me.
 9 Q Were you in any way assigned to review any aspect of
 10 Marilyn Figueroa's employment records?
 11 A Assigned?
 12 Q Or whether or not it was assigned or you
 13 volunteered.
 14 A I did review Marilyn's personnel file several times.
 15 Q And that was one of the tasks that developed from
 16 this --
 17 A I did not say that.
 18 Q All right. Let me finish my question so you can
 19 answer it.
 20 My original question was, as a result of these
 21 strategy meetings, were you ever assigned or did you
 22 undertake the task of reviewing Ms. Figueroa's
 23 personnel file.
 24 A I think you had said undertake voluntarily.
 25 Q Correct.

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1 in the year 2000; correct?

2 A No, I said the City Attorney was involved on an

3 as-needed basis, initially over whether or not Anne

4 Shindell should or could act as an agent of the

5 City.

6 Q Do you recall the first time when the City

7 Attorney's office was contacted after January 4th in

8 order to participate in any of the meetings that

9 you're referencing here today?

10 A I really don't, no.

11 Q Do you recall whether or not the City Attorney's

12 office was contacted before you decided to issue the

13 termination, the voluntary quit termination notice

14 to Marilyn Figueroa?

15 A I don't remember contacting them prior to that.

16 Q Shortly after you had issued the termination letter,

17 do you recall when -- how soon after that the City

18 Attorney's office was contacted?

19 A You know, I don't recall when the City Attorney came

20 in. They may have been -- I'm sorry. I really --

21 it's a --

22 Q It's another one you don't recall?

23 A Yeah, it really is.

24 Q All right. I understand. Nevertheless, you do

25 recall in the year 2000 the City Attorney's office.

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1 being involved on an as-per-needed basis.

2 A Correct.

3 Q Is that correct? And I suspect that they were

4 involved long before the Mayor decided to go public

5 with his version of what had occurred in this

6 relationship with Marilyn Figueroa?

7 A Yes.

8 Q And I suspect someone from the City Attorney's

9 office participated in these meetings, some specific

10 human being?

11 MR. TOKUS: Excuse me. I didn't

12 hear your last question, Counsel.

13 MR. ARELLANO: Let me rephrase my

14 question.

15 Q The meetings that you are referencing, which

16 included the office of the City Attorney, who from

17 the City Attorney's office was participating in

18 these meetings?

19 A Initially Grant Langley, specifically around the

20 question of whether or not Anne Shindell could.

21 COURT REPORTER: I'm sorry, whether

22 Anne Shindell?

23 THE WITNESS: Could represent the

24 City.

25 Q After -- It was decided that -- I suspect at some

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1 point it was decided that Anne Shindell could not

2 represent the City?

3 A Correct.

4 Q Did you suggest to the City Attorney's office that

5 Anne Shindell undertake the representation of the

6 City of Milwaukee at some point?

7 A No. I remember that we thought that that was a

8 question that needed to be answered and brought the

9 City Attorney in to get his opinion.

10 Q Well, who raised the issue first as to whether or

11 not Ms. Shindell should undertake the --

12 A I think Ms. Shindell did. I think she was concerned

13 upon whether or not she could proceed as an agent of

14 the City.

15 Q After Ms. Shindell stopped her legal representation

16 of Mr. Norquist, to your knowledge as you sit here

17 under oath did she continue to attend any subsequent

18 meetings regarding the Norquist/Figueroa matter?

19 A Other than a deposition last night, no.

20 Q To your knowledge since Ms. Shindell stopped

21 representing Mayor Norquist did she continue to

22 provide any type of legal advice to any member of

23 Mayor Norquist's staff or family?

24 A No.

25 Q Have you -- After Ms. Shindell stopped being

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1 Mr. Norquist's attorney, have you or do you know if

2 Mayor Norquist has received any communication from

3 her?

4 A I don't know if Norquist did receive any

5 communication from her.

6 Q Have you had any contact with Ms. Shindell since she

7 has stopped being the Mayor's representative?

