

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

MARILYN FIGUEROA,

Complainant,

-vs-

CITY OF MILWAUKEE,

Respondent.

ERD Case No.
CR200003454

Continuation of Videotape Deposition of:

MICHAEL SOIKA

(Volume III)

Milwaukee, Wisconsin
April 9, 2002

Reporter: Taunia Northouse, RDR, CRR

VOLUME III of VIDEOTAPE DEPOSITION of

MICHAEL SOIKA, called as a witness, taken at the instance of the Complainant, under the provisions of Chapter 885 of the Wisconsin Statutes, pursuant to notice and subpoena duces tecum, before Taunia Northouse, a Registered Diplomate Reporter and Notary Public in and for the State of Wisconsin, at the offices of Reinhart, Boerner, Van Deuren, Norris & Rieselbach, S.C., Attorneys at Law, 1000 North Water Street, City of Milwaukee, County of Milwaukee, and State of Wisconsin, on the 9th day of April 2002, commencing at 9:26 in the forenoon.

A P P E A R A N C E S

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

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

Also present: Cheri Garcia

436

I N D E X

WITNESS

MICHAEL SOIKA

Examination by Mr. Arellano

Page(s)

439

E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>Identified</u>
32	Handwritten notes 7/30/99, Bates 7 0001	568
33	Notes from spiral notebook, Bates 7 0002-36	568
34	Handwritten notes 12/20 and 12/22, Bates Soika 001	572
35	Diagram of staff assistants	527

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

(Original transcript filed with Attorney Arellano)

435

MICHAEL SOIKA,

called as a witness, being first duly sworn, testified on oath as follows:

(Exhibit No. 32 marked for identification)

MR. TOKUS: Mr. Arellano, preliminarily by way of housekeeping matters, I have here documents that you had requested through this witness which I am about to hand to you. You had requested copies of pages from a spiral notebook and I'm going to hand those to you. They've been Bates stamped as 7-0002 through 7-0036. We have the original spirals at our office which you may feel free to inspect by appointment.

In addition to those matters, you had requested a certain notebook page. I have a copy of that page which has been marked Soika 001 and I hand that to you. If you want to see the original, you may see that also by appointment.

MR. ARELLANO: Anything else, sir?

MR. TOKUS: No, that's all I have by way of preliminary matters.

MR. ARELLANO: Is it your

437

<p>1 Q With respect to Mr. Christofferson, what did you 2 discuss with him? 3 A Nothing much. It was prior to him coming here. He 4 again was saying, well, what's it like? I was 5 saying in general you have to listen and you have 6 to -- if Arellano reads something to you, make sure 7 that you -- every word is read. If he paraphrases 8 something back to you, make sure the paraphrase 9 reflects what your intent was. That was the kind of 10 conversation. 11 Q Have you spoken to Mr. Christofferson since his 12 deposition was taken? 13 A No, I've not. 14 Q Mr. Hansen, what did you discuss with Mr. Hansen? 15 A It was probably after his deposition. He said 16 that -- well, it was before. He said, I can't 17 imagine why it went for two days. And after he 18 says, yeah, I went for a day and a half. It was 19 just, kind of said it was pretty routine. 20 Q Did he discuss the details of his testimony with 21 you? 22 A Absolutely not. 23 Q Did he in any way attempt to check dates, incidents? 24 A No. 25 Q What about Ms. Dukes? Did you talk to her before 442</p>	<p>1 Q Anything that they regret that they may have said? 2 A No. Again, we never talked about particulars. 3 Q What about Mr. Rowen? Did you talk to him after his 4 deposition? 5 A Sure. We work right next to each other. 6 Q What did you discuss with Mr. Rowen? 7 A He said it was interesting trying to deal with his 8 back problem. He said that his was scheduled for 9 two days. He only did one, felt that he was well 10 prepared for it. 11 Q As you sit here under oath, Mr. Soika, did you 12 discuss with Mr. Rowen Marilyn Figueroa? 13 A No. 14 Q Did he mention anything about chronologies? 15 A No. 16 Q Disputed issues? 17 A No. 18 Q Behaviors? 19 A No. 20 Q Did you ever talk to Mr. Rowen about 21 Marilyn Figueroa before his deposition? 22 A Well, it was a subject of conversation on an ongoing 23 basis, absolutely. 24 Q Tell me with respect to Marilyn Figueroa, what did 25 you discuss with Mr. Rowen? 444</p>
<p>1 her testimony or after? 2 A Let's see, I talked to her quite frequently. So in 3 regards to this, it could have been before or after. 4 I don't recall. 5 Q What did you discuss with Ms. Dukes? 6 A Again, it was kind of in general, you know, how did 7 it go if it was after. If it was before, you know, 8 what's it like? 9 Q What did Ms. Dukes tell you about her deposition? 10 A About her deposition? 11 Q Right. 12 A Well, the thing I remember actually the most was her 13 saying that she prayed all day long. 14 Q Did she share with you any results -- 15 A No. 16 Q -- of her praying? 17 A I did not want to hear any, any particulars of any 18 depositions. 19 Q Did Ms. Dukes in any way share with you anything she 20 felt she said which was a mistake? 21 A No. 22 Q What about Mr. Hansen? 23 A No. 24 Q Mr. Christofferson? 25 A No. 443</p>	<p>1 A Just the issue of, Marilyn Figueroa is an issue of 2 daily conversations at City Hall. 3 Q And I'm not asking you to analyze the subject 4 matter. I want you to tell me what did you discuss 5 with Mr. Rowen regarding Marilyn Figueroa? 6 A Well, to be very honest, it's like what a tragedy 7 this is. Why is this kind of going on and on and 8 on? Makes no sense to me or to he or to anybody. 9 Q Who said that? 10 A I'm sure I said it. I'm sure that he commiserated 11 with me. 12 Q I want you to tell me exactly who said that this was 13 a tragedy. Was that something -- 14 A I said that. 15 Q What about Mr. Rowen? What do you think he's 16 saying? 17 A He's saying that it's kind of absurd. That the 18 impression is is that there's this grand conspiracy 19 and there is none. 20 Q Who raised the issue of conspiracy? 21 A Mr. Rowen would have, I believe. 22 Q He did? 23 A Yeah. 24 Q And what did you say to him? 25 A I said, yeah, I think the whole thing's absurd. 445</p>

1 described, discuss portraying Marilyn Figueroa as a
 2 disgruntled employee who quit because she would not
 3 "get her way"?
 4 A Marilyn was a disgruntled employee. I don't
 5 remember a strategy that was, she quit because she
 6 didn't get her way, no.
 7 Q And you don't recall that issue being discussed at
 8 any of the meetings?
 9 A I recall the issue of her being a disgruntled
 10 employee being discussed, yes.
 11 Q As a group?
 12 A Yes.
 13 Q All right. During any of these meetings, Mr. Soika,
 14 that you have identified did Mayor Norquist disclose
 15 having told Marilyn that he was ending the
 16 relationship?
 17 A I believe so.
 18 Q During any of these meetings, Mr. Soika, did
 19 Mayor Norquist disclose to the group that Marilyn
 20 was trying to coerce him into coming back into the
 21 "relationship"?
 22 A I don't recall that.
 23 Q During any of these meetings did the Mayor ever tell
 24 the group that he told Marilyn that he was ending
 25 the relationship because he was going back to his

450

1 wife?
 2 A I remember hearing that from the Mayor. It might
 3 have been he and I talking, might have been a group.
 4 I couldn't say for sure.
 5 (Discussion off the record)
 6 (Question read)
 7 Q During any of these meetings, Mr. Soika, including
 8 all of the people we already identified, including
 9 the Mayor, did he ever disclose to anyone including
 10 you that he had attempted to end the relationship in
 11 the previous year or earlier but that Marilyn would
 12 not accept?
 13 A That he had attempted to end the relationship in the
 14 previous year but Marilyn would not accept? I
 15 believe so but I'm --
 16 Q Did Mayor Norquist at any point during these
 17 meetings ever say to the group, or to you, that
 18 Marilyn was constantly pursuing him?
 19 A I don't recall that.
 20 Q When Mayor Norquist disclosed his relationship with
 21 Marilyn, did you perceive by the way he was
 22 portraying the relationship that Marilyn was the
 23 pursuer within the relationship?
 24 A I don't -- I don't think I could answer that that
 25 way, that I perceived she was the pursuer. I --

451

1 Q Well, did she give you any indication as to who was
 2 pursuing who?
 3 A It seemed to me that it was mutual. The initial
 4 conversation with the Mayor is it started out with
 5 kind of flirting and, you know, hugging, kissing and
 6 then intercourse. So I -- who was the pursuer and
 7 who was the pursued, I couldn't say. I don't know.
 8 Q After he told you that he had attempted to end the
 9 relationship earlier before it actually ended, did
 10 he explain how the relationship continued in spite
 11 of his attempts to try to end it?
 12 A Okay, I'm unclear on your question.
 13 Q Yes. My question is you testified previously that
 14 the Mayor shared with you the fact that he had
 15 attempted to end the relationship earlier; correct?
 16 A Uh-huh.
 17 Q You've got to say yes.
 18 A Oh, I'm sorry, yes.
 19 Q And my question is did he elaborate as to what
 20 happened, why the relationship did not end?
 21 A No.
 22 Q When the Mayor described to you the relationship as
 23 being consensual, did he in any way tell you that he
 24 had been dating Marilyn Figueroa?
 25 A Dating?

452

1 Q Correct.
 2 A Seeing. Dating's not a word that I recall.
 3 Q He never used that word?
 4 A Not that I recall.
 5 Q And did he describe to you some of the sexual
 6 encounters?
 7 A He disclaimed that there were sexual encounters. He
 8 did not say sexual encounters to me.
 9 Q Well, did he disclose he was having sexual
 10 interaction with Marilyn Figueroa?
 11 A Yes.
 12 Q Did he describe for you sexual episodes?
 13 A No.
 14 Q Ever?
 15 A No. He would describe that they sometimes had sex
 16 at her house, sometimes had sex at his house, those
 17 kinds of things.
 18 Q Did he tell you when was the last time he had had
 19 sex with Marilyn Figueroa?
 20 A No. Only in the course of dealing with the various
 21 filings and so on.
 22 Q When you say only in the course, I'm asking you
 23 whether or not the Mayor disclosed to you when was
 24 the last time he had had sex with Marilyn Figueroa?
 25 A I'm not sure that he did. I'm not sure if he said

453

1 that it was the end of 2000 maybe. I mean it was
2 something --
3 Q All right. And I believe you testified that the
4 group that met to deal with the Marilyn Figueroa
5 potential legal problem included Ms. Shindell?
6 A Yes.
7 Q True? And I also believe that, and I just reviewed
8 testimony, I also believe that you testified that
9 Ms. Shindell kept you informed at all times of her
10 communications with Mr. Colon as well as her
11 communications with Mr. Fuchs; is that correct?
12 A At all times? I don't think that she called me
13 after every conversation, but she did keep me
14 informed.
15 Q And I believe that you sent Marilyn Figueroa a
16 letter sometime in January 15th requesting that she
17 provide you with a medical release?
18 A I believe it was the 14th.
19 Q The 14th. And I believe that this was also
20 discussed amongst the group? Just so you don't find
21 yourself in a difficult predicament, I believe you
22 testified that the Mayor and Ms. Shindell were aware
23 of that?
24 A Right. But that's different than saying it was
25 discussed in a group.

458

1 Q Well, was it discussed?
2 A That's why I'm pausing. I'm not sure if it was.
3 Q And just so I leave this issue alone, I just wanted
4 to put a couple questions in here. You knew that as
5 early as the first week of January Marilyn Figueroa
6 was represented by Mr. Pedro Colon, although you are
7 somewhat unclear as to whether it was a friend or as
8 a lawyer; correct?
9 A Well, and I'm also unclear if it was the first week
10 of January. It was early January. I will offer
11 that.
12 Q And you also knew before Marilyn was terminated that
13 Mr. Fuchs was her legal counsel?
14 A Before I processed the voluntary quit letter.
15 Q Is that right?
16 A Correct.
17 Q And did anyone within the group, including you, the
18 Mayor and Ms. Shindell, suggest to you that you send
19 a copy of your request for medical authorization to
20 Mr. Fuchs? And I'm referring to the letter that you
21 sent to Marilyn Figueroa.

THE WITNESS: I'm sorry, could you
read that again, please.

(Question read)

25 A Did anyone in the group suggest I send it to Fuchs?

459

1 I'm drawing a blank. I don't know.
2 Q Did you send copies of your request for medical
3 authorization to Mr. Fuchs?
4 A I don't recall doing that.
5 Q Before you sent the request for medical
6 authorization to Marilyn Figueroa, did you consult
7 with Mr. Hansen, the director of employee relations,
8 about the fact that you were going to be demanding
9 that letter?
10 A I don't believe so.
11 Q Before you sent that letter or anytime after you
12 sent the letter did you consult with Mr. Hansen or
13 anyone from the employee relations department to
14 determine what specific steps Marilyn needed to
15 follow in order to comply with the medical sick
16 leave policy?
17 A I remember having a conversation with Hansen. I
18 don't remember if it was a meeting or a phone call.
19 I don't believe that it was a step-by-step you have
20 to do this, you have to do that. I remember having
21 a conversation with him about family medical leave,
22 but I don't really remember that there was one set,
23 you know, that this is the prescribed way to go
24 about it.
25 Q Did you ask Mr. Hansen what were the specific

460

1 requirements pursuant to City policy in order for
2 Marilyn to be able to qualify for medical leave?
3 And I want you to listen to the question clearly one
4 more time.

(Question read)

6 A I don't think that I asked him what the specific
7 policy was.
8 Q Did you know what the specific requirements were
9 when you sent Marilyn Figueroa that letter on
10 January 15th or 14th I believe?
11 A 14th. The only thing that I remember for sure is
12 that I knew that there was a, I believe it was a
13 15-day period to provide a doctor's verification.
14 Q And who provided you with that information?
15 A I don't know where I got it.
16 Q And I just want you to tell me for the record on
17 this issue so we can move on, did you ask
18 specifically to anyone, including employee relations
19 department people, what were the specific
20 requirements in order for Marilyn to qualify for
21 medical sick leave?

22 A No.

23 Q Did you ever check with Ms. Stawicki in order to
24 determine what was needed pursuant to City policy in
25 order for Marilyn Figueroa to qualify for medical

461

<p>1 A Yes.</p> <p>2 Q Anything else?</p> <p>3 A That's all I recall.</p> <p>4 Q Did he tell you what was required in order for</p> <p>5 Marilyn to qualify?</p> <p>6 A I don't believe so.</p> <p>7 Q During your -- is it fair and accurate to say</p> <p>8 that -- strike that. At some point you issued a</p> <p>9 termination letter?</p> <p>10 A Voluntary quit.</p> <p>11 Q Before you issued that voluntary quit did you</p> <p>12 consult with Mr. Hansen and/or Ms. Dukes?</p> <p>13 A Are you asking me --</p> <p>14 Q Hold on a second. Did you understand my question?</p> <p>15 A No, I did not.</p> <p>16 MR. ARELLANO: I'm sorry to be</p> <p>17 bothering you so much this morning.</p> <p>18 (Question read)</p> <p>19 Q To help you, about the fact that you were going to</p> <p>20 terminate Marilyn Figueroa.</p> <p>21 A I'm not sure to be quite honest because I -- at some</p> <p>22 point it was clear that Marilyn had X amount of days</p> <p>23 to get documentation in, and if that did not occur,</p> <p>24 then I would have had to have filed a voluntary</p> <p>25 quit. I believe I had a conversation with Hansen</p> <p style="text-align: center;">466</p>	<p>1 Q Anyone from their glorious office?</p> <p>2 A I did not.</p> <p>3 Q Including Mr. Langley?</p> <p>4 A I did not.</p> <p>5 Q So you felt persuaded by Ms. Shindell's suggestion</p> <p>6 by virtue of the fact that she was a lawyer?</p> <p>7 A Right. But again, I remember having a conversation</p> <p>8 with Hansen about family medical leave.</p> <p>9 Q Sir, hold on a second. Hold on a second.</p> <p>10 MR. TOKUS: You interrupted his</p> <p>11 answer, Mr. Arellano.</p> <p>12 MR. ARELLANO: Yes, because he's</p> <p>13 being unresponsive.</p> <p>14 MR. TOKUS: I think he probably</p> <p>15 failed to understand your question.</p> <p>16 MR. ARELLANO: I'm always terrified</p> <p>17 to say anything, Mr. Tokus, because you take a</p> <p>18 lot of my pages and this lady is very</p> <p>19 expensive when it comes down to --</p> <p>20 MR. TOKUS: But worth every bit of</p> <p>21 it.</p> <p>22 MR. ARELLANO: Oh, you bet. Could</p> <p>23 we go back to my previous question regarding</p> <p>24 Ms. Shindell.</p> <p>25 (Question and answer read)</p> <p style="text-align: center;">468</p>
<p>1 about that. Was it a specific conversation that</p> <p>2 said we sent this letter on the 14th and now we have</p> <p>3 15 days and blah blah blah? I don't believe it was</p> <p>4 like that.</p> <p>5 Q Is it your representation, Mr. Soika, that</p> <p>6 Mr. Hansen told you that the City policy required</p> <p>7 that you take action within 15 days after the</p> <p>8 employee fails to appear?</p> <p>9 A No.</p> <p>10 Q The 15 days was something that you selected at your</p> <p>11 discretion?</p> <p>12 A No.</p> <p>13 Q How did you --</p> <p>14 A How did I arrive at 15 days?</p> <p>15 Q -- arrive at 15 days, sir?</p> <p>16 A I don't know. It may have been Shindell.</p> <p>17 Q Shindell was not Marilyn's supervisor, was she?</p> <p>18 A She was not.</p> <p>19 Q She was not an employee of the City, was she?</p> <p>20 A She was not.</p> <p>21 Q She was not representing the City, was she?</p> <p>22 A She was not.</p> <p>23 Q Did you consult with these very honorable gentlemen</p> <p>24 who are sitting across the table from me?</p> <p>25 A I did not.</p> <p style="text-align: center;">467</p>	<p>1 MR. ARELLANO: To the extent that</p> <p>2 after his affirmation the word "right" is</p> <p>3 responsive to my question, that much stays,</p> <p>4 judge. Move to strike the remainder of his</p> <p>5 answer.</p> <p>6 Q Now, I don't want to confuse the record, Mr. Soika,</p> <p>7 but I believe you had testified previously that you</p> <p>8 did not consult with Mr. Hansen before issuing the</p> <p>9 termination letter to Marilyn Figueroa. Are you --</p> <p>10 do you want to clarify that for me?</p> <p>11 MR. TOKUS: Did you understand what</p> <p>12 he asked you?</p> <p>13 A What he's saying is in my previous testimony I said</p> <p>14 I did not talk to Hansen between January 14th and</p> <p>15 February 2nd.</p> <p>16 Q No.</p> <p>17 A Okay.</p> <p>18 Q Before the termination letter was issued, you did</p> <p>19 not talk to Mr. Hansen about the fact that you were</p> <p>20 about to terminate Marilyn Figueroa. That's what</p> <p>21 I'm asking you.</p> <p>22 A Well, again, as I said this morning, I don't believe</p> <p>23 I had a specific conversation with Hansen that said</p> <p>24 that I'm going to take this specific action. I do</p> <p>25 believe I had a conversation with Hansen in general</p> <p style="text-align: center;">469</p>

1 Q And the conclusion was that Ms. Shindell would call
2 her?
3 A Right.
4 Q And obviously you didn't object to that?
5 A No.
6 Q Anyone else that suggested that someone contact
7 Marilyn Figueroa?
8 A There was a suggestion that -- I called Art Jones to
9 contact Marilyn.
10 Q Do you know who -- do you know if Mr. Jones was
11 called?
12 A I called him.
13 Q And what did you ask him to do?
14 A I asked him to reach out to Marilyn to see if he
15 could find out what's going on, see if he could
16 persuade her to come back.
17 Q And what did the chief respond?
18 MR. TOKUS: I'm going to object at
19 this point because it's rather vague and
20 unclear as to what period of time we're
21 discussing, Mr. Arellano.
22 MR. ARELLANO: We'll get to that.
23 Q What did the chief respond, if anything?
24 A During the course of the conversation I had
25 explained to him that Marilyn was away. At this

474

1 point it was early January. Also explained to him
2 that Marilyn had requested EEOC papers. His
3 response was, you know, if she's taking out papers,
4 I don't want to talk to her. I said, well, okay,
5 fine.
6 Q Did you threaten Chief Jones when he refused to
7 contact Marilyn Figueroa?
8 A Did I threaten Chief Jones? Absolutely not.
9 Q Did you in any way say, "Are you going to turn down
10 the Mayor?"
11 A Did I say "Are you going to turn down the Mayor?"
12 Q Right.
13 A I don't believe I said that at all.
14 Q Were you disappointed that he didn't want to talk to
15 Marilyn Figueroa?
16 A Well, I was disappointed, but I respected his point
17 of view.
18 Q When you -- did you argue with him?
19 A I don't believe so.
20 Q Anyone else that suggested to talk to
21 Marilyn Figueroa?
22 A That suggested to talk to Marilyn?
23 Q No, excuse me. Any other person that you believe
24 was asked to talk to Marilyn Figueroa?
25 A Anybody in the group was asked to talk to Marilyn?

475

1 Q Correct.
2 A I don't believe so.
3 Q When the group that we have identified which was
4 meeting after Marilyn Figueroa left agreed to have
5 Shindell talk to Marilyn Figueroa, what was the
6 objective of the group in sending Ms. Shindell to
7 talk to Marilyn Figueroa?
8 A To try to get her back, find out what it would take.
9 Q And by that what did you mean?
10 A Marilyn previously had made it clear that she
11 desired the position of deputy director of
12 Department of Administration. And Anne was supposed
13 to feel out and see if that was made possible, would
14 she come back.
15 Q As a way to resolve the problems?
16 A Right.
17 Q Anything else that was included in the plan to send
18 Ms. Shindell to talk to Marilyn Figueroa?
19 A That's all I recall.
20 Q Did the Mayor at any point suggest that he would try
21 to get ahold of Marilyn Figueroa during any of those
22 meetings that the group held after she left the City
23 on January 4th of 2000?
24 A He may have. He did it in the past. It would not
25 be unusual. But I don't have a specific memory of

476

1 that.
2 Q What's your recollection?
3 A I don't have a recollection of that kind of
4 conversation.
5 Q Do you recall anyone suggesting that the Mayor not
6 contact Marilyn Figueroa while she was absent?
7 A Yeah. I don't recall that.
8 Q While you were attempting to secure
9 Marilyn Figueroa's medical authorization, the group
10 was also simultaneously dealing with preparation for
11 a potential discrimination complaint, true, as you
12 testified previously?
13 A Preparing in general terms, yes.
14 Q It appears to me, Mr. Soika, that before the group
15 reached the decision to issue the voluntary quit
16 letter, there was an approach to try to get her back
17 first; correct?
18 A Correct.
19 Q And that approach included having Ms. Shindell call
20 her; correct?
21 A Correct.
22 Q Tried to convince Chief Jones to talk to her?
23 A Correct.
24 Q You calling her?
25 A Correct.

477

<p>1 Q So in answer to my question, you did not?</p> <p>2 A Because there was no reason to do it.</p> <p>3 Q So in answer to my question, you did not, sir?</p> <p>4 A She had -- we had already processed the voluntary quit, so I did not ask DER.</p> <p>6 Q Did you in any way after Marilyn was terminated but once you discovered that she had in fact obtained a medical leave authorization from her doctor, did you inquire from Ms. Dukes in order to determine whether or not a late medical authorization would act retroactively?</p> <p>11 A No.</p> <p>13 Q Did you do that with Mr. Hansen?</p> <p>14 A I don't think so.</p> <p>15 Q Did you consult with the Mayor?</p> <p>16 A I don't think so.</p> <p>17 Q To this date have you consulted with anyone from employee relations in order to determine whether or not a late medical authorization would still be effective?</p> <p>21 A No, I have not.</p> <p>22 Q All right, very good. Did you ever write a letter to Marilyn Figueroa once you discovered that in fact her doctor had issued a medical release dated January 21st, 2000 long before you terminated her?</p> <p style="text-align: center;">482</p>	<p>1 speaking on her behalf in whatever fashion was also demanding some type of monetary resolution; correct?</p> <p>2</p> <p>3 A Correct.</p> <p>4 Q And before her termination you also learned that Mr. Fuchs was also attempting to resolve the case through a monetary resolution; correct?</p> <p>5</p> <p>6 A Yeah. I -- I'm pretty fuzzy on where Fuchs came in. I think so, but I'm not exactly sure.</p> <p>7</p> <p>8 Q Well, would it help you to refresh your recollection if I told you that I just read that last night, that you knew Mr. Fuchs came on board before she was terminated?</p> <p>11</p> <p>12 A Okay, that's good.</p> <p>13</p> <p>14 Q</p> <p>15</p> <p>16</p> <p>17 A</p> <p>18 Q</p> <p>19</p> <p>20</p> <p>21</p> <p>22 A</p> <p>23 Q And you also had knowledge that Marilyn when she left on January 4th notified your office that she was taking sick leave?</p> <p>25</p> <p style="text-align: center;">484</p>
<p>1 Did you send Marilyn a letter inquiring what happened to that letter?</p> <p>2</p> <p>3 A I did not.</p> <p>4 Q Did anyone within the group, including Ms. Shindell, suggest that you consult with employee relations in order to determine what, if any, responsibility the employer would have under the circumstances once you learned that in fact Marilyn had obtained a medical authorization?</p> <p>8</p> <p>9 THE WITNESS: Could you read that again please.</p> <p>10</p> <p>11 (Question read)</p> <p>12</p> <p>13 A No.</p> <p>14 Q Now, I believe you testified that while you were requesting Marilyn Figueroa to submit a medical document, other things were also happening with respect to her case; correct?</p> <p>16</p> <p>17 A I don't know what you're referring to.</p> <p>18</p> <p>19 Q All right. We'll go into that. You obviously, in conjunction with the group, were having Shindell contact her in order to find out if she would be willing to resolve the issue with a promotion; correct?</p> <p>22</p> <p>23 A Correct.</p> <p>24</p> <p>25 Q And you also were aware that Mr. Pedro Colon</p> <p style="text-align: center;">483</p>	<p>1 A Say that again, please.</p> <p>2 (Question read)</p> <p>3 A No.</p> <p>4 MR. TOKUS: Objection. That's not the state of the record at this point.</p> <p>5</p> <p>6 MR. ARELLANO: I'll cover that, counsel.</p> <p>7</p> <p>8 MR. TOKUS: All right, thank you.</p> <p>9</p> <p>10 A My answer's no.</p> <p>11 Q Well, just so I -- and my duty to you as an officer of the court -- will rephrase the question. Did Marilyn Figueroa call the office and tell Ms. Delaney that she was taking sick leave?</p> <p>12</p> <p>13 A She called to say that she was, she had called in sick.</p> <p>14</p> <p>15 Q Correct.</p> <p>16</p> <p>17 A And that she would provide a doctor's excuse. Right.</p> <p>18</p> <p>19 Q So she gave you notice that health-wise she was taking time off early?</p> <p>20</p> <p>21 A January 14th.</p> <p>22</p> <p>23 Q All right. The record will clarify that for us.</p> <p>24</p> <p>25 A And it will be correct, January 14th.</p> <p>Q Did Ms. Delaney send you an email that Marilyn in the first week when she left, she notified</p> <p style="text-align: center;">485</p>

1 Q Is that correct? And at some point Mr. Fuchs came
2 on board; is that correct?
3 A Correct.
4 Q Do you recall hearing from Ms. Shindell during any
5 of your discussions the fact that Mr. Fuchs had
6 agreed not to file any legal claims against
7 Ms. Figueroa before the final re-election day?
8 A You said claims against Ms. Figueroa.
9 Q Excuse me.
10 MR. TOKUS: You misspoke yourself,
11 Mr. Arellano. You confused me, but I thought
12 it was just my simple mind there.
13 Q Any claims against Mr. Norquist and/or the City
14 before the re-election day?
15 A Could you restate the whole question, please?
16 Q Sure. Do you recall at some point after Mr. Fuchs
17 became involved in representing Ms. Figueroa, do you
18 recall Ms. Shindell relating to you and/or the group
19 that Mr. Fuchs had agreed in principle or in any
20 manner not to file any claims against the Mayor
21 and/or the City until after the re-election day?
22 MR. TOKUS: If you recall.
23 A Yeah, I really don't recall that. My hesitation is
24 it sounds vaguely familiar, but I don't want to say
25 yes because I don't really recall.
490

