

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSE SUAREZ,

Plaintiff,

vs.

Case No: 17-12623

Judge Gershwin A. Drain

Magistrate Elizabeth A. Stafford

CITY OF WARREN; LIEUTENANT
JAMES SELAKOWSKI, in his official and
individual capacity, FIRE COMMISSIONER
WILBUR McADAMS, in his official and individual
capacity; and ~~FIREFIGHTER MICHAEL
OWCZAREK, in his official and individual capacity,~~

Defendants.

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**DEFENDANTS' EMERGENCY MOTION TO DISMISS OR SANCTIONS
FOR RECENTLY DISCOVERED DISCOVERY VIOLATION**

NOW COME Defendants, CITY OF WARREN; LIEUTENANT JAMES
SELAKOWSKI, FIRE COMMISSIONER WILBURT McADAMS, and
~~FIREFIGHTER MICHAEL OWCZAREK~~, by and through their attorneys,

GARAN LUCOW MILLER, P.C., and hereby bring this Emergency Motion to Dismiss or Sanctions for Recently Discovered Discovery Violation pursuant to Federal Rules of Civil Procedure 16, 26, and 37, and in furtherance thereof, states the following:

1. This motion is brought pursuant to Fed. R. Civ. P. 16, 26, and 37.

2. The present action was filed by Plaintiff on August 10, 2017, alleging that Defendants violated Plaintiff's rights under the Civil Rights Act of 1964 and federal constitution during the course of his employment with the City of Warren. Plaintiff filed an amended complaint on June 8, 2018.

3. This Court entered a Scheduling Order (Doc. 14) on November 13, 2017 in this matter. Discovery was subsequently extended on June 19, 2018 after an Order (Doc. 25) was entered by this Court.

4. Following the initiation of this litigation, the parties conducted written discovery and took a number of depositions. Plaintiff was also interviewed with regard to his employment with the City of Warren on May 3, 2017, where he detailed his claims. (**Exhibit A** – Interview of Jose Suarez, pg. 17, 56). Notably, Plaintiff denied leaving anything out with regard to his claims at that time. (**Exhibit A**, pg. 17, 56).

5. On October 2, 2018, Plaintiff appeared for his deposition in this matter. During the course of the deposition, he was repeatedly questioned regarding the nature of his allegations against Defendants. (**Exhibit B** – Deposition of Jose Suarez). Interestingly, he denied being interviewed with regard to alleged racist comments during his employment with the City of Warren. (**Exhibit B**, pg. 152-154).

6. On December 4, 2018, a story ran on WXYZ with regard to Plaintiff and this lawsuit. (**Exhibit C** – Media Article). Within this story, WXYZ indicates that Plaintiff “claims he was subjected to racial slurs by fellow firefighters and his superiors while at work.” Moreover, a video attached to the online news story indicates Plaintiff now claims that City of Warren employees referred to a portion of the fire department as a “chimp cage.” This allegation is purportedly being used to further his present lawsuit. Plaintiff’s counsel has admitted to initiating contact with WXYZ.

7. However, at no time during the course of Plaintiff’s employment with the City of Warren or during this lawsuit has he ever made any such allegation. This is despite specifically being asked about the nature of his claims during his interview with the City of Warren and during his deposition. (**Exhibit A**, pg. 17, 56; **Exhibit B**, pg. 152-154).

8. Pursuant to Fed. R. Civ. P. 16, 26, and 37 and for the reasons stated herein and the attached brief, the moving party now asks this Court to dismiss Plaintiff's action in its entirety as a sanction for his false deposition testimony and discovery violation in this matter.

9. Pursuant to Local Rule 7.1, the undersigned reached out to Plaintiff's counsel for concurrence with regard to this motion. However, such concurrence has not been forthcoming.

WHEREFORE, Defendants, CITY OF WARREN; LIEUTENANT JAMES SELAKOWSKI, FIRE COMMISSIONER WILBURT McADAMS, and ~~FIREFIGHTER MICHAEL OWCZAREK~~, ask this Court to enter an order dismissing Plaintiff's case in its entirety for his false deposition testimony and for his discovery violations, for an award of costs and attorney fees associated with the filing of this Motion, and for any other remedy this Court deems just.

Respectfully Submitted:

GARAN LUCOW MILLER, P.C.

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Dated: December 5, 2018

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
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**BRIEF IN SUPPORT OF DEFENDANTS' EMERGENCY MOTION TO
DISMISS OR SANCTIONS FOR RECENTLY DISCOVERED DISCOVERY
VIOLATION**

CONCISE STATEMENT OF ISSUES PRESENTED

- I. Whether this case should be dismissed based upon Plaintiff's failure to disclose material portions of his claims.

CONTROLLING OR MOST APPROPRIATE AUTHORITY

- I. Whether this case should be dismissed based upon Plaintiff's failure to disclose material portions of his claims. Fed. R. Civ. P. 16; Fed. R. Civ. P. 26; Fed. R. Civ. P. 37.

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FACTUAL BACKGROUND

The present action was filed by Plaintiff on August 10, 2017, alleging that Defendants violated Plaintiff's rights under the Civil Rights Act of 1964 and federal constitution during the course of his employment with the City of Warren. Plaintiff subsequently filed an amended complaint on June 8, 2018. This Court entered a Scheduling Order (Doc. 14) on November 13, 2017 in this matter. Discovery was subsequently extended on June 19, 2018 after an Order (Doc. 25) was entered by this Court.

Following the initiation of this litigation, the parties conducted written discovery and took a number of depositions. Plaintiff was also interviewed with regard to his employment with the City of Warren on May 3, 2017, where he detailed his claims. (**Exhibit A** – Interview of Jose Suarez, pg. 17, 56). Notably, Plaintiff denied leaving anything out with regard to his claims at that time. (**Exhibit A**, pg. 17, 56). On October 2, 2018, Plaintiff appeared for his deposition in this matter. During the course of the deposition, he was repeatedly questioned regarding the nature of his allegations against Defendants. (**Exhibit B** – Deposition of Jose Suarez). Interestingly, he denied being interviewed with regard to alleged racist comments during his employment with the City of Warren. (**Exhibit B**, pg. 152-154).

On December 4, 2018, a story ran on WXYZ with regard to Plaintiff and this lawsuit. (**Exhibit C** – Media Article). Within this story, WXYZ indicates that Plaintiff “claims he was subjected to racial slurs by fellow firefighters and his superiors while at work.” Moreover, a video attached to the online news story indicates Plaintiff’s claims that City of Warren employees referred to a portion of the fire department as a “chimp cage.”¹ This allegation is purportedly being used to further his present lawsuit.

Based upon the evidence on the record in this case, at no time during the course of Plaintiff’s employment with the City of Warren or during this lawsuit has he ever made any allegations regarding a “chimp cage” as made during his recent media appearance. As such, Defendants now move pursuant to Fed. R. Civ. P. 16, 26, and 37 for this Court to dismiss Plaintiff’s action in its entirety as a sanction for his false deposition testimony and discovery violation in this matter.

ARGUMENT

Legal Standard

The Court is permitted to set scheduling orders under Fed. R. Civ. P. 16. Under Fed. R. Civ. P. 26(b)(1), “Parties may obtain discovery regarding

¹ Defendants have not attached the video given the emergency nature of this motion. However, the video can be seen at <https://www.wxyz.com/news/region/macomb-county/former-warren-firefighter-claims-discrimination-harassment-in-federal-lawsuit>.

any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case" after consideration of several factors, which are identified as "the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit."

Federal Rules of Civil Procedure 37(b) permits this Court to sanction parties for discovery violations, including the sanction of dismissal. Courts have previously upheld dismissal as a sanction for parties failing to comply with discovery, including lying at a deposition. See *Laukus v. Rio Brands, Inc.*, 292 F.R.D. 485, 500 (N.D. Ohio 2013); *Freddie v. Marten Transport, Ltd.*, 428 Fed.Appx. 801, 804 (10th Cir.2011) (case dismissed for willfully withholding highly relevant evidence and providing false deposition testimony).

Whether to sanction a party under Rule 37 is a discretionary one for this Court. *National Hockey League v. Metropolitan Hockey Club, Inc.*, 427 U.S. 639, 643, 96 S.Ct. 2778, 49 L.Ed.2d 747 (1976); *Regional Refuse Systems, Inc. v. Inland Reclamation Co.*, 842 F.2d 150, 154 (6th Cir.1988). However, the Court is to look at (1) whether the party's failure is due to

willfulness, bad faith, or fault; (2) whether the adversary was prejudiced by the dismissed party's conduct; (3) whether the dismissed or defaulted party was warned that failure to cooperate could lead to dismissal or entry of default judgment; and (4) whether less drastic sanctions were imposed or considered before dismissal or default judgment was ordered. *Harmon v. CSX Transportation, Inc.*, 110 F.3d 364, 366–367 (6th Cir.1997).

LEGAL ARGUMENT

I. THIS CASE SHOULD BE DISMISSED BASED UPON PLAINTIFF'S FAILURE TO DISCLOSE MATERIAL PORTIONS OF HIS CLAIMS.

In this case, Defendants request that this Court enter an order under Rule 37 dismissing Plaintiff's case in its entirety based upon his false deposition testimony and for his evasive discovery tactics. This is because: (1) Plaintiff has willfully withheld key portions of his claims in bad faith; (2) Defendants have been prejudiced by his refusal to participate in discovery; (3) Plaintiff was well aware of the significance of his actions; and (4) no less drastic sanction would be appropriate. Thus, there is little debating that such an order is warranted.

Rule 37 clearly dictates that this Court has discretion to impose discovery sanctions as it deems them appropriate. See *Laukus*. In making such determinations, courts are to look at the four factors outlined in the *Harmon* case. *Harmon* at 366-367. There is no disputing that the first three

factors under *Harmon* are present here. *Id.* And the fourth factor also weighs heavily in favor of granting dismissal given the timing of this case.

In this case, there is little denying that Plaintiff's evasive tactics were caused by bad faith on his part. Plaintiff was asked about the nature of his claims during his interview with the City of Warren and during his deposition. (**Exhibit A**, pg. 17, 56; **Exhibit B**, pg. 152-154). Nonetheless, he now makes new allegations that were never made during the course of this lawsuit, in regard to his E.E.O.C. filing, or during the course of his employment with the City of Warren. By any reasonable measure, he has falsely testified in an intentional attempt to evade the City's efforts to investigate his erroneous claims.

There is little denying that Plaintiff's deliberate tactic to hide the nature of his claims and/or false deposition testimony severely prejudices Defendants in this matter. Were it not for this WXYZ news report, Defendants would be entirely aware of the latest round of Plaintiff's utterly false and deceptive claims against the City of Warren and its employees. (**Exhibit C**). This prejudice is also especially prevalent here, where discovery has closed and the matter is set for trial in less than a week.

In the event that Plaintiff had disclosed these allegations, Defendants could have investigated these issues during the course of discovery.

Plaintiff should not be allowed to conduct a trial by surprise by unleashing a new flurry of frivolous and misleading allegations by way of the news media. Plaintiff and his counsel were also surely aware of the significance of offering false testimony in this case. Nonetheless, Plaintiff deliberately withheld material portions of his present claims.

As to the final factor, there is little room for sanctions other than dismissal in this case as trial is set to begin on December 10, 2018. Defendants no longer have an adequate opportunity to conduct discovery to investigate these new allegations in the next few days. This was a materially deceptive withholding on the part of Plaintiff in this case and sanctions are appropriate.

Given these circumstances, Defendants now request that this Court enter an Order dismissing the entirety of Plaintiff's claims in this matter for Plaintiff's violations of Rules 16, 26, and 37. The Court set a clear plan for discovery and Plaintiff's false deposition testimony violated these orders. And under the *Harmon* factors, there is little disputing that dismissal is appropriate. *Harmon* at 366-367.

CONCLUSION

For the reasons stated above, Defendants respectfully request that this Court enter an order dismissing Plaintiff's case in its entirety for his

false deposition testimony and for his discovery violations and for any other remedy that this Court deems appropriate.

Respectfully Submitted:

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Dated: December 5, 2018

#1421380

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2018, my assistant, Joyce P. Young, electronically filed the foregoing document with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

James B. Rasor - jbr@rasorlawfirm.com
Andrew J. Laurila - ajl@rasorlawfirm.com

and I hereby certify that on December 5, 2018, my assistant, Joyce P. Young, mailed by United States Postal Service the foregoing document to the following non-ECF participants, with full legal postage prepaid thereon and deposited in the United States mail: **NA**

/s/ John J. Gillooly
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P41948

EXHIBIT A

In The Matter Of:
Employee Interview of:

Jose Suarez
May 3, 2017



Original File SUAREZ INTERVIEW.txt
Min-U-Script® with Word Index

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IN RE: EMPLOYEE INTERVIEW OF
JOSE SUAREZ

The Employee Interview of JOSE SUAREZ
Warren, Michigan
Wednesday, May, 2017

Transcribed by Carolyn Grittini, CSR-3381

APPEARANCES:

- BRANDON FOURNIER, Attorney
- MARK SIMLAR, Labor Relations
- SCOTT POLSEN, Union Representative

1 n, Michigan
2 sday, May, 2017

3
4
5 MR. FOURNIER: It is Wednesday, May
6 (inaudible) 2017. This is an employee interview of
7 firefighter, Jose Suarez. Present are Mark Simlar,
8 labor relations director, City of Warren, myself,
9 Brandon Fournier with the law firm of Shifman Law, and
10 I'm sorry, sir, could you state your name for the
11 record?

