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MICHIGAN STATE UNIVERSITY
DISMISSAL FOR CAUSE HEARING COMMITTEE

In the Matter of Dr. Selman Akbulut

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DISMISSAL FOR CAUSE HEARING
BEFORE COMMITTEE MEMBERS JOHN WM. REIFENBERG, JR., JAMES SMITH,
AND GALE STRASBURG

COUNSEL FOR MSU: WILLIAM WHITBECK

East Lansing, Michigan - Friday, August 16, 2019

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14
15
16
17
18
19
20
21
22
23
24
25

TABLE OF CONTENTS

WITNESS:	PAGE
JEFFREY SCHENKER	
DIRECT EXAMINATION BY DR. PROMISLOW	25
CROSS-EXAMINATION BY MS. DOUKOURE	77
REDIRECT EXAMINATION BY DR. PROMISLOW	110
KEITH PROMISLOW	
DIRECT EXAMINATION BY MS. KELLEY	115
CROSS-EXAMINATION BY MS. DOUKOURE	213
EXHIBITS:	MARKED
CHARGING PARTY EXHIBIT 1	31
CHARGING PARTY EXHIBIT 2	38
CHARGING PARTY EXHIBIT 3	40
CHARGING PARTY EXHIBIT 4	42
CHARGING PARTY EXHIBIT 5	43
CHARGING PARTY EXHIBIT 6	45
CHARGING PARTY EXHIBIT 7	58
CHARGING PARTY EXHIBIT 8	59
CHARGING PARTY EXHIBIT 9	60
CHARGING PARTY EXHIBIT 10	64
CHARGING PARTY EXHIBIT 11	67
CHARGING PARTY EXHIBIT 12	71
CHARGING PARTY EXHIBIT 13	75
CHARGING PARTY EXHIBIT 14	121
CHARGING PARTY EXHIBIT 15	122
CHARGING PARTY EXHIBIT 16	125
CHARGING PARTY EXHIBIT 17	133
CHARGING PARTY EXHIBIT 18	138
CHARGING PARTY EXHIBIT 19	143
CHARGING PARTY EXHIBIT 20	144
CHARGING PARTY EXHIBIT 21	147
CHARGING PARTY EXHIBIT 22	150
CHARGING PARTY EXHIBIT 23	156
CHARGING PARTY EXHIBIT 24	158
CHARGING PARTY EXHIBIT 25	161
CHARGING PARTY EXHIBIT 26	162
CHARGING PARTY EXHIBIT 27	168
CHARGING PARTY EXHIBIT 28	174
CHARGING PARTY EXHIBIT 29	175
CHARGING PARTY EXHIBIT 30	

1	CHARGING PARTY EXHIBIT 31	183
	CHARGING PARTY EXHIBIT 32	185
2	CHARGING PARTY EXHIBIT 33	188
	CHARGING PARTY EXHIBIT 34	194
3	CHARGING PARTY EXHIBIT 35	196
	CHARGING PARTY EXHIBIT 36	200
4	CHARGING PARTY EXHIBIT 37	202
	CHARGING PARTY EXHIBIT 38	204
5	CHARGING PARTY EXHIBIT 39	207
	CHARGING PARTY EXHIBIT 40	208
6	CHARGING PARTY EXHIBIT 41	213
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
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East Lansing, Michigan

Friday, August 16, 2019 - 9:35 a.m.

MR. REIFENBERG: This is the opening of the formal hearing in the matter of Dr. Selman Akbulut. These proceedings will be conducted according to the academic and human resources policies of Michigan State University and the guidelines that this committee adopted to supplement those policies. Please note these hearings are being transcribed. My name is John Reifenberg and I am the chair of the hearing committee. The other committee members are Gale Strasburg, James Smith. Dr. Strasburg is here today. Dr. Smith was unavoidably detained today but will read the record of today's proceedings and will be here for the rest of the hearings that will take place according to the final schedule order entered on April 24th of this year.

Will the parties and their counsel enter their appearances for the record indicating their names, business addresses, phone numbers, and email addresses. And can each of you identify yourselves for the record so the court reporter can record.

DR. AKBULUT: I'm Selman Akbulut.

MS. DOUKOURE: My name is Amy Doukoure, counsel on behalf of the faculty member, Selman Akbulut.

DR. PROMISLOW: I'm Keith Promislow.

MS. KELLEY: Theresa Kelley, counsel for charging party.

1 MR. REIFENBERG: Hearings will take place today on the 16th and on
2 August 19th, 20th, 21st, 22nd, 23rd, and 26th and as further
3 scheduled if we need more time. Each hearing will commence at
4 9:30 a.m. We will take a ten-minute break at approximately eleven
5 a.m. for the court reporter to catch her breath and we will break
6 for lunch at approximately 12:30 p.m. We will reconvene at
7 approximately 1:15 p.m. and we'll take a ten-minute break at
8 approximately two p.m. We will adjourn at approximately five p.m.

9 The next section I'm going to talk about is
10 preliminary matters, and I suspect that the parties may have
11 some preliminary matters, but we also have a preliminary
12 matter and Judge Whitbeck will talk about that.

13 JUDGE WHITBECK: Dr. Promislow, if you can step
14 forward so we can hear you. Do I understand correctly that
15 you will be, I'm going to use the colloquial phrase, lead
16 counsel, although you're not a lawyer, for the charging
17 party?

18 DR. PROMISLOW: Yes. That's correct.

19 JUDGE WHITBECK: Speak a little louder so --

20 DR. PROMISLOW: Okay. That's correct.

21 JUDGE WHITBECK: There are a couple things that
22 I should advise you of therefore. First, with respect to
23 your witnesses, since you are not a lawyer, any
24 communications, written or oral, which you've had with those
25 witnesses are not privileged and therefore opposing counsel

1 may cross-examine with respect to those communications. Do
2 you understand that?

3 DR. PROMISLOW: I do.

4 JUDGE WHITBECK: Secondly, there is a
5 generalized problem with a person being both a witness and an
6 advocate. I understand that you are to be a witness.

7 DR. PROMISLOW: I am.

8 JUDGE WHITBECK: Under those circumstances,
9 under the Michigan Code of Professional Responsibility, if
10 you were a lawyer you would not be allowed to do that. You
11 are not a lawyer, but nonetheless the question of how you
12 balance the role of the witness who testifies as to facts and
13 if properly qualified as to opinion and an advocate are
14 different roles. The witness provides facts and the advocate
15 argues, explains, et cetera. They're different roles and
16 often it's very difficult to reconcile those roles. Do you
17 understand that?

18 DR. PROMISLOW: I'm aware of this, yes.

19 JUDGE WHITBECK: Okay. There are also I have to
20 say customs and practices, for lack of a better term, that
21 have developed over the years, actually over the centuries,
22 about how to conduct hearings. For example, a lawyer, in
23 this case you, when presenting your witnesses cannot lead the
24 witness.

25 DR. PROMISLOW: Yes.

1 JUDGE WHITBECK: You must ask questions that do
2 not suggest an answer.

3 DR. PROMISLOW: Um-hmm.

4 JUDGE WHITBECK: Second, and again on the
5 record, is the idea that one witness, one lawyer. In other
6 words, if you start with a witness and a matter comes up on
7 which there is an evidentiary objection, you will have to
8 argue that objection. You cannot turn to your counsel. One
9 lawyer, that's you, one witness. Now --

10 MS. KELLEY: I would just like to speak when
11 you're through on this.

12 JUDGE WHITBECK: I'm sorry. I didn't hear you.

13 MS. KELLEY: I would just like to have -- to
14 speak on this when you're through.

15 JUDGE WHITBECK: You'd like to what?

16 MS. KELLEY: I'd like to have a say on this when
17 you're through speaking.

18 JUDGE WHITBECK: Okay. That's fine.

19 MS. KELLEY: Thank you.

20 JUDGE WHITBECK: Fourth or fifth, whatever
21 number I'm on, there are burdens of proof in most cases and
22 there is one in this case. The levels, generally speaking,
23 are beyond a reasonable doubt. That's the level in a
24 criminal case. It's not beyond any doubt. It's beyond a
25 reasonable doubt. But, nonetheless, that's the strictest

1 level. In order to find a person guilty of a crime, the jury
2 or the judge have to find beyond a reasonable doubt. At the
3 bottom is something called preponderance of the evidence,
4 which basically means 51 percent, however one uses that rule
5 of thumb. That's not applicable in this case either. In the
6 middle is the applicable standard which is clear and
7 convincing evidence. In other words, you must -- your side
8 must prove the charges against Dr. Akbulut by clear and
9 convincing evidence. There's no particular definition of
10 that. We know it's more than 51 percent but it's less than a
11 reasonable doubt, so it's in that neighborhood. Finally,
12 your responsibility in these proceedings is not just to your
13 client. It's also to this committee. And by that, I mean
14 it's your responsibility to make and preserve a record that
15 is adequate for this committee to make a decision, and if
16 it's a decision in your favor, then it does show clear and
17 convincing evidence. That assists this committee in making
18 its decision and it also sets the standard for any review or
19 followup. Do you understand that?

20 DR. PROMISLOW: I believe I do. By establish a
21 record, you mean the bulk of the testimony that's presented
22 should establish a record?

23 JUDGE WHITBECK: Well, not just that, but that
24 the evidence is admitted properly and that your argument is
25 stated in terms that we can understand.

1 DR. PROMISLOW: Yes.

2 JUDGE WHITBECK: So as an advocate, you have a
3 dual responsibility, as does the other party. They have that
4 exact same responsibility to make and preserve a record
5 that's adequate for this committee to make a decision.

6 DR. PROMISLOW: I understand.

7 JUDGE WHITBECK: That's the lecture, for lack of
8 a better term.

9 Ms. Kelley, you wanted to add something? You'll
10 have to step up here because we really can't hear you from
11 there. At least I can't.

12 MS. KELLEY: And with all due respect, I think
13 you're making this unduly formal. The university policy says
14 the hearing shall be conducted in an informal manner to the
15 greatest extent possible. Formal Rules of Evidence do not
16 apply. We've done our best, Keith and I, to prepare on he
17 should not lead the witness. But formal Rules of Evidence do
18 not apply here. That's clear under the policy.

19 JUDGE WHITBECK: That's correct. But you should
20 be aware it's not this committee's responsibility to assist
21 Mr. Promislow.

22 MS. KELLEY: Understood.

23 JUDGE WHITBECK: We're not here to do that.
24 That's not our job.

25 MS. KELLEY: Understood. I mean, really what

1 the committee is supposed to determine with testimony is
2 whether it's relevant or not and control the testimony to
3 that degree and obviously if something's, you know, wrong,
4 objectionable. Yeah. Also, I want -- we met with the
5 witnesses, legal counsel, Promislow, and the witnesses to get
6 ready for this hearing. It's my position those conversations
7 are privileged.

8 JUDGE WHITBECK: We'll deal with that. I will
9 suggest to the panel we'll deal with that as they occur and
10 if they occur.

11 MS. KELLEY: I'd like to make legal argument
12 when appropriate.

13 JUDGE WHITBECK: One witness, one lawyer.

14 MS. KELLEY: And I will be questioning
15 Dr. Promislow on the witness stand.

16 JUDGE WHITBECK: But if -- if a matter comes up
17 with another witness and it's Dr. Promislow's witness, he
18 will make the argument.

19 DR. PROMISLOW: Do I have the right to consult?

20 JUDGE WHITBECK: You will question the witness.

21 MS. KELLEY: Well, that's going to be difficult
22 if you're going to require people to stand here at the
23 podium.

24 JUDGE WHITBECK: You handle it as you see fit.

25 MS. KELLEY: Okay.

1 MR. REIFENBERG: So next are there any
2 preliminary matters that the counsel wishes to discuss before
3 we go on?

4 MS. KELLEY: I have one. So I cannot speak at
5 all during this hearing?

6 JUDGE WHITBECK: No. I'm asking you to step to
7 the podium.

8 MS. KELLEY: Oh. I thought you were pointing at
9 Dr. Promislow.

10 JUDGE WHITBECK: I'm pointing at you. Argue
11 from the podium.

12 MS. KELLEY: Okay. I truly object to having to
13 stand up and argue at the podium. Again, this is an informal
14 proceeding. I should be able to use the microphone if you
15 can hear me. Can you hear me?

16 JUDGE WHITBECK: It's up to you.

17 MS. KELLEY: I forgot what I was going to say.
18 Oh. I just want -- I would like some confirmation that
19 Professor Akbulut will not be recording this proceeding as we
20 are sitting here now. I think that's appropriate in light of
21 the context of the charges that have been brought. This is
22 supposed to be a confidential proceeding per the policy, and
23 I don't want these -- this to be -- these witness testimony
24 to be recorded, posted on social media, or sent in a
25 university email attachment which further harasses the

1 witnesses that are testifying and which will be testifying in
2 a day or next week or whatever. I don't think that's an
3 unreasonable request that he not record the testimony here
4 today.

5 MS. DOUKOURE: I'm going to adjust my microphone
6 since we're not standing. I'm not really sure what counsel's
7 referencing with regards to the allegations here.
8 Mr. Akbulut legally recorded people. Michigan is a one
9 consent state. You only need a person -- the consent of the
10 person's recording to actually have consent to record and he
11 did that. He has never disseminated those recordings. He
12 has never emailed them to faculty. That is not part of their
13 allegations. It is his right. We are recording it because
14 it is being recorded by a court reporter. These transcripts
15 are FOIAable. This can be used in further proceedings in a
16 court of law. If -- it doesn't -- even though these are
17 informal proceedings, they have real legal consequences not
18 only for my client but also for the university and this
19 committee pursuant to current status of the Michigan case law
20 and federal law.

21 MR. REIFENBERG: The committee has decided not
22 to allow recordings.

23 MS. DOUKOURE: Then we ask at this time as a
24 preliminary matter that these proceedings be open to the
25 public. That is his right. We are protecting Professor

1 Akbulut's rights in this situation. We are asking that they
2 be open to the public and that people in the department can
3 see part of the problem that Professor Akbulut is alleging
4 has happened throughout the course of the five years this has
5 been going on, is lack of transparency and the process that
6 has taken place. There are people who have indicated their
7 interest in observing these proceedings. We'd ask at this
8 time that they be open.

9 MR. REIFENBERG: You understand that under the
10 dismissal for tenured faculty the hearing is a closed
11 hearing?

12 MS. DOUKOURE: I do. But the guidelines also
13 allow for the committee to provide that they be open, and
14 we're asking at this time that the committee uses discretion
15 to open these proceedings.

16 MS. KELLEY: We do not agree that they should be
17 open. I think Keith would like to speak to this.

18 DR. PROMISLOW: Yeah. I would just like to say
19 that the bulk of our testimony is going to be that the
20 witnesses who are going to speak felt they were harassed
21 through recordings that were made, emails that were sent.
22 There's a history of propagation of information that
23 Professor Akbulut engaged in and that if he records these,
24 then this will give him an opportunity to continue this
25 practice and it may result in intimidation of witnesses. So

1 I would ask that they not be recorded so the witnesses feel
2 that what they say will not be used against them subsequent
3 to the closing of the hearing.

4 MR. REIFENBERG: Let me ask one question in
5 terms of the witnesses. Are any of the witnesses students?

6 DR. PROMISLOW: No. We have deliberately not
7 put forth any graduate students. Only staff members and
8 tenured faculty.

9 MS. DOUKOURE: We have students who are
10 witnesses. But they -- but they -- they don't mind that it
11 be open. They expressed their intent -- actually they're not
12 students. They're not students. They're former students.

13 DR. AKBULUT: They're professors now.

14 MS. DOUKOURE: They're professors. They no
15 longer attend this university. And they have indicated their
16 acquiescence and their desire that this be an open process.
17 The other issue that we're bringing up is even though they're
18 alleging harassment and -- harassment as part of their case
19 in chief, the bulk of -- if you read -- when we go through
20 the evidence, you will see that the bulk of the allegations
21 that my client was making against the university
22 Dr. Promislow himself and others is that he was being
23 harassed both by the proceedings, by the lack of proceedings
24 in this case when he filed grievances and by specific actions
25 of faculty members. And so transparency dictates that this

1 case be -- that this matter can be opened so that people can
2 see what is taking place and that there is justice.

3 MR. REIFENBERG: We are going to move to the
4 other room for a second to talk about --

5 MS. DOUKOURE: Sure. Just before you leave, if
6 I can make one final note. We have asked for the minutes of
7 meetings that have taken place that are going to be discussed
8 here today. They're bringing up several meetings that took
9 place with my client. We have asked for the minutes and the
10 transcripts for those meetings and they refused, refused, to
11 turn those over. The only evidence of what we have of what
12 happened in those meetings are the recordings that took place
13 from Professor Akbulut.

14 MR. REIFENBERG: Is that relevant to whether or
15 not this --

16 MS. DOUKOURE: It is because we don't have a
17 collaboration of evidence of things that have happened.
18 Formal proceedings that were used against my client that are
19 being addressed with this specific hearing that they've used
20 as factual allegations against my client as a basis for
21 bringing these, we have asked for them to turn over the
22 transcripts of those. They have refused.

23 JUDGE WHITBECK: Have you filed a motion?

24 MS. DOUKOURE: We have not filed a motion with
25 you at this time.

1 JUDGE WHITBECK: Then it's not properly before
2 us.

3 MS. DOUKOURE: But I'm saying the reason for the
4 recording and the reason that it needs to be open is because
5 things have a tendency to disappear around here.

6 MR. REIFENBERG: We will be right back.

7 (Recess taken at 9:52 a.m.)

8 (Back on the record at 9:57 a.m.)

9 MR. REIFENBERG: The committee with our counsel
10 has made the following decision. We will open the hearing,
11 but given the fact that there are students testifying --

12 MS. DOUKOURE: Former students.

13 MR. REIFENBERG: Let me just finish.

14 MS. DOUKOURE: Okay.

15 MR. REIFENBERG: And since the situation over
16 tenure talks about eliminating open hearings with respect to
17 student testimony or testimony that includes personal
18 identifying student information, if, in fact, that
19 information, information about students, comes up, then we
20 will close that portion of the hearing. And then two other
21 issues. The committee -- we were talking about cell phones
22 and such. The committee also decided that since the hearing
23 is, at least it might be a closed hearing, then no cell
24 phones, no recordings will be allowed, especially since we
25 have a court reporter and then we'll have a recording anyway.

1 Now, one last thing is that given the fact that
2 this is going to be an open hearing, there's a chance of a
3 disruption depending on the people. If, in fact, there is a
4 disruption, then I will clear the courtroom and I will close
5 the hearing at that point. So assuming it's an open hearing,
6 without disruption, and with concerns about privacy of
7 student information.

8 MS. DOUKOURE: Thank you.

9 MS. KELLEY: Just some clarifications. Will you
10 instruct folks who are sitting here not to record?

11 MR. REIFENBERG: Yes. Since we don't have
12 anybody here, but . . .

13 MS. KELLEY: Obviously. Yeah. Also, witnesses
14 who are testifying, will they be allowed to sit here while
15 other witnesses are testifying?

16 MR. REIFENBERG: I think it's best if we
17 sequester the witnesses.

18 MS. KELLEY: Okay. Thank you. I also have
19 another preliminary matter. I don't know where you're going
20 next.

21 MR. REIFENBERG: And it's our understanding we
22 have space in that room for --

23 MS. YERMAK: Correct. Room 430.

24 MS. KELLEY: So no witness can listen to another
25 witness's testimony. Okay.

1 MR. REIFENBERG: So then given the fact that --

2 MS. DOUKOURE: I have two preliminary matters.

3 The first is if no witness is allowed to listen to another
4 witness's testimony, I'm assuming that Mr. Promislow will be
5 testifying first in this matter? And I'm going to be asking
6 he be instructed to testify first since we've already made a
7 determination and opposing party has asked that nobody else
8 be allowed to listen to testimony that Keith Promislow be
9 required to testify first in this matter.

10 And the second one is pursuant to Administrative
11 Court Rules, I have made a request to have the 22nd off. I
12 have a pro bono criminal matter that I have to attend to for
13 sentencing, and I had made a formal request to have the 22nd
14 of August off pursuant to proper Administrative Court Rules.

15 MR. REIFENBERG: Strictly speaking, the Court
16 Rules don't apply here, but I will take it under advisement
17 in terms of whether or not we, in fact, have time to see how
18 things progress. We've got a week -- five days and two other
19 days. I think that probably right now getting rid of one of
20 those days could result in some difficulty, but I will take
21 under advisement the idea of eliminating -- this is what day
22 are we talking about?

23 MS. DOUKOURE: The 22nd. It's one of the --
24 it's like next Thursday.

25 MR. REIFENBERG: And I think we probably will

1 have a much better idea.

2 MS. DOUKOURE: The problem is it's a pro bono
3 case. We are a pro bono firm. It is a criminal matter.
4 It's not easy to find somebody to take -- this is a quasi
5 judicial body, which makes it an administrative law scenario,
6 and we are talking about specific like code of conduct rules,
7 so the administrative law body in the state of Michigan has
8 stated that criminal matters supersede all other matters,
9 including quasi judicial matters.

10 MR. REIFENBERG: We will still take it under
11 advisement. I ruled on this once and I don't see that we
12 need to argue about it post --

13 MS. KELLEY: May I respond? The policy is
14 pretty clear on making accommodations for the faculty member.
15 It does not make accommodations for faculty member's legal
16 counsel. There's no requirement that faculty member's legal
17 counsel be entitled to appear -- or that we need to schedule
18 around faculty member's legal counsel.

19 Also, with respect to Keith Promislow having to
20 go first, we have one witness that we need to present first
21 because of availability. Other than that, Keith will then go
22 and all the other witnesses will follow.

23 MS. DOUKOURE: Then I ask that opposing counsel
24 address that witness and that Mr. Promislow be excused from
25 the room at that time.

1 MS. KELLEY: He will be questioning the witness.

2 MS. DOUKOURE: I don't think that that's
3 appropriate. He is a witness. We have already indicated --
4 this body has indicated opposing counsel has asked that
5 witnesses be sequestered. It is part of the policy. It is
6 not appropriate for him to be questioning witnesses before he
7 testifies so that he can then tailor his testimony to what
8 has already been said. I'm asking for opposing counsel to
9 question that witness and Mr. Promislow to be excused from
10 the room at that time.

11 MS. KELLEY: The party is allowed to be present.

12 MS. DOUKOURE: He is not the charging party.
13 Dean Duxbury is the charging party.

14 MS. KELLEY: The party's representative may be
15 present at all sessions of this hearing. The formal rules --

16 JUDGE WHITBECK: First of all, let me interrupt
17 for a moment. Please address your arguments to the Court.
18 Take them one at a time. Do not interrupt one another.
19 Let's proceed in an orderly fashion. There's no need to have
20 this back and forth. You get one light at the end and that's
21 that. Now, let's leave it there.

22 MR. REIFENBERG: The committee is going to deny
23 your request.

24 MS. DOUKOURE: Of course.

25 MS. KELLEY: I have one other preliminary

1 matter. I don't know if you want to take it up now. But it
2 has to do with opposing -- the faculty member's witness list.
3 We were not served with a copy of the Amended Witness List.
4 So I'm going to ask that they only be permitted to present
5 those witnesses that were on their original Witness List.
6 This committee set a deadline of August 2nd, I believe, and
7 we never received a copy by August 2nd of the Amended Witness
8 List of the faculty member.

9 MS. DOUKOURE: Our Amended Witness List went out
10 with email and went out with documents that were received by
11 this committee and should have been received via email by
12 opposing counsel. We filed an Amended Witness List by
13 August 2nd pursuant to what we were asked to do and we did
14 that.

15 MS. KELLEY: I believe everything was sent to
16 Ms. Yermak. I never received anything.

17 MS. DOUKOURE: I sent it in a joint email that
18 was sent to everybody.

19 MS. YERMAK: Can I say I never got that email,
20 though.

21 MR. REIFENBERG: We will take that under
22 advisement.

23 MS. KELLEY: Understood.

24 MS. DOUKOURE: We will be filing another Amended
25 Witness List as another witness became available and we will

1 be using him as a rebuttal witness for one of the individuals
2 that the -- for one of the documents that, if necessary, that
3 they are proposing as evidence pursuant to what's in their
4 binder that they just submitted to us on August 2nd.

5 JUDGE WHITBECK: Ms. Doukoure, I'm sorry. For
6 the court reporter and for people with poor hearing, you must
7 speak more slowly, please.

8 MS. DOUKOURE: Okay.

9 JUDGE WHITBECK: I'm not hearing you.

10 MS. DOUKOURE: Okay. Sorry. So on August 2nd
11 opposing counsel submitted the amended set of documents for
12 their binder. We have a rebuttal witness that we may call if
13 they intend to use those documents pursuant to their -- as
14 evidence, as documentary evidence, so we may be submitting an
15 Amended Witness List including a rebuttal witness.

16 JUDGE WHITBECK: Well, if you file an Amended
17 Witness List, serve it on the parties and provide a proof of
18 service to Ms. Yermak.

19 MS. DOUKOURE: Thank you.

20 MR. REIFENBERG: Then the next order of business
21 is reading of the charges. Dr. Akbulut, the charges against
22 you are that you violated university policies substantially
23 related to the performance of faculty responsibilities,
24 including faculty rights and responsibilities and academic
25 freedom. Ms. Doukoure, do you or Dr. Akbulut wish to make an

1 opening statement?

2 MS. DOUKOURE: I'm reserving my opening
3 statement for when we put on our rebuttal case in chief.

4 MR. REIFENBERG: Then I guess we move to the
5 charging party. Now, one piece of information. It's in the
6 guidelines but just to make it clear. Both parties will have
7 the right to cross-examination of all of the witnesses. So,
8 Ms. Doukoure, you will have the right to cross-examine the
9 charging party's witnesses. Well, I guess the charging
10 party's representative will have the right to cross-examine
11 all of the witnesses of the responding party. And after each
12 of the witnesses has made their statements, the committee
13 will have an opportunity to ask questions at the conclusion
14 of the examination and redirect examination. So with respect
15 to the charging party, the charging party's representative
16 may call your first witness.

17 DR. PROMISLOW: I call Professor Jeffrey
18 Schenker.

19 MR. REIFENBERG: And the court reporter will
20 swear in the witness.

21 COURT REPORTER: Would you please raise your
22 right hand. Do you solemnly swear or affirm the testimony
23 you're about to give will be the truth, the whole truth, and
24 nothing but the truth?

25 DR. SCHENKER: I do.

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JEFFREY SCHENKER

(At 10:10 a.m., called by Dr. Promislow and
sworn by the reporter, testified as follows)

DIRECT EXAMINATION

BY DR. PROMISLOW:

Q. Jeffrey, can you describe your position at Michigan State
University?

JUDGE WHITBECK: Hold on. Stop. You have to
get him to identify himself, his business address, et cetera.

BY DR. PROMISLOW:

Q. Thank you. Can you identify yourself?

A. Yes. I'm Jeffrey Schenker. I'm a professor of mathematics.

Q. Can you identify your business address?

A. Wells Hall, 619 Red Cedar Road.

Q. Thank you. Jeffrey, can you describe your position at
Michigan State University?

A. Yes. I came here in 2007. I was promoted to a full
professor in 2015. I've served several times on the Advisory
Committee of the mathematics department. I was appointed as
Director of Graduate Studies in 2017. I was the founding --
I am the founding director of the Institute for Mathematical
and Theoretical Physics which was founded in 2015.

Q. Thank you.

MS. DOUKOURE: Your Honor, I'm sorry. I cannot
hear. I don't know if that microphone is not plugged in. I

1 don't know what the situation is, but I --

2 A. Okay. Sorry. I didn't -- I didn't realize that -- I came to
3 MSU in 2007. I was promoted to full professor in 2015. I
4 was appointed to graduate director for the graduate program
5 in mathematics in 2017, and I am the founding director of the
6 MSU Institute for Mathematical and Theoretical Physics which
7 was founded in 2015.

8 BY DR. PROMISLOW:

9 Q. Okay. So you served on the Administrative Review Panel that
10 reviewed --

11 MS. DOUKOURE: Objection, your Honor. Counsel
12 is testifying.

13 JUDGE WHITBECK: You have to ask a question.

14 BY DR. PROMISLOW:

15 Q. Sorry. Did you serve on the Administrative Review Panel that
16 reviewed Professor Akbulut's Abrogation of Duty finding in
17 January of 2015?

18 A. I did.

19 Q. Can you give us a very brief introduction of the events that
20 led to the formation of the Administrative Review Panel, the
21 cause for its creation?

22 A. Yes. Professor Akbulut refused to teach a course he was
23 assigned to in the spring of 2000 -- I have to get the year
24 right here. I'm thinking. 2015. Yes. And he received an
25 Abrogation of Duty Penalty from the University because of

1 that -- because of refusing to teach that course. He later
2 filed a grievance with the Faculty Grievance Office and then
3 requested an administrative review, and that's what the panel
4 was, was the Administrative Review Panel for that.

5 Q. Did the Faculty Grievance Court -- or Office uphold his
6 finding or did they reject it?

7 A. They rejected it.

8 Q. Okay. Thank you. So do you understand --

9 A. Excuse me. I think I maybe misunderstood the question.

10 Q. Did the faculty --

11 A. They upheld the -- the -- the -- the Abrogation of Duty
12 Penalty. That's what I was attempting to say.

13 Q. Okay. Thank you. So can you tell us how Dean Kirkpatrick
14 performed the Administrative Review Panel? How did he choose
15 the members?

16 A. He chose to use the Advisory Committee for the math
17 department. However, since you as charge department were on
18 the committee and were party to the dispute, he asked you to
19 recuse yourself and also since Professor Akbulut was on the
20 Advisory Committee that semester, he had to recuse himself.
21 So the committee was the remaining members of the Advisory
22 Committee.

23 Q. Okay. I'm handing you a document that's marked from the
24 Charging Party Binder Tab 11.1, Item 11.1. Don't set those
25 aside because I need them back. Can you identify this

1 document for us?

2 A. Yes. This is the review letter that the Administrative
3 Review Committee wrote at the end of its proceedings and
4 submitted to you and to the dean.

5 Q. Thank you. So who else was on the panel that was formed?

6 A. In addition to myself, there was George Pappas, Baisheng Yan,
7 Alexander Volberg, and Matt Hedden.

8 Q. What was your role on the panel? Did you have a particular
9 role?

10 A. I was elected the chair of the panel.

11 Q. Can you tell us specifically what was the scope of the panel?
12 What were they charged to investigate?

13 A. We were charged to find whether the Abrogation of Duty
14 Penalty was -- whether -- whether Professor Akbulut had
15 abrogated his duty by refusing to teach his course and
16 whether the penalty of a ten percent reduction to his salary
17 was justified.

18 Q. Did the panel consider issues beyond the sort of narrow
19 definition of review of the Abrogation of Duty finding?

20 A. We did consider additional issues because Professor Akbulut
21 had brought them up repeatedly in department meetings and by
22 email relating to the cancellation of his graduate course
23 that led to his reassignment, but these we felt were -- we
24 were doing this to do a complete investigation but they were
25 outside the original scope.

1 Q. So could you give us an indication of some of these other
2 things you chose to consider?

3 A. So we looked into whether the course that he -- the graduate
4 course had, in fact, been canceled fairly, whether the policy
5 for cancellation of courses was distributed and applied
6 fairly and that's -- yes.

7 Q. Can you just remind us the connection between the graduate
8 course and the course that Professor Akbulut is alleged to
9 have refused to teach?

10 A. The graduate course was a topics course that was canceled in
11 October of 2014. The course was set to run in spring of
12 2015. Because it was underenrolled on the date that it was
13 supposed to -- that -- that was set for cancellation and
14 because of that cancellation Professor Akbulut was reassigned
15 to another course, which he then did not teach.

16 Q. Can you just give us an overview of the sort of evidence the
17 panel considered? Where did you solicit it from? Who was
18 involved?

19 A. We solicited emails from -- from all involved parties.
20 Professor Akbulut submitted recordings to us that he had made
21 of conversations with you. And we submitted records about
22 course enroll -- we solicited records about course enrollment
23 from Rick Hensh, and we solicited -- yeah. That's . . .

24 Q. Did you solicit information about grant funding? I may have
25 missed you said that.

1 A. Yes. We did solicit information about -- about Professor
2 Akbulut's grant -- available unencumbered grant balance from
3 the -- from the administrator of the math department.

4 Q. Was Professor Akbulut given an opportunity to present
5 evidence?

6 A. Yes, he was. We asked him for evidence. We asked him to
7 submit materials to the committee.

8 Q. Would you summarize for us the conclusion of this document?

9 A. Our conclusion was -- so the central conclusion was that
10 Professor Akbulut was not justified to refuse to teach his
11 course. He had been unambiguously assigned to his course and
12 it was his duty to teach the course and thus he was in
13 Abrogation of Duty with regard to his teaching responsibility
14 and that the ten percent reduction of his salary was a
15 certainly justified response by the University for that. We
16 also found that his claims that his course had been canceled
17 unfairly were unfounded. In fact, the policy for course
18 cancellation had been widely disseminated and was
19 disseminated and was instituted fairly. He claimed that a
20 student had been denied registration in the course, but, in
21 fact, we found that the student chose not to register for the
22 course and that this -- that his finding was also unfounded,
23 this allegation of his was also unfounded.

24 Q. So eventually Professor Akbulut was informed of your
25 decision. How did he respond when he heard of the decision?

1 A. He responded by emailing all members of the committee to
2 accuse them of signing a fraudulent document.

3 JUDGE WHITBECK: Excuse me. I didn't hear that.

4 A. He -- he -- he -- he responded by emailing all members of the
5 committee to accuse them of signing a fraudulent document.

6 JUDGE WHITBECK: Signing a fraudulent document.

7 A. Signatures on it, yes.

8 DR. PROMISLOW: I'd like to move to admit this
9 document as CP-1.

10 MS. DOUKOURE: I object, your Honor. I object
11 to the admission of this document.

12 JUDGE WHITBECK: Wait.

13 MARKED FOR IDENTIFICATION:

14 CHARGING PARTY EXHIBIT 1

15 10:22 a.m.

16 MS. DOUKOURE: Okay. I was waiting. I object
17 on the basis of the fact that there's no foundation for this
18 document. It was not prepared by this witness. He
19 recognizes the document but it was not prepared by him. It
20 was not prepared for him. Furthermore, it is not testimonial
21 in nature. It is not best evidence. And it has not -- it
22 doesn't have factual findings on it. It has expected
23 testimony for a previous hearing on it which is not at issue
24 in this matter. So I object. It is not relevant to this
25 matter, it is hearsay at best, and it's not best evidence and

1 it's more prejudicial than probative.

2 DR. PROMISLOW: May I speak? I would maintain
3 that it is the basis of the subsequent actions of Professor
4 Akbulut and therefore is central to the process and
5 discussion that we are considering. It is the basis of
6 80 percent of the emails that he sent that we're going to
7 testify about. So therefore it is initiation of --

8 MS. DOUKOURE: This is what was testified to
9 what took place at that hearing. None of this -- this
10 document doesn't talk about any of that, and the premise of
11 our case is based on -- what this witness testified is based
12 on the findings of that committee and not this charging
13 document.

14 MR. REIFENBERG: We will admit it for what it's
15 worth.

16 DR. PROMISLOW: Thank you.

17 BY DR. PROMISLOW:

18 Q. Okay. So let me just hand you the next document. I am
19 handing you contents of Tab 13 -- 13.1E in the charging
20 party's binder. Do you recognize this document?

21 A. Yes, I do. It is a chain of emails that started with an
22 email that Selman sent to the members of the --

23 MS. DOUKOURE: Your Honor, I'm going to object
24 to the witness testifying from reading the document. He was
25 asked to identify the document. He wasn't asked to read from

1 it.

2 A. Yes. I recognize it.

3 BY DR. PROMISLOW:

4 Q. Okay. Thank you. So do you recall the date of the document?

5 A. I do not recall, but I can see the date if I read it.

6 Q. May he read --

7 MS. DOUKOURE: Your Honor, I'm going to ask that
8 either -- this document is not evidence. It hasn't been
9 admitted into evidence. The witness must testify from his
10 recollection. He may use -- I would ask that he be allowed
11 to use the document to refresh his recollection but not be
12 allowed to testify from the document and give the document
13 back to Mr. Promislow.

14 MR. REIFENBERG: Absolutely right.

15 MS. DOUKOURE: Thank you.

16 DR. PROMISLOW: I'd just like to repeat that the
17 formal Rules of Evidence do not apply, that this is a
18 informal process.

19 JUDGE WHITBECK: This isn't a question of Rules
20 of Evidence. She has objected based on the fact that he's
21 basically reading the document. You have not gotten the
22 document admitted as of yet.

23 DR. PROMISLOW: Okay.

24 MR. REIFENBERG: So basically the document will
25 be admitted --

1 DR. PROMISLOW: I apologize. Can I ask that the
2 document be admitted into the record as CP-2?

3 MS. DOUKOURE: Your Honor, he hasn't laid a
4 foundation for this document. Not its relevance. Nothing.
5 Other than the fact that it is an email. I would ask that
6 the witness be required to testify as to this document or the
7 contents of it to verify it before we just admit documents
8 into evidence.

9 MR. REIFENBERG: Ms. Doukoure is right again.

10 MS. DOUKOURE: Thank you.

11 A. I'm prepared to --

12 MS. DOUKOURE: And I would ask that the witness
13 be required to give the document back so he's not testifying
14 from the document during questioning.

15 THE WITNESS: Can I -- am I allowed to refresh
16 my memory as to the content of the document briefly?

17 MS. DOUKOURE: That's up to the panel.

18 A. I've looked at a number of emails over the last few days and
19 I want to make sure I'm talking about the right one.

20 BY DR. PROMISLOW:

21 Q. So I'm going to reintroduce the document. I am handing you a
22 documented email sent on May 17th, 2016, from Professor
23 Akbulut or a chain of emails.

24 MS. DOUKOURE: Now he's testifying as to the
25 content of the document, your Honor.

1 MR. REIFENBERG: Go ahead.

2 BY DR. PROMISLOW:

3 Q. And so I would like you to receive this document and look at
4 it. Can you identify this document for us?

5 A. Yes. This is a chain of emails that was sent between
6 Professor Akbulut and the members of the Administrative
7 Review Committee in May 2016 immediately after the
8 administrative review findings were submitted and made
9 available to Professor Akbulut.

10 Q. Okay. So can you tell us who the emails were sent to?

11 A. The emails were sent to the -- the Administrative Review
12 Committee and copied to a wide audience including the dean of
13 CNS and the assistant -- Vice President for Academic
14 Research.

15 Q. Can I ask you to proceed chronologically -- can I ask you to
16 read the salutation and second sentence of Professor
17 Akbulut's email from May 17th at 1:21 a.m. at the bottom of
18 Page 1?

19 A. Sorry. Could you repeat the sentence?

20 Q. Could I ask you to read the salutation and the second
21 sentence of Professor Akbulut's email of May 17th at 1:21 at
22 the bottom of Page 1 with the sentence that starts with "I am
23 asking you"?

24 A. So the salutation says, "Dear Matt, Sasha, Baisheng, George,
25 and Jeff," and the sentence in question says, "I am asking

1 you to withdraw your signature from this faulty document. I
2 don't have to remind you that, to investigate any NSF grant,
3 you have to consult the Principal Investigator of that grant
4 first (PI is the main person who is accountable to NSF). Had
5 you consulted me, I could have provided you with all the
6 precise documents, spreadsheets, and commitment letters)."

7 Q. Thank you. Can you read your response to Selman at 4:40 from
8 "Dear Selman" down to your signature?

9 A. "Dear Selman, The Advisory Committee completed its role in
10 this matter and turned in the report to Keith, who in turn
11 has submitted it to Dean Kirkpatrick. According to the
12 faculty handbook, any concerns about the process or content
13 of the report should be addressed to Dean Kirkpatrick or the
14 Office of the Provost, depending on what further action has
15 been taken at the Dean's office. You can review the relevant
16 section of the faculty handbook here. I ask that you do not
17 contact me again directly about this issue, but rather direct
18 your concerns to the appropriate channels. Best regards,
19 Jeff Schenker."

20 Q. Thank you. Okay. So would you read for us the first and
21 third paragraphs of Professor Akbulut's response to the email
22 you just read at the top of Page 1? The first and third.

23 A. Yes. He said, "Dear Jeff, Nope, you undersigned a fraudulent
24 document about one of your colleagues, and so you are
25 responsible (there is no such thing as half lies, or you put

1 it 'tangential' half points). You will always be asked to
2 prove those claims exactly, since you got yourself involved
3 in this shell-game, by appointing yourself as its spokesman.
4 The shell game went like this." That's the end of the first
5 paragraph. The second paragraph -- the third paragraph is
6 "Jeff, what has happened" -- "Jeff this is what happened and
7 you got yourself used by signing this faulty document. I
8 also have transcripts of you yelling at me and telling me
9 that I have a mental problem disputing Chair's claims, and I
10 should accept Chair's penalties. You did this before you
11 volunteered yourself to serve in Chair's committees to
12 investigate my claims and the Chair. If you had any
13 self-respect, after that you would have recused yourself
14 serving in such a committee, but you didn't."

15 Q. Can you tell me what strikes you from this response? What is
16 your impression from this exchange?

17 A. I was -- I was -- initially I think my main response to that
18 is I was angry at being accused of doing something fraudulent
19 when, in fact, we put a great deal of work into and effort
20 into evaluating all of the evidence submitted to the
21 committee and I believe our findings were factual. I was
22 also surprised to a certain extent that Professor Akbulut
23 wasn't pursuing this properly but was pursuing it by -- by
24 attacking the members of the committee rather than, as I had
25 pointed out to him, proceeding through the appropriate

1 channels.

2 May I make a request? Can I go get my reading
3 glasses out of my backpack? The font on this is rather
4 small.

5 DR. PROMISLOW: Okay. So I'd like to move to
6 admit the contents of Tab 13.1-E as CP-2.

7 MR. REIFENBERG: Hearing no objection, it's
8 admitted.

9 MARKED FOR IDENTIFICATION:

10 CHARGING PARTY EXHIBIT 2

11 10:33 a.m.

12 BY DR. PROMISLOW:

13 Q. So now I am handing you the contents -- now I'm handing you
14 the contents of the Charging Party Binder Tab 13.1.G. this
15 is an email from Professor Akbulut, June 23rd, 2016. Can you
16 describe -- identify this document for us, Jeff?

17 A. Yes. Again, this is an email sent from Professor Akbulut in
18 June of 2016 to the members of the Administrative Review
19 Panel, to several program officers at the NSF, to the faculty
20 of the math department, to an administrative staff member in
21 the math department, and to Terry Curry and Jim Kirkpatrick.

22 Q. So roughly how long is this after the decision of the review
23 panel?

24 A. A month or a little bit more than a month. Close to two
25 months actually.

1 Q. Can you just read the salutation of the email and then
2 characterize this, please, his text?

3 A. "Dear Matt, Baisheng, Sasha, Jeff and George." And what he
4 is -- what he's asking us to do is to -- is to explain how we
5 reported that his NSF grants were encumbered when -- when we
6 didn't -- when we didn't show his grant reports and his
7 monthly balance sheets.

8 Q. Do you find that the topics that he raises are relevant to
9 the central goal of the finding of the Administrative Review
10 Panel?

11 A. I do not. The central point of the Administrative Review
12 Panel was whether or not the Abrogation of Duty Penalty was
13 justified, and it is clear that Professor Akbulut abrogated
14 his duty by refusing to teach his course, and so these --
15 these are very, very tangential.

16 Q. Okay. Were there many emails of this form sent to the
17 Administrative Review Panel?

18 A. Yes, there were.

19 Q. And cc'd to a large audience?

20 A. Yes, there were.

21 Q. Thank you.

22 DR. PROMISLOW: I would like to move to admit
23 this as CP, charging party, 3 I guess.

24 MR. REIFENBERG: Seeing no objection.

25 MARKED FOR IDENTIFICATION:

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CHARGING PARTY EXHIBIT 3

10:36 a.m.

BY DR. PROMISLOW:

Q. Can you just remind us briefly? The salutation of this previous email, those are the names of the five members of the -- are those the names of the five members of the review panel?

A. Yes. Those are the names. Sasha is Alexander.

Q. Were you appointed as graduate director in August of 2017?

A. Yes, I was.

Q. Okay. When did this become known to people in the department?

A. It became known many months earlier as we were discussing me taking over the job.

Q. I'm going to now hand you three items. I hope this doesn't cause confusion. They're related. These are the contents of binder tabs 11.2a, 11.2c, and 11.3. I would identify these as three emails from Professor Akbulut to a wide audience on February 9th, July 4th, and July 10th of 2017. Can you --

MS. DOUKOURE: I'm going to object to the compound nature of this. I can't keep track of what documents he's talking about. He's talking about three documents located in three separate spaces in his binder. Can we do that one at a time?

DR. PROMISLOW: I have no objection. I'll redo

1 the whole process.

2 BY DR. PROMISLOW:

3 Q. Okay. I'm handing you one document identified as Binder
4 Tab 11.2a.

5 JUDGE WHITBECK: 8 or A?

6 DR. PROMISLOW: A. A as in alpha.

7 BY DR. PROMISLOW:

8 Q. And it is an email from Professor Akbulut on February 9th,
9 2017. And I'm going to hand it to you and ask if you can
10 identify this document.

11 A. Yes. This is an email sent from Professor Akbulut to the
12 faculty in the math department in February of 2017 regarding
13 my appointment as graduate student chair.

14 Q. Can you read the contents of this email and also the --
15 indicate to us who received the email?

16 A. So the email went to the hiring faculty mail list in the math
17 department, which is all tenure stream faculty in the math
18 department, and the subject of the email, which is also the
19 first sentence of the email, is "Please do not appoint Jeff
20 Schenker to Grad Studies Chair." The email goes on.

21 "Because I believe he is not qualified, and also capable of
22 lying, see for example (3) of," and then he points to a
23 document motion7.pdf on his website. "Also, please put in
24 that office somebody in pure mathematics not in math-physics
25 or engineering (they are different disciplines and cultures).

1 Best Regards, Selman."

2 Q. Thank you.

3 JUDGE WHITBECK: Could you slow down just a bit?
4 Talk more slowly.

5 DR. PROMISLOW: I'd like to move to admit that
6 as document, and I lost the CP number, but whatever's next.
7 CP-4.

8 MR. REIFENBERG: Seeing no objection.

9 MS. DOUKOURE: I have no objections.

10 MARKED FOR IDENTIFICATION:

11 CHARGING PARTY EXHIBIT 4

12 10:40 a.m.

13 BY DR. PROMISLOW:

14 Q. I'm now going to hand you document Binder Tab 11.2c, as in
15 Charlie. This is an email. Sorry. Give that back to me.
16 This is an email from Professor Akbulut on July 4th. I
17 wonder if you could identify that for us.

18 A. Yes. This is an email sent from Professor Akbulut in July of
19 2017 to the faculty of the math department in response to an
20 email I -- informational -- sorry, an email I had sent
21 requesting volunteers to help with a recruiting meeting with
22 students from Grand Valley State University.

23 Q. Thank you. Can you read the contents, the salutation down to
24 Professor Selman's signature?

25 A. Yes. "Jeff, There has been many objections for you becoming

1 GS Chair (and complaints were filed against you in OIE, about
2 your past conduct in GS related work), and the current GS
3 chair Jon Wolfson (is he still there?) was already cited by
4 OIE for 'Violating Michigan State University's
5 Anti-Discrimination Policy'. Why are you guys still
6 going [sic] around pretending to be running the math-GS
7 office, don't you have any shame? Why don't you leave that
8 post to faculty who are liked respected both by faculty and
9 grad students, and who have good track record working with
10 grad students? Selman."

11 Q. Thank you.

12 DR. PROMISLOW: I'd like to move to admit this
13 document. It would become CP-5.

14 MR. REIFENBERG: No objections?

15 MARKED FOR IDENTIFICATION:

16 CHARGING PARTY EXHIBIT 5

17 10:41 a.m.

18 (Discussion off the record at 10:41 a.m.)

19 (Back on the record at 10:42 a.m.)

20 BY DR. PROMISLOW:

21 Q. So now I would like to present you with the contents of
22 Tab 11.3 from the binder. This is an email from Professor
23 Akbulut.

24 JUDGE WHITBECK: What did you do with 11.2c?

25 DR. PROMISLOW: I introduced it as CP-5.

1 JUDGE WHITBECK: Did you move to admit?

2 DR. PROMISLOW: I believe I moved to admit. I'm
3 sorry. I may have done it too quietly. I will do my best to
4 speak at full volume.

5 BY DR. PROMISLOW:

6 Q. Okay. So this is an email from Monday, July 10th, 2017, a
7 few days after, from Professor Akbulut. Can you identify
8 this email for us, identify this document?

9 A. Yes. This is an email from Selman -- from Professor Akbulut
10 to the entire faculty of the math department in response to a
11 follow-up request I made for volunteers to meet with the
12 students from Grand Valley State University.

13 Q. Okay. Can you read the content that Professor Selman
14 included in the email?

15 A. Yes. He wrote, "Jeff, You should not be involved in grad
16 student affairs, because you clearly lied about a grad course
17 to penalize your colleague (which is a very bad image for our
18 graduate students, and disqualifies you being GS director).
19 I have the whole recorded and written transcripts in front of
20 me. For example, (3) of," and he points to the same PDF
21 document on his website. "You might pretend to ignore what I
22 wrote, and go on business as usual, and wish your misdeeds
23 will be forgotten. No it won't happen, the people in the
24 department will always be reminded of what you have done.
25 Only way to clear your record is to atone and apologize.

1 Selman."

2 Q. Okay. Is this the only time that Professor Akbulut used a
3 recording of -- a recording made of a meeting to suggest to
4 the recipients of an email that he would hold them liable for
5 its contents?

6 A. No, it is not. I would say that he has many times used a
7 recording to threaten people with retribution, in fact.

8 Q. Okay. Thanks.

9 DR. PROMISLOW: I would like to move this as --
10 be admitted as CP-6 into the record.

11 MARKED FOR IDENTIFICATION:

12 CHARGING PARTY EXHIBIT 6

13 10:45 a.m.

14 BY DR. PROMISLOW:

15 Q. So now I'm handing you the contents of Charging Party Binder
16 Tab 11.5. This is an email from Professor Akbulut of
17 August 28th to the whole department. Would you identify this
18 document for us?

19 A. Yes. This is an email from Professor Akbulut to the entirety
20 of the math department to the email list of math.msu.edu,
21 which includes staff, undergraduate TA's, and faculty. I
22 believe it does not include graduate students, however. And
23 this email is in response to -- in response to an email from
24 you about mandatory OIE RVSM training.

25 Q. Would you read the text that Selman included at the top?

1 A. At the top?

2 Q. The email that -- above --

3 A. Oh, yes. Right.

4 Q. Selman's component of the email.

5 A. His email said, "I also think Office of Institutional Equity
6 should take discrimination and harassment seriously. I
7 believe lying, forging academic records in order to bully
8 faculty has no place in the university. I suggest OIE put
9 university administrators who violate these principles in
10 mandatory training sessions and take serious actions (I had
11 math department and CNS deans office in mind). As you
12 recall, OIE cited math Grad Students Chair for discriminating
13 grad students, and no serious protective measures were taken
14 by the math Chair, now the math Chair is trying to appoint
15 another GS chair who publicly lied about a grad course and
16 the academic record of a fellow faculty in order to penalize
17 him (most of these things are detailed on my website). Have
18 a wonderful productive semester. Best Regards, Selman
19 Akbulut."

20 Q. Does anything particularly strike you about this document?
21 What jumps out to you about this email that he wrote?

22 A. Well, he's again -- he's -- many things strike me about this
23 document. He is continuing the allegations that I publicly
24 lied about his graduate course, which is, in fact, not true.
25 It is sent to a wide audience. It's quite disturbing that he

1 has moved on to copying the staff of the department. This is
2 bad for department morale. And I have to say there's a
3 certain irony in him discussing bullying as something that
4 action must be taken about.

5 Q. Louder.

6 A. Oh. I have to say there's a certain irony in him pointing
7 out that the university needs to do something to take on
8 bullying.

9 Q. Thank you.

10 DR. PROMISLOW: I would like to admit this as
11 Binder Tab CP-7.

12 MS. DOUKOURE: I object. This document is not
13 in its original form. This document has been altered by the
14 charging party. Words have been added to this email.
15 Therefore, it is -- it's not appropriate to admit something
16 that's been altered.

17 DR. PROMISLOW: I'd like to respond. The words
18 that were added were merely identifying markings so that I
19 would not get confused. The red type up there is what's been
20 added so that I can track my documents and not get confused.

21 MS. DOUKOURE: The charging party is attempting
22 to testify he marked this document up as to the nature of
23 this document. The best evidence of what this document is
24 and how it's related is this -- is through the testimony.
25 They have edited this document. It is no longer in its true

1 form. It should not be admitted into this tribunal.

2 MR. REIFENBERG: Let's see. What are you
3 referring to with respect to editing?

4 MS. DOUKOURE: They added "Jeff Schenker became
5 Grad Director August 15th, 2018." That information is not on
6 this document, was not part of the original document.
7 They're attempting to use it to color information and to try
8 to use this document to persuade and provide evidence that
9 has not been testified to. And it's not in its original
10 form. It should not be admitted.

11 DR. PROMISLOW: I don't understand what you're
12 referring to.

13 MS. DOUKOURE: The document that they gave me is
14 not the same document they're attempting to admit into
15 evidence and so therefore I ask that it be stricken from the
16 record.

17 MR. REIFENBERG: The document we have has the
18 notation "Jeff Schenker became Grad Director August 15th."

19 MS. DOUKOURE: That's the one I have. The one
20 he's trying to admit does not have that. Therefore, it's not
21 properly before this Court pursuant to this tribunal's rules.

22 MR. REIFENBERG: It's not the same document.

23 MS. DOUKOURE: It's not, your Honor. I would
24 ask that the testimony that the witness gave related to this
25 document be stricken as it is not the document that was

1 presented to the rest of us and he was testifying about a
2 document that we have not seen.

3 MR. REIFENBERG: You did advance certain
4 documents -- is this one of the documents that you admitted
5 that you had --

6 MS. KELLEY: No. No, no. No.

7 DR. PROMISLOW: I have a copy that's identical.

8 MS. DOUKOURE: If that's the case, I would renew
9 my objection to the fact that this is not in its original
10 form and therefore properly not admitted. This email is not
11 in its original form and is not properly admitted. And I
12 would also renew my objection that this witness's testimony
13 pursuant to the document that he was handed which was not the
14 document that we received be stricken from the record.

15 JUDGE WHITBECK: Frankly, we're easily confused
16 up here. The document that's in our binder that was
17 originally submitted says, as the chair read, Jeff. Is that
18 the document --

19 DR. PROMISLOW: That's the document that's in
20 the binder.

21 MS. DOUKOURE: That information where it says
22 "Jeff Schenker became Grad Director" is not part of the
23 original document. That was added by the charging party.

24 JUDGE WHITBECK: But it's a document that they
25 submitted --

1 DR. PROMISLOW: Yes.

2 JUDGE WHITBECK: -- in their exhibits; is that
3 correct?

4 MS. DOUKOURE: That's correct. But it should
5 not be submitted as part of the official record because it
6 has been altered from its original state.

7 JUDGE WHITBECK: Well, as long as he makes it
8 clear if that's the case. You can't object --

9 MS. DOUKOURE: He hasn't made that clear.

10 JUDGE WHITBECK: Well, we'll ask him to make
11 that clear.

12 MS. DOUKOURE: And, in fact, your Honor, he
13 actually gave the witness a different document to identify
14 and testify from.

15 JUDGE WHITBECK: I think the committee agrees
16 that the document he originally submitted that has the red on
17 the top is not the same as the document you have in your
18 exhibit list. So let's just set that aside. The document
19 you have in your other hand is the same as the one in the
20 exhibit. You may proceed on that one.

21 DR. PROMISLOW: Okay.

22 BY DR. PROMISLOW:

23 Q. So I would like to hand you -- so I'll just retract the
24 entire submission of Binder Tab 11.5, and I would like to
25 hand you the contents of Binder Tab 11.5, which is the email

1 from Professor Akbulut to the department on August 28th,
2 2017. Ask you if you would identify that document.

3 A. Yes. This is an email from Professor Akbulut to the email
4 list department at math.msu.edu, which includes all faculty,
5 tenure track and non-tenure track, as well as staff of the
6 department, but does not include I believe graduate students.