1 Q When Mr. -- you testified that Ms. Shindell would
2 keep you informed of the discussions that were
3 taking place between her and Mr. Colon, between her
4 and Mr. Fuchs. Did she also provide you with copies
5 of interaction that was taking place amongst these
6 three individuals?
7 A No.
8 Q Did you ever see any of that information?
9 A No.
10 Q Did there come a time during Mr. Colon's
11 representation of Ms. Figueroa and also during
12 Mr. Fuchs' representation of Ms. Figueroa, did there
13 come a time when you and/or the group as a whole
14 concluded that there was not going to be a
15 settlement or resolution of Marilyn Figueroa's
16 complaints or concerns against the City?
17 A No. I --
18 Q Go ahead.
19 A I remember us always holding out hope that there
20 could be a settlement. In fact, I thought that we
21 were close at one point.
22 Q At what point was that?
23 A I don't know the period. I know that it was --
24 Q Was it in January or February?
25 A I don't know. I know it was with Fuchs.
491

1 Q Was it before or after Marilyn had been terminated?
2 A I don't recall.
3 Q Do you recall whether or not the group came to a
4 conclusion that no settlement would occur because
5 the demands were not acceptable to Mayor Norquist?
6 A I do know that it was close at one point. I do know
7 that it grew after that. There was discussion on
8 should there be a settlement, should there not be a
9 settlement. My memory is that whether or not to
10 settle was a moving target.
11 Q Do you recall whether or not when Ms. Shindell
12 suggested to you that you issue the voluntary quit
13 termination letter, do you know if --
14 MR. TOKUS: Objection. Excuse me,
15 please finish.
16 Q -- do you know if negotiations were ongoing at that
17 time?
18 MR. TOKUS: Objection. That
19 mischaracterizes his testimony in terms of
20 what Ms. Shindell advised him to do.
21 A Could you repeat that, please.
22 (Question read)
23 A Did Ms. Shindell suggest to issue a voluntary
24 termination letter?
25 Q No, that wasn't my question, sir.
492

1 A It was clearly stated in the question.
2 Q My question is -- well, you testified that you
3 consulted with Ms. Shindell about whether or not it
4 was proper for you to terminate Ms. Figueroa;
5 correct?
6 A No.
7 MR. TOKUS: Objection. I don't
8 believe that was his testimony.
9 Q She knew you were going to issue the voluntary quit
10 termination letter?
11 MR. TOKUS: That wasn't his
12 testimony either, Mr. --
13 A The group in general understood that from the date
14 of the January 14th letter there was a 15-day
15 period.
16 Q We're falling back into the old habit of you not
17 answering my question, sir. Listen to my question.
18 A I'm sorry, but I think you're falling back into the
19 old habit of trying to put words in my mouth.
20 Q And, sir, I didn't ask you to come here and argue
21 with you. I just want you to listen to my question.
22 It's quite simple, Mr. Soika. If you don't
23 understand my question, just tell me.
24 A I've been doing that all morning.
25 (Last question and answer read)
493

1 A No.
 2 Q Did he explain to you what prompted him to initiate
 3 this sexual relationship with Marilyn Figueroa?
 4 A No, he didn't say that he initiated. He didn't tell
 5 me what prompted it.
 6 Q Did he at any time tell you that he was in love with
 7 Marilyn Figueroa?
 8 A Yes.
 9 Q When did he tell you that?
 10 A Are you asking me what date or what --
 11 Q Did he tell you that --
 12 A Sometime in 2000.
 13 Q And did he ever disclose to you that he had in any
 14 way offered marriage to Marilyn Figueroa?
 15 A No.
 16 Q All right. Did he in any way describe whether or
 17 not he ever had taken Marilyn out to dinner, to
 18 dances as a couple?
 19 A No.
 20 Q So is it fair and accurate to say that the only
 21 disclosure he made to you related to the sexual
 22 encounters at her home and at his home?
 23 A And at her sister's home.
 24 MR. TOKUS: Objection, because that
 25 did not totally include the recitations of the

498

1 witness's testimony with respect to the site
 2 of those encounters.
 3 MR. ARELLANO: Okay, counsel,
 4 you're getting way beyond and it's totally
 5 unnecessary. Now do you want to testify? Let
 6 me finish with this witness and I'll put you
 7 on the stand.
 8 MR. TOKUS: Please, at your
 9 convenience, Mr. Arellano.
 10 MR. ARELLANO: Thank you, thank
 11 you.
 12 (Question and answer read)
 13 Q Is it also fair and accurate to say, Mr. Soika, the
 14 disclosures that the Mayor made to you were strictly
 15 limited to sexual encounters?
 16 A No.
 17 Q Did he disclose any other meetings he had with
 18 Marilyn Figueroa that did not include either sexual
 19 exchanges via intercourse and/or verbal sexual
 20 comments?
 21 A As I testified previously, when he initially told me
 22 of his affair with Marilyn, that he had described it
 23 as starting out kind of innocently, flirting,
 24 hugging, kissing, touching, those kinds of things.
 25 Q So back to my question, the only incidents that the

499

1 Mayor disclosed to you were limited to sexual or
 2 physical, verbal interaction; correct? To be more
 3 specific, Mr. Soika --
 4 A Please.
 5 Q -- he didn't disclose to you that he had taken
 6 Marilyn out for a weekend on a date?
 7 A Well, there was that Chicago.
 8 Q All right. Well, did he tell you whether or not
 9 there was sex on that Chicago trip?
 10 A See, again, I don't know as there was one Chicago
 11 trip or two Chicago trips, and I know that the one
 12 seemed to be aborted, so --
 13 Q Seemed to be?
 14 A Aborted. That Marilyn had car trouble. I don't
 15 believe she showed up.
 16 Q Well, whether it was one or two, did he tell you
 17 that there was sex?
 18 A Sex?
 19 Q Right.
 20 A With Marilyn?
 21 Q Right. Well, I suspect it was Marilyn.
 22 A When?
 23 Q At any point. Well, let me just shortcut this.
 24 A Okay.
 25 Q Do you recall any disclosure made by the Mayor to

500

1 you of any interaction that he had with Marilyn
 2 outside work duties where sexual issues were not
 3 involved?
 4 A I remember something about him going to her house
 5 shortly after, her new house I guess to look at it
 6 and ooh and ahhh over it.
 7 Q What year was that?
 8 A I have no idea.
 9 Q Was it at the beginning or the end?
 10 A I have no idea.
 11 Q Other than that incident, do you recall any
 12 disclosures that the Mayor made to you about
 13 spending time with Marilyn or having any type of
 14 contact with Marilyn where sex was not included,
 15 other than the one that you just identified?
 16 A The one I identified and the early encounters.
 17 Q Which encounters?
 18 A Where there was flirtations, kissing, hugging. This
 19 is not sex though.
 20 Q But in those incidents there was touching, kissing
 21 of an intimate nature, correct?
 22 A I gather that.
 23 Q Do you recall any other incident that he may have
 24 disclosed to you where they went together as a
 25 couple that did not include some type of intimate

501

<p>1 but it's easier to get to the chief of staff than it</p> <p>2 is to get to the Mayor.</p> <p>3 Q So now you somewhat report to Mr. Jacquart in his</p> <p>4 internship position or interim position?</p> <p>5 A No, I don't see it that way.</p> <p>6 Q When did you learn for the very first time, sir,</p> <p>7 that you were going to become the director of the</p> <p>8 Department of Administration?</p> <p>9 A The Mayor and I had discussions on this very shortly</p> <p>10 after David Reimer announced that he was leaving for</p> <p>11 England. That would have been December, I believe.</p> <p>12 Q December of?</p> <p>13 A 2001.</p> <p>14 Q And what was the nature of your discussions?</p> <p>15 A I was pretty frank with the Mayor that I'd been</p> <p>16 chief of staff for a fairly long time through an,</p> <p>17 arguably a difficult time, and that I was ready for</p> <p>18 a change and I'd like to look at that position.</p> <p>19 Q Was there anything in writing indicating to you that</p> <p>20 you were going to be reassigned to that position?</p> <p>21 A No.</p> <p>22 Q So is it your sworn testimony -- at what point did</p> <p>23 the Mayor agree? If I understand what you're</p> <p>24 telling me, you're telling me here under oath that</p> <p>25 you suggested to be --</p> <p style="text-align: center;">506</p>	<p>1 It's a high burnout position. It was time to go.</p> <p>2 Q Before you suggested to leave City government, did</p> <p>3 the Mayor at any time before that show any</p> <p>4 displeasure with your performance?</p> <p>5 A No.</p> <p>6 Q Any displeasure with any type of philosophical</p> <p>7 and/or political disagreements?</p> <p>8 A No.</p> <p>9 Q Did you have any disagreements with the Mayor?</p> <p>10 A Disagreements about strategy? Sure. You know,</p> <p>11 violent exchange of words disagreements? No.</p> <p>12 Q What types of disagreements did you have with the</p> <p>13 Mayor regarding policy?</p> <p>14 A It would be things like in putting together the</p> <p>15 budget, you know, do we look at laying off people,</p> <p>16 do we look at getting out of services, are there</p> <p>17 people that the Mayor feels aren't doing a good job</p> <p>18 versus I think they're doing a very good job, those</p> <p>19 kinds of things.</p> <p>20 Q Did you ever have any disagreements with any member</p> <p>21 of the group that were meeting to deal with the</p> <p>22 Figueroa problem? Did you have any disagreements</p> <p>23 with the way they were handling the Marilyn Figueroa</p> <p>24 situation?</p> <p>25 A The biggest disagreement was on the, what came to be</p> <p style="text-align: center;">508</p>
<p>1 A Right.</p> <p>2 Q -- removed from the chief of staff to --</p> <p>3 A Right. I requested to be appointed as the director</p> <p>4 of the Department of Administration.</p> <p>5 Q And is it your testimony or has your testimony been</p> <p>6 that you made that request sometime in December of</p> <p>7 the year 2001?</p> <p>8 A Right.</p> <p>9 Q When did the Mayor agree to your request?</p> <p>10 A Well, he agreed twice. Once he agreed, and then I</p> <p>11 came back to him and said, you know, I think maybe I</p> <p>12 just want to leave City government. He said okay.</p> <p>13 How long are you going to stay? I said, I'll stay</p> <p>14 till March. And then after that at some point</p> <p>15 after that I said I'd like to be -- I'd like to talk</p> <p>16 about the DOA job again.</p> <p>17 Q When did you tell the Mayor you were interested in</p> <p>18 leaving City government?</p> <p>19 A Initially, I don't know, maybe January '02. I don't</p> <p>20 know for sure.</p> <p>21 Q What prompted you to want to leave City government,</p> <p>22 sir?</p> <p>23 A To be very frank, I was pretty burnt out. I was, I</p> <p>24 was under a lot of stress for a long period of time.</p> <p>25 I was one of the longest serving chiefs of staff.</p> <p style="text-align: center;">507</p>	<p>1 known as the newspaper ad. It was a series of</p> <p>2 discussions over what to do there. Christofferson</p> <p>3 was pushing real hard for some sort of public</p> <p>4 display. And myself and others were saying let's</p> <p>5 just let this sleeping dog lie. There's no need to</p> <p>6 resurrect it. That was one.</p> <p>7 The other point of discussion, it was an</p> <p>8 ongoing kind of -- as I mentioned earlier, moving</p> <p>9 point of discussion was do you settle, do you not</p> <p>10 settle, is there an opportunity, is there not.</p> <p>11 Q Any other disagreements with respect to the way the</p> <p>12 Figueroa matter was handled?</p> <p>13 A Those are the ones that I recall.</p> <p>14 Q Do you have any regrets with the manner in which</p> <p>15 Ms. Figueroa was terminated?</p> <p>16 A No.</p> <p>17 Q Any manner in which her termination was handled by</p> <p>18 the group?</p> <p>19 A Well, you keep making it like the group made the</p> <p>20 decision to terminate her.</p> <p>21 Q Well, the ones who were involved.</p> <p>22 A Again, it was her processing of her voluntary quit</p> <p>23 was a fete accompli after she did not provide a</p> <p>24 doctor's excuse.</p> <p>25 Q My question was did you have any regrets with the</p> <p style="text-align: center;">509</p>

1 Q So you were there from March 1997 through October of	1 director --
2 1999?	2 A No.
3 A Yeah.	3 Q -- and answered to the Mayor?
4 Q Is that right?	4 A No.
5 A Would that be a year and a half?	5 Q And I suspect once you became the chief of staff
6 Q Well, you began your employment as chief of staff in	6 October 1999 you became the supervisor of
7 October of 1999?	7 Marilyn Figueroa?
8 A October, right.	8 A Correct.
9 Q Obviously the previous job would have been the	9 Q Is that correct? Did you continue to be the
10 director of the block grant department?	10 supervisor until her termination of employment?
11 A Right, right. So it would have been March '97.	11 A Correct.
12 Q Is that correct? All right.	12 Q Before you became the chief of staff, what did you
13 MR. ARELLANO: Let's take one	13 know about Marilyn Figueroa?
14 second because she has to change the tape.	14 A Marilyn and I had worked fairly closely together
15 THE WITNESS: I'm sorry? Yeah,	15 before I became chief of staff. At the time the
16 okay.	16 committee that dealt with block grant funding had
17 (Recess)	17 Marilyn as the Mayor's appointee on it, so she and I
18 By Mr. Arellano: (Continuing)	18 worked rather closely.
19 Q We were talking a little bit about the chronology of	19 Q For how long?
20 your employment with the City.	20 A Throughout my whole tenure as block grant director.
21 A Right.	21 And I also had known her prior to that.
22 Q And I think we did that in the past too.	22 Q In what respect did you work closely with
23 A Yeah.	23 Marilyn Figueroa during the period of time in which
24 Q I just want to get some foundation here. The	24 you were the director of the block grant department?
25 preceding job that you held before becoming chief of	25 A She, I would go over the committee agendas with her.
514	516
1 staff would have been that of the block grant	1 Actually I would with every committee member. I
2 director; is that correct?	2 would go over agendas, talk about issues on a
3 A Correct.	3 routine basis, on a monthly basis. When it came
4 Q When you were the block grant director, did you in	4 time for actual allocation of funds, I would run our
5 any manner supervise Marilyn Figueroa?	5 staff recommendations by Marilyn prior to making
6 A No.	6 them public.
7 Q Did you in any manner provide any input to the Mayor	7 Q Excuse my ignorance, Mr. Soika, but tell me exactly
8 with respect to Marilyn Figueroa while you were the	8 what's the objective of the block grant department?
9 director of the block grant?	9 A Block grant administers the federal dollars that
10 A Any input to the Mayor?	10 come into the City on a -- to help alleviate
11 Q With respect to her performance, conduct.	11 poverty. It's about \$30 million.
12 A Absolutely not.	12 Q And when you say that the department handles this
13 Q So that we can leave that alone, you had no duty to	13 federal monies, what is the function as far as
14 report to Marilyn Figueroa; correct?	14 handling those monies; to distribute monies?
15 A Well, that's not what you asked..	15 A Yeah. To distribute the monies to City agencies and
16 Q Now I'm asking you that.	16 nonprofit organizations.
17 A Yeah, I did.	17 Q And can you tell me, if you will, what would be the
18 Q You reported to Ms. Figueroa?	18 procedure in order for distribution to take place to
19 A Right.	19 a given recipient?
20 Q You recall ever giving the Mayor any type of	20 A Okay. I think it's in May of any given year we
21 feedback with respect to Marilyn Figueroa while you	21 issue what's called a request for proposals, groups
22 were the director of the block grant?	22 who are interested in receiving funds have a certain
23 A No.	23 amount of time to submit proposals. The proposals
24 Q Any type of concerns, complaints regarding	24 are then reviewed and rated by block grant staff.
25 Marilyn Figueroa while you were the block grant	25 Tentative recommendations are promulgated on who
515	517

<p>1 Q Right.</p> <p>2 A While I was block grant director?</p> <p>3 Q Right.</p> <p>4 A No, I do not.</p> <p>5 Q Any specific grant that you believe became an issue</p> <p>6 for Marilyn Figueroa?</p> <p>7 A An issue for Marilyn?</p> <p>8 Q Right.</p> <p>9 A How do you mean?</p> <p>10 Q Where she was unhappy or didn't care about the way</p> <p>11 the Mayor was handling block grants.</p> <p>12 A No.</p> <p>13 Q Anything that you recall you perceived to be a</p> <p>14 problem in working with Marilyn Figueroa when you</p> <p>15 were the director of the block grants department?</p> <p>16 A No.</p> <p>17 Q All right. Once you became the chief of staff --</p> <p>18 strike that. I suspect by virtue of your previous</p> <p>19 answer you and Marilyn Figueroa worked well in the</p> <p>20 block grants?</p> <p>21 A I believe so.</p> <p>22 Q You felt she respected you?</p> <p>23 A Uh-huh.</p> <p>24 Q Is that yes?</p> <p>25 A Yes, I'm sorry.</p> <p style="text-align: center;">522</p>	<p>1 significant in your mind.</p> <p>2 A Most significant in my mind?</p> <p>3 Q Correct.</p> <p>4 A Well, there's not a specific event.</p> <p>5 Q Okay.</p> <p>6 A There's kind of Marilyn became dissatisfied. She --</p> <p>7 it's not clear if she was working all the time.</p> <p>8 There was a period where she had -- my words, had</p> <p>9 taken on the block grant director in a public arena</p> <p>10 that I thought was inappropriate.</p> <p>11 Q You're pleasantly soft-spoken but I am missing</p> <p>12 sometimes your -- anything else?</p> <p>13 A Well, that was it.</p> <p>14 Q When you came on board in October of 1999, what was</p> <p>15 Marilyn's specific job title?</p> <p>16 A Staff assistant to the Mayor.</p> <p>17 Q How many staff assistants were on board when you</p> <p>18 became the chief of staff?</p> <p>19 A Four I believe.</p> <p>20 Q Who were they?</p> <p>21 A Marilyn, Mike Miller, Roland Perry, I'm forgetting</p> <p>22 somebody. There was Kimberly, but I'm not sure if</p> <p>23 her title was -- oh, well, staff assistants I guess</p> <p>24 are those four.</p> <p>25 Q Marilyn Figueroa, Mike Miller, Roland Perry and</p> <p style="text-align: center;">524</p>
<p>1 Q You respected her?</p> <p>2 A Yes, I did.</p> <p>3 Q Didn't see anything in her behavior towards you or</p> <p>4 anyone that you perceived to be improper?</p> <p>5 A Improper?</p> <p>6 Q Correct.</p> <p>7 A No.</p> <p>8 Q Now, you became the chief of staff sometime in</p> <p>9 October 1999; correct?</p> <p>10 A Correct.</p> <p>11 Q And at that point do you recall any problems with</p> <p>12 Marilyn Figueroa once she became the chief of staff?</p> <p>13 A At what point? I mean --</p> <p>14 Q At a point after you became the chief of staff.</p> <p>15 A You mean prior to her leaving in January?</p> <p>16 Q Correct.</p> <p>17 A Yeah, I do.</p> <p>18 Q Let's talk about the very first problem.</p> <p>19 A I don't remember it in that way. I remember it in</p> <p>20 general.</p> <p>21 Q Before we get into that -- well, let's get into</p> <p>22 that. What the heck.</p> <p>23 A Okay.</p> <p>24 Q What problems do you recall in general? Let's start</p> <p>25 with the one that you believe was the most</p> <p style="text-align: center;">523</p>	<p>1 Kimberly Pratt?</p> <p>2 A I believe so.</p> <p>3 Q Is that right? Were there any vacant positions by</p> <p>4 the time you came on board in October of 1999?</p> <p>5 A Well, that's why. Right, there was a vacant</p> <p>6 position.</p> <p>7 Q What --</p> <p>8 A It's hard to say because the Mayor's office, I think</p> <p>9 we're authorized for six staff assistants, but we</p> <p>10 never fill six.</p> <p>11 Q So in practice there was one vacancy?</p> <p>12 A That's fair to say.</p> <p>13 Q Even though there was a budget for six positions?</p> <p>14 A Not a budget, an authorization, not a budget.</p> <p>15 Q Authorization. Before you left your position as</p> <p>16 chief of staff March 5th, 2002, did there come a</p> <p>17 time when you had actually six positions as</p> <p>18 authorized within the Mayor's office? And I'm</p> <p>19 talking about the staff assistant positions.</p> <p>20 A Do we have six staff assistant positions? No.</p> <p>21 Q During your entire period of time did there come a</p> <p>22 time when you had a total of five assistant</p> <p>23 positions at any one point?</p> <p>24 A The reason I hesitate is I'm not clear on</p> <p>25 Kimberly Pratt's position, whether that's termed a</p> <p style="text-align: center;">525</p>

1 Q And No. 5, box No. 5?
 2 A Is Mike Miller.
 3 Q And box No. 6?
 4 A Steve Jacquart.
 5 Q And in No. 7?
 6 A Myself.
 7 Q Steve Jacquart, what was his position in January of
 8 2000?
 9 A Policy director.
 10 Q When you came on board, Mr. Soika -- and you have
 11 Kimberly Pratt under box No. 8 --
 12 A Right.
 13 Q -- of Exhibit 35; correct?
 14 A Right.
 15 Q When you came on board, which of these individuals
 16 were not working as staff assistants to the Mayor,
 17 other than Mr. Fleming, Mr. Jacquart and yourself?
 18 A Well, would it help if I circled the people who were
 19 on board when I came on board?
 20 Q Why don't you do that.
 21 A I'm going to have to talk about Tricia.
 22 Q Tricia, what's her last name?
 23 A Geraghty.
 24 Q And then?
 25 A Jennifer Meyer, do you want me to write that in?

530

1 Q Yes, why don't you write Jennifer Meyer. And was
 2 Jennifer Meyer staff assistant?
 3 A She actually replaced Kimberly Pratt.
 4 Q Okay, very good. When did Jennifer Meyer come on
 5 board?
 6 A Summer of '01 maybe.
 7 Q When did Tricia come aboard?
 8 A The end of November, early December '99.
 9 Q When you came on board, you testified that
 10 Marilyn Figueroa was staff assistant to the Mayor;
 11 correct?
 12 A Right.
 13 Q To your knowledge, was she the oldest, and I don't
 14 mean age-wise?
 15 A Most senior.
 16 Q Most senior, thank you. Most senior employee within
 17 the Mayor's office of all of the staff assistants at
 18 the time?
 19 A Of the staff assistants. Not the people who were
 20 there but of the staff assistants.
 21 Q Is that correct? By the way, let me ask you this.
 22 Mr. Fleming, did Mr. Fleming ever attend any of the
 23 meetings that took place after Marilyn Figueroa left
 24 in January of 2000?
 25 A No.

531

1 Q No? Okay. Mr. Gillis, did he ever attend any of
 2 the meetings?
 3 A Yes.
 4 Q How many meetings, do you know?
 5 A Oh, I don't know. By the way, with Gillis, in my
 6 previous testimony I said we brought him in in
 7 December. That was not accurate. We brought him
 8 in right before the election.
 9 Q So that's a clarification you want to make respect
 10 to your prior testimony?
 11 A Right, right.
 12 Q Is that correct? All right, very good. Did he
 13 attend several meetings with the group, Mr. Gillis?
 14 A Oh, I wouldn't say several because --
 15 Q Did he attend more than two?
 16 A You know, I don't -- I don't know. I don't
 17 remember -- I remember Gillis being involved. I
 18 don't remember him in a larger group. I remember
 19 he, Christofferson and I sitting down. I remember
 20 he, Christofferson, the Mayor and I sitting down. I
 21 don't remember him in the context of everybody else.
 22 Q Do you recall Mr. Fleming making any statements to
 23 the press regarding Marilyn Figueroa?
 24 A Fleming?
 25 Q Yes.

532

1 A I don't recall.
 2 Q All right. Was he the press marketing fellow?
 3 A Right.
 4 Q Where is Mr. Fleming today?
 5 A He's working for some private firm.
 6 Q Going back to Marilyn Figueroa, you did testify that
 7 she was the most senior of the staff assistants that
 8 were working for the Mayor's office at the time you
 9 came on board?
 10 A Correct.
 11 Q Is that correct? Do you know what her
 12 classification was at that time?
 13 A Pay grade seven.
 14 Q Seven, okay. And do you know what was the
 15 reclassification of the other staff assistants when
 16 you came on board?
 17 A What the classification was?
 18 Q Yes.
 19 A I believe Fleming was a 10, Roland Perry was a
 20 seven, Marilyn was a seven, Brenda might have been
 21 an 11, Miller was a seven, Jacquart I'm not sure,
 22 might be a 15, Kimberly was a seven.
 23 Q Brenda Wood was an 11?
 24 A I think so.
 25 Q What about Tricia Geraghty?

533

1 A Well, I'm not sure if it was in that conversation,
2 but I'm remembering it that she said, well, this was
3 what we were looking at for Marilyn, but I
4 understand she's okay.
5 Q Who said that, the Mayor?
6 A Flo.
7 Q Anything else?
8 A That's all.
9 Q And then what did you do next?
10 A Well then, then it was just, you know, to get the
11 process going, whatever had to happen. It had to go
12 to the City Service Commission. It had to go to
13 finance personnel. It had to ultimately go to the
14 Council.
15 Q Specifically what did you do to start the process
16 going?
17 A I would have -- I don't remember if it was -- I
18 probably asked Stawicki to begin the paperwork. I
19 would probably have asked Brenda to deal with the
20 Council side of it to make sure that things got
21 introduced. I would have worked with Flo to ensure
22 that if it hadn't already gone through the City
23 service, that we went through that as well.
24 Q Other than talking to Dukes about the
25 reclassification issue, who else did you talk to, if

538

1 anyone?
2 A I just told you.
3 Q Other than the people that you just described. You
4 didn't talk to anyone else?
5 A I talked to Brenda. I talked to Flo. I may have
6 talked to Stawicki. I'm remembering there was an
7 issue with -- oh, I would have had to talk to
8 Hansen. And I'm thinking that I would have had to
9 talk to the Council finance personnel chair,
10 Fred Gordon.
11 Q What did you talk to Hansen about?
12 A I think that he had -- he and Gordon had to jointly
13 sign a letter for some reason.
14 Q What did you tell Hansen?
15 A That we were wanting to do this to bring somebody on
16 board. Let's move the process along.
17 Q Is that what you told him?
18 A Not in those words but in general, yeah.
19 Q What did you tell Stawicki?
20 A If I told Stawicki anything, it was just to ask her
21 to deal with the paperwork part of it.
22 Q Have you told me everything that you recall you
23 discussed with people involved in the
24 reclassification of the position that you had in
25 mind?