12 MR. POLSEN: Scott Polsen, representative
13 from the union.

14 MR. FOURNIER: Your name, sir?

15 MR. SUAREZ: Jose Padros Suarez.

16 MR. FOURNIER: And what is your present
17 position with the City of Warren?

18 MR. SUAREZ: Firefighter paramedic, sir.

19 MR. FOURNIER: And how long have you held
20 that position.

21 MR. SUAREZ: Over four years.

22 MR. FOURNIER: And what previous employment
23 have you had?

24 MR. SUAREZ: I was a firefighter paramedic,
25 I worked for Redford Fire Department and I've worked

1 several years on the road paramedic for private
2 agencies.

3 MR. FOURNIER: Can I ask how long you were
4 with Redford Township?

5 MR. SUAREZ: Approximately two years,
6 little over two years before Warren called me for
7 employment.

8 MR. FOURNIER: And where are you presently
9 assigned?

10 MR. SUAREZ: Unit 3, Station 1.

11 MR. FOURNIER: And approximately five or
12 six months ago, you registered a complaint with the
13 fire commissioner or one of his designees.

14 MR. SUAREZ: January 3rd, yes, sir, 2017.

15 MR. FOURNIER: And can you summarize for
16 me, I've had a chance to read that complaint and some
17 other materials associated with it, but can you just
18 summarize in short order the nature of that complaint.

19 MR. SUAREZ: The nature of that complaint
20 was to make my administration aware and the fire
21 department personally aware that I was dealing with
22 individuals that were creating a hostile work
23 environment for me, they were making racist comments
24 and basically discriminating against me in their
25 treatment.

1 MR. FOURNIER: And who were those named
2 individuals?

3 MR. SUAREZ: Firefighter Joel Ricketts and
4 lieutenant James Sulikowski.

5 MR. FOURNIER: Anyone else.

6 MR. SUAREZ: At the time of my complaint,
7 no, but since then there has been instances where
8 other people have come into the fray.

9 MR. FOURNIER: We'll get into that in just
10 a moment, so thank you. Specifically, I think you
11 mentioned there was some racial comments made towards
12 you.

13 MR. SUAREZ: Yes, sir.

14 MR. FOURNIER: Did you indicate that in
15 your initial filing in December or January.

16 MR. SUAREZ: I did. I actually stated
17 racial comments in there as part of my complaint from
18 lieutenant James Sulikowski. As far as what was
19 specifically said, there was so much information that
20 I wrote down that I felt that stating his racial
21 comments would be enough and then upon an interview, I
22 could get specific and tell people exactly what was
23 said to me.

24 MR. FOURNIER: Were you interviewed during
25 that process back in January?

1 MR. SUAREZ: Yes, sir. Well, we discussed
2 it but it was all in general terms of my overall
3 complaint, nothing specific.

4 MR. FOURNIER: So you weren't asked
5 specific questions.

6 MR. SUAREZ: I was asked specific
7 questions, but we never touched on the actual comments
8 that were made.

9 MR. FOURNIER: Who interviewed you?

10 MR. SUAREZ: I believe -- initially, I had
11 three meetings here. One was with just my union
12 representation, my immediate captain, my battalion
13 chief, my union president and chief David Fredericks,
14 that was my initial meeting here, when I submitted my
15 complaint letter to the chief.

16 My second interview was with the
17 commissioner, the chief, union representation, my
18 immediate officers shortly following the initial. And
19 then the third was when Mr. Simlar came down and spoke
20 to me representing the city.

21 MR. FOURNIER: And do you delineate, maybe
22 you don't, but from my understanding, were the racial
23 comments made by lieutenant Sulikowski exclusively or
24 also by firefighter Rickets?

25 MR. SUAREZ: No. The comments that were

1 made to me regarding a racial nature were specifically
2 from lieutenant Sulikowski to me, and he's never
3 referred to anybody else in this department in such a
4 way.

5 MR. FOURNIER: How do you know that?

6 MR. SUAREZ: Because his ongoing
7 disposition towards me and his comments were reserved
8 exclusively for me, because I was the only one that he
9 referred to as the all around nigger day in and day
10 out in front of every one.

11 MR. FOURNIER: How long did he refer to you
12 in that term?

13 MR. SUAREZ: On and off for over half of my
14 career, it became a longstanding joke. I notified
15 lieutenant Sloan, one day we were working together,
16 this was back when lieutenant Sloan was still working
17 at Station 4, he and I were in the kitchen and
18 lieutenant Sulikowski had just referred to me as that,
19 a joke, everybody laughed, they left, it was just me
20 and lieutenant Sloan in the kitchen. Talked about his
21 comments and how I didn't appreciate it and found them
22 very offensive. Lieutenant Sloan then spoke to
23 lieutenant Sulikowski about those comments, to which a
24 couple days later when we were on duty, lieutenant
25 Sulikowski approached me while we were alone and tried

1 to excuse his comments to me as, I'm from Detroit,
2 that's how we bond. And I looked at him and I said,
3 you never call anybody else that and you were saving
4 that exclusively for me, I don't want to talk. I
5 walked past him.

6 MR. FOURNIER: Do you remember when that
7 was?

8 MR. SUAREZ: It was right before lieutenant
9 Sloan took his new position at Station 1, Unit 2,
10 before he was moved out. Right before we got captain
11 Lasczyk and sergeant Ted Garwood.

12 MR. FOURNIER: Did it stop after that
13 interaction?

14 MR. SUAREZ: No, sir, it did not. Because
15 the first time that he referred to me, it was under
16 the -- the next time he referred to me under that --
17 the first time he referred to me under that, I left,
18 in front of the new leadership, captain Lasczyk was
19 taken aback initially because his response was, what
20 did you call him? And then he elaborated on it and
21 made a joke out of it.

22 MR. FOURNIER: That was after the fact?

23 MR. SUAREZ: After the fact.

24 MR. FOURNIER: Can you tell me
25 approximately when that was?

1 MR. SUAREZ: Sir, this whole situation has
2 been a blur. I had been at Station 4 for quite some
3 time at this point, because I worked immediately under
4 lieutenant Sloan, lieutenant Sulikowski, Christopher
5 Andary was there, Rob Wine was there, Matt Walsh was
6 there. We can subpoena work records of transfers and
7 promotions and stuff to see exactly what time frame it
8 fits within.

9 MR. SIMLAR: I can figure that out.

10 MR. FOURNIER: I think the curious part for
11 me and maybe Mark as well, you said since you started
12 here, obviously, you probably didn't work with
13 lieutenant Sulikowski your entire time.

14 MR. SUAREZ: Not in the first year and a
15 half, but that's when I had other issues with
16 firefighter Rickets, that I made everybody aware. He
17 himself was telling everyone that his mission was to
18 redline me, push me over the edge and make me snap.
19 There's only been one other person on this department
20 that he made comments like that regarding, and that's
21 Fred Closser, who is also over 40 years old.

22 For whatever reason, Mr. Rickets doesn't
23 take kindly to guys that are older or feel the need to
24 try to push them to the edge to make them snap, as he
25 says, and I've been present when he has turned to Fred

1 Closser out on a detail one day, where he turned Fred
2 Closser and said, I hope your cancer kills you. And
3 Fred just let it go.

4 Fred was interviewed by Mr. (Inaudible) and
5 the administration about those comments to which he
6 dismissed them as oh, firefighter banter. But as you
7 can see, no reasonable person would listen to those
8 comments and feel that they're acceptable under any
9 circumstances.

10 MR. FOURNIER: Which is fair. I obviously
11 don't condone them. Staying focused for the moment on
12 lieutenant Sulikowski. So do you know approximately
13 when the two of you began working together.

14 MR. SUAREZ: Honestly, I would have to look
15 back at my transfer to 4. My transfer back to 4 was
16 the culmination of a situation with Mr. Rickets and
17 his creating a hostile work environment for me that
18 got us all in trouble and that account is on record,
19 the nature of the call is on record, it can be pulled
20 up for specifics.

21 MR. FOURNIER: How many times do you recall
22 that he used that derogatory term? Two dozen, a
23 hundred?

24 MR. SUAREZ: You know what, honestly, well
25 more than two dozen, because it was almost daily, and

1 even when he would say it, oh, the all around nigger
2 showed up, and all of a sudden Rob Wine would chime in
3 with, you can't get away from him, the all around
4 nigger is always here. I don't know if that term he
5 used was -- I help guys work on their breaks, I
6 epoxied those floors with my crew, I've painted three
7 different stations. I'm a good worker. I'm a diver.
8 I'm 44 years old, so him saying that I'm the all
9 around, is that in response to the fact that I have --
10 that I'm older, that I know things or whatever, but
11 either way, it's a derogatory term that he's never
12 referred to anybody else as. And even after I brought
13 it to lieutenant Sloan's attention, and he spoke to
14 him, because apparently I knew he spoke to him because
15 he cornered me and said hey, I'm from Detroit, that's
16 how I bond. Next thing you know, captain Lasczyk came
17 down (inaudible) and it became a condition of my
18 employment at Station 4.

19 Matt Walsh was privy to it, Anthony Solacko
20 was privy to it, everybody heard that term. Even when
21 lieutenant Sulikowski would be detailed as an officer
22 and I was somewhere else, he would still, hey, the all
23 around nigger, he would still make those comments. So
24 it wasn't just exclusive to Station 4. I'm willing to
25 take a polygraph to attest to that.

1 MR. FOURNIER: Do you have any recordings
2 of him making those statements?

3 MR. SUAREZ: No. I wish I did.

4 MR. FOURNIER: Do you have other recordings
5 of other conversations?

6 MR. SUAREZ: I sure do.

7 MR. SIMLAR: Is that something you do as a
8 general practice now is record conversations?

9 MR. SUAREZ: No, sir, not at all.

10 MR. SIMLAR: When did you start doing that?

11 MR. SUAREZ: I started doing that when my
12 union president called me -- when I told him I would
13 be submitting my letter January 3rd, I hadn't heard
14 anything from anybody, the union or the department or
15 anybody regarding my complaint, I figured I'd get an
16 update, my union representation would say hey, this is
17 where you're at, we're investigating, whatever, we'll
18 keep you posted. Anything. I didn't hear about it.

19 January 18th, I was at home with my mother
20 and my cousin. My situation what I've been dealing
21 with, they asked me how it's going, I said you have no
22 idea. I'm telling them about what's going on, my
23 mother then asked, have you heard from anybody
24 regarding your concerns? Has your union done -- are
25 they doing anything about it? I'm like, I have no

1 idea. But hold on a second. I have to call Chris
2 Andary, because prior to this whole incident, we were
3 friends, we would have beers together outside of work,
4 I knew his family, I worked with the man.

5 MR. FOURNIER: Can you give me a date of
6 when that relationship changed?

7 MR. SUAREZ: As soon as I submitted my
8 letter, January 3rd.

9 MR. FOURNIER: January 3rd.

10 MR. SUAREZ: January 3rd. The minute my
11 complaint came across the table, I got not but vitriol
12 and backlash, by my union, by most of my --

13 MR. FOURNIER: Didn't you in an interview
14 with me after you submitted that and maybe in this
15 room, tell me that Chris Andary was one of the only
16 people that you trusted as one of your close friends
17 and confidants during a meeting that you had with me
18 in this room?

19 MR. SUAREZ: Prior to the incident of
20 January 3rd?

21 MR. FOURNIER: No, as a result of January
22 3rd.

23 MR. SUAREZ: Negative. He was never
24 somebody that I trusted, because he's part of
25 lieutenant Sulikowski, captain Lasczyk, they all work

1 together. As a result, sir, so that you're aware,
2 January 3rd, I submitted my letter, on the 18th, in
3 the company of my mother and my cousin, when my mother
4 posed the question, have you heard from anybody
5 regarding your concerns, I called Chris Andary on
6 speaker phone in front of people.

7 He went on to tell me that I should have
8 quote, unquote, kept my fucking mouth shut, I
9 shouldn't have written no fucking letter. And then he
10 says, but you couldn't let it go, because you're a
11 man, you have big balls and he started saying other
12 stuff. I hung up on him.

13 My mother was appalled, this is my union
14 representation, my president telling me I shouldn't
15 have exercised my protected right under paragraph four
16 of the first amendment.

17 MR. FOURNIER: So back to the interaction
18 with lieutenant Sloan, when did that take place?

19 MR. SUAREZ: That took place prior to his
20 transfer, I would honestly say sometime in 2016, I
21 think maybe in the fall, latter summer, fall, August,
22 September, whenever he was transferred to Station 1.
23 I don't have specific dates, but it's all a matter of
24 record, we can find that out.

25 MR. FOURNIER: Sure. I'm just trying to

1 understand. And it appears that you kept meticulous
2 notes and you've recorded many conversations, so I'm
3 hoping, as we go through this, you will be -- we can
4 verify dates and times, but it's helpful as we kind of
5 establish this story line to understand generally
6 speaking. It helps paint a picture.

7 So would you say after that conversation it
8 was one time that that was used or it was continued to
9 be used?

10 MR. SUAREZ: It was continued?

11 MR. FOURNIER: Multiple occasions.

12 MR. SUAREZ: Multiple occasions. It's been
13 a running joke with lieutenant Sulikowski, that is
14 what I was referred to as, to the point where he would
15 say it, other people on my crew would laugh. Matt
16 Walsh, Solacka, Rob Wine one time, oh, you can't get
17 away from the all around nigger, he's always here.

18 So the fact that it was so freely used, and
19 I'm Cuban, I'm not African American, but I have
20 relatives that are blacker than African Americans, as
21 Cubans, we're Afro-centric culture, so to say it
22 doesn't apply to me because of the color of my skin is
23 not factual. And it's still a racist comment that was
24 heaped upon me by a superior officer who should know
25 better because of his position and his standing in the

1 fire department, and it's unacceptable. If I was
2 working at GM, this behavior and these actions by
3 these people would not have been acceptable.