7 Q. Okay. Would you read for us the -- just the last two
8 sentences of Professor Akbulut's writing of this email?

9 A. "As you recall, OIE cited math Grad Students Chair for
10 discriminating grad students, and no serious protective
11 measures were taken by the math Chair, now the math Chair is
12 trying to appoint another GS chair who publicly lied about a
13 grad course and the academic record of a fellow faculty in
14 order to penalize him (most of these things are detailed on
15 my website). Have a wonderful productive semester. Best
16 Regards, Selman Akbulut."

17 Q. Thank you.

18 DR. PROMISLOW: I would like to move that this
19 document be submitted as CP-7.

20 MR. REIFENBERG: Any objections to this?

21 MS. DOUKOURE: Yes. I renew my objection.

22 There are two instances where this document has been altered
23 from its original state to provide testimonial evidence on
24 the face of the document, which is not appropriate. It says
25 "Item 5: Targeting of Jeff Schenker." It also says "Jeff

1 Schenker became Grad Director August 15, 2018." That is not
2 part of the original document. Therefore, it is not
3 appropriate to admit a document as it's been altered from its
4 original state.

5 JUDGE WHITBECK: Just to be clear, the document
6 that you have in your hand and that is in the binder on the
7 top says "Item 5: Targeting of Jeff Schenker"; is that
8 correct?

9 DR. PROMISLOW: That is correct, sir.

10 JUDGE WHITBECK: Was that in the original
11 document?

12 DR. PROMISLOW: "Item 5: Targeting Jeff
13 Schenker" is what was submitted in the binder.

14 MR. REIFENBERG: Not the original document.

15 DR. PROMISLOW: Can you help me? The original
16 document means the one sent as email? No. It was not
17 sent -- it was not part of the original email.

18 MR. REIFENBERG: I think we will grant your
19 objection.

20 MS. DOUKOURE: Thank you.

21 DR. PROMISLOW: I'm sorry. Could you say that
22 again?

23 MR. REIFENBERG: We grant her objection.

24 MS. KELLEY: So can I just interject here?
25 We're going to have a problem because all of these documents

1 that were submitted starting way back when dismissal for
2 cause charges were filed have little notations by Keith
3 placed on them. They were given to the hearing committee as
4 such a long time ago. These are our exhibits. So if we're
5 going to have to remove those notations that were helpful to
6 Keith at one point, and probably still are now, to keep track
7 of his, you know, documents, then we're going to need time to
8 do that. I mean, it's been sitting here in front of the
9 parties and the hearing committee forever.

10 MS. DOUKOURE: Right. But we're having a
11 hearing today and evidence --

12 MS. KELLEY: But all rules of evidence do not
13 apply.

14 MS. DOUKOURE: You know, I let her speak for
15 like three minutes. I would appreciate the same respect and
16 decorum. Thank you.

17 MR. REIFENBERG: One lawyer.

18 DR. PROMISLOW: I have documents which have the
19 issues raised by the counsel removed, and I have documents
20 that were submitted in the binder that were part of an
21 ongoing package that were sent to several different review
22 panels, so the issue --

23 MR. REIFENBERG: So are you saying you're going
24 to remove these documents that have, for example, that
25 targeting of Jeff Schenker?

1 DR. PROMISLOW: I have copies before me which
2 have that removed. The objection from counsel is that that's
3 not the item in the binder and her objection is that they
4 have the documents, so I have the documents with the items
5 removed.

6 MR. REIFENBERG: So you're admitting the
7 documents but not the ones in the binder?

8 DR. PROMISLOW: I'm admitting the documents with
9 the objectionable language removed. I have this prepared. I
10 remind the Court that --

11 MR. REIFENBERG: Then submit the documents that
12 you have that don't have those notes on them.

13 DR. PROMISLOW: I have them now. These are the
14 prepared documents I have for today.

15 MS. DOUKOURE: I'm going to renew my objection.

16 MS. KELLEY: They all have --

17 MS. DOUKOURE: Oh, my God.

18 MS. KELLEY: They all have that notation just to
19 clarify what Keith is trying to tell you. They all have --

20 DR. PROMISLOW: The documents in the binder.

21 MR. REIFENBERG: But you're submitting -- but
22 you're telling me you're submitting the documents that don't
23 have --

24 DR. PROMISLOW: That do not. My initial attempt
25 was to submit a document that does not have any extraneous

1 notation on it beyond an identifying marker that allows me to
2 keep track and --

3 MS. DOUKOURE: I will continue to renew my
4 objection. This committee set forth very strict rules which
5 opposing counsel so frankly reminded us from at the beginning
6 that everything that was supposed to be submitted was
7 supposed to be submitted by August 2nd. We are here today
8 where they are swapping out documents. They're swapping them
9 out. I haven't had a chance to look at or review anything
10 that they're saying now is supposedly part -- like just a
11 document that's part of the binder that they have added to.
12 So they're going to have the opportunity to switch out
13 documents and without the ability for anybody to review them.
14 The purpose of this August 2nd deadline was to avoid this
15 problem. It is opposing counsel's responsibility to make
16 sure that her documents were in the best form possible.

17 MR. REIFENBERG: The hearing committee rules
18 that as we go through the documents that are in this binder
19 we will strike the added information, for example, in this
20 one document "Item 5: Targeting Jeff Schenker" part and we
21 will not take those additions into account.

22 MS. KELLEY: Perfectly acceptable.

23 DR. PROMISLOW: So you want documents without
24 those to be submitted into the record.

25 MR. REIFENBERG: Documents without those

1 submitted into the record.

2 MS. DOUKOURE: Your Honor, just so we're clear,
3 he is not submitting the document that he attempted to submit
4 the first time. He is actually blacking out the extraneous
5 information on the document that we have so that we know that
6 it's the same document. That's correct?

7 JUDGE WHITBECK: Can you go to the document
8 we're discussing, which I believe is --

9 MS. DOUKOURE: Yes. I have it in front of me,
10 your Honor.

11 JUDGE WHITBECK: All right. Does that document
12 in your possession have the words "targeting of Jeff
13 Schenker"?

14 MS. DOUKOURE: Yes, it does.

15 JUDGE WHITBECK: Does it have the words "Jeff
16 Schenker became Grad Director August 15, 2018"?

17 MS. DOUKOURE: Yes, it does.

18 JUDGE WHITBECK: Those were in the documents
19 submitted to you; correct?

20 MS. DOUKOURE: That's correct.

21 JUDGE WHITBECK: All right. The Chair has ruled
22 that those items admitted into evidence will be stricken, in
23 other words, we will black them out, and that we will not
24 consider them in any form in our decision-making process.

25 MS. DOUKOURE: Thank you. I just wanted to

1 clarify because it was -- from what Mr. Promislow said, it
2 appeared that he was going to try to reenter the original
3 document that he had without those words, and instead I'm
4 asking that this document be submitted and that those words
5 be blacked out.

6 JUDGE WHITBECK: That's what we're going to do.

7 MS. DOUKOURE: Okay. I just wanted to clarify.

8 MR. REIFENBERG: We will do that for all of the
9 additional documents.

10 MS. DOUKOURE: Thank you. I just wanted to
11 clarify because it appeared that that's not what
12 Mr. Promislow understood and was attempting to do.

13 MS. KELLEY: Thank you.

14 DR. PROMISLOW: So if I understand correctly
15 now, I have -- I'm trying to understand where we are in the
16 process. I have already handed Professor Jeff Schenker this
17 document and he's already described it and I was moving to
18 admit and now it's going to be admitted conditional that
19 these items be struck.

20 MR. REIFENBERG: Which document is this?

21 DR. PROMISLOW: This is Binder Tab 11.5, Item 5.

22 JUDGE WHITBECK: And CP-7.

23 DR. PROMISLOW: CP-7 now.

24 MR. REIFENBERG: Since it is after 11:00, --

25 DR. PROMISLOW: Break?

1 MR. REIFENBERG: -- we'll break for ten minutes.
2 DR. PROMISLOW: Okay. CP-7.
3 MARKED FOR IDENTIFICATION:
4 CHARGING PARTY EXHIBIT 7
5 11:05 a.m.
6 MR. REIFENBERG: So it is now 11:05.
7 (Recess taken at 11:05 a.m.)
8 (Back on the record at 11:17 a.m.)
9 BY DR. PROMISLOW:
10 Q. I'm moving now to Binder Tab 11.6. This is an email from
11 Professor Akbulut.
12 MR. REIFENBERG: Again, just throw this in.
13 It's understood that the top line that starts with
14 "Targeting" and the line that starts with "Estrella" has been
15 stricken.
16 MS. DOUKOURE: Thank you.
17 BY DR. PROMISLOW:
18 Q. Okay. So this is an email from Professor Akbulut to Jeff
19 Schenker, the faculty, and Estrella Starn. Can you identify
20 this document for us?
21 A. Yes, I can. Yes. This is an email sent by Selman in October
22 of 2017 in response to an informational email I had sent to
23 the department in my role as grad director.
24 Q. Can you read this document for us, the top sent by Professor
25 Akbulut?

1 A. Yes. "Jeff, How can Keith Promislow appointed to be the GS
2 chair, when you lie about grad courses, and don't even bother
3 to correct yourself, see item (3) in" the PDF file
4 motion7.pdf on his website. "Selman."

5 DR. PROMISLOW: Okay. I would move to admit
6 that document as CP-8 I believe we're at.

7 MR. REIFENBERG: Any objections?

8 MARKED FOR IDENTIFICATION:

9 CHARGING PARTY EXHIBIT 8

10 11:19 a.m.

11 BY DR. PROMISLOW:

12 Q. Binder Tab Item 11.7, which is an email from Professor
13 Akbulut to Jeff Schenker of October 6, 2017. Can you
14 identify this document, Jeff?

15 A. Yes. This is an email sent by Selman in October of 2017 to
16 me and copied to all faculty and graduate students in the
17 math department in response to an informational email I had
18 sent in my role as grad director.

19 Q. What's the significance to you of the fact that it was sent
20 to all graduate students?

21 A. Having a targeting email like this sent to all graduate
22 students makes it very difficult to do the job of grad
23 director. This email and the previous email he sent that we
24 looked at which was sent to the new graduate coordinator in
25 math came very, very quickly after one another. At this time

1 Selman was -- was emailing quite frequently to informational
2 emails that I had sent to a wide audience. I felt that this
3 undermined my -- my ability to perform my job as grad
4 director.

5 Q. Did that have any impact on your relationship with the
6 graduate coordinator, graduate students?

7 A. They did. I certainly -- the graduate coordinator was new on
8 the job and I had to explain what all of this was about, and
9 it made her -- you know, made the first month on the job very
10 stressful for her to start receiving emails like this while
11 she was doing the new tasks that we needed.

12 Q. Okay. Thank you.

13 DR. PROMISLOW: I'd like to move to admit this
14 as CP-9.

15 MARKED FOR IDENTIFICATION:

16 CHARGING PARTY EXHIBIT 9

17 11:21 a.m.

18 MR. REIFENBERG: Any objection?

19 MS. DOUKOURE: No objection.

20 BY DR. PROMISLOW:

21 Q. So at this point how did you feel this was impacting your
22 ability to function as the graduate director?

23 A. I felt that the regular response to informational emails that
24 I was sending with emails of this nature was interfering
25 strongly with my ability to function as grad director. I

1 couldn't imagine continuing to do the job if every or almost
2 every email I sent was -- received this sort of response, and
3 I believe this is when I came to speak to you about steps
4 that we might take.

5 Q. So what sort of steps did you consider?

6 A. Well, actually the first step I -- that I did take ultimately
7 was to meet with Professor Akbulut to discuss the situation
8 with him and try to reach an understanding in an informal
9 personal way. I felt that if I was able to talk with him and
10 reach an understanding that maybe we could -- we could move
11 to the other side of this.

12 Q. So you set up a meeting with Professor Akbulut?

13 A. Yes, I did.

14 Q. Roughly when was this?

15 A. It was in October of 2017.

16 Q. Contemporary with these emails?

17 A. Yes.

18 Q. I'm going to hand you what is the content of Binder Tab 11.9,
19 which is an email from Professor Akbulut Friday -- I'm sorry,
20 an email from Professor Akbulut to you, chain of emails,
21 Friday, October 13th, 2017. Can you identify this?

22 A. Yes. These are emails that Selman and I exchanged after our
23 rather long meeting one evening after a department program.

24 Q. These are private emails?

25 A. These are private emails. Yes. There's nor large audience.

1 These are just between Selman and myself.

2 Q. Okay. So can you read Selman's initial email at the bottom?

3 "Dear Jeff."

4 A. Yes. "Dear Jeff, After our meeting today, I did go over the

5 department meeting recordings once again: Jeff there you

6 clearly say 'Selman your class is canceled because you did

7 not have sufficient number of students!' (a lot of laughter

8 afterwards), Jeff this is a big Lie! Also, in the

9 'Administrative Review' report, which you undersigned clearly

10 states that (in several places) 'According to the records on

11 October 20 2014 Professor Akbulut's grants were encumbered'.

12 Jeff this is also a big Lie! You are responsible for these

13 two lies, until you correct them, I will remind you of these

14 lies in every occasion and in every platform (public or not)

15 and ask you to correct these lies, until then you are not,

16 and will never be a legit GS director in my eyes (because

17 this concerns grad courses). If you claim what you said are

18 not lies, call a hearing (could be the grievance hearing I

19 never had), where we face testify in front of our peers in

20 the university, attorneys present (they can be consolers or

21 NSF inspectors). This issue will never be over with me, just

22 like there is no 'forgive and forget' for a rape victim.

23 Remember you can only forgive the one who admits wrongdoing.

24 ps: don't worry as I promised, I will not raise this issue as

25 a reply to your next grad registration announcement.

1 Regards, Selman."

2 Q. Thank you, Jeff.

3 MR. REIFENBERG: The extra information "Not
4 targeting" this follows the same --

5 DR. PROMISLOW: Yes. This is at the top.

6 MS. DOUKOURE: Yeah. I'm not objecting. I'm
7 assuming that all of these are going to be redacted from
8 that --

9 MR. REIFENBERG: So I don't have to keep saying
10 that.

11 MS. DOUKOURE: No, sir. You do not. I felt
12 like that was a blanket order and it's just going to happen.

13 DR. PROMISLOW: Thank you.

14 MR. REIFENBERG: Just in case.

15 MS. DOUKOURE: Thank you.

16 BY DR. PROMISLOW:

17 Q. Can you read the first two, I'd call them paragraphs, but
18 there's no page break, the first two groupings of text down
19 to about the middle of your text, from your response to
20 Selman's first email.

21 A. "Dear Selman, Thank you for talking with me yesterday. I am
22 glad that we agreed to work together on issues related to the
23 graduate program. The two statements you mention are not
24 lies. They are accurate descriptions of events. For you to
25 publicly accuse me of lying on the basis of these statements

1 is defamatory. Again, respectfully, I ask you to stop doing
2 so. I do regret that something I said caused our colleagues
3 to laugh at you. For this I am sorry. I would be happy to
4 discuss all of this with you again to explain why there is
5 nothing else for me to amend. (Although honestly, I would
6 prefer to talk with you more about reggae music."

7 Q. And Selman's response at the top, can you read that for us?

8 A. "There are facts and there are lies, your claims are lies.
9 Selman."

10 Q. Thank you.

11 DR. PROMISLOW: I move to admit this as CP-10.

12 MS. DOUKOURE: No objection.

13 MARKED FOR IDENTIFICATION:

14 CHARGING PARTY EXHIBIT 10

15 11:27 a.m.

16 BY DR. PROMISLOW:

17 Q. The next item I would like to present is Binder Tab 11.10,
18 which is an email from Professor Akbulut on Friday,
19 October 20th. Jeff, I would ask you to identify this
20 document.

21 A. Yes. This is an email from Professor Akbulut to me, to the
22 grad coordinator of math, Terry Kirkpatrick -- Jim
23 Kirkpatrick, Terry Curry, the Office of the Provost, Stephen
24 Hsu, and president of MSU at the time, Lou Anna Simon, in
25 response to an email I had sent about course registration and

1 the cancellation policy in 2017.

2 Q. And your private communication with Selman indicated he would
3 not bring up these issues in your next email?

4 MS. DOUKOURE: Objection. Objection. Because
5 he's mischaracterizing what the actual testimony was and he's
6 testifying.

7 DR. PROMISLOW: I strike the question.

8 BY DR. PROMISLOW:

9 Q. Did you feel after your face-to-face interaction with
10 Professor Akbulut and your email exchange that the targeting
11 behavior would stop?

12 A. No, I did not in all honesty. After the long conversation I
13 had with Selman the -- what he actually had promised, and I
14 believe he did stick to his word on this, was not to respond
15 to the next email I sent. I believe this is the second email
16 I sent after that.

17 Q. Okay. Thank you.

18 A. And he did respond to this one, and after receiving this
19 email it was clear to me that this targeting would not stop,
20 and that was also clear from my conversation from follow-up
21 emails I had received from Selman in which he threatened me
22 by saying that this -- that this would never go away. I took
23 that to mean that he would continue this process until I gave
24 in to his ball game.

25 Q. Okay. Would you read the email at the top part from

1 Professor Akbulut. You can skip the part about the links
2 unless you just want to list them by name.
3 A. Okay. "Dear Jeff, Having lied about graduate course
4 registration records in the past, I think you should resign
5 from GS Chair position and let some other people-friendly
6 honest person manage that office. I recall, you worked very
7 hard with Keith to close my grad class with 5 (in fact 7)
8 students disrupting my teaching. Aren't you tired of dealing
9 with many complaints of people you have been bullying in math
10 department? Do you really enjoy doing this? The last person
11 Keith put in GS office got cited for discriminating students
12 of Middle Eastern origin, and after that awarded with job
13 security and a big salary increase. I am forwarding this
14 message to higher ups in the University administration, maybe
15 they will come to their senses and do something about you and
16 Keith who have been eroding credibility of our department."
17 And then he points to four different documents on his
18 website.

19 DR. PROMISLOW: I move to admit this as Charging
20 Party Item 11.

21 MS. KELLEY: Keith, can you speak up?

22 DR. PROMISLOW: I'm sorry. I move to admit this
23 as Charging Party Item 11.

24 MS. KELLEY: Just in general.

25 DR. PROMISLOW: I apologize.

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MARKED FOR IDENTIFICATION:
CHARGING PARTY EXHIBIT 11
11:30 a.m.

BY DR. PROMISLOW:

Q. Now I am preparing Binder Tab 11, Item 11, which has two notes that should be stricken. This is an email from Jeff Schenker to me from October 24th of 2017. Can you identify this document for us? Can you describe it a little bit briefly?

A. Yes. This is an email I sent to you describing a confrontation I had with Selman in the common room of the math department the same day.

Q. So how recent was it to -- approximately what time was it to the earlier email that we just described in your face-to-face meeting with Professor Akbulut?

A. This is all taking place in a few weeks in October.

Q. Okay. Thank you. Can you read this email for us, this email you sent to me?

A. Yes. "Dear Keith, Here is a summary of what happened in the common room today: I walked into the common room at little after 2:00. I saw Selman and said hello to him. He came up to me and asked, 'Are you still grad chair?' I said 'yes' and he then asked me how old I am. I looked at him puzzled and asked why. He said he just wanted to know, and mentioned that he is 68. I said I wasn't going to answer and then

1 asked again why he wanted to know. Then, he explained that
2 usually older faculty did jobs like this and that younger
3 faculty focused on research. At this point I asked Rajesh to
4 come over to hear what Selman was saying. Selman repeated to
5 Rajesh that he had asked me how old I was and his reason for
6 asking. I became upset and angry. I kept saying to Selman
7 'You need to listen to me. This is important. You need to
8 stop harassing me' at which point he would interrupt me and
9 tell me that he wasn't harassing me. This went on for a
10 while before Rajesh stepped in and suggested I walk away.
11 Jeff."

12 Q. Okay. Thank you. So what options did you consider at this
13 point? What did you feel there was left to do?

14 A. I did consider filing an OIE complaint against Selman for age
15 discrimination, but I decided that that probably wasn't a
16 particular useful thing to do. And then I did say that -- I
17 did come speak to you about filing a formal complaint about
18 Selman's harassing with the administration.

19 Q. So would you characterize Selman's response to your
20 face-to-face -- how would you characterize Selman's response
21 with your -- of your face-to-face interaction? So you had
22 a -- I'm sorry. How do you characterize the outcome of your
23 face-to-face interaction with Selman when you sat down with
24 him?

25 A. Oh. Well, I mean, one outcome is -- is that that initiated

1 the formal -- that I initiated this formal complaint with you
2 about his behavior.

3 Q. I'm sorry. I was too vague in my question. How would you
4 characterize the outcome of the face-to-face one-on-one
5 conversation that you had with Selman? You had a one-on-one
6 conversation with him.

7 A. The previous conversation.

8 Q. The previous conversation.

9 A. So it was before. I think that there was ultimately no
10 useful outcome to that.

11 Q. Do you feel that the behavior you were trying to modify got
12 better or worse?

13 A. It got worse.

14 Q. Okay. Thank you. So when we discussed this behavior, do you
15 have a recollection of what our conclusion was for an option
16 for the next process?

17 MS. DOUKOURE: Your Honor, I object because he's
18 asking the witness to testify as to what their collective
19 recollection is and their collective understanding is and
20 this witness cannot testify to what Mr. Promislow was
21 thinking about.

22 BY DR. PROMISLOW:

23 Q. All right. Strike the question.

24 A. I -- I do remember that I asked you to pursue the option
25 of -- of -- of a complaint about workplace defamation with

1 Terry Curry. The answer came back that on the issue of
2 defamation I was on my own, I was free to sue someone if I
3 liked, but that with regard to workplace harassment that MSU
4 would -- that's something I could ask you to do.

5 Q. So the outcome of the meeting or the decision --

6 MS. DOUKOURE: Objection. He's testifying
7 again.

8 DR. PROMISLOW: I remove the question.

9 JUDGE WHITBECK: I'm sorry. We can't hear you.

10 DR. PROMISLOW: I'm sorry. I remove the
11 question.

12 MS. KELLEY: You need to speak up, Keith.

13 DR. PROMISLOW: I understand.

14 MS. YERMAK: Use the microphone right there.

15 DR. PROMISLOW: It's hard to remember. The
16 acoustics in here are quite low.

17 JUDGE WHITBECK: Well, if you stick to the mike,
18 it's much better.

19 MS. KELLEY: He's a professor, so he likes
20 walking around and talking.

21 DR. PROMISLOW: So I now have a final document
22 I'd like to present.

23 JUDGE WHITBECK: I don't think you moved CP-11.

24 A. It's still sitting here.

25 DR. PROMISLOW: Thank you. I move to submit

1 this document which I believe is now CP-12.

2 MS. DOUKOURE: I have no objections.

3 MARKED FOR IDENTIFICATION:

4 CHARGING PARTY EXHIBIT 12

5 11:36 a.m.

6 BY DR. PROMISLOW:

7 Q. So now I have a final document for you which is Binder

8 Tab 11c, as in Charlie. This is usually in the back.

9 (Discussion off the record at 11:37 a.m.)

10 (Back on the record at 11:39 a.m.)

11 BY DR. PROMISLOW:

12 Q. Okay. So this is Binder Tab 11c, which is -- I guess I have

13 to introduce this. This is a document prepared by Professor

14 Schenker for the University Committee on Faculty Affairs.

15 Can I hand you this document and ask you to describe it for

16 us briefly, Jeffrey?

17 A. Yes. This is an impact letter or impact statement that I

18 wrote for the University Committee on Faculty Affairs when

19 they were considering the case involving Selman that had

20 initiated in my discussions with you in October.

21 Q. Are these your own words? Did you write this yourself? Is

22 this your own work?

23 A. Yes. I wrote this myself.

24 Q. Would you read this for us?

25 MS. DOUKOURE: I'm going to object to him

1 reading this into the record. If he's trying to admit it as
2 evidence, there's no reason to read it into the record, plus
3 it's not -- like I understand that this is an informal
4 process and that the Rules of Evidence loosely apply, but we
5 don't need him to sit here and read this if they're going to
6 ask to admit it. The best evidence of what his impact was is
7 for him to testify to that. We are here in a testimonial
8 proceeding which requires him to testify.

9 MR. REIFENBERG: I agree that reading the whole
10 thing is a waste of time. Can we have him summarize?

11 MS. DOUKOURE: I have no objection to him
12 actually testifying today. He has not so far testified to
13 very much of anything other than reading documents into the
14 record. I have no objection to him testifying as to his
15 feelings, his present sense recollection of things, which is
16 considered to be testimonial. I have no objection to that.
17 But I do object to him reading from the document while he's
18 testifying.

19 MR. REIFENBERG: Have him testify, not read the
20 document.

21 DR. PROMISLOW: Can he hold the document while
22 he's -- it's okay if he has it?

23 A. I don't need to look at it.

24 BY DR. PROMISLOW:

25 Q. Okay. So, Jeff, would you summarize the primary impact,

1 the -- would you summarize the content of this document for
2 us, then?

3 A. Yes.

4 Q. Generally the impact that this process has had on you and
5 your role as a faculty member at Michigan.

6 A. The -- the repeated bullying type emails that had been
7 distributed by Selman to a wide audience have had a strong
8 psychological impact on the math department. In this letter
9 I point out that it's very hard to actually gauge the full
10 impact because they came so rapidly and so often that they
11 created essentially a new normal in which we expected to hear
12 more and more of these emails, and it very much created a
13 negative atmosphere in the department. Because of these
14 emails, I did very much consider stepping down as graduate
15 director, which of course was Selman's goal in sending these
16 was to get me to resign. He made that clear. At least he
17 made it clear that he felt I shouldn't be in the job. And I
18 did also consider looking for a position elsewhere because it
19 seemed to me that bullying like this was going to be
20 tolerated at MSU and was part of the normal functioning of
21 the department. I didn't -- well, let me -- let me not --
22 let me not continue with that. It did make it very
23 difficult -- his emails made it difficult to carry on the job
24 of grad director because they were -- they were, you know, in
25 response not to specific, you know -- they were out of

1 context. I would send an email with information about a
2 fellowship or about asking for volunteers to -- to serve on a
3 panel or, you know, regarding course -- you know, course
4 registration and would get this response from him which was
5 completely unrelated to what was -- was -- you know, what was
6 being -- what was being put forth and I was -- you know, in
7 that particular part of my role as grad director I'm just
8 trying to disseminate information. And it had a strong
9 impact and it's very upsetting. It's made me very unhappy,
10 as I wrote in the -- in the letter. I usually start letters
11 with the phrase it's my pleasure to write to you about this
12 today, and I felt like this was distinctly -- this was the
13 letter I'd written that is distinctly the least amount of
14 pleasure I got out of writing. Yeah. I think that's --

15 Q. Could you just give me an idea between your writing of this
16 letter and your serving on the Administrative Review Panel,
17 how much time was that?

18 A. That is just about two years.

19 Q. And since your writing of this letter and now?

20 A. It's been a year.

21 Q. Another year. Okay. Would you say that the emails from
22 Professor Akbulut were steady over this period or . . .?

23 A. So they moved, the targeting of them moved, but they have
24 been relatively steady, yes. They've continued.

25 DR. PROMISLOW: I would move to admit this

1 document as CP-13 I think we are.

2 MR. REIFENBERG: Any objections?

3 MS. DOUKOURE: The only objection I have is
4 hearsay testimony that he just testified to. It's redundant,
5 unnecessary. It's not best evidence. We're here in a
6 testimonial proceeding. If we were here on the documents, we
7 could have submitted our binders in closing arguments and
8 been done with this whole proceeding. The charging party's
9 required to put on some evidence of -- like actual evidence
10 that's not hearsay, that's not a written document, that's not
11 irrelevant based on things that happened prior to this
12 hearing in other proceedings to move forward. And if we're
13 going to go through this process of having a witness do
14 nothing but read from documents, this process is really
15 unnecessary, and this document is really unnecessary given
16 the testimony of the witness, which is what we're here today
17 to hear. This is not testimony, per se. It's hearsay at
18 best.

19 MR. REIFENBERG: We're going to deny the
20 objection and accept the document.

21 DR. PROMISLOW: Move to submit.

22 MARKED FOR IDENTIFICATION:

23 CHARGING PARTY EXHIBIT 13

24 11:47 a.m.

25 BY DR. PROMISLOW:

1 Q. Okay. One final question for you, Jeffrey. In your opinion,
2 what impact would it have on you if Professor Akbulut were
3 allowed to remain as a member of the faculty?

4 A. So I've given this some great deal of thought because this is
5 a very unpleasant procedure to be going through, but at every
6 step of this process Professor Akbulut has -- has escalated
7 the -- and moved the harassment to a larger audience and to
8 whatever audience has been involved in findings against him.
9 In response to these impact letters, I just recall that he
10 has posted them on his website labeled as hate letters. I
11 think if the panel reads my letter, they will find that it is
12 not a hate letter but rather a sorrowful description of some
13 unfortunate incidents. And he has tweeted about this and
14 continued to send emails, MSU emails referring to these as
15 hate letters and then moved on to targeting other people who
16 have been involved in findings about him. So I think
17 unfortunately the impact of him being allowed to remain a
18 faculty member would be that it would show that MSU simply
19 does not want to take a strong stance toward creating a
20 culture in which bullying and harassment are not tolerated,
21 and that's very -- it's unfortunate that it's got to this
22 point, but I think it's very important that the culture of
23 MSU be -- be nurtured in the correct way, which is that
24 bullying and harassment if taken to the logical conclusion
25 are just simply not acceptable.

1 DR. PROMISLOW: Thank you. I'm done with the
2 witness. That's the end of my presentation for this witness.

3 MR. REIFENBERG: Cross.

4 CROSS-EXAMINATION

5 BY MS. DOUKOURE:

6 Q. First, allow me to introduce myself. I've been making a lot
7 of statements. You don't know who I am. My name is Amy
8 Doukoure. I'm an attorney working on behalf of Professor
9 Akbulut today. So thank you for taking this time to meet
10 with us today. I'm sure this isn't easy for you to be up
11 here testifying against your colleague. I have the same
12 issue that you have is I speak very, very quickly, so if I
13 speak too quickly and you can't understand me, please just
14 ask me to slow down and I will.

15 So I want to touch on several points that --
16 regarding your testimony and we might go back through some of
17 these documents that were admitted as evidence again just for
18 clarification. First I'd like to say you were assigned to
19 the hearing panel that was tasked with determining whether
20 Professor Akbulut had an Abrogation of Duty; is that correct?

21 A. I was assigned -- technically that's not correct because I
22 was assigned to an Administrative Review Panel. It was not a
23 hearing. It was administrative review.

24 Q. Were there notes taken at that hearing, at that review panel?

25 A. We did not take notes in our meetings. We had informal

1 discussions. There were emails that were exchanged as
2 follow-up. And the final document that we produced is the --
3 is the outcome of our discussions.

4 Q. So you had a formal discussion -- informal discussions that
5 led to a formal decision; is that correct?

6 A. Well, I'm not sure that that's a completely correct
7 characterization of it. We had a committee meeting that led
8 to -- that led to this document.

9 Q. So the committee meeting, did it or did it not utilize
10 information obtained in your informal discussions?

11 A. No. The information that is the basis of this document were
12 the emails and recordings and course registration records
13 that were submitted to us by various members of the math
14 department.

15 Q. What about Professor Akbulut's -- you testified earlier that
16 you considered whether or not Professor Akbulut's grants were
17 fully encumbered. Is that still correct right now?

18 A. Are his grants encumbered now?

19 Q. No. Is your testimony still correct that you consider that
20 his grants were fully encumbered?

21 A. Yes.

22 Q. How do you get that information?

23 A. I did that the same way that I would check whether my grants
24 were encumbered. I went to speak to the accountant in our
25 department who handles grants.

1 Q. Was that a formal or informal conversation?

2 A. That -- I mean, explain to me the difference between a formal
3 and informal conversation.

4 Q. I believe you used that term.

5 A. Yeah. I know. That was a -- so I need to explain to you the
6 difference. I'm not sure there is a difference. We asked
7 for it.

8 Q. So every conversation you had, was that a formal conversation
9 that you used in your allegation?

10 A. Probably not, because there were parts of the conversations
11 that were -- I'm not quite sure where you're going with this.

12 Q. Parts of the conversations with whom?

13 A. I'm sorry. Can you repeat your question again because --

14 Q. Sure. I'm trying to figure out where you got all of your
15 information from.

16 A. As I said, we consulted with administrators in the
17 department.

18 Q. Which ones?

19 A. Carolyn Wemple, Rich Hensh, Keith Promislow, and we also
20 consulted with -- we took the emails from Selman. Most of
21 the consultation was done by email. I believe in the case of
22 the consultation with Carolyn Wemple it was done
23 face-to-face.

24 Q. With who?

25 A. Several members of the committee. I don't remember who was

1 there. I think it -- I know I was there, but I don't
2 remember exactly all of the --

3 Q. Did she prepare any documents for you?

4 A. She did not.

5 Q. If I show you a document from that same year -- first let's
6 go back because there's not a real clear record of when all
7 this took place. When did you speak to Carolyn Wemple about
8 the --

9 A. I don't have an exact date.

10 Q. What year?

11 A. In 2016.

12 Q. What month?

13 A. April.

14 Q. That was after the course was canceled; isn't that correct?

15 A. Long after the course was canceled.

16 Q. There was some discussion during that whether the course was
17 canceled because a grad student who Mr. Akbulut was going to
18 pay tuition for that course for whether or not he was capable
19 of paying that tuition; is that correct?

20 A. That is correct.

21 Q. And isn't it correct that based on that information that he
22 was attempting to pay tuition for a grad student to get his
23 enrollment together that people were told his grants were
24 fully encumbered; isn't that correct?

25 A. Yes.

1 Q. And it's your testimony here today that Carolyn Wemple told
2 you that his grants were fully encumbered; isn't that
3 correct?

4 A. Yes.

5 Q. What if I told you she prepared a formal written document on
6 written letterhead from Michigan State University on January
7 of 2016 that says his grants were, in fact, not fully
8 encumbered? Would that surprise you?

9 A. No. I believe I've seen that document, and I believe that
10 that refers to a total grant balance which does not take into
11 account encumbrances. That is my understanding.

12 Q. Have you seen emails from Carolyn Wemple where she says that
13 his grant's not fully encumbered?

14 A. No.

15 Q. If I showed those to you today, would you be surprised?

16 A. No, I wouldn't be, because grant encumbrance changes all the
17 time. It has to do with -- perhaps I can explain encumbrance
18 to you because I'm not sure --

19 Q. I don't need you to explain it to me. I'm just asking you to
20 testify to what I'm asking you today. If I told you that
21 around the same time that Professor Akbulut was not allowed
22 to register a student because he was told his grants were
23 encumbered that Carolyn Wemple and other people in that
24 department emailed stating the grad -- the grants were not
25 fully encumbered at that time, would that surprise you?

1 A. There are several things that would surprise me.

2 Q. Is that a yes or no?

3 A. Do I have to answer only yes or no or can I provide context?

4 Because the question was -- the question was extremely -- it

5 had a great deal of bias in it and it had some incorrect

6 statements in it.

7 Q. That's my prerogative. I'm asking you if Carolyn Wemple sent

8 an email to Professor Akbulut at the time that he was not

9 allowed to register a student because Keith Promislow was

10 saying his grants were fully encumbered, would that surprise

11 you?

12 DR. PROMISLOW: Can I object? This is too

13 complicated a question for him to answer.

14 MS. DOUKOURE: It's a very straightforward

15 question. I'm asking him whether or not he is aware of or

16 would be surprised by an email about the subject that he's

17 already testified to.

18 JUDGE WHITBECK: Those are two different things,

19 aware of or surprised.

20 MS. DOUKOURE: Right. But my question at this

21 point is whether he would be surprised.

22 JUDGE WHITBECK: That's your question?

23 MS. DOUKOURE: That is my question. It is a

24 very clear-cut question.

25 A. I -- I cannot answer the question because it is not

1 clear-cut. Can you make it more clear-cut, please?

2 BY MS. DOUKOURE:

3 Q. Sure. Carolyn Wemple sent an email to Professor Akbulut in
4 October when they canceled his class because Keith Promislow
5 stated his grants were fully encumbered stating his grants
6 were not fully encumbered, does that surprise you?

7 A. Not actually particularly.

8 Q. So if people were not allowed to enroll for his class because
9 Keith made a statement that was false about his grants being
10 encumbered, that doesn't surprise you?

11 A. Oh, that would surprise me a great deal because people -- the
12 people who were asking to enroll in his class could have
13 easily enrolled if they did, but no effort was made for them
14 to enroll. They asked --

15 Q. How can you say that?

16 A. We consulted with the graduate secretary for math at the
17 time.

18 Q. Did you consult with the students?

19 A. Yes. We -- we did not -- we saw emails from students.

20 Q. Did you consult with the students?

21 A. We saw the emails that the students had submitted.

22 Q. To whom?

23 A. As part -- they were provided to us.

24 Q. By whom?

25 A. I actually don't remember whether it was from Selman or

1 whether they came from Keith.

2 Q. All right. Who were those emails solicited from?

3 A. Luke Williams was the student in question.

4 Q. And if there are emails between Professor Akbulut and Keith

5 Promislow asking to allow this student to enroll at the

6 student's request and Keith saying that he couldn't because

7 the grants were encumbered, would that surprise you?

8 A. No. I believe I've heard that. I would have seen his email.

9 Q. So you've seen emails where Keith has stated that the grants

10 were fully encumbered?

11 A. I -- I'm not sure if I have or not. This is -- this is -- if

12 you're willing to provide me with an email, I might be able

13 to -- to have a stronger recollection of whether or not I've

14 seen it. And I -- if I -- if I may, this is -- this -- as we

15 made clear in the finding of the Administrative Review Panel,

16 this is all very much beside the point. If Selman had -- of

17 course had been canceled wrongly, the correct approach to him

18 would not have been to abrogate his duty in the spring and

19 refuse to teach the assigned course in October --

20 Q. Let's take a step back. So you're a tenured professor here;

21 correct?

22 A. Yes.

23 Q. How is your tenure determined? Is there a contract or a code

24 of conduct ir --

25 A. Yes. There is a -- there is a -- there are -- there is a

1 faculty handbook. There's a -- I can't remember the
2 terminology for it now, but there's a code of teaching
3 responsibility regarding teaching.

4 Q. Is there a general understanding or agreement about how many
5 courses tenured professors have to teach each semester?

6 A. Yes. We are -- in the math department we are on a 2-1 load,
7 which means we teach two courses one semester and then one
8 and a half or one and two, but that's -- that is -- that's
9 not guaranteed. It can be changed by the chair and it is
10 sometimes done so for research and active faculty. But
11 certainly Selman would expect to run one.

12 Q. He would expect to run one? What does that mean for people
13 who are not familiar with what that exactly means?

14 A. As I just said, it means you take two -- you teach three
15 total courses in one year, two in one semester, one in the
16 next.

17 Q. And the way that those courses are decided, is that two in
18 the fall, one in the spring, or it can be either one?

19 A. It can be either way.

20 Q. So if Selman taught two courses in the spring, would he be
21 required to teach two courses -- or strike that. I'm sorry.

22 If he taught two courses in the fall of 2015,
23 would he be required to teach two courses in the spring of
24 2016?

25 A. No. Most likely not.

1 Q. Do you know of anybody else who had their courses canceled,
2 graduate courses canceled because of low enrollment in
3 October of 2015 for the spring of 2016?

4 A. Well, I don't. Is there a reason we're asking about 2015-16
5 when the course in question was in 2014?

6 Q. I'm just asking.

7 A. Okay. I was not involved at all with graduate courses in
8 2015.

9 Q. When did you become involved with graduate courses?

10 A. In 2017 was when I became math director.

11 Q. Okay. Let's talk about 2017 courses. Were there any
12 graduate courses canceled for low enrollment the --

13 A. There have been graduate courses canceled for low enrollment
14 during my tenure as grad director. I --

15 Q. How early were they canceled?

16 A. In October.

17 Q. For the next spring?

18 A. For the next spring.

19 Q. What was the enrollment numbers?

20 A. We -- well, subsequent to this course we changed the policy
21 to allow some courses to run enrollment for, but that was not
22 the policy in time when Selman's course was canceled.

23 Q. On October 3rd of the year which is the date I believe his
24 course was canceled for spring course, how many students were
25 enrolled in his course?

1 A. October 3rd? I thought it was a cancellation date of
2 October 20th. But on the cancellation day, records show that
3 there were four students enrolled.

4 Q. There were four students. And the current policy is four
5 students?

6 A. The current policy is four students, --

7 Q. Did any --

8 A. -- which is actually lower than what the College of Natural
9 Science would like us to have, so . . .

10 Q. But that's the policy; correct?

11 A. That's the policy for the math department, yeah.

12 Q. Did any courses run with four students in it that year in the
13 spring?

14 A. I -- I don't know. There were no courses that had four
15 students at the beginning of the semester. Sometimes
16 students drop courses and if they do during the semester,
17 there's very little that can be done about it.

18 Q. If you know, did Selman teach the course that was dropped in
19 the spring of that year?

20 A. The correct answer to that would actually be no because the
21 course was not offered by the university. He did, however,
22 offer an informal course for his students.

23 Q. Did his students receive credit for that?

24 A. I don't know.

25 Q. Did they do research in that course?

1 A. I don't know what the content of that course was.

2 Q. Did anybody use the research in that course to get their
3 Ph.D.?

4 A. I'm -- I'm sure the things that were in that course were
5 useful to people who pursued a Ph.D., whether or not --

6 Q. Is that a yes?

7 JUDGE WHITBECK: Counsel.

8 A. No. I can't answer that question as a yes because that
9 question's --

10 JUDGE WHITBECK: Just a point of clarification.
11 We're talking about the math department; is that correct?

12 MS. DOUKOURE: That's correct.

13 JUDGE WHITBECK: Just the math, not the entire
14 university.

15 MS. DOUKOURE: We're definitely not talking
16 about the entire university. Thank you for clarifying that.

17 BY MS. DOUKOURE:

18 Q. So at the time that you were sitting on this panel -- or
19 committee as you called it, did you review any of the other
20 classes' enrollment?

21 A. We looked at a time sheet -- time-stamped spreadsheet which
22 showed the enrollment for all classes on the date for which
23 cancellations were determined and noted at that time, and
24 that -- that time-stamped spreadsheet could be -- could be
25 submitted, I don't have it handy with me, that -- that the

1 policy was -- was implemented fairly, that no courses -- I
2 don't --

3 Q. So it's your testimony, let me review that information, that
4 no other courses that had four or less students --

5 A. That no other courses that had four or less students were
6 allowed to run. That's correct.

7 Q. Do you know if any other classes were canceled?

8 A. Yes. I believe some were, but I don't remember which ones.

9 Q. If somebody -- strike that.

10 How are people appointed as chairs in the math
11 department?

12 A. There's an election in the department. All such elections --
13 all such appointments -- actually never mind. Let me strike
14 that because that doesn't correctly describe the university
15 policy. So by university policy, unit directors are actually
16 appointed by the provost which she delegates authority for
17 department chairs to the deans, and the deans in general
18 defer to the departments for recommendation, but ultimately
19 the decision whether to appoint or not is up to the dean.

20 Q. And who was the dean of the math department when you were
21 appointed as grad studies chair in 2017?

22 A. So chair -- the chair of the math department was Keith
23 Promislow. The dean of the College of Natural Sciences was
24 James Kirkpatrick.

25 Q. James Kirkpatrick. And who nominated you for grad studies

1 chair?

2 A. For grad studies chair? Keith asked me if I would do that.

3 Keith appoints -- Keith appoints -- the chair of the

4 department appoints Director of Graduate Studies and the

5 Director of Undergraduate Studies.

6 Q. Do they call for comments when people are appointed --

7 A. No.

8 Q. -- from the other faculty members?

9 A. It's not required, no.

10 Q. It's not required. Is it permitted?

11 A. It is permitted.

12 Q. Has anybody ever given comments other than Professor Akbulut

13 regarding the nomination of somebody as the chair of anything

14 for the math department?

15 DR. PROMISLOW: Can I make a point of order?

16 His title is director. He's not chair. He's Director of

17 Graduate Studies.

18 BY MS. DOUKOURE:

19 Q. Were you grad studies chair in 2017?

20 A. I became grad studies chair in August of 2015, yes.

21 Q. We're talking about 2017.

22 A. No. It's not grad studies chair. It's Director of Graduate

23 Studies. It's a private position. Grad studies chair. It's

24 Director of Graduate Studies.

25 Q. Because that's the terminology that you're using and I'm

1 reflecting your terminology.

2 A. I pretty much try to stick to Director of Graduate Studies,
3 but I may have accidentally slipped.

4 Q. So how did you become Director of Grad Studies? Let's do
5 this again.

6 A. I was appointed by the chair of the math department.

7 Q. Which was?

8 A. Keith Promislow.

9 Q. Is that how directors are generally given the title of grad
10 studies chair or director?

11 A. Yes. They are generally appointed by the chair. In fact, by
12 department bylaws that is how it works. And the chair would
13 usually consult about the appointment with the Advisory
14 Committee for the department, which is an elected committee,
15 a committee with elected and appointed members.

16 Q. And they would give comment?

17 A. They would give comment. Within the context of the Advisory
18 Committee.

19 Q. They would give comment?

20 A. Yes.

21 Q. Is anybody else allowed to give comment for --

22 A. Anybody is free to email the chair with comments at any time.

23 Q. Do you know whether that's ever taken place before?

24 A. I am unaware of anyone who has commented on the appointment
25 of a Director of Graduate Studies to a broad audience and

1 would --

2 Q. I didn't ask you about broad audience. I didn't ask you
3 about all that. I'm asking you has anybody ever --

4 A. Of course people have commented to the chair on the
5 appointment.

6 DR. PROMISLOW: Would you let him finish his
7 response? Can she let him finish his response before cutting
8 him off?

9 MS. DOUKOURE: I'm just directing him to answer
10 the question that I actually asked and not the question of
11 his choosing.

12 BY MS. DOUKOURE:

13 Q. If you had serious concerns about somebody's credibility or
14 serious concerns about something that took place in your
15 department, would you feel that it's necessary or would you
16 feel that you have a duty to voice those concerns if somebody
17 is going to be given a leadership role? Yes or no.

18 A. Again, do I have to answer these questions yes or no --

19 Q. It's a yes or no question.

20 A. -- because they come -- they come with -- they come with
21 leading parts that -- I mean, yes, I would voice those
22 concerns.

23 Q. And you, in fact, have voiced your concerns; correct?

24 A. Yes. I have voiced concerns in the past.

25 Q. And you had your concerns taken seriously; correct?

1 A. Sometimes. Sometimes not.

2 Q. And when you were voicing your concerns, would you consider
3 that to be harassing or targeting somebody?

4 A. Absolutely not if it was done to the correct audience and did
5 not include defamatory statements.

6 Q. Defamatory has a very specific meaning. Would you like to
7 define what you think defamatory means?

8 A. Slanderous or libelous in the sense of --

9 Q. Those are also legal terms.

10 A. In the sense of lying about somebody to hurt their
11 reputation. I may not have the legal definition correct.
12 I'm not a lawyer.

13 Q. You consider what Professor Akbulut did to be harassing and
14 bullying; correct?

15 A. Yes.

16 Q. That's your subjective understanding of what happened to you;
17 is that correct?

18 A. Of course it's my subjective understanding.

19 Q. And if Professor Akbulut had a series of events happen to him
20 that he felt led to false statements being made and put into
21 his record, that would be his subjective understanding of
22 what happened to him; correct?

23 A. Yes.

24 Q. And you took corrective action to try to have your concerns
25 taken seriously by going to Keith Promislow and, in fact,

1 they were taken seriously? That's why we're here today;
2 isn't that correct?

3 A. Yes.

4 Q. Do you know whether or not Professor Akbulut filed any
5 grievances with Michigan State University?

6 A. Yes, he did.

7 Q. Do you know whether or not university protocol was followed
8 with regards to those grievances?

9 A. I have not followed that closely, so I don't know.

10 Q. Do you know what the policy is for grievances, what the
11 policy is to file a grievance?

12 A. I don't know the specifics, no. I'm only aware that a
13 grievance policy exists.

14 Q. If Professor Akbulut filed grievances and he felt that
15 Mr. Promislow had made comments that were defamatory and
16 harassing and libel and slanderous to him and his reputation
17 by making comments about his grant being encumbered fully and
18 other comments that we'll get to at a time that is more
19 appropriate and he felt that he was harassed or bullied and
20 then felt that that was being upheld by further
21 documentation, do you believe that frustration level would
22 rise or would fall?

23 A. I'm not a psychiatrist. I can't testify as to what his -- I
24 cannot testify to his emotional state.

25 Q. But you testified here today that you felt that MSU didn't

1 take Professor Akbulut's bullying seriously prior to you ever
2 filing a complaint against Professor Akbulut. Wasn't that
3 your testimony?

4 A. I don't believe that is what I said, and if it is, it
5 mischaracterizes my view. There was no way for them to take
6 it seriously before I filed a complaint.

7 Q. Because what you testified to was that after all these emails
8 prior to talking to Keith Promislow, you could not believe
9 that MSU allowed this type of bullying to take place and at
10 that time you had not --

11 A. No. That mischaracterizes -- could we read back what I
12 actually said by any chance? Because that's not what I said.

13 Q. So what did you say?

14 A. What I was attempting to say was that this is unacceptable
15 and I didn't believe that MSU should tolerate it and that's
16 the -- that's the process that was begun.

17 Q. If false statements --

18 A. There's no way for them to have -- there's no way for MSU to
19 remain responsible before I complained about it.

20 Q. I mean, I agree. With that understanding, if there was a
21 series of events that Professor Akbulut felt targeted and
22 felt were slanderous and libel, wouldn't he reasonably want
23 those things to be corrected?

24 A. Of course he would.

25 Q. Was any of it corrected at any time?

1 A. There were efforts made to talk with Professor Akbulut
2 similar to how I had a conversation with him to try and --
3 and reach an understanding, and it was discussed in the
4 Advisory Committee, and actually he was -- he was offered
5 a -- he was offered the chance at a teaching release by the
6 department for a semester in recognition of the fact that
7 he'd already taken a salary cut and he shouldn't have to pay
8 twice for -- for one thing. It's not really paying twice for
9 one thing, but anyway. It was an attempt to reconcile
10 really. Nothing else -- he refused it, though.

11 Q. Do you recall reading an email or receiving an email that was
12 sent to the entire math department where it discusses whether
13 or not there might have been a misunderstanding and
14 miscommunication about what happened?

15 A. I -- I believe there were a few such emails.

16 Q. Is that the same email that attempted to give Professor
17 Akbulut the teaching release, if you recall?

18 A. I don't recall because I think there were several such
19 emails.

20 Q. As a result of the Abrogation of Duty Penalty, do you know
21 what Mr. Professor Akbulut's punishment, so to speak, was?

22 A. Yeah. He received a ten percent pay cut for one semester I
23 believe.

24 Q. And what else; do you know?

25 A. I thought that was it.

1 Q. Did he receive a letter in his file?
2 A. Yes. Of course.
3 Q. So if they gave him the money back but they didn't take the
4 letter and the other documents that slandered his name out of
5 his file --
6 A. They gave him money back?
7 Q. They gave him the teaching release to make up for the money
8 that he had lost as a penalty; correct?
9 A. No. That's not correct. That's not correct.
10 Q. Then why did they give him a teaching release?
11 A. They gave him the teaching release as an attempt to reach an
12 understanding with him, and it's not within the purview --
13 Q. I mean, you can't say that because you didn't give him the
14 teaching release.
15 A. I didn't give him the teaching release, but I was involved in
16 the discussion. You just asked me why they gave him the
17 teaching release and now you're telling me -- I'm sorry. Now
18 you're telling me I can't tell you why. So I can't tell you
19 why --
20 Q. You can't tell me what somebody else did. I asked you --
21 A. I cannot tell you -- I cannot tell you why they gave him a
22 teaching release.
23 DR. PROMISLOW: You're either asking for his
24 opinion or you're not.
25 MS. DOUKOURE: I'm asking for his knowledge on

1 his opinion.

2 JUDGE WHITBECK: Perhaps if you could restate
3 the question so we can understand it.

4 MS. DOUKOURE: Thank you.

5 BY MS. DOUKOURE:

6 Q. How do you get paid? Based on -- you get a salary or is it
7 based on the amount of hours that you teach?

8 A. I have a salary.

9 Q. And if you don't teach all your classes, what happens?

10 A. I've never done that.

11 Q. Do you know what happens?

12 A. If -- if you refuse to teach a course that you're assigned
13 to, you will most likely receive an Abrogation of Duty
14 Penalty and have your salary cut.

15 Q. By how much?

16 A. Well, I imagine it would be a bit more than -- than ten
17 percent in general because teaching is -- it should be about
18 13 percent or something.

19 Q. So is it based on the amount of hours that you didn't teach
20 or the amount of courses?

21 A. No. The courses you teach.

22 Q. Is it based on the credit hours --

23 A. Actually you know what? I have no knowledge of that. I am
24 not the vice president for academic human resources. I don't
25 know how the penalty is determined.

1 Q. Fair enough. So it could be that they gave him the teaching
2 release to make up for the fact that there was a
3 miscommunication about why he didn't teach that course; isn't
4 that correct?

5 A. It could be that's the case. It could be they're saying
6 we'll stand behind you as well.

7 Q. Fair enough.

8 A. Lots of things could be.

9 Q. And if there was a miscommunication --

10 MR. REIFENBERG: Could we just stop this for a
11 second? Can you clarify what you mean by teaching release?

12 MS. DOUKOURE: Sure. So the witness testified
13 that at some point in time after the Abrogation of Duty
14 Penalty was given to Professor Akbulut that as a matter of --
15 that there was an email sent around that they said that there
16 was possibly a misunderstanding that led to the Abrogation of
17 Duty Penalty and as well as that misunderstanding Professor
18 Akbulut was given a teaching release whereby he would not
19 have to teach a course to make up for the penalty that he was
20 given. So he was fined for not teaching a course and then
21 given that given a release of not having to teach another
22 course to make up for that fine.

23 MR. REIFENBERG: So the teaching release was in
24 response to the ten percent?

25 MS. DOUKOURE: It wasn't in response to the ten

1 percent. The ten percent was a penalty because of the
2 Abrogation of Duty. The teaching release was a result of the
3 Kirkpatrick finding that there was a miscommunication that
4 has led --

5 DR. PROMISLOW: I don't know how -- are you
6 giving your opinion?

7 MS. DOUKOURE: He asked me a question, and your
8 witness just testified.

9 A. I said nothing about Kirkpatrick. I did not know of any -- I
10 don't think Kirkpatrick was involved in it all.

11 MS. DOUKOURE: Okay. Somebody -- this witness
12 just testified that somebody gave Professor Akbulut a
13 teaching release.

14 A. Let me explain. Let me explain that again, then.

15 MS. DOUKOURE: He gave him a teaching release
16 and that there was an email that went around that discussed
17 that teaching release as being the result of the Abrogation
18 of Duty Penalty possibly being a result of miscommunication.
19 That was this witness's, charging party's witness's
20 testimony.

21 JUDGE WHITBECK: And therefore?

22 MS. DOUKOURE: Pardon?

23 JUDGE WHITBECK: And therefore what?

24 MS. DOUKOURE: We'll get to that. That's where
25 I'm headed.

1 JUDGE WHITBECK: You better get there because
2 it's becoming rather complex here and I'm not sure he can --

3 MS. DOUKOURE: I mean, this issue is complex, to
4 be honest with you, your Honor, because he is claiming that
5 he was --

6 JUDGE WHITBECK: I'm not your Honor.

7 MS. DOUKOURE: I know. It's form of habit.
8 This witness is testifying that he felt harassed, he felt
9 bullied, so he took action. My client is saying all along
10 since the beginning of this that he felt harassed, he felt
11 bullied, only nobody took action. So that's what I'm getting
12 to, your Honor, is that this witness complained to
13 Mr. Promislow and here we are today, but Mr. Promislow did
14 all of these things, and like the overall idea is that
15 Professor Akbulut was not targeting this individual. He's
16 trying to clear his own record.

17 JUDGE WHITBECK: Frankly my question is much
18 narrower than that.

19 MS. DOUKOURE: Sure.

20 JUDGE WHITBECK: I'm trying to understand from
21 the testimony of this witness through your questions what
22 happened, and if you -- I think the witness has said he
23 received a penalty, ten percent reduction in pay. Thereafter
24 apparently there were emails circulated, which we haven't
25 seen as yet.