539

1 A Well, people knew that Tricia was coming in. I mean
2 that was common knowledge.
3 Q But my question is did you tell me everything that
4 you did in order to begin the process of the
5 reclassification issue?
6 A Yeah. That's -- I think so.
7 Q Let me see if I understand what you're telling me,
8 Mr. Soika.
9 A Okay.
10 Q When you came on board, and I'm not clear whether or
11 not you are giving me a straight answer with respect
12 to whether or not you investigated the fact that
13 Marilyn Figueroa's position was being subject to a
14 reclassification study, but one thing that you are
15 telling me is that you proposed -- and correct me at
16 all times if I'm wrong because I don't want to come
17 back and have you try to correct things that you can
18 correct now. One thing that you're telling me is
19 that you proposed to the Mayor to bring
20 Ms. Tricia Geraghty on board; is that correct?
21 A Correct.
22 Q And then the Mayor cautioned you about
23 Marilyn Figueroa?
24 A He said -- cautioned is not a word I used. But he
25 said I would have to make sure that Marilyn was okay

540

1 with it.
2 Q Did you inquire with the Mayor why Marilyn would be
3 a concern?
4 A I didn't have to because I understood that there was
5 the issue with Marilyn, her dissatisfaction with the
6 job atmosphere. There was an issue of
7 reclassification. That was general knowledge.
8 Q And I know you gave me a rather general answer, but
9 what I want to know is once you came on board in
10 October of 1999, when was the very first time that
11 you learned that Marilyn had an issue with respect
12 to reclassification of her position?
13 A I knew it before I came on board.
14 Q Oh, you knew that before. What did you know?
15 A I knew that Marilyn had a concern about her position
16 and whether or not she felt that it deserved a
17 reclassification.
18 Q Do you know for how long this had been an issue?
19 A Marilyn -- when I was at block grant, Marilyn would
20 complain about issues in the office of the Mayor.
21 Q With respect to reclassification, when did you learn
22 for the first time that Marilyn was unhappy about
23 reclassification or lack of?
24 A I don't know that.
25 Q Who told you -- where did you learn before you

541

<p>1 A I would have had to have created a position that was 2 different from the staff assistant that had 3 additional duties. 4 Q And what position did you create? 5 A Well, that's when I went to Flo to talk about the 6 reclassification and she said there was a position. 7 It was a vacant position that was previously held by 8 Jason Helgerson. That a study was done and a 9 reclassification was completed. The study was 10 completed. 11 Q Did Ms. Dukes ever tell you that the study that was 12 completed related to Marilyn Figueroa's position? 13 A It wouldn't have been Marilyn's position. 14 Q That wasn't my question, sir. Did she tell you 15 that? 16 A There was a general understanding that Marilyn was 17 agitating for a reclassification of her position. 18 Flo would have known that. 19 Q Did Ms. Dukes tell you that the position that she 20 claimed had already been studied and completed was 21 Marilyn's position? 22 A I don't know if she said it was Marilyn's position, 23 but it was the position that Marilyn was hoping to 24 aspire to. 25 Q And did you at any time suggest that that position 546</p>	<p>1 A I don't remember what he said. The gist is that 2 there shouldn't be a problem. 3 Q Did you submit to -- did you tell Ms. Dukes and/or 4 Mr. Hansen that the Mayor wanted to stop 5 Marilyn Figueroa's reclassification and instead 6 create a reclassification for Ms. Geraghty? 7 A No. 8 Q Did you ever tell Ms. Dukes that the Mayor didn't 9 want Marilyn Figueroa to be reclassified? 10 A Say that again, please. 11 (Question read) 12 A No. 13 Q Other than bringing Ms. Geraghty on board, were 14 there any other factors which prompted you to tell 15 Marilyn Figueroa that, in essence you were telling 16 Ms. Figueroa she was not going to be reclassified; 17 correct? 18 A Could you rephrase that, please. 19 Q In essence when you talked to Ms. Figueroa about 20 bringing Ms. Geraghty, you in essence were telling 21 Ms. Figueroa that the reclassification of her 22 position was not going to take place because you 23 needed to bring Ms. Geraghty on board? 24 A No, that wasn't the tone of the conversation at all. 25 What I said to Marilyn was this is what I want to 548</p>
<p>1 instead be given to Ms. Geraghty? 2 A I just stated that. Yes. 3 Q Then I believe you then claim that you spoke to 4 Mr. Hansen. 5 A Yeah. I would have had to have spoken to him to get 6 his signature on this letter with Fred Gordon. 7 Q What did you tell Mr. Hansen? 8 A I'm not sure. 9 Q Was that before or after you spoke to Ms. Dukes? 10 A I'm not sure. It would have been around the same 11 time. 12 Q Around meaning before or after? 13 A I remember calling up Flo and having a conversation. 14 I remember calling up Jeff and having a 15 conversation. What was the sequence, what was the 16 timetable, I'm really not clear. 17 Q And again, you don't remember specifically what you 18 told Mr. Hansen? 19 A No. It would have been -- it would have been I've 20 got this person I want to bring in. I need your 21 signature. I need Fred's signature. Can we do 22 that? 23 Q Anything else? 24 A That's what I remember. 25 Q What did he say to you? 547</p>	<p>1 do. I understand it's a sensitive spot for you. If 2 you say no, I won't do it. 3 Q Well, did you at any time tell Ms. Figueroa that her 4 position was not going to be reclassified? 5 A I don't remember that, no. 6 Q Did the Mayor in any way tell you that in order to 7 bring Ms. Geraghty, you would have to tell Marilyn 8 that she would not receive a reclassification? 9 A What the Mayor said was that I had to work with 10 Marilyn to make sure she was okay with that. 11 Q Was it your intent to give Marilyn notice that she 12 was not going to get a reclassification? 13 A Not at all. My intent was to very clearly say to 14 her I want to do this, I know that it's a troubling 15 spot for you, but if you don't want me to do it, I 16 will not do it. 17 Q What, if your intent was not to discuss Marilyn's 18 reclassification of her position, what led you to 19 believe that Marilyn would be uncomfortable with 20 Ms. Geraghty coming on board? 21 A I don't understand the first part of your question. 22 Could you read it back, please. 23 (Question read) 24 A As I said, at least twice now, that I was aware that 25 Marilyn was concerned in the past, had been upset 549</p>

<p>1 A Yes, I did.</p> <p>2 Q What supervisory experience did she have?</p> <p>3 A Ms. Geraghty and I had worked together at</p> <p>4 Elizabeth Avenue Neighborhood Development. She was</p> <p>5 the director of operations. Most staff reported to</p> <p>6 her.</p> <p>7 Q And when she was asked to join the Mayor's staff,</p> <p>8 what was the supervisory responsibility assigned to</p> <p>9 her?</p> <p>10 A To the position?</p> <p>11 Q Correct.</p> <p>12 A To oversee the constituent relations function and</p> <p>13 then a project-by-project basis.</p> <p>14 Q Did you ever tell the Mayor that you didn't think</p> <p>15 Marilyn Figueroa qualified for the staff assistant</p> <p>16 senior position --</p> <p>17 A No, I don't think so.</p> <p>18 Q -- that was being considered for Ms. Geraghty?</p> <p>19 A No.</p> <p>20 Q When the Mayor told you that you had to talk to</p> <p>21 Marilyn before you would propose this position to</p> <p>22 Ms. Geraghty, did he tell you that Marilyn was</p> <p>23 expecting to get the staff assistant senior position</p> <p>24 that eventually was given to Ms. Geraghty?</p> <p>25 A I don't know if he said Marilyn's expecting to get</p> <p style="text-align: center;">554</p>	<p>1 Q But it was obviously --</p> <p>2 A Shortly after I got there.</p> <p>3 Q You got there in October, what month?</p> <p>4 A I believe I started October 18th.</p> <p>5 Q October 18th. So you believe that between October</p> <p>6 -- how soon after you came on board that you propose</p> <p>7 that Geraghty hiring?</p> <p>8 A I don't know. It would have been relatively soon</p> <p>9 after.</p> <p>10 Q Soon meaning what, days, weeks?</p> <p>11 A It would have -- it would have been within a week or</p> <p>12 two.</p> <p>13 Q So that would have put us sometime in October 20</p> <p>14 some; correct?</p> <p>15 A End of October, early November.</p> <p>16 Q How soon after you spoke to the Mayor did you talk</p> <p>17 to Marilyn about the fact that you were bringing</p> <p>18 Ms. Geraghty?</p> <p>19 A That I wanted to bring Ms. Geraghty in? It would</p> <p>20 have been shortly after. Was it the same day? I</p> <p>21 couldn't say that.</p> <p>22 Q So you think late November?</p> <p>23 A Late November? Absolutely not.</p> <p>24 Q I mean excuse me, late October?</p> <p>25 A Again, I would only be guessing.</p> <p style="text-align: center;">556</p>
<p>1 this. There was a general understanding that</p> <p>2 Marilyn desired a promotion to a new position.</p> <p>3 Q So you felt that the Mayor was aware of Marilyn's</p> <p>4 expectation --</p> <p>5 A Yes.</p> <p>6 Q -- that she would be getting that position, the</p> <p>7 staff assistant senior position?</p> <p>8 A Again, would be getting, he was aware that she</p> <p>9 desired it.</p> <p>10 Q When the idea developed to propose Geraghty to come</p> <p>11 on board, I believe you testified that it was your</p> <p>12 idea; is that correct?</p> <p>13 A Correct.</p> <p>14 Q Did the Mayor in any way object to your idea in</p> <p>15 light of what he knew Marilyn was expecting?</p> <p>16 A He didn't object. He did direct me to make sure</p> <p>17 that Marilyn was okay with what I wanted to do.</p> <p>18 Q And again just so I can put this in proper</p> <p>19 chronology, your discussion with Marilyn was the</p> <p>20 same day you spoke to the Mayor about it?</p> <p>21 A Oh, I have no idea.</p> <p>22 Q But one thing you remember is that it occurred</p> <p>23 sometime in October?</p> <p>24 A I don't know if I said October or November. I'm</p> <p>25 not sure.</p> <p style="text-align: center;">555</p>	<p>1 Q Would you have any records that would help you to</p> <p>2 recall when you spoke to the Mayor about that</p> <p>3 position?</p> <p>4 A No, I don't believe so.</p> <p>5 Q When you spoke to the Mayor about bringing</p> <p>6 Ms. Geraghty on board, did the Mayor make any</p> <p>7 remarks about Marilyn's possible reaction?</p> <p>8 A All I remember is the Mayor saying that, you know,</p> <p>9 Marilyn's got to be okay with this.</p> <p>10 Q Just so I can leave this thing alone, it was clear</p> <p>11 in your mind that this staff assistant senior</p> <p>12 position that you were now gearing towards</p> <p>13 Ms. Geraghty was the same staff assistant position</p> <p>14 that Marilyn Figueroa was expecting to get?</p> <p>15 A That Marilyn desired, right.</p> <p>16 Q Is that correct?</p> <p>17 A That Marilyn desired to, correct.</p> <p>18 Q Did you ever ask Marilyn to pray in the workplace</p> <p>19 with you?</p> <p>20 A I don't know. I may have.</p> <p>21 Q You did bring a Bible to the workplace?</p> <p>22 A I have a Bible in my office, yes.</p> <p>23 Q Did you ever tell Marilyn Figueroa that people in</p> <p>24 the Mayor's office were not only racist but also</p> <p>25 classists as in class division?</p> <p style="text-align: center;">557</p>

1 A That's what I recall.
 2 Q Did she complain about her not having access to the
 3 Mayor?
 4 A I believe so.
 5 Q Did you conduct an investigation with respect to
 6 some of the allegations she was making pertaining to
 7 minority staff not being involved in policy making?
 8 A I met with every staff person one-on-one to try to
 9 understand what the atmosphere in the office was,
 10 what their perception of things were.
 11 Q Which minority members -- just clarifying for you,
 12 don't use that term -- but for these purposes which
 13 minority members did you meet with?
 14 A I met with every staff, so I would have met with
 15 Marilyn, Roland Perry, Mike Miller.
 16 Q Did Mr. Perry and Mr. Miller concur with
 17 Ms. Figueroa as far as her view of minorities not
 18 being involved in policy-making decisions?
 19 A I think that there was a general feeling that policy
 20 decisions were made on the fly and they weren't
 21 involved. I don't -- I didn't get the impression
 22 that they saw it as big of a deal as Marilyn did,
 23 but certainly they had concerns.
 24 Q So did they concur in some fashion with what Marilyn
 25 was saying?

562

1 A In some fashion, yes.
 2 Q And I'm talking about Mr. Perry and Mr. Miller; is
 3 that correct?
 4 A Right.
 5 Q In fact, I believe you testified previously you
 6 fired Mr. Perry; is that correct?
 7 A Correct.
 8 Q Why did you fire him?
 9 A Pardon?
 10 Q Why did you fire him?
 11 A Why? I don't believe that he was performing his
 12 duties.
 13 Q All right. So any other complaints other than what
 14 you already shared with me regarding
 15 Marilyn Figueroa which led you to believe she was a
 16 disgruntled employee?
 17 A No. Her reputation as a disgruntled employee
 18 preceded my tenure as the chief of staff.
 19 Q She was unhappy with the office?
 20 A Right.
 21 Q Is that correct? From October through December of
 22 1999, how would you describe her demeanor? I mean
 23 other than what you described disgruntled employee,
 24 how would you describe her demeanor while at the
 25 office?

563

1 A It was all over the place. Sometimes she would be
 2 bubbly. Sometimes she would be in a funk.
 3 Q In a what?
 4 A In a funk.
 5 Q What, how do you describe that?
 6 A How do I describe it?
 7 Q I want to make sure it doesn't apply to me or
 8 Mr. Tokus here.
 9 A Well, the way you two go at each other. That there
 10 were problems that she was dealing with, issues.
 11 Q Such as what, at least based on your perception?
 12 A I don't know. She would -- sometimes she would be
 13 in meetings and not say a word. Sometimes she
 14 would, you know, take an antagonistic point of view.
 15 It seemed to me just to be antagonistic. I don't
 16 know.
 17 Q Any other descriptions with respect to her demeanor
 18 in the office?
 19 A Well, again, I was not sure whether she was working
 20 all day when she came in, you know, how many hours
 21 she was actually putting in.
 22 Q Anything else?
 23 A I'm drawing a blank on anything else.
 24 Q What about her mood? I mean her --
 25 A I said it varied. Sometimes she would be bubbly and

564

1 other times she would not.
 2 Q In the month of October did you notice any crying,
 3 any depression, any depressive behavior or sadness?
 4 A In October? No, I don't think so.
 5 Q What about November, December?
 6 A I think December.
 7 Q What did you notice?
 8 A That she seemed distraught. I asked her a couple
 9 times, Marilyn, what's going on, anything I can do?
 10 At the time I thought it was work related, that she
 11 was, felt overwhelmed. You know, I wasn't -- I
 12 really didn't know what it was, but it was clear to
 13 me that she was at times distraught.
 14 Q Did you ever see her cry in December?
 15 A Did I see her cry? I couldn't say. I don't know.
 16 Q I hate to ask you this, but when you use the word
 17 distraught, can you elaborate for me?
 18 A You know, in a bad mood, not getting along with
 19 other staff members, you know, distraught. I mean
 20 that's distraught.
 21 Q Did she ever in any way tell you that she was having
 22 problems with the Mayor?
 23 A No. One thing she did say is, you know, these are
 24 things that had to do before you came.
 25 Q Did you sense a time -- as I understand, she

565

1 Q Right. But did you write those notes?
2 A Yes.
3 Q All right. So you prepared those notes regardless;
4 true?
5 A Okay, yes.
6 Q Very good.
7 MR. ARELLANO: Counsel, before I
8 proceed with my examination of this witness,
9 as I look at Exhibit 32, these documents were
10 withheld for a substantial period of time
11 because counsel for the respondent City of
12 Milwaukee took the position that some of these
13 records may be covered by the attorney-client
14 privilege and/or work product. My question to
15 you is were any records removed, I'm talking
16 about any records that I have requested which
17 were produced or prepared by this witness,
18 were any of those records removed or not
19 included in this Exhibit 33?
20 MR. TOKUS: That's intact.
21 MR. ARELLANO: So just so I
22 understand, all of the records that this
23 witness prepared have all been submitted to
24 us?
25 MR. TOKUS: Well, those were spiral
570

1 notebooks belonging to this man. He made
2 notes on those notebooks.
3 MR. ARELLANO: I understand. But
4 previously the respondents had taken the
5 position that some of those notes may be
6 privileged. And my only question is are there
7 any records that were prepared by this
8 gentleman that are still maintained in your
9 possession pursuant to any type of privilege
10 which have not been provided to us?
11 MR. TOKUS: No, we've not excluded
12 any. You've got the whole batch.
13 THE WITNESS: I'm not sure about
14 that.
15 MR. TOKUS: Okay. Let's hear it
16 from the --
17 THE WITNESS: You know, I -- there
18 were, I don't know, two, maybe three records
19 that counsel said might be attorney-client
20 privilege that were held out -- not held out?
21 Okay. So then they might be in here.
22 MR. ARELLANO: Okay. In response
23 to your concern, again it's the position of
24 counsel that no records have been held out or
25 removed?
571

1 MR. SCHRIMPF: I'm not under oath,
2 nor am I being deposed.
3 MR. ARELLANO: I believe that the
4 position of Mr. Tokus is that I have been
5 provided with all of the records without any
6 exception.
7 MR. TOKUS: And I think the witness
8 just confirmed that.
9 Q I also was given Exhibit 34, what has been marked as
10 Exhibit 34. And is that a record that you prepared,
11 sir?
12 A Yes, it is.
13 Q All right, thank you.
14 MR. TOKUS: Now, so that there's no
15 question, you've not been given all the pages
16 of all the spiral notebooks. There are
17 several spiral notebooks.
18 MR. ARELLANO: Are there any pages
19 in those books which contain matters related
20 to the Figueroa/Norquist --
21 MR. TOKUS: Not to my knowledge.
22 What you're getting is -- what you have here
23 is those pages selected that relate in any way
24 to the Figueroa matter.
25 MR. ARELLANO: And I suspect this
572

1 afternoon we will get to see the entire spiral
2 book.
3 MR. TOKUS: You will see those,
4 exactly, all of them.
5 MR. ARELLANO: All of them?
6 MR. TOKUS: Yes, sir.
7 MR. ARELLANO: All right. Thank
8 you. Now we can move ahead.
9 Q In your previous deposition, Mr. Soika, you
10 testified that you had a page or two of records
11 pursuant to a telephone conference with
12 Ms. Figueroa, telephone conferences with Mr. Miller,
13 perhaps with Ms. Pratt. Do you recall that?
14 A I do not.
15 Q And today your attorneys have produced a total of 36
16 written notes and I must say 37.
17 A Okay.
18 Q Do you have any explanation as to why from a page or
19 two now it has become 36, 37 pages?
20 A I think that you misinterpreted or misread what the
21 statement was.
22 Q What do you think the statement was?
23 A I'm remembering a handful. 36 pages is --
24 Q All right, very good. Now, let's start right away
25 with Exhibit No. 33. And for these purposes I tell
573

1 meeting, that's the committee that reviews block
 2 grant funding, and that Hawkins at that time was the
 3 director of block grant. Marilyn had a seat on the
 4 committee. And that Marilyn was disputing items
 5 with Ms. Hawkins. The significance would be you
 6 then had two arms of the same administration
 7 publicly disputing each other.
 8 Q And did Marilyn in any way acknowledge that she had
 9 "blindsided"?
 10 A I don't remember Marilyn's response when I talked to
 11 her about that.
 12 Q Was this a significant issue in your mind?
 13 A Not really. It was a blip.
 14 Q Did you ever receive similar complaints against
 15 other staff members?
 16 A I don't remember any.
 17 Q So Marilyn was the only one according to you?
 18 A Yeah. Of an incident like this, yes.
 19 Q So blindsided is over. Is that when you got burnt
 20 over after awhile, because of this complaint?
 21 Next page of Exhibit 33-04, do you recognize
 22 this as your notes?
 23 A Yes, I do.
 24 Q And as I understand, this was dated 12/14?
 25 A Correct.

578

1 Q Does that stand for December 14?
 2 A Yes.
 3 Q What year?
 4 A I believe '99.
 5 Q And here when did you write these notes?
 6 A It would have been at the time that I was having the
 7 conversation with the individual.
 8 Q And as far as these notes, who was the individual?
 9 A Well, I'm not real sure. I believe it was
 10 Kimberly Pratt though.
 11 Q Where did the conversation take place?
 12 A You know, I -- I don't remember. My office but I'm
 13 not sure.
 14 Q Who initiated the conversation?
 15 A It would have been Kimberly.
 16 MR. TOKUS: Kimberly?
 17 THE WITNESS: Kimberly.
 18 Q Did you perceive Ms. Pratt having complaints about
 19 Marilyn or against Marilyn in any shape, form, when
 20 these notes were written?
 21 A It was not against Marilyn. I think my
 22 interpretation of the notes is she is relaying to me
 23 that Marilyn is distraught and upset.
 24 Q And that's what you wrote in here?
 25 A Pretty much.

579

1 Q Distraught, distrustful of folks in the office. Is
 2 that what Ms. Pratt shared with you?
 3 A Right.
 4 Q Feels like losing you, Mike Soika?
 5 A Right.
 6 Q Did you write down everything that Ms. Pratt shared
 7 with you regarding Ms. Figueroa?
 8 A I doubt it.
 9 Q Did you write down the most significant aspects
 10 of --
 11 A I wrote down what I believed to be significant as
 12 the conversation was unfolding.
 13 Q And did you agree with Ms. Pratt that Marilyn was
 14 distraught at that period of time?
 15 A Yeah. I remember December being a hard month for
 16 her, yes.
 17 Q Next item, can you read that for --
 18 A Next item down or next page?
 19 Q No, the next item down on Exhibit 33, 04.
 20 A Lunch around two weeks ago before Tricia came. What
 21 happening. I don't know what that means.
 22 Q So you don't understand the significance of that
 23 second sentence?
 24 A I do not.
 25 Q What about the next one?

580

1 A Starting all over again, feel like not being
 2 respected, block grant meeting, Soika called and
 3 Marilyn not invited.
 4 Q What's the significance of that?
 5 A I think it actually relates also to the next line,
 6 Miller there. Marilyn not invited. There was, I
 7 don't remember at all what the issue was, but there
 8 was an issue with block grant NIDC which is a City
 9 agency funded with block grant. I had talked to
 10 Miller about it, did not involve Marilyn. She was
 11 upset over it.
 12 Q So Ms. Pratt was sharing with you complaints Marilyn
 13 had about the way you were handling this particular
 14 item?
 15 A That's what I believe it represents.
 16 Q Is that right? All right. And the next one?
 17 A Feel like being isolated again.
 18 Q This is what Ms. Pratt was telling you about
 19 Ms. Figueroa?
 20 A Right, yeah.
 21 Q The next one?
 22 A Now today nothing changed. Gave me a dirty look.
 23 Q What exactly is the significance of that?
 24 A You know, I think what Kimberly is saying, that
 25 Marilyn thought I gave her a dirty look.

581

1 Q Let's go to page O6 of Exhibit 33. You have in the
 2 far left -- top left margin, can you identify what
 3 those numbers represent?
 4 A Yeah. I think it's January 4th, 2000.
 5 Q You would agree with me that it also looks more like
 6 a 4?
 7 A Could be a four.
 8 Q Do you know what it was? January 4th?
 9 A I would be inclined to say January.
 10 Q And then the very first item?
 11 A Christofferson saw Marilyn before Christmas.
 12 Q Who?
 13 A Christofferson.
 14 Q Who gave you that information, Mr. Christofferson?
 15 A I'm thinking that this is a phone conversation I had
 16 with Christofferson. Again --
 17 Q When did you have the phone conversation with
 18 Mr. Christofferson?
 19 A If this is a phone conversation with Christofferson,
 20 it would have been on January 4th.
 21 Q Did you write them down as you were speaking to him
 22 on the phone?
 23 A That was what that would be.
 24 Q What prompted you to write these notes, Mr. --
 25 A I have no idea.

586

1 Q Did Mr. Christofferson suggest that you keep notes?
 2 A Absolutely not.
 3 Q What about the Mayor?
 4 A No. As I said, I've been keeping notes in spiral
 5 notebooks since at least 1995.
 6 Q And he told you that he saw Marilyn Figueroa before
 7 Christmas?
 8 A Before Christmas.
 9 Q All right.
 10 A Right.
 11 Q Did he tell you anything else?
 12 A All I have is what the notes say in front of me.
 13 That's all I remember here.
 14 Q Did Mr. Christofferson ever tell you what occurred
 15 during his last contact with Marilyn Figueroa before
 16 she left the workplace?
 17 A His last contact on January 4th?
 18 Q Correct. If that's when it was.
 19 A Yeah. I think that it was fine. She came in. She
 20 seemed upset and then left. That's --
 21 Q Anything else?
 22 A That's all I remember.
 23 Q And that is a conversation you had with
 24 Mr. Christofferson on January 4th, 2000?
 25 A Again, all I have to go by is this document here.

587

1 Q Let me ask you this, Mr. Soika. Do you know when
 2 Mr. Christofferson learned that Mayor Norquist was
 3 having sex with Marilyn Figueroa?
 4 A Same day I did.
 5 Q Which was?
 6 A Sometime between the 5th and the 7th of January.
 7 Q And how do you know that he learned on the same day?
 8 A He and I had a conversation late that day.
 9 Q Where did the conversation occur?
 10 A It was a phone conversation.
 11 Q Was it a separate phone conversation than the one
 12 that you wrote here?
 13 A Well, yeah. This was January 4th. It would
 14 absolutely be a separate conversation.
 15 Q What did he tell you? What led you to believe that
 16 he already knew, or that he knew of Mayor Norquist?
 17 A Well, as you -- as the day unfolded there were with
 18 me a series of conversations with the Mayor as he
 19 had an opportunity to talk about this relationship.
 20 The last one was a phone call to my house. After I
 21 talked to the Mayor I don't remember whether I
 22 called Bill or Bill called me.
 23 Q My question is when did you learn that
 24 Mr. Christofferson knew of the sex interaction
 25 between Marilyn Figueroa and Mayor Norquist?

588

1 A The same day that I learned.
 2 Q Is that what Mr. Christofferson told you?
 3 A Yes.
 4 Q By the time -- do you know if he already knew of
 5 this interaction before you did?
 6 A I believe he did.
 7 Q And that's what he shared with you over the phone?
 8 A The evening that the Mayor disclosed to me, yes.
 9 Q So that would have been between --
 10 A The 5th and the 7th.
 11 Q And the 7th. What did he tell you? How did he
 12 learn?
 13 A When -- he and I were meeting with the Mayor as I
 14 was called out to talk to Flo Dukes.
 15 Q I just want to know when Mr. Christofferson learned.
 16 A I think immediately after that meeting. So it would
 17 have been before lunch on whatever day that was.
 18 Q Do you know who informed Mr. Christofferson?
 19 A I believe it was the Mayor.
 20 Q Before -- did Mr. Christofferson tell you that he
 21 also knew that Marilyn Figueroa was intending to
 22 file a discrimination complaint?
 23 A He was in the room when I told the mayor.
 24 Q So he was present when you told the Mayor?
 25 A Right.

589

1 file against the Mayor in the office.
 2 Q And next item?
 3 A Asked to come in and denied. That Flo asked Marilyn
 4 to come in and she said no.
 5 Q Next item?
 6 A Will mail form. Flo said she'd mail a form.
 7 Q Next item?
 8 A Said to Jeff and Flo that she was happy.
 9 Q Ms. Dukes related to you their conversation with
 10 Ms. Figueroa?
 11 A Yeah. I believe that that item and the one below it
 12 are related.
 13 Q Just so the record is clear, these notes pertain to
 14 what Ms. Flo --
 15 A Flo Dukes.
 16 Q Flo Dukes, excuse me. Flo Dukes was relating to you
 17 regarding her discussion with Ms. Figueroa?
 18 A Correct.
 19 Q And I believe you read it -- can you read it one
 20 more time, sir?
 21 A Said to Jeff and Flo that she was happy.
 22 Q And by this you understood that Marilyn had spoken
 23 to Jeff and Flo; correct?
 24 A Right. As I said, I believe it's related to the
 25 item below. Because Marilyn had previously talked

594

1 to Flo and Jeff about her being happy that I was at
 2 the office. They may need to go outside to have the
 3 complaint investigated.
 4 Q You injected something in there. I just wanted you
 5 to read the note itself. Caused Marilyn Figueroa?
 6 A Cause Marilyn talk to Flo and Jeff. May need to go
 7 outside for EEO investigation.
 8 Q All right. Next item?
 9 A Question mark Melanie Swank.
 10 Q What's the significance of that?
 11 A Melanie Swank is actually an Assistant City
 12 Attorney.
 13 Q Why would you inject her name --
 14 A I didn't inject her name.
 15 Q -- in these notes?
 16 A Somebody would have. She did at some period go from
 17 the City Attorney's Office to DER.
 18 Q But what was the significance of Melanie Swank?
 19 A Swank.
 20 Q Swank.
 21 A I don't know. I don't know if they said, well,
 22 maybe she could do it or maybe someone like her
 23 could do it. I don't know. There's a question mark
 24 there.
 25 Q Next item?

595

1 A Pat Stawicki pay rate change.
 2 Q What's the significance of that?
 3 A I have no idea what that means.
 4 Q Did you suggest at any point that Marilyn Figueroa
 5 be given a rate change, pay rate during that
 6 meeting?
 7 A During this meeting?
 8 Q Correct.
 9 A I don't think so.
 10 Q So how did the pay rate change --
 11 A Yeah. There's question marks behind it, so I don't
 12 know what that means.
 13 Q Next item?
 14 A Call today and are you coming in or not.
 15 Q What is the significance of that?
 16 A I don't know what it means. Does it mean that I did
 17 call her and asked are you coming in or not or does
 18 it mean that I should call her and ask if she's
 19 coming in or not?
 20 Q It could also mean that you wrote yourself a
 21 reminder; right?
 22 A That's what I'm saying. I don't know if it's --
 23 Q The next item, can you read that for the record?
 24 A Got to stick with office standard.
 25 Q And what is the significance for that?

596

1 A It's got to stay with the protocol and how you deal
 2 with employees.
 3 (Discussion off the record)
 4 Q Let's go to No. 8 of Exhibit 33. Do you recognize
 5 these notes, sir?
 6 A Yes, yes.
 7 Q And I understand this also would be another note
 8 that comes from your spiral book; is that correct?
 9 A Correct.
 10 Q And you wrote here some notes related to a
 11 Mr. Abel Ortiz?
 12 A Correct.
 13 Q Tell me what's the nature of these notes, please.
 14 A I believe it's a phone call I had with him.
 15 Q You called Mr. Ortiz?
 16 A No, I would not have. He would have called me.
 17 Q He called you regarding Marilyn Figueroa?
 18 A Uh-huh.
 19 Q You have here MF?
 20 A MF.
 21 Q Which stands for Marilyn Figueroa?
 22 A Marilyn Figueroa.
 23 Q And then you wrote here work?
 24 A Work this shit out before it gets out of hand.
 25 Rumors, "vacation" not there, voice mail.