4 MR. FOURNIER: Can I ask, did you raise
5 those specific comments and concerns in January when
6 you were interviewed previously.

7 MR. SUAREZ: My letter is detailed, sir,
8 it's five-paged singled spaced.

9 MR. FOURNIER: I've read it.

10 MR. SUAREZ: There's ton of concerns in
11 there, one of which, it says racial comments. I did
12 not feel the need to sit here and elaborate on every
13 single infraction and everything that was said to me.

14 MR. FOURNIER: Which is valid, but permit
15 me, humor me on a point. It's clearly a very
16 understandable concern with you, it's a pretty charged
17 word, I'm just trying to determine why -- I can
18 certainly respect not wanting to type that term in a
19 written document, but I'm just trying to understand
20 why, when you were previously interviewed, you didn't
21 mention this.

22 MR. SUAREZ: I actually mentioned it to my
23 peers, I mentioned it -- well, my peers were aware of
24 it, but other certain peers and certain individuals
25 within my union and my union representation, I

1 mentioned it, again, and with that, I got talked to by
2 other people, because when they heard that I said
3 lieutenant Sulikowski referred to me as this, I was
4 pulled aside, you can't say that. Well, that's not
5 the context in which I used it. So then I have people
6 trying to shut me up from speaking and saying hey,
7 this is what was said and this is how it went down,
8 and now I have backlash and people basically --

9 MR. FOURNIER: But again, you met with the
10 labor relations director.

11 MR. SUAREZ: Sure.

12 MR. FOURNIER: And you didn't mention it.
13 I'm just trying to understand why.

14 MR. SUAREZ: Because it was so many to
15 mention, so much to talk about. In our meeting, I was
16 never asked what comments did he make. He never asked
17 me specifically, well, has he read it, he read the
18 complaint, everybody here has read the complaint. So
19 the questions, I'm answering the questions that Mr.
20 Simlar asked me. I wasn't going to just expound on
21 random facts or random whatever. If you interviewed
22 me like you're interviewing me now, you're asking me a
23 specific question, why didn't I bring it up, because I
24 was never asked a specific as to what I said. He
25 clearly says racial comments.

1 MR. FOURNIER: But that can -- looking at a
2 six month time period, and I'm not putting on trial
3 you as the complainer, I'm trying to simply seek
4 understanding.

5 MR. SUAREZ: Sure.

6 MR. FOURNIER: You make a comment of racial
7 comments, you're interviewed, things are done, perhaps
8 not to your satisfaction, but things are done, the
9 city takes actions, you're interviewed, other involved
10 employees are interviewed, this clearly has caused you
11 a great deal of stress; yet, it was not raised, so I'm
12 forced to ask, what other specific racial comments
13 were made towards you that you did not disclose at
14 that time.

15 MR. SUAREZ: That was the only one.

16 MR. FOURNIER: The only one?

17 MR. SUAREZ: The only one that was made by
18 lieutenant Sulikowski on a regular basis. Other than
19 that, I mean, we're firemen, there's a lot of
20 conversations that take place at the table that you
21 probably wouldn't want the general public to hear, but
22 nothing was ever taken that personal or that offensive
23 by me until this individual literally focused on me
24 and made me the focus of those comments repeatedly to
25 where it became a condition of my comment.

1 MR. FOURNIER: But again, if it was the
2 only racial comment made towards you and when you were
3 being interviewed about your racial treatment --

4 MR. SUAREZ: I wasn't interviewed about
5 that. I was interviewed about the hostile work
6 environment.

7 MR. FOURNIER: Which is --

8 MR. SUAREZ: I was interviewed about the
9 hostility towards me, that was documented, the fact
10 that I went to my superior officers, they failed to do
11 anything about it and actually swept most of it under
12 the rug, and I had to hide in a room to avoid physical
13 confrontation with this man who is trying to solicit
14 and elicit a violent response from me.

15 So here I am, my environment with Mr.
16 Ricketts, who is trying to redline me and make me snap,
17 when I went to my captain and said listen, you hear
18 him say that is his mission, this is what he is doing,
19 he did nothing. So I made it a point to recede into
20 the washroom, I wasn't doing my job or contributing to
21 my crew or cooking or cleaning or doing anything
22 related to my job, I was reading a book or I was in my
23 washroom trying to avoid any type of interaction.

24 To give you an example, me and Scott would
25 be in a conversation, speculating, we had a

1 conversation about Harley Davidsons, Mr. Rickets would
2 insert himself in that conversation and say anything
3 to be offensive and contradictory to anything I said
4 just to try to get a rise out of me.

5 After enough of those take place, knowing
6 that that is the intention to get a rise out of me and
7 create hostility in my workplace, I avoid you, and
8 that's exactly what I did. There are far more issues
9 in that letter, everything from hostile work
10 environment to drinking on duty, there are more
11 concerns, that when I wrote that letter, I wrote it in
12 its entirety in a broad stroke. If Mr. Simlar wanted
13 to ask me specifics regarding my letter and go point
14 to point to point to point, we would have gotten to
15 that.

16 Other people were made aware of that,
17 people have been subject to hearing it, and now since
18 my letter has been submitted on January 3rd, since my
19 union turned their back on me, since I have recordings
20 of people telling me that the commissioner said start
21 a paper trail on that man as I walk out the door, as
22 opposed to let's get to the bottom of this and let's
23 find the truth, no, let's start a paper trail on him.
24 I'm the victim here. I wrote a letter to make people
25 aware, because when I went to my leadership, nothing

1 was done.

2 MR. FOURNIER: I want to interject a few
3 things. I'm going to try to ask you narrow questions
4 and I appreciate this passion as it relates to your
5 concerns, it's your life and you've lived it, so I'm
6 approaching this more methodically because I'm
7 obviously not involved personally and I'm trying to
8 determine what is fact and what is fiction. I'm going
9 to ask you right now in the open record, are you
10 willing to provide copies of the recordings that you
11 have in your possession.

12 MR. SUAREZ: Absolutely.

13 MR. FOURNIER: And how would obtain those?

14 MR. SUAREZ: It will be through my
15 attorney.

16 MR. FOURNIER: Who is your attorney?

17 MR. SUAREZ: Actually -- it's actually a
18 family friend who I've been speaking with, and I have
19 not retained him yet. He has told me that, he goes
20 stay strong, document what you can, come see me when
21 something happens or something else goes down.

22 So I am simply -- right now, all I'm doing
23 is, I documented the things that have adversely
24 affected me.

25 MR. FOURNIER: Again, I think you have a

1 couple things you want to ask. I'm going to ask that
2 you respond to my questions. I asked if you're
3 willing to provide the recordings and your answer was
4 yes. You then stated through your attorney.

5 MR. SUAREZ: Yes.

6 MR. FOURNIER: Whom you have not retained.
7 So I'm going to ask again, assuming you choose not to
8 retain counsel, are you willing to provide those
9 recordings to the City of Warren?

10 MR. SUAREZ: Absolutely.

11 MR. FOURNIER: And how would you wish to do
12 that?

13 MR. SUAREZ: I would have to put them on a
14 USB or flash drive and I'll just give them to you, or
15 I can actually get a recording device like that and
16 play them and then send them to you.

17 MR. FOURNIER: I would probably, Mark,
18 prefer that they be handed to you in whatever format
19 is usable. Do have anything? Do you remember when we
20 asked you during your interview process whether or not
21 you felt a hostile work environment that was created
22 by Mr. Sulikowski or Mr. Ricketts was a result of your
23 race or your culture.

24 MR. SUAREZ: No, I do not.

25 MR. FOURNIER: You don't remember telling

1 us that you didn't think it was?

2 MR. SUAREZ: I don't remember that at all.

3 MR. FOURNIER: Anything else?

4 MR. SIMLAR: No.

5 MR. FOURNIER: I'm going to bounce around a
6 little bit too. So in January, maybe perhaps early
7 February, there is an internal investigation, at that
8 time you're transferred to another unit?

9 MR. SUAREZ: Uh-hum.

10 MR. FOURNIER: And how did you feel about
11 that transfer?

12 MR. SUAREZ: Fine.

13 MR. FOURNIER: And how have things been
14 going at your present unit and your present station
15 assignment?

16 MR. SUAREZ: Fine, no worries, no
17 complaints.

18 MR. FOURNIER: So the union case is
19 complicated, so we'll set that aside for a moment.
20 But in your opinion, has the harassment as you've
21 described it, the hostile work environment continued
22 since you've been transferred and reassigned?

23 MR. SUAREZ: As a matter of fact, it has.
24 On one occasion, most definitely.

25 MR. FOURNIER: By whom?

1 MR. SUAREZ: Lieutenant Rob Hensley.

2 MR. FOURNIER: What did Mr. Hensley --

3 MR. SUAREZ: Well, Mr. Hensley is married
4 to Deborah Hensley, who works at St. John Macomb, and
5 approximately, I have to look at the date on my taxes,
6 but apparently Deb Hensley, who is privy to everything
7 that goes on here because of who she's married to,
8 approached a nurse at St. John Macomb and said, do you
9 know Jose Suarez? Don't talk to him if he asks any
10 questions regarding any Warren fire guys. I can't
11 give you any details right now, but it's bad. Don't
12 tell him anything.

13 So she is trying to coerce or alter my
14 professional relationship with people in the hospital
15 regarding my complaints with the city and the
16 situation that I have going on with my fire
17 department, through her husband. That right there is
18 creating a hostile work environment, because if she
19 were to reach enough people out there, then everybody
20 would view me differently, not trust me, it would
21 affect my professional (inaudible) so it's creating a
22 hostile work environment for me. That happened most
23 recently about two weeks ago, and I have texts and
24 everything.

25 MR. SIMLAR: You think Deborah Hensley is

1 creating a hostile work environment for you?

2 MR. SUAREZ: Through Rob Hensley's
3 influence, because Deb Hensley is married to Rob
4 Hensley, and she wouldn't be privy to any of this
5 information unless it came directly from him. And she
6 went as far as to tell this woman --

7 MR. SIMLAR: Do you think there is a level
8 of confidentiality that you should be entitled to?

9 MR. SUAREZ: I believe so.

10 MR. SIMLAR: I believe so as well, but do
11 you understand that this is the City of Warren Fire
12 Department, and one of the things that I realized
13 while doing this investigation, is that everyone knows
14 everybody's business, and everybody's to blame for
15 that. Text messages get sent off duty, on duty, I
16 find it to be crazy from the standpoint of how much
17 information is relayed about what's going on here. If
18 it's on unit 1, unit 2 and 3 know about it.

19 MR. SUAREZ: You're absolutely right.

20 MR. FOURNIER: Consistent with that point,
21 in addition to recordings, do you have text messages?

22 MR. SUAREZ: Yes, sir.

23 MR. FOURNIER: Do you have e-mails?

24 MR. SUAREZ: No e-mails.

25 MR. FOURNIER: Any other information or

1 materials?

2 MR. SUAREZ: Other than witnesses that will
3 testify.

4 MR. FOURNIER: Who are those witnesses who
5 have agreed to testify on your behalf?

6 MR. SUAREZ: Maria Suarez, who is my
7 mother; Anthony Pesseno, who is my cousin, he will
8 attest to Mr. Andary's remarks.

9 MR. FOURNIER: Was that conversation on
10 speaker phone?

11 MR. SUAREZ: Yes.

12 MR. FOURNIER: How do you spell Anthony's
13 last name?

14 MR. SUAREZ: P-A-S-S-E-N-O.

15 MR. FOURNIER: Thank you.

16 MR. SUAREZ: And Maria Suarez, same as
17 mine.

18 MR. FOURNIER: Okay.

19 MR. SUAREZ: And also Sandy Kiel, who is
20 the nurse at St. John Macomb who was approached by Deb
21 Hensley and told not to talk to me and speak to me in
22 any way, shape or form due to the fact that she has
23 information regarding my situation that's really bad,
24 I can't tell you details.

25 MR. FOURNIER: Who else, anyone?

1 MR. SUAREZ: I mean as far as witnesses,
2 no, those are the three that I have right now to
3 substantiate. I mean, there are other witnesses to
4 lieutenant Sulikowski's comments.

5 MR. FOURNIER: Who are those witnesses?

6 MR. SUAREZ: Those are everybody on my
7 crew, everybody from captain Lasczyk to Rob Loring to
8 Matt Walsh to Anthony Solacko, they've all been privy
9 to that, and there's other people within this
10 department that have heard comments. Again, I can
11 give you their names, but you doubt Anthony Solacko is
12 going to write a letter confirming anything I say
13 against lieutenant Sulikowski.

14 MR. SIMLAR: Can I ask you a question? In
15 light of what you've just said about your relationship
16 with Chris Andary, on May 8 you came to the station to
17 speak with him.

18 MR. SUAREZ: May 8?

19 MR. SIMLAR: May 8.

20 MR. SUAREZ: No, I did not. I was on duty
21 and I was leaving. He came in as a boss.

22 MR. SIMLAR: The story that we get, Jose,
23 on that, is that you walked in with Dave Frederick and
24 you asked battalion chief Lesnau if Chris Andary was
25 going to be here because you needed to speak with him.

1 He said, yes, there was something happening and Chris
2 would be here about 9:30. This was prior to 9:30.

3 MR. SUAREZ: He misspoke. He said that I
4 walked into the station to speak with Chris Andary.

5 MR. FOURNIER: No. I asked were you here to
6 speak with Chris Andary that day, here, which is
7 essentially the same question that Mark was asking.