8 A I had a brief phone conversation with her.

9 Q When was that?

10 A It had been about a month or so ago. She had called

11 me on the day that she received the Notice of

12 Deposition in the matter of Colon, and my response

13 was, I just got the same notice. We can't have any

14 conversations. She said, okay, how is your family,

15 and I said fine.

16 Q Have you or anyone from the Mayor's office provided

17 any records to Ms. Shindell after she stopped her

18 legal representation of Mayor Norquist?

19 A No.

20 Q Did you have anything to do with recommending

21 Attorney Lester Pines to John Norquist?

22 A No.

23 Q Do you know if Mr. Rowen, Jim Rowen, had any

24 participation in this referral?

25 A I don't know. I know that Rowen knows Pines, but I

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1 statements made by others pertaining to this case,
2 Norquist/Figueroa?
3 A Yes.
4 Q What documents have you seen?
5 A It would have been the documents filed through the
6 various state agencies.
7 Q Have you seen any written statements, typed
8 statements, electronically-maintained statements by
9 any potential witness who may have offered an
10 opinion of any kind, of any nature regarding the
11 Figueroa/Norquist case?
12 A Yes.
13 Q Which statements have you seen?
14 A Well, now I have a dilemma because the statement
15 that I saw was provided to me in a deposition last
16 evening, and I need to confer with my attorney on
17 whether or not that --
18 Q What deposition are you referring to?
19 A It was a deposition. I'm named as a witness in a
20 complaint between Pedro Colon and Anne Shindell.
21 COURT REPORTER: What was the last
22 name?
23 THE WITNESS: Shindell.
24 COURT REPORTER: Thank you.
25 Q And there was a statement that was introduced during
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1 record.
2 MR. ARELLANO: All right.
3 Q You took I suspect a sufficient time to discuss with
4 your attorney concerns that you had with respect to
5 disclosing matters that you were shown during a
6 deposition that you took, when was it?
7 A Last evening.
8 Q Last evening. Now, we were -- let's get back to
9 that document. What document were you referring to?
10 A I was shown a copy of the deposition of David Feiss,
11 the District Attorney.
12 Q So it was a testimonial document as opposed to a
13 written document; correct?
14 A Yes.
15 Q You're referring to the -- a testimony given by
16 Mr. Feiss?
17 A Correct.
18 Q Is that correct? How do you spell his last name?
19 A I'm not sure. F-e-i-s-s I would guess.
20 Q Is this in connection with the criminal charges you
21 filed against Mr. Colon?
22 A It's in connection with the charges -- it's in
23 connection with the case between Colon and Anne
24 Shindell.
25 Q Right. And Mr. Feiss, is this testimonial that
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1 the deposition?
2 A Yes.
3 Q Was it marked as an exhibit during the deposition?
4 A Yes. It was provided to me by Mr. Colon's attorney.
5 Q And what's his name?
6 A Mark Thomsen.
7 Q To your knowledge is there a gag order with respect
8 to the matter that Mr. Thomsen is handling --
9 A Yes, there is.
10 Q -- on behalf of Mr. Colon?
11 A Yes, there is.
12 MR. ARELLANO: All right, then.
13 You may go ahead and confer with counsel. Let's
14 take five minutes.
15 MS. AURIT: Going off the record.
16 MR. ARELLANO: Actually let's take
17 two minutes. I don't think that it should take
18 more than two minutes.
19 MR. TOKUS: Well, I'll have to be
20 the judge of that.
21 MS. AURIT: Going off the record.
22 (Recess)
23 MR. ARELLANO: Let's go back on the
24 record.
25 MS. AURIT: We are back on the
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1 you're referring here today, is it related to the
2 charges, the criminal charges that you filed against
3 Mr. Colon?
4 A I don't believe I filed criminal charges. I raised
5 a complaint. I was part of a party that raised
6 issues about the activities of Mr. Colon.
7 Q Well, those charges that you filed were with the
8 intention of having the District Attorney bring
9 criminal charges against Mr. Colon; isn't that
10 correct?
11 A No.
12 Q So what were you looking for the District Attorney
13 to do against Mr. Colon?
14 A To investigate the allegations that we were making.
15 Q Did you feel that Mr. Colon had done anything to
16 warrant a criminal investigation?
17 A Yes.
18 Q You were demanding a criminal investigation;
19 correct?
20 A I had requested that -- we had requested that Feiss
21 investigate.
22 Q As you sit here today, do you believe that Mr. Colon
23 should have been prosecuted?
24 A I'm not qualified to answer that.
25 Q But that was your intent, wasn't it?
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1 Corporation in Walker's Point informing that Marilyn
2 had called there asking for space to rent but had --
3 I forget the phrase -- started, I don't know, I
4 can't remember if it said crying or was upset but
5 said that the Mayor's office was following her
6 children, which is untrue.