1 MS. DOUKOURE: As of yet.

2 JUDGE WHITBECK: And thereafter there was a
3 teaching release.

4 MS. DOUKOURE: That's correct.

5 JUDGE WHITBECK: I think that's his testimony.

6 MS. DOUKOURE: Yes.

7 JUDGE WHITBECK: Do you need to go any further
8 than that?

9 MS. DOUKOURE: No, I don't, your Honor.

10 JUDGE WHITBECK: Okay. That's it.

11 MS. DOUKOURE: Yeah. I was moving on, your
12 Honor.

13 JUDGE WHITBECK: Good.

14 MS. DOUKOURE: And I know you're not your Honor,
15 but it's form of habit.

16 JUDGE WHITBECK: That's all right.

17 MS. DOUKOURE: Thank you. You used to be your
18 Honor, though.

19 JUDGE WHITBECK: Yes, I did.

20 MS. DOUKOURE: So you're also used to it.

21 I made a note on this document that I just want
22 to erase off. May I approach the witness?

23 MR. REIFENBERG: Yes.

24 MS. DOUKOURE: What I'm handing the witness is
25 what has already been admitted as Charging Party's Exhibit 7.

1 MR. REIFENBERG: Tell us where --

2 MS. DOUKOURE: Oh, I took them out of my binder
3 and marked them as they were marked.

4 MS. KELLEY: It's 11.5.

5 MR. REIFENBERG: This is the email of Monday,
6 August 28th, 2017?

7 MS. DOUKOURE: That is correct.

8 BY MS. DOUKOURE:

9 Q. Do you recall testifying about this email a little while ago?

10 A. Yes.

11 Q. Can you explain the contents of this email again?

12 A. This is an email from Selman to the entirety of the
13 mathematics department in response to an informational email
14 from the chair about mandatory OIE RVSM training for the --
15 or a mandatory meeting for the department in which, among
16 other things, Selman complains about my appointment as
17 graduate director.

18 Q. Can you read the beginning of that email, please?

19 A. Selman's email?

20 Q. Yes, please.

21 A. Didn't I already read this entire --

22 Q. Yes, you did.

23 A. Okay. "I also think Office of Institutional Equity should
24 take discrimination and harassment seriously. I believe
25 lying, forging academic records in order to bully faculty has

1 no place in the university. I suggest OIE put university
2 administrators who violate these principles in mandatory
3 training sessions and take serious actions (I had math
4 department and CNS deans office in mind). As you recall, OIE
5 cited math Grad Students Chair for discriminating grad
6 students, and no serious protective measures were taken by
7 the math Chair, now the math Chair is trying to appoint
8 another GS chair who publicly lied about a grad course and
9 the academic record of a fellow faculty in order to penalize
10 him (most of these things are detailed on my website). Have
11 a wonderful productive semester. Best Regards, Selman
12 Akbulut."

13 Q. So the real cause of this email is the fact that Professor
14 Akbulut thinks that the O -- I'm going to say the acronym
15 wrong because I can't say it, OIE should take seriously the
16 ideas that discrimination and harassment should be taken
17 seriously when it comes to professors; is that correct?
18 Harassment and targeting of professors, all of those things
19 he would wish the OIE would take more seriously?

20 A. He asks that they take discrimination and harassment
21 seriously.

22 Q. For professors; is that correct?

23 A. He does not specify for professors.

24 Q. Just harassment and discrimination. So the real issue -- are
25 you aware of whether or not there was a grad chair

1 director -- or grad students director that was cited for
2 discrimination by the OIE?

3 A. I am aware of that.

4 Q. And did that happen?

5 A. There was a finding against him that he had -- yes.

6 Q. Yes. That he discriminated against who?

7 A. Students in the program of Middle Eastern descent.

8 Q. Of Middle Eastern descent. So his accusations that --

9 A. Actually you know what? I'm not sure that I've seen the
10 text, that I know what the actual -- I know there was a
11 finding against him, but I've actually only learned of this
12 from emails from Selman, and I don't know that I've seen the
13 original texts, although Selman did share his confidential
14 texts with the department. I don't know that I actually read
15 to the end or reviewed the true findings, so I believe I'm
16 quoting from an email of Selman's when I say that rather
17 than -- and then the actual finding itself, so that's not --
18 I don't have knowledge of that.

19 Q. Okay.

20 DR. PROMISLOW: Then I object that the OIE
21 findings are confidential. I don't see the relevance of it.
22 She's asking about confidential documents which she should
23 not have asked.

24 MS. DOUKOURE: The OIE finding is actually in my
25 binder.

1 DR. PROMISLOW: It is still a confidential
2 document.

3 MS. DOUKOURE: And I'm not asking him to discuss
4 the nature of the OIE, just the filing itself, to test the
5 veracity of the statements made by my client and to also
6 acknowledge the concerns of my client about harassment and
7 discrimination.

8 MR. REIFENBERG: Did the OIE actually cite the
9 chair for discrimination?

10 MS. DOUKOURE: They made a determination that he
11 violated Michigan State University's anti-discrimination
12 policy as it resulted from -- or as regarded Middle Eastern
13 and Muslim students.

14 DR. PROMISLOW: Chair is the chair of the
15 department. Director is the Director of Grad Studies.

16 MS. DOUKOURE: It was the grad studies director
17 that was there before our current witness.

18 MR. REIFENBERG: So really it's the grad studies
19 director.

20 MS. DOUKOURE: That's correct.

21 DR. PROMISLOW: And that's relevance towards the
22 testimony of this witness?

23 MS. DOUKOURE: They've introduced these
24 documents as evidence. I'm going to -- I'm testing -- I'm
25 showing the actual intent of the document to be something

1 other than what they've seen. These documents are in
2 evidence. I'm asking about the statements made for both
3 their truthfulness but also to go to the intent of my client,
4 who is actually the responding party who is on trial for
5 losing his job today.

6 DR. PROMISLOW: The current witness is not a
7 party to that OIE. He's not claimant or respondent in that.
8 This is not meant for that.

9 JUDGE WHITBECK: I think he said that.

10 MS. DOUKOURE: Yes, he did. And I'm asking
11 about his knowledge, of whether he knows.

12 JUDGE WHITBECK: And he said no.

13 MS. DOUKOURE: Well, he said yes and then he
14 said no.

15 JUDGE WHITBECK: Haven't you completed that
16 subject?

17 MS. DOUKOURE: I mean, yes, but then they
18 objected and we're having this whole dialogue now.

19 JUDGE WHITBECK: Well, I think the question of
20 the confidentiality of the OIE report, which is one of your
21 exhibits, is not one that's before us currently.

22 MS. DOUKOURE: That's correct.

23 JUDGE WHITBECK: It is not one that's before us
24 currently. And therefore -- unless you're trying to
25 introduce it now.

1 MS. DOUKOURE: I'm not.
2 JUDGE WHITBECK: There's nothing for us to rule
3 on.
4 DR. PROMISLOW: I remove my objection.
5 BY MS. DOUKOURE:
6 Q. You testified earlier -- I'm going to -- you have that
7 document still; is that correct?
8 A. Um-hmm.
9 Q. I'm going to take that. You don't need it anymore. Thank
10 you. I don't want to lose it. Thank you.
11 You testified earlier regarding the email where
12 Professor Akbulut talks about making recordings of meetings;
13 isn't that correct?
14 A. Yes.
15 Q. And using those recordings against people; is that correct?
16 A. Yes.
17 Q. Did he use a recording against you?
18 A. No.
19 Q. Was there anything in that recording against your character?
20 A. Was there -- excuse me?
21 Q. Is there anything from that recording that would necessarily
22 damage your character?
23 A. Would you clarify which recording?
24 Q. Any of the recordings. From the committee hearing, from the
25 informal interview you did with my client pursuant to the

1 Abrogation of Duty Penalty committee hearing.

2 A. I'm unaware of a recording of a conversation between me and

3 Professor Akbulut.

4 Q. But you testified earlier about an email that was sent to you

5 regarding a recording he made of you and now your testimony

6 is that you're unaware?

7 A. I'm -- I'm -- I'm unaware -- sorry. I have not listened to a

8 recording of the conversation with me and Professor Akbulut.

9 I presume he has made some because he made other recordings,

10 but --

11 Q. Have you said anything in any conversation with Professor

12 Akbulut that would be damaging to your character?

13 A. Yes. He said things that would be damaging to my character.

14 Q. I said have you.

15 A. Have I said anything?

16 Q. Yes.

17 A. No.

18 Q. Have you said anything dishonest in any of those recordings?

19 A. No.

20 Q. So him threatening to use the recording of your statements

21 against you, is that really a threat at all?

22 A. No.

23 Q. But yet we're here because you were targeted because he

24 threatened to use recordings against you of your truthful

25 statements?

1 A. Yes.

2 MS. DOUKOURE: Okay. I have nothing further.

3 MR. REIFENBERG: All right. Let's see. It is
4 almost 12:30. Exactly 12:30.

5 MS. DOUKOURE: I did that on purpose.

6 MR. REIFENBERG: Do you want to do it now or
7 after?

8 MS. KELLEY: Are we talking about rebuttal now?

9 JUDGE WHITBECK: No. Redirect.

10 MS. KELLEY: The policy doesn't permit it or
11 allow for it, but if you want to.

12 JUDGE WHITBECK: You have the right.

13 MR. REIFENBERG: You have the right.

14 MS. KELLEY: That's not how I interpreted your
15 guidelines or whatever they were.

16 MR. REIFENBERG: Or would you rather wait?

17 DR. PROMISLOW: I can ask a few -- I don't have
18 much. So I'm not too sure -- I wasn't aware there was going
19 to be an offer for redirect, so I haven't prepared anything.

20 JUDGE WHITBECK: I'm sorry. I don't mean to be
21 overtechnical, but you can request redirect. Do you wish to
22 do that?

23 DR. PROMISLOW: I request for redirect.

24 JUDGE WHITBECK: Okay.

25 REDIRECT EXAMINATION

1 BY DR. PROMISLOW:

2 Q. Okay. So I have -- the lawyer for the claimant -- no. For
3 the defendant --

4 MS. DOUKOURE: He's not a defendant. I object
5 to the use of that terminology.

6 A. Respondent.

7 BY DR. PROMISLOW:

8 Q. Counsel has asked you if the tapes that Selman Akbulut -- did
9 Selman Akbulut ever make reference to tapes he had made and
10 their content without disclosing them?

11 A. Yes. He also said he had transcriptions.

12 Q. Did he indicate that the contents of tapes could be extremely
13 damaging to people?

14 A. Yes.

15 Q. Do you feel that allegations that someone has information
16 that is not public that the information is extremely damaging
17 could be harmful for the people who are the subject of that
18 allegation?

19 A. Yes.

20 Q. Do you think it is a strategy to take people and then --
21 Professor Akbulut often -- let me strike the question.

22 Did it play a role in your deliberations on the
23 Advisory Review Panel that Professor Akbulut had made claims
24 about tapes, particularly that these had gone to the faculty,
25 were mentioned in the department meetings, and that he

1 claimed that there was content on the tapes that would
2 completely exonerate?

3 MS. DOUKOURE: Objection. That's a compound
4 question. I don't know what Faculty Review Committee he's
5 talking about. That assumes facts not in evidence. I don't
6 know where we're going here.

7 DR. PROMISLOW: I'm sorry. I misspoke.

8 BY DR. PROMISLOW:

9 Q. Did the Administrative Review Panel consider tapes that
10 Professor Akbulut had made clandestinely and submitted to
11 you?

12 A. Yes, we did.

13 Q. Had he publicly made claims to faculty about these tapes and
14 their content and the significance of the content?

15 A. Yes, he had.

16 Q. Did he provide you with minute-by-minute details of what the
17 tapes would say?

18 A. Yes. He pointed to specific minutes in the tapes where he
19 said certain things happened.

20 Q. Did the committee listen to the tapes with the presence of
21 this review guide that he provided?

22 A. Yes, we did.

23 Q. Did you find that the tapes substantiated what he said they
24 would say?

25 A. No, they did not.

1 DR. PROMISLOW: Thank you. I have no further
2 questions.

3 MR. REIFENBERG: We'll break for lunch.

4 (Recess taken at 12:34 p.m.)

5 (Back on the record at 1:22 p.m.)

6 MS. KELLEY: Good afternoon. Keith, can you
7 take the stand?

8 DR. PROMISLOW: Can I take the binder with me?

9 MS. KELLEY: Yeah. Those are the exhibits that
10 we're going to be introducing out of the binder, so instead
11 of me walking up, he's just going to pull them out of the
12 binder.

13 MS. DOUKOURE: I object to them having the
14 binder at the stand. He's a witness.

15 MS. KELLEY: Okay. Why don't you just keep it
16 near you closed, so I --

17 MS. DOUKOURE: I object to having the binder
18 with him while he testifies.

19 JUDGE WHITBECK: Why?

20 MS. KELLEY: I just want a closed binder so I
21 don't have to walk back and forth.

22 MS. DOUKOURE: Because he can't testify from
23 what's in the documents. He's supposed to be testifying from
24 his present sense recollection.

25 MS. KELLEY: We'll be introducing many exhibits.

1 JUDGE WHITBECK: You can refresh his
2 recollection by reference to the documents, and they're going
3 to be introduced as exhibits; right? So I'm not sure I
4 understand the objection.

5 MS. DOUKOURE: I mean, I've never been in a
6 proceeding where the witness is allowed to review documents.

7 MS. KELLEY: This is not a courtroom or -- it is
8 a courtroom, but it's not a court proceeding.

9 MS. DOUKOURE: I would ask that counsel again be
10 reminded to allow me to finish my statements before she talks
11 over me.

12 MS. KELLEY: Just keep it closed until I tell
13 you to open it.

14 MS. DOUKOURE: A little bit of decorum would be
15 nice.

16 JUDGE WHITBECK: Certainly that's so. And both
17 of you, again, please allow the other person to finish what
18 they're saying. Don't talk over each other. The court
19 reporter can't get it if there are two people talking at the
20 same time.

21 MS. KELLEY: Understood.

22 JUDGE WHITBECK: So let's just keep it in an
23 orderly process. It's the easiest way. There's no need to
24 go beyond that.

25 KEITH PROMISLOW

1 (At 1:23 p.m., called by Ms. Kelley and
2 subsequently sworn by the reporter, testified as
3 follows)

4 DIRECT EXAMINATION

5 BY MS. KELLEY:

6 Q. Keith, can you state your name for the record, please?

7 A. Keith Promislow.

8 Q. Okay, Keith. Just give us a little bit of your background,
9 you know, your qualifications, what your title is, your role
10 at the university, your role in this process.

11 A. I am a professor in the Department of Mathematics, Michigan
12 State University.

13 MS. DOUKOURE: Your Honor, he's not been sworn
14 in to testify.

15 MS. KELLEY: Oh sorry.

16 COURT REPORTER: Would you please raise your
17 right hand. Do you solemnly swear or affirm that the
18 testimony you're about to give will be the truth, the whole
19 truth, and nothing but the truth?

20 DR. PROMISLOW: I do.

21 MS. KELLEY: Okay. Did you get that question or
22 do I need to repeat it?

23 COURT REPORTER: I have "I am a professor in the
24 Department of Mathematics, Michigan State University."

25 A. I'll continue. I'm a professor in the Department of

1 Mathematics at Michigan State University. I joined the
2 University in 2003 as an associate professor with tenure. I
3 was promoted roughly five years later, and I became
4 department chair in 2014, and then I was reelected as
5 department chair last spring, and I've just started the first
6 day of my second term but I am actually on sabbatical today
7 and Jeff Schenker is acting chair starting today.

8 BY MS. KELLEY:

9 Q. Can you take a look at what's Tab 11.0 in the binders?

10 A. Can I pick it up? Okay. I found it.

11 Q. Okay. Can you just tell me what that document is? Are you
12 familiar with it and the history surrounding it?

13 A. Yes, I am. This is the Abrogation of Duty Penalty that was
14 issued by Associate Provost Office to Professor Akbulut
15 regarding his refusal to teach an assigned lesson.

16 JUDGE WHITBECK: What is the date?

17 THE WITNESS: June 30th [sic], 2015.

18 BY MS. KELLEY:

19 Q. Yes. January 30th, 2015.

20 A. It says --

21 Q. It's Tab 11.0.

22 A. There are some attachments before it, so it's not the first
23 thing in the document. There's an Attachment 2 and
24 Attachment 3 I think and then Item 0.

25 Q. Once you get to the green dividers, you've gotten close.

1 A. It's not at the very beginning.

2 JUDGE WHITBECK: 11.

3 A. Tab 11, Item 0.

4 MS. KELLEY: And then if you flip, you'll see

5 Item 0.

6 MR. REIFENBERG: It's after the attachments.

7 MS. KELLEY: It is -- if you go to Tab Binder 11

8 and start flipping -- okay. Yep. After 1. After 2 I

9 believe. It is after Attachment 2.

10 THE WITNESS: There you go. You've got it.

11 MS. KELLEY: Item 0. It's on a --

12 MS. DOUKOURE: Is it after all of the numbers?

13 THE WITNESS: It's the first of the items. So

14 there's Item 1 through many. It's the first of those. After

15 the attachments.

16 MS. DOUKOURE: After the attachments.

17 JUDGE WHITBECK: January 30th.

18 MS. KELLEY: Yes. January 30th, 2015.

19 BY MS. KELLEY:

20 Q. And you are copied on this?

21 A. I was, yes.

22 Q. Okay. And I can't remember. Have you testified -- what led

23 to the Abrogation of Duty Penalty briefly?

24 A. The Abrogation of Duty Penalty was in response to Professor

25 Akbulut's refusal to teach an assigned course, Math 124,

1 Section 36.

2 Q. And was there a grievance of that administrative -- or
3 Abrogation of Duty Penalty?

4 A. Yes. The Abrogation of Duty Penalty indicates that Professor
5 Akbulut may grieve under the Faculty Grievance Policy and he
6 did avail himself of that and he made an appeal to the
7 Faculty Grievance Office.

8 Q. What was the outcome of that grievance?

9 A. The outcome of the grievance was that the Abrogation of Duty
10 Penalty was upheld I believe is the exact statement, and now
11 I'm using my memory, which could be faulty, was that the
12 documents presented by Professor Akbulut did not bear
13 relevance to the charges that were brought before -- to
14 the -- to the issue he had grieved, which was the Abrogation
15 of Duty. I don't remember the exact words.

16 Q. Did Professor Akbulut seek an administrative review of the
17 Abrogation of Duty Penalty?

18 A. He did.

19 MS. DOUKOURE: Your Honor, I'm going to object
20 to that on foundation. We don't know how he knows this.

21 MS. KELLEY: He said he was the chair of the
22 department.

23 MS. DOUKOURE: The grievances are done by the
24 department?

25 BY MS. KELLEY:

1 Q. Did you participate in the grievance?

2 A. I participated -- I was the -- I guess it's the defendant in
3 the Faculty Grievance Office process, so Professor Akbulut
4 provided files and I provided a counter -- I provided
5 evidence, two evidentiary streams.

6 Q. As chair of the department, are you generally familiar with
7 the processes that are invoked by faculty members when an
8 action has been taken against them? For instance, if a
9 faculty member files a grievance, would you be a participant
10 and learn of the outcome in that?

11 A. Yes. If a faculty member is involved in a official process,
12 then I will certainly be at least privy to the outcome and
13 very likely a member of the -- of this sort of -- it depends
14 upon -- I may not be a member of the deciding panel, but I
15 would be privy to the outcome and I would be kept abreast.

16 Q. Add you would be privy to any sort of outcome of an
17 administrative review?

18 A. Yes, I would, in fact.

19 Q. So do you know that Professor Akbulut requested an
20 administrative review of the Abrogation of Duty Penalty?

21 A. Yes. He did request an administrative review of the -- of
22 the Abrogation of Duty Penalty.

23 Q. And you're familiar with the outcome of that
24 administrative --

25 A. Yes.

1 Q. -- review?

2 A. I'm familiar with the outcome. Yes.

3 Q. Okay. Just a reminder. Try to let me get my question out.
4 It's real difficult for her to get us talking over each
5 other.

6 Can you give a brief overview of what happened,
7 what you became aware of happening in the department after
8 the Administrative Review Panel issued its decision?

9 A. Okay. So after the Administrative Review Panel provided
10 their decision, it went to me, and then I reviewed their
11 decision and I made my supplementary letter whether I
12 supported their decision or not. Their decision was not to
13 overturn the Abrogation of Duty. I indicated I didn't see
14 any reason to -- to -- to disagree with them. And then this
15 decision, I believe it went to the dean's office and then to
16 Professor Akbulut through them. It was communicated first to
17 the dean and then to Professor Akbulut.

18 Q. Can I stop you right there? If you would take a look at
19 what's behind Binder Tab, sorry to jump you ahead here,
20 13.1B. It's Tab 13.

21 A. Yes. Okay.

22 MS. KELLEY: Before we do that, I'd like to
23 admit the Abrogation of Duty Penalty as CP Exhibit, I'm not
24 sure what's next, 14.

25 MARKED FOR IDENTIFICATION:

1 CHARGING PARTY EXHIBIT 14
2 1:33 p.m.
3 MR. REIFENBERG: Which is this?
4 MS. KELLEY: This is the Abrogation of Duty
5 Penalty that we just discussed.
6 MS. DOUKOURE: Just so we're clear, we're still
7 striking all of the extraneous information on the tops and
8 the bottoms of these documents; correct?
9 MS. KELLEY: Understood.
10 MR. REIFENBERG: Yes.
11 BY MS. KELLEY:
12 Q. Okay. So do you recognize Binder Tab 13.1B?
13 A. I do.
14 Q. And what is it?
15 A. It is a copy of my Administrative -- it's a copy of my
16 response to the Administrative Review of Professor Akbulut's
17 finding of Abrogation of Duty.
18 Q. And this is where you just said that you agreed with the
19 Administrative Review Panel?
20 A. Yes. I indicated that I didn't see any reason to disagree
21 with what they provided.
22 MS. KELLEY: Move to admit as Charging Party
23 Exhibit 15.
24 JUDGE WHITBECK: Did you move to admit
25 Exhibit 14?

1 MS. KELLEY: Oh. I did not? I thought I just
2 did that. Move to admit CP Exhibit 14 and that's when she
3 said we are going to redact the stuff on the --

4 JUDGE WHITBECK: Right.

5 MS. KELLEY: Yeah. Has that been admitted?

6 JUDGE WHITBECK: I don't think you moved its
7 admission.

8 MS. KELLEY: Okay. I move to admit the
9 Abrogation of Duty Penalty marked as CP-14.

10 MR. REIFENBERG: Objections?

11 MS. DOUKOURE: None.

12 MS. KELLEY: Now move to admit what is Binder
13 13.1B, Dr. Promislow's letter to Professor Akbulut upholding
14 the Abrogation of Duty Penalty and agreeing with the
15 Administrative Review Panel as CP Exhibit 15.

16 MARKED FOR IDENTIFICATION:

17 CHARGING PARTY EXHIBIT 15

18 1:35 p.m.

19 MS. KELLEY: So that's admitted?

20 BY MS. KELLEY:

21 Q. So after you issued your letter of -- to Dr. Akbulut that
22 agreed with the Abrogation of Duty Penalty and the
23 Administrative Review Panel finding, what happened next?

24 A. So the -- my finding together with the finding of the review
25 panel was sent to the dean's office and they communicated

1 that to Professor Akbulut, and then that is when he began
2 sending emails to the Administrative -- well, to a wide
3 audience targeting the Administrative Review Panel and -- I
4 guess that's what I'd say. That's my answer.

5 Q. Can you turn to what's been marked as 13.1.C? Can you
6 identify that?

7 A. Yes. This is the email -- probably the first email sent by
8 Professor Akbulut after the receipt of the decision of
9 Administrative Review Panel.

10 Q. And what is the gist of this email?

11 A. He's --

12 Q. Can you read the email? It's short enough.

13 A. It's pretty short. It's to the entire Department of
14 Mathematics. "Dear All, To refresh your memory, I am
15 resending my zip-file. For a quick read, open it first, then
16 read the letter to the dean, then read the short document
17 References Course Documents.pdf, which refers to the page
18 numbers of Course-Documents.pdf for details, there you can
19 see Chair's lies. I also have voice recordings of the Chair
20 clearly supporting my claims (a portion of which was made
21 available to Chair's committee by Chairs consent). In due
22 time I will make transcripts of all these recordings. This
23 case will continue as long as I am here, until Chair atones
24 for his misdeeds."

25 So those are the -- those are the voice

1 recordings that were provided to the Administrative Review
2 Panel that was recordings that Professor Akbulut had made of
3 conversations that he and I had in October shortly after the
4 course cancellation. If I could, if it's appropriate, I
5 could give an overview of what happened after. This -- this
6 zip file is essentially Professor Akbulut's summary of
7 documents. I don't know what's exactly in it, but I believe
8 it heavily correlates with what he provided with the Academic
9 Review Panel.

10 MS. DOUKOURE: Your Honor, I'm going to object
11 to him testifying to things that he can't recall and making
12 assumptions about what possibly it was correlated to. He
13 just testified that he doesn't recall what was in it but
14 guesses that it's probably correlated to something that he
15 provided to some other committee that he wasn't a part of.

16 MR. REIFENBERG: We accept that.

17 MS. KELLEY: I don't have any problem with that.
18 You can strike the last portion there.

19 A. May I provide a summary of my recollection of events of what
20 this is?

21 BY MS. KELLEY:

22 Q. Sure. Absolutely you can.

23 A. So I think it's important to say what the process was that
24 led us up to here and what happened after that. So the --

25 MS. KELLEY: Can we admit 13.1C? I'd like to

1 admit 13.1C just before we move on as Exhibit 16 I believe.

2 MR. REIFENBERG: Any objections?

3 MS. DOUKOURE: I have none.

4 MARKED FOR IDENTIFICATION:

5 CHARGING PARTY EXHIBIT 16

6 1:39 p.m.

7 A. So may I proceed?

8 BY MS. KELLEY:

9 Q. Continue.

10 A. So I'd just like to provide, as counsel had said, I'd like to
11 testify and so let me testify. Professor Akbulut's course,
12 his graduate topics course, in fall of 2014 that had been
13 planned to run was canceled for underenrollment. He was
14 assigned a different class, and when he failed to teach a
15 different class, he got the Abrogation of Duty Penalty.
16 Following that, in the February of 2015 period, so this is
17 now about two months after the cancellation and Abrogation --
18 a month after the Abrogation of Duty Penalty, he filed a
19 grievance with the faculty grievance officer. That was not
20 denied. That was -- he appealed that. It was upheld upon
21 appeal at the Appeal Board Faculty Grievance Office. Then in
22 the next summer, so this was now the summer after the course
23 cancellation, there was an effort by two faculty members.
24 There had been a lot of discussion of -- a lot of give and
25 take between Professor Akbulut and a lot of emails exchanged

1 between him and other faculty members of the department
2 presenting various pieces of information, and there was an
3 attempt at what I call at least an olive branch agreement,
4 which has been alluded to earlier. That was an effort led by
5 Professor Matt Hedden and Tom Parker to try and find some
6 resolution to the conflict that had come out of here. This
7 was the agreement that included the offer of a course
8 reduction from me, not from the dean. I want to be very
9 clear about that. So this was negotiated between Professor
10 Akbulut, initially Tom Parker and Matt Hedden got us
11 together, and then Professor Akbulut and I had several
12 meetings, and we agreed on language that would go in here and
13 we agreed that this would end this process and put it away
14 and yes, there was a course reduction in there and there were
15 other statements about the right to assign -- the right for
16 the graduate program to assign time limits because this was a
17 real issue. You've got to understand we do six percent of
18 the teaching in the university.

19 MS. DOUKOURE: Your Honor, I'm going to object.
20 First of all, he's giving a narration. He's not being
21 questioned by counsel. He's testifying to things that are
22 wholly irrelevant to this matter. The policies of the math
23 department and the discussions that he had with other people
24 is hearsay.

25 MS. KELLEY: He's allowed to give his side of

1 the story in this matter.

2 MR. REIFENBERG: He can testify about the
3 circumstances.

4 MS. KELLEY: Sure.

5 BY MS. KELLEY:

6 Q. And I would just say opposing counsel spent a long time
7 talking about course cancellation on cross. So can you give
8 a history of the course cancellation piece of the Abrogation
9 of Duty Penalty as -- can you provide some background of
10 that? I think that's where you were going with this was
11 to --

12 A. Yeah. That's -- so background to the Abrogation of Duty
13 or -- so I already discussed background to the Abrogation of
14 Duty. That's January 2015. I'm now talking about the
15 September -- I'm sorry, August of the following year. Is it
16 okay if I go in that direction or do you want me to stay in
17 the past?

18 Q. What happened in August the following year?

19 A. August of the following year there was an outreach effort by
20 Tom -- Matt Hedden and Tom Parker to faculty in that
21 department --

22 JUDGE WHITBECK: Excuse me. Do you have the
23 names?

24 A. Matt Hedden and Tom Parker. They negotiated an agreement
25 which resulted in an email sent to the entire faculty that I

1 call the olive branch agreement, which was an attempt to put
2 this away. The reason why it did not work was that,
3 unbeknownst to me, I think, and also to other people that
4 Professor Selman also wanted us to remove the Abrogation of
5 Duty Penalty. It wasn't clear to me in the negotiation, and
6 that's not within our power. That wasn't issued by my
7 office. It's not a reasonable thing for me to do. So he had
8 tried, then, in several department meetings to get the
9 department to vote to instruct the Associate Provost's Office
10 or request the Associate Provost's Office to remove the
11 Abrogation of Duty Penalty, and when those motions failed,
12 then he went to the dean to request the administrative review
13 because that was presented to him as his last recourse inside
14 of the judicial review process that MSU has set up. And then
15 from that point after the Administrative Review Panel, now
16 I'm up to May of 2016. That is when Professor Akbulut began
17 targeting other Administrative Review Panel, and what our
18 case is based upon is his actions after receiving this
19 Administrative Review decision and the targeting that he did.
20 There were several other attempts on several other places
21 where he -- I feel he could have received -- he could have
22 stopped his actions and he typically chose not to. Every --
23 every time he was presented with either a definition of a
24 boundary of behavior that was not acceptable, he would
25 deliberately step over it. If he was presented with some

1 sort of attempt to compromise, mediation, he would typically
2 reject it.

3 MS. DOUKOURE: Your Honor, I'm going to object
4 to this witness testifying to my client's state of mind. He
5 said that he stepped over boundaries, he ignored it. He
6 cannot testify to Professor Akbulut's state of mind.

7 MS. KELLEY: I don't think that's a state of
8 mind. I think it's a behavior, an action.

9 MS. DOUKOURE: He said that he just disregarded
10 it. That's a state of mind. Disregarded is technically a
11 state of mind. I want him just to testify to his actual
12 knowledge and not make inferences about what Professor
13 Akbulut may or may not have thought in the process.

14 JUDGE WHITBECK: Forgive me, but I can't recall
15 that he did make reference to what Dr. Akbulut thought. So
16 I'm not sure I get the objection based on his testimony.

17 MR. REIFENBERG: Seems like he's testifying as
18 to the actions.

19 MS. DOUKOURE: He said there are plenty of times
20 when Professor Akbulut could have, in my opinion, stopped
21 what he was doing but disregarded that. That is testifying
22 to my client's state of mind.

23 MR. REIFENBERG: Well, let's try to stay with
24 the actions as opposed to anything that gets close to --

25 THE WITNESS: I'll do my best.

1 MS. KELLEY: Happy to do that.

2 BY MS. KELLEY:

3 Q. So after the Administrative Review decision became final,
4 that's when you wrote your letter agreeing with the --

5 MS. DOUKOURE: Your Honor, counsel's testifying.
6 Is there a question here?

7 MS. KELLEY: I'm just trying to set this up to
8 move on.

9 BY MS. KELLEY:

10 Q. When did the Administrative Review Panel decision become
11 final?

12 A. The Administrative Review Panel decision became final -- I
13 gave my final report in May -- early May of 2015 and then the
14 final review goes through -- is issued by Terry Curry's
15 office. I believe that took them until November of 20 should
16 be 16, November of 2016, which is the year of the
17 Administrative Review Panel, and that was the final step in
18 any M -- the MSU policy allocates to faculty disputes. It
19 basically exhausts Professor Akbulut's appeal to the
20 University.

21 Q. And what time period are we talking about now? After the
22 Administrative Review decision becomes final. Where are we
23 at calendar-wise?

24 A. So the Administrative Review is in May of 2016. It becomes
25 final with Terry Curry's Associate Provost review in November

1 of 2016, so that's roughly two years after the -- a little
2 bit less than two years after the course cancellation.

3 Q. So I think you've given a good summary of the process. I'd
4 like to take you back to May of 2016. And can you turn to
5 13.1D in your binder? And can you identify that and tell me
6 what it is?

7 A. Yes. This is an email from Professor Akbulut sent to the
8 entire department, to the dean, to Terry Curry's office, and
9 then he for some reason also sends it to some particular
10 faculty members, although they would have received it in the
11 department.

12 Q. And can you read the entire email on top, that paragraph?

13 A. "Dear Matt, Sasha, Baisheng, George, and Jeff." That's the
14 Administrative Review Panel. "You recently undersigned a
15 document which claims that my NSF grants were totally
16 encumbered during October/2014 (the Administrative
17 Review [sic] period of Spring/2015 semester), so that I did
18 not have any funds available to cover for my grad student
19 Luke Williams' remaining credits (\$600 for each credit) for
20 my Math 996 class. I am asking you to withdraw your
21 signature from this faulty document."

22 Q. Slow down a little because I'm not sure the court reporter
23 can take it down.

24 A. "I don't have to remind you that, to investigate any NSF
25 grant, you have to consult the Principal Investigator of that

1 grant first (PI is the main person who is accountable to
2 NSF). Had you consulted me, I could have provided you with
3 all the precise documents, spreadsheets and commitment
4 letters). I find it strange that you chose to compose your
5 report without consulting me. I am asking you to correct
6 this before NSF gets involved."

7 Q. So you received a copy of that as chair of the math
8 department; correct?

9 A. As a member of the department.

10 Q. How did you interpret that email?

11 A. I viewed it as an attempt by Professor Akbulut to intimidate
12 and extend the review process beyond that which is allocated
13 by MSU policy. He didn't want it closed.

14 Q. What does it mean for someone to say I'm asking you to
15 correct this before NSF gets involved? What's the
16 significance of that?

17 A. Well, he is trying to indicate that there will be -- I can't
18 speculate to what his attempt is, but . . .

19 Q. How do you view it?

20 A. I view it as an attempt to bring in an outside authority,
21 that if the process at MSU is closed, then I will go outside
22 MSU to find a higher authority who will then evaluate your
23 actions in a critical way.

24 Q. Would it be worrisome for a faculty member if someone made --
25 told them they were going to get the NSF involved?

1 A. I can see how faculty members could consider that to be a
2 very threatening sort of action. That would be very -- that
3 would be very -- it certainly indicates that the -- the
4 impact of this case will be then extended beyond the
5 University. It's not just the involvement of the NSF. It's
6 the involvement of people outside and widening the scope of
7 the impact and widening the scale of people who are involved.

8 MS. KELLEY: Move to admit as Exhibit 17.

9 MS. DOUKOURE: No objections.

10 MARKED FOR IDENTIFICATION:

11 CHARGING PARTY EXHIBIT 17

12 1:51 p.m.

13 BY MS. KELLEY:

14 Q. Can you turn to Binder Tab 13.1F? And can you identify that
15 and tell me what it is?

16 A. Yes. This is an email that I sent to the dean on
17 February 17th, 2016, roughly the same week that the
18 Administrative Review decision was released to Professor
19 Akbulut.

20 Q. Okay. What's going on here? Can you talk about the
21 background behind this email and what's going on with Carolyn
22 Wemple and who Carolyn Wemple is?

23 A. So Carolyn Wemple is the post awards grant staff member.
24 That means she handles all the financial elements of grants
25 once they've been received by a faculty member. She's the

1 agent basically. She acts on behalf of the University to
2 administer the grants for the faculty member. Grants are
3 made to the University. They are controlled by the
4 University. And faculty members must interact with her in
5 order to get approval to spend money for grants. That's her
6 job.

7 Q. And did Professor Akbulut contact Carolyn Wemple on at least
8 one occasion?

9 A. I would say Professor Akbulut has -- so this is -- you have
10 to understand this is now a year and four months after the
11 course cancellation. I would say during this period,
12 particularly in January of 2016, but of course right after
13 the course cancellation Professor Akbulut had sent many
14 emails to Carolyn Wemple asking her to clarify and reclarify,
15 redundant emails, asking her to establish the state of his
16 grant because --

17 MS. DOUKOURE: Your Honor, I'm going to object.

18 JUDGE WHITBECK: Could you hold for just a
19 second? I'm hoping we're on the right one. This is an email
20 dated 5-17; right?

21 MS. KELLEY: 2016. Yes.

22 THE WITNESS: May 17.

23 JUDGE WHITBECK: Not February?

24 MS. KELLEY: I didn't say February.

25 THE WITNESS: Did I say February?

1 JUDGE WHITBECK: Yes, you did.

2 THE WITNESS: Well, I was giving some -- I was
3 giving some background. So yeah. You want me to address --

4 JUDGE WHITBECK: And Dear Jim is who?

5 THE WITNESS: Jim is the -- Jim Kirkpatrick is
6 the dean of the College of Natural Sciences.

7 MS. KELLEY: We're getting to that.

8 JUDGE WHITBECK: And Carolyn is who?

9 THE WITNESS: Carolyn Wemple is the post awards
10 staff member. She is the staff in the Department of Math.
11 She is charged with keeping track of totals and balances and
12 allowing expenditures inside of -- she's the intermediary
13 between the math department and the college level committees
14 that allow grant expansions.

15 JUDGE WHITBECK: And so the Dear Carolyn
16 attachment is an email to Carolyn Wemple from Dr. Akbulut; is
17 that correct?

18 THE WITNESS: It's a copy of an email that
19 Professor Akbulut had sent many times actually to
20 Professor --

21 MS. DOUKOURE: Your Honor, I'm objecting again
22 to the fact that he's saying many times the email was sent to
23 Carolyn. They provided one copy of a document that may or
24 may not have gone to her. He's not the proper person to
25 testify to what was sent to Carolyn. He's just not. He

1 hasn't laid a foundation for how he knows this information,
2 where this information is even -- he hasn't provided any
3 proof of this information at all.

4 MS. KELLEY: Again, we're not talking
5 evidentiary rules here.

6 BY MS. KELLEY:

7 Q. Do you know that Professor Akbulut put pressure on Carolyn
8 Wemple?

9 A. I do.

10 Q. How do you know that?

11 A. I've had several conversations --

12 MS. DOUKOURE: Objection, your Honor. Hearsay.

13 MS. KELLEY: And that's perfectly acceptable in
14 this proceeding.

15 A. Can I proceed? I've had several conversations with
16 Ms. Wemple and with her advisor, her -- manager's not quite
17 the right word, but her supervisor, Beth Koivisto. It was --
18 I was a recipient of many of the emails that were sent to
19 Carolyn because they were sent to the entire department.

20 BY MS. KELLEY:

21 Q. And what did you do as a result?

22 A. So in this email here, this is my attempt now to -- to find a
23 remedy to prevent her from receiving additional emails
24 that from my perspective were attempting to extract
25 information from her that she didn't want to give.

1 Q. And did you have a communication with Selman Akbulut about
2 this?

3 A. There was a resulting follow-up email, so my email to Jim, to
4 the dean, was basically to get his approval, his opinion on
5 my sending an email to Selman limiting his conduct to Carolyn
6 Wemple particularly because of her physical state at the
7 time. It was well-known inside the department that she was
8 in the second round of chemotherapy and she was in a weak
9 physical and mental state because of it.

10 Q. And the email at the bottom of the chain on this exhibit is
11 the email you sent to Professor Akbulut; correct?

12 A. The email at the bottom of the chain entitled "Dear Selman"
13 which in this email was being sent to the dean for vetting
14 was indeed sent to Professor Akbulut in exactly those words
15 within the week.

16 Q. Can you read the last portion of that email?

17 A. Yes. The "Dear Selman" part. This is what was sent. "Dear
18 Selman, The central issue of the administrative review was to
19 determine if the abrogation of duty finding was properly
20 administered. Specifically did you receive your revised
21 teaching assignment, did you refuse to honor it. Their
22 finding, which I support, is that you clearly received and
23 willfully disregarded the teaching assignment given you in
24 October 2014. Any issues regarding available funds in your
25 grant(s) are immaterial to this finding. Please address

1 future correspondence on this issue to me."

2 JUDGE WHITBECK: I'm sorry again. We were on --

3 MS. KELLEY: It's at the very bottom.

4 THE WITNESS: Second page. Of the second page.

5 JUDGE WHITBECK: Okay. "The central issue."

6 The second page.

7 THE WITNESS: Yes.

8 MS. KELLEY: Correct.

9 JUDGE WHITBECK: That's what we're talking

10 about. Second page of this exhibit. I'm sorry.

11 MS. KELLEY: Okay. I move to admit as

12 Exhibit 18.

13 MARKED FOR IDENTIFICATION:

14 CHARGING PARTY EXHIBIT 18

15 1:59 p.m.

16 BY MS. KELLEY:

17 Q. Can you describe the email situation and the email

18 difficulties that were being presented by Professor Akbulut's

19 use of the MSU email system?

20 A. I'm sorry. Can you provide me a specific -- at which point

21 in time or as a general -- I don't quite understand the

22 framing of your question.

23 Q. Take a look at 13.1H.

24 A. H you said as in Harry?

25 Q. 13.1H, yes.

1 A. H. Okay. Thank you. Yes.

2 Q. And can you explain what it is and can you identify it first

3 off?

4 A. This is a three-page document. It's sent -- it's a chain of

5 emails sent from Professor Akbulut to the entire department

6 and with me. It's basically an exchange between Selman and

7 me that occurred roughly on June 25th, 2016, a month and a

8 half after the Abrogation of Duty finding.

9 Q. Did you define some limits for Professor Akbulut on what

10 would be acceptable email use and what would not?

11 A. I defined them for the entire department. I was very clear.

12 All of these emails went to the entire hiring faculty, so all

13 tenure stream faculty members.

14 Q. And can you describe what those restrictions were or what

15 your -- the rules you had put in place were?

16 A. I did. I can tell you this is a month and a half after this,

17 and I had thought for a long time about what it was about

18 these emails that were being sent out that I found to be

19 destructive to the culture of the department, and it wasn't

20 something I did in a day. This is something that took me

21 three to four weeks of thinking and reading. In fact, I have

22 a link to an article that really motivated me about the use

23 of communication and how it impacts behavior groups. And so

24 I arrived at the following definition that I will summarize,

25 and of course it's couched a little bit in the language of

1 free speech, but it's really about human values. So I said,
2 "So let me endeavor to clarify, at least partially, what I
3 view as acceptable use of bulk email (speech) within our
4 department. Consider an email alleging that person, or
5 group, 'X' has made an error or taken inappropriate action
6 (criticism) and the email is sent to a group 'Y'. I consider
7 such an email appropriate when the group Y consists of group
8 X and people with clearly established supervisory roles over
9 group X." Clearly established. "I consider such an email
10 inappropriate when the group Y contains people who have no
11 direct supervisory responsibility for group X; the sense of
12 inappropriateness increases if the sender of the email has
13 some real or perceived authority over group X or group Y."
14 And then I go on to explain why I think it is inappropriate.
15 "My basis for this view is that people need a clear idea of
16 the elements of the community that have prima facie right to
17 evaluate their actions. Public criticism has the implication
18 that a large group has been elevated to pass judgement on a
19 small group. Public criticism can undermine the sense of
20 community, inhibiting people from taking risks by eroding the
21 shared sense of security and stability. If pervasive it can
22 result in less participation in open discussion of
23 principles, less willingness to work for the common good,
24 less innovative thinking, less initiative. In short, it can
25 lead to a 'bad team'." And I point to what I still consider

1 to be an excellent article on characterization of team.

2 Q. Did you receive a response from any faculty members?

3 A. There was a substantial discussion of this. Some faculty
4 members felt that all speech is free speech. I disagree. I
5 received a lengthy response from Professor Akbulut which is
6 attached to the head of this email.

7 Q. Can you read the first paragraph of that email that Professor
8 Akbulut sent you?

9 A. Sure. Sure.

10 JUDGE WHITBECK: Where is it?

11 THE WITNESS: At the very top of the --

12 MS. KELLEY: It's at the top of the exhibit.

13 First page of the exhibit. The very first email. Because
14 these emails come sort of in reverse order.

15 THE WITNESS: Yeah. You gotta go bottom to top
16 unfortunately.

17 BY MS. KELLEY:

18 Q. And can you read the first paragraph out loud?

19 A. "Dear Keith, The issue of 'possible conflicts arising from
20 individuals sending bulk emails to people who have direct
21 supervisory power [sic] over them' has already been dealt
22 with from the very beginning. Wrongly or rightly, grad
23 students were asked to refrain from sending bulk-messages to
24 faculty lists, and they don't (maybe they can't). The rest
25 of what you wrote is poppycock." Smiley face.

1 Q. Can you read also towards the end of that email the second to
2 last paragraph beginning with "Let me tell you"?

3 A. "Let me tell you once again, please remove your entries from
4 my annual evaluation report (about criticizing me exercising
5 my free speech by using various department email lists),
6 because they are used in deciding our salary increases. What
7 you're doing is a retaliation to my free speech, it is not
8 only unethical, but in fact it may be illegal."

9 MS. KELLEY: I move to admit as Exhibit 19.

10 A. Could I add one more comment on this document?

11 BY MS. KELLEY:

12 Q. Sure.

13 A. I also made a clear exception to the -- my guidelines for
14 inappropriate where I gave a clear example. I said, "It IS
15 appropriate," emphasize on is, "appropriate for a faculty
16 member to send an email to all faculty members that is
17 critical of the actions of the chair." I was very explicit
18 about this. "The chair is elected by the faculty, the
19 faculty as a collective serve a supervisory role for the
20 chair. To me, this is the classic definition of protected
21 speech. The role of elections in democracy is to establish
22 collective supervisory roles over [our] leaders, so that they
23 can then be subjected to protected-speech criticism." This
24 is a belief for which I believe deeply.

25 MS. KELLEY: I move to admit as Exhibit 19.

1 MS. DOUKOURE: I have no objections.

2 MARKED FOR IDENTIFICATION:

3 CHARGING PARTY EXHIBIT 19

4 2:06 p.m.

5 BY MS. KELLEY:

6 Q. So can you talk next did Professor Akbulut stop harassing the
7 staff after you sent out that email, the email about email
8 use?

9 A. I would say as a general rule, no, he did not.

10 Q. Can you turn to Tab 13.1L? 13.1L.

11 A. Yes. I have it. Do you want me to identify it?

12 Q. Can you tell me what that is and can you identify it and tell
13 me what it is?

14 A. This is my email to Terry Curry, Associate Provost, asking
15 him for guidance on an event, the confrontation that occurred
16 between Professor Akbulut and Carolyn Wemple, the staff
17 member responsible for post award.

18 Q. And what kind of help were you seeking?

19 A. To place it in context, and I hesitate because the timeline
20 is so long, but this was before the interactions with Jeff
21 Schenker that the tea party -- the department tea event that
22 led to a formal process, and I was seeing if the -- what I
23 felt to be the harassing and confrontational behavior that
24 Professor Akbulut was -- was displaying towards Carolyn
25 Wemple would elicit support from the faculty -- the --

1 whatever Terry Curry's office is, VP academic, as -- for some
2 sort of disciplinary action. This is rising to the level of
3 disciplinary action. And there's a summary of particularly
4 this event which had -- the second summary of other events.

5 MS. KELLEY: I move to admit as Exhibit 20.

6 A. You don't want me to read it?

7 MARKED FOR IDENTIFICATION:

8 CHARGING PARTY EXHIBIT 20

9 2:10 p.m.

10 MS. DOUKOURE: My only objection is this is
11 hearsay. They could have brought this person to testify.
12 They didn't. It is not best evidence. He's trying to --
13 they're trying to admit documents that testify to things that
14 people could have testified to. So they're like sneaking in
15 information in a manner that would not be allowed like
16 normally based on this body's rule about not following the
17 court procedures. But this body, this administrative body is
18 governed by the laws, and this court proceeding, the record
19 for this, can be used in further court proceedings and there
20 are rights that are implicated at law, and there's a lot of
21 case law that's not only from the State of Michigan but also
22 from the Sixth Circuit Eastern Court, Eastern District of
23 Michigan that states that Professor Akbulut has a right to
24 have a proper record made and properly cross-examine
25 witnesses. They're trying to take witness statements through

1 emails that we can't corroborate and put that into evidence.

2 MS. KELLEY: May I respond?

3 JUDGE WHITBECK: But this is his email.

4 MS. DOUKOURE: This is his email that's
5 forwarded, supposedly forwarded somebody else's email, so
6 they're putting it in for the purpose of the prior email.
7 They're trying to -- this is like double hearsay technically
8 under -- under what would be a normal court rule because what
9 they're doing is they're taking what supposedly somebody else
10 emailed him and showing it and then forwarding it to somebody
11 else, so they're putting in his email to really get
12 testimonial evidence for people who are not here to testify
13 today.

14 MS. KELLEY: May I respond? Professor Akbulut
15 certainly has an opportunity to sue the University when this
16 proceeding is over. Nothing precludes that if he thinks
17 there are problems with the process. I will tell you
18 normally how these processes go, someone sits over here and
19 tells the whole story. Faculty member sits over here, tells
20 their whole story. They bring a binder. They have their
21 evidence. A hearing committee decides it. So this is way
22 more process than what is ever had at these proceedings.

23 MS. DOUKOURE: Regardless of what process MSU
24 has had in the past, the Court has set forth what is proper
25 process. Whether or not MS --

1 MS. KELLEY: The --

2 MS. DOUKOURE: Every time I talk. Whether or
3 not MSU is using that proper process remains to be seen. But
4 there is a proper process, a proper code of conduct that is
5 required both under state and federal law because this is a
6 public university. So the public university is -- firing
7 somebody from a public university is the same as firing
8 somebody from the government. There is a process, whether or
9 not MSU uses a formal -- their own process or has a process
10 that comports with the law. We keep hearing Ms. Kelley talk
11 a lot about MSU's policies and process. That's not the only
12 determining factor even though we're here, because whether
13 it -- because he's entitled to due process under the law.

14 MS. KELLEY: May I respond? The task of this
15 committee is to follow university policy. If Professor
16 Akbulut wants to make hay about that policy, this isn't the
17 appropriate forum. We have a policy outlined for this
18 process, and the hearing committee is supposed to follow that
19 policy.

20 MS. DOUKOURE: And I disagree because I am
21 making a record for my client and I will continue to make a
22 proper record for my client despite what Ms. Kelley thinks
23 about MSU's process.

24 MR. REIFENBERG: Our ruling is that it's an
25 administrative proceeding and these are evidentiary

1 considerations. And go ahead.

2 MS. KELLEY: Okay. Where am I?

3 MS. DOUKOURE: I'm going to ask that we take a
4 break now. We have to have a break at two p.m. I have
5 prayer time at two p.m.

6 MR. REIFENBERG: I'm sorry.

7 MS. DOUKOURE: So I'm asking please if we could
8 take a short recess to accommodate that.

9 MR. REIFENBERG: Sure. So a ten-minute recess.

10 MS. DOUKOURE: Thank you.

11 (Recess taken at 2:15 p.m.)

12 (Back on the record at 2:27 p.m.)

13 BY MS. KELLEY:

14 Q. Okay. So can you turn to Tab 13.1N, as in Nancy? 13.1N.
15 Keith, we've already talked about this a little bit. So can
16 you just identify it very quickly and explain what it is?

17 A. First I gotta turn to N. These three pages are the -- this
18 is the November 9th, 2016, concluding review of summarizing
19 all the administrative review steps issued by Associate
20 Provost Terry Curry's office that concludes the
21 Administrative Review process.

22 MS. KELLEY: Move to admit as Exhibit 21.

23 MS. DOUKOURE: No objection.

24 MARKED FOR IDENTIFICATION:

25 CHARGING PARTY EXHIBIT 21

1 2:28 p.m.

2 BY MS. KELLEY:

3 Q. Jeff Schenker testified earlier that he received emails from
4 Professor Akbulut, sorry, I just keep killing that name and I
5 apologize, that he testified that he got emails from Selman
6 Akbulut which made him feel bullied and harassed. Did Jeff
7 Schenker tell you -- I mean, you received copies of those
8 emails as well; correct?

9 A. I did, so he didn't need to tell me.

10 Q. How did you respond to Professor Akbulut's emails?

11 A. If you could give me a little bit of time context. Many
12 responses at different times. So where are we? What date
13 are we talking about?

14 Q. Can you take a look at Binder Tab 11.8?

15 A. 11.

16 JUDGE WHITBECK: H?

17 THE WITNESS: 8 as in Number 8.

18 (Discussion off the record at 2:30 p.m.)

19 (Back on the record at 2:31 p.m.)

20 BY MS. KELLEY:

21 Q. Can you identify this email, Keith?

22 A. Yes, I can.

23 Q. Okay. Can you talk about it now?

24 A. I'm happy to do so.

25 Q. Okay. What did you decide to do in response to the emails

1 that Professor Akbulut was sending to Jeff Schenker and other
2 members of the --

3 A. This is a follow-up to a particular email, so we're now on
4 October 6, 2017, so it is now one year and four -- four,
5 five -- five months since the Administrative Review Panel
6 decision. It's now one year and three months since I issued
7 my definition of inappropriate email use. And I felt that
8 the rapid succession of emails that had been introduced into
9 evidence from Selman to Jeffrey Schenker were a real issue
10 and particularly the one immediately the same day, there's
11 another one on 10-6 which it's not attached here but it's on
12 the same day, that Professor Akbulut had sent to all the
13 graduate students criticizing the graduate director, and this
14 is a response to that. Can I read it or do you want me to
15 characterize it?

16 Q. It's short enough to read.

17 A. Yeah. "Dear Selman, It is inappropriate to send emails
18 addressing issues between faculty or criticizing faculty to
19 graduate students. This is not consistent with the
20 expectations of leadership from a senior faculty member. As
21 indicated in my email of June 27, 2016," it's attached but
22 it's actually not on this page, "I consider your email below
23 to be inappropriate because the graduate students do not have
24 supervisory duty over faculty. This is your warning." And
25 by that, it's not a formal warning. It's an informal

1 warning. This is the only record of it, this email.

2 "Further emails that violate this standard will be brought up
3 in your annual review under the section on service and
4 leadership and could impact your salary increment or result
5 in discipline."

6 MS. KELLEY: Move to admit as Exhibit 22.

7 MS. DOUKOURE: No objection.

8 MARKED FOR IDENTIFICATION:

9 CHARGING PARTY EXHIBIT 22

10 2:33 p.m.

11 BY MS. KELLEY:

12 Q. What was Jeff's response to Professor Akbulut's emails to
13 him?

14 A. I would say his response during the time period in October of
15 2017 when he had just become graduate director was alarm and
16 frustration --

17 MS. DOUKOURE: Objection. He is now testifying
18 to a prior witness's state of mind. He cannot testify to a
19 state of mind of a witness. They had Jeff Schenker up here.
20 They could have asked him.

21 MS. KELLEY: That's fine. I'll withdraw the
22 question.

23 BY MS. KELLEY:

24 Q. Can you turn to Tab 11.11? So behind Binder 11, Item 11.

25 A. Yeah. Item 11.

1 MS. KELLEY: So behind Tab 11, Item 11.

2 A. Has it already been admitted? It's not in this binder. I

3 don't have 11.11. Could it be a CP number?

4 BY MS. KELLEY:

5 Q. You don't have that in the binder?

6 A. I think it's already been admitted.

7 Q. It's an email to you from Jeff.

8 A. Yes. But this binder we were using already, so I think it's

9 already been --

10 Q. Okay.

11 A. If you -- is there a --

12 DR. STRASBURG: Check behind 12.

13 MS. KELLEY: Okay. It is.

14 BY MS. KELLEY:

15 Q. This has been admitted as CP-12. Can you just briefly

16 explain how Jeff reached out to you without reading the

17 email? Because it's already been read probably by Jeff.

18 A. Yeah. It's a -- it's a summary of the events that happened

19 in the tea room in which Akbulut and Jeff had a

20 confrontation.

21 Q. So when you learned this, what was your attempt to --

22 A. I felt that physical -- I felt that the -- that the rapid

23 number of emails in the short time period followed by a

24 physical confrontation after an attempt --

25 MS. DOUKOURE: Objection. Assumes facts not in

1 evidence. There was no physical altercation. He's using
2 terminology. I'd ask him to refrain from testifying to facts
3 not in evidence. He wasn't present. And the prior witness
4 did not testify to any physical altercation nor does this
5 email testify to any physical altercation.