8 MR. SUAREZ: Yes, I came in here, I went to
9 the office to speak to --

10 MR. FOURNIER: Why were you here that day?

11 MR. SUAREZ: I was going to speak to Chris
12 Andary.

13 MR. FOURNIER: Why?

14 MR. SUAREZ: Because I wanted to know what
15 was going on.

16 MR. FOURNIER: With?

17 MR. SUAREZ: With the situation -- he's my
18 union president and I'm paying dues, and I had a
19 question as to what is going on with what's going on
20 here. I have audio from a union person telling me
21 that Chris Andary told all the membership, we need to
22 start recording and writing down everything this guy
23 says. So I had a question for Mr. Andary as to why
24 are you colluding or why are you trying to get people
25 to write letters on stuff that's not happening, and

1 when I was standing in battalion chief Lesnau's
2 office, he goes, why are you here? I'm like, oh,
3 because Donald Prince is coming down with Stevenson, I
4 just want to talk to Chris for a minute. What do you
5 want to talk to him about? I said, well, I want to
6 ask him why he's trying to get people to write letters
7 and why everybody's trying to drum up this false
8 narrative on me or what his intentions are. And then
9 he goes, you're not going to let that go? And I'm
10 like, battalion chief, to say I'm not going to let
11 that go is to imply that it's already behind us,
12 nothing's been done and I'm just -- and then he says,
13 get out of my office, and I left. And then I hear
14 from a third party that the rumor floating around is
15 that I was in there yelling at anybody. That's not
16 true. That is not true.

17 MR. FOURNIER: I think we all need to agree
18 to stop leaving rumors, to the best of our abilities.

19 MR. SIMLAR: I find it coincidental that
20 you were here the morning that Stevenson was here for
21 a disciplinary hearing, that you showed up here and
22 that again, I think this is an example of what I just
23 said earlier, everybody knows everybody's business.
24 Did you have any conversations with Mr. Stevenson
25 about his disciplinary hearing?

1 MR. SUAREZ: Everybody already knew what he
2 did.

3 MR. SIMLAR: Did you have any conversation
4 with --

5 MR. SUAREZ: He had a conversation with me
6 about coming down here, and he told me exactly what he
7 did and exactly how it went down in the hospital and
8 how he shared whatever. He shared that with me.

9 MR. SIMLAR: And what was your advice to
10 him?

11 MR. SUAREZ: What was my advice to him?

12 MR. SIMLAR: Did you have anything to say
13 about it?

14 MR. SUAREZ: I don't recall any advice that
15 I gave him at all.

16 MR. SIMLAR: None at all?

17 MR. SUAREZ: No. What was I alleged to
18 have said to him?

19 MR. SIMLAR: It's not important.

20 MR. FOURNIER: Do you recall Chris Andary
21 seeking from you or advising you to contact other
22 union officials and not him?

23 MR. SUAREZ: Yes, and that was after
24 January 18th, because during that conversation when he
25 yelled at me and I hung up on him, he must have gone

1 off for a few more minutes and then hung up. He
2 thought he was hanging up on me but yet he butt dialed
3 me. I have three minutes of audio of him talking to
4 lieutenant Sulikowski and captain Lasczyk with me
5 being a fly on the wall and him calling me a liar,
6 calling me a mother fucker, calling me all kinds of
7 stuff, and I could hear them all talking.

8 MR. FOURNIER: Is that something you can
9 produce for the city?

10 MR. SUAREZ: Actually, I've been told that
11 that could be felony eavesdropping if I were to
12 produce that as a matter of record? So I am not going
13 to produce that.

14 MR. FOURNIER: Generally speaking, I don't
15 have the power to give you directive orders, but I
16 think it would be appropriate and the City of Warren
17 would prefer moving forward, and perhaps the
18 commissioner will codify this, to disclose when you
19 are recording conversations.

20 MR. SUAREZ: Sure.

21 MR. FOURNIER: Because if you're in a fire
22 station, you could be conducting inadvertent
23 eavesdropping of people who are in another area of the
24 station. It's obviously something -- official
25 meetings, I have absolutely no problem, but there's a

1 lot of instances where undisclosed recording is
2 obviously not advisable.

3 MR. SUAREZ: The one day at the station my
4 boss was recording me and trying to get me to admit or
5 trying to coerce me into a conversation to say that --
6 he was asking questions do you have friends on duty,
7 did you threaten to put a hole at Station 4, asking me
8 questions while he's recording me, and I never said
9 any of this, and your intentions are very clear to me.

10 MR. FOURNIER: Have you ever gotten in a
11 physical altercation with your coworkers?

12 MR. SUAREZ: Never.

13 MR. FOURNIER: Have you ever threatened
14 such?

15 MR. SUAREZ: Never.

16 MR. FOURNIER: You made any physical--

17 MR. SUAREZ: I never threatened anybody
18 with physical violence. That's never happened.

19 MR. FOURNIER: So we talked a moment ago
20 about lieutenant Hensley; what else has happened since
21 January that would be ongoing harassment?

22 MR. SUAREZ: Well, the other day I was in a
23 conversation, I was detailed to station 5, and I was
24 on the squad with firefighter Evan Bueller, and while
25 we were in the vehicle, either going on a detail or

1 going to a call or whatever, we were in the squad
2 together, he initiated something saying, hey, just to
3 let you know, I want nothing to do with anything you
4 have going on. Most people here feel the same way.
5 We're out of it, what you have going on is what you
6 have going on and we don't want to be part of it. And
7 I told him basically, implicitly, well, just so you're
8 aware, everything that I have going on, my complaints,
9 my concerns have already been filed with the city,
10 already been filed with the appropriate agencies and
11 that's all I'm concerned with. I'm not looking to
12 report anybody else or write anything down.

13 And then I made the comment that, but some
14 people around here can't help themselves. They're
15 still trying to lash out in any way possible, and I
16 made a comment about lieutenant Hensley and him trying
17 to elicit his wife to impact me at the hospital, to
18 which, over this past (inaudible), Evan Bueller
19 contacted Chris Andary, they contacted my lieutenant,
20 stirred up a hornets nest, my lieutenant's upset
21 because he heard something. I found out today that
22 Evan Bueller was telling them or telling Andary that,
23 I told Suarez I didn't want to hear about it, I told
24 him to shut up three or four times, I didn't want to
25 hear what was going on. That conversation never

1 happened.

2 MR. FOURNIER: Let me ask a question that I
3 don't really want to but I think I need to. What did
4 you expect him to do? He told you I don't want to
5 talk about it.

6 MR. SUAREZ: I never told me that.

7 MR. FOURNIER: I thought you just said he
8 did.

9 MS SUAREZ: No. I'm saying that he's
10 telling them that he told them --

11 MR. FOURNIER: But he also told you, you
12 just told us he said to you, I don't want to be a part
13 of what you've got going.

14 MR. SUAREZ: Right, to which, he said, I
15 don't want to be involved in any of that, I just want
16 to stay clear of that, and I'm like, no problem, man,
17 and just to let you know, I am not trying to do
18 anything above and beyond what's already been done; to
19 which he made it sound to Andary, who then contacted
20 my boss, that it was something where I was pushing my
21 point. Again, I did not, I just simply responded to
22 him saying I don't want to involve anybody else. That
23 was my comment. And by my stating that there's still
24 people that still go above and beyond to try to
25 include me in stuff, they're perpetuating this, not

1 me.

2 MR. FOURNIER: Jose, just from our
3 standpoint, if you understand what we're looking at.
4 On May 15th, you filed an EEO charge against the City
5 of Warren.

6 MR. SUAREZ: Yes, sir.

7 MR. FOURNIER: Right? On May 8th, you had
8 a confrontation, however you want to describe it, I'm
9 not labeling it, with battalion chief Lesnau
10 concerning the same issues they brought up in January,
11 where he said he didn't really want to hear about
12 anymore and he asked you to leave his office. I'm not
13 trying to categorize it as yelling or anything.

14 MR. SUAREZ: Sure.

15 MR. FOURNIER: And then just recently this
16 Evan Mueller said there was something that happened in
17 the squad where he said he didn't want to be a part of
18 it and he doesn't want to hear about it.

19 MR. SUAREZ: Nothing happened in the squad.
20 He brought it up, in May --

21 MR. FOURNIER: In May, you keep saying
22 you're not trying to do anything, other people keep
23 bringing it up and you're not, for lack of better
24 word, lamenting over what happened in January, but
25 yet, there's three incidents in May where we've gotten

1 a report where you're upset about this.

2 MR. SUAREZ: Rightfully so. It's one thing
3 to be upset, it's another thing to perpetuate a
4 problem. Nothing that has happened here as a result
5 of my letter or anything that I have going on outside
6 of this department has affected my ability to do my
7 job or perform my duties.

8 MR. FOURNIER: But I will say from a
9 layman's perspective, you're visibly upset today.

10 MR. SUAREZ: Sure.

11 MR. FOURNIER: And understandable, we're
12 not dismissing it. I'm just saying what we're hearing
13 and what we're finding.

14 MR. SUAREZ: Just to clarify. My coming
15 here to speak to Mr. Andary was because I knew he was
16 going to be here on behalf of Mr. Stevenson.

17 MR. FOURNIER: Right.

18 MR. SUAREZ: My conversation with the
19 battalion chief, when he asked me why are you here,
20 asked me why are you here, and I told him I want to
21 talk to Chris. He says, why don't you just let that
22 go? And I'm like, chief, to imply I should let it go
23 is to say that it's over, it's under investigation,
24 nothing's been resolved here and I was wondering
25 what's going on.

1 MR. SIMLAR: Again, nothing's been resolved
2 as you see it. Right? Let's be honest. When we talk
3 about, you keep saying nothing was done --

4 MR. FOURNIER: And I want to put a finer
5 point on Mark's comments and I want to try to say
6 focused. Yes, you said that you have not been
7 subjected to harassment by these two individuals since
8 then, I've asked you that question.

9 MR. SUAREZ: That's correct.

10 MR. FOURNIER: But you've also said that
11 your new unit and new crew is good, you're enjoying
12 that time.

13 MR. SUAREZ: Sure.

14 MR. FOURNIER: On May 8th, you came to me
15 with Chris Andary, after he had told you do not
16 contact me, I'm not the appropriate person to rectify
17 your case any longer. So why did you come there that
18 day?

19 MR. SUAREZ: Because he's my union
20 president and I had a question for him.

21 MR. FOURNIER: But if he said to you in his
22 service and said look, and I think he did, I think you
23 said this, I'm not -- why don't you contact one of
24 your fellow stewards or the vice-president --

25 MR. SUAREZ: I think it was Joe Roth.

1 MR. FOURNIER: So I'm just trying to
2 understand why you made that decision.

3 MR. SUAREZ: Why I went to Andary?

4 MR. FOURNIER: Yes.

5 MR. SUAREZ: Why I went to Andary is
6 because I was told by someone that I had recordings,
7 that Mr. Andary has been approaching everyone telling
8 them, write down a report, everything Jose Suarez does
9 and says. Also, Mr. Andary has made multiple attempts
10 to solicit letters to be written by my immediate
11 lieutenant, also he went to specific crew members on
12 my crew and said, will you write this down for Suarez,
13 and they said no. They immediately said, I'm not
14 getting involved in that, I'm not going to write a
15 letter on him.

16 MR. FOURNIER: So if you saw him that day,
17 what would you have done?

18 MR. SUAREZ: Are you kidding me? I
19 wouldn't have done nothing. I would have asked him
20 his intentions as to why he's trying to collude or
21 trying to coerce my immediate coworkers into writing
22 letters and trying to promote a false narrative of
23 whatever. Just like when I came in here the other day
24 when I had Scott and Sean Miller here, my union
25 representation, the chief sat there and the

1 commissioner sat where you sat, sir, the whole
2 conversation started with, how is your mother and out
3 of concern for my well-being, and then I was basically
4 told that I might be submitted to some psych evals,
5 which I asked what are the grounds for that because,
6 people have stresses outside of this job with
7 divorces, with children, with family stuff, and no one
8 has ever been subjected to anything like that, so why
9 are you telling me at that I might be subjected, and
10 if he's into that false narrative of Mr. Andary,
11 trying to get paperwork or trying to establish a paper
12 trail with me as was told to me that the commissioner
13 even said when I submitted my letter back in January.

14 MR. FOURNIER: Do you consider yourself to
15 be stressed right now?

16 MR. SUAREZ: No, honestly. I
17 compartmentalize really well. Do I have stress in my
18 life? No more or less than anybody else. This whole
19 situation is somewhat stressful, because I feel that I
20 don't have union representation, I feel that my
21 administration does not really have my best interest
22 in mind.

23 MR. FOURNIER: Did you approach Mr. Roth in
24 the weeks prior to your attempt to meet Mr. Andary
25 directly about your concerns that you weren't being

1 represented and you felt that the union was attempting
2 to ostracize you or single you out?

3 MR. SUAREZ: Yes. They have.

4 MR. FOURNIER: You spoke to Mr. Roth about
5 that?

6 MR. SUAREZ: Yes.

7 MR. FOURNIER: As your union --

8 MR. SUAREZ: As my union secretary, I said,
9 hey, why is the union doing this?

10 MR. FOURNIER: And how did he respond to
11 your concerns?

12 MR. SUAREZ: He said that he was sorry that
13 this whole thing is out of control, and I just got
14 elected, man, and he basically apologized and said
15 that this thing has got way out of control on both
16 sides, is what he said.

17 MR. FOURNIER: Do you think it has gotten
18 out of control?

19 MR. SUAREZ: I think the amount of coercion
20 of my union president attempting to get guys to write
21 letters on me, my immediate crew, the lieutenant in
22 another house on the same unit using his wife to get
23 to people at the hospital to discredit me or to create
24 a hostile environment for me there, I think it's
25 getting a little bit like, I mean --

1 MR. FOURNIER: Can I ask you, do you think
2 that you've contributed to the hostile work
3 environmental at all? Have you done anything that you
4 regret? Do you think about, I wish I would have or
5 wouldn't have done something? Is there something that
6 you've done to contribute to this situation?