597

1 Q And who was the deputy to Mr. Reimer?
 2 A Rowen, Jim Rowen.
 3 Q Next item, page 10 of Exhibit 33, are these your
 4 notes, sir?
 5 A Yes, they are.
 6 Q And can you tell me what is the first item?
 7 A This is, I believe this is -- these are my notes
 8 from my conversation with Jim Rowen. Census money
 9 approved. Worked for Mary Cannon as supervisor for
 10 census workers. If additional 20 or 25,000, may be
 11 way to hire Marilyn to work in census.
 12 Q And there is a \$224,000 plus. What's the
 13 significance of that?
 14 A I don't know what that is.
 15 Q What's the nature of these first items that you just
 16 read? Work for Mary --
 17 A Mary Cannon a consultant that the City hired both in
 18 1990 and 2000 to help get the census numbers up.
 19 Q Where did you get this information from?
 20 A I believe this is a phone conversation I had with
 21 Jim Rowen.
 22 Q And what was the objective of this conversation?
 23 A I think it's Rowen trying to be helping saying,
 24 listen, if you're trying to find a way to get
 25 Marilyn some money, get her employed, we might be

602

1 able to help out here.
 2 Q Was this after Marilyn was terminated or before she
 3 was terminated?
 4 A I really don't know.
 5 Q Was this offer ever materialized?
 6 A I don't believe so.
 7 Q Why?
 8 A I just don't remember it.
 9 Q Next item, run into Pedro Colon?
 10 A Ran into Pedro Colon.
 11 Q Is that you?
 12 A No, this again would be Rowen relating. Told the
 13 Mayor office may designate Marilyn as a census.
 14 "Don't think that's going to happen." But would be
 15 nice if Marilyn something.
 16 Q What was the significance of that?
 17 A Again, I think it's Rowen saying that he ran the
 18 issue by Pedro.
 19 Q Did Mr. Rowen participate in some of the
 20 negotiations with Pedro Colon?
 21 A No.
 22 Q To your knowledge?
 23 A No.
 24 Q So this particular disclosure that he made to you,
 25 how did that happen?

603

1 A I believe he called me.
 2 Q Mr. Rowen called you?
 3 A I believe so.
 4 Q And shared with you this information?
 5 A I do.
 6 Q Did you authorize Mr. Rowen to talk to Mr. Colon?
 7 A No, I did not.
 8 Q Did you ever tell Mr. Rowen that he had no authority
 9 to negotiate on behalf of the City with respect to
 10 Marilyn Figueroa?
 11 A No. This -- I don't think this went any further
 12 than Rowen saying this is --
 13 Q That wasn't my question. Did you ever tell
 14 Mr. Rowen that he was not authorized to speak on
 15 behalf of the City?
 16 A No.
 17 Q Next item, these are notes you wrote?
 18 A Yes, they are.
 19 Q And --
 20 A This is page 11.
 21 Q Page 11 of Exhibit 33 you have DER. What is the
 22 significance of that?
 23 A DER stands for Department of Employee Relations.
 24 Q And when did you write these notes?
 25 A I have no idea.

604

1 Q Did you write these notes pursuant to a contact you
 2 had with DER?
 3 A I don't know what this page is. I don't know if
 4 it's a contact I had with DER or if it was preparing
 5 to contact DER.
 6 Q The next item is WT?
 7 A Yeah. What's the FMLA family medical leave
 8 policies -- health care -- timetable -- process.
 9 Q Why did you write these notes?
 10 A I have no real memory of why.
 11 Q With respect to personal relations; is that what you
 12 wrote?
 13 A Yeah. I wrote everything here. Personal relations
 14 ended, office not subject of, looks like extortion.
 15 Q Extortion? What do you mean by personal relations?
 16 A I don't -- I don't know.
 17 Q What about office not subject to extortions? Was
 18 that part of the personal relations approach?
 19 A I don't know anything what this page references.
 20 Q Obviously you connected extortion to personal
 21 relations in this page; is that correct?
 22 A No. It could be different parts of a conversation.
 23 I wouldn't say obviously I connected that at all.
 24 I'd say they're all on the same page.
 25 Q And the same page you're dealing with DER, family

605

1 had something to refer about the health department.
 2 I really don't know.
 3 Q Before -- I think you may have answered this
 4 question, but I just want to make sure since
 5 Mr. Langley has come up here. Before Marilyn was
 6 terminated did you in any way discuss her absence
 7 with anyone from the City Attorney's Office,
 8 including Mr. Langley?
 9 A I don't believe so.
 10 Q John Fuchs tried to -- what's the significance of
 11 this?
 12 A John Fuchs, it appears to me that I'm being told
 13 that John Fuchs is complaining about Anne Shindell.
 14 Q Who told you that?
 15 A I'm not sure.
 16 Q Did Mr. Fuchs ever call Mr. Langley directly to your
 17 knowledge?
 18 A I have no idea.
 19 Q Did anyone tell you that?
 20 A I don't know if that's what this says or not. I
 21 don't know.
 22 Q And did Mr. Fuchs ever talk to you directly?
 23 A Talk to me directly? Uh-uh. I'm sorry, no.
 24 Q Not call back. What's the significance of that?
 25 A I think what this is saying is Fuchs was trying to

610

1 call Anne and Anne wasn't calling back.
 2 Q And the last item?
 3 A Not want to deal with Anne. Thinks it's a City
 4 matter.
 5 Q Who are you referring to or attributing this
 6 statement to?
 7 A I don't know. Whomever I had the conversation with
 8 was relaying that information.
 9 Q And that was, that someone was telling you that
 10 Anne Shindell should not be involved in the Figueroa
 11 matter because it was a City matter; is that what
 12 you wrote in here?
 13 A What I think it's saying is that John Fuchs was
 14 trying to get ahold of Anne, that he doesn't want to
 15 deal with her, that he wants to deal with the City,
 16 it's a City matter.
 17 Q Did you believe that Marilyn Figueroa's absenteeism
 18 and complaint, intent to file a complaint was a City
 19 matter?
 20 A You know, I didn't know what we had. It could have
 21 been a City matter. It could have been a matter
 22 against the Mayor. I don't know.
 23 Q Well, did you ever request an opinion from any legal
 24 source other than Anne Shindell?
 25 A The City Attorney was involved in an issue of

611

1 whether or not Anne could represent the City. I
 2 don't recollect when exactly that was.
 3 Q But before Marilyn was terminated, to your
 4 knowledge, did you consult with anyone including the
 5 City Attorneys to determine whether or not this
 6 matter should be handed over to the City Attorney's
 7 Office?
 8 A I don't believe so.
 9 Q You pretty much handled that matter independently
 10 from the attorneys' legal office; is that what
 11 you're telling me?
 12 A Trying to keep the information into a tightly
 13 defined group.
 14 Q Next item. And again, do you recall when you wrote
 15 the notes of page 13 of Exhibit 33?
 16 A I do not.
 17 Q The next item on page 14 --
 18 A Okay.
 19 Q These are your notes?
 20 A Right.
 21 Q Do you know when you wrote them?
 22 A No. I don't.
 23 Q You have here 11/30?
 24 A Oh, I'm sorry. Where is that? Okay. It says
 25 11/30, passed by finance. I don't know if that's

612

1 referring to the date when I wrote these notes or
 2 not.
 3 Q Is that referring to 11/30/1999?
 4 A I believe so.
 5 Q So let's go to the top of these notes.
 6 A Okay.
 7 Q Fuchs calls from Borowski?
 8 A Borowski, Papst, Spivak, Benson, and I don't know
 9 what that --
 10 Q Are these calls you received from the press?
 11 A You know, I don't know that.
 12 Q And then what's the next item?
 13 A Highly placed source at City Hall, quotes.
 14 Q What's the significance of that?
 15 A Again, I don't know what the context of this is.
 16 Q Is that what the press was telling you? Are you
 17 attributing this statement to the press?
 18 A I don't know what the context of this is. Fuchs
 19 declined, thinks it died.
 20 Q Have you ever heard the press on more than one
 21 occasion refer to a highly placed source in City
 22 Hall?
 23 A Have I heard the press refer to that? Yes.
 24 Q Have you ever tried to find out who that source is?
 25 A No. It's one big eared person. That's for sure.

613

1 A I have no clue.
 2 Q Did Mr. Miller ever report to you anything regarding
 3 Marilyn Figueroa?
 4 A Regarding Marilyn?
 5 Q Yes.
 6 A Could you give me a context?
 7 Q Anything that Marilyn may have shared with him,
 8 disclosed to him.
 9 A No. Mike came to me at some point after Marilyn
 10 left, said that he had lunch with her and maybe -- I
 11 believe it was her brother. I pretty much cut him
 12 off. I said I don't want to talk about this.
 13 Q In your last deposition --
 14 MR. ARELLANO: I want Mr. Tokus to
 15 pay attention to this one.
 16 Q In your last deposition you testified that you had a
 17 conversation with Mike Miller and you made some
 18 notes. Do you remember that?
 19 A I don't remember that.
 20 Q No? Did you ever make notes with respect to
 21 conversations you had regarding Mr. Miller?
 22 A I don't remember -- if they're not here, I don't
 23 have those notes. I don't recollect making those
 24 notes.
 25 Q Well, my recollection is that you did.

618

1 A Okay. I'd like to read that transcript.
 2 Q State that you made notes with respect to your
 3 conversation with Mr. Miller, with respect to your
 4 conversation with Marilyn Figueroa. And I happen to
 5 suspect that those are the notes that were removed
 6 that became the subject of withholding. But we'll
 7 get into that.
 8 A Oh, I wholeheartedly disagree.
 9 Q All right. I know you disagree with me. Any
 10 relationship between this -- with respect to
 11 Ms. Papst or anything relating to Marilyn Figueroa's
 12 case with respect to the item 16?
 13 A I have no idea what that refers to.
 14 Q Item 17 of Exhibit 33, Spivak and Bice?
 15 A Spivak and Bice.
 16 Q Anything --
 17 A Called about Marilyn, push hard, speculating, two
 18 calls with some info.
 19 Q What's the significance of this?
 20 A I have no idea.
 21 Q Let's go to item 18 of Exhibit 33, and here are some
 22 extensive notes. Would you agree with me?
 23 A Yes.
 24 Q And do you know when you wrote these records?
 25 A I do not.

619

1 Q These are your notes?
 2 A They are.
 3 Q And can you start with the first item?
 4 A Staff Thursday morning, all staff.
 5 Q Is that related to a meeting?
 6 A I believe that's what it's related to.
 7 Q Was that a meeting you held with staff?
 8 A I must assume that. I don't know.
 9 Q Was that before or after Marilyn left?
 10 A I don't know.
 11 Q Let's go with the first item.
 12 A This appears to be notes I made to myself, maybe in
 13 preparation for the meeting.
 14 Q Okay.
 15 A No. 1, going to be under lots of pressure.
 16 Therefore got to hold together.
 17 Q What did you mean by that?
 18 A We're going to be -- the staff is going to be under
 19 a lot of pressure. We're going to need to --
 20 Q Was that as a result of the potential
 21 Marilyn Figueroa lawsuit?
 22 A I'm not sure. As I read down it looks like it might
 23 be.
 24 Q Hold together, what did you mean by that?
 25 A You've got to stay focused on our jobs.

620

1 Q And the next item?
 2 A No comments at this time, be handled by appropriate
 3 counsel.
 4 Q Was that related to Marilyn Figueroa's potential
 5 lawsuit?
 6 A I believe so, yes.
 7 Q Next item?
 8 A Not a City issue, it's a personal issue.
 9 Q Was that related to Marilyn Figueroa?
 10 A I believe so.
 11 Q Next item?
 12 A What it means for the campaign. We have to work
 13 harder, stay focused, minimize the problem, maximize
 14 opportunities.
 15 Q Minimize the problem, were you referring to
 16 Marilyn Figueroa?
 17 A I don't know. Could be.
 18 Q Well, what other problems were you referring to?
 19 A We have problems every day. Maximum was a watch
 20 word, you know, maximize opportunity, minimize
 21 problems.
 22 Q Well, you identified the three previous items as
 23 being related to Marilyn Figueroa?
 24 A Yeah, I believe it is but I'm not sure.
 25 Q Minimize the problem meant Marilyn Figueroa;

621

1 A Correct.
 2 Q And do you recall when you made these notes?
 3 A I do not.
 4 Q Do you know if they were in January 2000?
 5 A I have no idea. I doubt it was in January.
 6 Q And can you read for the record what these notes
 7 purport to represent?
 8 A Bice and Spivak why, do expect sexual harassment
 9 suit.
 10 Q What's your understanding? Are these questions that
 11 Mr. Spivak and Bice were asking?
 12 A I've got to believe that. That's all I --
 13 Q Do you know what your response was?
 14 A I do not.
 15 Q Next item so we can move a little faster, item
 16 No. 20 of Exhibit 33.
 17 A Okay.
 18 Q You have again a number from the top, run Bice; is
 19 that correct?
 20 A I think it's, is it Dan Bice? I believe Dan Bice.
 21 Q Do you recall anything with respect to that note?
 22 A In reviewing the note it appears to be a
 23 conversation I was having with either Dan Bice alone
 24 or Spivak and Bice.
 25 Q What did they tell you?

626

1 A Running a story on Thursday, Fuchs preparing the
 2 lawsuit, filed Friday, sex something and job
 3 discrimination.
 4 Q Does it say sexual harassment and job
 5 discrimination?
 6 A You know, it could say that but it's pretty
 7 nebulous.
 8 Q The first word is sex?
 9 A The first word is sex.
 10 Q All right.
 11 A Very confident.
 12 Q Is that a statement attributed to Mr. Fuchs?
 13 A I don't know.
 14 Q All right. Next?
 15 A Looks to be like racial discrimination, job
 16 discrimination.
 17 Q Next? Sex harassment to the left?
 18 A Oh, to the left?
 19 Q Right.
 20 A Sexual harassment related to affair with Mayor which
 21 broken off, job/race discrimination.
 22 Q To whom do you attribute those statements?
 23 A I've got to believe it's to the Dan Bice.
 24 Q And the next item to the right?
 25 A I can't read that. Something.

627

1 Q Something to be said about our writing; is that
 2 correct?
 3 A I really can't read that. Broken off is the next
 4 one. Consensual I guess.
 5 Q What is the significance of these notes?
 6 A It looks to be notes that I was having with
 7 Dan Bice. He was pumping me for information.
 8 Q Did you give any?
 9 A I would have used my standard approach.
 10 Q Which was?
 11 A Which was if you have someone that's ready to go on
 12 the record -- if they're not ready to go on the
 13 record, then you're asking me to respond to rumors
 14 and innuendos, and I will not do that.
 15 Q The last item?
 16 A Question, what's your deadline. I'm probably asking
 17 him what are they writing a story for and who's the
 18 source, don't believe it.
 19 Q Who is the source, don't believe it, are those your
 20 words, don't believe it?
 21 A I don't know.
 22 Q So these are statements that they were attributing
 23 to Mr. Fuchs?
 24 A I'm not sure if that's --
 25 Q But at least they were telling you that a sexual

628

1 harassment --
 2 A What they were saying from my interpretation is
 3 Fuchs is saying he's going to file something on
 4 Friday regarding sexual harassment and job
 5 discrimination.
 6 Q And that he was very confident?
 7 A That he was very confident.
 8 Q And then to the far left no answer, what's the
 9 significance of that?
 10 A I don't know.
 11 Q Hold?
 12 A I have no idea.
 13 Q Did you report this discussion to the Mayor?
 14 A I would have, yes.
 15 Q Item 21 of Exhibit 33, ERD, did I read that
 16 correctly?
 17 A Yes.
 18 Q Is that your notes?
 19 A Right.
 20 Q What's the significance of these notes?
 21 A It's a conversation I'm having with somebody. ERD
 22 was the process. Notice of claim would come to us.
 23 Q Is it fair and accurate to say that the specific
 24 subject that you consulted ERD with related to how
 25 to handle Marilyn's --

629

1 Marilyn.
 2 Q What is the significance of that?
 3 A I have no idea.
 4 Q To whom do you attribute the statement?
 5 A I don't know because there's a line between the
 6 previous conversation with Hansen and this one.
 7 Q Next item?
 8 A More inclusive, not specific to Marilyn. List of
 9 all employees April 1, '99 to April 1, 2000. Mayor
 10 City Clerk, DER, names, title, salary, date
 11 something and date terminated, attendance records.
 12 Q Let's go to 24. These are your notes?
 13 A Yes, they are.
 14 Q On top you say four documents, cannot find MF
 15 document?
 16 A Right.
 17 Q Was there a specific document you couldn't find?
 18 A I'm believing that this is a conversation the Mayor
 19 is having with the chief of police.
 20 Q Regarding what matter?
 21 A There was -- Marilyn had made some complaint. Some
 22 officers went to her house. I believe it says off
 23 in the corner Jeff Wagner. Jeff Wagner is a -- I
 24 believe he's a radio personality, was asking the
 25 chief to provide the reports from the officers.

634

1 Q Let's go to 25. Are these your notes?
 2 A Yes, they are.
 3 Q Again, I suspect that if they are not dated you
 4 don't remember when they were made?
 5 A Correct.
 6 Q We'll see how we can get there.
 7 A Well, in the books. You can -- the books are dated
 8 on the outside of the books.
 9 Q Okay, very good. Now this is item 25?
 10 A Right.
 11 Q What do you have here?
 12 A 10/2. It would be October 2nd.
 13 Q Is that 1999?
 14 A I would believe not.
 15 Q When do you think this date applied to, what year?
 16 A It's probably 2000.
 17 Q This is regarding?
 18 A This is a conversation, this June Moberly called me.
 19 Q Who is June?
 20 A June Moberly is -- oh, wait a minute. Nope, this is
 21 not that one. This is --
 22 Q Let's read the item. Top item.
 23 A All right. 10/2 regarding Marilyn. This morning
 24 Jennifer Meyer, JM, informed of a conversation she
 25 had over the weekend with D. Fowler, the executive

635

1 director of Walkers Point Development Corporation.
 2 Jennifer says Marilyn called Denise Wise on Friday
 3 the 29th of October to ask about office space.
 4 During the conversation Marilyn broke down and
 5 cried, said didn't know what to do. Kids are being
 6 followed and investigated by the Mayor's office.
 7 Q All right. Item 26 of Exhibit 33.
 8 A Okay.
 9 Q These are your notes?
 10 A Yes, they are.
 11 Q Do you know when you made them?
 12 A I do not.
 13 Q Let's go with the first comment.
 14 A Inappropriate to comment on the rumor of a filing or
 15 on personnel matters.
 16 Q What's the significance of this note?
 17 A I think that it's my note in preparation to talk to
 18 a reporter.
 19 Q And then you have some numbers?
 20 A Yeah. I don't think the numbers relate to anything.
 21 Q Next item 27 of Exhibit 33?
 22 A October 30th, Spivak and Bice, say he's going to
 23 file a column, should wait till, till any actual
 24 filing, see last February for example.
 25 Q What did you mean by that?

636

1 A I actually think that the next couple of pages are
 2 all related to the same issue.
 3 Q Meaning?
 4 A That -- several pages actually. That there was a
 5 Spivak and Bice was calling saying that they were
 6 going to write an article; that a -- there was going
 7 to be some filing imminent and, you know, what this
 8 is -- I don't know what the context of this says,
 9 going to be filing. See last February for example.
 10 The previous February we had the same kind of
 11 scare from Spivak and Bice where they said a filing
 12 was imminent, and we talked to them and their
 13 editors and said once you print that, it's out
 14 there. If there's going to be a filing, why not
 15 wait for a filing. That's what this is referring
 16 to.
 17 Q Do you have any knowledge, sir, as to why Mr. Fuchs
 18 did not file?
 19 A I do not.
 20 Q Have you ever heard any comments or rumors from
 21 anyone?
 22 A I did not.
 23 Q Let's go to item 29.
 24 A 29 or 28?
 25 Q 28 are your notes; correct?

637

1 Q 34 of Exhibit 33. These are your notes?
 2 A Yes.
 3 Q And on the top of these notes -- I suspect you don't
 4 know when you wrote these notes?
 5 A I do not.
 6 Q On the top of these notes what did you write?
 7 A The evidence shows that's just not true.
 8 Q What's the significance of that statement --
 9 A I don't know.
 10 Q -- that you made?
 11 A I don't know.
 12 Q What evidence were you referring to?
 13 A I don't know.
 14 Q To whom do you attribute this statement?
 15 A I don't know.
 16 Q Do you attribute this statement to
 17 Mr. Christofferson?
 18 A I have no recollection about this.
 19 Q Was he the spinmaster of the group?
 20 A Was he the spinmaster of the group?
 21 Q Excuse me, was he the one strategizing on how to
 22 deal with Marilyn Figueroa?
 23 A Was he the one -- he was a part of a group that was
 24 planning on how to deal with this.
 25 Q Next item?

642

1 A Never said going to meet, called, car trouble,
 2 concerned something happened to something, hotel
 3 telephone, Marilyn car broke down, not able to get
 4 brother.
 5 Q To whom do you attribute this statement?
 6 A I have no idea.
 7 Q Do you know who you talked to?
 8 A I do not.
 9 Q And do you know what these statements relate to?
 10 A I do not.
 11 Q Is that something the Mayor told you?
 12 A I have no idea.
 13 Q And then to the far right?
 14 A Position filled before Marilyn applied.
 15 Q Which position were you referring to?
 16 A I don't know.
 17 Q Did anybody question you on any positions that
 18 Marilyn may have applied for while she was working
 19 for the City?
 20 A Did anyone question me?
 21 Q Yes. About Marilyn's history of applying for any
 22 position while she was working for the City.
 23 A The City Attorneys would have, yes.
 24 Q In October after you came on board as the chief of
 25 staff, did you talk to Mr. Jim Rowen to get a

643

1 history of Marilyn's concerns, demands at all?
 2 A Jim and I had minimal conversations, but I believe
 3 that we did have a discussion about Marilyn.
 4 Q With respect to Marilyn's demand for
 5 reclassification, what, if anything, did Mr. Rowen
 6 tell you?
 7 A I don't remember.
 8 Q What did you discuss with Mr. Rowen about Marilyn?
 9 A It would have been a conversation just trying to
 10 transfer information. These are the things that
 11 might be pending. There's this transfer, or
 12 reclassification out there.
 13 Q Is that what Mr. Rowen told you?
 14 A I believe so.
 15 Q What did he tell you specifically?
 16 A I don't remember specifically what he said. I
 17 remember that we had a general conversation.
 18 (Previous answer read)
 19 Q Mr. Rowen told you that there was a transfer
 20 reclassification pending?
 21 A Transfer was my misspeaking. Reclassification is
 22 my --
 23 Q Is that what Mr. --
 24 A I believe so.
 25 Q Did he tell you the status of that reclassification?

644

1 A I don't remember.
 2 Q Anything else that you discussed with Mr. Rowen
 3 regarding Ms. Figueroa?
 4 A I don't believe so.
 5 Q Let's go to item 34 of Exhibit 33.
 6 A We just did 34.
 7 Q We did?
 8 A Yeah.
 9 Q Yes. Okay. Hold on a second. Let's go back to 34
 10 for a second. Do you recall if this information
 11 relates to the time when Marilyn was supposed to
 12 meet the Mayor in Chicago but didn't go because of
 13 car trouble?
 14 A That's what I believe it to be.
 15 Q And where did you get this information from?
 16 A I don't know where I got it.
 17 Q You certainly didn't get that from Marilyn, did you?
 18 A No.
 19 Q Did you consult with the Mayor about this
 20 information?
 21 A Did I ever talk to the Mayor about this subject?
 22 Q Yes.
 23 A Yes.
 24 Q And what did he tell you with respect to that
 25 subject?

645

1 A I don't know that.
 2 Q You don't. Did you ask that?
 3 A I did not ask that.
 4 Q All right. Was any discussion entertained within
 5 the group to send some type of inquiry to
 6 Marilyn Figueroa as to why she was interested in
 7 suing the Mayor?
 8 A I don't believe so.
 9 Q All right. So is it fair and accurate to say, and I
 10 think you already testified to this before, is it
 11 fair and accurate to say that the main concern of
 12 the group that was gathering was how to protect
 13 Mayor Norquist against any possible suit from
 14 Marilyn Figueroa; true?
 15 A My main concern was to get this off the table.
 16 Q And by that at least protect Mayor Norquist?
 17 A Bring Marilyn back, protect the Mayor, whatever.
 18 Q All right. Very good. Let's cover the last items
 19 here. I think we were on 34?
 20 A Okay.
 21 Q We already covered that one.
 22 A Right.
 23 Q As being the trip to Chicago that never happened.
 24 Correct?
 25 A Could you say that again, please.

650

1 Q EOC do for you, what is the significance of that?
 2 A I interpret it to saying if you don't have a lawyer,
 3 the EEOC will help you fill out the form. I don't
 4 know.
 5 Q And who provided you with that information?
 6 A I don't know.
 7 Q And then the next one to the right?
 8 A Employment discrimination, no sexual harassment.
 9 Q Who gave you that information, sir?
 10 A I have no idea.
 11 Q Was that a major concern whether or not it was going
 12 to be sexual harassment?
 13 A It was a concern. The whole thing was a concern.
 14 Q Let me ask you this, Mr. Soika. Your testimony is
 15 that with respect to the reclassification thing, you
 16 testified that Marilyn Figueroa had agreed?
 17 A Correct.
 18 Q Correct? And that she told you "tell the Mayor this
 19 is my gift to him"?
 20 A Right.
 21 Q What gift do you believe she was giving to the
 22 Mayor?
 23 A I interpreted it as to mean that her agitation in
 24 the office would stop.
 25 Q Oh. She didn't have any rights to determine whether

652

1 Q Item 34, apparently you testified that this was a
 2 planned trip to Milwaukee which Marilyn never made
 3 because of alleged car trouble?
 4 MR. TOKUS: You misspoke yourself.
 5 You said Milwaukee instead of Chicago.
 6 Q Chicago.
 7 A I believe this relates to a planned trip to Chicago,
 8 yes.
 9 Q By the way, did the Mayor ever disclose to you
 10 and/or any member of the group that one of the trips
 11 to Chicago he gave Marilyn Figueroa cash so that she
 12 would meet him in Chicago?
 13 A Possibly but I'm not sure.
 14 Q 35.
 15 A I don't know what this is.
 16 Q Well, let's go by the first item. These are your
 17 notes?
 18 A Right. Hasn't filed but going to. No lawyer, EEOC
 19 do for you.
 20 Q What is the significance of no lawyer?
 21 A I don't know.
 22 Q Is that referring to Marilyn not having a lawyer?
 23 A I believe it's referring to that. I don't know.
 24 Q Who gave you this information?
 25 A I have no idea.

651

1 or not she should be reclassified; correct?
 2 A Correct.
 3 Q That recommendation would have come from the Mayor's
 4 office; correct?
 5 A The Mayor's office would have had to have requested
 6 a position reclassification.
 7 Q And that would have been done either directly and/or
 8 through the chief of staff?
 9 A Yes.
 10 Q Is that correct? By the way, do you know if anyone
 11 ever before and/or after you came on board requested
 12 the reclassification of Marilyn Figueroa's position?
 13 A I don't know about before I came on board. After,
 14 not.
 15 Q So up to that point, and at least for as long as you
 16 were the chief of staff, that was the only issue
 17 that you knew Marilyn was complaining about;
 18 correct?
 19 A What issue?
 20 Q The reclassification issue.
 21 A No.
 22 Q That was one of them?
 23 A It was one of them.
 24 Q What other issues do you believe she was complaining
 25 about; the minority?