6 A. Nor was there. Sorry. I didn't try to imply there was.

7 BY MS. KELLEY:

8 Q. I think you did say physical altercation.

9 MS. DOUKOURE: You did.

10 A. Oh, I'm sorry. I don't even know why I said that. Sorry. I
11 apologize.

12 BY MS. KELLEY:

13 Q. So let's start over.

14 A. Okay. So let me start over. There was no physical
15 altercation. So after a rapid succession of emails from
16 Professor Akbulut to Jeffrey Schenker that I felt undermined
17 his ability to conduct his role as graduate director followed
18 by outreach by Professor Schenker followed by what I
19 perceived as rejection of that outreach by Selman and then a
20 confrontation in the tea room, to me this was now the moment
21 when I felt I could no longer tolerate this behavior, that
22 the actions being taken were rising to the level that I would
23 have to consider judicial action, some sort of disciplinary
24 action, so this was the moment where I --

25 Q. Did you issue a written warning?

1 A. I then sent a written warning.

2 Q. Can you turn to Binder Tab 11.12? So it would be behind
3 Tab 11, Item 12.

4 A. Yes. I have it.

5 Q. And can you identify that and explain what it is?

6 A. This is the written -- there's so many words here for these
7 things. This is a -- this is a formal communication
8 between -- from me to Professor Akbulut concerning the
9 behaviors that have concerned me.

10 Q. Okay. Can you read -- if you go to the letter that's behind
11 the email, can you read the last paragraph on the first page
12 starting with "During the review process"?

13 A. Somehow --

14 JUDGE WHITBECK: We don't have a letter behind
15 the email.

16 A. It's the previous --

17 BY MS. KELLEY:

18 Q. Flip one more.

19 A. It's Item 11 actually. So it is -- it's two -- there's two
20 items indicated as 12. I apologize. There's two Item 12s.
21 So either before or after your current 12. There are two
22 things listed as Item 12 and they got separated in two
23 binders.

24 JUDGE WHITBECK: What are we referring to,
25 please?

1 MS. KELLEY: It is a letter dated November 14th,
2 2017, to Professor Akbulut from Keith Promislow.

3 JUDGE WHITBECK: November 14th?

4 MS. KELLEY: November 14th.

5 JUDGE WHITBECK: It's on 12; right?

6 THE WITNESS: Yes. But Item 12 appears twice in
7 two green separators.

8 MS. KELLEY: Item 12. Yes.

9 THE WITNESS: There was an email and the
10 attachment to the email. They were issued together and then
11 in the collation process somehow they got separated.

12 BY MS. KELLEY:

13 Q. So, again, Keith, describe just what this is. This is a?

14 A. This is a warning letter that I sent to Professor Akbulut
15 regarding his use of department email.

16 Q. And can you read the last paragraph on the first page,
17 please?

18 A. Of the official letter or of the email?

19 Q. Yes. Of the official letter.

20 A. Of the last paragraph?

21 Q. Yeah. On the first page.

22 A. Sorry. On the first page of the official letter. It says,
23 "During the review process you have sent emails to a wide
24 audience that target individuals who have participated in the
25 review process, attacking their integrity and questioning

1 their fitness to serve in appointed and elected
2 administrative capacities. You have posted links from your
3 department web page to files with similar content. Since the
4 closure of the review process you have continued to target
5 those who have adjudicated it, in some cases escalating both
6 the intensity and the frequency of the targeting. Your
7 emails have been sent to department faculty, staff, and
8 graduate students. There is a productive role for email in
9 the discussion of department affairs, and while I reaffirm
10 your right to communicate as you choose with me and with
11 higher-level administrators about your displeasure, it is
12 unacceptable to target your colleagues who are engaged in the
13 shared governance process that resides at the heart of
14 academia."

15 Q. And then the first paragraph on the second page.

16 A. "This written warning informs you that if you continue in the
17 targeting of colleagues for their role in the administrative
18 review process you will be subject to disciplinary action.
19 For this purpose, the administrative review process includes
20 discussions of agenda items at department meetings,
21 participation within Office of Institutional Equity
22 investigations, or participation in university sanctioned
23 Administrative Review or Faculty Grievance processes.
24 Targeting includes substantiated communication that impugns
25 an individual or group and draws as a basis from their

1 participation, or refusal to participate, in an
2 administrative review process. This warning covers
3 communication, either public or private, that occurs within
4 the workplace or on university provided platforms, including
5 websites that use university resources and links imbedded in
6 such websites. Communication addressed solely to me or to
7 administrators with oversight of the department is excluded
8 from this warning."

9 MS. KELLEY: So move to admit as CP-23.

10 MS. DOUKOURE: No objection.

11 MARKED FOR IDENTIFICATION:

12 CHARGING PARTY EXHIBIT 23

13 2:41 p.m.

14 BY MS. KELLEY:

15 Q. So after you sent this written warning letter to Professor
16 Akbulut, can you talk next about how you involved Professor
17 Tom Tomlinson and what was happening there and what the next
18 steps were to try and resolve perhaps the situation?

19 A. Yes. Absolutely. As was indicated in the warning, I believe
20 it's a warning letter, I get confused exactly what
21 definitions these are, the warning letter that was just
22 admitted, at the bottom it indicated what the appeal process
23 is, and the next step of appeal is a consultation with the
24 UCFA, University Committee Faculty Affairs I believe, and
25 that was Tom Tomlinson. At that time it was Tom Tomlinson.

1 And so I indicated I think in another email to Professor
2 Akbulut that he had a -- that was his option and he accepted
3 and we set up a meeting with Professor Tom Tomlinson, the
4 three of us.

5 Q. Can you turn to Tab 11.13? And can you -- so this would be
6 behind Tab 11, Item 13.

7 A. Yeah. Item 13. Yes. December 6th, 2017.

8 Q. And just what's the gist of this email? Can you identify it
9 and give us a gist of what this email is?

10 A. Yes. This is my email to Selman summarizing the outcome of
11 our meeting with Tom Tomlinson and the decisions that were
12 made there.

13 Q. And what decisions were made?

14 A. At the suggestion of Dr. Tom Tomlinson and -- well, maybe --
15 people know what the UCFA is. He's supposed to represent
16 faculty. He instructed -- he suggested that Professor
17 Akbulut -- my initial email had suggested that the items of
18 the web page would be removed. Tom Tomlinson suggested
19 rather than that that we give Selman an opportunity to modify
20 them, and so I proposed that's reasonable. I'll give him an
21 opportunity to modify them. They will be reviewed by the
22 administrative -- the Advisory Committee within the
23 Department of Math, the modified files. If they find them to
24 be reasonable and acceptable, then they can be reposted. And
25 we reiterated that he must not persist in sending emails that

1 were targeted as defined the previous administrative warning
2 gave the specific definition of targeting. So he should not
3 continue to send targeting emails.

4 MS. KELLEY: Move to admit as CP-24.

5 MARKED FOR IDENTIFICATION:

6 CHARGING PARTY EXHIBIT 24

7 2:45 p.m.

8 JUDGE WHITBECK: Just a quick procedural
9 question. Where would we find the definition of targeting?

10 THE WITNESS: I defined it -- I was told I
11 should give a name to this because it's somehow unique from
12 general harassment and so I used the word targeting, and that
13 is defined in the -- the first administrative warning letter,
14 and I don't remember the item. One or two before.

15 Theresa, can you help me with -- I don't know
16 what the binder item is. Which binder item is the
17 administrative warning and letter? He wants to know where to
18 find this definition of targeting.

19 BY MS. KELLEY:

20 Q. You mean your definition of targeting?

21 A. The definition of targeting is mine. I produced it in --

22 JUDGE WHITBECK: In these documents?

23 THE WITNESS: Yes. He wants to know which
24 binder to look at and I do not --

25 BY MS. KELLEY:

1 Q. So what are you asking me for?

2 A. I think it's 11.11. What binder item are we at now? I'm

3 asking the binder item for the administrative --

4 Q. We're at 14 -- well, we just finished 13.

5 A. It's -- if you'll allow me to look at your folders. My

6 folders are empty now. If you'll allow me to approach. I

7 can find it. Here it is. And the definition of targeting is

8 in that section right there. The second page of Item 12,

9 Tab 11, Item 12. It's the first paragraph.

10 JUDGE WHITBECK: That's CP-23. Am I correct?

11 THE WITNESS: Okay. Now you got it. Tab 11,

12 12.

13 BY MS. KELLEY:

14 Q. Okay. So you have this meeting with Tom Tomlinson and you

15 write this email to Professor Akbulut again reemphasizing

16 what needs to happen?

17 A. Gives him a timeline.

18 Q. I'm sorry. What?

19 A. And it gives him a timeline.

20 Q. And it gives him a timeline. He's supposed to remove the

21 materials from his web page; correct?

22 A. Yes. Or revise them.

23 Q. Right. Did Professor Akbulut stop sending emails that you

24 viewed as targeting emails?

25 A. I would say no, he did not.

1 Q. Can you take a look at Binder Tab 11.14, please?

2 A. 11.14. This is --

3 Q. So that's behind Tab 11, Item 14.

4 A. Yes. Item 14. Yes. This is an email from December 25th,

5 2017. I refer to it as the Christmas Day email.

6 Q. And can you read the whole thing for me, please?

7 A. Sure. "To: Schenker, Pappas, Hedden, Volberg, and Yan."

8 These are the last names of the Administrative Review Panel.

9 It's cc'd to all faculty. "You undersigned a faulty document

10 about my academic record (while refusing the fact-check with

11 me), you did this to allow the dean to penalize me. Just

12 like publishing a wrong theorem, until you issue a

13 correction, you are responsible forever and ever from the

14 document you signed your name to. Internet is the ultimate

15 depository, this document will be everywhere to greet you.

16 Also, I will do my best objecting your nomination to any

17 committee in any venue (not just locally in MSU) because of

18 this. This document is worse than just being faulty, it is

19 used to victimize your colleague. Ask yourselves, would you

20 feel comfortable with a group like this in Personnel

21 Committee evaluating your academic performance and deciding

22 your salary increases? I know you feel uncomfortable me keep

23 reminding you this faulty document you signed, and feel

24 uncomfortable looking me in the eye, because you know deep

25 you did something wrong. There is only one way to get out of

1 this bind. Happy Holidays, Selman."
2 Q. What's the date of this email again?
3 A. December 25th, 2017.
4 MS. KELLEY: Move to admit as Charging Party 25.
5 MS. DOUKOURE: No objections.
6 MARKED FOR IDENTIFICATION:
7 CHARGING PARTY EXHIBIT 25
8 2:49 p.m.
9 JUDGE WHITBECK: December 25th.
10 THE WITNESS: Christmas Day.
11 MS. DOUKOURE: Christmas Day is not for
12 everybody. I'd like to make sure that that's on the
13 everybody. That's not a universally accepted holiday for
14 everybody.
15 JUDGE WHITBECK: I'm sorry. What did you say?
16 MS. DOUKOURE: He made a comment about it being
17 Christmas Day as if that has some bearing on everybody in the
18 room. I was just indicating that Christmas Day is not a day
19 for everybody.
20 JUDGE WHITBECK: Obviously not.
21 MS. DOUKOURE: Pardon?
22 JUDGE WHITBECK: Obviously not.
23 MS. DOUKOURE: Right.
24 THE WITNESS: Not for me either. Thank you.
25 BY MS. KELLEY:

1 Q. Upon return from winter break, did Professor Akbulut modify
2 his web page as requested or remove the offending documents
3 as requested from his web page?

4 A. No. I received no correspondence from Akbulut in that
5 manner.

6 Q. Can you take a look at Binder Tab 11, Item 15? So, Keith,
7 can you just identify this? Was this your next step in the
8 process? And sort of just give the gist of this letter.

9 A. Yes. As part of the --

10 Q. First tell who it's from and the date just so we have a sense
11 of --

12 A. Yeah. This is a formal letter from me to Professor Akbulut.
13 Well, this is the -- actually there's an attachment on the
14 email, but this is the -- as it's written it's a formal
15 letter from me to Professor Akbulut, and it was sent on
16 January 11th, 2018. And it is an indication -- it's a
17 written notice of an impending formal letter of reprimand and
18 it provides him seven days to respond in writing before the
19 formal letter of reprimand will be issued.

20 MS. KELLEY: Move to admit as CP-26.

21 MARKED FOR IDENTIFICATION:

22 CHARGING PARTY EXHIBIT 26

23 2:51 p.m.

24 BY MS. KELLEY:

25 Q. Okay. Did you receive a response within the seven-day

1 timeline from Professor Akbulut according to that letter?

2 A. Well, I received correspondence from Professor Akbulut. It's

3 hard to tell if it's a formal response or just correspondence

4 that has no correlation. I didn't -- I didn't receive

5 anything that had a strong correlation, but I did receive

6 emails in response, emails within the seven days.

7 Q. Understood. Can you turn to Tab 11, Item 16 in the binder?

8 Keith, can you identify that document, you know, who's it

9 from, who's copied, and the gist of it?

10 A. This is from Professor Akbulut. It is sent in response to my

11 very short email header that -- which introduced the

12 seven-day notice, and he sent it to Tom Tomlinson, who's the

13 UCFA chair, Terry Curry, Kristine Zayko, legal counsel, the

14 interim dean at the time, Cheryl Sisk, David Dewitt, various

15 people in the administration, the entire math faculty, and

16 M. Asadi, who was a visitor of Professor Akbulut's at the

17 time.

18 Q. And the president and the provost?

19 A. Yes. The entire administration.

20 Q. Can you read the first sentence of this email?

21 A. "Dear Keith, Which reminds me you robbed 5,000 from me,

22 please return my money (here I am using any of the common

23 dictionary definitions of 'robbery' which is: 'unashamed

24 swindling, or to deprive of something unjustly from someone,

25 or some right or something legally due'). Remember during

1 Fall 2015 general department meeting you stood up in front of
2 the whole faculty and announced that you reduced 5,000 from
3 my salary because you had to pay my [sic] visitor M. Asadi's
4 health insurance for his Visa." And he links to the item.

5 MS. DOUKOURE: Your Honor, I'm going to object
6 because he's incorrectly reading it. He's adding words that
7 are not there. He is not -- if he's going to read it, he has
8 to read it. He can't just change the language that he wants.
9 This does not say my visitor at all. It does not say that.

10 THE WITNESS: Oh, you're right.

11 BY MS. KELLEY:

12 Q. Actually, Keith, I only wanted you to read the first
13 sentence.

14 A. Oh, okay. All right. Please strike everything but the first
15 sentence. I apologize.

16 MS. KELLEY: Okay. Can we admit this as CP-27?

17 A. Can I give some background to this?

18 BY MS. KELLEY:

19 Q. Sure.

20 A. So this is an issue which -- you know, there are many issues
21 involved in this. This is an issue in which I have extensive
22 firsthand evidence that I was a direct witness to every step
23 of this process. And so there was a visitor at MSU who I'll
24 call Asadi who was invited by Professor Akbulut, and there
25 were questions about how he would be funded. There was

1 initially an agreement that I made that he be funded \$10,000
2 if he could teach, but his visa was so delayed that he
3 couldn't teach in the fall semester 2014, and then after he
4 arrived very late in December of 2014, it was really both too
5 late for him to be assigned a class, they were all assigned,
6 and it was evident that his English language skills were not
7 appropriate to be put in front of a classroom. So then the
8 issue arose how do we -- he had been promised \$10,000.

9 JUDGE WHITBECK: Just for a moment. For us
10 non-academics, what is a visitor?

11 THE WITNESS: A visitor is a professor at
12 another university who will come to do research at this
13 university to work with a faculty member, so it's a -- it's a
14 colleague from another department who comes and may or may
15 not be supported and may or may not be hired on an interim
16 basis by the local department.

17 JUDGE WHITBECK: It's not a student?

18 THE WITNESS: Not a student. This is a full
19 faculty member. He arrived with his wife and adult child.
20 So it's an adult. And the issue that arose was he'd been
21 promised \$10,000 in his invitation letter that was issued
22 before I was chair, and the question was how would he be
23 funded, and he arrived very late in the fall semester, and
24 then I saw him again very early in January 2015, and he was
25 very emotional because he had learned of this strange thing

1 called American health insurance that he was required to have
2 and it was quite expensive and he was clearly not going to
3 have enough money for his entire stay. And so I understood
4 the situation. Professor Akbulut did not wish to -- to
5 afford him funds from his grant for various reasons involving
6 encumbrances or the issues of encumbrance. And so I offered
7 him \$5,000 to keep him whole and his family from department
8 funds, and I said I'll give it to you for your health
9 insurance. And then I asked my staff to do it and they said,
10 no, we can't, he's not an employee of the university, we
11 can't pay him because he's not teaching, but we can fund his
12 housing, and so instead we -- we paid \$5,000. We direct
13 billed to his housing for five months basically from January
14 until May. And then I think Professor Akbulut may be aware
15 of this because he funded him from the rest of the summer.
16 And so the issue is when Professor Akbulut says that I
17 embezzled -- I stood up in a department meeting and said --
18 the question was presented to me in the department meeting
19 was what happened to the proceeds of the roughly \$15,000 that
20 was not made to Professor Akbulut because of the Abrogation
21 of Duty finding. I said, well, 10,000 went to cover the
22 instructor that replaced him and 5,000 went to Asadi's health
23 insurance. Now, that's not technically true. It went to him
24 to cover his housing so that he could pay for his health
25 insurance or it went to him for various reasons, humanitarian

1 I would say. And that email is Professor Akbulut's
2 characterization of that situation in which he particularly
3 for some reason that eludes me identifies this \$5,000 that
4 went to Asadi as part that was stolen from him, not the full
5 15, this 5,000, identifies it as swindling and bribery and
6 said that my statement in the faculty meeting was a complete
7 fabrication or a lie. I can't remember exactly how he
8 characterized it. So that's just -- I want to present this
9 is my view of the events and I want to juxtapose them against
10 the written view. But there is a grain of truth from what
11 Selman says. But it is in my view a substantial distortion
12 of the actual events.

13 JUDGE WHITBECK: So where did the money come
14 from? The \$5,000.

15 THE WITNESS: The \$5,000. The department has a
16 budget of some, you know, 12, \$15,000,000, and \$5,000 was
17 just a -- at the department's discretion I can -- I can say
18 we will fund this visitor and it is within my discretion to
19 allocate funds.

20 JUDGE WHITBECK: So these were --

21 THE WITNESS: Department funds. They're funds
22 from the Department of Mathematics that were given to -- that
23 were paid to I think it's one of the local housing places
24 where he was staying, so we direct billed --

25 JUDGE WHITBECK: I'm sorry. The what?

1 THE WITNESS: One of the -- his -- wherever it
2 was he was living, and I can't remember the name of the
3 apartment complex. So we directly paid his -- the unit that
4 was provided by housing, on campus housing, so it was -- we
5 paid for his rent.

6 JUDGE WHITBECK: So the check was written from
7 the Department of Mathematics to hypothetically XYZ
8 apartments?

9 THE WITNESS: It was actually another MSU unit,
10 but yeah, it was the housing unit at MSU. So it was a
11 transfer of funds actually. It wasn't even a check. It was
12 a funds transfer between Unit A and Unit B, math department
13 and there's a name but they've shut it down since then. I
14 can't remember the name of the housing complex.

15 MS. KELLEY: Move to admit 11.16 as CP-27.

16 MS. DOUKOURE: No objection.

17 MARKED FOR IDENTIFICATION:

18 CHARGING PARTY EXHIBIT 27

19 3:00 p.m.

20 BY MS. KELLEY:

21 Q. So before we got off on that little tangent you had sent
22 Professor Akbulut a written warning, you know, a notice of
23 intent to impose discipline of a written reprimand; correct?

24 A. Yes.

25 Q. And --

1 JUDGE WHITBECK: Counsel --

2 MS. KELLEY: Well, I'm just trying to bring us

3 back. Sorry. We've already established that.

4 BY MS. KELLEY:

5 Q. And the response you got was the email that we just

6 discussed; correct?

7 MS. DOUKOURE: We're leading again and she's

8 testifying and like I don't really understand --

9 MS. KELLEY: Well, we can go over it again, I

10 guess.

11 BY MS. KELLEY:

12 Q. Okay. So did you end up issuing a letter of written

13 reprimand?

14 A. Yes. There was finally a letter of written reprimand that

15 went out to Professor Akbulut after the -- after this warning

16 of seven-day notice -- the seven-day notice for him to

17 provide a response.

18 Q. And did you receive a response within seven days other than

19 that email that you just discussed at length?

20 A. Nothing that -- to me -- there was nothing that I received

21 that seemed like a clear -- a clear response to the seven-day

22 one.

23 Q. Okay. Can you look at Binder Item 18 behind 11?

24 A. I'm sorry. You said Item 18?

25 Q. Item 18. Is that the written reprimand that was given to

1 Professor Akbulut?

2 A. Yep.

3 Q. Yes?

4 A. Yes. Item 18 is a letter of reprimand.

5 Q. And can you real quickly read the -- starts at the very

6 bottom of the letter. "Let me remind you." That paragraph.

7 A. Yes. Okay. Again, this is from -- to Professor Akbulut from

8 me. "Let me remind you that the sending of additional emails

9 deemed to target faculty for the participation in the

10 judicial review process where the targeting occurs in the

11 body of the" -- there's something -- I'm missing a page.

12 There should be three pages. I have two pages. There seems

13 to be a collating error on this draft. Does anyone have --

14 MS. DOUKOURE: I have only two pages as well.

15 There's no page that seems to be missing.

16 BY MS. KELLEY:

17 Q. I have these two. No?

18 A. It seems like there's a collation error. I can imagine what

19 it said. I don't know verbatim what it said.

20 MS. KELLEY: Do you want to take a look at it?

21 MS. DOUKOURE: I mean, I'm objecting to the

22 submission of a new document.

23 A. I can paraphrase.

24 BY MS. KELLEY:

25 Q. Do you remember what you reminded Professor Akbulut in your

1 letter of written reprimand generally?

2 A. Generally speaking --

3 Q. Do not read from the document because it's not --

4 A. It's not there. I'm just trying to figure out exactly where

5 this date is in the process. January 22nd. So this was --

6 this -- this document summarized the -- identified the emails

7 that had been sent out that reviewed his targeting, listed

8 them. These are the targeting. And then I indicated that if

9 he sends additional emails, then there could be the potential

10 for escalating discipline and particularly it could lead to

11 serious discipline. I don't remember if this is the document

12 that said that escalation will result in serious discipline

13 or a subsequent one, but that is the gist is that future --

14 continuation will lead to escalation and severe discipline.

15 Q. Fair enough. Thank you.

16 A. Some characterization thereof.

17 Q. Can you take a look at binder tab behind 11? It's Item 20.

18 A. 20. So that's actually 20 and then two attachments, an email

19 and two attachments, and the attachments are also Item 20 but

20 behind separate green sheets, so it's three pages.

21 Q. Yes. Can you tell me what the document is? Can you identify

22 it and just tell me what it is and how you're familiar with

23 it and what's the gist of it?

24 A. In my recollection, this is the next significant targeting

25 email that Professor Akbulut sent after the letter of

1 reprimand on January 24th, 2018, so January 24th, 2018.

2 Q. So he's attached some information to this email. What's the
3 relevance of this information? What is the suggestion here
4 of this email? Why would he attach raise information to this
5 email?

6 A. He's -- he's --

7 MS. DOUKOURE: Your Honor, I'm going to object.
8 She's now asking him to testify to what my client might have
9 been doing.

10 BY MS. KELLEY:

11 Q. How did you interpret the attachments?

12 A. I'm happy to speak to the -- the attachments are raise
13 information that Professor Akbulut had accumulated from the
14 MSU library and he ranks a select set of faculty, their
15 raises, some measure of their number of research production
16 over one year and then also over a four-year period. Yeah.
17 Four-year period. And then in the body of the email, he
18 addresses it to me but he sends it to the entire faculty. I
19 think the most important point he describes what he did and
20 he says, "Note that the top 7 raises in the 2016 list goes to
21 you plus 4 of 5 colleagues who signed that faulty document
22 about my academic record to justify Dean Kirkpatrick to
23 penalize me in that year." And so he is -- the implication
24 that I took was that the people who received -- people who
25 participated in the administrative review were rewarded for

1 the participation with raises. That's what he seems -- that
2 was my inference from this.

3 Q. Were the faculty members who were the authors of the
4 Administrative Review rewarded with raises that were not
5 otherwise appropriate?

6 A. Well, I would say the faculty and Administrative Review Panel
7 were the faculty chosen from the Math Advisory Committee.
8 The members of the Math Advisory Committee are leaders of the
9 department and are generally the most successful individuals.
10 They are the people that generally do well in raise
11 considerations, and also a huge impact on raise
12 considerations are issues of promotion. So some of the
13 people who had just been promoted, their salary had gone up
14 quite a bit. Those percentages are very misleading. A small
15 salary, promotion is a huge percentage. So it's a fairly
16 misleading document, but that's fair enough. But it's the
17 implication that I find -- I found troubling, and the faculty
18 responded to me that they found it very troubling.

19 Q. Did the Administrative Review finding have any impact on
20 those faculty members' raises?

21 A. Well, it's extremely unlikely that raises that go back to --
22 salaries that go back to 2011, which was four years before I
23 was chair, certainly I didn't have any impact on anything,
24 and so really I guess you could say the 2015, '16 raises.
25 But no. That would just be simple and short. No. There's

1 no correlation in my mind whatsoever. None of that entered
2 into -- there's a very -- very rigorous raise process for
3 the -- in fact, I can detail the raise process if you want.
4 But it's a very rigorous process of which I only modestly put
5 to the department raise process.

6 MS. KELLEY: Move to admit Item 20 as CP-28.

7 MS. DOUKOURE: Are you admitting just one
8 document or all the correlating documents?

9 MS. KELLEY: I'm admitting the email and the
10 attachments.

11 MS. DOUKOURE: So you're admitting 20, 21, and
12 Item 0?

13 MS. KELLEY: They're all 20 with Attachments 1
14 and 2.

15 THE WITNESS: Unfortunately green sheets were
16 put between them for some reason. I can't speak to that.

17 MARKED FOR IDENTIFICATION:

18 CHARGING PARTY EXHIBIT 28

19 3:09 p.m.

20 MS. KELLEY: It's been admitted?

21 MS. DOUKOURE: I have no objections.

22 BY MS. KELLEY:

23 Q. Can you take a look at Tab 11, Item 21?

24 A. Yes. I have it.

25 Q. Please identify it and tell us what it is.

1 A. As part of the -- okay. I need to refresh my memory slightly
2 because there's several of these that are very similar. So
3 after the disciplinary warning letter instructing him -- so
4 this is an email requesting a second meeting with Tom
5 Tomlinson because there was the consideration for additional
6 discipline beyond that which had already been received
7 because of continuation of targeting behavior, so there's a
8 question of whether he wished a second meeting with Tom
9 Tomlinson.

10 Q. And it's an email from you to Professor Akbulut; correct?

11 A. It is.

12 Q. Okay.

13 A. And it contains the statement at the end "Your current
14 escalation of targeting behavior suggests a trajectory
15 leading to major disciplinary action," which to me is a very
16 significant line. I want everyone to -- I don't want anyone
17 to miss that.

18 MS. KELLEY: Move to admit as CP-29.

19 MARKED FOR IDENTIFICATION:

20 CHARGING PARTY EXHIBIT 29

21 3:11 p.m.

22 MS. DOUKOURE: My only objection is this
23 references documents that are not currently in evidence. I'm
24 sorry. My objection is that this document references things
25 that are -- like items that are not currently in evidence.

1 It assumes facts not in evidence.

2 MR. REIFENBERG: References documents?

3 MS. DOUKOURE: It references emails that are not
4 admitted into evidence that are not referenced here at all as
5 a basis for doing something and considering something.

6 A. If you give me the copy, I can tell you what it references.

7 BY MS. KELLEY:

8 Q. We can talk about the emails that are the subject of this
9 disciplinary warning. Did Professor Akbulut send emails
10 which led to this email 11.21, Item 21 rather?

11 A. It references emails on -- two on January 2nd, one on the
12 23rd, and one on the 24th.

13 Q. Were those emails that you viewed as targeting emails?

14 A. Yes. These are emails that were targeting emails.

15 MR. REIFENBERG: We don't have them?

16 MS. KELLEY: I don't know.

17 THE WITNESS: They may not be in the binder.
18 I'm not sure.

19 MS. KELLEY: They may be. They may not. I
20 mean, we chose not to put every email in the binder. Hard to
21 believe because it's thick, but . . .

22 MR. REIFENBERG: Are those emails relevant?

23 THE WITNESS: They were issued after -- so --

24 BY MS. KELLEY:

25 Q. Well, we've already admitted the December 25th, 2017, email;

1 correct?

2 A. The 2015. The first one, December 25th, 2017, was admitted.
3 January 22nd, 2018, at 8:30 was admitted. January 22nd at
4 11:39 --

5 JUDGE WHITBECK: That's not what she's asking.

6 BY MS. KELLEY:

7 Q. The December 25th email has been admitted --

8 A. Yes.

9 Q. -- as CP-25.

10 A. Oh, I see. Are they in evidence. And January -- the first
11 three are in the binder. The emails of the 24th -- the 23rd
12 and the 24th I don't know. They are emails that may have
13 occurred afterwards. I don't --

14 Q. Well, if you want to just perhaps reserve that and so we can
15 dig out the emails that underlie the --

16 A. They could be found.

17 Q. Well, the ones that are in the binder. I mean, I just don't
18 want to take up a bunch of time now to find those.

19 A. Okay. I can go hunting.

20 MS. KELLEY: So just keep that in there and know
21 that we're starting with -- yeah. We'll hold this one.

22 THE WITNESS: So should I take off the CP
23 number, then?

24 MS. KELLEY: Well, or just keep it on.

25 MR. REIFENBERG: So you're going to hold this --

1 MS. KELLEY: Well, it's going to take time to
2 locate all of the emails that are referred to in this email,
3 and that's the basis for the objection, and I think that's
4 what the committee has said that they want to see, so . . .

5 THE WITNESS: What was the ruling on the
6 objection?

7 JUDGE WHITBECK: I can't hear what you're
8 saying.

9 THE WITNESS: What was the ruling on the
10 objection? If -- if the emails of January 23rd and
11 January 24th are not in the charging party binder, is this
12 email inadmissible?

13 MS. DOUKOURE: Is Mr. Promislow testifying or is
14 he acting as the attorney right now? Because there is an
15 attorney questioning him and now he's questioning the
16 tribunal.

17 MS. KELLEY: This is an informal proceeding.

18 MS. DOUKOURE: That doesn't mean there's no
19 formality involved at all.

20 JUDGE WHITBECK: The witness does not get to
21 question the tribunal. You get to ask the questions. Are we
22 clear on that?

23 MS. KELLEY: Sure.

24 JUDGE WHITBECK: Okay.

25 MS. KELLEY: So my question is is the hearing

1 committee saying that they will not admit Exhibit 28, CP-28,
2 Item 20, unless they see all of the underlying emails that
3 are referenced in this Item 20?

4 MR. REIFENBERG: Yeah.

5 MS. KELLEY: Okay. So we'll hold it until we
6 can deliver those.

7 JUDGE WHITBECK: So you're holding CP-29 in
8 abeyance?

9 MS. KELLEY: 28. CP-28.

10 THE WITNESS: This one is 29.

11 MS. KELLEY: Oh, is it? 29. Okay. Sorry.

12 DR. STRASBURG: 28 was the one that dealt with
13 raises.

14 JUDGE WHITBECK: All right. So we're going to
15 skip to 30 if you offer another document.

16 MS. KELLEY: Okay. Understood. Yep. This is
17 29.

18 BY MS. KELLEY:

19 Q. So just to get us back on track, you offered a second meeting
20 with Tom Tomlinson to Professor Akbulut?

21 A. Yes. The second meeting was offered. That's correct.

22 Q. Okay. Did that second meeting happen?

23 A. No. Professor Akbulut's response was in the negative. He
24 asked that we not have the meeting.

25 Q. Can you go to Binder Tab -- it's Tab 11, Item 22. Can you

1 identify that and explain what it is?

2 A. That's Professor Akbulut's response to my request -- well,
3 the presentation of the disciplinary warning letter and a
4 request for a second meeting and that was his response.

5 MS. KELLEY: I'd like to admit -- I mean, I'm
6 happy to redact the information below. I'd like to admit
7 Professor Akbulut's response to the invitation to meet,
8 however, which is the top email.

9 MS. DOUKOURE: It's my understanding that that
10 information will be redacted pursuant to a previous order of
11 this tribunal, not offering to redact it, but all extraneous
12 information present at the time the email was sent will be
13 redacted.

14 MR. REIFENBERG: Just the email.

15 MS. KELLEY: I'm sorry?

16 MR. REIFENBERG: Just admit the email.

17 MS. KELLEY: Thank you. Yeah. Item 22, the top
18 email. So I don't know how you want to indicate that. I
19 guess Kara can take care of the redaction. So should I admit
20 this as CP-30?

21 MR. REIFENBERG: If there aren't any
22 objections --

23 MS. KELLEY: Well, 29 is being held.

24 MS. DOUKOURE: We have no objections to that.

25 MS. KELLEY: Okay. Move to admit as CP-30.

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MARKED FOR IDENTIFICATION:
CHARGING PARTY EXHIBIT 30
3:18 p.m.

BY MS. KELLEY:

Q. Keith, one more thing. Can you just read Professor Akbulut's response?

A. Yes. "Dear Keith, Please stop harassing me. Let us first wait OIE's report about you and the previous dean Jim Kirkpatrick. Sincerely, Selman."

Q. Thank you.

(Discussion off the record at 3:19 p.m.)
(Back on the record at 3:20 p.m.)

BY MS. KELLEY:

Q. So can you talk about what happened next, how an Advisory Committee was formed and why an Advisory Committee was formed to address Professor Akbulut's behavior at this point in time?

A. Well, the next significant event was an email sent by Professor Akbulut. Did you want me to discuss that or . . . ?

Q. If you want to go to Tab 11.23.

A. So this is now January 25th, 2018, so within the three or four days of the previous email exchange. And it's an email from Professor Akbulut to -- this is not to the entire faculty. It's to the Math AdCom, which is the Math Advisory Committee, and then also several members of the

1 administration, the president, Terry Curry, Tracy Leahy, who
2 is an OIE member, and then three -- three faculty members and
3 myself were added onto this.

4 Q. But why was an Advisory Committee formed? Can you talk about
5 that first?

6 A. Well, so this is -- so there was a desire for a review of the
7 actions taken by Professor Akbulut to date to that point to
8 determine if they merited consideration for serious
9 discipline, and so my process was to provide -- was going to
10 be to provide the Math Advisory Committee, which is a
11 standing committee in the math department, it always is --
12 when the department is in session -- when you're in the
13 fall/spring semester, the Math Advisory Committee is a
14 standing committee, was to ask the Math Advisory Committee to
15 review the documents and determine if they felt that these
16 documents reached the level of serious discipline. But
17 before we could have that meeting, Professor Akbulut sent an
18 email to the Math Advisory Committee and this is this email
19 that he sent to them.

20 Q. Can you read the first three sentences?

21 A. "My suggestion to AdCom," that's the shorthand for Math
22 Advisory Committee, "members is not to sign any document
23 along to way of penalizing your colleagues. I think
24 Promislow (along with Kirkpatrick) put 5 previous AdCom
25 members in trouble by making them sign faulty document about

1 federal funds, which they know is not correct (because PI has
2 been telling them so, and official memos showing them so).
3 They could go to jail for this. Now he tells people that
4 AdCom decided to shut down my web page [sic] (I am not sure
5 if this is true, I am not sure if they would want to be
6 signatory of his arbitrary capricious decision to prevent my
7 free speech). Currently, he is trying to create a new crime
8 for me, by trying to get AdCom members to sign document
9 charging me with 'retaliation' for criticizing his policies
10 in my personal website. I think Keith has tendency to create
11 a criminal situation everyday about the department members he
12 does not like, and tells people he is doing this with AdCom's
13 backing (I was with him in AdCom meeting saw him talking
14 about HR," and he goes on to describe other things.

15 MS. KELLEY: Okay. Move to admit as CP-31.

16 DR. PROMISLOW: Objections?

17 MS. DOUKOURE: None.

18 MARKED FOR IDENTIFICATION:

19 CHARGING PARTY EXHIBIT 31

20 3:24 p.m.

21 BY MS. KELLEY:

22 Q. So what happened after this? Did the Advisory Committee sit
23 or what?

24 A. The Advisory Committee decided that it -- well, there was a
25 discussion in the Advisory Committee on the chair, Advisory

1 Committee's chair of the department, and the discussion was
2 whether or not it was appropriate to -- whether the Advisory
3 Committee was willing to sit in review, to serve as a review
4 committee for these documents, and several opinions were
5 expressed that they did not feel that this was something that
6 was safe for them to do basically. So we decided that we
7 would request the dean, the then interim dean, Cheryl Sisk,
8 if she would form a review panel that was made up of people
9 outside the math department.

10 Q. And did you take any action with respect to Professor
11 Akbulut's email?

12 A. I did. I sent him a written notice of potential formal
13 letter of discipline for targeting, and, again, he had seven
14 days' notice to respond on January 30th.

15 Q. Thank you. Can you turn to binder behind, I'm sorry, Tab 11,
16 Item 26?

17 A. Tab 11. Item 26.

18 Q. And can you identify it and just, quick enough to read, but
19 tell what it is?

20 A. February 9th, 2018, from me to interim dean, Cheryl Sisk,
21 requesting that -- expressing the opinion that the Math
22 Advisory Committee finds itself in conflict of interest with
23 respect to disciplinary actions and requests that review of
24 the issue be handled at the college level. That was the
25 official -- that was the wording that was voted on and

1 approved at the advisory meeting.

2 Q. Do you know what the conflict of interest was?

3 A. Well, I can tell you what words were spoken at that meeting.

4 Q. What was the conflict of interest?

5 A. That they felt that they would be subject -- people expressed

6 the opinion that they would be subject to targeting if they

7 were to agree and it was a conflict of their personal

8 interest for their personal -- personal decorum as a faculty

9 member that they did not want to be subject to -- to the

10 targeting actions that they'd seen others subject to.

11 MS. KELLEY: Move to admit as CP-32.

12 MS. DOUKOURE: No objection.

13 MARKED FOR IDENTIFICATION:

14 CHARGING PARTY EXHIBIT 32

15 3:27 p.m.

16 BY MS. KELLEY:

17 Q. So can you talk about next your attempts to engage the

18 faculty grievance official to mediate the situation with

19 Professor Akbulut?

20 A. Yes. It was clear at this point that it would be very hard

21 in our environment to avoid this escalating to major

22 discipline, and so I reached out to Bill Donahue, who is the

23 chair of the Faculty Grievance Office, and asked him if he

24 would try and initiate external mediation.

25 Q. And you received -- can you turn to, I'm sorry, Tab 11,

1 Item 27?

2 A. Yeah. Three pages here.

3 Q. And I'm not going to have you read this because it's an email
4 between Mr. Donahue and Selman Akbulut, but you were copied
5 on this email; correct?

6 A. I was copied on it and I was a participant in some of the
7 exchanges as well. It's an email between several parties.
8 It includes Bill Donahue. It includes Laura Athens as the
9 mediator. And it was actually initiated by me. I actually
10 sent the first email to Selman to ask him if he would engage
11 in the process.

12 MS. KELLEY: Move to admit 11, Item 27 as CP-33.

13 MS. DOUKOURE: I'm going to object on the
14 grounds of relevance. They haven't stated why this document
15 is relevant at all.

16 MS. KELLEY: It's relevant, hearing committee,
17 because it shows the chair's willingness. I mean, this is
18 important in a dismissal for cause proceeding to show all
19 attempts to resolve the issue and really attempts to do
20 anything but move for dismissal for cause.

21 MS. DOUKOURE: Maybe the witness should have
22 testified to that instead of counselor.

23 MS. KELLEY: Well, we were going to.

24 THE WITNESS: I'm happy to.

25 MR. REIFENBERG: Go ahead.

1 THE WITNESS: Okay. Before you --

2 MS. KELLEY: I think I can admit the document
3 now, though. We've shown that --

4 MS. DOUKOURE: I think you have to show a
5 foundation and relevance before you submit documents.

6 MS. KELLEY: He was copied on the email. He's
7 familiar with the email. He is a participant in the email
8 exchanges on Item 27.

9 JUDGE WHITBECK: Why is it relevant?

10 MS. KELLEY: It's relevant because the dismissal
11 for cause is a very serious matter and it's important to show
12 that the unit, the chair engaged in every avenue it could to
13 resolve this outside of moving for dismissal. It's very
14 important and clearly relevant.

15 MR. REIFENBERG: Is all of it relevant or is it
16 just part of it relevant?

17 MS. KELLEY: I think all of it's relevant. And
18 in our rebuttal case Bill Donahue will -- I mean, rebuttal is
19 limited to what's presented in the opposing counsel's case,
20 though. But this is -- I think it's highly relevant. I
21 think a hearing committee --

22 MR. REIFENBERG: We'll accept it for what it's
23 worth.

24 MS. KELLEY: Okay. Thank you. I appreciate
25 that. So I think it's Exhibit CP-33.

1 MARKED FOR IDENTIFICATION:

2 CHARGING PARTY EXHIBIT 33

3 3:31 p.m.

4 BY MS. KELLEY:

5 Q. Okay. Can you talk about the attempts to resolve this
6 through Bill Donahue?

7 A. So there was -- so I can discuss the chain of emails now.
8 So --

9 Q. Without reading them. If you could just give --

10 A. I don't have them. Okay. So I'll just characterize them. I
11 would say from the perspective that I took, Professor Akbulut
12 indicated that he was not willing to proceed with mediation
13 as instructed by Bill Donahue's office and he was
14 particularly interested in knowing who was going to fund the
15 lawyer, where the funds were, and that if any funds were
16 coming from the University and particularly from that
17 department he didn't want any part of the process because he
18 felt it could not be fair and that was his position and --

19 Q. And what did Bill Donahue -- did Bill Donahue make a
20 recommendation regarding mediation at the end of the day?

21 A. Yes, he did. Bill Donahue was copied on all of this and he
22 reviewed it, and his decision was that Professor Akbulut was
23 not willing to -- not willing to engage in mediation.

24 Q. I'm sorry. What?

25 A. He was not willing to engage in mediation.

1 Q. Okay. Thank you.

2 MS. DOUKOURE: Your Honor, I'm just going to
3 pose a standing objection to this witness consistently
4 testifying to what other people's present sense intentions
5 were, what their statements are, what their conclusions were.
6 Those people could have been put on witness lists by the
7 charging party to testify themselves, and this witness is
8 consistently and repeatedly testifying to what other people's
9 state of mind is. He just currently testified to what Bill
10 Donahue's conclusions are without even providing a basis for
11 what those conclusions were, and I would ask that that
12 testimony regarding Bill Donahue's present sense intentions
13 of Professor Akbulut be stricken from the record.

14 MR. REIFENBERG: Could you lay a foundation?

15 MS. KELLEY: I mean, I think it's sufficient.

16 BY MS. KELLEY:

17 Q. Do you know what Bill Donahue -- were you involved in the
18 attempts at mediation?

19 A. I was involved in the email exchange which was attempting to
20 establish the mediation and I can say that it was not
21 successful and that there's emails that Bill Donahue sent to
22 me which gives his words.

23 JUDGE WHITBECK: Pardon me?

24 A. They haven't been admitted yet.

25 BY MS. KELLEY:

1 Q. Well, it has been admitted. I have -- I mean, it's been
2 admitted as Exhibit 33.

3 A. That email. But Bill Donahue's conclusion. Bill Donahue
4 gave a conclusion summary of that email.

5 MS. DOUKOURE: And, your Honor, best evidence
6 would have been that email of Bill Donahue's conclusion, not
7 testimony from this witness about what Bill Donahue's
8 conclusions were. While this is not a formal proceeding, it
9 is not substantially follow the Rules of Evidence, fair play
10 has to come into play here at some point.

11 MR. REIFENBERG: Do you have a document that
12 establishes his conclusions?

13 MS. KELLEY: It's been admitted as CP -- the
14 last exhibit.

15 MS. DOUKOURE: That does not have a single
16 conclusion from Bill Donahue on it.

17 JUDGE WHITBECK: Let her identify it.

18 BY MS. KELLEY:

19 Q. But I'm asking you do you know what Bill Donahue's conclusion
20 about mediation was? Do you know?

21 A. Yes, I do.

22 Q. Do you know because you were involved in the mediation?

23 A. I knew because he sent me an email directly confirming --

24 MS. DOUKOURE: And I'm going to object again.
25 The evidence of Bill Donahue's conclusion is founded in an

1 email, a document which is best evidence. I cannot
2 cross-examine something -- I cannot ask questions about
3 something that has not been presented and yet they're
4 presenting evidence that somebody else could have testified
5 to.

6 JUDGE WHITBECK: Again, do you have such a
7 document?

8 MS. KELLEY: I will have to review. I don't
9 know. I think he has knowledge, and I think she can
10 cross-examine Professor Promislow.

11 JUDGE WHITBECK: Do you have the document? Yes
12 or no?

13 MS. KELLEY: I don't. I don't.

14 THE WITNESS: Item 28.

15 MS. DOUKOURE: So I'm asking that that statement
16 about Bill Donahue's conclusions be stricken from the record.
17 At some point like fairness has to come in play here. They
18 had a document. They had a document that proves their point.
19 Instead they're testifying to something that I can't verify,
20 that nobody can verify.

21 MR. REIFENBERG: Could you cross-examine him on
22 this?

23 MS. DOUKOURE: Yes. But he can't tell me -- he
24 can't give me the foundation or the basis for Bill Donahue's
25 conclusion that he's just testified to and that's not fair.

1 Equity and fairness play a role in these proceedings whether
2 or not the Rules of Evidence do.

3 A. Can I speak or . . .?

4 BY MS. KELLEY:

5 Q. No.

6 MR. REIFENBERG: We agree with the objection.
7 There's no foundation for it.

8 MS. DOUKOURE: Thank you. And it's going to be
9 stricken from the record?

10 MR. REIFENBERG: Yes.

11 MS. DOUKOURE: Thank you.

12 MS. KELLEY: So that is CP-30 --

13 MS. DOUKOURE: No. Not the exhibit. Just the
14 testimony.

15 THE WITNESS: No. Not my comments.

16 MS. KELLEY: Oh. Just the testimony.

17 JUDGE WHITBECK: Off the record.
18 (Discussion off the record at 3:37 p.m.)
19 (Back on the record at 3:38 p.m.)

20 BY MS. KELLEY:

21 Q. Okay. Moving on. So the second Advisory Committee from the
22 math, it was determined that there was no -- there was a
23 conflict of interest; correct? I'm just trying to set us up
24 to move on.

25 A. So the conflict of interest, the -- sorry. The -- I received

1 an email from Dean Sisk indicating that the review panel that
2 she had formed, the ad hoc review panel she had formed had
3 completed their deliberations.

4 Q. Had what?

5 A. Had completed their deliberations they formed at the
6 conclusion --

7 Q. Okay. Have we talked about the formation of the ad hoc, what
8 you've termed the ad hoc committee?

9 A. We have not yet.

10 Q. Okay. Can you tell the hearing committee like what the
11 ad hoc committee was and what its purpose was and who was on
12 it and how they were appointed?

13 A. It was formed by Interim Dean Sisk. She took the -- the
14 advisory committee -- the Faculty Advisory Committee, which
15 is a standing committee of the College of Natural Science,
16 and she took the full professors of that committee who had no
17 appointment in the Department of Mathematics and she formed a
18 committee from them and they received documents and they
19 reviewed documents and they gave me their opinion of the
20 documents.

21 Q. Okay. But what was their goal? What was their task? What
22 were they tasked to do, this committee?

23 A. They were tasked -- sorry. They were tasked to decide if the
24 documents that presented with them rose to the level of
25 serious discipline.

1 Q. Okay. Can you take a look at Item 35 behind Tab 11? And can
2 you identify that and tell me what it is and read it for me,
3 please?

4 A. This is an email from me -- to me from Cheryl Sisk, the
5 interim dean, on March 27th of 2018 in which she reports the
6 result of the review of the ad hoc committee that she was
7 forming and their review.

8 Q. And can you read that email?

9 A. It says, "Dear Keith, NatSci," that's Natural Science,
10 "appointed an ad hoc committee to review the documentation of
11 Professor Selman Akbulut's emails, behavior, and interactions
12 with math faculty and students since January 2015. The
13 committee compromised six members of the standing NatSci
14 Faculty Advisory Council who are tenured full professors in
15 departments other than math. They met on March 21st, 2018,
16 to discuss the case and voted unanimously that serious
17 disciplinary action is warranted. Please let me know if
18 NatSci can assist you further in resolution of this matter."

19 MS. KELLEY: Move to admit as CP-34.

20 MS. DOUKOURE: No objections.

21 MARKED FOR IDENTIFICATION:

22 CHARGING PARTY EXHIBIT 34

23 3:41 p.m.

24 BY MS. KELLEY:

25 Q. Can you turn to Tab 11, Item 38? Tell me what it is.

1 A. Okay.

2 Q. Let me ask you is this in response to the ad hoc Advisory
3 Committee's recommendation?

4 A. Yeah. This is a -- yes. That's an accurate
5 characterization. This is then the proceed -- given their
6 recommendation, the decision was to proceed to impose serious
7 discipline for targeting.

8 Q. Okay. Can you read the second paragraph on the second page?

9 A. "On January 30th, 2018 I sent you a notice of an impending
10 additional disciplinary action for this behavior, admonishing
11 you that your current behavior was leading to serious
12 discipline. You sent subsequent emails on January 30th and
13 February 2nd that engaged in targeting behavior. The emails
14 imply you have contacted the president of the American Math
15 Society and National Science Foundation with your concerns.
16 They indicate that you will not desist in this behavior until
17 you achieve the outcome you desire. In February 2018 the
18 Faculty Grievance Officer William Donahue attempted to
19 arrange for an external mediation process. You rejected this
20 offer."

21 Q. And, again, can you read the first paragraph under "Serious
22 Discipline"?

23 A. Your persistent and continued attacks against your colleagues
24 and the department cannot continue. Your actions are
25 disruptive to the department and create an atmosphere of fear

1 and hostility for faculty who have engaged in good faith in
2 the governance process. We have attempted to mediate this
3 matter with you, even long after you have exhausted your
4 internal avenues to challenge the abrogation of duties
5 decision. You have had three years to express your point of
6 view on this matter. Given the disruptive nature of your
7 communications, I am directing that you cease all further
8 communications with faculty, staff, or students in the
9 department about the January 30th, 2015 abrogation of duties
10 discipline [sic] or their participation in the administrative
11 review of that decision."

12 JUDGE WHITBECK: I think you said discipline
13 instead of decision.

14 A. Oh. I'm sorry. Abrogation of duties decision. I apologize.

15 MS. KELLEY: Move to admit as CP-35.

16 MS. DOUKOURE: No objections.

17 MARKED FOR IDENTIFICATION:

18 CHARGING PARTY EXHIBIT 35

19 3:45 p.m.

20 MS. DOUKOURE: If you don't mind, can we go off
21 the record for just a second to take care of an
22 administrative issue that could possibly -- I'm sorry.
23 Because I was not actually speaking in the microphone like I
24 thought I was. Is it okay if we go off the record to take
25 care of an administrative issue that could possibly speed up

1 this proceeding without requiring us to read from documents
2 that are being admitted into evidence?

3 MS. KELLEY: I'm almost done, for what it's
4 worth. I just have a couple more questions.

5 MS. DOUKOURE: Because I feel like reading from
6 documents that are admitted into evidence are wasting hours
7 of time.

8 MR. REIFENBERG: Do you have any more documents?

9 MS. KELLEY: I have just a few more. I mean,
10 I'm on my last page of questions. I have --

11 MS. DOUKOURE: This is not testimony. Testimony
12 is not reading through a document as part of the record.
13 It's just not.

14 JUDGE WHITBECK: Counsel, you're a little late.

15 MS. DOUKOURE: I'm just trying to see if we can
16 put an administrative procedure in place where we can
17 possibly look at these documents.

18 JUDGE WHITBECK: Remember that cuts two ways.
19 You may ask the same thing about documents too.

20 MS. DOUKOURE: I guarantee you I'm not going to
21 have a single human being on the stand reading from a
22 document. I guarantee it.

23 MR. REIFENBERG: How many more documents do you
24 have?

25 MS. KELLEY: I have one, two, three, four --

1 six.

2 MS. DOUKOURE: We have been here for several
3 hours today, the bulk of which has been people reading off of
4 documents.

5 MS. KELLEY: I think -- can I just respond? I
6 think we're well within our rights to have the hearing
7 committee listen to some of these documents and highlight the
8 importance of each -- of what's in some of these documents.
9 We're really being selective. I don't feel like we're
10 reading pages and pages. And I think we're entitled to do
11 that.

12 MR. REIFENBERG: In the interest of time, could
13 you instead of having the witness read the documents point to
14 the paragraphs that you want us to pay attention to?

15 MS. KELLEY: Absolutely. Absolutely. I will do
16 that. I'll just point to you what I think is highly relevant
17 in the document.

18 MR. REIFENBERG: Because we've only got about an
19 hour left.

20 JUDGE WHITBECK: And we can read the documents.

21 MS. KELLEY: Understandably. They do not have a
22 lot of documents. We do. So I get that. But yeah. I just
23 don't want to zoom -- I mean, if that were the case, I'd just
24 give you the binders and we wouldn't have all this.

25 MS. DOUKOURE: I mean, that's what we're doing

1 anyways. We have somebody up here testifying and the sole
2 portion of their testimony is reading from a document.

3 MR. REIFENBERG: But we can probably handle that
4 by saying let's look at this document, especially paragraph
5 such and such.

6 MS. DOUKOURE: That's fine. The witness can lay
7 a foundation and can do that and move on without spending --
8 I mean, we've been here six hours today reading from
9 documents.

10 MS. KELLEY: Well, that's what we have, a
11 documented case.

12 MS. DOUKOURE: We have testimony. That's what
13 we're here for.

14 JUDGE WHITBECK: Yeah. We got it. Okay?

15 MS. KELLEY: Okay. So I don't even know where
16 I'm at.

17 MR. REIFENBERG: So we're on 38, then.

18 BY MS. KELLEY:

19 Q. So you just talked about the notice of intent to impose
20 serious discipline. Do you remember what happened next in
21 the process? If you want to turn to Tab 11, Item 40. Please
22 don't read from the document. Let's just tell everyone what
23 it is, to/from, and then I will point out for the committee
24 what I think is important.

25 A. Okay. So there was -- as part of the intent to impose

1 serious discipline, MSU policy allows a review panel from the
2 UCFA, University Council of Faculty Affairs, to review all
3 the documents, and that's basically an appeal mechanism
4 that's afforded, and Selman indicated he wanted to proceed
5 with that and so we did and we formed a panel meeting that
6 met on April 27th, and then this is their conclusion.

7 Q. And what was the UCFA panel's conclusion about imposing
8 serious discipline?

9 A. Their -- their charge was to review the -- the documents and
10 to support or not support a finding. They supported the
11 finding of -- that serious discipline was warranted because
12 of what they -- I'll just characterize the document as a
13 violation of the relation with colleagues clause and faculty
14 behavior.

15 MS. KELLEY: First of all, admit as CP-36.

16 MS. DOUKOURE: No objection.

17 MARKED FOR IDENTIFICATION:

18 CHARGING PARTY EXHIBIT 36

19 3:50 p.m.

20 BY MS. KELLEY:

21 Q. So what I would have the witness read is the actual -- the
22 behavior that contradicts the university guidelines for
23 Faculty Rights and Responsibilities and that's in the middle
24 of the document on the first page. And that is part of the
25 university's Faculty Rights and Responsibilities policy and

1 it talks about relation with colleagues and how we expect
2 faculty members to act basically with respect to their
3 colleagues.

4 MR. REIFENBERG: And this is Paragraph 4?

5 MS. KELLEY: Yes. 3 and 4.

6 A. I don't have these documents. I don't know where they are.
7 Are they tabbed?

8 MS. DOUKOURE: She just took it from you.
9 Literally. Just took it out of your hand.

10 BY MS. KELLEY:

11 Q. Okay. Can you turn to Tab 11, Item 44, please? And just
12 tell everyone what that is and how you arrived at the
13 decision described in this document.

14 A. Item 44. Is that the item?

15 Q. Correct.

16 A. So this is the letter of June 6th, now a month after the UCFA
17 panel meeting, and it indicates intent to impose dismissal
18 for cause.