7 MR. SUAREZ: I have, I wrote a letter in
8 January and I filed with the MERC and EEOC.

9 MR. FOURNIER: You filed with MERC, is that
10 the same?

11 MR. SUAREZ: No, EEOC is the Equal
12 Employment --

13 MR. FOURNIER: Unfair labor practice?

14 MR. SUAREZ: MERC is unfair labor practice
15 for my union president infringing upon my rights, my
16 first amendment rights as well as my rights under
17 (inaudible).

18 MR. FOURNIER: When did you file that?

19 MR. SUAREZ: I want to say possibly the
20 18th or 19th.

21 MR. FOURNIER: Of May?

22 MR. SUAREZ: Of May.

23 MR. FOURNIER: So in the last week?

24 MR. SUAREZ: Yes.

25 MR. FOURNIER: Against your union, you did

1 that?

2 MR. SUAREZ: Yes.

3 MR. FOURNIER: What changed or what caused
4 you to pick this back up? I've tried to explore with
5 you the intervening cause of discrimination or hostile
6 work environment from January till May, and it seems
7 like we've got the one instance related to the
8 hospital specifically, was there anything else?

9 MR. SUAREZ: Honestly, general disposition,
10 the ostracizing, the whispers, the rumors, nothing
11 that I can substantiate. I can't sit here and say oh,
12 Scott punched me in the face that day, there's nothing
13 like that, but everything is overt, it's subtle but
14 yet overt when it comes to the ostracizing and the
15 attitudes. Knowing and hearing that -- there are
16 people in this department that have said hey, the
17 union president said this or this is what's going on,
18 watch yourself. So the fact that I'm hearing all this
19 stuff that's been going on since January, since the
20 submission of my letter, and what has been attempted
21 by people to discredit me or try to compile paperwork
22 or paper trail or whatever, that causes me concern,
23 because at that point, where is that going to end?

24 MR. FOURNIER: I think that gets back to --
25 and I'm sorry, when I asked you if you contributed to

1 any of this. You did admit to us you recorded
2 conversations.

3 MR. SUAREZ: I recorded some conversations,
4 yes.

5 MR. FOURNIER: And Jose, because there are
6 no secrets in this place, that's common knowledge that
7 you either told people.

8 MR. SUAREZ: Yes.

9 MR. FOURNIER: You understand that people
10 don't want to be recorded in the station house and may
11 not want to speak with you, in fact, if they think
12 they've been recorded, and you kind of told people I
13 do record people. So do you see how that, you're
14 saying perpetuating this false narrative against you,
15 but you've admitted to us that you do this recording
16 and that may put people off.

17 MR. SUAREZ: I understand that, but what
18 the funny thing is, when I go to my union president,
19 when I go to an officer, when I go to a lieutenant and
20 no one is heeding my concerns, when I write a five-
21 page single-spaced letter that no one is heeding my
22 concerns --

23 MR. FOURNIER: Let me go back for a moment.
24 That's your belief. Your complaint was you're being
25 subjected to a hostile work environment in your

1 present position in your unit with your station
2 assignment; particularly most of your letter was
3 focused on one individual, but you've expanded that to
4 include two. But you've now said you haven't faced
5 any discrimination by the two of them since you've
6 made that complaint.

7 MR. SUAREZ: No, but as a result of my
8 letter and my complaint, there has been hostility
9 towards me within this work environment, as far as my
10 recording --

11 MR. FOURNIER: But it's not because of a
12 failure to address your concern from the city's
13 perspective.

14 MR. SUAREZ: No, no.

15 MR. FOURNIER: You said two people are
16 mistreating me and an investigation was conducted,
17 arrangements were made, changes have been made,
18 apparently the two people who are the focus of that
19 are not causing you in any problem.

20 MR. SUAREZ: Sure.

21 MR. FOURNIER: So we're now fast forwarding
22 six months, five months, and, what we're really
23 dealing with a separate and distinct issue. You're
24 saying I'm being mistreated because I raised these
25 allegations by people other than them.

1 MR. SUAREZ: Absolutely.

2 MR. FOURNIER: It's important, maybe it's
3 because I'm an attorney, to distinguish that. You're
4 now saying because I came forward, because there was
5 an investigation, because some level of corrective
6 measures were put in place, I am now being retaliated
7 against.

8 MR. SUAREZ: And I am, and there's proof of
9 that with Mr. Andary's comment to me on the 18th, the
10 general vitriol and hostility towards me by my union--

11 MR. FOURNIER: But he's also removed
12 himself from the process because he feels that he's
13 now part of the dialogue.

14 MR. SUAREZ: You know what, sir --

15 MR. FOURNIER: From an official
16 perspective. I'm not here to defend your union, but
17 he's also said, respectively, on May 18th you chose to
18 confront him, he's now become part of the problem.
19 Don't misconstrue the term confront, speak with him,
20 I'm not trying to load that statement. But he said
21 gosh, I'm not part of this problem, regardless of how
22 you feel how he said it.

23 MR. SUAREZ: And two weeks ago, he put
24 himself into that situation again by soliciting my
25 boss to write a letter as well as my immediate

1 coworkers to write letters on me. So his hostility
2 towards me still continues.

3 MR. FOURNIER: And what caused him to wish
4 those people to write those letters?

5 MR. SUAREZ: Some hearsay comment that I
6 allegedly made, I'm not sure what it was because no
7 one will tell me. Again to hear that oh, you're
8 asking me questions about something I told Stevenson.
9 Put it out there; what did I allegedly tell Stevenson
10 so I can either dispute it or I can say yes, I said
11 it. I don't know.

12 MR. FOURNIER: You said you didn't tell him
13 anything.

14 MR. SUAREZ: That's what I'm saying, but
15 whatever these alleged comments that other people --

16 MR. FOURNIER: Jose, I think you're reading
17 a lot into these and this is, some of my concerns is,
18 you said you didn't have any conversation with him or
19 any opinion about his disciplinary hearing, and I
20 trust at this point that you're telling me the truth.
21 You don't need -- I see that's bothering you. I can
22 see that that comment, me telling you it's not
23 important is really bothering you, you brought it up a
24 couple of times.

25 MR. SUAREZ: It's really not, because I

1 was approached and he said I'm not going to write
2 anything down, this has nothing to do with me. And my
3 lieutenant (inaudible) --

4 MR. FOURNIER: You understand that most
5 people are not confrontational?

6 MR. SUAREZ: I understand.

7 MR. FOURNIER: Would it surprise you if
8 these people made a complaint to Chris Andary and his
9 advice to them is, without soliciting them, if you
10 want anything done, you need to put it in writing; do
11 you understand how there's a subtle difference there?

12 MR. SUAREZ: I do.

13 MR. FOURNIER: You're saying Chris Andary
14 solicited these comments and he walked around
15 basically --

16 MR. SUAREZ: He called these individuals
17 and said write stuff down.

18 MR. FOURNIER: You don't know for sure.

19 MR. SUAREZ: I do, because that's what he
20 said.

21 MR. FOURNIER: But he didn't tell you what
22 it was?

23 MR. SUAREZ: Yeah.

24 MR. FOURNIER: But he says hey, Jose,
25 you're not going to believe this. Chris wants me to

1 write a complaint about you, and you didn't say about
2 what? What complaint?

3 MR. SUAREZ: When I said what did he say,
4 he just shook his head.

5 MR. FOURNIER: And none of the witnesses--
6 hold on. None of the witnesses that will testify to
7 being directed to write a complaint about you will
8 tell you what the complaint was about?

9 MR. SUAREZ: All I know, all I can tell
10 you --

11 MR. FOURNIER: Simple question.

12 MR. SUAREZ: I can only tell you what I
13 know.

14 MR. FOURNIER: And you don't know?

15 MR. SUAREZ: I don't know. No one's
16 informed me of anything. I mean, it's amazing how in
17 one regard people are very tight lipped, and in
18 another regard, they just spew whatever they want.

19 MR. FOURNIER: It's very peculiar to me
20 that someone would come up to you and say hey, guess
21 what, so and so wants me to write a complaint about
22 you but I'm not going to do it. Did you ask them.

23 MR. SUAREZ: He didn't come up to me. We
24 were at the roundtable having a discussion about
25 related facts and what was going on with me, with

1 regard to, how you doing, how you holding up, because
2 this and this is going on and I'm hearing this. So it
3 was an internal discussion between me and my crew --

4 MR. FOURNIER: One time?

5 MR. SUAREZ: Yes.

6 MR. FOURNIER: So this only occurred at one
7 table setting?

8 MR. SUAREZ: Yes. And that's when --

9 MR. FOURNIER: When?

10 MR. SUAREZ: Honestly, it was within the
11 last month, month and a half tops.

12 MR. FOURNIER: And a group of people are
13 saying yeah, I've heard he wants me to write
14 complaints about you?

15 MR. SUAREZ: When he said somebody
16 approached me to write a letter on you or to
17 document -- or I was told by Chris Andary to start
18 writing down everything you do and say, and that came
19 out after the fact. The initial statement to me was
20 that, yeah, somebody in the union told me I need to
21 write a letter, I'm like who? He didn't say nothing.
22 I later found out that it was Chris Andary.

23 MR. FOURNIER: How did you find out?

24 MR. SUAREZ: Through them. Eventually it
25 came out. I talked to one guy, I came back and

1 basically, I called Jeremy on his day off on Saturday
2 when it was my day off as well, and I'm like hey,
3 what's going on? Because when I had that conversation
4 with Chris Andary when he came in Station 1, I had
5 this conversation with him and said what are your
6 intentions, and he was recording me the whole time.

7 MR. FOURNIER: Wroblewski, who else?

8 MR. SUAREZ: That I've talked to?

9 MR. FOURNIER: No, who said we've been
10 asked to write letters about you.

11 MR. SUAREZ: Andary has called my immediate
12 supervisor, lieutenant --

13 MR. FOURNIER: Who talked to you is that
14 I'm asking.

15 MR. SUAREZ: I was told that Andary made
16 these phone calls to people.

17 MR. FOURNIER: Who?

18 MR. SUAREZ: My lieutenant.

19 MR. FOURNIER: Your lieutenant is Zannon,
20 correct?

21 MR. SUAREZ: Correct.

22 MR. FOURNIER: If we ask him about this,
23 he'll tell us that --

24 MR. SUAREZ: Did Andary contact you, yes.

25 MR. FOURNIER: And solicited -- again, not

1 trying to load the question but I think that's the
2 word you were using was solicited, correct?

3 MR. SUAREZ: Yes.

4 MR. FOURNIER: That out of the blue, he
5 just, Chris Andary called him and said, I want you to
6 start writing letters about Jose.

7 MR. SUAREZ: I'm not sure the nature of it
8 but -- their conversation was said to me like this.
9 Their conversation went with Chris Andary telling my
10 lieutenant, well, you should write a letter, and I'm
11 not sure what letter he wrote or who it went to or if
12 he wrote a letter or whatever else, but then called
13 Jeremy Wroblewski on his own time and said hey --

14 MR. FOURNIER: Zannan did?

15 MR. SUAREZ: No, no. Chris Andary.

16 MR. FOURNIER: And Wroblewski told you
17 this?

18 MR. SUAREZ: Yes.

19 MR. FOURNIER: So you spoke to Zannan and
20 Wroblewski, who else?

21 MR. SUAREZ: I've been talking to Steve
22 about things and he's like, you need to shut up and
23 not talk to anybody about anything, just let things
24 play out and I'm like, you're right.

25 MR. FOURNIER: Who else told you about the

1 letters, the complaints, who else did you have direct
2 conversation with about that?

3 MR. SUAREZ: Scott Polsen.

4 MR. FOURNIER: He basically told you that
5 Chris Andary --

6 MR. SUAREZ: Everyone, that we need to
7 start recording and writing down everything that Jose
8 Suarez does. That was in a conversation that Scott
9 and I had.

10 MR. FOURNIER: When did that happen?

11 MR. SUAREZ: Couple weeks ago now.

12 MR. FOURNIER: And did you ask him why?

13 MR. SUAREZ: Did I ask why? I don't think
14 so. I'm him just saying what he said was enough for
15 me to draw the conclusion that apparently Chris is
16 trying to compile something for a false narrative or
17 trying to compile information on me for whatever
18 reason, to whatever end, which again, a layperson
19 would see as something that he's trying to do much to
20 my detriment.

21 MR. FOURNIER: Why?

22 MR. SUAREZ: Why? Because he's upset, and
23 again, Scott --

24 MR. FOURNIER: This is not for you, it's
25 because of what's going on, it's not, just whatever he

1 says, write it down, it's because of what's going on
2 and where it's led to is why. So is it your
3 impression that Chris said this is a mess, not
4 criticizing you in that statement, we've got EEOC,
5 we've got City of Warren, we can't talk about this
6 without documenting everything, is that your
7 impression?

8 MR. POLSEN: Yeah.

9 MR. SUAREZ: And Styles also went as far as
10 to say that although Mr. Andary's conduct is very
11 unprofessional and his personal vendetta against me is
12 unprofessional, that what he is doing, and I'm
13 quoting, he's right here, that his personal vendetta
14 against me is unprofessional, but at the same time,
15 what he's doing is for the benefit of the whole union
16 and his department.

17 MR. POLSEN: As a whole.

18 MR. SUAREZ: As a whole. Which is by law,
19 the union representative's right to do so, because the
20 needs of the one don't always meet the needs of the
21 many, but at the same time saying I shouldn't have
22 written the letter, exercising my right, okay, and
23 you're trying to shut me up.