653

1 and Bice.
 2 Q Did Anne Shindell ever report to you that 140,000
 3 were being mentioned as a way to settle
 4 Marilyn Figueroa's potential claims?
 5 A I don't remember that.
 6 Q Did she ever mention to you that numbers were being
 7 exchanged?
 8 A Yes.
 9 Q Did you mention that to the Mayor?
 10 A Of course.
 11 Q Next item, list of?
 12 A List of staff, et cetera, all except Rose is a white
 13 female and -- I'm sorry, a white male and Rose is a
 14 white female.
 15 Q Very good. Now we've got this other item right here
 16 and I want to ask you, read it carefully and think
 17 carefully about my question.
 18 A Okay.
 19 Q When did you actually write those notes, Mr. Soika?
 20 A I would have written the notes on the date that
 21 appear.
 22 MR. TOKUS: Excuse me, counsel,
 23 what's the exhibit number on that?
 24 THE WITNESS: 34.
 25 MR. TOKUS: Thank you.
 658

1 Q And did you write these notes in the same spiral
 2 book?
 3 A No.
 4 Q Where did you write these notes?
 5 A It would have been notes on a legal pad.
 6 Q Did you discuss any of the items contained in this
 7 Exhibit 39 -- is it 34 I believe?
 8 A 34.
 9 Q With Mayor Norquist?
 10 A Sure.
 11 Q And what was his reaction to any of those items?
 12 A Well, in terms of the item under the date 12/20,
 13 regarding the encounter with block grant and
 14 Juanita, he said help him to work it out.
 15 Q Did the Mayor ever tell you to do whatever it took
 16 to keep Marilyn happy --
 17 A No.
 18 Q -- before she left?
 19 A No.
 20 Q Did he ever tell you from October until the time she
 21 left that he was fed up with Marilyn Figueroa?
 22 A No.
 23 Q Did he ever show any interest in removing
 24 Marilyn Figueroa from the Mayor's office?
 25 A No.
 659

1 Q From October through January of the year 2000, did
 2 you offer any positions or alternative employment to
 3 Marilyn Figueroa?
 4 A Yes.
 5 Q What did you offer?
 6 A Block grant director.
 7 Q When did you do that, sir?
 8 A It would have been right after I was named chief of
 9 staff.
 10 Q Who was present when you made that offer?
 11 A I don't think anybody was.
 12 Q How soon after you became the chief of staff?
 13 A It would have been actually right after I named and
 14 before I assumed duties because we needed to fill
 15 the block grant position.
 16 Q So that would have been the same week after you came
 17 on board?
 18 A It might have even been the week prior.
 19 Q So you offered her a position before you became the
 20 chief of staff?
 21 A Before I took over the duties as chief of staff I
 22 may have, yes.
 23 Q Did you discuss with the Mayor the fact that you
 24 were going to be offering her that position?
 25 A Yes.
 660

1 Q When did you do that?
 2 A It would have been around the same time.
 3 Q What did you tell him?
 4 A That I thought that Marilyn deserved a shot if she
 5 was interested in this position.
 6 Q And what did the Mayor say?
 7 A See if she's interested. I wouldn't have offered it
 8 without him agreeing.
 9 Q So that would have been in October sometime?
 10 A Right.
 11 Q Is that correct? And what did you tell Marilyn?
 12 A What did I tell Marilyn?
 13 Q Yes.
 14 A I said this is the position, the block grant
 15 director is yours if you want it. Let me know.
 16 Q And what did she say?
 17 A She declined.
 18 Q What did she say?
 19 A I don't recollect her words.
 20 Q Did she decline the same day, the same time?
 21 A I believe in the same conversation.
 22 Q And where did the conversation take place?
 23 A Where? I don't know.
 24 Q Was it in the morning or in the afternoon?
 25 A I have no idea.
 661

1 after Anne's conversation with Pedro Colon where she
2 was laying out alternatives for that. There were a
3 series of meetings to discuss settle, not settle,
4 those kinds of things. Susan was involved with
5 those.
6 Q Let me see if I can ask you the last question. Is
7 it fair and accurate to say that -- it's fair to say
8 that when you learned from the employment, or
9 employee relations department that Marilyn had
10 requested a discrimination form, the group began to
11 meet to address potential problems with disclosure;
12 correct?
13 A Not immediately.
14 Q That wasn't my question. At least the meetings were
15 related to that fact?
16 A The meetings were related to the fact that Marilyn
17 had disappeared, that it was beginning to become
18 knowledge in the public that Marilyn wasn't showing
19 up to work. She had taken out a, requested a form.
20 Pedro Colon was in the picture.
21 Q Are you denying that the meetings were prompted by
22 the call that you received from the employment
23 relations office where they informed you that
24 Marilyn had requested a discrimination form because
25 she was going to sue the Mayor and the City of
666

1 Milwaukee?
2 A I'm saying it was one of many factors.
3 Q Was that one of those factors?
4 A Yes.
5 Q All right.
6 MR. ARELLANO: Well, depending on
7 what we find in these other records, I think
8 we're pretty much done with you, Mr. Soika.
9 Now we can go off the record.
10
11
12
13
14 (adjourning at 4:24 P.M.)
15
16
17
18
19
20
21
22
23
24
25
667

1 STATE OF WISCONSIN)
2) ss.
3 COUNTY OF DANE)
4 I, TAUNIA NORTHOUSE, a Registered Diplomate Reporter
5 and Notary Public in and for the State of Wisconsin, do
6 hereby certify that the foregoing deposition was taken
7 before me at the offices of Reinhart, Boerner, Van
8 Deuren, S.C., Attorneys at Law, 1000 North Water Street,
9 City of Milwaukee, County of Milwaukee, and State of
10 Wisconsin, on the 9th day of April 2002, that it was
11 taken at the request of the Complainant, upon verbal
12 interrogatories; that it was taken in shorthand by me, a
13 competent court reporter and disinterested person,
14 approved by all parties in interest and thereafter
15 converted to typewriting using computer-aided
16 transcription; that said deposition is a true record of
17 the deponent's testimony; that the appearances were as
18 shown on Page 3 of the deposition; that the deposition
19 was taken pursuant to notice and subpoena duces tecum;
20 that said MICHAEL SOIKA before examination was sworn by
21 me to testify the truth, the whole truth, and nothing
22 but the truth relative to said cause.
23
24 Dated April 18, 2002.
25
Registered Diplomate Reporter
Notary Public, State of Wisconsin
668

1 representation, counsel, that the documents
2 that you have produced this morning constitute
3 full, complete and accurate copies of all of
4 the documents that we have requested?
5 MR. TOKUS: To the best of my
6 knowledge, Mr. Arellano --
7 MR. ARELLANO: Thank you.
8 MR. TOKUS: -- they do.
9 MR. ARELLANO: We had requested via
10 letter that the originals be made available
11 for this deposition. And I again renew my
12 request that when we -- when and if we take a
13 break, that those originals be produced for
14 the second aspect of this deposition. This is
15 an issue that we've been dealing with for some
16 time, and you can keep the originals once we
17 inspect them.
18 MR. TOKUS: Well, the originals
19 will stay in our custody because they relate
20 to matters totally apart from this case and
21 they are of some sensitivity.
22 MR. ARELLANO: So --
23 MR. TOKUS: They're available to
24 you to inspect. If you would like to inspect
25 them this morning or this afternoon, I will

438

1 make that arrangement.
2 MR. ARELLANO: We will inspect them
3 at 12:15 this afternoon.
4 MR. TOKUS: At our office.
5 MR. ARELLANO: Correct. You just
6 tell us where your office is.
7 MR. TOKUS: Certainly,
8 Mr. Arellano.
9 MR. ARELLANO: Anything else,
10 Mr. Tokus, by way of documents?
11 MR. TOKUS: That concludes what
12 I've brought with me this morning.
13 MR. ARELLANO: Very good.
14 (Exhibit Nos. 33 and 34 marked for
15 identification)

EXAMINATION

18 By Mr. Arellano:
19 Q Mr. Soika, this is a continuation of your previous
20 deposition, and obviously you understand you have
21 been under oath at all times and you will continue
22 to be under oath?
23 A Correct.
24 Q Is that correct? All right. During the previous
25 depositions we covered substantially the events

439

1 which led to the termination of Marilyn Figueroa.
2 Do you remember that?
3 A Yes, I do.
4 Q Did you have an opportunity to read your deposition
5 transcripts?
6 A Yes, I did.
7 Q Did you read any other testimonial transcripts?
8 A No.
9 Q Did you discuss with anyone the testimony of any
10 other witness that has testified in these
11 proceedings?
12 A Only in very general terms.
13 Q Who did you -- and at all times, just so there is no
14 misunderstanding, I want to give you an opportunity
15 to clarify any potential misunderstandings. And I
16 want the record to reflect that because later on I
17 don't want to discover that I didn't give you that
18 opportunity.
19 A Sure.
20 Q Is that okay?
21 A Yeah.
22 Q Whose testimonial transcripts did you discuss?
23 A Oh, I'm sorry, I did not -- I did not understand the
24 question. I did not review anybody's testimony.
25 MR. ARELLANO: Let me ask you to

440

1 read my previous question and his previous
2 answer before this last set of question and
3 answer.
4 (Following question and answer read)
5 "Q Did you discuss with anyone the testimony
6 of any other witness that has testified in
7 these proceedings?
8 A Only in very general terms."
9 Q What did you discuss in general terms?
10 A Just in general witnesses would say, well, how did
11 it go? Was it -- before they would come here they
12 would actually ask me, well, what it's like? And I
13 would say, well, you have to listen very intently,
14 and those kinds of general conversations.
15 Q Who did you talk to?
16 A Who did I talk to?
17 Q Correct.
18 A Gees, Ruth Wytenbach, Jim Rowen, Flo Dukes,
19 Jeff Hansen.
20 Q Anyone else?
21 A I'm thinking. Christofferson probably.
22 Q And again, to give you an opportunity to understand
23 the full extent, I will be questioning these folks
24 as well.
25 A Sure, yeah, good.

441

1 Q What, did he explain to you why he suspected that a
2 conspiracy is being thought of --
3 A No.
4 Q -- in this case?
5 A No.
6 Q Were you surprised when he used the word conspiracy?
7 A No. Because it appears that that's the direction
8 you're going.
9 Q You're referring to me?
10 A Right.
11 Q And that's your thought?
12 A Right.
13 Q Do you understand the term conspiracy, Mr. --
14 A I know what it means to me.
15 Q What does it mean to you?
16 A Where people plot for a certain end.
17 MR. TOKUS: I'm going to state an
18 objection at this time in that the term
19 conspiracy has a legal connotation. And
20 Mr. Soika here is not a lawyer. So I will
21 object to that question on that basis that he
22 is not a lawyer.
23 MR. ARELLANO: So just to put it in
24 lawyer-like fashion, you're objecting on
25 competence grounds?

446

1 MR. TOKUS: Competence of the
2 witness, correct.
3 MR. ARELLANO: Thank you, thank
4 you.
5 MR. TOKUS: I'm sorry I failed to
6 put it in lawyer-like terms, Mr. Arellano, but
7 I learn from you every day.
8 Q Did people in your view gather, whether
9 intentionally or unintentionally, to secure
10 Marilyn's termination?
11 A I'm sorry, I didn't hear.
12 (Question read)
13 A Gather, you mean come together?
14 Q Correct.
15 A No.
16 Q Did people within the Mayor's office, including
17 Mayor's associates, get together for the purpose of
18 addressing Marilyn Figueroa's potential lawsuit?
19 A Yes.
20 MR. TOKUS: Excuse me, may I have
21 that question and answer read back, please?
22 (Question and answer read)
23 MR. TOKUS: Thank you.
24 Q The group that you have identified previously and
25 Mr. Christofferson has identified and the Mayor has

447

1 identified, just so you understand you're not the
2 only one, which included Mayor Norquist,
3 Anne Shindell, yourself, Susan Mudd, Mr. Gillis,
4 Mr. Christofferson, did the group in your view hold
5 meetings for the purpose of developing strategies to
6 protect Mayor Norquist after Marilyn Figueroa walked
7 out on January 4th of 2000?
8 A Yes.
9 Q And were some of those strategies put in writing?
10 A I don't believe so.
11 Q All right. Did Mr. Christofferson develop written
12 statements for the purpose of protecting
13 Mayor Norquist during those meetings?
14 A He developed written statements usually in response
15 to press inquiries but --
16 Q Did you read some of those statements, sir?
17 A I can't remember a specific one, but I can't imagine
18 I didn't read some of them.
19 Q Well, let's go step-by-step.
20 A I'm sorry?
21 Q Let's go step-by-step. Did the group under the
22 leadership of Mr. Christofferson develop statements
23 portraying Marilyn Figueroa as attempting to coerce
24 Mayor Norquist into re-entering a relationship that
25 he did no longer wish to pursue?

448

1 A I don't recollect a statement like that.
2 Q Did the group under the leadership of
3 Mr. Christofferson develop statements portraying
4 Marilyn Figueroa as the sexual harasser between the
5 relationship that was alleged with Mayor Norquist?
6 A I don't recall saying that.
7 Q Did the group under the leadership of
8 Mr. Christofferson portray Marilyn Figueroa as being
9 the scorned woman because of a fallen relationship?
10 A Could you repeat that please.
11 (Question read)
12 A That was postulated, yes.
13 Q Did the group under the leadership of
14 Mr. Christofferson or anyone including Anne Shindell
15 discuss and/or prepare statements stating that
16 Marilyn Figueroa was upset because the Mayor had
17 told her that he was going back to his wife?
18 A I'm sorry, I'm having a hard time focusing here.
19 Now you're asking did I say?
20 Q If you don't understand the question, she can read
21 it back for you.
22 (Question read)
23 A Discussed, yes.
24 Q Did the group with the input of Mayor Norquist, and
25 I'm talking about the group that we already

449

1 that to me, if I read it. I don't know.
 2 Q Did he tell you when was the first time that he had
 3 had sex with Marilyn Figueroa?
 4 A I don't believe so.
 5 Q The years?
 6 A I know it to be 1995. Do I know it because the
 7 Mayor told me or I read it? I don't know.
 8 MR. ARELLANO: I'm sorry, can
 9 you -- too early for me. Read my last
 10 question and his last answer.
 11 (Last two questions and answers
 12 read)
 13 Q Other than telling you that sex interaction occurred
 14 at his home and at her home, did he describe any
 15 other locations?
 16 A There was something about a trip to Chicago.
 17 Q Any other locations?
 18 A Now again, I sat in when the Mayor was meeting with
 19 the City Attorneys to go through response to some of
 20 your filings, so --
 21 Q Other locations?
 22 A The other one that comes to mind is his sister --
 23 her sister's house.
 24 Q Any other locations?
 25 A That's all I recall.

454

1 Q Did the Mayor explain to you what happened in
 2 Chicago, how many times in Chicago?
 3 A Unclear to me if it was once or twice in Chicago.
 4 Q What did he tell you about the Chicago incident?
 5 A Again, what did he tell me versus what did I read or
 6 know?
 7 Q No, I want to know what he told you.
 8 A Well, it's hard for me to discern what he told me
 9 versus what I know because of what's just out there.
 10 Q Well, let's just talk about what he told you based
 11 on your memory.
 12 A There was a trip to Chicago. She was supposed to
 13 meet him. There was car trouble. I think he called
 14 the, Art Jones. I don't know if he was the chief of
 15 police at that time or not or security, I don't
 16 know, to see if he could help locate where she was
 17 to help her out. Her brother came. That's what I
 18 recall.
 19 Q All right. Anything specific that the Mayor may
 20 have disclosed to you with respect to the sexual
 21 acts he had with Marilyn Figueroa?
 22 A Well, the only two specific incidents I recall was
 23 one where he explained that Marilyn had exposed her
 24 breasts to him in his office. The other one was, he
 25 was explaining that Marilyn suggested the use of the

455

1 apple as a way to be close when they couldn't be
 2 close. That was all.
 3 Q With respect to the incident where he alleged
 4 Marilyn exposed her breasts to him, did he tell you
 5 where exactly in the office that happened?
 6 A Where she was in the office?
 7 Q Right.
 8 A No.
 9 Q Did he explain to you the day?
 10 A No.
 11 Q Did he tell you whether it was on a weekend or
 12 during the weekday?
 13 A He did not say.
 14 Q Did he tell you whether it was in the morning or in
 15 the evening?
 16 A He did not say.
 17 Q With respect to the apple incident, did he tell you
 18 where that occurred?
 19 A The apple incident?
 20 Q Is that something that happened in the workplace?
 21 A I believe so.
 22 Q Did he explain to you what was done with the apple?
 23 A What he explained was that Marilyn would -- excuse
 24 me here -- rub the apple in her private area and
 25 give it to him to eat. And he was supposed to do

456

1 the same thing.
 2 Q And did he tell you how many times that happened?
 3 A I don't think so.
 4 Q And obviously I think you already testified that
 5 this behavior would take place in the workplace,
 6 office?
 7 A I believe so.
 8 Q Is that all the Mayor shared with you?
 9 A I believe so.
 10 Q At what point did the Mayor disclose the breast and
 11 the apple incident?
 12 A Boy --
 13 Q Early 2000 or was it after Marilyn filed her
 14 complaint?
 15 A It definitely was not early 2000.
 16 Q And let me give you just a little assistance. I
 17 believe, my recollection is that you testified
 18 previously that he began to discuss the details of
 19 the relationship after the complaint was filed?
 20 A Right.
 21 Q Is that correct?
 22 A That's correct.
 23 Q Is that still your testimony?
 24 A It is. Now, the breast thing I'm not sure if that
 25 was -- it certainly wasn't early 2000. I'm not sure

457

1 family leave?
 2 A I may have actually asked Stawicki to.
 3 Q And what did she tell you?
 4 A I don't -- I don't remember substantive conversation
 5 on that.
 6 Q Did you ask specifically to anyone, including the
 7 employee relations and/or Ms. Stawicki, what
 8 paperwork was required pursuant to City policy in
 9 order for Marilyn Figueroa to qualify --
 10 A No.
 11 Q -- for medical leave? Do you know, did you know at
 12 that time what kind of paperwork was required?
 13 A At that time I did not.
 14 Q Did you consult with Ms. Shindell to see what was
 15 required in order for Marilyn Figueroa to qualify
 16 for medical family leave?
 17 A I had a conversation with Shindell, but I did not
 18 ask specifically what is required.
 19 Q Did you ask anyone from the employee relations
 20 department or for that matter any representative of
 21 the City what specific questions Marilyn's doctor
 22 had to respond to in order for Marilyn to qualify
 23 for medical family leave?
 24 A No. My understanding was that we simply needed a
 25 verification from a physician for her to qualify for

462

1 family medical leave.
 2 Q And who provided you with that understanding?
 3 A You know, I had a conversation with Hansen. I had a
 4 conversation with Shindell.
 5 Q So is it your -- I just want to make sure I don't
 6 misinterpret anything. Is it your testimony here
 7 today that Mr. Hansen told you that the only thing
 8 Marilyn needed was the letter that you requested?
 9 A No, that is not my testimony.
 10 Q So my question then still remains. Did you ever ask
 11 Mr. Hansen what specific questions the City requires
 12 the doctor to answer in order for an employee to
 13 qualify for medical leave?
 14 A No.
 15 Q Before you decided to issue the voluntary quit
 16 termination letter to Marilyn Figueroa, did you
 17 consult with Mr. Hansen in order to determine
 18 whether or not Marilyn was in violation of any type
 19 of City policy?
 20 A I remember a conversation with him, yes.
 21 Q At what point did you talk to Mr. Hansen, before
 22 January 14th or after January 14th?
 23 A I believe it was before.
 24 Q And what did you discuss with Mr. Hansen? Did you
 25 discuss the termination of Marilyn Figueroa?

463

1 A What I believe that I discussed with Hansen was I
 2 have an employee who's not showing up for work, is
 3 not calling in. What's the best way to deal with
 4 that?
 5 Q And do you recall when you spoke to him about this?
 6 A You know, I -- I don't. Again, I'm remembering at
 7 least a phone conversation. I remember sending him
 8 a copy of the January 14th letter.
 9 Q But your recollection is that you posed that
 10 question to Mr. Hansen before the January 14th
 11 letter was issued?
 12 A I remember a conversation with Hansen and maybe Flo.
 13 I'm not sure.
 14 Q Before January 14th?
 15 A Yes.
 16 Q And what did they tell you in response to your
 17 inquiry?
 18 A I don't -- I don't recall that we had a real
 19 specific discussion. What I recall is that you've
 20 got to treat this like you would treat anything
 21 else.
 22 Q Are you giving me an answer, the answer that they
 23 gave you pursuant to your inquiry?
 24 A I just said that I don't recall specifically. What
 25 I do recall is that in general this should be

464

1 treated like any other employee.
 2 Q And what did -- go ahead.
 3 A That if someone is absent for three days without
 4 notice, they have to have a doctor's excuse to come
 5 back.
 6 Q This is your recollection of what you got out of
 7 Mr. Hansen?
 8 A Yeah.
 9 Q And Ms. Dukes?
 10 A Yeah. At some point we talked about family medical
 11 leave, but, you know, I really am pretty fuzzy on
 12 when that was.
 13 Q Did you ever discuss Marilyn Figueroa with
 14 Mr. Hansen and/or Ms. Dukes or anyone from the
 15 employee relations after the January 14th, 2000
 16 letter you sent to Marilyn Figueroa?
 17 A I want to say yes because I remember a phone
 18 conversation with Hansen.
 19 Q When would that have been?
 20 A It would have been after January 14th. And what I
 21 remember of the phone conversation is him saying
 22 that the family medical leave seemed like a good way
 23 to go or something like that.
 24 Q This is something that he would have shared with you
 25 after you had sent the letter to Marilyn Figueroa?

465

1 about how do you deal with this type of situation.
 2 Q And what did he tell you when you asked him that
 3 question?
 4 A Again, it was that you have to treat this like you
 5 treat anybody else. If they're away for more than
 6 three days without notice, they have to bring a
 7 doctor's excuse back.
 8 Q What else was said between you and Mr. Hansen?
 9 A And as I also stated previously, I remember a
 10 conversation in general about family medical leave
 11 but not in specific.
 12 Q Well, in general what did he tell you was required
 13 in order for Marilyn Figueroa to qualify for medical
 14 leave pursuant to City policy?
 15 A All I remember is a doctor's excuse.
 16 Q Is that what you swear Mr. Hansen told you?
 17 A That's what I remember.
 18 Q And again, when did he tell you that?
 19 A I don't recall if it was in a phone conversation and
 20 I don't -- I'm unclear.
 21 Q And just so I don't confuse the record, are we
 22 talking about the time when Mr. Hansen told you that
 23 after three days of being absent she needed a
 24 medical excuse?
 25 A I'm unclear on what you're asking me.

470

1 MR. ARELLANO: Can you read that
 2 question back.
 3 (Question read)
 4 A Could you rephrase -- I'm still not clear what
 5 you're asking.
 6 Q Yes. You're referring that you had a discussion
 7 with Mr. Hansen regarding Marilyn Figueroa. And I
 8 believe you testified that Mr. Hansen informed you
 9 that she should be treated just like anybody else;
 10 correct?
 11 A Correct.
 12 Q And that according to City policy Mr. Hansen you
 13 claim told you that after three days Marilyn was
 14 required to bring a medical excuse?
 15 A That's what I remember.
 16 Q Was that the only conversation you had with
 17 Mr. Hansen regarding the family leave?
 18 A I -- I remember the issue of family leave coming up.
 19 I don't remember a deep substantive conversation
 20 about it.
 21 Q When did that come up; during the meeting you held
 22 at his office or at what point?
 23 A I remember more as a phone conversation.
 24 Q With respect to family leave, what did he tell you?
 25 A Again, I -- I'm not sure. I don't know

471

1 specifically. That family medical leave is a
 2 possible alternative.
 3 Q What alternative did he provide?
 4 A I don't remember the specific conversation.
 5 Q Did he tell you what steps you needed to follow?
 6 A For --
 7 Q In order for Marilyn to qualify for medical family
 8 leave.
 9 A Yeah. I don't remember having a specific
 10 conversation that said these are the steps that you
 11 have to take.
 12 Q Did you check the family leave policy before Marilyn
 13 was terminated, sir?
 14 A No.
 15 Q Did you check the family leave or sick leave policy
 16 before you sent Marilyn Figueroa the January 14th
 17 letter?
 18 A Did I read it? No.
 19 Q While Marilyn was absent but before you terminated
 20 her employment, did the Mayor suggest to you that
 21 you go to her home to look for her?
 22 A Absolutely not.
 23 Q Did the Mayor suggest at any point that he go and
 24 find out what was keeping Marilyn away from the job?
 25 A I don't know.

472

1 Q Did anyone within the group that were gathering
 2 after Marilyn left on January 4th of 2000 suggest
 3 that someone go to her home to talk to her?
 4 A I don't remember a discussion about going to her
 5 home. I know that there were attempts to call her.
 6 Q And I think you were one of the people that called
 7 her?
 8 A Right.
 9 Q Anyone else that made attempts to call
 10 Marilyn Figueroa from the group?
 11 A Shindell, Shindell.
 12 Q Shindell. How many times do you believe she called?
 13 A I don't know.
 14 Q You authorized Shindell to call Marilyn Figueroa?
 15 A I authorize? I didn't have the power to authorize
 16 Shindell.
 17 Q Who authorized Ms. Shindell to call Marilyn Figueroa
 18 during that period of time that she was absent?
 19 A Only the Mayor would be able to authorize that
 20 action.
 21 Q Do you believe it was the Mayor that authorized
 22 Ms. Shindell?
 23 A I believe it was a discussion on Marilyn doesn't
 24 have an attorney. How can we reach out to her?
 25 Anne, can you call her?

473

1 Q At what point was it decided to issue the
2 termination letter?
3 A Again, there was not a definitive decision that we
4 were going to terminate Marilyn. The primary
5 objective was to bring her back, get this off the
6 table. I mean my God, we were in the middle of a
7 campaign. It seemed to me that we were between a
8 rock and a hard place. That she was AWOL.
9 Everybody in the office and, you know, people --
10 some people in City Hall knew that she was, had
11 disappeared. I felt that we were compelled to do
12 something. We just couldn't leave it fester.
13 The family medical leave actually seemed like
14 a very good idea because it allowed her the
15 opportunity to extend the amount of time she could
16 be away from the office and employment and still
17 remain kind of attached to the City.
18 Q At what point was the decision to terminate Marilyn
19 made by the group?
20 A Oh, what I'm trying to say --
21 MR. TOKUS: Objection. There has
22 been no testimony that the group made any
23 decision to terminate her.
24 MR. ARELLANO: I suspect the
25 lawyer-like objection you are asserting here,
478

1 Mr. Tokus, is possible mischaracterization of
2 testimony?
3 MR. TOKUS: Exactly. Thank you
4 very much for providing me with that.
5 Q At what point was it decided to issue the
6 termination letter?
7 A Again, as we were kind of stuck, we offered the
8 opportunity for Marilyn to do family medical leave.
9 She did not respond to that. There was not a
10 decision that said we are going to terminate
11 Marilyn. The decision really was is that, you know,
12 we have to treat this like we would treat any other
13 matter, and therefore it's got to follow its
14 prescribed course.
15 Q Do you believe that Marilyn was treated like every
16 other employee that was entitled to family leave?
17 A Every other employee? I don't know what any other
18 employee that -- well, that's not true. I do know
19 another employee that was granted family medical
20 leave.
21 Q Who?
22 A That would have been a fellow named Dan Thomas that
23 I supervised when I was at block grant.
24 Q Mr. Thomas still employed by the City?
25 A Yeah. He works at Department of Public Works.
479

1 Q Do you believe that Marilyn Figueroa was treated
2 with respect to her entitlements to family leave
3 like any other employee?
4 A I believe that I treated her the way I felt that I
5 was required to.
6 Q Let me ask you the same question again. Do you
7 believe that Marilyn Figueroa was treated with
8 respect to her family leave entitlement pursuant to
9 Milwaukee City policies like any other employee?
10 A Marilyn was offered the opportunity to provide a
11 doctor's verification. We put that in writing. She
12 did not provide the verification. In that respect
13 she was treated like anybody else.
14 Q This Dan Thomas, is that someone that you
15 supervised?
16 A He was directly supervised by Juanita Hawkins.
17 Q Is that someone that was granted family leave?
18 A Yes.
19 Q Did you process the paperwork for Mr. Thomas?
20 A Did I? No.
21 Q Did you see the paperwork for Mr. Thomas?
22 A I don't believe so.
23 Q Did you sign any of the family leave approvals --
24 A I may have --
25 Q -- for Mr. Thomas?
480

1 A -- but I don't recall it at all.
2 Q To this date, are you aware of any specific form
3 that Marilyn Figueroa was required to submit?
4 A I'm aware now. I was not aware at the time.
5 Q And when did you learn of the fact that a form is
6 required before an employee can be granted family
7 leave?
8 A Sometime between my last deposition and now.
9 Q Did you inquire of any specific requirements from
10 Ms. Dukes before you terminated Marilyn Figueroa?
11 A No.
12 Q Did you inquire of any specific requirements from
13 Mr. Hansen, specific?
14 A Specific? No.
15 Q At some point, as I understand, Ms. Shindell
16 reported to you that Marilyn Figueroa had in fact
17 obtained a medical authorization leave on
18 January 21st of the year 2000; is that correct?
19 A At some point Shindell made me aware that there was
20 a doctor's authorization, yes.
21 Q When you learned of that fact, did you consult with
22 employee relations in order to get some guidance as
23 to what the City policy would require you to do?
24 A It was after I had processed the voluntary quit, so
25 there was no reason to do that.
481

1 Ms. Delaney that she was taking sick leave?
 2 MR. TOKUS: Objection. I think
 3 that mischaracterizes the record in terms of
 4 the type of communication.
 5 A I don't -- in the first week? I don't recollect an
 6 email from Delaney on that.
 7 Q Before you terminated Marilyn Figueroa, how many
 8 direct contacts did Marilyn make with your office
 9 for the purposes of notifying you that she was
 10 taking sick leave or that she was going to provide
 11 you with information about sick leave? How many
 12 times?
 13 A I'm aware of one, January 14th.
 14 Q One? That's where you and I have some sort of a
 15 disagreement. All right. So you believe that the
 16 only time Marilyn notified you of taking any type of
 17 sick leave would have been January 14th?
 18 A Correct.
 19 Q Was that before or after you sent your first letter
 20 demanding a medical release?
 21 A That prompted the letter.
 22 Q Okay. You knew all of these facts regarding
 23 Marilyn Figueroa, and then after you terminated her
 24 you also learned that as far as January 21st in
 25 response to your first demand for medical
 486