19 Q. It's a letter written to Professor Akbulut --

20 A. Written to --

21 Q. -- from you?

22 A. It's a letter --

23 MS. DOUKOURE: Counsel's testifying again.

24 A. It's a letter written from Professor Akbulut -- to Professor
25 Akbulut from me. It indicates that the reason why escalation

1 from serious discipline to dismissal for cause was primarily
2 motivated by his targeting of the UCFA council and emails
3 that he sent to them, and that's -- that's what -- it
4 provides the basis for the process that I will request the
5 dean to consider. I cannot -- I cannot move for dismissal
6 for cause. The dean has to make the nomination.

7 BY MS. KELLEY:

8 Q. And you did this why? What specifically led you to move for
9 dismissal for cause at this point?

10 A. Well, we had considered every -- every option. We tried to
11 define boundaries of behavior. We had gone through the
12 escalation -- the MSU required process for escalating
13 discipline, and at every instance whatever was indicated as
14 unacceptable behavior was jumped over. Specifically he
15 targeted the UCFA faculty following their -- targeting emails
16 sent to the UCFA faculty following their decision.

17 Q. Okay.

18 MS. KELLEY: I move to admit as CP-37.

19 MS. DOUKOURE: I have no objection.

20 MARKED FOR IDENTIFICATION:

21 CHARGING PARTY EXHIBIT 37

22 3:54 p.m.

23 BY MS. KELLEY:

24 Q. Can you turn to -- can you talk first briefly about what the
25 Administrative Review Panel and the UCFA panel members were

1 asked to do -- I'm sorry. Not UCFA. Specifically the
2 Administrative Review Panels were asked to submit to the UCFA
3 as part of their recommendations or review?

4 A. So -- okay. As part of the documents submitted to the UCFA
5 panel for the -- for their review of the intent to impose
6 serious discipline, documents were solicited from faculty
7 members in that department including statements of impacts,
8 about ten of these, and these were -- these were -- I
9 requested the faculty members if they'd be willing to write,
10 and whatever they wrote was submitted to the UCFA panel as
11 part of the document.

12 Q. Okay. Can you now turn to Tab 11 and it's N, N as in Nancy,
13 5. And I'd tell you but I'm not sure where it is in there.
14 Keith, do you happen to --

15 A. N would be at the very back of -- N.

16 MR. REIFENBERG: It's about an inch in.

17 A. N is for November if that helps. S is for summer. So after
18 the S's comes the N's. S is summer. N is November.

19 MS. DOUKOURE: It's before W. Which N are we
20 looking at?

21 THE WITNESS: 5 I believe.

22 MS. KELLEY: N5.

23 BY MS. KELLEY:

24 Q. Keith, can you identify that, the document, and describe what
25 it is?

1 A. Yes. It's a letter -- it's an email on November 6th, 2018,
2 from Selman Akbulut to the entire math department and
3 specifically cc'd to all the graduate students in the math
4 department, and he is lamenting the -- well, it -- he is
5 referring to the statements of impact that were written in
6 the -- that were submitted to the -- sorry. It's been a long
7 day. Submitted to the UCFA panel and referring to them as a
8 hate letter campaign, and he's characterizing these letters
9 as demeaning and harassing and he's asking for due process.

10 MS. KELLEY: Move to admit as CP-38.

11 MS. DOUKOURE: No objection.

12 MARKED FOR IDENTIFICATION:

13 CHARGING PARTY EXHIBIT 38

14 3:58 p.m.

15 BY MS. KELLEY:

16 Q. How have Professor Akbulut's actions affected the math
17 department?

18 MS. DOUKOURE: Objection. I'm going to ask that
19 this witness testify only to how -- his best knowledge of how
20 it affected people. He cannot testify as to other individual
21 math department persons' states of mind.

22 BY MS. KELLEY:

23 Q. Okay. In your position as the leader of the math department,
24 what effect do you see all of the emails that have been
25 introduced as evidence here have had on your department as a

1 whole, not to what individuals may have felt, but as -- as --
2 as the department, as the math department of the university,
3 how has it affected the department?

4 A. Well, it's been a very long process. So for me this has been
5 about the math department trying to define for itself and
6 with me as the chair how relationships between colleagues,
7 communication between colleagues can take place, what is
8 acceptable and what is not acceptable, and in some level
9 there's been a coming together as people realized that we
10 have a lot to lose if we let faculty members -- if we give
11 them free rein to impugn other people's motives, if we give
12 them free rein to criticize, if we give them free and
13 unfettered attacks -- unfettered opportunities to attack
14 others, that this will take the culture of the department and
15 turn it into a -- one of division and animosity, and that
16 there's really been a struggle for how we define how we
17 interact with each other. And I think at some level the
18 department's come together. There's a lot of unity that we
19 cannot tolerate this anymore, that this sort of behavior --
20 no single individual can take themselves outside of the
21 administrative review process and set up their own due
22 process to basically evaluate what they think their other
23 colleagues are doing. If anyone's going to be placed in a
24 position of review, I'm the chair, I'm placed in a position
25 of review, but I'm elected, and there are limits to my

1 powers, many, many limits to what I can do. No single
2 faculty member should be allowed to set them up in a position
3 where they decide what's right and wrong, and that's really
4 been the -- the sort of upshot of this five-year, I don't
5 know quite what the right word is, it's been a long day, this
6 five-year struggle for what is really the soul of our
7 department. Who are we and what do we stand for and what do
8 we tolerate? And do we let people who have authority -- and
9 I want to say I view Professor Akbulut as someone who has
10 great authority because of his stature as a mathematician.
11 He's a very serious mathematician. He has a lot of authority
12 in the math community. If we let someone with authority use
13 that authority without limit, then it will degrade the
14 culture of our department and I would say the impact of this
15 decision that we will not allow that to happen. That is the
16 collective will of this department that I've received.

17 Q. Are you familiar with the acceptable use policy at MSU?

18 A. I am now.

19 Q. It's Tab 8 in your binders.

20 JUDGE WHITBECK: Tab what?

21 MS. KELLEY: Tab 8.

22 BY MS. KELLEY:

23 Q. If you would just look at Section 3.5. No need to read it.

24 A. Okay.

25 Q. But are you familiar with the fact that MSU under policy says

1 that there is a right to place limits on MSU email use?

2 A. Yes, it does.

3 MS. KELLEY: I'm going to move to admit the
4 Acceptable Use Policy.

5 MS. DOUKOURE: I'm sorry. I did not catch what
6 section you're talking about.

7 MS. KELLEY: 3.5.

8 MS. DOUKOURE: Thank you. And I have no
9 objections.

10 MS. KELLEY: Move to admit as 39.

11 MARKED FOR IDENTIFICATION:

12 CHARGING PARTY EXHIBIT 39

13 4:03 p.m.

14 BY MS. KELLEY:

15 Q. Okay. Keith, are you familiar with the appropriate use of
16 MSU email services by internal users on MSU Net? Again, this
17 is Tab 9 in the binders. It's a -- you know, are you
18 familiar with that policy of the university?

19 A. I am.

20 Q. And if you would just pay attention to the definitions in
21 Roman Numeral III and Sections 5-A and 5-C. Is it within
22 your right as the department chair to set rules regarding
23 email use?

24 A. These policies give the administrator's right to set
25 limitations on how email can be used, particularly bulk

1 email, which is sent to many people.

2 Q. And it also talks not only about bulk email but about
3 unsolicited email?

4 A. It identifies unsolicited email, bulk email, and uses within
5 administrative units, which is what math is. Section C
6 describes use of email within the administrative units.

7 MS. KELLEY: Move to admit this policy as CP-39.

8 MS. DOUKOURE: I have no objections.

9 JUDGE WHITBECK: 40 I think.

10 THE WITNESS: Is this 40?

11 MS. KELLEY: Is it 40? Okay. Sorry. 40.

12 Yeah. It's 40.

13 MS. DOUKOURE: I still have no objections.

14 MARKED FOR IDENTIFICATION:

15 CHARGING PARTY EXHIBIT 40

16 4:05 p.m.

17 BY MS. KELLEY:

18 Q. Do you know if anyone is considering leaving the math
19 department because of Professor Akbulut's behavior?

20 A. I have had faculty indicate that that is something they have
21 considered. They have specifically said that.

22 Q. Is that something you're concerned about?

23 A. Very much. They're usually the best ones. The best ones are
24 the ones where leaving is the easiest. They have great
25 market value.

1 Q. Why is dismissal for cause necessary here? Why isn't some
2 lesser form of discipline -- why wouldn't that work?

3 A. Professor Akbulut has established that he has no intention.
4 I can't count every option there was and how many forks in
5 the road, seven or eight different avenues where he was
6 informed or outreach was attempted, and from my perspective
7 every attempts he either escalated his behavior, found a new
8 way to do the same thing, or just found a more creative way
9 to broaden his audience. He hasn't shown any proclivity to
10 stop. He said repeatedly that he will never stop. And
11 frankly I believe him. I take him at his word on that. I
12 think there's very little hope now. That's not something
13 that's -- that I've had for the last -- last year that I
14 think that there is any reasonable remedy that will convince
15 him that it is now time to stop. I simply don't think he has
16 one. And I typically don't think there is one. Certainly
17 not within my power and I would be very surprised if there
18 was anything within MSU's power to convince him. That's
19 my -- that's my situation. To leave him in the department is
20 just a total repudiation of what I consider to be an
21 incredibly brave stance, and I have a lot of sympathy for
22 people who have gone through this for five years, and my
23 sympathy, it only increases as the field becomes closer to
24 his, because it's clear if you're in his field, and he's a
25 major person in his field, and your grants, placement of your

1 graduate students, everything you've been working for your
2 whole life depends upon other people's opinion of you, and
3 someone who is a major figure in your field is doing
4 everything they can to damage your reputation, that's a
5 real -- a real impact on these people, and I have worked very
6 hard to keep them here, several of them. Some in particular
7 I really would be devastated if they left. The younger they
8 are, the more it hurts. It's extremely -- the people in the
9 topology group are very strong and so to lose these people,
10 it would be easy for them to go, and I've worked very hard to
11 tell them that we are building the right sort of future for
12 them, that they should stay here, because we're making a
13 stand for something that's worth fighting for. That allowing
14 bullying I think -- you don't have to look too far in the
15 news. It's not just MSU. A lot of universities are looking
16 around and saying, you know, what sort of accountability is
17 there for people who --

18 MS. DOUKOURE: Objection. He's testifying to
19 what other people are doing at other universities without a
20 basis of explaining how he has knowledge about what goes on
21 and the undertakings of other universities. I would ask that
22 he not do that.

23 A. Okay. I retract. I'm happy to continue in that vein. So
24 can I continue?

25 BY MS. KELLEY:

1 Q. Yes.

2 A. So I think that for MSU, I think in my personal experience at
3 MSU we do have an issue with holding people accountable, and
4 if we wish to increase the standing of diversity, equity, and
5 inclusivity at this university, if we want untenured faculty
6 to be able to speak up and have a voice, if we want young
7 graduate students or anyone in a position who depends upon
8 authority to feel that they can speak up, the first step in
9 increasing that sort of culture is to eliminate bullying, to
10 eliminate -- to show that there's not a tolerance for
11 indiscriminate communications that target broad audiences
12 that place many people -- some -- few people at the focus of
13 many people, that eliminate basically creating a crowd or mob
14 mentality. Say all of these people have seen what you're
15 doing and I want them all to look at you and I want them to
16 feel all these eyes upon you. That is to me the essence of
17 the actions that we're taking here, and that to me is
18 absolutely detrimental to the community I think we have to
19 have, to take the steps we need to take to build an open
20 trusting community. So I think that if we allow five years
21 of behavior which to me is antithetical to building trust and
22 we just say, well, that's okay but it's not really bad --
23 it's not really bad enough, I just don't understand what is
24 bad enough then. What sort of bullying behavior is bad
25 enough? To remove tenure. I agree. Removing tenure is a

1 huge deal. This is a huge enormous undertaking. It should
2 be an enormous undertaking. But I've been doing this for
3 five years now. I just can't understand what substantially
4 could have been done better. There are small things that
5 could have been done better. But at the big level this
6 was -- this was a process that involved the entire
7 department. We're out of new ideas. It's just been -- we're
8 exhausted. Physically, mentally, and emotionally.

9 Q. Thank you. Last document. I'm handing you what's Tab 6 in
10 your binder. This is Faculty Rights and Responsibility
11 policy.

12 MS. KELLEY: If the hearing committee would just
13 look at -- you know, I draw their -- instead of having them
14 read it to the bottom section of numbers, Number 1 and
15 Number 5.

16 THE WITNESS: On the first page.

17 MS. KELLEY: On the first page. And then the
18 "Relation with Colleagues" section.

19 BY MS. KELLEY:

20 Q. Keith, did Professor Akbulut violate the Faculty Rights and
21 Responsibilities policy?

22 A. Indisputably. I don't think anyone can look at this case and
23 say this has not been violated. This is egregiously.

24 Q. And how so? Can you just elaborate on what the policy says
25 and --

1 A. Responsibility to work in a collegial manner. I mean, this
2 is antithetical to collegial. This is I'm going to take your
3 career and I'm going to damage it everywhere I can
4 explicitly. That is -- I don't -- that to me is -- I
5 can't -- I can't process that construction. I can't imagine
6 any reasonable -- I just -- I just can't -- I can't process
7 how Professor Akbulut came to the conclusion that this was
8 the process that he was going to go down to adjudicate what
9 from my point of view started out as relatively minor issues
10 and small communication errors on all sides. This is what it
11 takes? This is what you build out of that? I -- I would
12 have thought this was impossible if I hadn't lived it. Don't
13 understand.

14 MS. KELLEY: Thank you. I don't have any
15 further questions.

16 JUDGE WHITBECK: You have to move the exhibit.

17 MS. KELLEY: Oh, I'm sorry. Thank you so much.
18 Last exhibit. Move to admit as Exhibit 41.

19 MS. DOUKOURE: I have no objections.

20 MARKED FOR IDENTIFICATION:

21 CHARGING PARTY EXHIBIT 41

22 4:13 p.m.

23 (Recess taken at 4:13 p.m.)

24 (Back on the record at 4:21 p.m.)

25 CROSS-EXAMINATION

1 BY MS. DOUKOURE:
2 Q. Mr. Promislow, am I saying that correctly?
3 A. Promislow.
4 Q. Promislow. Mr. Promislow, you testified first about the
5 grievance that Professor Akbulut filed in response to
6 receiving the Abrogation of Duty Penalty; is that correct?
7 A. The grievance he filed with the faculty grievance officer?
8 Is that the one you're referring to in February of 2015?
9 Q. Yes.
10 A. I did -- I did comment on that.
11 Q. Did you sit on that grievance committee?
12 A. I was not a member of the panel, no.
13 Q. Did a report come out?
14 A. There was a report filed by the faculty grievance officer.
15 Goodness. Bill Donahue.
16 Q. That was filed with who?
17 A. Boy. I'm sure it was Terry Curry's office, the dean, and
18 copies to Professor Akbulut and to myself.
19 Q. Would it surprise you if I told you Professor Akbulut never
20 received a copy of any filed determination in that grievance?
21 A. I guess. I don't know. Surprised? I don't know if I'm
22 surprised.
23 Q. Was there a hearing on that grievance?
24 A. Was there a formal meeting? No. There was not a formal
25 meeting with the people in the room. There was no submission

1 of documents.

2 Q. Do you recall why the grievance was never heard for hearing?

3 A. My recollection is that Bill Donahue reviewed the materials
4 and the committee met and they did not feel that the
5 committee -- that the materials submitted rose to the level
6 that merited sufficient -- that merited review. They did not
7 meet the -- I can't remember the exact words. Did not
8 address the issue at hand or some equivalent phrasing.

9 Q. Was it because they had decided it was not their jurisdiction
10 to hear it because they didn't have enough information?

11 A. Well, so the question is what's grievable. And --

12 Q. I'm not asking you what's grievable. I'm asking you do you
13 recall the decision that came out of the grievance was
14 because they didn't have enough information to make a
15 determination about jurisdiction?

16 A. I'm not sure what you mean by jurisdiction, but I don't
17 recall anything about the word "jurisdiction."

18 Q. I think that's the term that was used by the grievance
19 committee. You read that report you stated as a result of
20 you being the chair or the dean or the chair of the Math
21 Department; correct?

22 A. Yeah. I was given a copy because I'm chair of the Math
23 Department. That's right.

24 Q. But were you also respondent to that grievance?

25 A. Yes, I was. I was also one of the people that contributed to

1 the documents. I contributed a portion of the documents.

2 Q. So you testified regarding the administrative review for

3 Professor Akbulut's Abrogation of Duty; correct?

4 A. I'm sorry. I missed a key word in there. Can you repeat?

5 Q. You testified earlier regarding the administrative review

6 process --

7 A. Oh. Yes.

8 Q. -- for Professor Akbulut's finding of Abrogation of Duty;

9 isn't that correct?

10 A. I did. There's too many panels and their names sound

11 similar. Yes, I did. Administrative Review Panel. Yes, I

12 did.

13 Q. And it is your testimony that you reviewed a finding by that

14 committee; is that correct?

15 A. I did.

16 Q. Did you review any of the testimony or documents or informal

17 information or formal information that was received by that

18 committee?

19 A. I reviewed their written conclusion, which is the five-page

20 document that was submitted, and I was not provided with any

21 additional information.

22 Q. Did you seek out any additional information?

23 A. No, I did not.

24 Q. Was it originally -- it was originally you that recommended

25 that Professor Akbulut be charged with Abrogation of Duty;

1 isn't that correct?

2 A. Yes.

3 Q. So you ostensibly reviewed the finding that you had already

4 made a determination on?

5 A. So yes, I initiated the initial request for the Abrogation of

6 Duty Penalty.

7 Q. And then you reviewed -- and then in response you recommended

8 a meeting?

9 A. Then I was one step in the review process.

10 Q. And then there was supposed to be an independent panel that

11 reviewed it, which was the Administrative Review Panel?

12 A. Yes. Yeah.

13 Q. And then you --

14 A. Yeah. That was before me. That's before me.

15 Q. And then you reviewed their findings?

16 A. I commented. I think the right word is I am supposed to

17 comment on their findings.

18 Q. But you testified that you reviewed their findings?

19 A. Okay. Maybe it was reviewed. I don't remember. Yeah. I

20 reviewed their findings. I agree with that.

21 Q. And then you made a determination on their review?

22 A. I saw no reason to change the -- my --

23 Q. I mean, obviously you found no reason to change their

24 determination because it was originally your determination;

25 correct?

1 A. That's correct.

2 Q. So to Professor Akbulut, is it possible that he found that
3 entire process to be very circular involving you? His
4 argument against it was the fact that you targeted him and
5 then you again got to review your own finding and your own
6 involvement in that case?

7 A. I can't testify to Professor Akbulut's state of mind.

8 Q. Is it possible that somebody who was engaged in a process
9 with a person who both initiated the problem and then -- or
10 initiated a penalty and then reviewed a finding could be seen
11 as circular? Don't you have authority over every single
12 person who was on that review committee?

13 A. Depends what you mean by authority. That's a very --

14 Q. They're all from the department; correct? You supervised
15 everybody in the department; correct?

16 A. I am the chair of the department and I --

17 Q. Is that a yes?

18 A. That's a yes.

19 Q. So you have authority over everybody that sat on that review
20 panel; correct?

21 A. There exists some authority, yes.

22 Q. There exists some authority?

23 A. Yeah.

24 Q. Do you have the authority to bring them under proceedings for
25 termination?

1 A. Not by myself.

2 Q. But you had that authority to recommend that; correct?

3 A. I could recommend it, yeah.

4 Q. You can recommend all types of penalties; isn't that correct?

5 A. If I have proper documentation, yes, that's right.

6 Q. You have the ability to determine whether somebody is going
7 to be able to teach a class or not teach a class; correct?

8 A. Yes. Absolutely.

9 Q. So you have complete authority over that?

10 A. I do. I do. That I have complete authority.

11 Q. So you have complete authority over other people in the
12 department? You're the top boss in the math department?

13 A. I dispute the top boss, and that is not how we run
14 departments at all here.

15 Q. Somebody has to be in charge?

16 A. At the end of the day I do --

17 Q. Is that a yes?

18 A. Yeah. It's a yes.

19 Q. And that somebody is you; correct?

20 A. Yes.

21 Q. And you do the day-to-day operations of the math department;
22 correct?

23 A. I'm not too sure what you mean by do the day-to-day
24 operations. Can you clarify?

25 Q. I mean, you testified here today that you determined to take

1 funds out of the math department and give it to a person who
2 was on sabbatical; correct?

3 A. The person who was visiting here, yes.

4 Q. He was here on sabbatical; correct?

5 A. Yeah. He was a visitor. Perhaps. I have no -- yes. If
6 that's the fact.

7 Q. You know we're talking about Mr. Asadi; correct?

8 A. Asadi. Um-hmm.

9 Q. Okay. I just want to make sure that we're all clear about
10 the --

11 A. I have the authority to take funds out of the department and
12 to --

13 Q. Would that be considered day-to-day operation, appropriating
14 funds?

15 A. If that's what you mean, yes. I have access to those.

16 Q. You also testified that you determined the definition of
17 targeting pursuant to creating your own regulations about how
18 emails can be used in the math department; correct?

19 A. I did. In consultation with the Advisory Committee I did,
20 yes.

21 Q. What Advisory Committee?

22 A. The Mathematics Advisory Committee. There's a standing
23 committee. There's too many words. There's a standing
24 committee in the mathematics department called the Advisory
25 Committee. It exists all the time.

1 Q. Those are people that you chose; correct?

2 A. No. These are elected. There's usually four -- it's either
3 three elected and three appointed or four elected and two
4 appointed. It's four elected and two appointed.

5 Q. Elected by whom?

6 A. By the math faculty every year.

7 Q. How do you get nominated?

8 A. Self-nomination or nomination from other faculty.

9 Q. And all of those people are the same people that sat on the
10 Advisory Committee that heard Professor Akbulut's Abrogation
11 of Duty Penalty; correct?

12 A. Well, the Advisory Committee changes every year. So the
13 Advisory Committee that was then formed that sat on the --
14 the administrative Administrative Review Panel was a
15 different Advisory Committee than --

16 Q. Who was different on it?

17 A. You're asking me a very specific question.

18 Q. You testified it was different, so you have to know how it's
19 different.

20 A. What's different? Because you can't be on it the same year,
21 so every year -- you can only stay on it two years in a row.
22 Every year someone is new on there. The elected people --
23 the appointed people are only on there one year, so all the
24 appointed people have to leave. So that's Baisheng --

25 Q. Who was the appointed committee?

1 A. Baisheng Yan, Sasha Volberg, and -- sorry. My brains -- it's
2 a long day. Baisheng Yan, Sasha Volberg, and one more
3 person. Everyone except Matt Hedden and Jeff Schenker were
4 appointed. Therefore, they were off the next year. They
5 could not have been on because they can't be put on it twice
6 in a row. And then the elected people serve two years, so it
7 was one person -- there would be one person overlap probably.

8 Q. But you're not sure?

9 A. I think it was Matt Hedden.

10 Q. But you're not sure?

11 A. You're asking me a very specific question about.

12 Q. Does that mean you're not sure?

13 A. I'm not sure. Yeah. I'm not sure.

14 Q. When did you engage this Advisory Committee for the purpose
15 of determining what the new rules about email would be?

16 A. I presented them with --

17 Q. When?

18 A. So it was during the end of the term in the summer of -- May
19 of 2017. 2016. And then I sent an email that sent out that
20 follow-up with the Advisory Committee to refine the process.
21 Part of the email I sent that was discussed here in my
22 testimony said that we will then follow up with the next
23 year's Advisory Committee to refine this process, so it was
24 followed up the next year with the Advisory Committee before
25 it was -- it was a year that lagged between when I sent the

1 email and when it was first introduced, and so it was
2 followed up with the Advisory Committee of the subsequent
3 year, which would have been 2017. Now my brain is not
4 working. '16. The fall of 2016, so the '16-'17 Advisory
5 Committee.

6 Q. You testified that you determined the definition for the word
7 "targeting." That's --

8 A. I did. It's structurally my definition. The advice I got
9 back from the Advisory Committee. So it is my definition.
10 I'm happy to own it if that's what you mean.

11 Q. I don't want you to make me happy. I want you to testify to
12 the truth today.

13 A. Yes, it's true.

14 Q. Who's the highest rated topographer at MSU?

15 DR. AKBULUT: Topologist.

16 BY MS. DOUKOURE:

17 Q. Topologist at MSU. I'm sorry. My math terms are not great.

18 A. I -- that's not a completely well-defined list. Who's the
19 best looking guy in my, you know, my basketball --

20 Q. There's no rating for mathematicians?

21 A. No. There's no numerical rating. No. No.

22 Q. There's no way to rank them? Because you testified --

23 A. Some are better than others, but it's not --

24 Q. You testified -- you testified -- you testified earlier in
25 your direct testimony that the best mathematicians were

1 threatening to leave MSU.

2 A. Yeah. There are some that are better than others.

3 Q. So obviously there's a ranking.

4 A. Well, there's good groups and there's good and bad. Some are

5 better than others. That's true.

6 Q. When it comes to math, who are some of the best

7 mathematicians at MSU?

8 A. In topology?

9 Q. Yes.

10 A. I would say Effie Kalfagianni, Matt Hedden, Selman Akbulut is

11 very good, and Ron Fintushel was probably the best until he

12 left. He left the first year I was the chair. That would be

13 my -- that's my personal opinion, and please don't anyone

14 quote me. If you tell anyone I said that, it's the most

15 controversial thing I say here as far as I'm concerned.

16 Q. Do you know how many grants Professor Akbulut brought to MSU?

17 A. I don't have an exact number, but I believe that he does

18 well.

19 Q. Is he one of the highest producing grant papers at MSU?

20 A. No. No. No.

21 Q. In the math department?

22 A. No.

23 Q. In his field of study?

24 A. In his field of study. You're getting closer. That's a good

25 question. I don't know how -- Ron Fintushel may have done

1 better with the RTG grant. That brings in a lot of money,
2 so . . . But I don't know exactly, but he does very well.
3 There's no doubt that Selman has done very well with grants.
4 He's very well regarded.

5 Q. Well regarded here?

6 A. Yes.

7 Q. Well regarded nationally?

8 A. Certainly.

9 Q. Well regarded internationally?

10 A. Yes. Absolutely.

11 Q. Brings a lot of respect to MSU's math department? Yes?

12 A. I would say historically, yes.

13 Q. Yes?

14 A. Historically, yes.

15 Q. Do you know what his summer project was this year? Do you
16 have any idea?

17 A. I'm sorry. Could you say it again?

18 Q. His summer project. Do you know what he was doing his
19 summer --

20 A. Summer project. Well, I know every summer he goes to Gokova.
21 He runs a very influential workshop in Gokova, Turkey.

22 Q. In Turkey?

23 A. Yes. And he goes there and I don't know what he does after
24 that. He's off duty. He doesn't have to report.

25 Q. But you know about his workshop that he's running?

1 A. Oh, absolutely.

2 Q. And that would necessarily increase the reputation of MSU's
3 math department that he's running that type of a program;
4 correct?

5 A. It has some -- it has a positive effect.

6 Q. Yes.

7 A. Yeah.

8 Q. In the world of math it creates a lot of respect?

9 A. It does. I mean, math is a very particular field. You get
10 respect by proving the theorems. That is the number one way
11 to get respect. Running workshops generates a lot of friends
12 and a lot of acquaintances.

13 Q. When we're talking about theorems here for math, is that
14 generally how grad students get their Ph.D. thesis is by
15 working on theorems and proving them?

16 A. Yeah. Sure. They definitely -- there's a long -- long
17 latency period for math students.

18 Q. Do you know how many Ph.D. students in the last three years
19 Professor Akbulut has graduated?

20 A. In the last three years?

21 Q. Yes.

22 A. I'd have to make a guess, but I'd say three, four, five,
23 somewhere in there.

24 Q. Is that average, above average, below average?

25 A. For the topology group, I'd say that's less than Effie and

1 less than Matt, more than Teena and, well, Kristen Hendricks,
2 but she was an assistant professor at MSU. So he's very much
3 in the average park for student production. What I think he
4 stands out in is his history of production. His early work
5 was very good. It's very strong early work.

6 Q. Let's talk about Professor Akbulut's students for a second
7 and his classes. Specifically let's talk about this chart of
8 Abrogation of Duty that you received. How many classes was
9 Professor Akbulut supposed to have taught that semester that
10 is at issue in this case?

11 A. Well, for the academic year, fall and spring, it should be
12 three. I think he taught two in the fall and so he should
13 have normally taught one in the spring.

14 Q. How many did he teach that spring?

15 A. Well, he taught one reading class.

16 Q. He taught a class --

17 A. He taught a reading class, what was officially regarded -- it
18 was officially regarded at MSU as a reading class.

19 Q. Did students get credit for that reading class that he
20 taught?

21 A. They absolutely did.

22 Q. How many grad students did he graduate from research that was
23 done from that class that he taught?

24 A. Well, I mean, that's hard to -- which -- which --

25 Q. There were five?

1 A. There were five students in the class. Every one of them got
2 something positive towards their research.

3 Q. Every one of them got a Ph.D. out of the research they did in
4 that class; isn't that correct?

5 A. No. That's a simplification of how long it takes to do
6 research. Typically the research of a grad student takes
7 three to five years sometimes. So to say all of them in one
8 class in a semester is just oversimplifying the matter. But
9 I'm sure there's a contribution for every one of them.

10 Q. The research that they did in that class directly affected
11 their -- they developed theorems and worked on theorems in
12 that class that he taught, the one class that he was required
13 to teach, all five students got a Ph.D. based on research
14 they did in that class; isn't that correct?

15 A. I'll be honest. I wouldn't know because topology is so far
16 away from what I do it's very hard for me to answer, but it's
17 quite possible.

18 Q. So he taught a class that spring?

19 A. The reading class. Absolutely.

20 Q. Yes. And he was required to teach one class that spring?

21 A. Yes. But a reading class does not count towards many --
22 almost every research faculty member will offer some sort of
23 reading class which is an informal class outside of their
24 normal load.

25 Q. How many students were supposed to be registered in that

1 class when he would be able to teach it?

2 A. A reading class?

3 Q. No. The class you canceled.

4 A. Five.

5 Q. And how many students took the class in the spring and

6 received credit for it?

7 A. Probably five.

8 Q. Five.

9 A. Yeah.

10 Q. Were there any other classes that had five students in it

11 that were canceled in the fall of 20 -- that were canceled in

12 October?

13 A. Were there any other classes that were canceled in the fall

14 of 2014?

15 Q. That had five students in it.

16 A. There were no classes canceled in fall of 2014 that had five

17 students registered in them on October 20th, 2014. There

18 were no classes canceled with five students.

19 Q. How many classes in the spring of 2015 had less than five

20 students in them?

21 A. Oh, how many classes ran with less than five students?

22 Q. Yes.

23 A. That's what you mean? So the process --

24 Q. I'm asking you a very specific question about the number of

25 classes that ran with less than five students and were not

1 canceled. It's very specific. It's a number. Could be one.
2 Could be 20. I don't know. But it's a number.

3 A. Do you want me to elaborate on the process?

4 Q. I do not. I want you to answer my question. How many
5 classes in that semester ran with less than five students?

6 A. I don't know the number, but there could certainly be two or
7 three that ran it.

8 Q. What I'm asking is four classes that on the first day of
9 class did not have five students registered in it and they
10 were allowed to run.

11 A. That was the policy. The policy was the number of students
12 on October 20th, 2014. That's the policy we had.

13 Q. When was that policy implemented?

14 A. In fall -- August, September, September 2014 --

15 Q. So it was a relatively new policy?

16 A. It was a brand-new policy.

17 Q. It was a very new policy?

18 A. New chair and new policy.

19 Q. One that students may not have been aware of?

20 A. One that students were made aware of in emails.

21 Q. One that students may not have been aware of?

22 A. If they were not reading their email, they would not have
23 been aware of it. But they should definitely have been aware
24 of it. It was their obligation to be aware of it.

25 Q. During the process of canceling Professor Akbulut's class,

1 did you make any discussion about whether or not his grant
2 was encumbered?

3 A. Can you -- the times -- can you read the whole question? I
4 missed the beginning.

5 Q. At the time that there was a discussion about enrollment in
6 Professor Akbulut's class, was there a discussion about this
7 grant being encumbered such that he would not be able to pay
8 the tuition of the students?

9 A. So there was a discussion -- so there's a -- the -- I had a
10 discussion with Carolyn Wemple about whether or not she had
11 been -- whether or not -- Selman had told me, it's one of the
12 things that was on the tape-recording, that he had, and it's
13 a little hard to get the dates right, but there were two
14 discussions --

15 Q. I'm asking you whether you had a discussion with Professor
16 Akbulut about whether or not his grant was encumbered because
17 he was trying to pay the tuition of the students.

18 A. Yeah. But you haven't given me a time frame. So I'm trying
19 to --

20 Q. At the time that you were talking about canceling his class
21 because there wasn't enough enrollment.

22 A. That was probably five to six conversations over a week at
23 least.

24 Q. Is that a yes?

25 A. No. That's not a yes. That's not an answer at all in any

1 form. So can you give me a specific --

2 Q. October of that year.

3 A. That's a long time. All the conversations occurred within
4 October 20th to October 27th or something like that. I had a
5 conversation with Carolyn Wemple. I asked her if she -- if
6 Selman had asked her to fund Luke and she didn't recall it at
7 that time and then she said but if he did, she said his grant
8 would have been encumbered. That's what she told me at that
9 time.

10 Q. So she didn't recall -- you're telling me that she didn't
11 recall --

12 A. She did not recall the conversation at that time.

13 Q. Okay. But if I told you that there's an email that's
14 addressed to you -- I'm sorry, to Professor Akbulut from
15 Carolyn Wemple on January 25th, 2016, at 4:40 p.m. that she
16 agrees with Professor Akbulut that there were available NSF
17 grant funds sufficient to cover the tuition and fees for Luke
18 Williams that Professor Akbulut had asked her at that time
19 and she said yes, would that surprise you?

20 MS. KELLEY: Objection. Wait. Wait. Wait.

21 Can he at least see the email that you're referring to?

22 You're asking him to agree to a very long explanation.

23 MS. DOUKOURE: I'm asking him if I told him
24 there was an email from Carolyn stating that she agreed with
25 Professor Akbulut that there was no funds to pay tuition for

1 Luke Williams.

2 A. Could you repeat the date of the email?

3 BY MS. DOUKOURE:

4 Q. The date is in 2016.

5 A. Of which year?

6 Q. January 2016.

7 A. Oh, I thought you said the 26th. I'm sorry. January 2016.

8 So there's an email one year and one month after all of the

9 discussion. No. It wouldn't surprise me in the least --

10 Q. Because you're telling me that in 2014 --

11 JUDGE WHITBECK: I'm sorry. Would you let him

12 finish his answer.

13 MS. DOUKOURE: He didn't answer my question so I

14 thought he was done.

15 A. I'm just saying -- would it surprise me that there's an email

16 from Carolyn Wemple in January of 2016 about what she

17 remembered in October of 2014. After two rounds of

18 chemotherapy she would complain incessantly about what she

19 called chemo brain, so I don't think she could --

20 BY MS. DOUKOURE:

21 Q. You have testified extensively about conversations that you

22 had had with Carolyn Wemple about funding and about her

23 present sense impression about Professor Akbulut and now

24 you're sitting here talking and saying that she's not a

25 credible witness. So which is it? Either she told you

1 things and you relied on it or she's not reliable because she
2 had chemo brain. Which one is it?

3 A. Well, it's that she had been harassed for a year --

4 Q. That's not what you said. You said she had chemo brain. And
5 I have an email here.

6 MS. KELLEY: Can you just show him the email?
7 You keep talking about the email.

8 A. Can I see it?

9 MS. DOUKOURE: I don't hear a proper objection.

10 MS. KELLEY: Objection. Opposing counsel is
11 badgering the witness about an email and refuses to show it
12 to him.

13 MR. REIFENBERG: Do you have it?

14 THE WITNESS: It's in the binder. I know what
15 she's referring to.

16 MS. DOUKOURE: It is in my binder. I'm not
17 going to admit it as evidence right now. But I will show it
18 to him since he's asked.

19 BY MS. DOUKOURE:

20 Q. Can you read that email for everybody, please?

21 A. Oh, yeah. From Carolyn Wemple to Selman Akbulut,
22 January 25th, 2016. "I agree. Professor Akbulut asked if
23 funds were available in the NSF grant to cover tuition and
24 fees for Luke Williams and I said yes."

25 Q. So now your testimony is that Carolyn couldn't remember and

1 now her email says she clearly remembers even two years later
2 that Professor Akbulut asked and she said yes, there is
3 enough money to cover? That's your testimony; correct?
4 A. My testimony is this. When I first asked her, she did not --
5 when I asked her in October of 2014, late October of 2014 she
6 did not recall a conversation with Selman Akbulut. When I
7 asked her later, not that much later, I don't remember when
8 exactly, she did recall the conversation with Selman Akbulut.
9 So the first time I talked to her, right after she told me
10 no, she didn't recall a conversation and then she said anyway
11 his grant will be encumbered.
12 Q. So you're testifying again that she told you she didn't
13 remember what was going on in 2014, then she had an
14 epiphany --
15 A. Yes, that's right.
16 Q. -- in her recollection in 2016 --
17 A. No. No. No.
18 Q. But that -- if I could finish my question, it would probably
19 be most helpful. But then she had an epiphany in 2016 where
20 she remembers speaking with Professor Akbulut in 2014 and now
21 but you recall her saying in 2014 that the grant was fully
22 encumbered?
23 A. She told me in 2014 the grant was fully encumbered and then
24 she corrected herself -- well, what she said, what she
25 corrected was that she did remember Selman coming in and she

1 didn't understand exactly what he meant --

2 Q. Now you're testifying to something completely different than
3 what you said. Because previously just two minutes ago you
4 said that she remembered telling Professor Akbulut that his
5 grants were not fully encumbered and now you're saying that
6 she couldn't recall, she didn't understand the question. I'm
7 confused by your testimony because you're testifying to
8 different things. Which is it?

9 A. Can I complete my answer without being interrupted? You
10 don't know. Okay. I'll give a complete answer. I asked her
11 in late October within a week of the cancellation if she had
12 a conversation with Selman about funding Luke and she did not
13 remember it at that time. She did remember it within another
14 week of that time. She said, oh, now I know what you mean.
15 She said earlier you came by and asked me and I didn't
16 remember, but within two weeks of the cancellation she
17 corrected herself and she said I do remember. She didn't at
18 that time change her story about grant encumbrance. Then
19 later on a year later she sends this email.

20 Q. What about the memo that she wrote? Did you see a copy of
21 the memo that she wrote where she indicates that Selman
22 Akbulut had grant funds available and at the end of October
23 fiscal year 2014? Did you see that memo?

24 A. I don't know specifically which memo you refer to because
25 there are so many that concern his grants, but I do know the

1 information based upon CGA accounts that she sent him, and I
2 can discuss the CGA. That's a very important word here. The
3 CGA account funds that she sent him and I'm happy to discuss
4 that at great length.

5 JUDGE WHITBECK: Just for our edification, what
6 does CGA stand for?

7 THE WITNESS: I don't remember, but I know the
8 initials. Something contracts -- contracts, grants, and aid.

9 MS. KELLEY: Contracts and grants
10 administration.

11 MS. DOUKOURE: No. It's contract and grant
12 account, because I have the memo.

13 A. Okay. Anyway. Contract and grant -- whatever the -- the one
14 that starts with C. We rarely use them in math. There's a
15 good reason.

16 BY MS. DOUKOURE:

17 Q. You rarely use them in math, but do you recall seeing a memo
18 that shows that Professor Akbulut had a CGA, what you call
19 CGA?

20 A. Yeah. You didn't give me the right one. Oh, yes. Everyone
21 saw that memo. That memo -- I don't know how many times I
22 saw that memo. There are various versions of it.

23 Q. There's various versions of the memo written by --

24 A. Well, same numbers. Just copied over and over again many
25 times. Many copies of it.

1 Q. Because version has a very distinct different meaning than
2 copy. You realize that; correct?

3 A. Sorry. It's five something. I've been testifying for four
4 hours. I have word -- sometimes I grab the wrong word.

5 Q. So there's only one version of this memo; correct?

6 A. There's only one version. Many copies of the same version.

7 Q. And it shows that there's almost \$86,000 in grant funds
8 available on the fiscal year October 2014?

9 A. Sure. And three different grants. I think it's a cumulative
10 total of three grants.

11 Q. \$80,000?

12 A. Yes.

13 Q. How much is tuition and fees for Luke, the student, to take
14 that class?

15 A. Much less than 80,000.

16 Q. Much less than \$80,000?

17 A. Much less.

18 Q. So his grants were not fully encumbered?

19 A. That is not what I said.

20 Q. So this money is available?

21 A. No. No, ma'am. You are wrong.

22 Q. I'm wrong?

23 A. Yes.

24 Q. How?

25 A. Because those are, whatever they're called, CGA accounts. We

1 never used them in math because not only do they not show
2 future encumbrances, what they show, and anyone who's had a
3 long history of funding would know this, they show grants
4 what has actually been billed for the grant, so if I submit
5 an expense that had not yet been billed, it will not show up
6 there. So they greatly inflate the total.

7 Q. So this is not an NSF grant?

8 A. Can you repeat the question? I missed it.

9 Q. These are not NSF accounts, then?

10 A. Yes. Those are NSF accounts. It's just the totals are not
11 right.

12 Q. Do they have money available to them?

13 A. Well, those account numbers are not up-to-date. It's as
14 simple as that. It's like balancing your checkbook. You go
15 and spend money and then you spend it again --

16 Q. If Carolyn Wemple sent a memo in January of 2016, would she
17 be able to balance the accounts from October of 2014 by that
18 point?

19 A. Yes. She balanced them in October of 20 -- she had them
20 balanced in October 2014.

21 Q. So if she sent a memo in 2016 saying there was \$86,000
22 available in October of 2018, that's a pretty accurate
23 statement; correct?

24 JUDGE WHITBECK: Counsel, I think you misspoke.
25 2018.

1 BY MS. DOUKOURE:

2 Q. I'm sorry. I did misspeak. 2016. If she sent a memo in
3 2016 and she had a chance to balance the accounts with all of
4 the data showing that there's 85 or \$86,000 available in
5 2014, she'd be able to do that; correct?

6 A. If that's what she had done, she could have, but that is not
7 what she did.

8 Q. Well, you can't testify to what she did. I'm asking you if
9 she sent a memo saying there was \$86,000 available for use in
10 2014 and she did that in 2016, she would have had a chance to
11 balance the accounts; correct?

12 A. Are you speaking purely hypothetically now?

13 Q. Is that a yes or a no?

14 A. I'm saying your answer -- your question is hypothetical. In
15 a hypothetical world if she had done that, actually she would
16 have had time to do it, yes.

17 Q. Okay. Great. You can't testify to what she actually did
18 because you're not her; correct?

19 A. I can't classify what she did, but I can testify to what
20 those documents state.

21 Q. I'm talking about the memo that she wrote. You didn't
22 prepare the memo for her to sign?

23 A. I didn't prepare the memo.

24 Q. So you don't know what she did to prepare this memo to say
25 there was \$86,000 available, do you? You don't know, do you,

1 because you're not her?

2 A. Okay. I'll say I don't know.

3 Q. Can you explain for the tribunal who may not know and myself

4 what is NSF?

5 A. National Science Foundation.

6 Q. And what is an NSF grant?

7 A. It is funds that are -- well, there's various forms, but the

8 ones that are relevant for us are funds that are awarded to

9 faculty members to continue their research. They go to the

10 university and the university has repository authority over

11 them and then there are rules of engagement that have to go

12 through various --

13 Q. Who's ultimately responsible for these grants and ensuring

14 that they're used properly?

15 A. CGA I think they were called then. CGA, contracts and grants

16 administration. CGA. They have to make sure the rules are

17 followed.

18 Q. The same CGA we were just talking about a second ago?

19 A. Yeah. The -- the -- I think it's the same people -- it's the

20 same initials that stands for the same thing.

21 Q. Do you know what principal investigator is?

22 A. I do.

23 Q. What is it?

24 A. It is the lead on a grant who is the primary authority for

25 the research that they do.

1 Q. Who is the principal authority on Professor Akbulut's grants?
2 A. Professor Akbulut is. Absolutely.
3 Q. And do you know what the duties of the principal investigator
4 are?
5 A. I sure do.
6 Q. Can you please spell them out?
7 A. They are to make sure that the research is conducted in
8 accordance with the -- the proposal that was submitted to
9 NSF. There's an outline of research. You say this is what I
10 plan to do. If they like the proposal, they give you money.
11 It's his job to make sure that the activities of the grant
12 are consistent with the research components of the proposal.
13 But he does not have authority over -- does not have assigned
14 authority over whether or not he is reading the letter of the
15 law. There's also a letter of the law that there are
16 stipulations that are put on all grants. You can't spend the
17 grant on anything. There are limitations.
18 Q. Right. You can't decide where to spend your grant money?
19 A. Well, for research you can.
20 Q. But not for fun?
21 A. Not for fun.
22 Q. And what would happen if somebody did that?
23 A. There would be -- it's egregious enough there would be some
24 sort of investigation.
25 Q. What kind of investigation?

1 A. What do they call them when they come and they redo all your
2 books? There's a word for this --

3 Q. They audit it?

4 A. Audit it. Thank you. That's right. There would be an
5 audit.

6 Q. That's it?

7 A. There would be an audit, and if they have a finding, there
8 could be some sort of -- I would -- you have to reach to
9 amazing levels to do some sort of criminal prosecution, but
10 there could be some impact on some future ability to get
11 grants if you had a bad history of using grant money.

12 Q. So if somebody was using Professor Akbulut's money, his grant
13 money inappropriately or assigning the ability to use the
14 money inappropriately or making defamatory statements against
15 his grants, that can look poorly on Professor Akbulut; isn't
16 that correct?

17 A. I'm sorry. I didn't hear all the key words. Defamatory
18 statements you said?

19 Q. Okay. Let's take it one by one. If somebody took money out
20 of his grant account or authorized money out of his grant
21 account that was used inappropriately say for someone's
22 health insurance, that could look poorly on Professor
23 Akbulut; correct?

24 A. If the grant money was used inappropriately, that would have
25 a negative --

1 Q. He would actually be the one that would be responsible for
2 that; correct?

3 A. If he was the -- yeah. Right. It would be -- if he
4 authorized the grant --

5 Q. What if he didn't authorize it but somebody else did? He's
6 ultimately the one as a PI the one that's responsible for
7 that grant; isn't that correct?

8 A. I mean, no one else can authorize it without his approval.
9 Except in the situation where there's a formal process where
10 someone can take control of the grant. Someone leaves the
11 university. But technically he has -- I have no authority to
12 use the funds.

13 Q. But you just testified that he can't just use his funds, that
14 there's a formal process for that?

15 A. Well, it's a -- it's a double -- he has to want to do it and
16 it has to be -- it has to be approved, so he has to say I
17 want to do this and they say yes or no.

18 Q. Did you attempt to take money -- utilize funds out of
19 Professor Akbulut's grants to pay health care insurance for
20 Mr. Asadi?

21 A. No. That's -- nothing of that sort ever happened -- remotely
22 happened and it would be almost impossible on how I could do
23 that. That's categorically --

24 Q. You never inquired about the possibility of doing that?

25 A. Of asking to take money out of his grant?

1 Q. Asking to pay Mr. Asadi's health insurance out of Professor
2 Akbulut's grant money.

3 A. I don't have any recollection of this. I don't think we're
4 using the word -- I have no recollection of that, those
5 words --

6 Q. Did you ever tell anybody at Professor Akbulut promised to
7 give Mr. Asadi \$10,000 out of his grant money?

8 A. That's a very different question you asked. That's
9 completely --

10 Q. Is that a yes?

11 A. Oh, absolutely. I asked if there was agreements between
12 Akbulut and Asadi and there are. I've got documents. And
13 I'm asking those to be enforced. That's what I was asking.
14 The existing agreements that predated my time as chair be
15 enforced.

16 Q. We're not talking about that today.

17 A. Okay.

18 Q. So while we're talking about Mr. Asadi, let's talk about what
19 you called a little untruth. You said while you were
20 testifying about Mr. Asadi's health insurance that you stood
21 up in front of a committee meeting and you told a small
22 untruth about the \$5,000 that you gave Mr. Asadi.

23 A. I didn't say an untruth.

24 Q. We can read the transcript back, but you did.

25 A. I didn't mean to say untruth. I said --

1 Q. You told a lie is what you did, didn't you?

2 JUDGE WHITBECK: Let him answer, please.

3 A. I think a -- if I shortened my answer from something long to
4 something short that's more or less the same thing, I don't
5 consider it a lie.

6 BY MS. DOUKOURE:

7 Q. You don't consider it a lie to stand up in front of a
8 committee of people that you were charged with being a
9 superior for and telling them something that's a blatant
10 falsehood? You don't consider that a lie?

11 A. I never did something like that.

12 Q. Did you tell people at a math department hearing meeting that
13 you gave Mr. Asadi \$5,000 for health insurance or not?
14 Because that was your testimony.

15 A. I did say that.

16 Q. That was true? You gave him \$5,000 for his health insurance?

17 A. It's not completely true exactly.

18 Q. It's not true at all, is it, because you're not allowed to
19 give him \$5,000 for health insurance?

20 A. No. I can't give him 5,000 for his health insurance. That's
21 right. I gave him --

22 Q. So you told a lie. That's not what you said. You said you
23 gave Mr. Asadi \$5,000 for his health insurance. That's what
24 you said; correct?

25 A. It's what you define a lie to be.

1 Q. I'm asking you if you told a bunch of people that you gave
2 Mr. Asadi \$5,000 for health insurance. I'm asking you that.
3 A. Yeah. I already said it.
4 Q. And it's not true, is it?
5 A. It's not strictly true.
6 Q. It's what?
7 A. It's not strictly true.
8 Q. It's not true at all. Did you give him any money for health
9 insurance?
10 A. I don't know how to answer the question.
11 Q. That's a yes or no question. Either you gave him money for
12 health insurance, you paid for his health insurance or you
13 didn't.
14 A. Well, if I gave someone 5,000 and they spent it for something
15 different --
16 Q. Did you give Mr. Asadi \$5,000 in his hand?
17 A. No. I never --
18 Q. Did you give him \$5,000 in his hand?
19 A. No, I didn't.
20 Q. What did you do with the money, the \$5,000? Because you
21 testified earlier that you paid his housing with it.
22 A. That's right. I did.
23 Q. Did you give it directly to the housing?
24 A. That's -- I have records that say yes.
25 Q. Why can't you just say that what you said is untrue, because

1 it is untrue. You testified that you gave the Housing
2 Commission \$5,000 and now you want to play semantics with
3 whether or not you gave somebody \$5,000, what they do with it
4 is their business. The problem is is you didn't give
5 Mr. Asadi \$5 or \$5,000 and say here, go do what you want, did
6 you?

7 A. That was my original goal but --

8 Q. Is that what you did?

9 A. No. No.

10 Q. What did you do with it?

11 A. With what?

12 Q. With the \$5,000.

13 A. We paid his -- his -- his -- his rental. His rent.

14 Q. Directly to the rental unit; correct?

15 A. Exactly. Exactly.

16 Q. But you stood up in a committee or a department hearing and
17 you told them you paid his insurance?

18 A. I did.

19 Q. And that's not true, is it?

20 A. Okay. That's not true exactly those words.

21 Q. It's not true at all. Like I don't understand. Can you --
22 like I don't understand why you can't say that it's not true,
23 exactly those words. What part of that statement is true?

24 A. Well, did I pay \$5,000 to Asadi because of his concerns
25 about --

1 Q. That's not what I asked you. That's not what you said. You
2 said that you told the committee or the department that you
3 gave him \$5,000 for his insurance. What part of that
4 statement is true? How much of that money went to his
5 insurance?

6 A. None of that money that left the MSU account and entered the
7 account of the housing went to insurance.

8 Q. So you have a propensity for lying to your subordinates?

9 A. I don't understand where we're going here.

10 JUDGE WHITBECK: Excuse me. Just for
11 clarification, we're talking about a meeting of the math
12 department faculty; is that correct?

13 MS. DOUKOURE: That's my understanding because
14 that's what this witness test --

15 JUDGE WHITBECK: When was this meeting?

16 MS. DOUKOURE: It was a general meeting and
17 Mr. Promislow testified to it on direct.

18 JUDGE WHITBECK: I'm just asking when was the
19 meeting?

20 PROFESSOR AKBULUT: When was the meeting?

21 JUDGE WHITBECK: No. I'm asking her. Do you
22 recall?

23 MS. DOUKOURE: I don't recall when is the actual
24 meeting. It was the winter of 2016.

25 A. I can -- 2016, so that would be December 2016, so a year --

1 2016. That doesn't sound right. That was too long.

2 BY MS. DOUKOURE:

3 Q. When was Mr. Asadi here?

4 A. He arrived in November of -- December maybe of 2014 and then
5 he left in 2015 -- summer of 2016.

6 JUDGE WHITBECK: So just to be clear, this
7 statement, whatever it was, we can go back and ascertain
8 that, took place in December of 2016?

9 MS. DOUKOURE: That's correct.

10 JUDGE WHITBECK: A meeting of the math
11 department faculty?

12 THE WITNESS: Yes, sir.

13 MS. DOUKOURE: That's correct.

14 JUDGE WHITBECK: And do you recall -- again,
15 what did you say?

16 THE WITNESS: One of the -- the statement I
17 said, I said that the -- I was asked if the department
18 benefitted from the funds that were effectively received from
19 Professor Akbulut's salary, the \$15,000, was there material
20 gain, and I said, well, 10,000 went to replace the teaching
21 and 5,000 was given to Professor -- to Mr. Asadi for his
22 health care, so in effect there was no net gain to the
23 department, and that's what I said.

24 JUDGE WHITBECK: But technically speaking, the
25 \$5,000 was given to him for his housing?

1 THE WITNESS: Technically speaking, that's true.
2 And technically I was incorrect. And I agree that the words
3 I used were incorrect, but I think the meaning to me -- I
4 don't even understand what -- I don't understand. I fail to
5 understand what she's trying to get me to admit.

6 JUDGE WHITBECK: All right. Fine. But if we
7 can cut to the chase, all right, I think her question is was
8 that statement correct and I believe your answer now is no,
9 it was not.

10 THE WITNESS: Yeah. It's not. I agree. It's
11 not correct.

12 JUDGE WHITBECK: Do you need any more?

13 MS. DOUKOURE: No, I don't. But it took us
14 20 minutes to get to him admitting that he made an incorrect
15 intentionally false statement to his subordinates.

16 A. Intentional. That's the word I object to.

17 BY MS. DOUKOURE:

18 Q. Intentional. So you accidentally lied?

19 MS. KELLEY: Objection. I'm not sure how this
20 whole thing is relevant to this proceeding. The allegations
21 against Professor Akbulut have nothing to do with this
22 meeting that was had. That was Professor Asadi.

23 MS. DOUKOURE: First of all, they testified
24 about it on direct. He testified to lying on direct. The
25 veracity of the witnesses and the entire proceeding is

1 brought by this individual, so honestly his veracity, his
2 truthfulness is definitely relevant and an issue to be
3 discussed.

4 MR. REIFENBERG: And so are you therefore
5 denying the validity of his entire statement?

6 MS. DOUKOURE: I'm trying to show this tribunal
7 that he doesn't have a problem being less than honest. And I
8 think that's highly relevant information given the nature and
9 the seriousness of these proceedings. I'm waiting for a
10 ruling.