24 MR. FOURNIER: I appreciate your comment,
25 I'm going to ask that we minimize that just because --

1 MR. POLSEN: It's out of our control. I
2 can't really do much about that.

3 MR. FOURNIER: Clearly, and also you don't
4 have representation here today, so we don't want you
5 to say anything. So thank you, but let's remain
6 focused on the task at hand. So he's now said hey,
7 record everything, it's a big problem. Why does he
8 have a personal vendetta against you? How has it
9 manifested itself?

10 MR. SUAREZ: He's tried to talk to me
11 multiple times when we sat here before with captain
12 Lasczyk and Chris Andary, and the chief was sitting
13 right here at the corner, Chris Andary went as far as
14 to say hey, listen, there's three different ways we
15 can get the same result here, we don't have to involve
16 the city, we don't have to involve admin, we can do
17 all this inhouse. To which my response was, Chris,
18 really? Sulikowski and Lasczyk go way back. Why
19 didn't you go to your captain? Because lieutenant
20 Sulikowski and Lasczyk are buddies.

21 MR. FOURNIER: So it's your opinion that
22 Andary was upset that you went --

23 MR. SUAREZ: He went as far as to tell me
24 on January 18th, on speaker phone in front my mother
25 and cousin, that I should have never written a letter,

1 I should've kept my f'ing mouth shut, to the point
2 where he starting screaming other offensive stuff like
3 you're a man, you can't control yourself, you've got
4 big balls, and then I hung up on him because at that
5 point now you're being offensive and you're trying to
6 antagonize me. Then he tried to record me the other
7 day at Station 1 asking me, have you ever drank on
8 duty, do you believe you're a good fit for this
9 department, trying to incite a response where I would
10 be like --

11 MR. FOURNIER: You haven't spoken to him
12 since?

13 MR. SUAREZ: I have not, no. And my --

14 MR. FOURNIER: Except when you came here it
15 that day to speak to him?

16 MR. SUAREZ: That was before he tried to
17 record me. When I came here to speak to him, I came
18 here to see him.

19 MR. FOURNIER: But you didn't see him for
20 four or five months, right?

21 MR. SUAREZ: I did not see him for four or
22 five months.

23 MR. FOURNIER: So what manifested, what
24 outward creations of his intimidation to you were
25 taking place?

1 MR. SUAREZ: Hearing that he was trying to
2 solicit from my crew and other people around me within
3 my periphery to write things down, to document
4 everything that I do and say, to record me if
5 necessary.

6 MR. FOURNIER: So that happened within the
7 last few weeks?

8 MR. SUAREZ: That happened, yes, that
9 happened --

10 MR. FOURNIER: Prior to that --

11 MR. SUAREZ: Yeah, that --

12 MR. FOURNIER: Prior to that, anything?

13 MR. SUAREZ: No. I mean, most recently it
14 was the Chris Andary soliciting my peers.

15 MR. FOURNIER: Are there any other relative
16 facts from the previous complaints of harassment,
17 hostile work environment, that you did not disclose?

18 MR. SUAREZ: Not that I'm aware of, sir. I
19 disclosed the threats of physical violence, I
20 disclosed the racist comments which I just elaborated
21 on.

22 MR. FOURNIER: Are there specifics that are
23 relevant that we are not aware of of any kind?

24 MR. SUAREZ: No, sir.

25 MR. FOURNIER: Racial, physical threats?

1 MR. SUAREZ: Just the physical threats I
2 have already documented in detail.

3 MR. FOURNIER: Nothing beyond what's
4 contained there?

5 MR. SUAREZ: Nothing beyond that, nothing
6 beyond the racial comments that I've been subjected
7 to.

8 MR. FOURNIER: Can we take a moment and go
9 off the record?

10 (Off the record).

11 MR. FOURNIER: We are back on the record at
12 11:10 a.m. I want to ask you a few more questions.

13 MR. SUAREZ: (Inaudible).

14 MR. FOURNIER: Your union is here and that
15 is your lawful representative.

16 MR. SUAREZ: Okay.

17 MR. FOURNIER: Under the Collective
18 Bargaining Agreement. In terms of your present work
19 condition, is it true that you recently gathered your
20 belongings from the station, cleaned out your locker;
21 is that true?

22 MR. SUAREZ: All my stuff is still in my
23 locker, I just don't need to keep a million papers and
24 stuff that I've had for the past few years.

25 MR. FOURNIER: So you still have your stuff

1 in your locker?

2 MR. SUAREZ: Yes, my bedding and everything
3 else. And I still have a lock on it.

4 MR. FOURNIER: Have you always not had a
5 lock?

6 MR. SUAREZ: No, I put on a lock on it
7 before because I had personal stuff pictures and stuff
8 and I didn't want anybody going through there.

9 MR. FOURNIER: So you took all your
10 personal belongings?

11 MR. SUAREZ: Yes, pictures and stuff like
12 that.

13 MR. FOURNIER: Can I ask why?

14 MR. SUAREZ: Because my locker became a
15 catchall for clothing, uniforms, paperwork, documents
16 of buddy reliefs and schedule stuff, and I just took
17 all of that out because it dated back to 2015.

18 MR. FOURNIER: So it was housekeeping?

19 MR. SUAREZ: Pretty much. And the only
20 thing I think that's there right now, there's a pair
21 of shoes, my bedding and no lock on my thing.

22 MR. FOURNIER: Is there no reason you don't
23 have a lock? You keep raising that.

24 MR. SUAREZ: I'm simply saying because
25 there are no personal effects or valuables, because

1 we've had thefts at Station 1. We've had wallets, we
2 had a firefighter's stuff, had nine hundred dollars
3 taken out of his wallet along with a laptop or iPad
4 that was in his locker. Whether it was done by
5 somebody in the union or vagrant came in the back door
6 and it was left open. So at that point it was lock
7 your stuff up, don't leave anything in your lockers
8 because you never know who's bound to walk in here.

9 MR. FOURNIER: That just seems peculiar to
10 me that you keep raising the fact that you don't have
11 a lock on your locker.

12 MR. SUAREZ: Because there's nothing
13 valuable believe in it. I didn't keep anything, I
14 said it twice. I said it twice. I simply said that
15 those personal belongings are out of my locker and
16 that the only thing in there is bedding. If somebody
17 wants to take my shoes or slippers or take my sleeping
18 bag that I've had for ten years, by all means, help
19 yourself.

20 MR. FOURNIER: So the timing wasn't in your
21 opinion in any way related to our present situation?

22 MR. SUAREZ: No.

23 MR. FOURNIER: I'm going to provide you a
24 printout of a text message and I want to ask if you
25 wrote this.

1 MR. SUAREZ: Absolutely.

2 MR. FOURNIER: I apologize in advance for
3 some of the terminology in that communication.

4 MR. SUAREZ: Don't worry about it.
5 Absolutely. This was actually --

6 MR. FOURNIER: Do you think that was
7 appropriate?

8 MR. SUAREZ: Well, that I contacted him,
9 this was the culmination of December --

10 MR. FOURNIER: The terms, I mean what you
11 said to him. I don't have any interest in restricting
12 your right to communicate with coworkers, but I'm more
13 curious is if you think what you said was appropriate.

14 MR. SUAREZ: At the time, I did apparently.

15 MR. FOURNIER: Do you still feel that way?

16 MR. SUAREZ: No, I don't. But this is
17 indicative of what transpired for the better part of
18 two and a half plus years, and I just had enough, like
19 I told you, listen, you threaten me with physical
20 violence, you threaten me with (inaudible), there's
21 nothing I can do about it. You're in a position of
22 authority, you're a large man, what's next? Between
23 the racist comments, between your assaultive behavior,
24 between your threats of physical violence, this has
25 been ramping up over two years.

1 MR. FOURNIER: Did you ever try to correct
2 this problem yourself outside of that e-mail?

3 MR. SUAREZ: As in how? No.

4 MR. FOURNIER: You made pretty clear
5 statements about how you think you should resolve the
6 dispute between the two of you.

7 MR. SUAREZ: No, I simply said if you want
8 to assault me, there's places, because there are
9 people, members of this department that practice MMA,
10 I've gone to MMA gyms with people within this
11 department and sparred and rolled around, so I said if
12 you're going to assault me and threaten me with me
13 violence, there's an appropriate venue to do that in.
14 We can sort this out and then go on our happy way with
15 no one worrying about losing your job or being
16 assaulted or anything like that. And that is the
17 context in which that was said. But I never
18 threatened the man to go to his house, I never
19 threatened that I'd punch him or assault him. I never
20 made any physical threats to his person. I simply
21 said in this, I will give you the opportunity to slap
22 me around as you said in an appropriate venue so that
23 way there's no legal or adverse effects on either one
24 of us in our careers.

25 MR. FOURNIER: From a human resources

1 standpoint, calling someone out even in an MMA ring or
2 as you put it a legal standpoint is a huge problem in
3 human resources.

4 MR. SUAREZ: I'm sure. Just as being
5 threatened with physical violence on the job by a
6 superior officer.

7 MR. FOURNIER: Can I ask you a couple
8 questions about that? Because you paint the picture
9 that from the time that you started working with
10 through lieutenant Sulikowski, that there has been an
11 abusive relationship; that he's created this hostile
12 work environment and said all these things, and we've
13 talked with him and gotten a flavor for his -- he's an
14 animated person, as you are as well. He paints a bit
15 of a different picture. He was telling us that you
16 were friends, that you guys really got along well and
17 that there were times where you guys would stay up,
18 you would watch politics, you guys had good
19 conversations about it, you kind of invested in him
20 some of your things that were going on with your
21 mother and --

22 MR. SIMLAR: I think he acknowledges that
23 you helped him out in his job too with things that
24 maybe he wasn't as good at as perhaps you were.

25 MR. FOURNIER: Yes, in regard to paperwork

1 and things like that. Even to the point where --
2 again, I might be saying this wrong, so, somebody, I
3 don't think it's in the department, but might have
4 been an acquaintance of both yours and Jim's was going
5 to go to D.C., and that you kind of said you wouldn't
6 mind going with them.

7 MR. SUAREZ: That's Dennis (inaudible),
8 because they were going to talking about going to D.C.
9 and they asked me would I want to go, and I said no, I
10 don't think I can. That would be awesome to go for
11 the inauguration of Trump, but I wasn't going to go.
12 I wasn't in a position to go and I told him that I
13 wasn't going to go.

14 MR. FOURNIER: Because you disliked them?

15 MR. SUAREZ: No, had nothing to do with
16 that. Since we're become recorded here and it's all a
17 matter of record. I would simply say that at the time
18 that that D.C. trip came up, that was in November,
19 prior to the election, inauguration wasn't until
20 January sometime. During that time, during November,
21 I was not a fan of those gentlemen. I had been
22 subjected to the racist comments and the aggression
23 even prior to the actual election itself is when he
24 made the threat of ripping my head off and quote,
25 unquote, shitting down my neck. At this time we were

1 several months into his anger towards me.

2 MR. FOURNIER: Let me just ask you, was
3 there any semblance of a friendship between the two of
4 you during the time you worked together, or was it all
5 a hostile work environment? I get mixed messages.

6 MR. SUAREZ: With the friendship, again,
7 definition of friendship to you is different than
8 definition of friendship to me.

9 MR. FOURNIER: What's your definition of
10 friendship?

11 MR. SUAREZ: Did we have an amicable
12 working relationship? Of course. Because when I came
13 back to Station 4, was he was my lieutenant, and it
14 was yes, sir, no, sir, I was trying to contribute.
15 But as far as usual banter, as I stated in my letter,
16 the usual banter that is firehouse related stuff, it
17 became more and more directed towards me and more
18 personal to the point to where this isn't just some
19 guy saying oh, you're a pussy because you're afraid to
20 climb a ladder or, oh, you swinger a hammer like a
21 girl. It wasn't that usual banter, this became more
22 and more personal to where he referred to me as he
23 did, the all around N word and other things, and at
24 that point, that's when my perception of how I'm
25 perceived and how this man values me as a coworker or

1 as a subordinate changed.

2 MR. FOURNIER: He tells us he valued you
3 quite a bit, and again, I'm not going to justify that
4 word under any circumstances, but according to him, he
5 valued your work and it sounds like, am I
6 mischaracterizing your friendship, more than you did.

7 MR. SUAREZ: I will be honest with you,
8 sir.

9 MR. FOURNIER: That's all I'm saying.

10 MR. SUAREZ: Friendship, I have a
11 friendship with fire engineer Daniel Doughty. We go
12 back some 30 some years. That is a friendship. I
13 have never, ever in my life so much as tipped a beer
14 with Mr. Sulikowski, I have never socialized with him
15 outside of work. We've never called each other to
16 hang out. He is a peer/coworker/superior officer in a
17 place that I work. Now me and Scott, yeah, we're
18 friends, but have we hung out, do we go to each
19 other's barbecues, no. That's what I'm saying.

20 MR. FOURNIER: You understand, I work
21 Monday through Friday 8:30 to five, I don't live in
22 the station, I always say, I tell people when I talk
23 to firemen, it's something I'll never understand, I'll
24 never get and quite honestly, on some levels, I wish I
25 did. I don't have those kind of relationships that

1 you guys have with the brotherhood. At 5:00, I go
2 home. Quite honestly, we don't text at work or
3 anything like that, so I'm always a little curious
4 about that. That's what I'm asking that's questions
5 about friendship and camaraderie and brotherhood,
6 because that's what we were hearing and not
7 everybody --

8 MR. SUAREZ: It's hit or miss. This place
9 is like high school where me and Scott and the other
10 guys that got hired in, we're closer than say the guys
11 that got hired in 15 years before. So it's very
12 clicky. At the same time, being the new guys versus
13 the old guys, guys here for decades, it is what it is.
14 It's one of the very few traditional fire departments
15 still around as far as promoting from within,
16 promoting based on seniority, you can see a lot of the
17 firefighters have fallen by the wayside testing and
18 stuff like that.