7 Q Any other notes?

8 A Yeah, there are. Give me a minute here. I mean, if
9 you wanted to recess, I would be happy to go get
10 them.

11 Q We will eventually.

12 A There is a very cryptic note that I had on a
13 conversation with -- that Reporter Spivak and Byce,
14 where I think it was that they were saying that John
15 Fuchs had been hired by Marilyn and what did I have
16 to say about that.

17 MR. TOKUS: Please keep your voice
18 up. I'm having trouble hearing you.

19 THE WITNESS: I'm sorry.

20 MR. TOKUS: Thank you.

21 Q Anything else?

22 A Yeah, there is. Let me just kind of --

23 Q Sure. Take your time.

24 A There is a note from a phone conversation I had with
25 an individual named June Moberly that said that she

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1 was in a restroom when Marilyn was talking to
2 another individual and saying how she was going to
3 be employed after the campaign in a high paying job
4 as Deputy Director of administration or something
5 like that.

6 Q Anything else?

7 A There is a note from -- again, I didn't write down
8 who it was from. I didn't remember the
9 conversation. The note vaguely jogged my memory.
10 It appears to be with a staff person. I believe it
11 was with Kimberly Pratt. I'm really not sure, but
12 that's kind of the context I put it in.

13 In that conversation Kimberly Pratt was
14 relaying to me that Marilyn was upset, quote, I
15 wrote down, that she feels like she's losing you.
16 She thinks you gave her a dirty look today.

17 Q Referring to you?

18 A Yeah. Then attached to that note is two pages and
19 then off to the side is saying I talked to Marilyn,
20 asked her what I could do, or something to that
21 effect. That's all I remember.

22 Q Any other notes?

23 A There may be. At this point I'm not drawing up.

24 MR. ARELLANO: Are we getting both
25 of us clearly?

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1 MS. AURIT: Yes.

2 MR. ARELLANO: Thank you.

3 Q You mentioned that there may be other notes?

4 A There may be a few more, but I don't recall.

5 Q When -- You have been Chief of Staff for
6 approximately two years?

7 A A little over two years, yes.

8 Q Did you ever bring a religious Bible to the
9 workplace?

10 A I have a Bible in the workplace, yes.

11 Q Have you ever recited any passages from the Bible in
12 the presence of the Mayor, Mr. Christofferson or
13 others?

14 A Did I ever read from the Bible?

15 Q Correct, during working hours.

16 A No, I'm -- I'm not sure. I don't recall that.

17 Q I suspect that if you carry a Bible, you believe in
18 the Bible?

19 A Yes. I have a strong faith.

20 Q You abide by those principles --

21 A Yes, I do.

22 Q -- contained in the Bible?

23 A Yes.

24 Q Okay. When Ms. Kimberly Pratt --

25 A As flawed as we all are.

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1 Q Do you feel you have some flaws?

2 A We all have flaws.

3 Q Are those flaws in any way connected to your ability
4 to tell the truth?

5 A No. No, they are not.

6 Q All right. When Ms. Pratt was telling you that
7 Marilyn felt that you were giving her dirty looks --

8 A A dirty look today.

9 Q A dirty look, did Ms. Pratt disclose the time when
10 that event may have occurred?

11 A I believe the note says today.

12 Q And today meaning?

13 A Whatever the date was.

14 Q Was it before January 4th?

15 A Yes.

16 Q Was it before Ms. Figueroa left her office on
17 January 4th?

18 A Yes.

19 Q Okay. Did Ms. Kimberly Pratt relate in any way
20 those dirty looks to anything in particular?

21 A No. I was shocked. I had no -- I did not believe
22 that I gave Marilyn a dirty look, so it was a
23 surprising comment to me.