11 JUDGE WHITBECK: Well, the witness's credibility
12 is always an issue.

13 MS. DOUKOURE: Right.

14 JUDGE WHITBECK: I mean, that's a given. I
15 don't know how many different ways you can categorize what he
16 said, but he's admitted --

17 THE WITNESS: I've admitted.

18 MS. DOUKOURE: Right. Yeah. I mean, that's all
19 I was trying to get to. I'm sorry.

20 JUDGE WHITBECK: He has said that his statement
21 was incorrect. Do you need more than that?

22 MS. DOUKOURE: Not about that specific
23 statement. No, I don't.

24 JUDGE WHITBECK: Then I think we're done here on
25 that.

1 MS. DOUKOURE: I don't know if you want to break
2 here. It's ten after five.

3 MS. KELLEY: I think the committee said that
4 we're ending at five.

5 MR. REIFENBERG: We're supposed to end at five.

6 MS. DOUKOURE: It's five; right?

7 MS. KELLEY: I mean, he's been on the stand all
8 day.

9 MS. DOUKOURE: I mean, I was agreeing. I don't
10 understand -- like I don't understand like the escalate.

11 MS. KELLEY: No. I'm agreeing.

12 MR. REIFENBERG: Have you finished your cross?

13 MS. DOUKOURE: No, I have not. But it's going
14 to be more than another ten minutes.

15 MR. REIFENBERG: So then we'll stop now and we
16 can continue with your questions tomorrow.

17 MS. DOUKOURE: Monday.

18 MR. REIFENBERG: Monday.

19 MS. DOUKOURE: If that's possible. Thank you.

20 (At 5:11 p.m., hearing adjourned)

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1 STATE OF MICHIGAN)
2 COUNTY OF WAYNE)ss
3)

4 I certify that this transcript, consisting of 254
5 pages, is a complete, true, and correct transcript of the
6 Dismissal for Cause Hearing and testimony taken in this
7 hearing on August 16, 2019.

8 *Cheri L. Poplin*

9 Date: August 18, 2019

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	10:10 25:2	11.5 45:16 50:24,25 57:21 103:4	13.1D 131:5	1:59 138:15
\$	10:22 31:15		13.1E 32:19	2
\$10,000 165:1,8,21 245:7	10:33 38:11	11.6 58:10	13.1F 133:14	2 38:10 116:23 117:8,9 174:14
\$15,000 166:19 250:19	10:36 40:2	11.7 59:12	13.1H 138:23, 25	2-1 85:6
\$15,000,000 167:16	10:40 42:12	11.8 148:14	13.1L 143:10	20 62:11 130:15 144:5, 8 171:17,18, 19 174:6,11, 13 179:2,3 229:11 230:2 239:19 251:14
\$5 248:5	10:41 43:17, 18	11.9 61:18	13.1N 147:14	2000 26:23
\$5,000 166:7, 12 167:3,14, 15,16 245:22 246:13,16,19, 23 247:2,16, 18,20 248:2,3, 5,12,24 249:3 250:25	10:42 43:19	11:00 57:24	13th 61:21	2003 116:2
\$600 131:19	10:45 45:13	11:05 58:5,6,7	14 120:24 121:1,25 122:2 159:4 160:3,4	2007 25:17 26:3
\$80,000 238:11,16	10th 40:19 44:6	11:17 58:8	14th 154:1,3,4	2011 173:22
\$86,000 238:7 239:21 240:4, 9,25	11 66:20,23 67:2,5 117:2, 3,7 148:15 150:24,25 151:1 153:3, 19 157:6 159:9,11 160:3 162:6 163:7 169:23 171:17 174:23 179:25 184:15,17 185:25 186:12 194:1,25 199:21 201:11 203:12	11:19 59:10	15 52:1 56:16 121:23 122:15,17 162:6 167:5	2014 29:11 62:11 86:5 116:4 125:12 137:24 165:3, 4 229:14,16, 17 230:12,14 233:10,17 235:5,13,20, 21,23 236:23 238:8 239:17, 20 240:5,10 250:4
(		11:21 60:17	15th 48:5,18	2015 25:18,22 26:3,7,17,24 29:12 85:22 86:3,8 90:20 116:17,19 117:18 125:16 127:14 130:13 164:1 165:24 173:24 177:2 194:12 196:9 214:8 229:19 250:5
(3) 41:22 44:20 59:3	11.0 116:9,21	11:27 64:15	16 5:2 125:1,5 130:16 163:7 173:24 223:4	2015-16 86:4
0	11.1 27:24	11:30 67:3	16-17 223:4	2016 34:22 35:7 38:15,18 80:11 81:7 85:24 86:3 128:16
0 116:24 117:3,5,11 174:12	11.10 64:17	11:36 71:5	16th 6:1	
1	11.11 150:24 151:3 159:2	11:37 71:9	17 133:8,11 134:22	
1 31:14 35:18, 22 36:22 117:8,14 174:13 212:14	11.12 153:2	11:39 71:10 177:4	17th 34:22 35:17,21 133:17	
10 64:14	11.13 157:5	11:47 75:24	18 138:12,14 169:23,24,25 170:4	
10,000 166:21 250:20	11.14 160:1,2	11c 71:8,12	19 142:9,25 143:3	
10-6 149:11	11.16 168:15	11th 162:16	19th 6:2	
	11.21 176:10	12 71:4 151:12 153:3,20,21, 22 154:5,6,8 159:8,9,12 167:16	1:15 6:7	
	11.23 181:20	124 117:25	1:21 35:17,21	
	11.2a 40:17 41:4	12:30 6:6 110:4	1:22 113:5	
	11.2c 40:17 42:14 43:24	12:34 113:4	1:23 115:1	
	11.3 40:17 43:22	12s 153:20	1:33 121:2	
		13 32:19 75:23 98:18 120:20 157:6,7 159:4	1:35 122:18	
		13.1-E 38:6	1:39 125:6	
		13.1.C 123:5	1:51 133:12	
		13.1.G 38:14		
		13.1B 120:20 121:12 122:13		
		13.1C 124:25 125:1		

130:16,24 131:1,4 133:17 134:12,21 139:7 147:18 149:21 172:20 222:19 223:4 232:15 233:4, 6,7,16 234:22 235:16,19 239:16,21 240:2,3,10 249:24,25 250:1,5,8 2017 25:20 26:5 40:9,19 41:9,12 42:19 44:6 51:2 58:22 59:13, 15 61:15,21 65:1 67:7 86:10,11 89:21 90:19, 21 103:6 149:4 150:15 154:2 157:7 160:5 161:3 176:25 177:2 222:19 223:3 2018 48:5 52:1 56:16 162:16 172:1 177:3 181:21 184:20 194:5, 15 195:9,17 204:1 239:22, 25 2019 5:2 20th 6:2 64:19 87:2 229:17 230:12 232:4 21 147:22,25 174:11,23 176:10 21st 6:2 194:15 22 150:6,9 179:25 180:17 22nd 6:2 19:11,13,23 171:5 177:3	23 156:12 23rd 6:2 38:15 176:12 177:11 178:10 24 158:6 24th 5:15 67:7 172:1 176:12 177:11,12 178:11 25 161:4,7 25th 139:7 160:4 161:3,9 176:25 177:2, 7 181:21 232:15 234:22 26 162:22 184:16,17 26th 6:2 233:7 27 149:21 168:18 186:1, 12 187:8 27th 194:5 200:6 232:4 28 174:18 179:1,9,12 191:14 28th 45:17 51:1 103:6 29 175:20 179:10,11,17 180:23 2:00 67:21 2:06 143:4 2:10 144:9 2:15 147:11 2:27 147:12 2:28 148:1 2:30 148:18 2:31 148:19 2:33 150:10 2:41 156:13 2:45 158:7 2:49 161:8	2:51 162:23 2nd 22:6,7,13 23:4,10 55:7, 14 176:11 195:13 3 3 39:23 40:1 116:24 201:5 3.5 206:23 207:7 30 179:15 181:2 30th 116:17, 19 117:17,18 184:14 195:9, 12 196:9 31 183:19 32 185:14 33 188:2 190:2 34 194:22 35 194:1 196:18 36 118:1 200:18 37 202:21 38 194:25 199:17 204:13 39 207:10,12 3:00 168:19 3:09 174:19 3:11 175:21 3:18 181:3 3:19 181:11 3:20 181:12 3:24 183:20 3:27 185:15 3:31 188:3 3:37 192:18 3:38 192:19	3:41 194:23 3:45 196:19 3:50 200:19 3:54 202:22 3:58 204:14 3rd 86:23 87:1 4 4 42:11 172:21 201:4,5 40 199:21 208:9,10,11, 12,15 41 213:18,21 430 18:23 44 201:11,14 4:03 207:13 4:05 208:16 4:13 213:22, 23 4:21 213:24 4:40 36:7 232:15 4th 40:19 42:16 5 5 43:16 51:25 52:7,12 55:20 57:21 66:7 172:21 182:24 203:13,21 212:15 5,000 163:21 164:2 166:22 167:5 246:20 247:14 250:21 5-17 134:20 5-A 207:21 5-C 207:21 51 9:4,10	5:11 253:20 6 6 45:12 59:13 149:4 212:9 619 25:14 68 67:25 6th 157:7 201:16 204:1 7 7 58:4 66:7 102:25 172:20 8 8 41:5 59:9 148:17 206:19,21 80 32:6 80,000 238:15 85 240:4 8:30 177:3 9 9 60:16 207:17 996 131:20 9:30 6:4 9:35 5:2 9:52 17:7 9:57 17:8 9th 40:19 41:8 147:18 184:20 A a.m. 5:2 6:4,5 17:7,8 25:2 31:15 35:17 38:11 40:2 42:12 43:17, 18,19 45:13
---	--	---	---	--

58:5,7,8 59:10 60:17 64:15 67:3 71:5,9,10 75:24 abeyance 179:8 ability 55:13 60:3,22,25 152:17 219:6 243:10,13 abreast 119:15 abrogate 84:18 abrogated 28:15 39:13 abrogation 26:16,25 27:11 28:13, 19 30:13 39:12 77:20 96:20 98:13 99:13,16 100:2,17 109:1 116:13 117:23,24 118:3,4,9,14, 17 119:20,22 120:13,23 121:4,17 122:9,14,22 125:15,17,18 127:8,12,13 128:4,11 137:19 139:8 166:20 196:4, 9,14 214:6 216:3,8,25 217:5 221:10 227:8 absolutely 33:14 93:4 124:22 156:19 198:15 211:18 219:8 225:10 226:1 227:21 228:19 242:2 245:11 academia 155:14	academic 5:5 23:24 35:13 46:7,16 51:13 98:24 103:25 104:9 124:8 144:1 160:10, 21 172:22 227:11 accept 37:10 75:20 124:16 187:22 acceptable 55:22 76:25 128:24 136:13 139:10 140:3 157:24 205:8 206:17 207:4 accepted 157:2 161:13 access 220:15 accidentally 91:3 251:18 accommodate e 147:8 accommodations 20:14,15 accordance 242:8 account 55:21 81:11 237:3,12 239:13 243:20,21 249:6,7 accountability 210:16 accountable 36:4 132:1 211:3 accountant 78:24 accounts 237:1 238:25 239:9,10,17 240:3,11 accumulated 172:13	accurate 63:24 195:4 239:22 accusations 105:8 accuse 31:2,5 63:25 accused 37:18 achieve 195:17 acknowledge 106:6 acoustics 70:16 acquaintance s 226:12 acquiescence 15:16 acronym 104:14 act 201:2 acting 116:7 178:14 action 36:14 47:4 93:24 101:9,11 119:8 129:8 133:2 140:5 144:2,3 152:23,24 155:18 175:15 184:10 194:17 195:10 actions 15:24 32:3 46:10 104:3 128:18, 22 129:18,24 132:23 140:17 142:17 152:22 182:7 184:23 185:10 195:24 204:16 211:17 active 85:10 activities 242:11 acts 134:1	actual 65:5 75:9 105:10, 17 106:25 129:11 167:12 200:21 249:23 ad 193:2,7,8, 11 194:6,10 195:2 Adcom 181:24 182:21,24 183:4,8,13 Adcom's 183:12 add 10:9 119:16 142:10 added 47:14, 18,20 48:4 49:23 55:11, 19 182:3 adding 164:6 addition 28:6 additional 28:20 57:9 136:23 170:8 171:9 175:5 195:10 216:21,22 additions 55:21 address 20:24 21:17 25:9,13 135:3 137:25 181:16 215:8 addressed 16:19 36:13 156:6 232:14 addresses 5:18 172:18 addressing 149:18 adequate 9:15 10:5 adjourn 6:8 adjourned 253:20	adjudicate 213:8 adjudicated 155:5 adjust 13:5 administer 134:2 administered 137:20 administration 66:14 68:18 163:15,19 182:1 237:10 241:16 administrative 19:10,14 20:5,7 26:9, 15,20 27:3,4, 14 28:2 35:6, 8,11 38:18,20 39:9,11,17 62:9 74:16 77:22,23 84:15 112:9 118:2,16 119:17,20,21, 24 120:8,9 121:15,16,19 122:15,23 123:2,3,9 124:1 128:12, 15,17,19 130:3,10,12, 17,22,24 131:14,16 133:18 137:18 144:17 146:25 147:19,21 149:5 155:2, 17,19,23 156:2 157:22 158:1,13,17 159:3 160:8 172:25 173:4, 6,19 196:10, 22,25 197:16 202:25 203:2 205:21 208:5, 6 216:2,5,11 217:11 221:14 administrator 30:3
--	--	--	--	--

administrator 's 207:24	189:24 190:1, 2,13 197:2,6 252:16,17	115:17	41:8,11 42:16, 18 43:23 44:7, 9 45:2,16,19	182:7,17 185:19 186:4 188:11,22
administrator s 46:9 79:16 104:2 155:11 156:7	admitting 54:6,8 174:7, 9,11 251:14	afford 166:5	46:19 51:1,3, 16 58:11,18, 25 59:13 61:7, 12,19,20	189:13 201:19,24,25 204:2 206:9 209:3 212:20 213:7 214:5, 18,19 216:25 218:2 223:15 224:10,16 226:19 227:9 231:16 232:14,16,18, 25 233:23 234:21,22 235:2,6,8,20 236:4,22 237:18 242:2 243:15,23 245:6,12 249:20 251:21
admission 31:11 122:7	admonishing 195:10	afforded 200:4	64:18,21 65:10 66:1 67:15 74:22 76:2,6 77:9,20 80:17 81:21 82:8 83:3 84:4 90:12 93:13, 19 94:4,14 95:2,21 96:1, 17 99:14,18 100:12 101:15 104:12,14 108:12 109:3, 8,12 111:8,9, 21,23 112:10 116:14 118:5, 12,16 119:3, 19 120:16,17 122:13,21 123:1,8 124:2 125:25 126:10,11 128:16 129:13,15,20 131:7 132:11 133:19 134:7, 9,13 135:16, 19 136:7 137:1,11,14 139:5,9 141:5, 8 143:6,16,24 144:23 145:14 146:16 148:4, 6 149:1,12 151:19 152:16 153:8 154:2, 14 156:16 157:2,17 159:15,23 162:1,4,12,15 163:1,2,10 164:24 166:4, 14,16,20 168:22 169:15 170:1,7,25 171:25 172:13 175:10 176:9 179:20 181:19,23	
admit 31:8 32:14 34:7 38:6 39:22 42:5 43:12 44:1,2 47:10, 15 48:14,20 52:3 57:18 59:5 60:13 64:11 66:19, 22 72:1,6 74:25 120:23 121:22,24 122:2,8,12 124:25 125:1 133:8 138:11 142:9,25 144:5,13 147:22 150:6 156:9 158:4 161:4 162:20 164:16 168:15 174:6 175:18 179:1 180:5,6, 16,19,25 183:15 185:11 186:12 187:2 194:19 196:15 200:15 202:18 204:10 207:3, 10 208:7 213:18 234:17 251:5	advised 223:8 advise 6:22 advisement 19:16,21 20:11 22:22	age 68:14		
admits 62:23	advisor 136:16	agree 14:16 72:9 95:20 185:7 192:6 211:25 217:20 232:22 234:22 251:2,10		
admitted 9:24 33:9,22,25 34:2 38:8 45:10 48:1,10 49:4,10,11 56:22 57:18 77:17 102:25 122:5,19 151:2,6,15 156:22 174:20 176:4,25 177:2,3,7	advisory 25:18 27:16, 20,21 36:9 91:13,17 96:4 111:23 157:22 173:7,8 181:14,15,24 182:4,10,13, 14,18,22 183:22,24,25 184:2,22 185:1 192:21 193:14 194:14 195:2 220:19, 21,22,24 221:10,12,13, 15 222:14,20, 23,24 223:2,4, 9	agreed 63:22 121:18 122:22 126:12,13 232:24		
	advocate 7:6, 13,14 10:2	agreeing 122:14 130:4 253:9,11		Akbulut's 14:1 26:16 30:2 35:17,21 36:21 51:8 62:11 78:15, 16 95:1 96:21 117:25 121:16 124:6 125:11 129:6 130:19 138:18 148:10 150:12 163:16 167:1 179:23 180:2,7 181:5, 16 184:11 194:11 204:16 208:19 216:3, 8 218:7 221:10 227:6 230:25 231:6 242:1 243:12 244:19 245:2 250:19
	affairs 44:16 71:14,18 155:9 156:24 200:2	agreements 245:11,14		alarm 150:15
	affected 204:16,20 205:3 228:10	agrees 50:15 232:16		Alexander 28:7 40:8
	affirm 24:22	ahead 35:1 120:19 147:1 186:25		allegation 30:23 79:9 111:18
		aid 237:8		allegations 13:7,13 15:20 16:20 46:23
		Akbulut 5:4, 21,23 9:8 12:19 13:8 14:3,23 15:13 16:13 23:21, 25 26:22 27:19 28:14, 20 29:8,14,20 30:4,10,24 32:4 34:23 35:6,9 37:22 38:15,17 39:13 40:18		

111:15 251:20	Anna 64:24	72:4	arguments 21:17 75:7	assists 9:17
alleged 29:8	announced 164:2	appoint 41:19 46:14 51:12 89:19 104:7	arising 141:19	associate 116:2,14 128:9,10 130:25 143:14 147:19
alleging 14:3 15:18 140:4	announceme nt 62:25	appointed 25:19 26:4 40:9 59:1 89:10,16,21 90:6 91:6,11, 15 155:1 193:12 194:10 221:3,4,23,24, 25 222:4	arose 165:8, 20	assumes 112:5 151:25 176:1
allocate 167:19	annual 142:4 150:3	appointing 37:3	arrange 195:19	assuming 18:5 19:4 63:7
allocated 132:12	anti- discriminatio n 43:5 106:11	appointment 41:13 91:13, 24 92:5 103:16 193:17	arrived 139:24 165:4, 19,23 201:12 250:4	assumptions 124:12
allocates 130:18	antithetical 211:21 213:2	appointments 89:13	article 139:22 141:1	Athens 186:8
allowed 7:10 17:24 18:14 19:3,8 21:11 33:10,12 34:15 76:3,17 81:21 82:9 83:8 89:6 91:21 95:9 114:6 126:25 144:15 206:2 230:10 246:18	anymore 108:9 205:19	appoints 90:3,4	Asadi 163:16 164:24 167:4 220:7,8 244:20 245:7, 12,18,22 246:13,23 247:2,16 248:5,24 250:3,21 251:22	atmosphere 73:13 195:25
allowing 135:12 210:13	anyone's 205:23	approach 84:17 102:22 159:6	Asadi's 164:3 166:22 245:1, 20	atone 44:25
alluded 126:4	apartment 168:3	appropriating 220:13	ascertain 250:7	atones 123:23
alpha 41:6	apartments 168:8	approval 134:5 137:4 244:8	asks 104:20	attach 172:4
altercation 152:1,4,5,8,15	apologize 34:1 44:25 66:25 148:5 152:11 153:20 164:15 196:14	approved 185:1 244:16	assign 126:15,16	attached 141:6 149:11, 21 172:2
altered 47:13, 16 50:6 51:22 52:3	appeal 118:6 125:21 130:19 156:22,23 200:3	approximatel y 6:4,6,7,8 67:13	assigned 26:23 30:11 77:18,21,22 84:19 98:12 116:15 117:25 125:14 165:5 242:13	attachment 12:25 116:23, 24 117:9 135:16 154:10 162:13
amazing 243:9	apparently 101:24	arbitrary 183:6	assigning 243:13	attack 205:13
amend 64:5	appealed 125:20	argue 8:8 12:10,13 20:12	assignment 137:21,23	attacking 37:24 154:25
amended 22:3,7,9,12,24 23:11,15,16	appearances 5:17	argues 7:15	assist 10:20 194:18	attacks 195:23 205:13
American 166:1 195:14	appeared 57:2,11	argument 9:24 11:11,18 218:4	assistant 35:13 227:2	attempt 54:24 96:9 97:11 126:3 128:1 129:1 132:11, 18,20 136:22 151:21,24 244:18
amount 74:13 98:7,19,20	appears 154:6			attempted 56:3 96:16
Amy 5:22 77:7	applicable 9:5,6			
angry 37:18 68:6	applied 29:5			
animosity 205:15	apply 10:16, 18 19:16 33:17 53:13			

195:18 196:2 209:6 attempting 27:12 47:21 48:7,14 57:12 80:22 95:14 136:24 189:19 attempts 128:20 185:17 186:19 188:5 189:18 209:7 attend 15:15 19:12 attention 198:14 207:20 attorney 77:8 178:14,15 attorneys 62:20 audience 35:12 39:19 40:18 46:25 60:2 61:25 73:7 76:7,8 91:25 92:2 93:4 123:3 154:24 209:9 audiences 211:11 audit 243:3,4, 5,7 August 5:2 6:2 19:14 22:6,7,13 23:4,10 40:9 45:17 48:5,18 51:1 52:1 55:7,14 56:16 90:20 103:6 127:15,18,19 230:14 authority 89:16 132:20, 22 140:13 206:8,10,11, 12,13 211:8 218:11,13,19, 21,22,24 219:2,9,10,11 220:11	241:10,24 242:1,13,14 244:11 authorize 244:5,8 authorized 243:20 244:4 authors 173:3 avail 118:6 availability 20:21 avenue 187:12 avenues 196:4 209:5 average 226:24 227:3 avoid 55:14 185:21 award 143:17 awarded 66:12 241:8 awards 133:23 135:9 aware 7:18 10:20 82:15, 19 94:12 104:25 105:3 110:18 120:7 166:14 230:19,20,21, 23,24 B back 17:6,8 21:20 27:25 33:13 34:13 42:15 43:19 53:1 58:8 70:1 71:8,10 77:16 80:6 84:20 95:11 97:3,6 113:5,21 131:4 147:12 148:19 169:3 173:21,22 179:19 181:12	192:19 203:15 213:24 223:9 245:24 250:7 background 115:8 127:9, 12,13 133:21 135:3 164:17 backing 183:13 backpack 38:3 bad 44:17 47:2 140:25 211:22,23,24 224:4 243:11 badgering 234:11 Baisheng 28:6 35:24 39:3 131:13 221:24 222:1, 2 balance 7:12 30:2 39:7 81:10 239:17 240:3,11 balanced 239:19,20 balances 135:11 balancing 239:14 ball 65:24 based 32:11 33:20 75:11 80:21 98:6,7, 19,22 128:18 129:16 144:16 228:13 237:1 basically 9:4 33:21,24 130:19 134:1 137:4 139:6 166:13 184:6 200:3 201:2 205:22 211:13 basis 16:20 31:17 32:3,5	63:25 78:11 140:15 155:25 165:16 176:5 178:3 189:10 191:24 202:4 210:20 basketball 223:19 bear 118:12 bearing 161:17 began 123:1 128:16 beginning 55:5 87:15 101:10 103:18 117:1 141:22 142:2 231:4 begun 95:16 behalf 5:23 77:8 134:1 behavior 65:11 69:2,11, 14 128:24 129:8 139:23 143:23 152:21 175:7,14 181:16 194:11 195:10,11,13, 16 200:14,22 202:11,14 205:19 208:19 209:7 211:21, 24 behaviors 153:9 belief 142:24 benefitted 250:18 Beth 136:17 bias 82:5 big 62:8,12 66:13 212:5 Bill 185:22 186:8 187:18 188:6,13,19, 21 189:9,12, 17,21 190:3,6,	7,16,19,25 191:16,24 214:15 215:3 billed 166:13 167:24 239:4, 5 bind 161:1 binder 23:4, 12 27:24 32:20 38:14 40:17,23 41:3 42:14 43:22 45:15 47:11 49:16,20 50:24,25 52:6, 13 53:20 54:3, 7,20 55:11,18 57:21 58:10 59:12 61:18 64:17 67:5 71:7,12 103:2 105:25 113:8, 10,12,14,17, 20 117:7 120:19 121:12 122:12 131:5 133:14 145:20 148:14 150:24 151:2,5,8 153:2 158:16, 24 159:2,3 160:1 162:6 163:7 169:23 171:17 176:17,20 177:11,17 178:11 179:25 184:15 212:10 234:14,16 binders 75:7 116:9 153:23 198:24 206:19 207:17 bit 38:24 42:3 67:8 98:16 114:14 115:8 131:2 139:25 147:15 148:11 173:14 black 56:23 blacked 57:5
---	---	--	--	--

blackening 56:4	briefly 34:16 40:4 67:9 71:16 117:23 151:15 202:24	burdens 8:21	41:21 80:18	cease 196:7
blanket 63:12		business 5:17 23:20 25:9,13 44:22 248:4	capacities 155:2	Cedar 25:14
blatant 246:9			capricious 183:6	cell 17:21,23
Board 125:21	bring 65:3 132:20 145:20 169:2 218:24	bylaws 91:12	care 180:19 196:21,25 244:19 250:22	central 30:9 32:4 39:9,11 137:18 138:5
body 20:5,7 21:4 144:17 170:11 172:17	bringing 15:17 16:8,21	C	career 213:3	centuries 7:21
body's 144:16	brings 225:1, 11	calendar- wise 130:23	Carolyn 79:19,22 80:7 81:1,12,23 82:7 83:3 133:21,22,23 134:7,14 135:8,9,15,16, 23,25 136:7, 19 137:5 143:16,24 231:10 232:5, 15,24 233:16, 22 234:21,25 239:16	cetera 7:15 25:9
bono 19:12 20:2,3	broad 91:25 92:2 211:11	call 23:12 24:16,17 62:18 63:17 90:6 126:3 128:1 164:24 237:18 243:1		CGA 237:1,2, 3,6,18,19 238:25 241:15,16,18
books 243:2	broaden 209:9	called 9:3 25:2 88:19 115:1 166:1 220:24 233:19 238:25 241:15 245:19		chain 32:21 34:23 35:5 61:20 137:10, 12 139:4 188:7
boss 219:12, 13	brought 12:21 28:21 118:13 144:11 150:2 224:16 252:1		carry 73:23	chair 5:9 28:10 37:12 41:13,20 43:1, 3 46:12,14,15 49:17 51:9,11, 12 56:21 59:2 66:5 67:22 85:9 89:21,22 90:1,2,3,13, 16,19,20,22, 23 91:6,10,11, 12,22 92:4 103:14 104:5, 7,8,25 106:9, 14 116:4,5,7 118:21 119:6 123:19,23 132:7 142:17, 18,20 163:13 165:22 173:23 183:25 184:1 185:23 187:12 205:6,24 207:22 215:20,22 218:16 224:12 230:18 245:14
bother 59:2	budget 167:16	campaign 204:8	case 7:23 8:22,24 9:5 13:19 15:18, 24 16:1 20:3 24:3 32:11 49:8 50:8 63:14 71:19 79:21 99:5 123:23 128:18 133:4 144:21 187:18,19 194:16 198:23 199:11 212:22 218:6 227:10	
bottom 9:3 35:17,22 62:2 137:10,12 138:3 141:15 156:22 170:6 212:14	build 211:19 213:11	campus 168:4		
bottoms 121:8	building 210:11 211:21	canceled 29:4,10 30:16 62:6 80:14,15, 17 83:4 84:17 86:1,2,12,13, 15,22,24 89:7 125:13 229:3, 11,13,16,18 230:1		
boundaries 129:5 202:11	bulk 9:21 14:19 15:19, 20 140:3 141:20 198:3 207:25 208:2, 4	canceling 230:25 231:20		
boundary 128:24	bulk- messages 141:23	cancellation 28:22 29:5,13, 14 30:18 65:1 87:1,2 124:4 125:17,23 127:7,8 131:2 134:11,13 236:11,16		
Boy 214:17	bullied 94:19 101:9,11 148:6	cancellations 88:23		
brain 223:3 233:19 234:2, 4	bully 46:7 103:25	capable		
brains 222:1	bullying 47:3, 8 66:9 73:6,19 76:20,24 93:14 95:1,9 210:14 211:9, 24		cases 8:21 155:5	
branch 126:3 128:1	bunch 177:18 247:1		catch 6:5 207:5	
brand-new 230:16			categorically 244:23	
brave 209:21			categorize 252:15	
break 6:4,5,7 57:25 58:1 63:18 113:3 147:4 162:1 253:1			caused 64:2	
breath 6:5			cc'd 39:19 160:9 204:3	
bribery 167:5				chairs 89:10,

17 123:21	49:23 58:4	128:22 132:4	class 62:6	172:8
challenge	59:9 60:16	176:20 221:1	66:7 83:4,8,12	client's 129:4,
196:4	64:14 66:19,	chosen 173:7	125:14,15	22
chance 18:2	23 67:2 71:4	Christmas	131:20 165:5	close 17:20
55:9 95:12	75:8,23	160:5 161:10,	219:7 227:15,	18:4 38:24
96:5 240:3,10	100:19 102:25	11,17,18	16,17,18,19,	66:7 116:25
change 164:8	121:1,22	chronologica	23 228:1,4,8,	129:24
217:22,23	122:17 125:5	lly 35:15	10,12,14,18,	closed 14:10
236:18	133:11 138:14	Circuit 144:22	19,20,21,23	17:23 113:16,
changed 85:9	143:3 144:8	circular	229:1,2,3,5	20 114:12
86:20	147:25 150:9	231:6,20	230:9,25	132:13,21
channels	156:12 158:6	238:14	classes 88:22	closely 94:9
36:18 38:1	161:4,7	circulated	89:7 98:9	closer 209:23
character	162:22 168:18	101:24	227:7,8	224:24
108:19,22	174:18 175:20	circumstance	229:10,13,16,	closing 15:3
109:12,13	178:11 181:2	s 7:8 127:3	18,19,21,25	75:7
characterizati	183:9,19	cite 106:8	230:5,8	closure 155:4
on 78:7 141:1	185:14 188:2	cited 43:3	classes'	CNS 35:13
167:2 171:16	189:7 194:22	46:12 51:9	88:20	46:11 104:4
195:5	196:18 200:18	66:11 104:5	classic	code 7:9 20:6
characterize	202:21 204:13	105:1	142:20	84:23 85:2
39:2 68:19,20,	207:12 208:15	claim 62:17	classify	146:4
22 69:4	213:21	claimant	240:19	collaboration
149:15 188:10	Charlie 42:15	107:7 111:2	classroom	16:17
200:12	71:8	claimed	165:7	collating
characterized	chart 227:7	30:19 112:1	clause 200:13	170:13
167:8	chase 251:7	claiming	clear 9:6,8,16	collation
characterizin	check 78:23	101:4	10:18 18:4	154:11 170:18
g 204:8	151:12 168:6,	claims 30:16	20:14 24:6	colleague
charge 27:17	11	37:2,9,12 64:8	39:13 44:25	44:17 77:11
200:9 219:15	checkbook	111:23 112:13	50:8,9,11 52:5	160:19 165:14
charged	239:14	123:20 131:15	56:2 65:19,20	colleagues
28:12,13	chemo	clandestinely	73:16,17 80:6	36:24 64:2
135:11 216:25	233:19 234:2,	112:10	84:15 101:16	155:12,17
246:8	4	clarification	121:6 126:9	172:21 182:23
charges 9:8	chemotherap	77:18 88:10	128:5 139:11	195:23 200:13
12:21 23:21	y 137:8 233:18	249:11	140:15	201:1,3 205:6,
53:2 118:13	Cheryl 163:14	clarifications	142:13,14	7,23 212:18
charging	184:7,20	18:9	169:21 178:22	collective
5:25 6:16	194:4	clarify 54:19	185:20 209:24	69:18,19
21:12,13 24:5,	chief 15:19	57:1,7,11	220:9 250:6	142:19,22
9,15 27:24	24:3	99:11 108:23	clear-cut	206:16
31:14 32:12,	child 165:19	134:14 140:2	82:24 83:1	college 87:8
19 38:10,14	choose 27:14	219:24	client 9:13	89:23 135:6,
39:23 40:1	155:10	clarifying	13:18 15:21	13 184:24
42:11 43:16	choosing	88:16	16:9,18,20	193:15
45:12,15	92:11	class 62:6	101:9 106:5,6	
47:14,21	chose 27:16	66:7 83:4,8,12	107:3 108:25	
	29:2 30:21	125:14,15	146:21,22	

collegial 213:1,2	173:7,8 178:4 179:1 181:15, 25 182:4,10, 11,13,14,18, 22 183:22,24, 25 184:3,4,22 186:16 187:21 192:21 193:8, 10,11,14,15, 16,18,22 194:6,10,13 198:7 199:23 212:12 214:11 215:4,5,19 216:14,18 218:12 220:19,21,22, 23,24,25 221:10,12,13, 15,25 222:14, 20,23,24 223:2,5,9 245:21 246:8 248:16 249:2 253:3	211:18,20 complain 233:18 complained 95:19 101:12 complains 103:16 complaint 68:14,17 69:1, 25 95:2,6 complaints 43:1 66:9 complete 28:24 167:6 219:9,10,11 236:9,10 completed 36:9 107:15 193:3,5 completely 74:5 78:6 112:2 223:18 236:2 245:9 246:17 complex 101:2,3 168:3, 14 complicated 82:13 component 46:4 components 242:12 comports 146:10 compose 132:4 compound 40:21 112:3 compromise 129:1 compromise d 194:13 concern 236:25	concerned 153:9 208:22 224:15 concerns 18:6 36:12,18 62:17 92:13, 14,16,22,23, 24,25 93:2,24 106:6 195:15 248:24 concludes 147:20 concluding 147:18 conclusion 24:13 30:8,9 69:15 76:24 190:3,4,6,16, 19,25 191:25 193:6 200:6,7 213:7 216:19 conclusions 189:5,10,11 190:8,12 191:16 conditional 57:18 conduct 7:22 20:6 43:2 84:24 137:5 146:4 152:17 conducted 5:5 10:14 242:7 confidential 12:22 105:13, 21,22 106:1 confidentialit y 107:20 confirmation 12:18 confirming 190:23 conflict 126:6 184:22 185:2, 4,7 192:23,25 conflicts 141:19	confrontation 67:11 143:15 151:20,24 152:20 confrontation al 143:23 confused 47:19,20 49:15 156:20 236:7 confusion 40:16 connection 29:7 consent 13:9, 10 123:21 consequence s 13:17 consideratio n 175:5 182:8 consideratio ns 147:1 173:11,12 considered 29:17 72:16 78:16 202:10 208:21 220:13 consistent 149:19 242:12 consistently 189:3,8 consists 140:7 consolers 62:20 construction 213:5 consult 11:19 36:3 83:18,20 91:13 131:25 consultation 79:21,22 156:23 220:19 consulted 36:5 79:16,20 83:16 132:2
-----------------------------	--	--	--	---

consulting 132:5 contact 36:17 134:7 contacted 195:14 Contemporary 61:16 content 34:16,25 36:12 44:13 61:18 73:1 88:1 111:10 112:1,14 155:3 contents 32:19 34:7 38:6,13,14 40:16 41:14 42:23 43:21 45:5,15 50:25 103:11 111:12 context 12:21 74:1 82:3 91:17 143:19 148:11 continuation 171:14 175:7 continue 14:24 55:3 65:23 73:22 115:25 123:23 125:9 146:21 155:16 158:3 195:24 210:23,24 241:9 253:16 continued 74:24 76:14 155:4 195:23 continuing 46:23 61:1 contract 84:23 237:11, 13 contracts 237:8,9 241:15	contradicts 200:22 contributed 215:25 216:1 contribution 228:9 control 11:2 244:10 controlled 134:3 controversial 224:15 conversation 65:12,20 69:5, 6,7,8 79:1,3,8 96:2 109:2,8, 11 232:5,12 235:6,8,10 236:12 conversations 11:6 29:21 79:10,12 124:3 136:11, 15 231:22 232:3 233:21 convince 209:14,18 convincing 9:7,9,17 coordinator 59:24 60:6,7 64:22 copied 35:12 59:16 117:20 163:9 186:4,6 187:6 188:21 237:24 copies 54:1 148:7 214:18 237:25 238:6 copy 22:3,7 49:7 121:15 132:7 135:18, 23 176:6 214:20 215:22 236:20 238:2 copying 47:1	correct 6:18, 20 10:19 18:23 50:3,4 52:8,9 56:6, 19,20 59:3 62:13,15 76:23 77:20, 21 78:5,6,17, 19 80:14,19, 20,21,24 81:3 84:17,21 87:10,20 88:11,12 89:6 92:23,25 93:4, 11,14,17,22 94:2 97:8,9 99:4 102:4 103:7 104:17, 22 106:20 107:22 108:7, 13,15 121:8 132:5,8,15 135:17 137:11 138:8 148:8 159:10,21 168:23 169:6 175:10 177:1 179:21 183:1 186:5 192:23 201:15 214:6 215:21 216:3, 9,14 217:1,25 218:1,14,15, 20 219:2,4,7, 19,22 220:2,4, 7,18 221:1,11 226:4 228:4, 14 235:3 238:2,5 239:23 240:5, 11,18 243:16, 23 244:2,7 246:24 248:14 249:12 250:9, 13 251:8,11 corrected 95:23,25 235:24,25 236:17 correction 160:13 corrective 93:24	correctly 6:14 57:14 89:14 214:2 correlated 124:12,14 correlates 124:8 correlating 174:8 correlation 163:4,5 174:1 correspon- dence 138:1 162:4 163:2,3 corroborate 145:1 couched 139:25 council 194:14 200:2 202:2 counsel 5:16, 22,25 6:16,25 8:8 11:5 12:2 17:9 20:16,17, 18,23 21:4,8 22:12 23:11 26:11 53:19 54:2 55:5 88:7 111:8 114:9 125:10 126:21 127:6 163:13 169:1 197:14 234:10 239:24 counsel's 13:6 55:15 130:5 187:19 201:23 counselor 186:22 count 209:4 228:21 counter 119:4 couple 6:21 197:4	Course- documents. pdf 123:18 courses 29:5 59:2 62:17 85:5,7,15,17, 20,21,22,23 86:1,2,7,9,11, 12,13,21 87:12,14,16 89:1,4,5 98:20,21 court 5:19 6:5 13:14,16 17:25 19:11, 14,15 21:17 23:6 24:19,21 27:5 48:21 54:10 114:8, 18 115:16,23 131:22 144:17,18,19, 22 145:8,24 courtroom 18:4 114:7,8 cover 131:18 166:21,24 232:17 234:23 235:3 covers 156:2 CP 39:23 42:6 120:23 122:2, 15 151:3 177:22 190:13 CP-1 31:9 CP-10 64:11 CP-11 70:23 CP-12 71:1 151:15 CP-13 75:1 CP-14 122:9 CP-2 34:2 38:6 CP-23 156:9 159:10 CP-24 158:4 CP-25 177:9
--	---	--	---	--

CP-26 162:20	credible 233:25	Curry 38:21 64:23 70:1 143:14 163:13 182:1	days 19:18, 19,20 34:18 44:7 162:18 163:6 169:18 181:22	decide 148:25 193:23 206:3 242:18
CP-27 164:16 168:15	credit 87:23 98:22 131:19 227:19 229:6	Curry's 130:14,25 131:8 144:1 147:20 214:17	days' 184:14	decided 13:21 17:22 68:15 85:17 183:4,24 184:6 215:9
CP-28 174:6 179:1,9	credits 131:19	customs 7:20	deadline 22:6 55:14	decides 145:21
CP-29 175:18 179:7	crime 9:1 183:7	cut 96:7,22 98:14 251:7	deal 11:8,9 37:19 76:4 82:5 83:11 212:1	deciding 119:14 142:6 160:21
CP-30 180:20, 25 192:12	criminal 8:24 19:12 20:3,8 183:11 243:9	cuts 197:18	dealing 66:8	decision 9:15,16,18 10:5 17:10 30:25 38:22 70:5 78:5 89:19 120:8, 10,11,12,15 123:8 128:19 130:3,10,12, 22 133:18 149:6 183:6 188:22 195:6 196:5,11,13, 14 201:13 202:16 206:15 215:13
CP-31 183:15	critical 132:23 142:17	cutting 92:7	dealt 141:21 179:12	decision- making 56:24
CP-32 185:11	criticism 140:6,17,19 142:23	D	dean 21:13 27:13 28:4 35:12 36:11, 13 89:19,20, 23 120:17 123:16 126:8 128:12 131:8 133:16 135:6 137:4,13 160:11 163:14 172:22 181:8 184:7,20 193:1,13 194:5 202:5,6 214:17 215:20	decisions 157:11,13
CP-33 186:12 187:25	criticize 205:12	damage 108:22 210:4 213:3	dean's 36:15 120:15 122:25	decorum 53:16 114:14 185:8
CP-34 194:19	criticizing 142:4 149:13, 18 183:9	damaging 109:12,13 111:13,16	deans 46:11 89:17 104:4	deemed 170:9
CP-35 196:15	cross 77:3 127:7 253:12	data 240:4	Dear 35:24 36:8,9,23 39:3 62:3,4 63:21 66:3 67:19 123:14 131:13 135:4,15 137:12,17 141:19 149:17 163:21 181:7 194:9	deep 160:24
CP-36 200:15	cross- examination 24:7 77:4 213:25	date 29:12 33:4,5 80:9 86:23 87:1 88:22 116:16 148:12 161:2 162:10 171:5 182:7 233:2,4	December 157:7 160:4 161:3,9 165:4 176:25 177:2, 7 249:25 250:4,8	deeply 142:24
CP-37 202:18	cross- examine 7:1 24:8,10 144:24 191:2, 10,21	dated 134:20 154:1		defamation 69:25 70:2
CP-38 204:10	crowd 211:13	dates 231:13		defamatory 64:1 93:5,6,7 94:15 243:14, 17
CP-39 208:7	culture 76:20, 22 139:19 205:14 206:14 211:9	David 163:14		defendant 111:3,4 119:2
CP-4 42:7	cultures 41:25	day 13:2 19:21 67:12 87:2 116:6 139:20 149:10,12 160:5 161:10, 11,17,18 188:20 204:7 206:5 219:16 222:2 230:8 253:8		
CP-5 43:13,25	cumulative 238:9	day-to-day 219:21,23 220:13		
CP-6 45:10	current 13:19 43:2 87:4,6 106:17 107:6 153:21 175:13 195:11			
CP-7 47:11 51:19 57:22, 23 58:2				
CP-8 59:6				
CP-9 60:14				
create 183:7, 10 195:25				
created 73:11,12				
creates 226:8				
creating 76:19 211:13 220:17				
creation 26:21				
creative 209:8				
credibility 66:16 92:13 252:11				

defer 89:18	17,18 42:19	246:12 248:16	determinatio	direction
define 93:7	44:10,24	249:2,12	n 19:7 106:10	127:16
139:9 202:11	45:17,20	250:11,17,23	214:20 215:15	directly 36:17
205:5,16	46:11 47:1,2	department's	217:4,21,24	168:3 190:23
246:25	51:1,4,6 58:23	167:17 205:18	determine	228:10 247:23
defined	59:17 61:23	departments	11:1 137:19	248:14
139:11 158:1,	62:5 66:10,16	89:18 194:15	182:8,15	director
10,13	67:12 73:8,13,	219:14	219:6	25:20,21 26:4,
definition 9:9	21 78:14,25	depending	determined	5 40:9 44:18
28:19 93:11	79:17 81:24	18:3 36:14	84:23 88:23	48:5,18 49:22
128:23 139:24	85:6 87:11	depends	98:25 192:22	52:1 56:16
142:20 149:7	88:11 89:11,	119:13 210:2	219:25 220:16	58:23 59:18,
158:2,9,18,20,	12,17,20,22	211:7 218:13	223:6	23 60:4,22,25
21 159:7	90:4,14 91:6,	depository	determining	62:16 73:15,
220:16 223:6,	12,14 92:15	160:15	77:19 146:12	24 74:7 86:10,
8,9	96:6,12	deprive	222:15	14 90:4,5,16,
definitions	103:13,15	163:24	detrimental	22,24 91:2,4,
156:21 163:23	104:4 105:14	descent	211:18	10,25 103:17
207:20	106:15 111:25	105:7,8	devastated	105:1 106:15,
degrade	115:11,24,25	describe	210:7	16,19 149:13
206:13	116:4,5	25:6,15 38:16	developed	150:15 152:17
degree 11:3	118:22,24	67:8 71:15	7:21 228:11	directors
delayed	119:6 120:7	89:14 138:17	Dewitt 163:14	89:15 91:9
165:2	123:13 126:1,	139:14 154:13	dialogue	disagree
delegates	23 127:21	183:14 203:24	107:18	120:14 121:20
89:16	128:8,9 131:8,	describes	dictates	141:4 146:20
deliberately	11 132:8,9	172:19 208:6	15:25	disappear
15:6 128:25	135:10,13	describing	dictionary	17:5
deliberations	136:19 137:7	67:10	163:23	disciplinary
111:22 193:3,	139:5,11,19	description	difference	144:2,3
5	140:4 142:5	76:12	79:2,6	152:23 155:18
deliver 179:6	143:21 154:15	descriptions	difficult 7:16	175:3,15
demeaning	155:3,7,9,20	63:24	11:21 59:22	176:9 180:3
204:9	156:7 157:23	desire 15:16	73:23 120:4	184:23 194:17
democracy	164:1 165:14,	182:6 195:17	difficulties	195:10
142:21	16 166:7,17,	desist 195:16	138:18	discipline
denied 30:20	18 167:15,21,	destructive	difficulty	150:5 168:23
125:20	22 168:7,12	139:19	19:20	171:10,11,12,
deny 21:22	173:9 174:5	detail 174:3	dig 177:15	14 175:6
75:19	182:11,12	detailed	direct 25:4	182:9,16
denying	183:11 184:1,	46:17 51:14	36:17 115:4	184:13 185:22
252:5	9 188:17	104:10	140:11 141:20	193:25 195:7,
department	193:17	details 112:16	164:22 166:12	12,22 196:10,
14:2 25:19	195:24,25	123:18	167:24 223:25	12 199:20
27:17 28:21	196:9 203:7	detained 5:12	249:17 251:24	200:1,8,11
30:3 38:20,21	204:2,4,17,21,			202:1,13
40:12 41:12,	23,25 205:2,3,			203:6 209:2
	5,14 206:7,14,			disciplines
	16 207:22			41:25
	208:19 209:19			disclosing
	212:7 215:21,			111:10
	23 218:14,15,			
	16 219:12,21			
	220:1,11,18,			
	24 224:21			
	225:11 226:3			

discretion 14:14 167:17, 18 discriminate d 105:6 discriminat g 46:12 51:10 66:11 104:5 discriminatio n 46:6 68:15 103:24 104:16,20,24 105:2 106:7,9 discuss 12:2 61:7 64:4 106:3 181:19 188:7 194:16 237:2,3 discussed 16:7 69:14 96:3 100:16 121:5 127:13 169:6,19 222:21 252:3 discusses 96:12 discussing 40:13 47:3 56:8 discussion 32:5 43:18 71:9 78:4 80:16 97:16 125:24 140:22 141:3 148:18 155:9 181:11 183:25 184:1 192:18 231:1, 5,6,9,10,15 233:9 discussions 71:20 78:1,3, 4,10 126:23 155:20 231:14 dishonest 109:18 dismissal 14:10 53:1 186:18,20 187:10,13	201:17 202:1, 5,9 209:1 displaying 143:24 displeasure 155:11 dispute 27:18 219:13 disputes 130:18 disputing 37:9 disqualifies 44:18 disregarded 129:9,10,21 137:23 disrupting 66:8 disruption 18:3,4,6 disruptive 195:25 196:6 disseminate 74:8 disseminated 13:11 30:18, 19 distinct 238:1 distinctly 74:12,13 distortion 167:11 distributed 29:5 73:7 District 144:22 disturbing 46:25 diversity 211:4 dividers 116:25 division 205:15	document 27:23 28:1 30:8 31:2,5,6, 9,11,18,19 32:10,13,18, 20,24,25 33:4, 8,11,12,21,22, 24 34:2,4,6, 13,14,16,21, 25 35:3,4 36:1,24 37:7 38:16 41:3,10, 23 42:6,14 43:13 44:8,21 45:18 46:20, 23 47:12,13, 22,23,25 48:6, 8,13,14,17,22, 25 49:2,13,14, 16,18,19,23, 24 50:13,16, 17,18 51:2,19, 22,24 52:2,3, 5,11,14,16 54:25 55:11, 20 56:3,5,6,7, 11 57:3,4,17, 20 58:20,24 59:6,14 64:20 67:8 70:21 71:1,7,13,15 72:17,20,21 73:1 75:1,10, 15,20 78:2,8, 11 80:5 81:5,9 102:21 106:2, 25 108:7 116:11,23 123:16 131:15,21 135:23 139:4 142:10 160:9, 14,15,18,23 163:8 170:22 171:3,6,11,21 172:21 173:16 174:8 175:24 179:15 182:22,25 183:8 186:14 187:2 190:11 191:1,7,11,18 197:12,22 198:17 199:2, 4,22 200:12, 24 201:13	203:11,24 212:9 216:20 documentary 23:14 documentati on 94:21 194:10 219:5 documented 34:22 199:11 documents 22:10 23:2,11, 13 34:7 36:6 40:22,23 47:20 49:4 52:25 53:7,18, 19,24 54:4,7, 8,11,14,20,22 55:8,13,16,18, 23,25 56:18 57:9 66:17 72:13 75:6,14 77:17 80:3 97:4 105:22 106:24 107:1 113:23 114:2, 6 118:12 121:8 124:7 132:3 144:13 158:22 162:2 174:8 175:23 176:2 182:15, 16 184:4 187:5 193:18, 19,20,24 197:1,6,8,17, 19,23 198:4,7, 8,13,20,22 199:9 200:3,9 201:6 203:4,6 215:1 216:1, 16 240:20 245:12 Documents. pdf 123:17 Donahue 185:22 186:4, 8 187:18 188:6,19,21 189:17,21 190:3,16 195:18 214:15 215:3	Donahue's 188:13 189:10,12 190:3,6,7,19, 25 191:16,24 double 145:7 244:15 doubt 8:23, 24,25 9:2,11 225:3 Doukoure 5:22 13:5,23 14:12 15:9,14 16:5,16,24 17:3,12,14 18:8 19:2,23 20:2,23 21:2, 12,24 22:9,17, 24 23:5,8,10, 19,25 24:2,8 25:24 26:11 31:10,16 32:8, 23 33:7,15 34:3,9,10,12, 17,24 40:20 42:9 47:12,21 48:4,13,19,23 49:8,21 50:4, 9,12 51:21 52:20 53:10, 14 54:15,17 55:3 56:2,9, 14,17,20,25 57:7,10 58:16 60:19 63:6,11, 15 64:12 65:4 69:17 70:6 71:2,25 72:11 75:3 77:5,8 82:14,20,23 83:2 88:12,15, 17 90:18 92:9, 12 97:25 98:4, 5 99:12,25 100:7,11,15, 22,24 101:3,7, 19 102:1,4,6, 9,11,14,17,20, 24 103:2,7,8 105:24 106:3, 10,16,20,23 107:10,13,17, 22 108:1,5 110:2,5 111:4
--	---	--	--	--

112:3 113:13, 17,22 114:5,9, 14 115:13 117:12,16 118:19,23 121:6 122:11 124:10 125:3 126:19 129:3, 9,19 130:5 133:9 134:17 135:21 136:12 143:1 144:10 145:4,23 146:2,20 147:3,7,10,23 150:7,17 151:25 152:9 156:10 161:5, 11,16,21,23 164:5 168:16 169:7 170:14, 21 172:7 174:7,11,21 175:22 176:3 178:13,18 180:9,24 183:17 185:12 186:13,21 187:4 189:2 190:5,15,24 191:15,23 192:8,11,13 194:20 196:16,20 197:5,11,15, 20 198:2,25 199:6,12 200:16 201:8, 23 202:19 203:19 204:11,18 207:5,8 208:8, 13 210:18 213:19 214:1 223:16 232:23 233:3,13,20 234:9,16,19 237:11,16 240:1 246:6 249:13,16,23 250:2,9,13 251:13,17,23 252:6,13,18, 22 253:1,6,9, 13,17,19	draft 170:13 draw 212:13 draws 155:25 drop 87:16 dropped 87:18 dual 10:3 due 10:12 123:21 146:13 204:9 205:21 due' 163:25 duties 196:4, 9,14 242:3 duty 26:16,25 27:11 28:13, 15,19 30:12, 13 39:12,14 77:20 84:18 92:16 96:20 98:13 99:13, 17 100:2,18 109:1 116:13 117:23,24 118:3,4,9,15, 17 119:20,22 120:13,23 121:4,17 122:9,14,22 125:15,18 127:9,12,14 128:5,11 137:19 139:8 149:24 166:21 214:6 216:3,8, 25 217:6 221:11 225:24 227:8 Duxbury 21:13 E earlier 40:13 67:14 78:15 108:6,11 109:4 126:4 148:3 216:5 223:24 236:15 247:21	early 86:15 130:13 165:24 227:4,5 easiest 114:23 208:24 easily 49:15 83:13 East 5:1 Eastern 66:12 105:7,8 106:12 144:22 easy 20:4 77:10 210:10 edification 237:5 edited 47:25 editing 48:3 effect 204:24 226:5 250:22 effectively 250:18 Effie 224:10 226:25 effort 37:19 83:13 125:23 126:4 127:19 efforts 96:1 egregious 242:23 egregiously 212:23 elaborate 212:24 230:3 elected 28:10 91:14,15 142:18 155:1 205:25 221:2, 3,4,5,22 222:6 election 89:12 elections 89:12 142:21 elements 133:24 140:16	elevated 140:18 eleven 6:4 elicit 143:25 eliminate 211:9,10,13 eliminating 17:16 19:21 else's 145:5 eludes 167:3 email 5:18 12:25 22:10, 11,17,19 28:22 32:22 34:5,22 35:17, 21 36:21 38:15,17 39:1 40:5 41:8,11, 14,15,16,18, 19,20 42:15, 16,18,20 43:22 44:6,8, 9,14 45:4,16, 19,20,23 46:2, 4,5,21 47:14 49:10 50:25 51:3,8 52:16, 17 58:10,18, 21,22 59:12, 15,17,21,23 61:2,19,20 62:2 63:20 64:18,21,25 65:3,10,15,19, 25 67:6,10,14, 17 74:1 79:21 82:8,16 83:3 84:8,12 91:22 96:11,16 99:15 100:16 103:5,9,11,12, 13,18,19 104:13 105:16 108:11 109:4 123:7,10,12 127:25 131:7, 12 132:10 133:16,21 134:19 135:16,18,22 136:22 137:3, 5,10,11,12,13,	16 138:17,19 139:10 140:3, 4,6,7,9,12 141:6,7,13 142:1,5,16 143:7,14 145:3,4,5,6,11 148:21 149:3, 7,21,22 150:1 151:7,17 152:5 153:11, 15 154:9,10, 15,18 155:8 157:1,8,9,10, 17 159:15 160:4,5 161:2 162:14 163:11,20 167:1 169:5, 19 171:18,25 172:2,4,5,17 174:9 175:4, 10 176:10,20, 25 177:7 178:2,12 180:8,12,14, 16,18 181:18, 22 182:18 184:11 186:3, 5,7,10 187:6,7 189:19 190:3, 4,6,23 191:1 193:1 194:4,8 204:1 207:1, 16,23,25 208:1,2,3,4,6 222:15,19,21 223:1 230:22 232:13,21,24 233:2,8,15 234:5,6,7,11, 20 235:1 236:19 emailed 13:12 81:24 145:10 emailing 31:1,4 60:1 emails 14:21 29:19 32:6,21 34:18,23 35:5, 10,11 39:16 40:18 60:2,10, 23,24 61:16,
--	--	---	--	---