1 information Marilyn's doctor had issued a medical
 2 authorization; correct? And I'm going to ask the
 3 reporter to read you that question one more time.
 4 A Please.
 5 (Question read)
 6 MR. TOKUS: I'm going to object to
 7 a mischaracterization of the state of the
 8 record at this point in time.
 9 Q Go ahead, sir.
 10 A I learned after I processed the voluntary quit that
 11 there was a doctor's excuse provided to
 12 Attorney Fuchs who then provided a copy to
 13 Anne Shindell.
 14 Q And that that letter was dated by the doctor
 15 January 21st of the year 2000?
 16 A I know that only after looking at it as part of the
 17 transcripts.
 18 Q And is it, so we can leave this issue alone, is it
 19 fair and accurate to say that after you became aware
 20 that her doctor had in fact issued a medical
 21 release, you did absolutely nothing to determine
 22 whether or not that letter was issued timely, or if
 23 it was not timely, whether or not Marilyn still had
 24 a viable right to return to work?
 25 A I had already processed the voluntary quit, so I did
 487

1 not follow up on that.
 2 Q The answer would be no, you didn't do anything?
 3 A I had already processed the voluntary quit. I did
 4 not follow up on that.
 5 Q When you state that you processed the voluntary
 6 quit, tell me exactly what did you do to process the
 7 voluntary quit?
 8 A At some point I calculated what 15 days would be
 9 from January 14th. I had it in my mind it was
 10 January 2nd. I drafted a letter, asked Stawicki to
 11 send it out.
 12 Q And the final question on this issue is, because I'm
 13 not clear, you sent a letter on January 14th, you
 14 gave Marilyn 15 days to comply; correct?
 15 A Correct.
 16 Q Under what policy did you provide Marilyn Figueroa
 17 15 days?
 18 A It was my --
 19 Q Or how did you come up with 15 days, sir?
 20 A It's unclear. That's why you're unclear. It's
 21 unclear to me how I came up with 15 days. I don't
 22 know if it was a conversation with Hansen. I don't
 23 know if it was a conversation with Shindell. But
 24 15 days was what was stuck in my mind.
 25 Q And before you issued that letter you knew at all
 488

1 times that Ms. Shindell became involved in this case
 2 for the purpose of defending a possible sexual
 3 harassment claim against the Mayor; correct? In
 4 fact, I believe you were the one who suggested it.
 5 A I suggested Shindell. I believe that's correct.
 6 Q All right.
 7 MR. ARELLANO: Let's take a quick
 8 two minutes.
 9 (Recess)
 10 By Mr. Arellano: (Continuing)
 11 Q Mr. Soika, you testified that during the months --
 12 well, actually during the month of
 13 January negotiations were under way with respect to
 14 Ms. Figueroa's situation, and I'm talking about
 15 January 2000; is that correct?
 16 A Negotiations were under way, yes.
 17 Q And in fact, not only in your previous testimony but
 18 today you testified that the negotiations included
 19 Ms. Shindell attempting to convince Marilyn Figueroa
 20 to contemplate a promotion; correct?
 21 A Correct.
 22 Q You also testified that Mr. Pedro Colon was speaking
 23 on behalf of Marilyn Figueroa and making monetary
 24 demands?
 25 A Correct.
 489

1	Q	When you decided to issue the voluntary quit	1	Q
2		termination letter, to your knowledge, was	2	A
3		Ms. Shindell still negotiating with	3	
4		Marilyn Figueroa's legal representative?	4	Q
5	A	Negotiating meaning was there active negotiations?	5	A
6		I couldn't say that. I don't know for sure.	6	Q
7	Q	Before you issued the termination letter, there were	7	A
8		active negotiations going on between Ms. Shindell	8	Q
9		and Mr. Colon, Mr. Fuchs; correct?	9	
10	A	There were discussions, yes.	10	
11	Q	But when you decided to issue the termination	11	
12		letter, you're not sure if negotiations were going	12	
13		on?	13	
14	A	Correct.	14	
15	Q	All right. Is it possible that they had stopped	15	Q
16		before you issued the termination letter?	16	A
17	A	It's possible. I just don't remember.	17	
18	Q	Did Ms. Shindell discuss with the group at any time	18	Q
19		as I will continue talking to the rest of the group,	19	
20		did Ms. Shindell discuss with the group, including	20	
21		you, in any manner what the impact of her	21	A
22		termination would have on the ongoing negotiations?	22	Q
23	A	I don't remember those kinds of discussions.	23	A
24	Q	Did you think as to the impact that her termination	24	
25		would have on the negotiations?	25	
494			496	
1	A	Are you asking what was my impression?	1	Q
2	Q	Correct.	2	
3	A	Well, I felt that actually terminating her would	3	A
4		probably make it more difficult to arrive at a	4	Q
5		settlement.	5	
6	Q	Why is that?	6	A
7	A	Because she would have been terminated. She would	7	Q
8		have been angry.	8	
9	Q	All right. Did you discuss those thoughts with	9	A
10		Ms. Shindell?	10	Q
11	A	I don't -- I don't think so.	11	
12	Q	Did the Mayor express any concerns about what the	12	
13		effect her termination would have on negotiations?	13	A
14	A	I don't -- as I said previously, I don't remember	14	Q
15		that kind of a discussion.	15	A
16	Q		16	C
17			17	
18			18	
19			19	
20	A		20	
21	Q		21	
22			22	A
23			23	Q
24			24	
25	A		25	
495			497	

1 touching all the way up to sexual exchanges?
 2 A I don't recall any.
 3 Q So is it fair and accurate to say, based on what he
 4 disclosed to you, that almost all, if not all, of
 5 the disclosures that he made to you involved
 6 physical contact or verbal sexual comments; correct?
 7 A Yeah. I just remembered one more time is when
 8 Marilyn had her car accident in December of '99. He
 9 did go to show his concern. He went to the
 10 hospital.
 11 Q Other than that, all of the disclosures that he made
 12 to you with respect to his alleged affair with
 13 Marilyn Figueroa involved some type of intimate
 14 touching or sexual nature type of interaction;
 15 correct?
 16 A Other than the ones that we discussed, yes.
 17 Q All right, very good. Now, what is your current
 18 position right now, Mr. Soika?
 19 A I'm the director of the Department of Administration
 20 for the City of Milwaukee.
 21 Q When did you become the director of the department?
 22 A March 5th I believe was the official date.
 23 Q Of the year 2000 -- 2002?
 24 A 2002.
 25 Q I'm sorry. I'm still in 2000 here. I was somewhat

502

1 intrigued by your characterization of
 2 Marilyn Figueroa's approach to this case. And you
 3 used the word you believe that Marilyn and her team
 4 of lawyers believed that there was some sort of a
 5 conspiracy. Is that what you stated?
 6 A That's --
 7 MR. TOKUS: Objection. I think
 8 that mischaracterizes his testimony.
 9 A Right. I believe that I testified that that was
 10 something that Jim Rowen had raised.
 11 Q That Marilyn and her team of lawyers were acting
 12 under some type of aura of conspiracy here?
 13 A Right. That's what Rowen had speculated.
 14 Q Was it a right wing or a liberal baby boomer
 15 conspiracy?
 16 A I have no idea.
 17 Q Do-gooder type of conspiracy?
 18 A I --
 19 Q Just as --
 20 A Just offhand wanted to know --
 21 Q I just wanted to know if it was a right wing,
 22 liberal?
 23 A You tell me how you voted.
 24 Q I'm the most liberal person in the world. Did you
 25 become the director of the department on March 5th,

503

1 2002?
 2 A Yeah, I think that was the date.
 3 Q Who do you report to?
 4 A I report to the Mayor.
 5 Q And who is the new chief of staff?
 6 A There is no chief of staff right now.
 7 Q There is none?
 8 A No. There's an interim chief of staff.
 9 Q And who is that?
 10 A Steve Jacquart, J-A-C-Q-U-A-R-T.
 11 Q How long have you known Mr. Jacquart?
 12 A Oh, my. '98, '97.
 13 Q What did he do before he became the interim chief of
 14 staff?
 15 A He was the policy advisor to the Mayor.
 16 Q Did Mr. Jacquart ever report to you while you were
 17 the chief of staff?
 18 A Yes.
 19 Q For how long?
 20 A The whole time I was chief of staff.
 21 Q And who was the former director of the Department of
 22 Administration?
 23 A David Reimer, R-I-E-M-E-R.
 24 Q When did he leave that position?
 25 A Early January 2002.

504

1 Q What's the nature of this department?
 2 A The divisions that make up the department is the
 3 budget office, the government relations office and
 4 the block grant office, the computer -- internal
 5 computer operations, purchasing records.
 6 Q More like the business aspect of the City?
 7 A The administrative, right.
 8 Q Is that correct? And did Mr. Reimer report to you
 9 while you were the chief of staff before?
 10 A The position is a cabinet position. The cabinet
 11 technically reports to the Mayor.
 12 Q But in your capacity of chief of staff, did they
 13 consult with you?
 14 A Right.
 15 Q Is that correct?
 16 A Correct.
 17 Q So you would have been like quasi supervisor of
 18 these folks?
 19 A Yeah. The chief of staff is a strange position.
 20 Q Well, that's your term.
 21 A Well, it is. It's, you deal with the cabinet, but
 22 they don't technically report to you.
 23 Q But obviously it's like the screening process to the
 24 Mayor?
 25 A Oh, I would never use the word screening process,

505

1 manner in which she was terminated, any second
2 thoughts?
3 A No.
4 Q Anything that you would love to have done
5 differently before she was terminated?
6 A Pushed harder for a settlement early on. That
7 would --
8 Q All right. The group that was gathering to deal
9 with the Figueroa problem, was there any one person
10 that was leading the group?
11 A I don't think so.
12 Q Was Ms. Shindell pretty much leading the direction?
13 A You know, if you look at the group, it's pretty
14 strong personalities. I don't think that --
15 Q Was it a clash of personalities as to how the matter
16 should have been handled?
17 A I described the discussions where I had remembered a
18 clash or a disagreement.
19 Q You're talking about the statement that was
20 published?
21 A The statement and the issue about settlement or not
22 and when.
23 Q What was your position with respect to settlement?
24 A Initially my position was we should try to settle.
25 Q And was that ever changed?

510

1 A Yes.
2 Q At what point?
3 A I don't know when but --
4 Q Do you have any disagreements with the way
5 Mr. Christofferson suggested this matter be handled?
6 And I'm talking about anything related to how to
7 handle the Figueroa matter, other than the public
8 statement.
9 A Yeah. That's the only one that comes to mind.
10 Q Going back to your current position, when you told
11 the Mayor you wanted to leave City government, when
12 did you do that?
13 A When did I do that?
14 Q Right.
15 A I'm not exactly sure. I believe it was January,
16 maybe early February, sometime in that period.
17 Q Of this year?
18 A Of this year.
19 Q And at what point did the Mayor suggest -- strike
20 that. Then at some point you came back and changed
21 your mind; is that correct?
22 A Your previous question is when did I say I wanted to
23 leave City government. That was when I changed my
24 mind. That was in January I believe, something like
25 that.

511

1 Q And at what point did the Mayor agree to appoint you
2 the director of the Department of Administration?
3 A February.
4 Q February of?
5 A This year.
6 Q Of this year. And when did the Mayor announce the
7 change from chief of staff, your change from chief
8 of staff to the Department of Administration?
9 A I don't know the exact date. As we were under a
10 timetable of having to deal with the, it's called
11 the Council cycle. When could we introduce this
12 into the appropriate Council committee and have it
13 move along?
14 As I said previously, my hope was to be out by
15 March. To effect that we would have had to do
16 something in February.
17 Q So when did the Mayor finally appoint, disclose that
18 you were going to be the Department of
19 Administration director?
20 A It was like -- I can't remember the date. We had to
21 get it in before the finance personnel committee met
22 at the end of -- was it the end of February, middle
23 of February. Whatever. I don't know. Whatever
24 day it was.
25 Q The Mayor disclosed your appointment sometime in

512

1 March of the year 2002; correct?
2 A Well, I -- I'm remembering that the Council acted in
3 March, so that would -- March 5. That would have
4 been the final date of my confirmation.
5 Q So a petition for a transfer from chief of staff to
6 director of the Department of Administration was
7 submitted to the City Council for approval?
8 A Correct.
9 Q Is that correct? And is it your position that the
10 Council approved it sometime in early March?
11 A Yeah. For some reason I'm fuzzy on that date. But
12 that's -- I believe that's it.
13 Q Now, let's talk about your tenure as a chief of
14 staff.
15 A Okay.
16 Q When did you actually become appointed to chief of
17 staff for Mayor Norquist?
18 A October '98. I'm sorry, I'm sorry, October '99.
19 Q October 1999, okay. And I believe previously you
20 worked for the City of Milwaukee; right?
21 A Right. I was the block grant director.
22 Q And you were the block grant director for how long?
23 A I believe I started there in March of -- oh, gees,
24 March of '97. I was there about a year and a half,
25 I guess.

513

1 should receive how much money, which groups, which
2 agencies should receive how much money. Those
3 recommendations are forwarded to the Mayor's office.
4 In my case they would be to Marilyn.

5 Oftentimes from Marilyn, then she and I would
6 go in and meet with the Mayor and go through them.
7 At that point the recommendations are made public.
8 They are submitted to the Council committee that
9 deals with that issue. The committee holds public
10 hearings. There's a fair amount of debate. And
11 finally the committee makes a determination that
12 then gets sent to the Council. The Council makes a
13 determination, and then it gets sent to the Mayor
14 for signature.

15 Q That was excellent. Thank you. And I mean it.

16 A Okay.

17 Q And see if I can summarize it.

18 A All right.

19 Q So as I understand, this is a rather important
20 department not only for the City but for all the
21 recipients out there within the City?

22 A Correct.

23 Q Is that correct? And I suspect your department as
24 you were the director has the technical expertise in
25 order to satisfy all federal requirements?

518

1 A Correct.

2 Q Is that correct? And then your department would
3 then determine not who should get it but the
4 agencies that meet the requirements?

5 A We would identify specific agencies that would, and
6 we would make specific dollar recommendations.

7 Q And that would then move to the staff assistant at
8 least with respect to the agencies that would fall
9 within that staff assistant's assignments? Hope I
10 didn't confuse you.

11 A I don't know what you mean. I'm sorry.

12 Q If Marilyn Figueroa would be consulted, I suspect
13 she would be consulted with respect to recipients
14 that fell within her duties and responsibilities or
15 geographic area?

16 A No.

17 Q No?

18 A No. Marilyn was the Mayor's representative to the
19 Council committee. I would go over every
20 recommendation with her.

21 Q And then would Marilyn then make recommendations to
22 the Mayor?

23 A She would. Oftentimes she and I would go in
24 together.

25 Q Would you folks issue written recommendations to the

519

1 Mayor?

2 A Yes.

3 Q Would those recommendations then be addressed by the
4 Mayor; correct?

5 A Right. We're not talking about a lengthy meeting
6 with the Mayor where we'd go through line by line.
7 My impression at the time was that the Mayor relied
8 pretty heavily on Marilyn and my recommendation.

9 Q And then the Mayor would adopt those
10 recommendations?

11 A Right. Actually they became the Mayor's
12 recommendations when we published them.

13 Q And then they eventually would go to the committee
14 for final determination?

15 A The committee and then the Council.

16 Q Did the committee have any power to recommend other
17 agencies which were not --

18 A Absolutely.

19 Q Is that right?

20 A Yeah.

21 Q So the committee would get all of the applications
22 including those that were selected by the Mayor for
23 recommendation?

24 A Well, they wouldn't get the applications. They'd be
25 swimming in paper.

520

1 Q I just want to understand.

2 A What they would get would be a multi-page printout
3 that lists the organizations, what category they
4 were under, what they requested, what their rating
5 was, what a block grant recommendation was, what the
6 Mayor's recommendation was.

7 Q Do you recall -- and what was the last time that you
8 coordinated any type of block grant recommendations
9 with Marilyn Figueroa?

10 A Gees, I don't know. Would have likely been the '99
11 cycle, but I'm not really sure.

12 Q You testified that before the Mayor disclosed to you
13 his relationship with Marilyn Figueroa you had no
14 clue that such relationship existed?

15 A Correct.

16 Q So I suspect during the period of time that you
17 worked with Marilyn Figueroa on block grants she did
18 not disclose any type of relationship she was in
19 with the Mayor?

20 A She did not.

21 Q Is that correct? With respect to the coordination
22 of the work that you were doing with Marilyn, do you
23 recall any one time when you felt Marilyn was a
24 problem of any kind?

25 A Marilyn was a problem?

521

1 staff assistant or if it's a different title.
 2 Q She nevertheless worked within the Mayor's office?
 3 A Right.
 4 Q She was not a clerical?
 5 A She was not.
 6 Q She was assigned to do Mayor Norquist's --
 7 A Actually she did constituent relation issues, which
 8 was, you know, significantly different than routine
 9 staff assistant.
 10 Q Well, was she identified as anything else other than
 11 staff assistant to the Mayor?
 12 A Well, that's why -- I can't draw that up whether or
 13 not it was a staff assistant or it was a different
 14 title.
 15 Q By the time Marilyn Figueroa -- strike that. By the
 16 time Marilyn Figueroa was terminated in I believe
 17 February of the year 2000, how many staff assistants
 18 were on board?
 19 A Staff assistants?
 20 Q To the Mayor.
 21 A Well, let me draw just for my own --
 22 Q Use any cartoons you need.
 23 A All right. I'm sorry?
 24 Q Go ahead.
 25 A The question, please?

526

1 Q By the time Marilyn Figueroa was let go in
 2 February of 2000, how many staff assistants were
 3 there within the Mayor's office?
 4 A Including her position?
 5 Q Correct.
 6 A You want to know positions that we had budget to
 7 fill?
 8 Q No. I'm talking about how many were actually on
 9 board.
 10 A Do you want me to include her position?
 11 Q Yes.
 12 A All right. Three and whatever Kimberly Pratt's
 13 position would be.
 14 Q Can I see that, sir?
 15 A Yeah.
 16 Q Thank you.
 17 A So I'll have it back to refresh my memory?
 18 Q Yes.
 19 (Exhibit No. 35 marked for
 20 identification)
 21 Q Let me show you what has been marked Exhibit 35 of
 22 your deposition.
 23 A Uh-huh.
 24 Q And this is some sketch, drawings that you have.
 25 Let me ask you to identify. What you have put

527

1 together here in this diagram is your recollection
 2 of the number of staff assistants positions that
 3 were in existence filled before -- by the time
 4 Marilyn Figueroa was terminated; correct?
 5 A No.
 6 Q You explain to me what this represents, Exhibit 35.
 7 A What it represents are the offices within -- the
 8 physical offices within the Mayor's office and who
 9 resided in those offices.
 10 Q Let's start with the one on the top. Can we number
 11 this 1, 2, 3, 4, 5?
 12 A Can I change this for a second here? Because I
 13 skipped somebody.
 14 Q Go ahead.
 15 MR. ARELLANO: Let the record
 16 reflect that Exhibit 35 has been modified
 17 slightly by the witness.
 18 Q Is that correct, sir?
 19 A Correct.
 20 Q Let's start with the No. 1 that you have identified,
 21 and it was modified by placing a numerical structure
 22 and also adding an additional individual --
 23 A Correct.
 24 Q -- to the chart. Very good. Let's start with
 25 No. 1. Who do you have in there?

528

1 A I have Jeff Fleming and Steve Filmanowicz.
 2 Q Those two would have been staff assistants?
 3 A No.
 4 Q What were their two positions?
 5 A They actually occupied -- Jeff Fleming was -- I
 6 don't know the title. He's the P.R. person for the
 7 Mayor's office. After he left, Steve Filmanowicz
 8 took the position.
 9 Q The next No. 2 box?
 10 A I have Daisy and Roland.
 11 Q Staff assistants, Daisy?
 12 A Again, at the time Marilyn left, Roland Perry was a
 13 staff assistant. Daisy replaced Marilyn.
 14 Q Okay. Is that Daisy Cubias?
 15 A Daisy Cubias, right.
 16 Q C-U-B-I-A-S?
 17 A I believe so.
 18 Q And then under box No. 3?
 19 A Marilyn and Tricia.
 20 Q And then under No. 4?
 21 A Brenda and Jennifer.
 22 Q Is that Brenda Wood?
 23 A Correct.
 24 Q And Jennifer?
 25 A Meyer.

529

1 A I believe we brought her in at a seven, but she	1 A In the context of Tricia Geraghty, when the Mayor
2 eventually became a nine.	2 asked me to be chief of staff, I said I had a couple
3 Q A nine, all right. Do you recall whether or not	3 of conditions. One of which was I wanted to bring
4 when you came on board there was a reclassification	4 Tricia Geraghty on board. In order to do that, I
5 study under way for Marilyn Figueroa?	5 would have -- I needed to find a way to pay her
6 A I knew that a reclassification was an issue. Did I	6 something similar to what she was making at her,
7 know it was under way when I came on board? I	7 what would then be her current position. I told the
8 don't -- I don't know. I knew it was in the air.	8 Mayor that we would have to find the money, get a
9 Was it actively being pursued by DER? I couldn't	9 reclass of some position in order to do that. I
10 tell you that.	10 went to DER to talk about -- I'm sorry, your
11 Q How did you learn that reclassification was an issue	11 original question was the Mayor. His comment to me
12 when you came on board? And I'm talking about a	12 was something like, you know, if you're going to do
13 reclassification of Marilyn Figueroa.	13 that, you've got to deal with Marilyn. You've got
14 MR. TOKUS: Objection. That	14 to make sure it's okay. Because part of the reason
15 mischaracterizes the nature of the	15 that I think that I was brought in was to kind of
16 reclassification.	16 calm down the office atmosphere.
17 Q Go ahead, sir.	17 Q At that point did you know that Marilyn's position
18 A I knew that Marilyn was desirous of a	18 was being the subject of a reclassification study?
19 reclassification. I knew it was a contentious	19 A Well, again, I knew that there was a position out
20 issue. How I knew that, I'm not sure of that.	20 there. When I wanted to bring Tricia Geraghty in, I
21 Q Did you ever investigate whether or not Marilyn was	21 did three things. One is I talked to the Mayor.
22 being the subject of a reclassification study?	22 Two is I talked to Marilyn. And I explained to her
23 A Again, you don't study people. You study positions.	23 that I wanted to bring Tricia in and that it
24 There are positions. You have to show that there	24 would -- you know, I would need to do it at this
25 was, there is a significant need or a significant	25 salary. And her comment to me at the time was
534	536
1 change in duties in order to be eligible for a	1 two-fold. One was I'm just glad you're here and I
2 reclassification.	2 know that you need your person here and I'm okay
3 Q Well, did you ever investigate whether or not	3 with that. And you can tell the Mayor that this is
4 Marilyn's position was the subject of a	4 my present to him.
5 reclassification study at the time you came on	5 Q When did she tell you this?
6 board?	6 A In my office.
7 A I knew that there was a reclassification that	7 Q When did that happen?
8 Marilyn wanted and that it was in the mix. I don't	8 A I don't know. I believe it was probably
9 know how else to say that.	9 October still, maybe very early November. I'm not
10 Q Did you investigate with employee relations -- as I	10 sure.
11 understand, employee relations is responsible for	11 Q What did you do next?
12 the reclassification study of any position within	12 A Immediately next I stuck my head in the Mayor's door
13 the City; is that correct?	13 and said, you know, Marilyn's cool with a reclass
14 A For the study, yes.	14 for Tricia and that she said that this was her
15 Q Did you ever investigate with the employee relations	15 present to you. He just had this very strange
16 department as to whether or not Marilyn's position	16 quizzical look on his face and shook his head.
17 was under a reclassification study?	17 Q And then what did you do next?
18 A No, not as it relates to --	18 A Then I called up Flo Dukes and Flo said, well, we've
19 Q Did the Mayor ever discuss with you anything related	19 got this reclass study. It's actually done. It's
20 to Marilyn's reclassification once you came on board	20 ready to go. You can use that one.
21 or even before that?	21 Q And which study was she referring to?
22 A Before, no.	22 A The study that they had done to reclass the staff
23 Q Did anyone discuss with you -- strike that. Did the	23 assistant to the Mayor to a, I think it's staff
24 Mayor discuss with you Marilyn's reclassification	24 assistant senior or something like that.
25 after you came on board?	25 Q And then did she say anything else?
535	537

1 became the chief of staff that Marilyn was concerned
 2 about reclassification?
 3 A I'm not sure. Marilyn herself could have told me.
 4 I have no idea.
 5 Q You don't remember a specific person?
 6 A I don't recall.
 7 Q So by the time you came on board you knew that that
 8 was an issue?
 9 A Right.
 10 Q All right. Now, obviously the Mayor tells you that
 11 Marilyn may or may not be happy with your proposal
 12 to bring Ms. Geraghty, if that's what you're telling
 13 me?
 14 A What I said is that Marilyn has to be okay with
 15 this. You have to talk to her.
 16 Q That's what the Mayor told you?
 17 A Right.
 18 Q Did he object in any manner to give a
 19 reclassification to somebody else over Marilyn?
 20 A He, his direction to me was to clear it with
 21 Marilyn. I don't want any problems kind of thing.
 22 And when I did clear it with Marilyn, there was no
 23 issue.
 24 Q Before you came on -- strike that. Before you went
 25 to the Mayor with your, what you claim your proposal

542

1 to hire Ms. Geraghty, did Marilyn tell you that she
 2 had been waiting for a reclassification?
 3 A I had known that Marilyn was agitating around the
 4 reclassification.
 5 Q But my question was did Marilyn specifically tell
 6 you that she had been waiting for a
 7 reclassification?
 8 MR. TOKUS: Objection, again,
 9 characterization of the nature of a
 10 reclassification.
 11 Q Go ahead, sir. Did Marilyn specifically tell you
 12 that she had been waiting for the reclassification?
 13 A As I just testified, I was aware that there was an
 14 issue with Marilyn's reclassification for the
 15 position she was the incumbent, and that I knew that
 16 before I came, and I could have been told that by
 17 Marilyn herself but I'm not sure.
 18 Q Did you believe that Marilyn should have been
 19 reclassified by the time you came on board?
 20 MR. TOKUS: Objection to the term
 21 reclassification of Marilyn.
 22 A No, you have to document that there is a significant
 23 change in duties to effectuate a reclassification.
 24 Q So you didn't believe she was qualified for the
 25 reclassification?

543

1 A I never said that.
 2 Q Well, I'm asking you, sir.
 3 A No. You're -- you're either not understanding the
 4 process or you're misstating.
 5 Q Sir, I'm asking you a question. I'm not concerned
 6 about debating anything with you.
 7 MR. TOKUS: No, you're arguing with
 8 the witness, Mr. Arellano.
 9 MR. ARELLANO: Counsel, if you --
 10 in plain and simple English, if you understand
 11 what's going on, the witness is arguing with
 12 me. Now let's get on with it.
 13 MR. TOKUS: Well, you're asking
 14 about the reclassification process,
 15 Mr. Arellano, and you're twisting it.
 16 MR. ARELLANO: I don't even believe
 17 that amounts to a legal objection, sir, but
 18 whatever you want.
 19 Q Once you became the chief of staff, did you develop
 20 an opinion as to whether or not Marilyn qualified
 21 for a reclassification?
 22 A Well, you don't qualify a person. You qualify a
 23 position. You have to show that there was a change
 24 in duties to have a reclassification approved.
 25 Q All right. And before you suggested somebody else

544

1 for that position, what, if any, investigation did
 2 you conduct to determine whether or not
 3 Marilyn Figueroa's position qualified for a
 4 reclassification?
 5 A I didn't do any.
 6 Q So now, after you spoke to the Mayor, then you
 7 talked to Ms. Dukes?
 8 A No. I talked to Marilyn.
 9 Q To Marilyn. And Marilyn, according to you, gave you
 10 her blessings?
 11 A Right.
 12 Q What exactly did you tell her you were attempting to
 13 do?
 14 A That I wanted to bring Tricia Geraghty in.
 15 Q Okay.
 16 A That I needed to find a way to pay her more money in
 17 order to meet the salary she was currently making.
 18 Q What was her salary?
 19 A I'm not really sure, 60,000 something.
 20 Q And what was the staff assistant position salary?
 21 A There's a range. I don't -- it's -- I don't know,
 22 47 to maybe going up to 60. I'm not sure. You'd
 23 have to look at it.
 24 Q And so in order for you to bring Ms. Geraghty on
 25 board, what was your plan?