24 Q All right. Okay. Since -- You received our notice
25 for production of documents, requests; correct?

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1 MICHAEL SOIKA,
2 called as a witness, being first duly sworn,
3 testified on oath as follows:

4 EXAMINATION (Continued)

5 By Mr. Arellano:

6 Q Mr. Soika, good morning.

7 A Good morning.

8 Q This is the continuation of your deposition which is
9 undertaken pursuant to a subpoena that we served you
10 with. Do you understand that?

11 A Yes.

12 Q All right. And this is our second day, and I am
13 sure you are aware that you will continue to be
14 under oath at all times.

15 A Correct.

16 Q Okay. Mr. Soika, we touched on some issues during
17 the last deposition where you provided information
18 about what happened after Ms. Figueroa left on
19 January 4th of the year 2000, and in general fashion
20 I can simply try to refresh your recollection by
21 stating that during the last deposition we went
22 through a chronology of events that occurred
23 primarily after Ms. Figueroa left her employment
24 with the City of Milwaukee. Do you recall that?

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1 A Yes, I do.

2 Q All right. And one thing that I wanted to clarify
3 today was when Marilyn Figueroa left her place, as I
4 understand it was on January 4th of 2000?

5 A I believe so.

6 Q Is that correct? And I think your sworn testimony
7 before was that you don't recall when she left the
8 workplace?

9 A That's correct.

10 Q In fact, you did testify that you saw Ms. Figueroa
11 on June 4th in the workplace?

12 MR. TOKUS: Excuse me, you misspoke
13 yourself. You said June.

14 MR. ARELLANO: January 4th. Thank
15 you.

16 MR. TOKUS: You said June. You
17 misspoke yourself.

18 MR. ARELLANO: You're correct.
19 Thank you. I was just trying to making sure
20 you were not sleeping as you represented last
21 time. You're doing fine.

22 MR. TOKUS: You're very observant.

23 MR. ARELLANO: Thank you. I stand
24 corrected. Thank you, Counsel.

25 Q You testified that on January 4th, which as I

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1 understand it's your position that that is the day
2 when Marilyn left her office in the year 2000?

3 A Yes.

4 Q Is that correct? You did testify that you saw
5 Ms. Figueroa early in the morning?

6 A Yes.

7 Q And I think I did ask you to tell us whether or not
8 you remember where exactly you saw Ms. Figueroa that
9 morning.

10 A Yes.

11 Q And can you tell us where exactly you saw
12 Ms. Figueroa that morning?

13 A Yes. I believe I had testified that it was in the
14 general hallway where there is a large library
15 table. The staff gathers there every morning at
16 approximately 8:30.

17 Q Is that some sort of a coffee shop or gathering
18 place?

19 A No. We at some point early in my tenure instituted
20 a daily 8:30 staff meeting, and that's where we
21 gather for that.

22 Q And going back to that particular day, did there
23 come a time during that day when you learned, if you
24 did, that Ms. Figueroa had left the office?

25 A I don't believe so. I remember at the time that

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1 Ms. Figueroa was working half time on the campaign
2 and half time at the office so having her gone for a
3 part of the day I don't think would have been
4 unusual.

5 Q Did there come a time after January 4th when you
6 learned that Ms. Figueroa had left her office?

7 A Was there a time where I knew that Ms. Figueroa
8 wasn't showing up for work?

9 Q Correct.

10 A January 5th.

11 Q And how did you learn of that fact?

12 A She wasn't there.

13 Q You concluded by virtue of the fact that she was not
14 there that she was not returning to work?

15 A No, I did not say that. I concluded that she was
16 not there.

17 Q All right. Did you talk to anyone about whether or
18 not Marilyn Figueroa would not be returning to work?

19 A I have no recollection of a conversation like that.
20 I may have, but I don't -- I don't recall a specific
21 conversation.

22 Q Other than concluding by virtue of her absence,
23 which I understand that's what you're telling me,
24 that she was not returning to work, was there any
25 other way which helped you to determine whether or

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