20,22,24,25 65:21 73:6,12, 14,23 74:21 76:14 78:1,12 79:20 81:12 83:19,21 84:2, 4,9 95:7 96:15,19 101:24 105:12 123:2 125:25 134:14,15 136:18,23 139:5,12,18 141:14,20 145:1 148:3,5, 8,10,25 149:8, 17 150:2,12 151:23 152:15 154:23 155:7 157:25 158:3 159:23,24 163:6 170:8 171:6,9 176:3, 8,9,11,13,14, 22 177:11,12, 15 178:2,10 179:2 188:7 189:21 194:11 195:12,13 202:2,15 204:24 220:18 230:20	22,23 236:5 238:18 encumbered' 62:11 encumbranc e 81:16,17 166:6 236:18 encumbranc es 81:11 166:6 239:2 end 21:20 28:3 37:4 77:2 105:15 126:13 142:1 169:12 175:13 188:20 219:16 222:18 236:22 253:5 endeavor 140:2 ending 253:4 enforced 245:13,15 engage 185:17 186:10 188:23,25 222:14 engaged 14:23 155:12 187:12 195:13 196:1 218:8 engagement 241:11 engineering 41:25 English 165:6 enjoy 66:10 enormous 212:1,2 enroll 29:22 83:8,12,14 84:5 enrolled 83:13 86:25 87:3 enrollment 29:22 80:23 86:2,12,13,19,	21 88:20,22 231:5,21 ensuring 241:13 enter 5:16 entered 5:15 174:1 249:6 entire 44:10 50:24 88:13, 16 96:12 103:21 123:13 127:25 131:8, 12 136:19 139:5,11,12 163:15,19 166:3 172:18 181:23 204:2 212:6 218:3 251:25 252:5 entirety 45:19 103:12 entitled 20:17 137:12 146:13 198:10 entries 142:3 environment 185:21 epiphany 235:14,19 equity 46:5 103:23 155:21 192:1 211:4 equivalent 215:8 erase 102:22 eroding 66:16 140:20 error 140:5 170:13,18 errors 213:10 escalate 253:10 escalated 76:6 209:7 escalating 155:5 171:10	185:21 202:12 escalation 171:12,14 175:14 201:25 202:12 essence 211:16 essentially 73:11 124:6 establish 9:20,22 134:15 142:21 189:20 established 140:8,9 169:3 209:3 establishes 190:12 Estrella 58:14,19 evaluate 132:22 140:17 205:22 evaluating 37:20 160:21 evaluation 142:4 evening 61:23 event 143:15, 21 144:4 181:18 events 26:19 63:24 93:19 95:21 124:19 144:4 151:18 167:9,12 eventually 30:24 everyday 183:11 evidence 9:3, 7,9,17,24 10:15,17 15:20 16:11, 17 23:3,14 29:16 30:5,6	31:21,25 33:8, 9,17,20 34:8 37:20 47:23 48:8,15 51:23 53:11,12 56:22 72:2,4,6 75:5,9 77:17 106:24 107:2 112:5 119:5 144:12 145:1, 12,21 149:9 152:1,3 164:22 175:23,25 176:1,4 177:10 190:5, 9,25 191:1,4 192:2 197:2,6 204:25 234:17 evident 165:6 evidentiary 8:7 119:5 136:5 146:25 exact 10:4 80:9 118:10, 15 215:7 224:17 examination 24:14 25:4 110:25 115:4 excellent 141:1 exception 142:13 exchange 37:16 65:10 139:6 181:22 189:19 exchanged 61:22 78:1 125:25 exchanges 186:7 187:8 excluded 156:7 excuse 27:9 31:3 108:20 127:22 249:10 excused
--	---	---	--	---

20:24 21:9	expansions 135:14	extensive 164:21	220:6	195:18 196:1, 8 200:2,13,23, 25 201:2
exercising 142:4	expect 85:11, 12 201:1	extensively 233:21	fact-check 160:10	202:15,16
exhausted 196:3 212:8	expectations 149:20	extent 10:15 37:22	factor 146:12	203:6,9
exhausts 130:19	expected 31:22 73:11	external 185:24 195:19	facts 7:12,14 64:8 112:5 151:25 152:2 176:1	205:10 206:2 208:20 211:5 212:10,20 214:7,14 221:6,8 228:22 241:9 249:12 250:11
exhibit 31:14 38:10 40:1 42:11 43:16 45:12 50:18, 20 58:4 59:9 60:16 64:14 67:2 71:4 75:23 102:25 120:23 121:1, 23,25 122:2, 15,17 125:1,5 133:8,11 137:10 138:10,12,14 141:12,13 142:9,25 143:3 144:5,8 147:22,25 150:6,9 156:12 158:6 161:7 162:22 168:18 174:18 175:20 179:1 181:2 183:19 185:14 187:25 188:2 190:2, 14 192:13 194:22 196:18 200:18 202:21 204:13 207:12 208:15 213:16,18,21	expenditures 135:12	extra 63:3	factual 16:20 31:22 37:21	fail 251:4
	expense 239:5	extract 136:24	faculty 5:23 13:12 14:10 15:8,25 20:14, 15,16,18 22:2, 8 23:23,24 27:2,5,10 36:12,16 38:19 41:12, 16,17 42:19 43:8 44:10 45:21 46:8,16 51:4,13 58:19 59:16 68:2,3 71:14,18 73:5 76:3,18 85:1, 10 90:8 103:25 104:9 111:24 112:4, 13 118:5,7 119:3,7,9,11 125:19,21,23 126:1 127:20, 25 130:18 131:10 132:24 133:1,25 134:2,4 139:12,13 141:2,3,24 142:15,16,18, 19 143:25 145:19 149:18,20,24 155:7,23 156:24 157:16 160:9 163:15 164:2 165:13, 19 167:6 170:9 172:14, 18 173:3,6,7, 17,20 181:24 182:2 185:8, 18,23 193:14 194:12,14	failed 125:14 128:11
	expensive 166:2	extraneous 54:25 56:4 121:7 180:11		fair 99:1,7 171:15 173:16 188:18 190:9 191:25
	experience 211:2	extremely 82:4 111:12, 16 173:21 210:8		fairly 29:4,6 30:19 89:1 173:15
	explain 39:4 60:8 64:4 79:2,5 81:17, 19 100:14 103:11 139:2 140:14 147:16 151:16 153:5 180:1 241:3	eye 160:24	F	fairness 191:17 192:1
	explained 68:1	eyes 62:16 211:16		faith 196:1
	explaining 210:20	fabrication 167:7		fall 85:18,22 94:22 125:12 164:1 165:3, 23 223:4 227:11,12 229:11,13,16 230:14
	explains 7:15	face 51:24 62:19 141:25		fall/spring 182:13
	explanation 232:22	face-to-face 65:9 67:14 68:20,21,23 69:4 79:23		false 83:9 93:20 95:17 251:15
	explicit 142:17	facie 140:16		falsehood 246:10
	explicitly 213:4	fact 17:11,18 18:1,3 19:1,17 29:4 30:17,21 31:17 33:20 34:5 37:19 45:7 46:24 49:9 50:12 59:19 66:7 81:7 91:11 92:23 93:25 96:6 99:2 104:13 119:18 135:22 139:21 142:8 174:3 206:25 218:4		familiar 85:13 116:12 119:6, 23 120:2 171:22 187:7 206:17,25 207:15,18
exhibits 50:2 53:4 107:21 113:9,25 114:3	express 196:5			family 166:7
existing 245:14	expressed 15:11 184:5 185:5			fashion 21:19
exists 94:13 218:21,22 220:25	expressing 184:21			faulty 36:1
exonerate 112:2	extend 132:12			
	extended 133:4			

37:7 118:11 131:21 160:9, 18,23 172:21 182:25 favor 9:16 fear 195:25 February 40:19 41:8,12 125:16 133:17 134:23,24,25 184:20 195:13,17 214:8 federal 13:20 146:5 183:1 feel 15:1 60:21 65:9 68:13 69:11 92:15,16 111:15 128:21 148:6 160:20, 22,23 184:5 197:5 198:9 211:8,16 215:4 feelings 72:15 fees 232:17 234:24 238:13 fellow 46:16 51:13 104:9 fellowship 74:2 felt 14:20 28:23 60:2,23 61:9 63:11 73:17 74:12 93:20 94:14, 19,20,25 95:21,22 101:8,10 141:4 143:23 149:7 151:22 152:16,21 182:15 185:5 188:18 205:1 field 209:23, 24,25 210:3 224:23,24 226:9	fighting 210:13 figure 79:14 171:4 210:3 file 23:16 59:3 94:11 97:1,5 124:6 filed 15:24 16:23,24 22:12 27:2 43:1 53:2 94:4,14 95:6 125:18 214:5, 7,14,16,20 files 119:4,9 155:3 157:23 filing 22:24 68:14,17 95:2 106:4 final 5:14 16:6 70:21 71:7 76:1 78:2 130:3,11,12, 13,14,17,22, 25 finally 9:11 169:14 financial 133:24 find 9:1,2 20:4 28:13 39:8 76:11 112:23 126:5 132:4, 22 136:22 157:23 158:9, 18 159:7 173:17 177:18 finding 26:16 27:6 28:19 30:22 39:9 84:15 100:3 105:5,11,17, 24 121:17 122:23,24 137:19,22,25 139:8 166:21 173:19 200:10,11 216:8,13 217:3 218:5,	10 243:7 findings 31:22 32:12 35:8 37:21 76:8,16 105:15,21 217:15,17,18, 20 finds 184:22 fine 8:18 99:22 150:21 199:6 251:6 fined 99:20 finish 17:13 92:6,7 114:10, 17 233:12 235:18 finished 159:4 253:12 Fintushel 224:11,25 firing 146:6,7 firm 20:3 firsthand 164:22 fiscal 236:23 238:8 fit 11:24 fitness 155:1 five-page 216:19 five-year 206:4,6 flip 117:4 153:18 flipping 117:8 focus 211:12 focused 68:3 FOIAABLE 13:15 folders 159:5, 6 folks 18:10	follow 20:22 146:15,18 190:9 222:22 follow-up 44:11 65:20 78:2 137:3 149:3 222:20 followup 9:19 font 38:3 forever 53:9 160:13 forget 62:22 forging 46:7 103:25 forgive 62:22, 23 129:14 forgot 12:17 forgotten 44:23 forks 209:4 form 39:16 47:13 48:1,10 49:10,11 55:16 56:24 101:7 102:15 184:8 209:2 232:1 formal 5:4 10:13,15,17 16:18 19:13 21:15 33:17 68:17 69:1 78:4,5 79:1,2, 8 81:5 143:22 146:9 149:25 153:7 162:12, 14,17,19 163:3 184:12 190:8 214:24 216:17 244:9, 14 formality 178:19 formation 26:20 193:7 formed 28:5 181:15 182:4 193:2,5,13,17	200:5 221:13 forming 194:7 forms 241:7 forum 146:17 forward 6:14 75:12 forwarded 145:5 forwarding 66:13 145:10 found 30:16, 21 116:10 139:18 173:17,18 177:16 209:7, 8 217:23 218:2 foundation 31:17 34:4 118:20 136:1 187:5 189:14 191:24 192:7 195:15 199:7 241:5 founded 25:22 26:7 190:25 founding 25:20,21 26:5 four-year 172:16,17 Fourth 8:20 frame 231:18 framing 138:22 frankly 49:15 55:5 101:17 209:11 fraudulent 31:2,5,6 36:23 37:18 free 70:2 91:22 140:1 141:4 142:5,7 183:7 205:11, 12
---	--	---	---	---

freedom 23:25	220:1,11,14 232:17,25 234:23 236:22 237:3 238:7 241:7,8 244:12,13,18 250:18	157:8,9 162:8 163:9 171:13, 23	governed 144:18	grant 29:24 30:2 36:2,3 39:6 52:18,23 81:10,16 94:17 131:25 132:1 133:23 134:16 135:14 166:5 224:19 225:1 231:1,7, 16 232:7,17 234:23 235:11,21,23 236:18,22 237:11,13 238:7 239:4,7 241:6,24 242:11,17,18 243:11,12,20, 24 244:4,7,10, 25 245:2,7
frequency 155:6		give 14:24 24:23 26:19 29:1,16 33:12 34:13 42:15 74:15 91:16, 17,19,21 96:16 97:10, 13,15 115:8, 18 120:6 124:5 125:24 126:25 127:7 136:25 148:11 157:9,19,20 158:11 162:8 164:17 166:8 176:6 188:9 191:24 198:24 205:10,11,12 207:24 220:1 232:1 236:10 237:20 242:10 245:7 246:19, 20 247:8,16, 18,23 248:4	government 146:8	grant's 81:13
frequently 60:1	future 138:1 171:13 210:11 239:2 243:10		grab 238:4	grant(s) 137:25
Friday 5:2 61:19,21 64:18	G		grad 41:20 43:9,10 44:15, 16 46:12,13, 15 48:5,18 49:22 51:9,10, 13 52:1 56:16 58:23 59:2,18, 22 60:3,25 62:17,25 64:22 66:7 67:22 73:24 74:7 80:17,22 81:24 86:14 89:21,25 90:2, 19,20,22,23 91:4,9 104:5, 8,25 105:1 106:15,16,18 131:18 141:22 226:14 227:22 228:6	grants 39:5 62:11 78:16, 18,20,23,25 80:23 81:2,7, 22,24 82:10 83:5,9 84:7,9 131:15 133:24 134:2,5 209:25 224:16 225:3 236:5, 25 237:8,9 238:9,10,18 239:3 241:13, 15 242:1,16 243:11,15 244:19
friends 226:11		giving 100:6 126:20 135:2, 3	graduate 15:7 25:20 26:4 28:22 29:3,7,10 40:9 41:13 44:18 45:22 46:24 51:6 59:16,20, 21,24 60:6,7, 22 63:23 66:3 73:14 83:16 86:2,7,9,12,13 90:4,17,22,24 91:2,25 103:17 125:12 126:16 149:13,19,23 150:15 152:17 155:8 204:3 210:1 211:7 227:22	great 37:19 76:4 82:5 83:11 206:10 208:24 223:17 237:4 240:17
front 44:19 53:8 56:9 62:19 164:1 165:7 245:21 246:7	gain 250:20, 22	glad 63:22		greatest 10:15
frustration 94:21 150:16	Gale 5:10	glasses 38:3		greatly 239:6
full 25:17 26:3 44:4 73:9 165:18 167:4 193:16 194:14	game 37:4 65:24	goal 39:9 73:15 193:21 248:7		green 116:25 154:7 171:20 174:15
fully 78:17,20 80:24 81:2,7, 13,25 82:10 83:5,6 84:10 94:17 235:21, 23 236:5 238:18	gauge 73:9	God 54:17		greet 160:15
fun 242:20,21	gave 48:13,24 50:13 65:23 97:3,6,7,11, 16,21 99:1 100:12,15 130:13 142:14 158:2 190:4 193:19 245:22 246:13,16,21, 23 247:1,11, 14 248:1,3 249:3	Gokova 225:20,21	graduated 226:19	
function 60:22,25	general 66:24 85:4 89:17 98:17 138:21 143:9 158:12 164:1 249:16	good 43:9 102:13 113:6 131:3 140:23 196:1 224:4, 11,24 227:5 237:15	grain 167:10	
functioning 73:20	generalized 7:5	Goodness 214:15	Grand 42:22 44:12	
fund 166:11 167:18 188:14 232:6	generally 8:22 73:4 91:9,11 119:6 171:1,2 173:9, 10 226:14	gotta 141:15 147:17		
funded 164:25 165:1, 23 166:15	generates 226:11	governance 155:13 196:2		
funding 29:24 233:22 236:12 239:3	George 28:6 35:24 39:3 131:13			
funds 131:18 137:24 166:5, 8 167:19,21 168:11,12 183:1 188:15	gist 123:10			

grievable 215:11,12 grievance 27:2,5 62:18 94:11,13 118:2,5,7,8,9 119:1,3,9 125:19,21 155:23 185:18,23 195:18 214:5, 7,11,14,20,23 215:2,13,18, 24 grievances 15:24 94:5,8, 10,14 118:23 grieve 118:5 grieved 118:14 grounds 186:14 group 140:5, 6,7,9,10,11, 13,18,19 155:25 160:20 210:9 226:25 groupings 63:18 groups 139:23 224:4 GS 43:1,2 44:18 46:15 51:12 59:1 62:16 66:5,11 104:8 guarantee 197:20,22 guaranteed 85:9 guess 24:4,9 39:23 71:12 119:2 123:4 169:10 173:24 180:19 214:21 226:22 guesses 124:14	guidance 143:15 guide 112:21 guidelines 5:7 14:12 24:6 110:15 142:13 200:22 guilty 9:1 guy 223:19 guys 43:5 H habit 101:7 102:15 half 36:25 37:1 85:8 139:8,16 Hall 25:14 hand 24:22 32:18 40:15 41:9 42:14 50:19,23,25 52:6 61:18 71:15 115:17 201:9 215:8 247:16,18 handbook 36:12,16 85:1 handed 49:13 57:16 handing 27:23 32:19 34:21 38:13 41:3 45:15 102:24 212:9 handle 11:24 199:3 handled 184:24 handles 78:25 133:24 handy 88:25 happen 44:23 63:12 93:19 105:4 159:16	179:22 203:14 206:15 242:22 happened 14:4 16:12,17 37:6 67:19 75:11 93:16, 22 96:14 101:22 112:19 120:6 122:23 124:5,24 127:18 151:18 166:19 181:14 183:22 199:20 244:21,22 happening 120:7 156:17 happy 64:3 130:1 148:24 161:1 172:12 180:6 186:24 210:23 223:10,11 237:3 harassed 14:20 15:23 94:19 101:8, 10 148:6 234:3 harasses 12:25 harassing 68:8,9,18 93:3,13 94:16 143:6,23 181:7 204:9 harassment 15:18 46:6 70:3 76:7,20, 24 103:24 104:16,18,20, 24 106:6 158:12 hard 66:7 70:15 73:9 163:3 176:20 185:20 210:6, 10 227:24 228:16 231:13 harmful 111:17	Harry 138:24 hate 76:10,12, 15 204:8 hay 146:16 head 141:6 headed 100:25 header 163:11 health 164:4 166:1,8,22,24 243:22 244:19 245:1,20 246:13,16,19, 20,23 247:2,8, 12 250:22 hear 6:14 8:12 10:10 12:15 25:25 31:3 68:4 70:9 73:11 75:17 178:7 215:10 234:9 243:17 heard 30:25 84:8 215:2 221:10 hearing 5:4,9 6:3 10:14 11:6 12:5 14:10,11 15:3 16:19 17:10,20,22, 23 18:2,5 21:15 23:6,9 31:23 32:9 38:7 53:3,9,11 55:17 62:18 75:12 77:19, 23,24 108:24 109:1 145:21 146:10,18 178:25 186:16 187:21 193:10 198:6 212:12 214:23 215:2 246:12 248:16 253:20 hearings 5:8, 14 6:1 7:22 17:16	hearsay 31:25 75:4,10, 17 126:24 136:12 144:11 145:7 heart 155:13 heavily 124:8 Hedden 28:7 126:5,10 127:20,24 160:7 222:3,9 224:10 held 180:23 helpful 53:5 235:19 helps 203:17 Hendricks 227:1 Hensh 29:23 79:19 hesitate 143:19 higher 66:14 132:22 higher-level 155:11 highest 223:14 224:19 highlight 198:7 highly 187:20 198:16 252:8 hired 165:15 hiring 41:16 139:12 historically 225:12,14 history 14:22 116:12 127:8 227:4 239:3 243:11 hoc 193:2,7,8, 11 194:6,10 195:2 hold 25:8 45:4
--	--	---	--	--

72:21 134:18 177:21,25 179:5 holding 179:7 211:3 holiday 161:13 Holidays 161:1 honest 66:6 101:4 228:15 252:7 honestly 64:5 252:1 honesty 65:12 honor 25:24 26:11 31:10 32:23 33:7 34:3,25 48:23 50:12 56:2,10 69:17 101:4,6, 12 102:9,12, 14,18 115:13 118:19 124:10 126:19 129:3 130:5 134:17 135:21 136:12 137:21 164:5 172:7 189:2 190:5 hope 40:15 209:12 hoping 134:19 hostility 196:1 hour 198:19 hours 98:7, 19,22 197:6 198:3 199:8 238:4 housing 166:12,13,24 167:23 168:4, 10,14 247:21, 23 248:1 249:7 250:25	HR 183:14 Hsu 64:24 huge 173:11, 15 212:1 human 5:6 98:24 140:1 197:21 humanitarian 166:25 hunting 177:19 hurt 93:10 hurts 210:8 hypothetical 240:14,15 hypotheticall y 168:7 240:12 I idea 8:5 19:21 20:1 74:15 101:14 140:15 225:16 ideas 104:16 212:7 identical 49:7 IDENTIFICAT ION 31:13 38:9 39:25 42:10 43:15 45:11 58:3 59:8 60:15 64:13 67:1 71:3 75:22 120:25 122:16 125:4 133:10 138:13 143:2 144:7 147:24 150:8 156:11 158:5 161:6 162:21 168:17 174:17 175:19 181:1 183:18 185:13 188:1 194:21 196:17 200:17 202:20 204:12 207:11	208:14 213:20 identified 41:3 171:6 identifies 167:3,5 208:4 identify 5:19 25:9,11,13 27:25 32:25 35:4 38:16 40:17 41:10 42:17 44:7,8 45:17 50:13 51:2 58:19 59:14 61:21 64:19 67:7 123:6 131:5 133:14 139:2 143:11,12 147:16 148:21 153:5 157:8 162:7 163:8 171:21 174:25 180:1 184:18 190:17 194:2 203:24 identifying 17:18 47:18 55:1 ignore 44:21 Ill 207:21 illegal 142:8 image 44:17 imagine 61:1 98:16 170:18 213:5 imbedded 156:5 immaterial 137:25 immediately 35:7 149:10 impact 60:5 71:17 72:6,25 73:4,8,10 74:9 76:2,9,17 133:4,7 150:4 173:11,19,23 204:5 206:14 210:5 243:10	impacting 60:21 impacts 139:23 203:7 impending 162:17 195:9 implemented 89:1 230:13 implicated 144:20 implication 140:17 172:23 173:17 imply 152:6 195:14 importance 198:8 important 68:7 76:22 124:23 172:19 186:18 187:11,14 199:24 237:2 impose 168:23 195:6 199:19,25 201:17 203:5 imposing 200:7 impossible 213:12 244:22 impression 37:16 233:23 impugn 205:11 impugns 155:24 inadmissible 178:12 inappropriate 140:5,10,14 142:14 149:7, 17,23 inappropriately 243:13,14, 21,24	inappropriate ness 140:12 incessantly 233:18 inch 203:16 incidents 76:13 include 45:22 51:6 93:5 included 44:14 45:25 126:7 includes 17:17 45:21 51:4 155:19, 24 186:8 including 20:9 23:15,24 35:12 156:4 203:7 inclusivity 211:5 incorrect 82:5 251:2,3, 14 252:21 incorrectly 164:6 increase 66:13 211:4 226:2 increases 140:12 142:6 160:22 209:23 increasing 211:9 incredibly 209:21 increment 150:4 independent 217:10 indicating 5:17 161:18 193:1 indication 29:1 162:16
---	---	--	--	---

indiscriminate 211:11	informed 30:24 209:6	19:6 157:16 188:13	interim 163:14 165:15 184:7,20 193:13 194:5	investigation s 155:22
Indisputably 212:22	informs 155:16	instructing 175:3	interject 52:24	investigator 36:3 131:25 241:21 242:3
individual 101:15 155:25 204:20 205:20 252:1	inhibiting 140:20	instructor 166:22	intermediary 135:12	invitation 165:21 180:7
individuals 23:1 141:20 154:24 173:9 205:1	initial 54:24 62:2 157:17 217:5	insurance 164:4 166:1,9, 23,25 243:22 244:19 245:1, 20 246:13,16, 19,20,23 247:2,9,12 248:17 249:3, 5,7	internal 196:4 207:16	invited 164:24
inference 173:2	initially 37:17 126:10 165:1	integrity 154:25	international y 225:9	invoked 119:7
inferences 129:12	initials 237:8 241:20	intend 23:13	Internet 160:14	involved 29:18,19 37:2 44:15 76:8,16 86:7,9 97:15 100:10 119:11 132:6,15,25 133:7 156:16 164:21 178:19 189:17,19 190:22 212:6
inflate 239:6	initiate 185:24	intensity 155:6	interpret 132:10 172:11	involvement 133:5,6 218:6
influential 225:21	initiated 68:25 69:1 71:20 186:9 217:5 218:9, 10	intent 15:11 106:25 107:3 168:23 199:19,25 201:17 203:5	interpreted 110:14	involving 71:19 166:5 218:3
informal 10:14 12:13 13:17 33:18 61:8 72:3 77:25 78:4,10 79:1,3 87:22 108:25 149:25 178:17 216:16 228:23	initiation 32:7	intention 209:3	interrupt 21:16,18 68:8	ir 84:24
information 14:22 17:18, 19 18:7 24:5 29:24 30:1 48:5,7 49:21 55:19 56:5 63:3 74:1,8 78:10,11,22 79:15 80:21 89:3 111:15, 16 121:7 126:2 136:1,2, 3,25 144:15 172:2,3,4,13 180:6,10,12 215:10,14 216:17,21,22 237:1 252:8	initiative 140:24	Intentional 251:16,18	interrupted 236:9	irony 47:3,6
informational 42:20 58:22 59:17 60:1,23 103:13	innovative 140:24	intentionally 251:15	interview 108:25	irrelevant 75:11 126:22
	inquired 244:24	intentions 189:4,12	intimidate 132:11	issue 15:17 31:23 36:17 53:22 62:21, 24 70:1 77:12 101:3 104:24 118:14 126:17 137:18 138:1, 5 141:19 149:9 152:25 160:12 164:20,21 165:8,20 166:16 184:24 186:19 196:22,25 211:3 215:8 227:10 252:2, 12
	inside 128:13 135:12 137:7	interact 134:4 205:17	intimidation 14:25	issued 116:14
	inspectors 62:21	interaction 65:9 68:21,23	introduce 71:13 77:6 107:25	
	instance 119:8 202:13	interactions 143:20 194:11	introduced 43:25 106:23 114:3 149:8 163:11 204:25 223:1	
	instances 51:22	interest 14:7 184:22 185:2, 4,8 192:23,25 198:12	introducing 113:10,25	
	Institute 25:21 26:6	interested 188:14	introduction 26:19	
	instituted 30:19	interfering 60:24	investigate 28:12 36:2 37:12 131:24	
	Institutional 46:5 103:23 155:21		investigation 28:24 242:24, 25	
	instruct 18:10 128:9			
	instructed			

120:8 122:21 128:6 130:14 147:19 149:6 154:10 162:19 165:21 176:23 issues 17:21 28:18,20 53:19 63:22 65:3 137:24 149:18 164:20 166:6 173:12 213:9 issuing 169:12 item 27:24 51:25 52:7,12 54:3 55:20 57:21 59:3,12 64:17 66:20, 23 67:5 116:24 117:3, 5,11,14 150:24,25 151:1 153:3, 19,20,22 154:6,8 157:6, 7 158:14,16 159:2,3,8,9 160:3,4 162:6 163:7 164:4 169:23,24,25 170:4 171:17, 19 174:6,12, 23 176:10 179:2,3,25 180:17 184:16,17 186:1,12 187:8 191:14 194:1,25 199:21 201:11,14 items 40:15 54:4 56:22 57:19 117:13 153:20 155:20 157:17 175:25 J jail 183:3 James 5:11	89:24,25 January 26:17 81:6 116:19 117:17,18 127:14 134:12 162:16 165:24 166:13 171:5 172:1 176:11 177:3,10 178:10,11 181:21 184:14 194:12 195:9, 12 196:9 232:15 233:6, 7,16 234:22 239:16 Jeff 35:25 36:19,23 37:6 38:16 39:3 41:19 42:25 44:15 48:4,18 49:17,22 51:25 52:7,12 53:25 55:20 56:12,15 57:16 58:18 59:1,13,14 62:3,4,5,8,12 63:2 64:19 66:3 67:6 68:11 72:25 116:7 131:13 143:20 148:3, 6 149:1 150:19 151:7, 16,17,19 222:3 Jeff's 150:12 Jeffrey 24:17 25:1,6,12,15 71:16 76:1 149:9 152:16 Jim 38:21 64:22 135:4,5 137:3 181:8 job 10:24 40:14 59:22 60:3,8,9 61:1 66:12 73:17, 23 107:5 134:6 242:11	jobs 68:2 John 5:9 joined 116:1 joint 22:17 Jon 43:3 judge 6:12,13, 19,21 7:4,8,19 8:1,4,12,15, 18,20 9:2,23 10:2,7,19,23 11:8,13,16,20, 24 12:6,10,16 16:23 17:1 21:16 23:5,9, 16 25:8 26:13 31:3,6,12 33:19 41:5 42:3 43:24 44:1 49:15,24 50:2,7,10,15 52:5,10 56:7, 11,15,18,21 57:6,22 70:9, 17,23 82:18, 22 88:7,10,13 98:2 100:21, 23 101:1,6,17, 20 102:2,5,7, 10,13,16,19 107:9,12,15, 19,23 108:2 110:9,12,20, 24 113:19 114:1,16,22 116:16 117:2, 17 121:24 122:4,6 127:22 129:14 134:18,23 135:1,4,8,15 138:2,5,9 141:10 145:3 148:16 153:14,24 154:3,5 158:8, 22 159:10 161:9,15,20, 22 165:9,17 167:13,20,25 168:6 169:1 177:5 178:7, 20,24 179:7, 14 187:9	189:23 190:17 191:6,11 192:17 196:12 197:14,18 198:20 199:14 206:20 208:9 213:16 233:11 237:5 239:24 246:2 249:10, 15,18,21 250:6,10,14, 24 251:6,12 252:11,14,20, 24 judgement 140:18 judicial 20:5,9 128:14 152:23 170:10 July 40:19 42:16,18 44:6 jump 120:19 jumped 202:14 jumps 46:21 June 38:15,18 116:17 139:7 149:21 201:16 jurisdiction 215:9,15,16, 17 jury 9:1 justice 16:2 justified 28:17 30:10, 15 39:13 justify 172:22 juxtapose 167:9 K Kalfagianni 224:10 Kara 180:19 keeping 135:11	Keith 5:24 10:16 14:17 19:8 20:19,21 36:10 53:2,6 54:19 59:1 66:7,11,16,21 67:19 70:12 79:19 82:9 83:4,9 84:1,4, 6,9 89:22 90:2,3 91:8 93:25 95:8 113:6 114:25 115:6,7,8 141:19 147:15 148:21 154:2, 13 162:6 163:8,21 164:12 181:5, 7 183:10 194:9 203:14, 24 207:15 212:20 Kelley 5:25 8:10,13,16,19 10:9,12,22,25 11:11,14,21, 25 12:4,8,12, 17 14:16 18:9, 13,18,24 20:13 21:1,11, 14,25 22:15, 23 49:6 52:24 53:12 54:16, 18 55:22 57:13 66:21, 24 70:12,19 103:4 110:8, 10,14 113:6,9, 15,20,25 114:7,12,21 115:1,5,15,21 116:8,18 117:4,7,11,18, 19 118:21,25 120:22 121:4, 9,11,22 122:1, 5,8,12,19,20 124:17,21,25 125:8 126:25 127:4,5 129:7 130:1,2,7,9 133:8,13 134:21,24 135:7 136:4,6,
---	--	--	---	--

13,20 138:3,8, 11,16 141:12, 17 142:9,11, 25 143:5 144:5 145:2, 14 146:1,10, 14,22 147:2, 13,22 148:2, 20 150:6,11, 21,23 151:1,4, 13,14 152:7, 12 153:17 154:1,4,8,12 156:9,14 158:4,19,25 159:13 161:4, 25 162:20,24 164:11,16,18 168:15,20 169:2,4,9,11 170:16,20,24 172:10 174:6, 9,13,20,22 175:18 176:7, 16,19,24 177:6,20,24 178:1,17,23, 25 179:5,9,11, 16,18 180:5, 15,17,23,25 181:4,13 183:15,21 185:11,16 186:12,16,23 187:2,6,10,17, 24 188:4 189:15,16,25 190:13,18 191:8,13 192:4,12,16, 20 194:19,24 196:15 197:3, 9,25 198:5,15, 21 199:10,15, 18 200:15,20 201:5,10 202:7,18,23 203:22,23 204:10,15,22 206:21,22 207:3,7,10,14 208:7,11,17 210:25 212:12,17,19 213:14,17 232:20 234:6,	10 237:9 251:19 253:3, 7,11 key 216:4 243:17 killing 148:4 kind 143:18 242:25 Kirkpatrick 27:13 36:11, 13 38:21 64:22,23 89:24,25 100:3,9,10 135:5 172:22 181:9 182:24 knew 190:23 knowing 188:14 knowledge 97:25 98:23 105:18 107:11 129:12 191:9 204:19 210:20 Koivisto 136:17 Kristen 227:1 Kristine 163:13 L labeled 76:10 lack 7:20 10:7 14:5 15:23 lagged 222:25 laid 34:3 136:1 lamenting 204:4 language 54:9 126:12 139:25 164:8 165:6 Lansing 5:1	large 39:19 61:25 140:18 larger 76:7 late 165:4,5, 23 197:14 235:5 236:11 latency 226:17 laugh 64:3 laughter 62:7 Laura 186:8 law 13:16,19, 20 20:5,7 144:20,21 146:5,10,13 242:15 laws 144:18 lawyer 6:16, 23 7:10,11,22 8:5,9 11:13 53:17 93:12 111:2 188:15 lay 189:14 199:6 lead 6:15 7:23 10:17 140:25 171:10,14 241:24 leader 204:23 leaders 142:22 173:8 leadership 92:17 149:20 150:4 leading 92:21 169:7 175:15 195:11 Leahy 182:1 learn 119:10 learned 105:11 151:21 165:25 leave 16:5 21:21 43:7 209:19 221:24 224:1	leaves 244:10 leaving 208:18,24 lecture 10:7 led 26:20 28:23 78:5,7,8 93:20 99:16 100:4 117:22 124:24 126:4 143:22 176:10 202:8 left 68:13 198:19 210:7 224:12 249:6 250:5 legal 11:5,11 13:17 20:15, 16,18 93:9,11 163:13 legally 13:8 163:25 legit 62:16 length 169:19 237:4 lengthy 141:5 lesser 209:2 lesson 116:15 letter 28:2 71:17 73:8 74:10,13,16, 19 76:11,12 97:1,4 120:11 122:13,21 123:16 130:4 153:10,14 154:1,14,18, 19,22 156:15, 20,21 158:13, 17 162:8,12, 15,17,19 163:1 165:21 169:12,14 170:4,6 171:1, 25 175:3 180:3 184:13 201:16,19,22, 24 204:1,8 242:14,15	letterhead 81:6 letters 36:6 74:10 76:9,10, 15 132:4 204:8 level 8:23 9:1 94:21 135:13 144:2 152:22 182:16 184:24 193:24 205:8, 17 212:5 215:5 levels 8:22 243:9 liable 45:4 libel 94:16 95:22 libelous 93:8 library 172:14 lie 59:2 62:8, 12 167:7 246:1,5,7,10, 22,25 lied 44:16 46:15,24 51:12 66:3 104:8 251:18 lies 36:25 62:13,14,15, 18 63:24 64:8 123:19 life 210:2 light 12:20 21:20 likes 70:19 limit 206:13 limitations 207:25 242:17 limited 187:19 limiting 137:5 limits 126:16 139:9 205:25 206:1 207:1
---	---	--	--	--

link 139:22	34:18 59:24 67:23 88:21	102:21 106:5, 10 107:2 109:5,9 111:9, 23 112:10,13 118:6 120:11 123:20 124:2 132:24 134:3 140:5 142:13 144:24 148:6 157:12,13 161:16 165:1 166:20 184:8 217:4,21 230:20 251:14	mandatory 45:24 46:10 103:14,15 104:2 manner 10:14 144:15 162:5 213:1 March 194:5, 15 marked 27:23 31:13 38:9 39:25 42:10 43:15 45:11 47:22 58:3 59:8 60:15 64:13 67:1 71:3 75:22 103:3 120:25 122:9,16 123:5 125:4 133:10 138:13 143:2 144:7 147:24 150:8 156:11 158:5 161:6 162:21 168:17 174:17 175:19 181:1 183:18 185:13 188:1 194:21 196:17 200:17 202:20 204:12 207:11 208:14 213:20 marker 55:1 market 208:25 markings 47:18 material 250:19 materials 30:7 159:21 215:3,5 math 27:16 30:3 38:20,21 41:12,16,17 42:19 44:10 45:20 46:11, 12,14 51:9,11 59:17,25 64:22 66:9	67:12 73:8 78:13 83:16 85:6 86:10 87:11 88:11, 13 89:10,20, 22 90:14 91:6 96:12 104:3,5, 7 117:25 126:22 131:20 132:7 135:10, 13 157:23 163:15 168:12 173:7,8 181:24 182:10,11,13, 14,18,21 184:9,21 192:22 194:12,15 195:14 204:2, 3,16,21,23 205:2,5 206:12 208:5, 18 215:20,22 219:12,21 220:1,18 221:6 223:17 224:6,21 225:11 226:3, 8,9,13,17 237:14,17 239:1 246:12 249:11 250:10 math-gs 43:6 math-physics 41:24 math.msu.edu 45:20 51:4 Mathematical 25:21 26:6 mathematicia n 206:10,11 mathematicia ns 223:20,25 224:7 mathematics 25:12,19 26:5 41:24 103:13 115:11,24 116:1 123:14 167:22 168:7
links 66:1 155:2 156:5 164:4	loosely 72:4			
list 22:2,3,5,8, 9,12,25 23:15, 17 41:16 45:20 50:18 51:4 66:2 172:20 223:18	lose 108:10 205:10 210:9			
listed 153:22 171:7	losing 107:5			
listen 18:24 19:3,8 68:7 112:20 198:7	lost 42:6 97:8		mail 41:16	
listened 109:7	lot 62:7 77:6 125:24,25 144:20 146:11 198:22 205:10,18 206:11 209:21 210:15 225:1, 11 226:8,11, 12	maintain 32:2	main 36:4 37:17 132:1	
lists 141:24 142:5 189:6	Lots 99:8	major 175:15 185:21 209:25 210:3		
Literally 201:9	Lou 64:24			
lived 213:12	loud 141:18	make 9:14,15 10:4,5 11:11, 18 16:6 20:15 23:25 24:6 34:19 38:2 50:10 55:15 73:22 83:1 90:15 97:7 99:2,19,22 111:9 123:22 129:12,15 146:16,21 161:12 188:19 202:6 215:14 220:9 223:11 226:22 231:1 241:16 242:7, 11		
living 168:2	louder 6:19 47:5			
load 85:6 228:24	low 70:16 86:2,12,13			
local 165:16 167:23	lower 87:8			
locally 160:17	Luke 84:3 131:19 232:6, 17 233:1 234:24 236:12 238:13	makes 20:5 50:7 59:22		
locate 178:2	lunch 6:6 113:3	making 9:17 10:13 15:21 20:14 77:6 94:17 108:12 124:11 146:21 182:25 210:12 243:14		
located 40:23	lying 41:22 46:7 63:25 93:10 103:25 249:8 251:24	manage 66:6		
logical 76:24		manager's 136:16		
long 38:22 50:7 53:4 61:23 65:12 80:15 123:23 127:6 139:17 143:20 196:3 204:6 205:4 206:5 222:2 226:16 228:5 232:3,22 239:3 246:3 250:1	M			
longer 15:15 47:25 152:21	made 14:21 17:10 19:6,11, 13 24:12 29:20 35:8 44:11 45:3 50:9 60:9 73:16,17,23 74:9 83:9,13 84:15 93:20 94:15 96:1			
looked 29:3				

193:17 220:22,24 Matt 28:7 35:24 39:3 126:5,10 127:20,24 131:13 222:3, 9 224:10 227:1 matter 5:4 6:12 8:6 11:16 13:24 16:1 18:19 19:5,9, 12 20:3 22:1 31:24,25 36:10 99:14 126:22 127:1 187:11 194:18 196:3,6 228:8 matters 6:10, 11 12:2 19:2 20:8,9 me' 68:8 meaning 93:6 238:1 251:3 means 9:4 52:16 85:7,13, 14 93:7 133:24 meant 107:8 236:1 measure 172:15 measures 46:13 51:11 104:6 mechanism 200:3 media 12:24 mediate 185:18 196:2 mediation 129:1 185:24 188:12,20,23, 25 189:18,20 190:20,22 195:19 mediator	186:9 meet 44:11 61:7 77:9 180:7 215:7 meeting 42:21 45:3 61:12,23 62:4, 5 67:15 70:5 78:7,9 103:15 157:3,11 159:14 164:1 166:17,18 167:6 175:4,8 179:19,21,22, 24 180:4 182:17 183:13 185:1,3 200:5 201:17 214:24,25 217:8 245:21 246:12 249:11,15,16, 19,20,24 250:10 251:22 meetings 16:7,8,10,12 28:21 77:25 108:12 111:25 126:12 128:8 155:20 member 5:23 20:14 22:8 38:20 73:5 76:3,18 119:9, 11,13,14 132:9,24 133:23,25 134:2 135:10 142:16 143:17 145:19 149:20 165:13,19 182:2 185:9 206:2 214:12 228:22 member's 20:15,16,18 22:2 members 5:10 15:7,25 27:15,21 31:1, 4 32:22 35:6 37:24 38:18	40:5,6 78:13 79:25 90:8 91:15 119:7 125:23 126:1 131:10 133:1 134:4 139:13 141:2,4 142:16 149:2 173:3,8 181:25 182:2, 22,25 183:8, 11 194:13 201:2 202:25 203:7,9 205:10 241:9 members' 173:20 memo 236:20, 21,23,24 237:12,17,21, 22,23 238:5 239:16,21 240:2,9,21,22, 23,24 memory 34:16 118:11 123:14 175:1 memos 183:2 mental 37:9 137:9 mentality 211:14 mentally 212:8 mention 63:23 mentioned 67:24 111:25 merited 182:8 215:6 message 66:14 met 11:4 194:15 200:6 215:4 Michigan 5:1, 6 7:9 13:8,19 20:7 25:6,16 43:4 73:5 81:6	94:5 106:11 115:11,24 116:1 144:21, 23 microphone 12:14 13:5 25:25 70:14 196:23 middle 9:6 63:19 66:12 105:7,8 106:12 200:23 mike 70:17 mind 15:10 46:11 89:13 104:4 129:4,6, 8,10,11,22 150:18,19 174:1 189:9 196:20 204:21 218:7 mine 158:21 minor 213:9 minute-by-minute 112:16 minutes 16:6, 9 53:15 58:1 112:18 236:3 251:14 253:14 mischaracterizes 95:5,11 mischaracterizing 65:5 miscommunication 96:14 99:3,9 100:3, 18 misdeeds 44:22 123:24 misleading 173:14,16 missed 29:25 216:4 231:4 239:8 missing 170:11,15	misspeak 240:2 misspoke 112:7 239:24 misunderstanding 96:13 99:16,17 misunderstood 27:9 mob 211:13 modestly 174:4 modified 157:23 modify 69:11 157:19,21 162:1 moment 21:17 152:20, 24 165:9 Monday 44:6 103:5 253:17, 18 money 97:3, 6,7 134:5 163:22 166:3 167:13 225:1 235:3 238:20 239:12,15 242:10,18 243:11,12,13, 14,19,20,24 244:18,25 245:2,7 247:8, 11,20 249:4,6 month 38:24 60:9 80:12 125:18 139:7, 16 201:16 233:8 monthly 39:7 months 38:25 40:13 125:17 134:10 149:5, 6 166:13 morale 47:2 motion 16:23, 24
---	--	--	---	--

motion7.pdf 41:23 59:4	146:3,9 160:17 164:23 168:9,10 172:14 200:1 202:12 206:17,25 207:1,16 210:15 211:2, 3 223:14,17 224:1,7,16,19 227:2,18 249:6	necessarily 108:21 226:2	195:9 199:19	objected 33:20 107:18
motions 128:11		needed 60:11	November 130:15,16,25 147:18 154:1, 3,4 203:17,18 204:1 250:4	objecting 63:6 135:21 160:16 170:21
motivated 139:22 202:2		negative 73:13 179:23 243:25	NSF 36:2,4 38:19 39:5 62:21 131:15, 24 132:2,6,15, 25 133:5 232:16 234:23 239:7,9,10 241:4,6 242:9	objection 8:7, 8 26:11 38:7 39:24 40:25 42:8 49:9,12 51:21 52:19, 23 54:2,3,15 55:4 60:18,19 64:12 65:4 70:6 72:11,14, 16 75:3,20 108:4 112:3 114:4 129:16 136:12 144:10 147:23 150:7, 17 151:25 156:10 168:16 175:22,24 178:3,6,10 185:12 189:3 192:6 200:16 202:19 204:11,18 210:18 232:20 234:9,10 251:19
motives 205:11		negotiated 126:9 127:24	number 8:21 34:18 42:6 62:7 148:17 151:3,23 172:15 177:23 212:14,15 224:17 226:10 229:24 230:1, 2,6,11	objectionable 11:4 54:9
move 16:3 24:4 31:8 38:5 39:22 42:5 43:12 44:1 45:9 51:18 59:5 60:13 61:10 64:11 66:19,22 70:25 74:25 75:12,21 121:22,24 122:2,8,12 125:1 130:8 133:8 138:11 142:9,25 144:5 147:22 150:6 156:9 158:4 161:4 162:20 168:15 174:6 175:18 180:25 183:15 185:11 186:12,20 192:24 194:19 196:15 199:7 202:5,8,18 204:10 207:3, 10 208:7 213:16,18	MSU's 146:11,23 209:18 225:11 226:2	negotiation 128:5	numbers 5:18 86:19 117:12 123:18 212:14 237:24 239:13	objections 42:9,25 43:14 51:20 59:7 71:2 75:2 122:10 125:2 133:9 143:1 161:5 174:21 180:22,24 183:16 194:20 196:16 207:9 208:8,13 213:19
	music 64:6	neighborhood 9:11	Numeral 207:21	obligation 230:24
	Muslim 106:13	net 207:16 250:22	numerical 223:21	observing 14:7
	N	news 210:15	nurtured 76:23	obtained 78:10
	N's 203:18	nice 114:15	O	occasion
	N5 203:22	nominated 89:25 221:7	object 12:12 31:10,16,24 32:23 40:20 47:12 50:8 69:17 71:25 72:17 82:12 105:20 111:4 113:13,17 118:19 124:10 126:19 129:3 134:17 164:5 172:7 186:13 190:24 251:16	
	names 5:17 40:5,6,8 127:23 160:8 216:10	nomination 90:13 160:16 202:6 221:8		
	Nancy 147:14 203:12	non- academics 165:10		
	narration 126:20	non-tenure 51:5		
	narrow 28:18	nonetheless 7:11 8:25		
	narrower 101:18	normal 73:11, 20 145:8 228:24		
	National 195:15 241:5	notation 48:18 54:18 55:1		
	nationally 225:7	notations 53:2,5		
	Natsci 194:9, 13,18	note 5:8 16:6 102:21 172:20		
	Natural 87:8 89:23 135:6 193:15 194:9	noted 88:23		
	nature 31:21 40:21 47:22 60:24 106:4 196:6 252:8	notes 54:12 67:6 77:24,25		
		notice 162:17 163:12 168:22 169:16 184:12,14		

62:14 134:8 occur 11:9,10 occurred 139:7 143:15 177:13 232:3 occurs 156:3 170:10 October 29:11 58:21 59:13,15 61:15,21 62:11 64:19 67:7,16 71:20 83:4 84:19 86:3,16,23 87:1,2 124:3 137:24 149:4 150:14 229:12,17 230:12 232:2, 4 233:17 235:5 236:11, 22 238:8 239:17,19,20, 22 October/2014 131:16 offending 162:2 offer 87:22 110:19 126:7 179:15 195:20 228:22 offered 87:21 96:4,5 166:6 179:19,21 offering 180:11 office 27:2,5 36:14,15 41:24 43:7 46:5,11 64:23 66:6,11 103:23 104:4 116:14 118:7 119:3 120:15 122:25 125:21 128:7,9,10 130:15 131:8 144:1 147:20	155:21 185:23 188:13 214:17 officer 125:19 195:18 214:7, 14 officers 38:19 official 50:5 119:11 154:18,19,22 183:2 184:25 185:18 officially 227:17,18 OIE 43:1,4 45:24 46:8,12 51:9 68:14 103:14 104:1, 4,15,19 105:2, 20,24 106:4,8 107:7,20 182:2 OIE's 181:8 older 68:2 olive 126:3 128:1 one-on-one 69:4,5 ongoing 53:21 open 13:24 14:2,8,13,15, 17 15:11,16 17:4,10,16 18:2,5 114:13 123:15 140:22 211:19 opened 16:1 opening 5:3 24:1,2 operation 220:13 operations 219:21,24 opinion 7:13 76:1 97:24 98:1 100:6 129:20 137:4	184:21 185:6 193:19 210:2 224:13 opinions 184:4 opportunities 205:13 opportunity 14:24 24:13 30:4 55:12 145:15 157:19,21 opposed 129:24 opposing 6:25 19:7 20:23 21:4,8 22:2,12 23:11 55:5,15 127:6 187:19 234:10 option 69:15, 24 157:2 202:10 209:4 options 68:12 oral 6:24 order 5:15 9:1 23:20 46:7,16 51:14 63:12 90:15 103:25 104:9 134:5 141:14 180:10 orderly 21:19 114:23 origin 66:12 original 22:5 28:25 47:13 48:6,9 49:9, 11,23 50:6 51:23 52:2,4, 10,14,15,17 57:2 105:13 248:7 originally 49:17 50:16 216:24 217:24 ostensibly 217:3	outcome 68:22,25 69:4, 10 70:5 78:3 118:8,9 119:10,12,15, 16,23 120:2 157:10 195:17 outline 242:9 outlined 146:17 outreach 127:19 152:18,19 209:6 overlap 222:7 oversight 156:7 oversimplify ng 228:8 overttechnical 110:21 overturn 120:13 overview 29:16 120:6 124:5 P p.m. 6:6,7,8 113:4,5 115:1 121:2 122:18 125:6 133:12 138:15 143:4 144:9 147:4,5, 11,12 148:1, 18,19 150:10 156:13 158:7 161:8 162:23 168:19 174:19 175:21 181:3, 11,12 183:20 185:15 188:3 192:18,19 194:23 196:19 200:19 202:22 204:14 207:13 208:16 213:22,23,24 232:15 253:20	package 53:21 pages 147:17 170:12,14 171:20 186:2 198:10 paid 98:6 166:12 167:23 168:3,5 247:12,21 248:13,17 panel 11:9 26:9,15,20 27:3,4,14 28:5,8,10,11, 18 29:17 34:17 38:19, 23 39:10,12, 17 40:7 74:3, 16 76:11 77:19,22,24 84:15 88:18 111:23 112:9 119:14 120:8, 9 121:19 122:15,23,25 123:3,9 124:2, 9 128:15,17 130:10,12,17 131:14 149:5 160:8 173:6 184:8 193:1,2 200:1,5 201:17 202:25 203:5,10 204:7 214:12 216:11 217:10,11 218:20 221:14 panel's 200:7 panels 53:22 203:2 216:10 papers 224:19 Pappas 28:6 160:7 paragraph 37:5 131:12 141:7,18 142:2 153:11 154:16,20
--	---	--	---	---

155:15 159:9 170:6 195:8, 21 199:4 201:4 paragraphs 36:21 63:17 198:14 paraphrase 170:23 Pardon 100:22 161:21 189:23 park 227:3 Parker 126:5, 10 127:20,24 part 13:12 14:3 15:18 21:5 48:6 49:22 50:5 52:2,17 53:20 55:10,11,20 65:25 66:1 73:20 74:7 83:23 124:15 137:17 162:9 167:4 175:1 187:16 188:17 197:12 199:25 200:24 203:3, 4,11 222:21 248:23 249:3 partially 140:2 participant 119:9 186:6 187:7 participate 119:1 156:1 participated 119:2 154:24 172:25 participation 140:22 155:21,22 156:1 170:9 173:1 196:10 parties 5:16 6:10 23:17 24:6 29:19	53:9 186:7 parts 79:10,12 92:21 party 5:25 6:17 10:3 19:7 21:11,12,13 24:5,11,15 27:18,24 31:14 38:10, 14 39:23 40:1 42:11 43:16 45:12,15 47:14,21 49:23 58:4 59:9 60:16 64:14 66:20, 23 67:2 71:4 75:23 107:4,7 121:1,22 122:17 125:5 133:11 138:14 143:3,21 144:8 147:25 150:9 156:12 158:6 161:4,7 162:22 168:18 174:18 175:20 178:11 181:2 183:19 185:14 188:2 189:7 194:22 196:18 200:18 202:21 204:13 207:12 208:15 213:21 party's 21:14 24:9,10,15 32:20 75:8 100:19 102:25 pass 140:18 past 43:2 66:4 92:24 127:17 145:24 pay 80:18,22 96:7,22 101:23 164:3 166:11,24 198:14 207:20 231:7,17 232:25 244:19 245:1 248:24 paying 80:19 96:8	PDF 44:20 59:3 peers 62:19 penalize 44:17 46:16 51:14 104:9 160:11 172:23 penalizing 182:23 penalties 37:10 219:4 penalty 26:25 27:12 28:14, 16 39:12 96:20 97:8 98:14,25 99:14,17,19 100:1,18 101:23 109:1 116:13 117:23,24 118:3,4,10,17 119:20,22 120:23 121:5 122:9,14,22 125:15,18 127:9 128:5, 11 214:6 217:6 218:10 221:11 people 11:22 13:8 14:2,6 16:1 18:3 23:6 40:11 44:23 45:7 66:9 76:15 80:23 81:23 83:8,11, 12 85:12 88:5 89:10 90:6 92:4 108:15 111:13,17,20 114:19 126:23 128:3 133:6,7 140:8,10,15, 20 141:20 144:14 145:12 157:15 163:15 172:24 173:10,13 183:3,12 184:8 185:5 189:6 198:3	204:20 205:9 206:8 208:1 209:22 210:5, 8,9,17,19 211:3,12,13, 14 214:25 215:25 219:11 221:1,9,22,23, 24 222:6 241:19 246:8, 12 247:1 people's 189:4,8 205:11 210:2 people- friendly 66:5 perceived 140:13 152:19 percent 9:4, 10 28:16 30:14 32:6 96:22 98:17, 18 99:24 100:1 101:23 126:17 percentage 173:15 percentages 173:14 perfectly 55:22 136:13 perform 60:3 performance 23:23 160:21 performed 27:14 period 74:22 125:16 130:21 131:17 134:11 150:14 151:23 172:16,17 226:17 permit 110:10 permitted 22:4 90:10,11 persist 157:25	persistent 195:23 person 7:5 9:1 13:9 36:4 66:6,10 114:17 132:1 135:24 140:4 144:11 209:25 218:9,12 220:1,3 222:3, 7 person's 13:10 personal 17:17 61:9 183:10 185:7, 8 211:2 224:13 Personnel 160:20 persons' 204:21 perspective 136:24 188:11 209:6 persuade 48:8 pervasive 140:21 Ph.d. 88:3,5 226:14,18 228:3,13 phone 5:18 phones 17:21,24 phrase 6:15 74:11 phrasing 215:8 physical 137:6,9 151:22,24 152:1,4,5,8,14 Physically 212:8 Physics 25:22 26:6
--	---	---	---	---