545

1 about a reclassification that she wanted. So my
 2 intent was to raise the issue with her. I clearly
 3 said, listen, this is something I want to do, but if
 4 you don't want to do it, we're not going to do it.
 5 Q And I understand that. And you did tell me that
 6 several times. But one thing you haven't told me is
 7 was it your intent by bringing Ms. Geraghty, was it
 8 your intent to stop any reclassification of
 9 Marilyn Figueroa's position that may have been under
 10 a study?
 11 A To stop?
 12 Q Yes.
 13 A No. My goal was to bring Tricia in. It had, you
 14 know, nothing directly to do with stopping Marilyn's
 15 reclassification.
 16 Q Did you ever tell anyone, including people in the
 17 employment relations office, that Marilyn's
 18 reclassification should not be advanced?
 19 A You keep calling it Marilyn's reclassification. My
 20 understanding is it was a reclassification of a
 21 vacant position, A. B, the only discussion I had
 22 with DER about a reclassification position at that
 23 juncture was to bring Tricia Geraghty in.
 24 Q Did you ever learn during the time you were trying
 25 to bring Tricia Geraghty, did you ever learn that

550

1 the employment relations department were conducting
 2 a reclassification study of Marilyn Figueroa's
 3 position?
 4 A I don't recall it being a reclassification of
 5 Marilyn's position.
 6 Q Do you recall whether or not a reclassification of
 7 Marilyn's position was under way at the time when
 8 you were attempting to bring Ms. Geraghty?
 9 A My understanding was that there was a
 10 reclassification of a vacant position.
 11 Q Not Marilyn Figueroa's position?
 12 A Not Marilyn's position.
 13 Q Did anyone from the employment relations department
 14 tell you that Marilyn's position was being
 15 reclassified from a seven to a nine?
 16 A No. I think you don't understand the City process
 17 and are confusing it.
 18 Q No, no, sir. Don't worry about that.
 19 A Well, then let me answer.
 20 Q I don't want you to answer -- just listen to my
 21 questions.
 22 A That's right, you don't want me to answer.
 23 Q No. I want you to answer my question. Did anyone
 24 within the employment relations department ever tell
 25 you in any manner that Marilyn Figueroa's staff

551

1 assistant position was being considered for a
 2 reclassification to staff assistant senior position?
 3 A No. Because my understanding was that it was the
 4 vacant position that was being reclassified. The
 5 general understanding of people was that this is the
 6 one that Marilyn wanted. So that's the difference.
 7 Q All right. To your knowledge, do you know if any
 8 idea to reclassify Marilyn Figueroa to a staff
 9 assistant senior position was ever stopped as a
 10 result of Tricia Geraghty coming on board?
 11 A Again, it's not my understanding that Marilyn's
 12 position was being reclassified. A vacant position
 13 was being reclassified.
 14 Q Which vacant position was being reclassified?
 15 A I think it was Jason Helgerson's position.
 16 Q Who is Jason Helgerson?
 17 A He was a staff assistant that had left right before
 18 I came on board.
 19 Q And I believe that Ms. Dukes informed you that a
 20 position had been, a position study had been
 21 completed and that she believed that that was a
 22 position that Marilyn wanted?
 23 A Correct.
 24 Q Is that correct? What did you respond to that?
 25 A I don't -- I don't know. If I had talked to her

552

1 after I talked to Marilyn, then I would have said
 2 Marilyn's okay with this.
 3 Q As I understand, Mr. Soika, which I think is part of
 4 what you are eager to explain to me, in order to
 5 reclassify a position there has to be an increase in
 6 duties and responsibilities?
 7 A Right.
 8 Q Is that correct? With respect to the
 9 reclassification of the vacant position that as I
 10 understand eventually Tricia Geraghty got, what
 11 additional responsibilities did you propose?
 12 A Well, I don't remember having anything to do with
 13 the reclassification study. I believe that it was
 14 done by the time I was there. I think that there
 15 were supervisory duties involved.
 16 Q Did you ever tell Marilyn that you didn't think she
 17 would qualify for the staff assistant senior
 18 position that was eventually given to Ms. Geraghty?
 19 A No.
 20 Q Do you believe Marilyn would have qualified for that
 21 position?
 22 A I think it would have been a stretch. I don't
 23 believe she had supervised people previously.
 24 Q Did you know whether or not Ms. Geraghty had
 25 supervisory experience?

553

1 A I don't recall that kind of conversation at all.
 2 Q You testified that Marilyn Figueroa in your view did
 3 not qualify for the staff assistant senior position?
 4 A No, I didn't testify to that.
 5 Q You testified that she did not have supervisory
 6 experience?
 7 A I said it would be a stretch for her, that I don't
 8 believe she had supervisory experience.
 9 Q Well, in retrospect, do you believe she qualified
 10 for the staff assistant senior position?
 11 A I believe it would have been a stretch for her.
 12 Q Meaning she did or she didn't?
 13 A I think that she could have done it but would need a
 14 lot of supervision along the way.
 15 Q Did the Mayor ever tell you to offer Marilyn any
 16 type of alternative options?
 17 A I don't think so.
 18 Q So basically what you're telling me is that the
 19 staff assistant senior position that Marilyn aspired
 20 was given to Ms. Tricia Geraghty, and that was the
 21 only factor that you know caused you to call
 22 employment relations about processing this new hire?
 23 MR. TOKUS: Objection. That's not
 24 the nature of the testimony that he's given
 25 this morning.

558

1 Q Well, I guess what I'm really leading at, Mr. Soika,
 2 other than for the fact that you wanted Ms. Geraghty
 3 in that position, do you know any other reason why
 4 you would not have approved Marilyn Figueroa to get
 5 that staff senior assistant -- staff assistant
 6 senior reclassification?
 7 A Could you rephrase that, please?
 8 Q Yes, I'm sorry.
 9 (Question read)
 10 A Do you want to rephrase that?
 11 Q Yes. My question is do you have any basis to tell
 12 me why Marilyn Figueroa would not have received the
 13 staff assistant senior position but for the fact
 14 that you wanted Ms. Geraghty?
 15 A But for the fact that she said it was okay for me to
 16 go ahead and hire Ms. Geraghty, right.
 17 Q Otherwise you believe she would have gotten that
 18 assistant senior position?
 19 A Yes.
 20 MR. ARELLANO: Let's take a break
 21 here for a minute.
 22 (Recess)
 23 By Mr. Arellano: (Continuing)
 24 Q After that discussion regarding the hiring of
 25 Ms. Geraghty, from October through December what, if

559

1 any, other complaints do you believe
 2 Marilyn Figueroa had that you are aware of, sir,
 3 October through December of 1999?
 4 A Complaints that Marilyn had?
 5 Q Right. I believe you identified Ms. Figueroa as a
 6 disgruntled employee before.
 7 A I believe so.
 8 Q And tell me, from October through December 31st of
 9 1999, what other complaints did Ms. Figueroa share
 10 with you, if any?
 11 A Well, early on when I came in her basic complaint
 12 was that the information didn't flow well, that
 13 policy decisions would be made and people would not
 14 be kept informed. She at some point said that she
 15 thought that the minority staff who were staff
 16 assistants were not involved in making policy
 17 decisions.
 18 Q Anything else?
 19 A Those were specific complaints that I recall.
 20 Q In essence she was complaining about discrimination
 21 in the Mayor's office; correct?
 22 A I didn't say that.
 23 Q Well, you said that minority staff were not involved
 24 in policy decisions.
 25 A That was her complaint, yes.

560

1 Q Inversely, she was telling you that only Caucasian
 2 people were involved in policy decisions?
 3 A I supposed that.
 4 Q Is that correct?
 5 A I think that's what she was trying to say, yes.
 6 Q Did you understand that to be an allegation of
 7 discrimination within the Mayor's office?
 8 A I don't know what you're asking me.
 9 Q Meaning that minorities were not given equal access
 10 as nonminorities.
 11 A Do I understand that that's how things were or do I
 12 understand that that's how Marilyn perceived it?
 13 Q That's how Marilyn perceived it.
 14 A Yes, that's how I understand Marilyn to perceive it.
 15 Q And that is what you consider to be part of what you
 16 claim was disgruntlement on her part?
 17 A One part of it.
 18 Q What other part? The fact that she claimed that
 19 there was not enough information going around?
 20 A Not enough information, that the choice assignments
 21 were handed out to majority individuals. She
 22 complained about who got assigned to night meetings
 23 with the Mayor and who did not, complained about who
 24 had access to the Mayor and who did not.
 25 Q Anything else?

561

1 perceived you as a friend?
2 A I believe so.
3 Q And I sense that she related to you because of both
4 your religious beliefs?
5 A Well, I don't know why she felt she --
6 Q If you know.
7 A Right, I don't know.
8 Q But you did talk to her about your religious
9 beliefs?
10 A I don't wear my religious beliefs on my sleeve.
11 Q That's not my question. I said did you talk to her
12 about your religious beliefs?
13 A Yeah, I'm sure that conversation came up.
14 Q And as I understand you developed a trust with
15 Marilyn or a trusting relationship with
16 Marilyn Figueroa?
17 A I would say that.
18 Q Did you ever tell her your opinion about her at any
19 point, the fact that you felt she was disgruntled,
20 that she was all over the place? Did you ever say
21 that to her?
22 A Yeah. On a couple occasions that are documented in
23 that paper there, I went to her and said, Marilyn,
24 there's something going on. How can I help? What
25 do you need?

566

1 Q Is that when she told you that her problems related
2 to things that happened before you came on board?
3 A Yeah.
4 Q Did there come a time when you felt she really had
5 something to tell you?
6 A I went to her when I felt that she was, you know,
7 having issues.
8 Q Did Christofferson ever tell you that Marilyn cited
9 problems with the Mayor?
10 A Problems with the Mayor? I don't think so.
11 Q Did Mr. Christofferson tell you that on January 4th,
12 the day she left the office, she told him that she
13 was having problems with the Mayor?
14 A Yeah, I'm drawing a blank on that. I know that I
15 had a conversation with Christofferson about Marilyn
16 on January 4th. Did he say specifically she was
17 having problems with the Mayor? He may have, but
18 I'm not remembering it right now.
19 Q And as I understand, after she left on January 4th,
20 other than that telephone conference that you
21 described in your previous deposition, you never had
22 any other contact with Marilyn Figueroa?
23 A Correct. You mean other than mail.
24 Q Right.

(Discussion off the record)

567

1 By Mr. Arellano:
2 Q Mr. Soika, let me show you two sets of records that
3 we have marked: one Exhibit 32 and Exhibit 33. My
4 review of some of these records tells me that we are
5 talking about substantial duplication of records.
6 Could you please look at that. I believe this is my
7 pen.
8 MR. TOKUS: Do you have a set of
9 that for me, Mr. Arellano? What do we have,
10 32 and 33?
11 MS. GARCIA: It's the same thing
12 that you provided us today.
13 MR. ARELLANO: You can look at the
14 last page, which they are all bated
15 numerically the same.
16 A Okay. I don't know what this is.
17 Q You're looking at Exhibit No. 32. When compared
18 with Exhibit 33 you notice that only the top page
19 contained on Exhibit 32 with the exception of that
20 page?
21 A I didn't go through it page-by-page, but with the
22 ones I did they appear to be the same.
23 Q And with the exception of the top page of
24 Exhibit 32, you do not recognize that page?
25 A No, I do not.

568

1 Q The top page of Exhibit 32, does that in any way
2 represent your penmanship?
3 A I don't believe so.
4 Q Let me have those two one more time. Thank you.
5 MR. ARELLANO: Counsel, I have
6 received from you Exhibits 32 and 33 which as
7 I understand the witness will eventually
8 identify, purport to represent the notes, with
9 the exception of the top page of Exhibit 32,
10 purports to represent the notes prepared by
11 Mr. Soika.
12 MR. TOKUS: What is -- the one that
13 has a different top page, what is that?
14 MR. ARELLANO: Some type of
15 statement by Ruth.
16 MR. TOKUS: By Ruth? How do they
17 get together?
18 Q My question is let's take a look at Exhibit 33 and
19 let me ask the witness to tell me whether or not
20 those records represent copies of the original notes
21 that he prepared pursuant to the
22 Marilyn Figueroa/Mayor Norquist/office of the Mayor
23 matters?
24 A I wouldn't describe them as notes I prepared. They
25 are kind of random notes as the months transpired.

569

1 you what. I want to allow you to use Exhibit 32,
2 but for the top page I want you to walk with me, you
3 can remove that if you feel comfortable, sir.
4 A Sorry.
5 Q That's all right, that's all right. With respect to
6 the top page of Exhibit 33, do you recognize that as
7 a document that you prepared?
8 A Yes.
9 Q And do you know when you prepared that document?
10 A It says November 17th.
11 Q And at the top of the document what did you have in
12 there, sir?
13 A What does it say?
14 Q Yes.
15 A Mayor-Marilyn, Kimberly-Brenda, Tricia.
16 Q And right underneath 11/17 what do we have there?
17 A Marilyn.
18 Q And what is the significance of these notes,
19 Mr. Soika?
20 A I have no idea.
21 Q Do you have any idea as to why you wrote these
22 notes?
23 A No, I don't.
24 Q With respect to the Mayor-Marilyn, do you have any
25 recollection as to why you were pairing Mayor and

574

1 Marilyn right next to each other?
2 A No more than why I was pairing Kimberly and Brenda.
3 Q So this note doesn't ring any thoughts, ideas at
4 all?
5 A It does not.
6 Q Do you recall when was the first time that you began
7 to keep notes on Marilyn Figueroa, if you did, or
8 anything related to matters affecting and/or
9 triggered by Marilyn Figueroa?
10 A It's not accurate to portray that I kept notes on
11 Marilyn Figueroa. I routinely keep a spiral bound
12 notebook with me. I've done that since probably
13 1995.
14 Q And I suspect anytime that you wrote anything
15 related to Ms. Figueroa it would be contained in
16 this package?
17 A Yes. Although I'm still not clear about the
18 attorney-client privilege things.
19 Q You know what, this is the first time you and I
20 agree on something.
21 A Oh, yes.
22 Q Not that I don't trust these folks but --
23 A I trust them. I just think there might be confusion
24 but we'll --
25 Q I said not that I don't trust them.

575

1 A Okay.
2 Q Next page, sir.
3 A Okay.
4 Q Do you recognize this as your notes?
5 A Yes, I do.
6 Q Do you know when you drafted these notes?
7 A No, I don't.
8 Q Do you know if you drafted these notes before
9 Marilyn was terminated?
10 A I believe so.
11 MR. TOKUS: Excuse me, counsel,
12 could we make reference to the pages that you
13 want to --
14 MR. ARELLANO: Sure. We're talking
15 about Bates stamp 70003. And from now on I
16 will just identify the last two numbers. Is
17 that okay?
18 MR. TOKUS: Fine with me, counsel.
19 Q Do you recall what year you wrote these notes as
20 identified for all practical purposes to
21 Exhibit 33-03?
22 A I believe it was '99.
23 Q Do you recall the month?
24 A I do not.
25 Q What's the significance of this note, sir?

576

1 A This looks to be notes I was taking spontaneously in
2 a conversation I had with Juanita Hawkins.
3 Q And what was the nature of the subject in these
4 notes?
5 A Juanita appears to be complaining that Marilyn
6 blindsided her at one of the policy committee
7 meetings today. Something to do with economic
8 development funds going into a pool after they were
9 placed in reserve for 2000.
10 Q Did you discuss this matter with Ms. Figueroa?
11 A Yes, I did.
12 Q Did you place anything in her personnel file with
13 respect to this matter?
14 A No, I did not.
15 Q Did you find this in any way relevant to the
16 termination of Marilyn Figueroa?
17 A No.
18 Q Blindsided, what in the world is that?
19 A I believe that was a phrase that Juanita Hawkins
20 used. I took it to mean caught by surprise.
21 Q What was the specific aspect that Ms. Hawkins
22 claims, if she did, that surprised her as far as
23 Marilyn Figueroa's behavior was concerned?
24 A What I could garner from looking at the notes and my
25 memory of such is that there was a policy committee

577

1 Q Did you?
 2 A I don't think so.
 3 Q Do you ever give dirty looks to people?
 4 A I don't think so.
 5 Q Let's go to the next page. Hold on a second. Did
 6 this conversation with Ms. Pratt occur after you had
 7 notified Marilyn Figueroa of the intent to bring
 8 Ms. Geraghty on board?
 9 A I believe so.
 10 Q All right. Go to the next page. The next page is
 11 page 05 of Exhibit 33. Do you recognize this as
 12 your notes?
 13 A Yes.
 14 Q Do you know when you wrote them?
 15 A I do not.
 16 Q Do you know if you wrote them before December 14th
 17 or after?
 18 A Well, if -- I would assume these are in
 19 chronological order.
 20 Q By the way, did you ever report to the Mayor the
 21 discussion that Kimberly had with you,
 22 Kimberly Pratt, regarding Marilyn Figueroa's
 23 demeanor and feelings and concerns?
 24 A Did I report my conversation with Pratt to the
 25 Mayor?

582

1 Q Correct.
 2 A I have no idea. I have no idea.
 3 Q Next page. You don't remember when you wrote those
 4 notes; correct?
 5 A Correct.
 6 Q What's the significance of the first paragraph?
 7 A Well --
 8 Q You read it for the record.
 9 A It's confusing to me. Today asked what's wrong.
 10 Say nothing. MS pushed, that means I pushed. Say
 11 want to be out of here.
 12 Q And what is the significance of these notes?
 13 A I don't know. It appears -- I don't know if this is
 14 a continuation --
 15 Q I don't want you to guess. If you don't know you
 16 don't know.
 17 A I don't know. Crying at lunch. I don't know what
 18 that -- do you want me to just proceed --
 19 Q Crying out loud. Who are you referring to?
 20 A Crying at lunch.
 21 Q At lunch. Who is the subject of your notes?
 22 A I don't know.
 23 Q The next one?
 24 A No one talked with CEOs, cause no, I don't know what
 25 that word is, CDBG, which would be block grant.

583

1 Relates to the Joe Volk issue, which I don't know
 2 what that is.
 3 Q And again, who is the subject of these notes?
 4 A I've got to believe it's Marilyn because that's why
 5 I would have put it in here.
 6 Q The crying at lunch, is that also Marilyn?
 7 A You know, I can't say that. I don't know.
 8 Q Who else did you see crying at lunch?
 9 A Kimberly.
 10 Q Oh, Kimberly was also?
 11 A Yeah.
 12 Q Do you know what was affecting Ms. Kimberly Pratt?
 13 A It was when I first came on board. As I said, I
 14 interviewed everybody.
 15 Q Did you talk to Kimberly about why she would be
 16 crying?
 17 A She was just crying over -- she was upset about how
 18 things were at the office before I got there.
 19 Q So this particular statement here, you don't know
 20 what to attribute?
 21 A No, I don't. I have no idea.
 22 Q Then in the mid lower left margin?
 23 A Yeah. Feeling bad and all these things strung
 24 together.
 25 Q What's the significance?

584

1 A Don't know.
 2 Q Who are you attributing those notes?
 3 A I don't know.
 4 Q What about that little square box that you --
 5 A Yeah, JH would be Juanita Hawkins, economic
 6 development Joe Volk, CUED and Tricia. I don't
 7 know.
 8 Q The next?
 9 A MS to MF, that means me to Marilyn, tell me what you
 10 need and what I can do to help.
 11 Q And did you write all these notes contemporaneously
 12 at the same time?
 13 A Yeah, see --
 14 Q You don't know?
 15 A I don't know. This page is kind of puzzling to me.
 16 Q With respect to the last sentence that you just
 17 read, do you know when you wrote that note?
 18 A I have no idea.
 19 Q A month?
 20 A I have no idea.
 21 Q A year?
 22 A I have no idea.
 23 Q The subject matter that led you to write these
 24 notes?
 25 A I have no idea.

585

1 Q And this happened in his office, the Mayor's office?
 2 A The Mayor's office, correct.
 3 Q And that would have been when in relation to when
 4 you learned?
 5 A Sometime between the 5th and the 7th, whatever that
 6 day was.
 7 Q Well, you learned on the 5th; correct?
 8 A I didn't say that. I don't know what the date is.
 9 Q Well, did you disclose your knowledge of
 10 Marilyn Figueroa's intent to file a complaint the
 11 same day that Ms. Florence Dukes told you?
 12 A Yes.
 13 Q Let's go back to page 06.
 14 A Okay.
 15 Q Anything else that Mr. Christofferson may have
 16 shared with you in that telephone conference?
 17 A Again, I'm assuming that's what this is, and I think
 18 that all this are my notes on that conversation.
 19 Q Well, let's go to the next item.
 20 A Wendy -- Wendy, I can't remember Wendy's name. She
 21 was working at the campaign. Marilyn at the
 22 campaign and in a bad mood and not going to do fund
 23 raising and left.
 24 Q Anything else?
 25 A Do you want me to just keep working down?

590

1 Q Yes.
 2 A Barb Candy, Marilyn not call, email back.
 3 Q Where did you get this information from?
 4 A Again, I'm thinking that this was all one
 5 conversation with Bill as he's relating things to
 6 me.
 7 Q Next item?
 8 A Today Marilyn fairly normal, cry, can't talk now and
 9 decisions to make. Not campaign --
 10 Q Hold on a second. Where did you get that
 11 information from?
 12 A Again I believe that all these notes are the same
 13 conversation I had with Bill.
 14 Q Okay. This is something Mr. Christofferson related
 15 to you regarding Marilyn?
 16 A That's what I believe this represents.
 17 Q And his conversations with Marilyn?
 18 A That he's relating his conversations with Marilyn,
 19 yes.
 20 Q To you?
 21 A Yes.
 22 Q Thank you. Next item?
 23 A It's not the campaign, have to make decisions.
 24 Q Next item?
 25 A Mayor try to call Marilyn, not return phone calls.

591

1 Q Where did you get this information from?
 2 A Again, I can only assume that this was the same
 3 conversation with Bill.
 4 Q Anything else that you recall pursuant to that --
 5 A No.
 6 Q -- discussion with Mr. Christofferson?
 7 A No.
 8 Q Other than what you find in here?
 9 A No.
 10 Q During the phone conference that you held with
 11 Mr. Christofferson on January 4th, 2000 regarding
 12 Marilyn, did he in any way disclose to you any
 13 concerns about Marilyn filing some type of
 14 complaint?
 15 A I don't believe so.
 16 Q At that point did you have any concerns that she may
 17 be filing some type of complaint?
 18 A No, no.
 19 Q When you spoke to Marilyn Figueroa about hiring
 20 Ms. Geraghty, did you have any concerns that she
 21 could be filing some type of complaint?
 22 A No.
 23 Q All right, very good. Let's go to the next page.
 24 Page 07. Do you recognize this as your notes?
 25 A Yes, I do.

592

1 Q Do you know when you drafted these notes, sir?
 2 A I believe these are notes I took in my conversation
 3 with Flo Dukes when she called me to her office
 4 about the Marilyn requesting EEO forms.
 5 Q Do you have any approximate idea as to when these
 6 conversations occurred with Ms. Dukes?
 7 A Between the 5th and the 7th of January.
 8 Q Let's go with the first one. DER stands for what?
 9 A Department of Employee Relations.
 10 Q And that meant that this is notes related to your
 11 conversation with people from DER?
 12 A Right.
 13 Q And the conversation that you held with DER which
 14 caused you to draft these notes, was that in person?
 15 A Yes.
 16 Q Where did that occur?
 17 A In either Flo's office or Hansen's office. I'm
 18 remembering Flo. I'm not remembering Hansen very
 19 well.
 20 Q Who was present at that meeting?
 21 A I remember Flo for sure. I don't remember Hansen.
 22 Q Let's go to the next item.
 23 A All right. EEO against Mayor and office.
 24 Q What did you understand by that note?
 25 A That Marilyn had requested forms, had a complaint to

593

1 Q What is the significance of this statement, sir?
 2 A I don't know. It seems to be a phone call I had
 3 with Abel Ortiz saying work this stuff out with
 4 Marilyn.
 5 Q Do you recall anything else other than what you have
 6 written on here?
 7 A No, I don't.
 8 Q Do you recall what, if anything, you said to
 9 Mr. Ortiz?
 10 A I do not.
 11 Q Do you have any other notes of your conversations
 12 with Mr. Ortiz?
 13 A I don't believe so.
 14 Q How long have you known Mr. Ortiz?
 15 A I believe that the first time I met him was when we
 16 funded him block grant, but I'm not sure.
 17 Q Then the bottom line of -- the bottom --
 18 A Yeah, I think this has nothing to do with anything
 19 related to Marilyn. 190 sergeants up to 75
 20 transferred this Friday. I think it's --
 21 Q You're not talking about calling 190 sergeants to
 22 take care of Marilyn Figueroa, are you?
 23 A No, I was not.
 24 Q Let's go to the next page, 09 of Exhibit 33. Are
 25 these your notes as well?

598

1 A Yes, they are.
 2 Q And can you read the first item?
 3 A Interest and something for City, non-monitoring I
 4 think is what it says. Do you want me to continue?
 5 Q Yes.
 6 A Okay. Waive going after no show work. She waive
 7 all monies private.
 8 Q What's the significance of this note, sir?
 9 A I have no recollection of this.
 10 Q The first item says interest and conditions?
 11 A I would guess consideration.
 12 Q Consideration?
 13 A Yeah.
 14 Q City nonmonetary?
 15 A That's what I believe it says.
 16 Q Waives; is that right?
 17 A Waive, right.
 18 Q Was this related in any way to settlement
 19 discussions?
 20 A I would only be speculating to say that.
 21 Q Who was the subject or the source of information?
 22 A I have no idea.
 23 Q The next item?
 24 A Census the only job aspect now. Half year and
 25 35.

599

1 Q What's the significance of that?
 2 A I don't know.
 3 Q Half year and 35, what is that?
 4 A I don't know.
 5 Q Was Marilyn ever offered a census position as a way
 6 for her to return to the City?
 7 A I don't believe so.
 8 Q Did anyone ever suggest a census position?
 9 A Rowen did.
 10 Q At what point did he do that?
 11 A I have no idea.
 12 Q Was that after, while Marilyn was not coming to
 13 work?
 14 A Yes.
 15 Q Did Mr. Rowen participate in any strategy meetings?
 16 A No.
 17 Q At what point did he make that suggestion?
 18 A I don't know.
 19 Q So what did he suggest, that Marilyn be given the
 20 census position?
 21 A I actually think there's notes on it in here. But
 22 what I believe he suggested was that if we're trying
 23 to find a way to get Marilyn money, there might be
 24 some way to do that by offering her a position with
 25 the census.

600

1 Q How would she get money by working with the census?
 2 A She would have been hired. It was while the City
 3 was undertaking its every 10-year census.
 4 Q Was that the position that Mr. Rowen suggested?
 5 A This?
 6 Q Yes. The census position. I believe you testified
 7 to that.
 8 A He did -- he did suggest the census position. I'm
 9 not saying that this is what that is.
 10 Q Did Mr. Rowen handle substantial aspect of the
 11 census responsibility?
 12 A Yeah, he was the City's point person on census.
 13 Q And is it your position that he was suggesting that
 14 part of his position be given to Marilyn?
 15 A Part of his position?
 16 Q Right. Or at least part of the responsibilities of
 17 his position be given to Marilyn?
 18 A No. That's not my testimony. My testimony is that
 19 through the effort of getting out the census, that
 20 Marilyn be hired in some capacity. She had
 21 fulfilled the same position a decade earlier.
 22 Q What department would that fall under?
 23 A Department of Administration.
 24 Q And who was the director at that time?
 25 A David Reimer.

601

1 leave act and extortion issues; is that correct?
 2 A They were all on the same page, that is correct.
 3 Q Did you discuss your concerns about extortion with
 4 anyone in DER?
 5 A I would not have done that.
 6 Q When you were trying to determine the family leave
 7 act policies, I suspect you referred to the City
 8 policies?
 9 A Correct.
 10 Q Was anyone at that point in your view attempting to
 11 extort money from anyone?
 12 A Again, I have no reference of what this page means.
 13 Q Well, going back to the top, the DER, what family
 14 leave act policies, health-care, did I read that
 15 correctly?
 16 A Correct.
 17 Q Timetable?
 18 A Correct.
 19 Q Process?
 20 A Process.
 21 Q What did you discover with respect to the family
 22 leave act policy?
 23 A Going back to our conversation this morning, that I
 24 had a general understanding of the family leave.
 25 Q And what was your general understanding?