19 So with that being said, I never had any, I
20 never had a reason to dislike James Sulikowski or
21 anybody else for any reason coming into this job. I
22 was an idealist, I believed in the principles that
23 were set forth with the brotherhood and everything.
24 My perception or my relationship with that man and Mr.
25 Ricketts and the general culture within certain groups

1 of individuals within this department were directly a
2 result of my interactions with them on a personal
3 level while at work, because I don't associate with
4 too many people outside of work and that's because I
5 run a business, I take care of my mother, I run her
6 company too, I have my own business outside of here,
7 and because I'm working hardwood floors, been doing
8 that for 20 years, there aren't enough hours in the
9 day for me to get to everything and go have a beer
10 with Scott if I wanted to. But I would make time for
11 my friends when I can.

12 So Mr. Sulikowski and I, I never considered
13 him an adversary, I never considered him a friend, he
14 was just my officer who very beginning I thought we
15 were okay getting along until his comments, like I
16 said, became more focused on me, became more vitriol
17 and became more personal and then when he gave me that
18 moniker of the all around N word, and then it became
19 commonplace to where my captain, my sergeant, this
20 guy, my subordinates were like hahaha, laugh it off
21 like it was a joke but yet I was the only one referred
22 to as that.

23 MR. FOURNIER: Aside from that, what did he
24 do to you?

25 MR. SUAREZ: He threatened me with physical

1 violence, he would intimidate me, make comments called
2 me quote, unquote, faggot, pussy, all kinds of stuff.
3 There was one day we were sitting at the dining room
4 table and I turned around, everybody turned around
5 because there was an advertisement on TV about an
6 upcoming USC fight and it's a women's fight. So one
7 of the guys makes a comment, oh, women, if I want a
8 girl, take on a whole new meaning and blah, blah,
9 blah. They're tough, they fight like men.

10 Out of nowhere lieutenant Sulikowski made a
11 comment yeah, there's plenty of faggots that think
12 they're men that drive red Jeeps. I'm the only person
13 in that station that drove a red Jeep. His comment
14 was unsolicited by me, I wasn't even looking at the
15 man, he would interject, fire one across the bow like
16 that. So much so, when that comment was made, I
17 approached Sergeant Ted Garwood, and I brought that
18 comment up to him, and he said, yeah, I found it kind
19 of odd, I didn't know what he meant by that. I found
20 it kind of odd, I didn't know what he meant by that,
21 and I'm like, you know what he meant by that because
22 I'm the only one here that drives a red Jeep, and I
23 left it at that.

24 MR. FOURNIER: When you spoke with this
25 gentleman previously, did you disclose those other

1 terms in those meetings from lieutenant Sulikowski?

2 MR. SUAREZ: They're all in that other --

3 MR. FOURNIER: I understand, was that
4 disclosed? Did you express the amount of angst that
5 that was causing you?

6 MR. SUAREZ: When I spoke to -- again,
7 this was similar, we covered a lot that day, in that
8 hour and 24 minutes.

9 MR. FOURNIER: Hour 24 minutes?

10 MR. SUAREZ: Yeah, and it was like --

11 MR. FOURNIER: Was that meeting recorded?

12 MR. SUAREZ: Yes, it was.

13 MR. FOURNIER: Did you disclose that at
14 that time?

15 MR. SUAREZ: No, I did not. It was just
16 for my own personal record. I'm not going anywhere
17 with it, but again --

18 MR. FOURNIER: You say you're not going
19 anywhere with it, but you said you have an attorney
20 that you consulted with.

21 MR. SUAREZ: He's a family friend and he's
22 been observing. We didn't speak in detail that day.
23 We were broad-stroking a lot because there was a lot
24 to cover, it was a five-page single-spaced letter. We
25 hit all the high points. The fact that I didn't

1 disclose specifics about oh, he said this and they did
2 this on this day at this time and this place, these
3 are the witnesses, that was for future investigation.
4 Nobody writes a letter like I did detailing
5 chronologically everything I did, or it's going to be
6 ten pages long and people would get --

7 MR. FOURNIER: We have the union
8 representative here, labor relations director here.
9 As a matter of course, one would hope when you're
10 given your opportunity to discuss your complaint that
11 you're going to hit those things that trouble you the
12 most. Much of what you're saying today maybe wasn't
13 highlighted in that letter, there's a lot there as
14 you've said, and clearly what appears to me as being a
15 relatively new entrant into this dispute, what
16 troubles you the most isn't what you maybe spent the
17 most time talking about the first time you met with
18 the city. It's fine, whatever the reason may be, I'm
19 just trying to understand it.

20 MR. SUAREZ: I understand. But I did make
21 it a point at later dates when I was not spoken to or
22 approached by anybody, the investigation, I'm not
23 saying it stalled, but in my opinion, I did not hear
24 back from anybody or nobody inquired of any questions.

25 MR. FOURNIER: It's interesting that you

1 say that, because I get the feeling that you believe
2 that it is the function of the city during the course
3 of an investigation that anybody from the city needs
4 to talk to you and say are you okay with how we're
5 resolving this.

6 MR. SUAREZ: No.

7 MR. FOURNIER: It kind of keeps coming up
8 that you're not really satisfied and you think nothing
9 happened. Well, I'm of a very different opinion that
10 nothing happened. But I'm curious as to what you
11 think about that.

12 MR. SUAREZ: I completely agree, and I
13 understand that no one here (inaudible) regarding how
14 and what you do to discipline anyone else. But given
15 the fact that --

16 MR. FOURNIER: Or whether discipline needs
17 to be issued at all.

18 MR. SUAREZ: Right. I'm not privy to that
19 because that's above my pay grade. I'm just a
20 fireman. The only thing I concern myself with is my
21 ability to do my job.

22 MR. FOURNIER: In a hassle free
23 environment. Right?

24 MR. SUAREZ: Yes.

25 MR. FOURNIER: Is that happening?

1 MR. SUAREZ: That has happened since
2 January 3rd, yes, sir.

3 MR. FOURNIER: You're aware of the training
4 that the city did?

5 MR. SUAREZ: Yes, as a result of my letter.

6 MR. FOURNIER: So you believe that, but
7 there may have been other reasons too.

8 MR. SUAREZ: Timing, like you said,
9 regarding the timing of my concerns --

10 MR. FOURNIER: I think Mr. Simlar's points
11 are very important. Since January 3rd, you're happy
12 with your unit, you're satisfied with your work
13 environment, working with a 30 year friend in Mr.
14 Doughty.

15 MR. SUAREZ: In a part of town that I love.

16 MR. FOURNIER: So far as your complaint of
17 working in a hostile work environment, that doesn't
18 exist anymore.

19 MR. SUAREZ: My immediate surroundings,
20 like I did before, absolutely not. But there still is
21 hostility and residual backlash as a result of what
22 I've done and the fact that my union president is
23 still --

24 MR. FOURNIER: But it sounds like,
25 respectfully, it's a fine line, your complaint is with

1 your union in terms of your union is not representing
2 you and/or your union is taking actions against you
3 that you believe -- I'm not trying to pass the buck,
4 but what I'm saying is that the city's responsibility
5 to you has been satisfied. Now whether or not you
6 believe we did the right thing and somebody should
7 have lost their job or been disciplined, you certainly
8 have that right to think that and that's your
9 business. I understand that. But for you personally,
10 the city, I believe is has done right by you; would
11 you agree with that or not?

12 MR. SUAREZ: I feel that's a loaded
13 question. I mean, I understand that from a legal
14 standpoint, you guys did exactly what you had to do,
15 you put on a workplace violence class to cover your
16 butts. I also believe that you moved me to a station
17 where I would be happier, put me on a different unit
18 to remove me from that hostile environment, which
19 again is just creating a safe environment for me and
20 removing me from what I perceived to be a hostile
21 environment. So I believe you guys have been working
22 towards that end. The hostility and aggression that
23 I'm still feeling as a result, and the interaction
24 between certain members of this department and other
25 entities outside of our immediate work area, the

1 hostility still continues, but it's these individuals.

2 MR. FOURNIER: If all these individuals
3 came in from that door and exited that door in the
4 next 20 minutes and shook hands with you and said this
5 is over, what would be left from your perspective? We
6 don't want to talk about it anymore, let's agree to
7 not talk about it anymore.

8 MR. SUAREZ: Yeah, but --

9 MR. FOURNIER: I'm asking you.

10 MR. SUAREZ: But you're asking a
11 hypothetical when we're supposed to be dealing with
12 facts here. You want me to expound on --

13 MR. FOURNIER: I'm trying to understand
14 what you're seeking.

15 MR. SUAREZ: What I'm seeking?

16 MR. FOURNIER: Yes.

17 MR. SUAREZ: What I'm seeking? See again,
18 I feel like you're trying to paint me -- I'm not an
19 attorney. He's not an attorney. He's a union
20 representative.

21 MR. FOURNIER: What are you seeking from
22 this process? I'm being honest with you in asking
23 that question, what is it you are seeking? What do
24 you think is unresolved, or what part of this are you
25 not satisfied? Because clearly, you're not satisfied.

1 We wouldn't be sitting here if you weren't satisfied.

2 MR. SUAREZ: I believe that the hardships
3 that I've endured for as long as I have, the fact that
4 these individuals adversely affected me in my
5 workplace, a job that I worked very hard to attain,
6 sacrifices that I have made. This is not just a four
7 year career with the Warren Fire Department. I've had
8 eleven years --

9 MR. FOURNIER: I'm going to try to use your
10 response to ask my question more specifically and
11 hopefully more productively from my prism. You're
12 saying these things, but the hostility you felt at a
13 period of time has been remedied, correct?

14 MR. SUAREZ: Sure.

15 MR. FOURNIER: So what are you now seeking?

16 MR. SUAREZ: Well, there has been
17 violations to certain inalienable rights that I'm
18 entitled to as in coming to work in a hostile-free
19 workplace.

20 MR. FOURNIER: But we keep coming back to
21 that point. I understand -- what I'm hearing you say
22 is you have a closed period where you feel you were
23 subjected to something and you deserve more
24 consideration from the city or whomever as a result of
25 that; is that what you're saying?

1 MR. SUAREZ: Absolutely.

2 MR. FOURNIER: But you've also said that
3 since that time period, things are not that way. Now
4 you have these other instances that have come up and
5 you believe that it is an internal personality
6 dispute, you've not said the fire commissioner is
7 coming in and saying get him. It appears to be
8 certain personalities. What are you seeking?

9 MR. SUAREZ: Honestly, when I filed, I
10 filed as a means to protect myself because what I saw
11 going on.

12 MR. FOURNIER: Which is fair. No one's
13 depriving you of that.

14 MR. SUAREZ: To expound on that, what I'm
15 saying is, at this point, there's a process that I had
16 to follow before I can retain an attorney, before I
17 can do anything. What I'm seeking, honestly, anything
18 that I say at this point would be a matter of record,
19 I don't want to misspeak or say something incorrectly
20 and then all of a sudden create a situation for me
21 that would discredit me or create a problem for this
22 whole process. I don't know. I'm not an attorney.

23 MR. FOURNIER: How does your work
24 environment become stable? How do we reach a point
25 where you're able to come to work and work alongside

1 people and this is not consuming you?

2 MR. SUAREZ: To make that assessment to say
3 it's consuming me, you're incorrect. Because I come
4 to work every day, everything that has transpired
5 within my lawyer, my mother, my personal life has not
6 affected my work performance.

7 MR. FOURNIER: So you believe it's been
8 resolved then?

9 MR. SUAREZ: What's been resolved?

10 MR. FOURNIER: I'll even go off the record,
11 that's fine.

12 (Off the record).
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EXHIBIT B

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION
4

5 JOSE SUAREZ,

6 Plaintiff,

7 vs.

Case No.: 17-12623

8

Judge Gershwin A. Drain

9

Magistrate Elizabeth A. Stafford

10 CITY OF WARREN; LIEUTENANT

11 JAMES SELAKOWSKI, in his official

12 and individual capacity; FIRE

13 COMMISSIONER SKIP McADAMS, in his

14 official and individual capacity;

15 and FIREFIGHTER MICHAEL OWCZAREK,

16 in his official and individual capacity,

17 Defendants.

18 _____/

19

20 The Videotaped Deposition of JOSE SUAREZ,

21 Taken at 201 East 4th Street,

22 Royal Oak, Michigan,

23 Commencing at 12:05 p.m.,

24 Thursday, October 25, 2018,

25 Before Tammy K. Nannini, CER/CSR-5899.

1 APPEARANCES

2

3 ANDREW J. LAURILA

4 Rasor Law Firm, PLLC

5 201 East 4th Street

6 Royal Oak, Michigan 48067

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8 Appearing on behalf of the Plaintiff.

9

10 JOHN J. GILLOOLY

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13 Suite 200

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16 Appearing on behalf of the Defendants.

17

18 ALSO PRESENT:

19 Nick Houslander - Video Technician

20 Fire Commissioner Skip McAdams.

21

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1 Royal Oak, Michigan
2 Thursday, October 25, 2018
3 12:05 p.m.

4

5 VIDEO TECHNICIAN: We are now on the
6 record. This is the videotaped deposition of Jose
7 Suarez being taken on October 25th, 2018. The time is
8 now 12:06 p.m.