PI 36:4 132:1 183:1 244:6 pick 116:10 piece 24:5 127:8 pieces 126:2 place 5:14 6:1 14:6 16:2,7,9, 12 32:9 46:8 67:16 80:7 91:23 92:14 95:9 104:1 139:15 143:19 197:16 205:7 207:1 211:12 250:8 placement 209:25 places 62:10 128:20 167:23 plan 242:10 planned 125:13 platform 62:14 platforms 156:4 play 111:22 190:9,10 191:17 192:1 248:2 pleasure 74:11,14 plenty 129:19 plugged 25:25 podium 11:23 12:7,11,13 point 18:5 39:11 53:6 60:21 68:3,8, 13 73:9 76:22 82:21 84:16 88:10 90:15 99:13 128:15 138:20 140:25 172:19 181:16	182:7 185:20 190:10 191:17,18 196:5 198:13, 16 199:23 202:9 213:9 239:18 pointed 37:25 112:18 pointing 12:8, 10 47:6 points 37:1 41:22 44:20 66:17 77:15 policies 5:6,8 23:22 126:22 146:11 183:9 207:24 policy 10:13, 18 12:22 20:13 21:5 29:4 30:17 65:1 86:20,22 87:4,6,10,11 89:1,15 94:10, 11,13 106:12 110:10 118:5 130:18 132:13 146:15,16,17, 19 200:1,25 206:17,25 207:4,18 208:7 212:11, 21,24 230:11, 12,13,15,16, 17,18 Policy' 43:5 poor 23:6 poorly 243:15,22 poppycock 141:25 portion 17:20 123:20 124:18 137:16 199:2 216:1 pose 189:3 position 11:6 25:6,15 66:5	73:18 90:23 188:18 204:23 205:24 206:2 211:7 positive 226:5 228:2 possession 56:12 possibility 244:24 possibly 99:16 100:18 124:12 196:22,25 197:17 post 20:12 43:8 133:23 135:9 143:17 posted 12:24 76:10 155:2 potential 171:9 184:12 power 128:6 141:21 209:17,18 powers 206:1 practice 14:25 practices 7:20 prayer 147:5 precise 36:6 132:3 precludes 145:16 predated 245:14 prefer 64:6 prejudicial 32:1 preliminary 6:10,11 12:2 13:24 18:19 19:2 21:25 premise 32:10	prepare 10:16 80:3 240:22, 23,24 prepared 31:18,19,20 34:11 54:9,14 71:13 81:5 110:19 preparing 67:5 preponderan ce 9:3 prerogative 82:7 presence 112:20 present 20:20 21:11,15 22:4 30:4 43:21 62:20 64:17 70:22 72:15 113:24 152:3 167:8 180:12 189:4,12 233:23 presentation 77:2 180:3 presented 9:21 49:1 118:12 128:13,23,25 138:18 166:18 187:19 191:3 193:24 222:16 presenting 7:23 126:2 191:4 preserve 9:14 10:4 president 35:13 64:24 98:24 163:18 182:1 195:14 pressure 136:7 presume 109:9 pretend 44:21	pretending 43:6 pretty 20:14 91:2 123:13 239:22 prevent 136:23 183:6 previous 31:23 40:5 59:23 69:7,8 153:16 158:1 180:10 181:8, 22 182:24 previously 236:3 prima 140:16 primarily 202:1 primary 72:25 241:24 principal 36:3 131:25 241:21 242:1,3 principles 46:9 104:2 140:23 prior 75:11 95:1,8 145:6 150:18 152:3 privacy 18:6 private 61:24, 25 65:2 90:23 156:3 privileged 6:25 11:7 privy 119:12, 15,16 pro 19:12 20:2,3 probative 32:1 problem 7:5 14:3 20:2 37:9 52:25 55:15 124:17 218:9 248:4 252:7
--	---	---	---	---

problems 145:17	155:4,13,18, 19 156:2,22 162:8 164:23 170:10 171:5 174:2,3,4,5 182:9 186:11 188:17 195:19 196:2 199:21 202:4,12 204:9 205:4, 21,22 212:6 213:5,6,8 216:6 217:9 218:3,8 222:20,23 229:23 230:3, 25 244:9,14	51:1,3,8 57:16 58:11,18,24 59:12 61:7,12, 19,20 62:11 64:18,21 65:10 66:1 67:15 70:19 71:13 74:22 76:2,6 77:8,20 78:15,16 81:21 82:8 83:3 84:4,20 90:12 93:13, 19 94:4,14 95:1,2,21 96:1,16,21 99:14,17 100:12 101:15 104:13 108:12 109:3,8,11 111:21,23 112:10 115:11,23,25 116:2,14 117:24 118:4, 12,16 119:3, 19 120:16,17 121:16 122:13 123:1,8 124:2, 6 125:11,25 126:5,9,11 128:4,16 129:6,12,20 130:19 131:7 132:11 133:18 134:7,9,13 135:19,20 136:7 137:11, 14 138:18 139:5,9 141:5, 7 143:6,16,24 144:23 145:14 146:15 148:4, 10 149:1,12 150:12 152:16,18 153:8 154:2, 14 156:15,16 157:1,3,16 159:15,23 162:1,12,15 163:1,2,10,16 164:24 165:11 166:4,14,16, 20 167:1 168:22 169:15	170:1,7,25 171:25 172:13 175:10 176:9 179:20,23 180:2,7 181:5, 16,19,23 182:7,17 184:10 185:19 188:11,22 189:13 191:10 194:11 201:19,24 204:16 206:9 208:19 209:3 212:20 213:7 214:5,18,19 216:3,8,25 218:2,7 221:10 224:16 226:19 227:2, 6,9 230:25 231:6,15 232:14,16,18, 25 233:23 234:22 235:2, 20 236:4 237:18 242:1, 2 243:12,15, 22 244:19 245:1,6 249:20 250:19,21 251:21,22	20 7:3,7,18,25 8:3 9:20 10:1, 6,21 11:5,15, 19 12:9 14:18 15:6,22 19:4,8 20:19,24 21:9 24:17 25:2,5, 10 26:8,14 31:8 32:2,16, 17 33:3,13,16, 23 34:1,20 35:2 38:5,12 39:22 40:3,25 41:2,6,7 42:5, 13 43:12,20, 25 44:2,5 45:9,14 47:10, 17 48:11 49:7, 19 50:1,21,22 51:18 52:9,12, 15,21 53:18 54:1,8,13,20, 24 55:23 57:1, 12,14,21,23, 25 58:2,9,17 59:1,5,11 60:13,20 63:5, 13,16 64:11, 16 65:7,8 66:19,22,25 67:4 69:20,22 70:8,10,13,15, 21,25 71:6,11 72:21,24 74:25 75:21, 25 77:1 79:19 82:9,12 83:4 84:5 89:23 90:15 91:8 92:6 93:25 94:15 95:8 97:23 100:5 101:13 105:20 106:1,14,21 107:6 108:4 110:17,23 111:1,7 112:7, 8 113:1,8 114:25 115:7, 20 154:2 178:13 182:24 183:16 191:10 214:2,3,4 249:17
proceeding 12:14,19,22 37:25 72:8 75:6,8 114:6,8 136:14 144:18 145:16 146:25 178:17 186:18 190:8 197:1 251:20,25	processes 119:7 145:18 155:23			
proceedings 5:5,13 9:12 13:15,17,24 14:7,15 15:23 16:18 28:3 75:12 144:19 145:22 192:1 218:24 252:9	proclivity 209:9			
proceeds 166:19	produced 78:2 158:21			
process 14:5 15:16 32:4 33:18 36:12 41:1 56:24 57:16 65:23 69:16 72:4 73:4 75:13,14 76:6 95:16 114:23 115:10 119:3,11 124:23 126:13 128:14 129:13 131:3 132:12, 21 143:22 145:17,22,23, 25 146:3,4,8, 9,11,13,18,23 147:21 153:12 154:11,23,25	producing 224:19			
	production 172:15 227:3, 4			
	productive 46:18 51:15 104:11 155:8			
	Professional 7:9			
	professor 12:19 13:25 14:3,23 16:13 24:17 25:12, 18 26:3,16,22 27:19 28:14, 20 29:8,14,20 30:1,4,10,24 32:3 34:22 35:6,9,16,21 36:21 37:22 38:15,17 39:13 40:18 41:8,11 42:16, 18,24 43:22 44:7,9,13 45:2,16,19			
			professors 15:13,14 85:5 104:17,18,22, 23 193:16 194:14	
			program 26:4 38:19 61:23 63:23 105:7 126:16 226:3	
			progress 19:18	
			project 225:15,18,20	
			promised 62:24 65:13 165:8,21 245:6	
			Promislow 5:24 6:13,18,	Promislow's

11:17 122:13 promoted 25:17 26:3 116:3 173:13 promotion 173:12,15 proof 8:21 23:17 136:3 propagation 14:22 propensity 249:8 proper 19:14 135:24 144:24 145:24 146:3, 4,22 219:5 234:9 properly 7:13 9:24 17:1 37:23 48:21 49:10,11 137:19 144:24 241:14 proposal 242:8,10,12 proposed 157:20 proposing 23:3 prosecution 243:9 protected 142:20 protected-speech 142:23 protecting 13:25 protective 46:13 51:10 104:6 protocol 94:7 prove 9:8 37:2 proves 191:18	provide 14:13 23:17 48:8 51:23 82:3 84:12 112:16 124:19 125:10 127:9 138:20 169:17 182:9, 10 provided 36:5 83:23 112:21 119:4 120:9 121:21 124:1,8,15 132:2 135:23 136:2 156:4 168:4 216:20 providing 189:10 proving 226:10,15 provost 36:14 64:23 89:16 116:14 130:25 143:14 147:20 163:18 Provost's 128:9,10 ps 62:24 psychiatrist 94:23 psychological 73:8 public 13:25 14:2 62:14 111:16 140:17,19 146:6,7 156:3 publicly 46:15,23 51:12 63:25 104:8 112:13 publishing 160:12 pull 113:11 punishment 96:21 pure 41:24	purely 240:12 purpose 55:14 110:5 145:6 155:19 193:11 222:14 pursuant 13:19 19:10, 14 22:13 23:3, 13 48:21 49:13 108:25 180:10 220:17 pursue 69:24 pursued 88:5 pursuing 37:23 purview 97:12 put 15:7 24:3 36:25 37:19 41:23 46:8 66:11 74:6 75:9 93:20 104:1 126:13 128:1 136:7 139:15 145:1 165:7 174:4, 16 176:20 182:24 189:6 197:16 222:5 242:16 putting 145:6, 11 puzzled 67:23 Q qualifications 115:9 qualified 7:13 41:21 quasi 20:4,9 question 7:11 11:20 15:4 21:9 26:13 27:9 33:19 35:25 65:7 69:3,23 70:8, 11 76:1 79:13 82:4,13,15,20,	22,23,24,25 84:3 86:5 88:8 92:10,19 98:3 100:7 101:17 107:19 111:21 112:4 115:21 120:3 130:6 138:22 150:22 158:9 165:22 166:18 175:8 178:21,25 215:11 221:17 222:11 224:25 229:24 230:4 231:3 233:13 235:18 236:6 239:8 240:14 245:8 247:10, 11 251:7 question's 88:9 questioned 126:21 questioning 11:14 21:1,6 34:14 154:25 178:15 questions 8:1 24:13 92:18 101:21 113:2 164:25 178:21 191:2 197:4,10 213:15 253:16 quick 123:15 158:8 184:18 quickly 59:25 77:12,13 147:16 170:5 quietly 44:3 quote 224:14 quoting 105:16 R raise 24:21 62:24 115:16 172:4,12 173:10,11	174:2,3,5 raised 53:19 raises 39:8 172:15,20 173:1,4,20,21, 24 179:13 Rajesh 68:3, 5,10 ran 229:21,25 230:5,7 rank 223:22 ranking 224:3 ranks 172:14 rape 62:22 rapid 149:8 151:22 152:15 rapidly 73:10 rarely 237:14, 17 rated 223:14 rating 223:20, 21 reach 61:8,10 96:3 97:11 243:8 reached 151:16 182:16 185:22 read 5:12 15:19 32:25 33:5,6 35:16, 20 36:7,20,22 39:1 41:14 42:23 44:13 45:25 49:17 51:7 58:24 62:2 63:17 64:7 65:25 67:17 71:24 72:2,5,19 75:14 95:11 103:18,21 105:14 123:12,15,16 131:12 137:16 141:7,18 142:1 144:6
--	---	---	--	--

149:14,16 151:17 153:10,11 154:16 160:6 163:20 164:7, 8,12 170:5 171:3 181:5 182:20 184:18 186:3 194:2,8 195:8,21 197:1 198:13, 20 199:22 200:21 206:23 212:14 215:19 231:3 234:20 245:24 reading 23:21 32:24 33:21 38:2 72:1,9, 13,17 96:11 139:21 151:16 164:6 188:9 197:5,12,21 198:3,10 199:2,8 227:15,17,18, 19 228:19,21, 23 229:2 230:22 242:14 reads 76:11 ready 11:6 reaffirm 155:9 real 13:17 80:6 104:13, 24 120:4 126:17 140:13 149:9 170:5 210:5 realize 26:2 238:2 realized 205:9 reason 17:3,4 68:5 72:2 86:4 120:14 121:20 128:2 131:9 167:3 174:16 201:25 217:22,23 237:15	reasonable 8:23,25 9:2,11 128:7 157:20, 24 209:14 213:6 reasons 166:5,25 reassigned 29:14 reassignmen t 28:23 rebuttal 23:1, 12,15 24:3 110:8 187:18 recall 33:4,5 46:12 51:9 66:6 76:9 96:11,17,18 103:9 104:4 124:11,13 129:14 215:2, 13,17 232:6, 10,11,12 235:6,8,10,21 236:6 237:17 249:22,23 250:14 receipt 123:8 receive 35:3 87:23 97:1 98:13 137:20 141:2 162:25 163:4,5 169:18 received 22:7,10,11,16 26:24 41:15 49:14 61:2 65:21 96:22 101:23 128:21 131:10 132:7 133:25 137:22 141:5 148:3,7 162:4 163:2 169:20 172:24 175:6 185:25 192:25 193:18 206:16 214:20 216:17 227:8 229:6 250:18	receiving 60:10 65:18 96:11 128:18 136:23 214:6 recent 67:13 recently 131:14 recess 17:7 58:7 113:4 147:8,9,11 213:23 recipient 136:18 recipients 45:4 reclarify 134:14 recognition 96:6 recognize 32:20 33:2 121:12 recognizes 31:19 recollection 33:10,11 69:15,19 72:15 84:13 113:24 114:2 124:19 171:24 215:3 235:16 245:3,4 recommend 219:2,3,4 recommenda tion 89:18 188:20 195:3, 6 recommenda tions 203:3 recommende d 216:24 217:7 reconcile 7:16 96:9 reconvene 6:6	record 5:12, 17,19,20 8:5 9:14,21,22 10:4 13:3,10 17:8 18:10 34:2 43:9,18, 19 44:25 45:10 46:16 48:16 49:14 50:5 51:13 55:24 56:1 58:8 71:9,10 72:1,2,14 80:6 93:21 101:16 104:9 113:5 115:6 144:18, 24 146:21,22 147:12 148:18,19 150:1 160:10 172:22 181:11,12 189:13 191:16 192:9,17,18, 19 196:21,24 197:12 213:24 recorded 12:24 13:8,14 15:1 44:19 recording 12:19 13:10, 13 17:4,25 45:3,7 108:17, 19,21,23 109:2,5,8,20 recordings 13:11,22 14:21 16:12 17:24 29:20 62:5 78:12 108:12,15,24 109:9,18,24 123:19,22 124:1,2 records 14:23 29:21,22 46:7 62:10 66:4 78:12 87:2 103:25 247:24 recourse 128:13 recruiting	42:21 recuse 27:19, 20 recused 37:13 red 25:14 47:19 50:16 redact 122:3 180:6,11 redacted 63:7 180:10,13 redaction 180:19 redirect 24:14 110:9,19,21, 23,25 redo 40:25 243:1 reduced 164:2 reduction 28:16 30:14 101:23 126:8, 14 redundant 75:4 134:15 reelected 116:4 reemphasizin g 159:15 reenter 57:2 refer 160:5 236:24 reference 111:9 114:2 129:15 referenced 176:4 179:3 references 123:17 175:23,24 176:2,3,6,11 referencing 13:7 referred
---	---	--	--	---

178:2	74:4 78:12	reintroduce 34:21	remain 76:3, 17 95:19	removed 53:19 54:2,5,9 157:18
referring 48:3,12 76:14 153:24 204:5, 7 214:8 232:21 234:15	regret 64:2	reiterated 157:25	remaining 27:21 131:19	Removing 211:25
refers 81:10 123:17	regular 60:23	reject 27:6 129:2	remains 146:3	renew 49:8,12 51:21 54:15 55:3
refine 222:20, 23	regulations 220:17	rejected 27:7 195:19	remedy 136:23 209:14	rent 168:5 248:13
reflecting 91:1	Reifenberg 5:3,9 6:1 12:1 13:21 14:9 15:4 16:3,14 17:6,9,13,15 18:11,16,21 19:1,15,25 20:10 21:22 22:21 23:20 24:4,19 32:14 33:14,24 34:9 35:1 38:7 39:24 42:8 43:14 48:2,17, 22 49:3 51:20 52:14,18,23 53:17,23 54:6, 11,21 55:17, 25 57:8,20,24 58:1,6,12 59:7 60:18 63:3,9, 14 72:9,19 75:2,19 77:3 99:10,23 102:23 103:1, 5 106:8,18 110:3,6,13,16 113:3 117:6 121:3,10 122:10 124:16 125:2 127:2 129:17,23 146:24 147:6, 9 176:2,15,22 177:25 179:4 180:14,16,21 186:25 187:15,22 189:14 190:11 191:21 192:6, 10 197:8,23 198:12,18 199:3,17 201:4 203:16 234:13 252:4 253:5,12,15, 18	rejection 152:19	remember 62:23 69:24 70:15 79:25 80:2 83:25 85:1 89:8 117:22 118:15 158:14 163:25 167:7 168:2, 14 170:25 171:11 197:18 199:20 215:7 217:19 234:25 235:7,13,25 236:13,16,17 237:7	repeat 33:16 35:19 79:13 115:22 216:4 233:2 239:8
refrain 141:23 152:2	rein 205:11,12	related 23:23 40:16 43:2 47:24 48:24 63:22	reminded 44:24 55:5 114:10 170:25	repeated 68:4 73:6
refresh 33:11 34:15 114:1 123:14 175:1		relating 28:22	remembered 233:17 236:4	repeatedly 28:21 189:8 209:10
refusal 116:15 117:25 156:1		relation 200:13 201:1 212:18	remembers 235:1,20	replace 250:20
refuse 30:10 84:19 98:12 137:21		relationship 60:5	reminds 163:21	replaced 166:22
refused 16:10,22 26:22 29:9 96:10		relationships 205:6	remind 29:7 36:2 40:4 54:10 62:13 131:24 170:6, 8	reply 62:25
refuses 234:11		release 96:5, 17 97:7,10,11, 14,15,17,22 99:2,11,18,21, 23 100:2,13, 15,17 102:3	reminded 44:24 55:5 114:10 170:25	report 36:10, 13 62:9 107:20 130:13 132:5 142:4 181:8 214:13, 14 215:19 225:24
refusing 27:1 28:15 39:14 160:10		released 133:18	reminder 120:3	reported 39:5
regard 30:13 70:3		relevance 34:4 105:21 106:21 118:13 172:3 186:14 187:5	reminding 160:23	reporter 5:20 6:5 13:14 17:25 23:6 24:19,21 25:3 114:19 115:2, 16,23 131:22
regarded 106:12 225:4, 5,7,9 227:17, 18		relevant 11:2 16:14 31:24 36:15 39:8 176:22 186:15,16 187:9,10,14, 15,16,17,20 198:16 241:8 251:20 252:2, 8	reminds 163:21	reports 39:6 194:5
reggae 64:6		reliable 234:1	remotely 244:21	repository 241:10
register 30:21 81:22 82:9		relied 234:1	remove 53:5, 24 70:8,10 108:4 128:4, 10 142:3 159:20 162:2 211:25	reposted 157:24
registered 228:25 229:17 230:9				
registration 30:20 62:25 64:25 66:4				

represent 157:15	88:2 165:12 172:15 227:22 228:2,3,6,10, 13,22 241:9, 25 242:7,9,12, 19	responding 24:11 107:4	194:6 215:19	184:3,8,23 191:8 193:1,2 194:6,7,10 196:11 200:1, 2,9 202:25 203:2,3,5 205:21,24,25 215:6 216:2,5, 11,16 217:9, 11,21 218:5, 12,19 221:14
representative 21:14 24:10, 15	resending 123:15	response 30:15 36:7,21 37:15,17 42:19 44:10 45:23 58:22 59:17 60:23 61:2 63:19 64:7,25 68:19, 20 73:25 74:4 76:9 92:7 99:24,25 103:13 117:24 121:16 141:2, 5 148:25 149:14 150:12,14 162:25 163:3, 6,10 169:5,17, 18,21 179:23 180:2,4,7 181:6 195:2 214:5 217:7	resulted 106:12 127:25	
reprimand 162:17,19 168:23 169:13,14,25 170:4 171:1 172:1	reserve 177:14	reserving 24:2	resulting 137:3	
repudiation 209:20	resides 155:13	resign 66:4 73:16	retaliation 142:7 183:9	
reputation 93:11 94:16 210:4 226:2	resolution 126:6 194:18	resolve 156:18 186:19 187:13 188:5	retract 50:23 210:23	
request 13:3 19:11,13 21:23 38:2 44:11 84:6 110:21,23 119:21 128:10,12 180:2,4 184:7 202:4 217:5	resources 5:6 98:24 156:5	responses 148:12	retribution 45:7	reviewed 26:10,16 105:15 120:10 157:21 171:7 188:22 193:19 215:3 216:13, 19 217:3,7,11, 15,18,19,20 218:10
requested 27:3 119:19 162:2,3 203:9	respect 6:22 7:1 10:12 17:16 20:19 24:14 48:3 53:15 184:10, 23 201:2 225:11 226:8, 10,11	responsibilities 23:23,24 200:23,25 212:21	review 9:18 26:9,15,20 27:3,4,14 28:2,3,19 35:7,8,11 36:15 38:18, 22 39:9,11,17 40:6 53:21 55:9,13 62:9 74:16 77:22, 23,24 84:15 88:19 89:3 111:23 112:4, 9,21 114:6 118:16 119:17,20,21 120:1,8,9 121:16,19 122:15,23,24 123:3,9 124:1, 9 128:12,14, 15,17,19 130:3,10,12, 14,17,22,24, 25 131:14,17 132:12 133:18 137:18 147:18,19,21 149:5 150:3 153:12 154:23,25 155:4,18,19, 23 156:2 160:8 170:10 172:25 173:4, 6,19 182:6,15	revise 159:22
requesting 42:21 175:4 184:21	respected 43:8	responsibility 7:9 9:12,14 10:3,4,20 30:13 55:15 85:3 140:11 212:10 213:1	reverse 141:14	revised 137:20
requests 184:23	respectfully 64:1	responsible 36:25 62:12 95:19 143:17 160:13 241:13 244:1,6		rewarded 172:25 173:4
require 11:22	respond 20:13 30:25 47:17 65:14, 18 145:2,14 146:14 148:10 162:18 184:14 198:5	rest 5:13 49:1 141:24 166:15		Rich 79:19
required 19:9 34:6,13 75:9 85:21,23 90:9, 10 146:5 166:1 202:12 228:12,20	responded 31:1,4 173:18	restate 98:2		Rick 29:23
requirement 20:16	respondent 107:7 111:6 215:24	restrictions 139:14		rid 19:19
requires 72:8		result 14:25 19:20 96:20 100:2,17,18 136:21 140:22 150:4 171:12		rightly 141:22
requiring 197:1				rights 14:1 23:24 144:20 198:6 200:23, 25 212:10,20
research 35:14 68:3 85:10 87:25				rigorous 174:2,4
				rise 94:22
				rising 144:2 152:22
				risks 140:20
				road 25:14 209:5
				robbed 163:21
				robbery 163:23
				role 7:12 28:8, 9 36:9 58:23

59:18 73:5 74:7 92:17 111:22 115:9, 10 142:19,21 152:17 155:8, 17 192:1 roles 7:14,15, 16 140:8 142:22 Roman 207:21 Ron 224:11,25 room 16:4 18:22,23 20:25 21:10 67:11,20 151:19 152:20 161:18 214:25 rose 193:24 215:5 roughly 38:22 61:14 116:3 131:1 133:17 139:7 166:19 round 137:8 rounds 233:17 row 221:21 222:6 RTG 225:1 rule 9:4 108:2 143:9 144:16 145:8 ruled 20:11 56:21 rules 10:15,17 19:11,14,16 20:6 21:15 33:17,19 48:21 53:12 55:4,17 72:4 136:5 139:15 190:9 192:2 207:22 222:15 241:11,16 ruling 146:24 178:5,9 252:10	run 29:11 85:11,12 86:21 87:12 89:6 125:13 219:13 230:10 running 43:6 225:25 226:3, 11 runs 225:21 RVSM 45:24 103:14 S S's 203:18 sabbatical 116:6 220:2,4 safe 184:6 salaries 173:22 salary 28:16 30:14 66:13 96:7 98:6,8,14 142:6 150:4 160:22 164:3 173:13,15 250:19 salutation 35:16,20,24 39:1 40:4 42:23 sanctioned 155:22 Sasha 35:24 39:3 40:8 131:13 222:1, 2 sat 68:23 218:19 221:9, 13 scale 133:7 scenario 20:5 schedule 5:14 20:17 scheduled 6:3	Schenker 24:18,25 25:1, 12 36:19 41:20 48:4,18 49:22 51:25 52:1,7,13 53:25 55:20 56:13,16 57:16 58:19 59:13 67:7 71:14 116:7 143:21 148:3, 7 149:1,9 150:19 152:16,18 160:7 222:3 Science 87:9 193:15 194:9 195:15 241:5 Sciences 89:23 135:6 scope 28:11, 25 133:6 secretary 83:16 section 6:9 36:16 118:1 150:3 159:8 206:23 207:6 208:5 212:14, 18 Sections 207:21 security 66:13 140:21 seek 118:16 216:22 seeking 143:18 select 172:14 selective 198:9 Self-nomination 221:8 self-respect 37:13 Selman 5:4,	21,23 32:22 36:7,8,9 42:1 43:10 44:9,13 45:1,25 46:18 51:16 58:21 59:4,15 60:1 61:22 62:1,6 63:1,21 64:9 65:2,13,21 67:11,21 68:4, 6,14,23 69:5 71:19 73:7 79:20 83:25 84:16 85:11, 20 87:18 103:12,16 104:11 105:12,13 111:8,9 128:4 137:1,5,12,17, 18 139:6 148:5 149:9, 17 152:19 157:10,19 161:1 167:11 181:9 186:4, 10 194:11 200:4 204:2 224:10 225:3 231:11 232:6 234:21 235:6, 8,25 236:12, 21 Selman's 42:24 46:4 62:2 63:20 64:7 68:18,19, 20 73:15 86:22 103:19 105:16 semantics 248:2 semester 27:20 46:18 51:15 85:5,7, 15 87:15,16 96:6,22 104:11 131:17 165:3,23 182:13 227:9 228:8 230:5 send 74:1 76:14 142:16 149:17 158:3	176:9 sender 140:12 sending 60:24 73:15 123:2 137:5 141:20,23 149:1 157:25 159:23 170:8 sends 131:9 171:9 172:18 236:19 senior 149:20 sense 72:15 93:8,10 113:24 140:11,19,21 162:10 189:4, 12 233:23 senses 66:15 sentence 35:16,19,21, 22,25 41:19 163:20 164:13,15 sentences 51:8 182:20 sentencing 19:13 separate 40:23 171:20 separated 153:22 154:11 separators 154:7 September 127:15 230:14 sequester 18:17 sequestered 21:5 series 93:19 95:21 seriousness 252:9 serve 23:17
---	---	--	---	--

26:15 37:11 74:2 142:19 155:1 184:3 222:6 served 22:3 25:18 26:9 service 23:18 150:3 services 207:16 serving 37:14 74:16 session 182:12 sessions 21:15 46:10 104:3 set 22:6 23:11 27:24 29:11, 13 50:18 55:4 61:12 128:14 130:7 145:24 157:3 172:14 192:23 205:21 206:2 207:22, 24 sets 9:18 seven-day 162:25 163:12 169:16,21 severe 171:14 shame 43:7 share 105:13 shared 140:21 155:13 she'd 240:5 sheet 88:21 sheets 39:7 171:20 174:15 shell 37:4 shell-game 37:3 short 123:12, 13,16 140:24 147:8 149:16 151:23 163:11	173:25 246:4 shortened 246:3 shorthand 182:21 shortly 124:3 show 9:16 39:6 76:18 80:5 87:2 186:18 187:4, 11 211:10 234:6,11,17 239:1,2,3,5 252:6 showed 81:15 88:22 showing 106:25 145:10 183:2 240:4 shown 187:3 209:9 shows 186:17 237:18 238:7 shut 168:13 183:4 sic 43:6 116:17 131:17 141:21 164:3 183:4 196:10 side 9:7 61:11 126:25 sides 213:10 sign 182:22, 25 183:8 240:22 signatory 183:6 signature 36:1,8 42:24 131:21 Signatures 31:7 signed 160:14,23 172:21 significance	59:19 112:14 132:16 significant 171:24 175:16 181:18 signing 31:2, 5,6 37:7 similar 96:2 155:3 175:2 216:11 Simon 64:24 simple 173:25 239:14 simplification 228:5 simply 76:18, 25 209:15 Sincerely 181:9 single 190:15 197:21 205:20 206:1 218:11 sir 52:9 63:11 250:12 Sisk 163:14 184:7,20 193:1,13 194:4 sit 18:14 72:5 183:22 184:3 214:11 sits 145:18,19 sitting 12:20 18:10 53:8 70:24 88:18 233:24 situation 14:1 17:15 26:1 61:7 138:17 156:18 166:4 167:2 183:11 185:18 209:19 244:9 Sixth 144:22 skills 165:6 skip 66:1	179:15 slandered 97:4 slanderous 93:8 94:16 95:22 slightly 175:1 slipped 91:3 slow 42:3 77:14 131:22 slowly 23:7 42:4 small 38:4 140:19 173:14 212:4 213:10 245:21 Smiley 141:25 Smith 5:11 sneaking 144:14 social 12:24 Society 195:15 sole 199:1 solely 156:6 solemnly 24:22 115:17 solicit 29:17, 24 30:1 solicited 29:19,22,23 84:2 203:6 somebody's 92:13 someone's 243:21 something's 11:3 sorrowful 76:12 sort 28:18 29:16 61:2,5 119:13,16	129:1 133:2 141:14 144:2 152:23 162:8 205:19 206:4 210:11,16 211:9,24 228:22 242:24 243:8,9 244:21 soul 206:6 sound 216:10 250:1 space 18:22 spaces 40:23 speak 6:19 8:10,14 12:4 14:17,20 23:7 32:2 44:4 53:14 61:3 66:21 68:17 70:12 77:12, 13 78:24 80:7 96:21 172:12 174:16 192:3 211:6,8 speaking 8:17,22 19:15 171:2 196:23 235:20 240:12 250:24 251:1 specific 15:24 16:19 20:6 73:25 93:6 112:18 138:20 158:2 221:17 222:11 229:24 230:1 232:1 252:22 specifically 28:11 137:20 202:8,14 203:1 204:3 208:21 227:7 236:24 specifics 94:12 speculate 132:18 speech 140:1, 3 141:4 142:5,
--	--	---	---	--

7,21 183:7	standing 13:6 182:11,14 189:3 193:15 194:13 211:4 220:22,23	106:5 107:2 109:20,25 114:10 126:15 144:25 189:5 203:7 204:5 243:14,18	143:6 159:23 181:7 209:10, 15 253:15	84:13
speed 196:25	stands 227:4 241:20	states 62:10 144:23 204:21	stopped 128:22 129:20	strongly 60:25
spell 242:6	Starn 58:19	stating 81:24 83:5 232:24	story 127:1 145:19,20 236:18	struck 57:19
spend 134:5 239:15 242:16,18	start 8:6 60:10 74:10 117:8 152:13,14	stature 206:10	straightforwa rd 82:14	structurally 223:8
spending 199:7	started 32:21 116:5 213:9	status 13:19	strange 132:4 165:25	struggle 205:16 206:6
spent 127:6 247:14	starting 53:1 116:7 153:12 177:21	stay 127:16 129:23 166:3 210:12 221:21	Strasburg 5:10,11 151:12 179:12	student 17:17,18 18:7 30:20,21 41:13 44:16 80:17,22 81:22 82:9 84:3,5 131:18 165:17,18 227:3 228:6 238:13
spoken 185:3	starts 35:22 58:13,14 170:5 237:14	staying 167:24	strategy 111:20	student's 84:6
spokesman 37:3	state 5:6 13:9 20:7 25:6,16 42:22 43:4 44:12 50:6 51:23 52:4 81:6 94:5,24 106:11 115:6, 12,24 116:1 129:4,6,7,10, 11,22 134:15 137:6,9 144:21 146:5 150:18,19 189:9 218:7 240:20	steady 74:22, 24	stream 41:17 139:13	students 15:5,7,9,12 17:11,12,19 42:22 43:9,10 44:12,18 45:22 46:12, 13 51:6,9,10 59:16,20,22 60:6 66:8,11 83:18,19,20, 21 86:24 87:3, 4,5,6,12,15, 16,22,23 89:4, 5 104:5,6 105:1,7 106:13 141:23 149:13,19,23 155:8 194:12 196:8 204:3 210:1 211:7 226:14,17,18 227:6,19,22 228:1,13,25 229:5,10,15, 17,18,20,21, 25 230:5,9,11, 19,20,21 231:8,17
spreadsheet 88:21,24	statement 24:1,3 71:17 83:9 118:10 167:6 175:13 191:15 239:23 248:23 249:4 250:7,16 251:8,15 252:5,20,23	step 6:13 10:10 12:6 61:6 76:6 84:20 128:25 130:17 156:23 162:7 164:22 211:8 217:9	stream 41:17 139:13	students! 62:7
spreadsheets 36:6 132:3	stated 9:25 20:8 83:5 84:9 186:14 215:19	Stephen 64:23	streams 119:5	
spring 26:23 29:11 84:18 85:18,20,23 86:3,17,18,24 87:13,19 116:5 227:11, 13,14 228:18, 20 229:5,19	statement 24:1,3 71:17 83:9 118:10 167:6 175:13 191:15 239:23 248:23 249:4 250:7,16 251:8,15 252:5,20,23	stepped 68:10 129:5	stressful 60:10	
Spring/2015 131:17	statement 24:1,3 71:17 83:9 118:10 167:6 175:13 191:15 239:23 248:23 249:4 250:7,16 251:8,15 252:5,20,23	stepping 73:14	stricken 48:15,25 49:14 56:22 58:15 67:6 189:13 191:16 192:9	
stability 140:21	statements 24:12 63:23, 25 77:7 82:6 93:5,20 95:17	steps 61:3,5 147:19 156:18 211:19	strict 55:4	
staff 15:7 38:20 45:21 47:1 51:5 133:23 135:10 143:7,16 155:7 166:9 196:8	statement 24:1,3 71:17 83:9 118:10 167:6 175:13 191:15 239:23 248:23 249:4 250:7,16 251:8,15 252:5,20,23	stick 65:14 70:17 91:2	strictest 8:25	
stance 76:19 209:21	statement 24:1,3 71:17 83:9 118:10 167:6 175:13 191:15 239:23 248:23 249:4 250:7,16 251:8,15 252:5,20,23	stipulations 242:16	strictly 19:15 247:5,7	
stand 11:15, 22 12:13 99:6 113:7,14 197:21 206:7 210:13 237:6 246:7 253:7	statement 24:1,3 71:17 83:9 118:10 167:6 175:13 191:15 239:23 248:23 249:4 250:7,16 251:8,15 252:5,20,23	stolen 167:4	strike 46:20, 22 55:19 65:7 69:23 85:21 89:9,13 111:21 124:18 164:14	
standard 9:6, 18 150:2	statement 24:1,3 71:17 83:9 118:10 167:6 175:13 191:15 239:23 248:23 249:4 250:7,16 251:8,15 252:5,20,23	stood 164:1 166:17 245:20 248:16	strikes 37:15	
	statement 24:1,3 71:17 83:9 118:10 167:6 175:13 191:15 239:23 248:23 249:4 250:7,16 251:8,15 252:5,20,23	stop 25:8 64:1 65:11,19 68:8 99:10 120:18	striking 121:7	
	statement 24:1,3 71:17 83:9 118:10 167:6 175:13 191:15 239:23 248:23 249:4 250:7,16 251:8,15 252:5,20,23		strong 73:7 74:8 76:19 163:5 210:9 227:5	
	statement 24:1,3 71:17 83:9 118:10 167:6 175:13 191:15 239:23 248:23 249:4 250:7,16 251:8,15 252:5,20,23		stronger	

studies 25:20 41:20 89:21, 25 90:2,4,5, 17,19,20,22, 23,24 91:2,4, 10,25 106:15, 16,18 study 224:23, 24 stuff 122:3 subject 41:18 82:16 107:16 111:17 155:18 176:8 185:5,6, 9,10 subjected 142:23 subjective 93:16,18,21 submission 50:24 170:22 214:25 submit 30:7 54:11,25 56:3 70:25 75:21 187:5 203:2 239:4 submitted 23:4,11 28:4 29:20,21 35:8 36:11 37:20 49:17,25 50:5, 16 51:19 52:13 53:1,20 55:6,7,24 56:1,19 57:4 75:7 78:13 83:21 88:25 112:10 203:4, 10 204:6,7 215:5 216:20 242:8 submitting 23:14 54:21, 22 56:3 subordinates 249:8 251:15 subsequent 15:2 32:3 86:20 171:13	195:12 223:2 subsequently 115:2 substantial 141:3 167:11 substantially 23:22 190:9 212:3 substantiate d 112:23 155:24 successful 173:9 189:21 succession 149:8 152:15 sue 70:2 145:15 sufficient 62:7 189:15 215:6 232:17 suggest 8:2 11:9 45:3 46:8 104:1 suggested 68:10 157:16, 17,18 suggestion 157:14 172:3 182:21 suggests 175:14 summarize 30:8 72:10,25 73:1 139:24 summarized 171:6 summarizing 147:18 157:10 summary 67:19 124:6, 19 131:3 144:3,4 151:18 190:4 summer 125:22 166:15 203:17,18 222:18	225:15,18,19, 20 250:5 superior 246:9 supersede 20:8 supervised 218:14 supervisor 136:17 supervisory 140:8,11 141:21 142:19,22 149:24 supplement 5:7 supplementa ry 120:11 support 137:22 143:25 200:10 supported 120:12 165:15 200:10 supporting 123:20 supposed 11:1 12:22 29:13 55:6,7 113:23 146:18 157:15 159:20 217:10,16 227:9 228:25 253:5 supposedly 55:10 145:5,9 surprise 81:8, 25 82:1,10 83:6,10,11 84:7 214:19 232:19 233:9, 15 surprised 37:22 81:15 82:16,19,21 209:17 214:21,22	surrounding 116:12 suspect 6:10 swapping 55:8 swear 24:20, 22 115:17 swindling 163:24 167:5 switch 55:12 sworn 25:3 115:2,13 sympathy 209:21,23 system 138:19 T TA's 45:21 tab 27:24 32:19 38:6,14 41:4 42:14 43:22 45:16 47:11 50:24, 25 57:21 58:10 59:12 61:18 64:17 67:5 71:8,12 116:9,21 117:3,7 120:19,20 121:12 133:14 143:10 147:14 148:14 150:24 151:1 153:2,3 157:5,6 159:9, 11 160:1,3 162:6 163:7 171:17 174:23 179:25 181:20 184:15,17 185:25 194:1, 25 199:21 201:11 203:12 206:19,20,21 207:17 212:9 tabbed 201:7 tabs 40:17	tailor 21:7 takes 213:11 228:5,6 taking 16:2 40:14 67:16 77:9 140:20 145:9 211:17 talk 6:9,12 16:4 32:10 42:4 61:9 64:6 86:11 96:1 114:18 133:20 143:6 146:2, 10 148:23 156:16 176:8 181:14 182:4 185:17 188:5 202:24 227:6, 7 245:18 talked 147:15 193:7 199:19 235:9 talking 17:21 19:22 20:6 34:19 40:22 63:21 70:20 88:11,15 90:21 95:8 110:8 112:5 114:19 120:4 127:7,14 130:21 136:4 138:9 148:13 183:13 207:6 220:7 226:13 231:20 233:24 234:7 240:21 241:18 245:16,18 249:11 talks 17:16 108:12 114:10 201:1 208:2 tangent 168:21 tangential 37:1 39:15 tape- recording 231:12
---	---	--	---	--

tapes 111:8,9, 12,24 112:1,9, 13,17,18,20, 23 target 154:24 155:4,12 170:9 211:11 targeted 95:21 109:23 158:1 202:15 218:4 targeting 51:25 52:7,12 53:25 55:20 56:12 58:14 59:21 63:4 65:10,19 74:23 76:15 93:3 101:15 104:18 123:3 128:17,19 155:6,17,24 158:2,3,9,12, 18,20,21 159:7,24 170:10 171:7, 8,24 175:7,14 176:13,14 184:13 185:6, 10 195:7,13 202:2,15 220:17 223:7 task 146:14 193:21 tasked 77:19 193:22,23 tasks 60:11 taught 85:20, 22 227:9,12, 13,15,16,17, 20,23 228:12, 18 tea 143:21 151:19 152:20 teach 26:22 27:1 28:15 29:9,15 30:10, 12 39:14 84:19 85:5,7, 14,21,23 87:18 98:7,9,	12,19,21 99:3, 19,21 116:15 117:25 125:14 165:2,3 219:7 227:14 228:13,20 229:1 teaching 30:13 66:8 85:2,3 96:5,17 97:7,10,11,14, 15,17,22 98:17 99:1,11, 18,20,23 100:2,13,15, 17 102:3 126:18 137:21,23 166:11 250:20 team 141:1 team' 140:25 technically 77:21 129:10 145:7 166:23 244:11 250:24 251:1,2 Teena 227:1 telling 37:8 54:22 97:17, 18 183:2 232:10 233:10 236:4 246:9 tells 145:19 183:3,12 ten 28:16 30:14 58:1 96:22 98:16 99:24,25 100:1 101:23 203:8 253:2, 14 ten-minute 6:4,7 147:9 tendency 17:5 183:10 tenure 17:16 41:17 51:5 84:23 86:14 116:2 139:13 211:25	tenured 14:10 15:8 84:20 85:5 194:14 term 7:20 10:8 79:4 116:6 215:18 222:18 termed 193:8 termination 218:25 terminology 85:2 90:25 91:1 111:5 152:2 terms 9:25 15:5 19:17 93:9 223:17 Terry 38:21 64:22,23 70:1 130:14,25 131:8 143:14 144:1 147:20 163:13 182:1 214:17 test 106:4 249:14 testified 25:3 32:8,11 48:9 72:12 75:4 78:15 82:17 94:25 95:7 99:12 100:8, 12 108:6,11 109:4 115:2 117:22 124:13 144:14 148:3, 5 186:22 189:9 191:4, 25 214:4 216:2,5 217:18 219:25 220:16 221:18 223:6,22,24 233:21 244:13 247:21 248:1 249:17 251:23,24 testifies 7:12 21:7 113:18 testify 19:6,9 32:7 33:9,12	34:6 47:22 50:14 62:19 69:18,20 72:7, 8,19 81:20 94:23,24 113:22 115:14 125:11 127:2 129:6,11 135:25 144:11,13 145:12 150:18 152:4,5 172:8 189:7 204:19, 20 218:7 223:11 240:8, 17,19 testifying 13:1 17:11 18:14,15 19:5 26:12 32:24 34:13,24 49:1 65:6 70:6 72:12,14,18 77:11 101:8 103:9 113:23 124:11 126:21 129:4,17,21 130:5 150:17 152:2 169:8 178:13 189:4, 8 191:19 199:1 201:23 210:18 235:12 236:2,7 238:3 245:20 testimonial 31:20 51:23 72:7,16 75:6 145:12 testimony 9:21 11:1,2 12:23 13:3 14:19 17:17 18:25 19:4,8 21:7 24:22 31:23 47:24 48:24 49:12 65:5 75:4,16, 17 77:16 78:19 81:1 89:3 95:3 100:20 101:21 102:5 106:22 109:5 115:18	129:16 189:12 190:7 192:14, 16 197:11 199:2,12 216:13,16 222:22 223:25 234:25 235:3, 4 236:7 246:14 testing 106:24 text 39:2 45:25 63:18, 19 105:10 texts 105:13, 14 them' 141:21 theorem 160:12 theorems 226:10,13,15 228:11 Theoretical 25:22 26:6 thereof 171:16 Theresa 5:25 158:15 thesis 226:14 thick 176:21 thing 18:1 36:25 68:16 72:10 96:8,9 116:23 128:7 160:6 165:25 181:5 197:19 209:8 224:15 241:20 246:4 251:20 things 6:21 16:17 17:5 19:18 29:2 46:17,22 51:14 72:15 75:11 82:1,18 88:4 95:23 99:8 101:14 103:16 104:10,18
---	---	---	--	--

109:13 112:19 124:11 126:21 144:13 153:7, 22 175:24 183:14 212:4 231:12 234:1 236:8 thinking 26:24 69:21 139:21 140:24 thinks 104:14 145:16 146:22 thought 12:8 76:4 87:1 96:25 122:1 129:13,15 139:17 196:24 213:12 233:7, 14 threat 109:21 threaten 45:7 threatened 65:21 109:24 threatening 109:20 133:2 224:1 three-page 139:4 throw 58:12 thumb 9:5 Thursday 19:24 time 6:3 13:23 14:8,14 16:25 19:17 20:25 21:10,18 40:24 45:2 53:4,7 56:4 59:25 64:24 67:13 72:10 74:17 77:9 81:17,21,25 82:8 83:17 86:22 88:18, 21,23 91:22 94:18 95:10, 25 99:13 114:20 123:22 126:16 127:6	128:23 130:21 137:7 138:21 139:17 146:2 147:5 148:11 150:14 151:23 156:25 163:14,17 177:18 178:1 180:12 181:17 197:7 198:12 209:15 220:25 231:5,18,20 232:3,7,9,12, 18 235:9 236:13,14,18 240:16 245:14 time- stamped 88:21,24 timeline 143:19 159:17,19,20 163:1 times 25:18 45:6 129:19 135:19,22 148:12 231:3 237:21,25 tired 66:8 title 90:16 91:9 115:9 to/from 199:23 today 5:11,12 6:1 13:4 16:8 53:11 54:14 55:7 62:4 67:20 72:12 74:12 75:16 77:9,10 81:1, 15,20 94:1,25 101:13 107:5 116:6,7 145:13 198:3 199:8 219:25 223:12 245:16 today's 5:13 told 80:23 81:1,5,20,22 132:25 158:10 214:19 231:11	232:8,13,23 233:25 235:9, 12,23 245:21 246:1,22 247:1 248:17 249:2 tolerance 211:10 tolerate 95:15 152:21 205:19 206:8 tolerated 73:20 76:20 Tom 126:5,10 127:20,24 156:17,25 157:3,11,14, 18 159:14 163:12 175:4, 8 179:20 Tomlinson 156:17,25 157:3,11,14, 18 159:14 163:12 175:5, 9 179:20 tomorrow 253:16 top 36:22 45:25 46:1 50:17 52:7 58:13,24 63:5 64:7 65:25 131:12 141:11,12,15 172:20 180:8, 17 219:12,13 topics 29:10 39:8 125:12 topographer 223:14 Topologist 223:15,17 topology 210:9 224:8 226:25 228:15 tops 121:7 total 81:10 85:15 209:20	238:10 239:6 totally 131:15 totals 135:11 239:10 touch 77:15 track 40:21 43:9 47:20 51:5 53:6 55:2 135:11 179:19 Tracy 182:1 training 45:24 46:10 103:14 104:3 trajectory 175:14 transcribed 5:8 transcript 245:24 transcription s 111:11 transcripts 13:14 16:10, 22 37:8 44:19 123:22 transfer 168:11,12 transparency 14:5 15:25 trial 107:4 tribunal 48:1 178:16,21 180:11 241:3 252:6 tribunal's 48:21 trouble 182:25 troubling 173:17,18 true 46:24 47:25 105:15 166:23 183:5 223:13 224:5 246:16,17,18 247:4,5,7,8	248:19,20,21, 22,23 249:4 251:1 trust 211:21 trusting 211:20 truth 24:23,24 115:18,19 167:10 223:12 truthful 109:24 truthfulness 107:3 252:2 tuition 80:18, 19,22 231:8, 17 232:17,25 234:23 238:13 Turkey 225:21,22 turn 8:8 16:11, 21 36:10 123:5 131:4 133:14 143:10 147:14,17 150:24 153:2 157:5 163:7 184:15 185:25 194:25 199:21 201:11 202:24 203:12 205:15 turned 36:10 tweeted 76:13 type 47:19 73:6 95:9 226:3 types 219:4 typically 128:22 129:1 209:16 228:6 U UCFA 156:24 157:15 163:13 200:2,7 201:16 202:2, 15,16,25
--	---	--	---	---

203:1,2,4,10 204:7	understand 6:14 7:2,6,17 9:19,25 10:6 14:9 27:8 48:11 57:14, 15 70:13 72:3 77:13 98:3 101:20 114:4 126:17 134:10 138:21 169:8 211:23 212:3 213:13 236:1, 6 248:21,22 249:9 251:4,5 253:10	unique 158:11	74:5	verify 34:7 191:19,20
ultimate 160:14		unit 89:15 168:3,9,10,12 187:12 248:14	unsolicited 208:3,4	version 238:1,5,6
ultimately 61:6 69:9 89:18 241:13 244:6		units 208:5,6	untenured 211:5	versions 237:22,23
Um-hmm 8:3 108:8 220:8		unity 205:18	untrue 247:25 248:1	vetting 137:13
unacceptable 95:14 155:12 202:14		universally 161:13	untruth 245:19,22,23, 25	vice 35:13 98:24
unambiguou sly 30:11	Understanda bly 198:21	universities 210:15,19,21	up-to-date 239:13	victim 62:22
unanimously 194:16	understandin g 18:21 61:8, 10 69:19 81:11 85:4 93:16,18,21 95:20 96:3 97:12 180:9 249:13	university 5:6 10:13 12:25 13:18 15:15,21 23:22 25:7,16 26:25 30:15 42:22 44:12 46:8,9 47:7 62:20 66:14 71:14,18 81:6 87:21 88:14, 16 89:14,15 94:5,7 104:1 115:10,12,24 116:1,2 126:18 130:20 133:5 134:1,3, 4 145:15 146:6,7,15 155:22 156:4, 5,24 165:12, 13 166:10 188:16 200:2, 22 205:2 207:18 211:5 241:10 244:11	upheld 27:11 94:20 118:10 125:20	victimize 160:19
unashamed 163:23			uphold 27:5	view 95:5 132:19,20 140:3,15 167:9,10,11 196:6 206:9 213:9
unavoidably 5:12			upholding 122:13	
unaware 91:24 109:2,6, 7	understood 10:22,25 22:23 57:12 58:13 114:21 121:9 163:7 166:3 179:16		ups 66:14	viewed 132:11 159:24 176:13
unbeknownst 128:3	undertaking 212:1,2		upset 68:6	violate 46:9 104:2 150:2 212:20
uncomfortabl e 160:22,24	undertakings 210:21		upsetting 74:9	violated 23:22 106:11 212:23
underenrolle d 29:12	unduly 10:13		upshot 206:4	Violating 43:4
underenrollm ent 125:13	unencumber ed 30:2	university's 43:4 106:11 200:25	users 207:16	violation 200:13
undergraduat e 45:21 90:5	unethical 142:8	unjustly 163:24	usual 44:22	visa 164:4 165:2
underlie 177:15	unfairly 30:17	unnecessary 75:5,15	utilize 78:9 244:18	visiting 220:3
underlying 179:2	unfettered 205:13	unpleasant 76:5	vague 69:3	visitor 163:16 164:3,9,23 165:10,11 167:18 220:5
undermine 140:19	unfortunate 76:13,21	unreasonabl e 13:3	validity 252:5	voice 92:16, 21 123:19,25 211:6
undermined 60:3 152:16	unfounded 30:17,22,23	unrelated	Valley 42:22 44:12	voiced 92:23, 24
undersigned 36:23 62:9 131:14 160:9	unhappy 74:9		values 140:1	voicing 93:2
			vein 210:23	
			venue 160:17	
			veracity 106:5 251:25 252:1	
			verbatim 170:19	
			V	

Volberg 28:7 160:7 222:1,2	252:15	23:5,9,16 25:8 26:13 31:3,6, 12 33:19 41:5 42:3 43:24 44:1 49:15,24 50:2,7,10,15 52:5,10 56:7, 11,15,18,21 57:6,22 70:9, 17,23 82:18, 22 88:7,10,13 98:2 100:21, 23 101:1,6,17, 20 102:2,5,7, 10,13,16,19 107:9,12,15, 19,23 108:2 110:9,12,20, 24 113:19 114:1,16,22 116:16 117:2, 17 121:24 122:4,6 127:22 129:14 134:18,23 135:1,4,8,15 138:2,5,9 141:10 145:3 148:16 153:14,24 154:3,5 158:8, 22 159:10 161:9,15,20, 22 165:9,17 167:13,20,25 168:6 169:1 177:5 178:7, 20,24 179:7, 14 187:9 189:23 190:17 191:6,11 192:17 196:12 197:14,18 198:20 199:14 206:20 208:9 213:16 233:11 237:5 239:24 246:2 249:10, 15,18,21 250:6,10,14, 24 251:6,12 252:11,14,20, 24	wide 35:12 40:18 46:25 60:2 73:7 123:2 154:23	217:16 223:6 237:2 238:4 243:2 245:4 251:16
volume 44:4	weak 137:8			
volunteered 37:11	web 155:3 157:18 159:21 162:2,3 183:4			
volunteers 42:21 44:11 74:2	website 41:23 44:21 46:17 51:15 59:4 66:18 76:10 104:10 183:10	widening 133:6,7		
vote 128:9		wife 165:19		
voted 184:25 194:16	websites 156:5,6	willfully 137:23		
VP 144:1	week 13:2 19:18 133:17 137:15 231:22 236:11,14	William 195:18		
W	weeks 67:16 139:21 236:16	Williams 84:3 232:18 233:1 234:24		
wait 31:12 110:16 181:8 232:20	well-defined 223:18	Williams' 131:19		
waiting 31:16 252:9	well-known 137:7	willingness 140:23 186:17		
walk 68:10 113:21	Wells 25:14	winter 162:1 249:24		
walked 67:20	Wemple 79:19,22 80:7 81:1,12,23 82:7 83:3 133:22,23 134:7,14 135:9,16 136:8,16 137:6 143:16, 25 231:10 232:5,15 233:16,22 234:21 239:16	wished 175:8		
walking 70:20 113:11	whatever's 42:6	wishes 12:2		
wanted 10:9 56:25 57:7,10 67:24 68:1 128:4 164:12 200:4	whatsoever 174:1	withdraw 36:1 131:20 150:21		
warning 149:24,25 150:1 152:25 153:1 154:14 155:16 156:2, 8,15,19,20,21 158:1,13,17 168:22 169:15 175:3 176:9 180:3	Whitbeck 6:12,13,19,21 7:4,8,19 8:1,4, 12,15,18,20 9:23 10:2,7, 19,23 11:8,13, 16,20,24 12:6, 10,16 16:23 17:1 21:16	witness's 18:25 19:4 49:12 100:19 150:18 252:11		
warranted 194:17 200:11		witnesses 6:23,25 7:23 11:5 13:1 14:20,25 15:1, 5,10 18:13,15, 17 20:22 21:5, 6 22:5 24:7,9, 11,12 144:25 251:25		
waste 72:10		Wolfson 43:3		
wasting 197:6		wonderful 46:18 51:15 104:11		
ways 197:18		word 65:14 136:17 158:12 206:5 209:11 215:17 216:4		
		wording 184:25		
		words 8:6 9:7 47:14,17 56:12,15,23 57:3,4 71:21 118:15 137:14 153:6 164:6 185:3 189:22 215:7 220:23 243:17 245:5 248:20,23 251:2		
		work 37:19 43:2 63:22 71:22 128:2 140:23 165:13 209:2 213:1 227:4,5		
		worked 66:6 210:5,10 228:11		
		working 43:9 77:8 210:1 223:4 226:15		
		workplace 69:25 70:3 156:4		
		works 91:12		
		workshop 225:21,25		
		workshops 226:11		
		world 226:8 240:15		
		worrisome 132:24		
		worry 62:24		
		worse 69:12, 13 160:18		
		worth 32:15 187:23 197:4 210:13		

write 71:21 74:11 159:15 203:9 writing 51:8 74:14,15,19 162:18 written 6:24 44:19 74:13 75:10 81:5,6 152:25 153:1, 6 155:16 156:15 162:14,17 167:10 168:6, 22,23 169:12, 14,25 171:1 184:12 201:19,20,24 204:5 216:19 237:23 wrong 11:3 104:15 160:12,25 206:3 238:4, 21,22 wrongdoing 62:23 wrongly 84:17 141:22 wrote 28:3 44:15,22 46:21 71:18, 23 74:10 130:4 141:25 203:10 236:20,21 240:21 X XYZ 168:7 Y Y' 140:6 Yan 28:6 160:7 222:1,2 year 5:15 26:23 74:20, 21 80:5,10	85:15 86:23 87:12,19 127:15,18,19 130:16 134:10 149:4,6 172:16,23 209:13 221:6, 12,20,21,22, 23 222:4,24, 25 223:3 224:12 225:15 227:11 232:2 233:5,8 234:3 236:19,23 238:8 249:25 year's 222:23 years 7:21 14:4 74:18 116:3 131:1,2 173:22 196:5 209:22 211:20 212:3 221:21 222:6 226:18, 20 228:7 235:1 yelling 37:8 Yermak 18:23 22:16,19 23:18 70:14 yesterday 63:21 young 211:6 younger 68:2 210:7 Z Zayko 163:13 zip 124:6 zip-file 123:15 zoom 198:23	
--	---	--