606

1 A That an employee needed to have a doctor's written
 2 verification to take personal family leave.
 3 Q Anything else?
 4 A That's all I remember.
 5 Q With respect to health care, what did you learn or
 6 what did you know after Marilyn left on January 4th
 7 of 2000 but before she was terminated?
 8 A Well, I don't know what these notes are referring
 9 to.
 10 Q I understand that. But my question is what did you
 11 know as far as health care pursuant to the policy of
 12 the City?
 13 A Health care is -- well, as long as Marilyn was a
 14 City employee she was covered. After she left she
 15 had the ability to pick up her own health care
 16 through Cobra.
 17 Q Timetable, what did you do to find out timetable for
 18 family leave act policies?
 19 A Again, I would have asked DER what's the policies,
 20 what's the timetable, what's the process.
 21 Q What did they tell you with respect to timetable?
 22 A I told you twice now what they --
 23 Q The three-day thing?
 24 A Three days if you're absent without leave. I'm
 25 remembering 15 days, they have 15 days to provide

607

1 the doctor's verification.
 2 Q With respect to process, what specifically did you
 3 learn?
 4 A I don't remember anything with respect to process.
 5 Q And again, you don't remember when you made these
 6 notes?
 7 A No, I do not.
 8 Q Now, page 12 you have notes, I believe these are
 9 your notes?
 10 A Yes.
 11 Q You had written something on top that was later
 12 scratched; is that correct?
 13 A That's correct.
 14 Q Are you able to read what you wrote?
 15 A I was trying to look at that.
 16 Q Is that power? Something?
 17 A I wouldn't know if that said power. I don't know
 18 what that says.
 19 Q Is that P O W E R?
 20 A I don't know what that says.
 21 Q The next word, are you able to read it?
 22 A Marilyn.
 23 Q Marilyn?
 24 A Then the next word is health and then the next
 25 acronym is DPW.

608

1 Q What does that stand for?
 2 A Department of Public Works.
 3 Q What is the significance of this?
 4 A I have no idea.
 5 Q With relation to Marilyn Figueroa?
 6 A I have no idea.
 7 Q What about health?
 8 A I really have no idea.
 9 Q Do you know when you wrote these notes?
 10 A No, I do not.
 11 Q Let's go to the next item.
 12 A Okay.
 13 Q Item 13.
 14 A Do you want me to read that?
 15 Q Yes, thank you.
 16 A Grant Health Department, John Fuchs try to get ahold
 17 of Shindell, not call back, media's looking into,
 18 not want to deal and thinks it's a City matter.
 19 Q Let's go to the first item, Grant Health Department.
 20 What's the significance of that?
 21 A I have no idea.
 22 Q Which grant are you referring to?
 23 A That's why I have no idea. Is it referring a grant
 24 to the health department and then it's a note that
 25 slipped in on something else, or is it Grant Langley

609

1 Q Yes. I say that because I have heard some stories.
 2 Fuchs declare, did I read that correctly?
 3 A I don't know if that's declare. I interpret it as
 4 being declined.
 5 Q What's your understanding of that?
 6 A I have no context for this.
 7 Q Next item?
 8 A Thinks it died.
 9 Q What do you think Mr. Fuchs was referring to?
 10 A I don't know.
 11 Q Where did you get this information from?
 12 A I have no idea.
 13 Q As you read these notes, do you know what this note
 14 refers to?
 15 A No, I do not.
 16 Q Thinks it died, is that referring to Marilyn's
 17 intent to file a complaint?
 18 A I have no idea what this refers to.
 19 Q Did there come a time when you felt that the
 20 complaint had, or at least the intent to file a
 21 complaint had died?
 22 A No.
 23 Q Next item?
 24 A Most calls on Wednesday.
 25 Q What's the significance of that?

614

1 A I have no idea.
 2 Q Next?
 3 A Borowski two dates something, check Marilyn to
 4 campaign.
 5 Q Do you know when you wrote these notes?
 6 A I do not.
 7 Q Let's go to item 15.
 8 A Okay.
 9 Q These are your notes?
 10 A Yes, they are.
 11 Q The far right identifies the name?
 12 A Charles Benson.
 13 Q Who is Charles Benson?
 14 A I believe he's a TV-6 reporter.
 15 Q And then you have the name Ed Cameron?
 16 A Correct.
 17 Q Can you read the next item?
 18 A Tip-off that TV-6 is making inquiries about Marilyn,
 19 Anita Hill versus Monica Lewinsky.
 20 Q What is the significance of that?
 21 A I believe this was a phone conversation I had with
 22 Mr. Cameron.
 23 Q And he related to you that?
 24 A That TV-6 is calling around making inquiries about
 25 Marilyn, more to the side of Anita Hill versus

615

1 Monica Lewinsky.
 2 Q And what was the reason for calling you?
 3 A I believe it was to give us a heads up that this was
 4 happening.
 5 Q And what did you say to Mr. Cameron?
 6 A I don't recall.
 7 Q I'm sorry?
 8 A I don't recall.
 9 Q Is this Attorney Ed Cameron?
 10 A I believe it is.
 11 Q Is this the husband of Maria Cameron?
 12 A I believe it is.
 13 Q Do you know when you wrote these notes?
 14 A I do not.
 15 Q Did he tell you how he discovered that Channel 6 --
 16 A I don't believe so.
 17 Q The next item?
 18 A 16.
 19 Q Strike that. Going back to page 15 --
 20 A Okay.
 21 Q Did you ever talk to Maria Cameron about
 22 Marilyn Figueroa?
 23 A I don't believe so.
 24 Q Did Mr. Cameron offer any opinions about
 25 Marilyn Figueroa?

616

1 A I don't -- I don't recall much beyond the notes
 2 here.
 3 Q Let's go to the next page. You've got G. Papst?
 4 A I assume that means Georgia Papst.
 5 Q What's the significance of that?
 6 A I don't know. She's a Journal Sentinel reporter.
 7 Q Do you recall what was the --
 8 A No.
 9 Q -- purpose of these notes?
 10 A I do not.
 11 Q Did she ever talk to you?
 12 A I've talked to Georgia many times.
 13 Q About Marilyn Figueroa's case?
 14 A At one point she was inquiring about Marilyn, yes.
 15 Q And what was your response?
 16 A I don't -- I don't know.
 17 Q And then you have MM?
 18 A MM I believe is Mike Miller.
 19 Q Mike?
 20 A Mike Miller.
 21 Q Miller.
 22 A Next is Roland which would be Roland Perry, and then
 23 the final one would be Marilyn.
 24 Q What's the relationship between Georgia Papst and
 25 these three individuals?

617

1 correct?
 2 A Minimize -- possibly so.
 3 Q Next, cabinet?
 4 A Right, cabinet.
 5 Q Was this notes you made with respect to your meeting
 6 with the cabinet?
 7 A Looks to me it's more in the vein of in preparation
 8 for a meeting.
 9 Q With the cabinet?
 10 A Right.
 11 Q And what is the first item, sir?
 12 A Tell all the story within legal boundaries.
 13 Q And is that related to --
 14 A To Marilyn.
 15 Q -- Marilyn Figueroa?
 16 A I believe so.
 17 Q Next item?
 18 A What does it mean for the campaign, have to work
 19 harder, stay focused.
 20 Q And what does it mean for the campaign, that also
 21 related to Marilyn Figueroa?
 22 A I believe so.
 23 Q And next item?
 24 A Norquist clearly best for the City and we have to
 25 say it. And then again minimize the problem,

622

1 maximize opportunities.
 2 Q So you felt that regardless of what Marilyn may have
 3 claimed, you still felt Norquist would be the best
 4 for the City?
 5 A Absolutely.
 6 Q And again minimize the problem relates to
 7 Marilyn Figueroa; correct?
 8 A I believe so.
 9 Q With respect to the staff meeting, did you at any
 10 point after you learned that Marilyn Figueroa was
 11 planning to file a discrimination claim against the
 12 Mayor and the City, did you disclose that fact to
 13 the staff?
 14 A When I found out that Marilyn had requested a
 15 complaint form, I did disclose that to the staff,
 16 yes.
 17 Q By the way, when you met with Ms. Dukes,
 18 Florence Dukes and/or with Mr. Hansen, did either
 19 individual instruct you to maintain the information
 20 they provided to you regarding Marilyn Figueroa's
 21 intent to file a complaint against the Mayor
 22 confidential?
 23 A Again, they didn't have an intent to file a claim.
 24 They had a request for a form. I don't believe that
 25 they did ask me to do that.

623

1 Q By the way, did Ms. Shindell ever give you an
 2 explanation as to the difference between intending
 3 to file and actually filing?
 4 A I don't believe so.
 5 Q Did you seek any legal explanation from any source
 6 including the City Attorney's Office?
 7 A No, I did not.
 8 Q You seem, and correct me if I'm wrong, you seem to
 9 emphasize a difference between Marilyn's intent to
 10 file and the actual filing. Is my perception
 11 correct?

MR. TOKUS: Objection to the
 question. It mischaracterizes his testimony.

14 A Could you ask it again, please.

MR. ARELLANO: Could you read it
 subject to the gentleman's objection.

(Question read).

18 A I emphasize the difference between Marilyn
 19 requesting a form and actually filing.
 20 Q So you do believe there is a difference between just
 21 requesting a form and the actual filing of a
 22 complaint?
 23 A Yes, I do.
 24 Q And again, did you look at any type of source that
 25 would help you to determine the difference?

624

1 A No.
 2 Q Did you discuss that with Ms. Shindell?
 3 A No.
 4 Q Did she make any comments about that difference?
 5 A I don't recall that.
 6 Q What about the Mayor? Did he ever discuss with you
 7 or you discuss with him the fact that she never
 8 actually filed a complaint?
 9 A Of course we discussed the fact that she hadn't
 10 filed a complaint.
 11 Q To your knowledge, does the Mayor share with you the
 12 same view?
 13 A You'd have to ask him. I don't know.
 14 Q Well, to your knowledge?
 15 A I don't know.
 16 Q Did you ever conduct any investigation within the
 17 office or ask any questions to any employees about
 18 Marilyn's reputation for promiscuity, in other
 19 words, whether or not she was promiscuous in the
 20 eyes of others?
 21 A No.
 22 Q Did you ever inquire?
 23 A No.
 24 Q Let's go to the next item. 19. Item 19, these are
 25 your notes; correct?

625

1 A I wouldn't have consulted ERD at all.
2 Q So why would you write down ERD, what's the process?
3 A I think that this is employment relations division.
4 I think that this is referring to the state.
5 Q You're talking about the Equal Rights Division?
6 A The Equal Rights Division, there you go.
7 Q And then you have notice of claim?
8 A Right.
9 Q Will come to us?
10 A Correct.
11 Q Who are you attributing these statements?
12 A I don't know.
13 Q Then you have Fuchs talk?
14 A This evening.
15 Q This evening?
16 A I don't know.
17 Q Was this something that Ms. Shindell was reporting
18 to you?
19 A It could possibly be, but I have no way of knowing
20 that.
21 Q Nevertheless, somebody was telling you that a
22 complaint with the ERD was forthcoming?
23 A I wouldn't infer that. They could be saying that if
24 there is a complaint from the ERD it would be a
25 notice of claim that would come to us.

630

1 Q In other words, these are notes that would have been
2 made when Mr. Fuchs was representing Ms. Figueroa?
3 A I would assume so.
4 Q Page 22 you wrote here -- I believe these are your
5 notes; correct?
6 A Correct.
7 Q And again, do you remember when you made these
8 notes?
9 A I do not.
10 Q And then you wrote J. Fuchs. Is that referring to
11 John Fuchs?
12 A I believe so.
13 Q Dash Grant, is that referring to --
14 A Grant Langley.
15 Q Is that correct?
16 A Yeah.
17 Q And then some quotation marks in here, "can't deal
18 with Anne." To whom do you attribute these
19 statements?
20 A Well, I must assume that I'm having a conversation
21 with Grant where he's relating a conversation with
22 Fuchs, can't deal with Anne. Then there's something
23 about a copy of a claim 8 to 12 pages fairly
24 detailed.
25 Q Is this something Mr. Grant provided to you?

631

1 A I don't recollect that.
2 Q Obviously you identified two individuals,
3 John Fuchs, Grant as being the subject of your
4 discussions; correct?
5 A Correct, correct.
6 Q Page 22 of Exhibit 33, do you know when you prepared
7 these notes?
8 A I do not.
9 Q And you have J. Hansen. Is that referring to the --
10 A Jeff Hansen.
11 Q Jeff Hansen to the Department of Employment
12 Relations?
13 A Right.
14 Q S and B, what is that?
15 A Spivak and Bice.
16 Q Okay.

17 MR. TOKUS: Excuse me, I was
18 thinking of S and M, sadism and --

19 MR. ARELLANO: I think you are past
20 that age, Mr. Tokus.

21 MR. TOKUS: S and M, what is it,
22 sadomasochism?

23 THE WITNESS: Masochism.

24 MR. TOKUS: I'm sorry. My mind
25 wandered for the moment.

632

1 Q The next item would be?
2 A I believe this is a phone conversation with Hansen
3 relating to me that they received a request from
4 Spivak and Bice for Marilyn's entire personnel file,
5 complaints, et cetera, material regarding
6 promotions, promotions or transfer.
7 4/25. I don't know what that refers to.
8 Q And then no personal file?
9 A For Marilyn. And then it says here Deanna. I don't
10 know what that --
11 Q What are you saying here, that there was no
12 personnel file for Marilyn Figueroa?
13 A Well, I believe that it's in this conversation that
14 Hansen is saying that they don't maintain personnel
15 files in DER, that they're all handled in respective
16 offices.
17 Q And then you have a letter to MF?
18 A Right. I think what Hansen is relating to me is
19 that the only thing they have is the letter that Flo
20 sent Marilyn.
21 Q Regarding the EOC forms?
22 A Right.
23 Q All right.
24 A Well, that TV-6 Bob, well, there's a question mark,
25 Bob something. More inclusive, not specific to

633

1 A Yes.
 2 Q It's pretty much the same item; right?
 3 A Pretty much the same item.
 4 Q 29?
 5 A Same item.
 6 Q What's the first item?
 7 A Spivak and Bice, Victor Arellano has given them a
 8 quote. Got none of previous articles. I don't know
 9 what that means. Will file a lawsuit which allege
 10 sexual relations with the Mayor which resulted in
 11 termination. He says he's in the process of
 12 investigating. If determine the allegations true, a
 13 lawsuit, will file one.
 14 Q Item 30 of Exhibit 33, these are your notes?
 15 A Yes, they are.
 16 Q Okay.
 17 A Looks to be my notes in preparation for a phone call
 18 to George Stanley who's one of the editors of the
 19 Journal Sentinel.
 20 Q And the first item?
 21 A What's the exact quote from the attorney?
 22 Q Two?
 23 A My understanding is he will only file if he finds
 24 evidence that the allegation seems true. What makes
 25 the story compelling now? Why not wait until
 638

1 something's actually filed? Once story written,
 2 can't take it back. Back in February told the case
 3 prepared and ready to be filed within two days and
 4 it was never filed. Marilyn's on her third attorney
 5 and had 11 months to, I don't know what else.
 6 Q So at that point you didn't think that the complaint
 7 would ever be forthcoming?
 8 A No, I wouldn't conclude that.
 9 Q 11/27, the date of page 31 of Exhibit 33?
 10 A Okay.
 11 Q Can you read the first item?
 12 A Contact with Madison attorney, negotiations by
 13 Shindell, file on Friday.
 14 Q Did Ms. Shindell report to the group, including you,
 15 her discussions with Arellano?
 16 A She must have, yes.
 17 Q What did she say?
 18 A I don't recall at this point.
 19 Q She notified you that Arellano would file by Friday;
 20 correct?
 21 A That's what I interpret this to say.
 22 Q And then the next item says what?
 23 A Not want a solution without City covered by a no
 24 suit clause.
 25 Q Next item, 32?

639

1 A 32, 12/4 it says, this is the conversation with
 2 June Moberly.
 3 Q Who is this person?
 4 A She's the director of the West Town Association, I
 5 believe.
 6 Q Let's talk about what you wrote.
 7 A I believe she's relating to me a conversation she
 8 had or overheard on September 23rd, '99 at the
 9 Ale House.
 10 Q When did she share that information with you?
 11 A December 4th.
 12 Q And then you wrote September 23, 1999?
 13 A Right.
 14 Q What's the significance of that?
 15 A I can only believe that that's when June said the
 16 conversation.
 17 Q What did you write here?
 18 A We're coming off being so strong. Sally Maddox,
 19 who's another executive director of the west side
 20 group, asked Marilyn how's the job search going.
 21 According to June, Marilyn said I'm something -- I
 22 don't know. I'm something staying election and
 23 after that I want a really good job with really good
 24 pay. And June is speculating, you know, when you
 25 come off demanding that?
 640

1 Q Was there any significance to these notes?
 2 A Well, there must have been. I wrote it down.
 3 Q Do you see any significance to it?
 4 A Well, it's June saying that Marilyn was seeking, was
 5 going to stay through the election, was seeking a
 6 really good job.
 7 Q And she told you that on 12/4?
 8 A Right.
 9 Q Was that before Marilyn left the office or after?
 10 A 12/4 would have been before she left.
 11 Q Did she call you, this person call you?
 12 A I'm sorry, it would have been after she left.
 13 Q Did you call her to find out?
 14 A June called me.
 15 Q What prompted her to call you?
 16 A I don't know.
 17 Q All right. Next item?
 18 A Chicago Dateline NBC, Marilyn's story, coming in
 19 tonight, want to talk. Dave Rivera.
 20 Q Did you ever talk to Mr. Rivera?
 21 A I talked to someone. I don't know if it was
 22 Dateline NBC.
 23 Q What did you say?
 24 A I said there's no way the Mayor's going to talk to
 25 them on this issue.

641

1 A That there was a planned trip to Chicago. Marilyn
2 was going to meet him. There was some sort of car
3 trouble. He called the, Art Jones, see if he could
4 help find Marilyn.

5 Q After the Mayor disclosed to you that he had been
6 having sex with Marilyn Figueroa, did it become
7 significant in any way for you to find out why
8 Marilyn, if this was a consensual relationship as
9 the Mayor claimed, why Marilyn was trying to file a
10 discrimination complaint against the Mayor?

11 THE WITNESS: Could you read that
12 back, please?

13 (Question read)

14 A Could you rephrase that? It seems -- I'm having a
15 hard time.

16 Q Yes. I believe throughout the last three days of
17 your testimony you have taken the position, as well
18 as the group that met after Marilyn Figueroa left on
19 January 4th of 2000, that the Mayor contends that
20 the sexual exchanges he had with Marilyn Figueroa
21 were consensual in nature. Is that correct?

22 A That's correct.

23 Q And my question to you is this: Was it significant
24 for you to find out why in light of this alleged
25 consensual relationship Ms. Figueroa now was

646

1 attempting to file claims against the Mayor and the
2 City of Milwaukee?

3 A Well, it depends upon at what point you dip into
4 this issue.

5 Q Well, I'm talking at any point as soon as you
6 learned that the Mayor disclosed what he deemed a
7 consensual relationship. As soon as that occurred,
8 once you learned that Marilyn Figueroa was
9 requesting a discrimination form to sue the Mayor
10 and the City of Milwaukee, was it significant for
11 you to find out why she was attempting to sue the
12 Mayor in light of what the Mayor called a consensual
13 relationship? Was it significant for you?

14 A Well, Marilyn had made many allegations regarding
15 issues in the office. It could have been that she
16 was intending to file --

17 Q Sir --

18 A -- was my interpretation.

19 MR. TOKUS: Now, you're
20 interrupting his answer.

21 Q My question is was it significant to you to find out
22 why in light of the Mayor's description of the
23 relationship, was it significant for you at any
24 point before she was fired or let go or terminated
25 pursuant to voluntary quit, was it significant for

647

1 you to find out why she now wanted to file a claim
2 against the Mayor? Was it significant?

3 MR. TOKUS: I did not understand
4 the question, but if the witness did, let him
5 answer.

6 A She had requested a form. There was no filing made.
7 I don't -- if there was a consensual relationship,
8 there would be no reason to investigate that.

9 Q Okay, sir. You're being nonresponsive in my view.
10 And let me direct your attention to page 07 of
11 Exhibit 33.

12 A Okay.

13 Q Sometime after Marilyn requested a discrimination
14 form Ms. Dukes informed you that Marilyn was going
15 to bring a claim against the Mayor and the office;
16 correct?

17 A No. Ms. Dukes informed me that Marilyn had
18 requested a form, said she may have a complaint
19 against the Mayor and the office.

20 Q And you wrote it in page 07; correct?

21 A Right.

22 Q And my simple question is this: Regardless of
23 whether or not she filed a complaint, was it
24 significant for you to find out why she was trying
25 to file a claim against the Mayor before you decided

648

1 to terminate her employment?

2 A Well, I assumed that if she had specific complaints
3 she would file and get those on the table. I had no
4 way of knowing whether or not we were dealing with
5 sexual harassment, racial discrimination, gender
6 discrimination. All of those were possibilities.
7 Every attempt to reach out to Marilyn was thwarted.

8 Q You never wrote her a letter to find out?

9 A I did not.

10 Q Obviously when the Mayor disclosed that there was
11 sexual exchanges, your concerns about a potential
12 sexual harassment claim pretty much rose, increased;
13 correct?

14 A Heightened, correct.

15 Q And once those concerns increased, were you in any
16 way interested in learning what was getting Marilyn
17 so upset to the point where she wanted to sue the
18 Mayor?

19 A I clearly was interested in what Marilyn's point of
20 view was. But absent being able to talk to her,
21 there's not much we could do.

22 Q To your knowledge, is there a policy or a provision
23 within the policies of the City of Milwaukee that
24 would allow you to send Marilyn Figueroa to get an
25 independent medical examination?

649

Case Compress

1 A Right. The lack --
 2 Q But as far as getting a promotion or an increase in
 3 pay or a transfer, that was the only issue that you
 4 were aware of; correct?
 5 A Yes.
 6 Q All right. And by January 4th, the time when she
 7 left, you were convinced that she had agreed
 8 voluntarily to release any rights to the
 9 reclassification of her position?
 10 A Oh, she didn't have rights to reclassification.
 11 Q She agreed not to be upset about the lack of
 12 reclassification; correct?
 13 A Right. She agreed that I should bring in
 14 Patricia Geraghty.
 15 Q And now we come to January 5th through the 7th and
 16 you learned that the Mayor disclosed that he's been
 17 having sex with a subordinate. What specific basis
 18 would you have to believe that her discrimination
 19 claim would be anything other than sexual
 20 harassment?
 21 A Her own comments about the other issues that I have
 22 previously testified about.
 23 Q You mean the minorities?
 24 A Right.
 25 Q And obviously the sexual harassment once you learned

654

1 that the Mayor had admitted to that?
 2 A Right.
 3 Q All right. Very good. Let's go to item 35.
 4 A Okay.
 5 Q You write?
 6 A From Marilyn to Rowen.
 7 Q Let's go to the far right. Who --
 8 A Who H Brenda, I don't know what that --
 9 Q Is that who hired Brenda?
 10 A It could be, but I don't know that.
 11 Q Answer, A?
 12 A A, could be answer.
 13 Q Mayor?
 14 A Upon advice.
 15 Q Upon advice?
 16 A I don't know what this refers to.
 17 Q Why did you write those notes?
 18 A I don't know.
 19 Q To who do you attribute these notes?
 20 A I don't know.
 21 Q And then the next item?
 22 A From Marilyn to Rowen regarding assignments, "is
 23 this a joke?" Never reached a final conclusion.
 24 Q And then?
 25 A I don't know what that first word is. Assignments

655

1 for -- I don't know what the next word is.
 2 Q And then?
 3 A Looks like it's, could be Brenda but --
 4 Q Why were you writing these notes about matters as I
 5 understand that occurred before you came on board?
 6 A I don't know. It would -- the only thing I could
 7 figure is that this was another press inquiry, and
 8 I'm writing down what they're saying that they --
 9 Q You mean for the press?
 10 A Right.
 11 Q So I suspect you got this information from some of
 12 the files?
 13 A No, no. Again, I don't know what this refers to.
 14 As I read it over and over again, it appears that it
 15 could be the press saying to me we have this story,
 16 Marilyn hasn't filed but she's going on. She
 17 doesn't have a lawyer. It's going to be employment
 18 discrimination, not sexual harassment. We're going
 19 to have a quote.
 20 Q Where did you get this quote, "is this a joke"?
 21 A That quote is -- I don't know where it came from for
 22 these notes.
 23 Q Did you ever see that --
 24 A Yes.
 25 Q -- in any -- where did you see it?

656

1 A Yeah. It was in some email traffic between Marilyn
 2 and Rowen.
 3 Q So here you reviewed those notes and that's where
 4 you got this information?
 5 A No. I'm not testifying to that at all.
 6 Q You don't know?
 7 A No, I don't know.
 8 Q The last page of this item is 36.
 9 A Okay.
 10 Q You wrote Ernesto?
 11 A Ernesto Chacon.
 12 Q What's the significance of that?
 13 A I don't know.
 14 Q Why would you write that note?
 15 A I don't know.
 16 Q And then S and B?
 17 A Spivak and Bice.
 18 MR. ARELLANO: Don't get any ideas,
 19 Mr. Tokus.
 20 A Anne Shindell, money problems, 140,000 federal tax
 21 lien. Let the Mayor know, do -- I think it's saying
 22 let the Mayor know that they're doing a story, want
 23 to know if he's aware.
 24 Q Who gave you this information?
 25 A I'm believing that this is an inquiry from Spivak

657

Q How large is the block grant department?
 2 A How large? How many staff?
 3 Q Correct.
 4 A About 15.
 5 Q 15?
 6 A Uh-huh.
 7 Q And at that time when you offered her the
 8 directorship, who was the deputy director?
 9 A Juanita Hawkins.
 10 Q And then the rest of the staff would have been under
 11 Juanita Hawkins?
 12 A Correct.
 13 Q And then were there any that would have been
 14 reporting directly to Marilyn Figueroa?
 15 A No.
 16 Q Obviously this would have been a management
 17 position; correct?
 18 A Correct.
 19 Q What was the salary of that position?
 20 A I don't remember. Roughly 65,000, 60,000. I don't
 21 remember.
 22 Q And was this a position that would have gone through
 23 the Council for approval?
 24 A Yes.
 25 Q Did you submit any type of petition so that Marilyn

662

1 would be appointed director?
 2 A No. She declined so there was --
 3 Q Who was given that position?
 4 A Juanita Hawkins.
 5 Q Juanita. How long had Ms. Hawkins been in that job,
 6 the deputy?
 7 A Deputy job? I created the deputy job sometime
 8 during my tenure there so --
 9 Q So it would be fair and accurate to say that the
 10 block grant director position would have been a
 11 supervisory position; correct?
 12 A Yes.
 13 Q Marilyn would have had substantial supervisory
 14 responsibility; correct?
 15 A Well, the actual day-to-day operation would have
 16 been handled by Juanita Hawkins.
 17 Q Right. But they all would report to
 18 Marilyn Figueroa as the ultimate supervisor;
 19 correct?
 20 A Right.
 21 Q And you believe she qualified for that position?
 22 A I believe Marilyn's experience in the community and
 23 her long tenure on the block grant committee
 24 provided her good background for the position.
 25 Q All right. Any other positions that you recall

663

1 having offered to Marilyn Figueroa before
 2 January 4th of 1999?
 3 A No.
 4 Q I believe you testified that the idea to place
 5 Marilyn in the census area was discussed but never
 6 offered?
 7 A Correct.
 8 Q Is that correct? Was that also a supervisory
 9 position?
 10 A I really don't know. I don't know what that
 11 position was.
 12 Q Did you make any notes of the offer you made to
 13 Ms. Figueroa?
 14 A No.
 15 Q Was that significant to you to make notes on the
 16 fact that she turned down a supervisory position?
 17 A I didn't take notes.
 18 Q Let me ask you this, sir. You testified previously
 19 that the group which included Mr. Christofferson,
 20 Anne Shindell, you, Susan Mudd, the Mayor, and I
 21 believe you included Mr. Gillis as well, met several
 22 times after Marilyn disclosed her intent to file a
 23 discrimination claim against the Mayor and the City;
 24 is that correct?
 25 A Is it correct that there was a group that met?

664

1 Q Correct.
 2 A After Marilyn requested an EEO form?
 3 Q There you go.
 4 A Yes. After Marilyn was not showing up to work
 5 unanswered, yes.
 6 Q That makes you more comfortable with your answer?
 7 A It does, yes.
 8 Q Very good. Do you recall whether or not Mr. Hansen
 9 was ever asked to come and address the group?
 10 A He was not.
 11 Q Was that significant to you that he come and educate
 12 the group on City policies since you didn't seem to
 13 be very clear?
 14 A No. Because our whole intent was to keep this into
 15 a very closed circle.
 16 Q So you didn't want to include more people?
 17 A Correct.
 18 Q Do you recall the last meeting that Susan Mudd
 19 attended?
 20 A I do not.
 21 Q The first meeting she attended?
 22 A I don't.
 23 Q The issues that were discussed when she was present?
 24 A The only issue I remember having her present --
 25 well, actually I remember a couple. One was right

665