9 My name is Nick Houslander, video
10 technician.

11 This deposition is taking place at 201 East
12 4th Street in Royal Oak, Michigan 48067, in the case
13 of Jose Suarez versus the City of Warren, et al, case
14 number 17-12623, in the United States District Court,
15 Eastern District of the Michigan Southern Division.

16 Could the attorneys, please, briefly
17 identify themselves for the record?

18 MR. LAURILA: Andrew Laurila on behalf of
19 the plaintiff.

20 MR. GILLOOLY: Good afternoon. John
21 Gillooly on behalf of the defendants.

22 VIDEO TECHNICIAN: Could the court
23 reporter, please, swear in the witness?

24 JOSE SUAREZ,
25 was thereupon called as a witness herein, and after

1 having first been duly sworn to testify to the truth,
2 the whole truth and nothing but the truth, was
3 examined and testified as follows:

4 MR. GILLOOLY: Sir, please, state your full
5 legal name.

6 **THE WITNESS: My full legal name is Jose**
7 **Pedro Suarez.**

8 MR. GILLOOLY: And Jose is J-O-S-E,
9 correct?

10 **THE WITNESS: Yes, sir.**

11 MR. GILLOOLY: Pedro is P-E-D-R-O, correct?

12 **THE WITNESS: Yes, sir.**

13 MR. GILLOOLY: Suarez, S-U-A-R-E-Z, yes,
14 sir?

15 **THE WITNESS: Correct.**

16 MR. GILLOOLY: Thank you.

17 Let the rec -- record reflect that this is
18 the deposition of Jose Pedro Suarez taken pursuant to
19 notice and agreement of counsel for the plaintiff and
20 will be used for all allowable purposes under the
21 Federal Rules of Evidence and the Federal Rules of
22 Civil Procedure.

23 Mr. Suarez, good afternoon.

24 **THE WITNESS: Good morning.**

25 MR. GILLOOLY: My name is John Gillooly. I

1 represent the defendants in this case, the people that
2 you are suing in the United States District Court for
3 the Eastern District of Michigan.

4 I have questions for you today about your
5 background, about your employment, about how the
6 alleged acts of discrimination have affected you.

7 **A couple of really important ground rules**
8 **that I want to make sure we're on the same page to get**
9 **off to a good start, okay?**

10 **THE WITNESS: Yes, sir.**

11 MR. GILLOOLY: The first is, please use
12 words to answer all of my questions. Despite the
13 presence of the videographer, the court reporter, to
14 your right and my immediate left, is literally taking
15 down every word that we say until we're concluded,
16 okay?

17 **THE WITNESS: Understood.**

18 MR. GILLOOLY: So please don't nod your
19 head or shrug your shoulders or say uh-huh or un-un.
20 And if we remind you during the deposition, is that a
21 yes or so, it's because we want there to be an
22 accurate recording of this deposition, fair enough?

23 **THE WITNESS: Yes, sir.**

24 MR. GILLOOLY: And the second rule is this:
25 If you don't completely understand what I'm asking

1 you, if you don't understand the words I'm using, if
2 you can't hear me, if you don't understand a question
3 I'm asking you, you can tell me as many times as you'd
4 like during the deposition to repeat or rephrase the
5 question until you understand it, okay?

6 **THE WITNESS: Yes, sir.**

7 MR. GILLOOLY: Otherwise, when you answer a
8 question, if you haven't told me that -- that you
9 don't understand it or to rephrase it, I'm going to
10 assume that you've understood the question and given
11 me a truthful, honest answer as you swore to do to
12 each and every question I've asked you, okay?

13 **THE WITNESS: Yes, sir.**

14 MR. GILLOOLY: Thank you.

15 EXAMINATION

16 BY MR. GILLOOLY:

17 Q. What's your date of birth, please?

18 A. [REDACTED]

19 Q. Some of my questions as -- as you've made
20 allegations -- and I apologize in advance for some of
21 the words I'm going to use during the deposition, but
22 I want to use words that are not generally sometimes
23 accepted in society, things of that nature.

24 Have you ever used the word 'niger'?

25 Have you ever called anyone a niger?

1 **A. Never.**

2 Q. Never in your life?

3 **A. Never in my life, sir. I was raised better than that.**

4 Q. Have you ever used an off-color expression to refer to
5 anyone by way of their racial background or ethnicity?

6 **A. No, sir.**

7 Q. Have you ever called anyone a Polack?

8 **A. No, sir.**

9 Q. Have you ever used any word what -- whatsoever
10 describing an Italian, as a matter of fact, as a wop
11 or anything like that?

12 **A. No, sir.**

13 Q. Have you ever made any comments about people of the
14 Jewish faith?

15 **A. No, sir.**

16 Q. To anyone?

17 **A. No, sir.**

18 Q. Even sitting in a recliner at the Warren Fire
19 Department, it's your testimony here today that you
20 have never ever in your life used any word that might
21 be demeaning or degrading to anyone regardless of
22 their national origin, sex, religion, or color; is
23 that accurate?

24 **A. That is very accurate, sir.**

25 Q. Okay. And if someone had suggested you had called

1 somebody -- that you had used the word 'niger' before
2 or made improp -- or made references to people's
3 religion, that you're a Republican and couldn't stand
4 people, they'd be lying, correct?

5 **A. Excuse me?**

6 Q. If people had suggested that you used off-color words
7 to refer to people in a demeaning way about their
8 religious beliefs, whether they were Jewish, or
9 whether certain people of color were different, or
10 whether somebody's sexual orientation was different,
11 they'd be lying, correct?

12 **A. Absolutely.**

13 Q. Because you've never ever, ever, and I want to make
14 sure we're on the same point, used any demeaning term
15 to describe anyone in your entire life, right?

16 **A. Never in my life have I ever referred to anybody or**
17 **discriminated them or made comments that were specific**
18 **to their religious beliefs or their ethnic background**
19 **or where they were born.**

20 Q. Okay. And that's either specific or generally you've
21 never done that?

22 **A. No, sir.**

23 Q. Okay. Have you ever called anyone a pussy at the
24 Warren Fire Department?

25 You have, haven't you?

1 **A. I have, yes.**

2 Q. Yeah. Isn't that a demeaning word?

3 We just -- I just asked you if you've ever
4 said any demeaning words about anyone to anyone, and I
5 asked you three or four times ever never never, and --
6 I mean, admit it, you have.

7 **A. I -- I misunderstood your question.**

8 Q. Oh, you did?

9 **A. I did, sir, because --**

10 Q: Ah.

11 **A. -- I felt that you were --**

12 Q. Uh-huh.

13 **A. -- leading me towards discrimination and racial**
14 **comments not necessarily any demeaning language.**

15 **There's a -- quite a bit of demeaning**
16 **language that takes place at the Warren Fire**
17 **Department.**

18 Q. And some of it on your part. I'm asking what you
19 said, not what others may have said to you.

20 So I'm going to ask again to make sure
21 we're on the --

22 **A. Yes, sir.**

23 Q. -- same page.

24 Have you ever, Mr. Suarez, ever used
25 demeaning terms to talk to anybody in your life?

1 MR. GILLOOLY: Go off the record.

2 (Off the record at 12:12 p.m.)

3 (Back on the record at 12:12 p.m.)

4 MR. GILLOOLY: Have -- let me repeat it
5 again.

6 **THE WITNESS: Yes, sir.**

7 MR. GILLOOLY: For the record, this is
8 Commissioner McAdams.

9 BY MR. GILLOOLY:

10 Q. You know the commissioner, don't you, sir?

11 **A. Yes, sir, I do.**

12 Q. You know you're suing him, correct?

13 **A. Yes, I do.**

14 Q. Okay. I'm going to ask you again to make sure we're
15 on the same page, okay?

16 **A. Yes, sir.**

17 Q. Have you ever -- I don't want to know what other
18 people may have said. We'll get into that and to
19 you or --

20 **A. Uh-huh.**

21 Q. -- what the general environment was at the fire
22 department, things of that nature.

23 I'm asking whether Jose Suarez --

24 **A. Uh-huh.**

25 Q. -- has ever used any terms, any word, any term, to

1 describe or talk about somebody inappropriately or
2 impolitely?

3 You have, haven't you?

4 **A. Yes, sir, I have.**

5 Q. Okay.

6 **A. And the --**

7 Q. Un-un-un.

8 **A. Okay.**

9 Q. That's all I asked.

10 **A. Okay.**

11 Q. And you've used the word 'pussy' on several occasions?

12 **A. No, sir.**

13 Q. You've called people a pussy, haven't you?

14 **A. No, sir.**

15 Q. I thought a minute ago you told me you did, sir?

16 **A. Not on several occasions, sir.**

17 Q. Oh. How many --

18 **A. I --**

19 Q. -- times --

20 **A. I used it in reference to Mr. Joel Ricketts when he**
21 **was creating a hostile work environment for me.**

22 Q. Okay.

23 **A. And he was saying that I threatened him --**

24 Q. Okay.

25 **A. -- with physical violence, and there was no proof of**

1 **that. And I said why would I do that because he is**
2 **that word.**

3 Q. Sir -- okay, fair enough. If you can answer my
4 question --

5 **A. Yes, sir.**

6 Q. -- we won't be here for two days. I promise you.

7 **A. Sure.**

8 Q. We'll be here for two hours or less.

9 **A. Okay.**

10 Q. However, my only question is, on more than one
11 occasion you've called someone a pussy at the Warren
12 Fire Department in addition to Ricketts, correct?

13 **A. No, sir.**

14 Q. You've never called anyone else, other than Ricketts,
15 a pussy --

16 **A. No.**

17 Q. -- at Warren?

18 **A. No, sir.**

19 Q. Okay. What other demeaning words have you used at the
20 City of Warren during your former employment there to
21 refer to anyone: Either pussy, or faggot, or dick, or
22 cock, or any -- any word?

23 What other words have you used?

24 **A. I've used --**

25 MR. LAURILA: Objection: Form,

1 foundation --

2 MR. GILLOOLY: Fair enough.

3 MR. LAURILA: -- compound question.

4 MR. GILLOOLY: It is.

5 MR. LAURILA: Let's narrow -- narrow it
6 down just a little bit.

7 BY MR. GILLOOLY:

8 Q. I'm just asking: What other words have you used that
9 may be demeaning to somebody that you've called other
10 people?

11 A. I've used the word 'asshole'.

12 Q. Okay.

13 A. -- or 'dick'.

14 Q. Yes?

15 A. Or 'motherfucker'.

16 Q. Okay. Do you think any of the use of those words in
17 the employment context used by anyone are appropriate?

18 A. It was never used directly towards anybody while in
19 the employment of.

20 Q. Oh. So who are you calling they're a motherfucker if
21 you weren't using it to somebody? Who --

22 A. I -- I never -- I never --

23 Q. Go ahead.

24 A. I never called anybody those things in speaking to
25 other members of the fire department about third

1 parties. I said oh, yes, he's a dick or he's an
2 asshole, but I've never actually physically had a
3 confrontation with anybody where I verbally called
4 them any of the words that you're suggesting.

5 Q. Okay. So you never used any of those words, it's your
6 testimony, toward another member of your department?

7 A. Correct.

8 Q. They've always been directed at third parties?

9 A. Correct.

10 Q. Okay. So do you think that it's appropriate to use
11 those terms as to third parties, calling somebody a
12 dick, a motherfucker, a pussy, or a faggot?

13 Do you think any of those terms are
14 appropriate?

15 A. I have never used that term 'faggot', sir.

16 Q. Okay. How about the other terms?

17 A. Those -- during the time that those comments were
18 made --

19 Q. Yes.

20 A. -- okay, there was multiple people there and their
21 discussion was about these people, and I threw in
22 my -- my two cents and said, yeah, he is kind of a
23 dick.

24 Q. Okay. Do you think that's an appropriate way -- term
25 to use to describe somebody that you have feelings

1 for, call somebody a dick?

2 Do you think that's appropriate?

3 Regardless if they're an employee or third
4 party, is that appropriate in your world?

5 **A. In response to whatever behavior that was being
6 discussed --**

7 Q. Yeah.

8 **A. -- at the time?**

9 Q. Yeah.

10 **A. I mean, it's an -- it's an adequate descriptor.**

11 Q. Okay. So you believe it is an adequate descriptor to
12 call somebody a dick, correct?

13 **A. No, I'm just saying that --**

14 (Talking over each other)

15 BY MR. GILLOOLY:

16 Q. If the situation's --

17 **A. -- I'm --**

18 Q. -- right?

19 **A. I'm saying that their behavior --**

20 Q. Okay.

21 **A. -- and whatever was being talked about at that time.
22 I was not the only one casting words of disparity
23 about this individual, and I said this guy is a dick.
24 And I just --**

25 Q. Okay.

1 **A.** -- agreed. I agreed with what was being said, sir.

2 **Q.** Okay. Okay.

3 **A.** **That was all.**

4 **Q.** You agreed that you -- that's okay, sir, because maybe
5 the other people aren't right either.

6 I'm asking you, in your opinion, whether
7 you believe under any circumstance, if you're
8 responding to somebody or you think they're an awful
9 person, is it appropriate to call somebody a dick?

10 That's all I --

11 **A.** **No.**

12 **Q.** -- want to know.

13 **A.** **No.**

14 **Q.** In your world is --

15 **A.** **No.**

16 **Q.** -- that appropriate?

17 **A.** **No, sir.**

18 **Q.** Okay. Is it appropriate to call somebody a
19 motherfucker, a third party, that -- even if other
20 people are doing it, in your own world, is that
21 appropriate?

22 **A.** **No, sir.**

23 **Q.** Okay. Tell me in your general world what the
24 overall -- does a fire department operate differently
25 in your own mind than other social settings because of

1 the all generally male exclusive nature of the club,
2 so to speak?

3 **A. It does.**

4 Q. Okay. And things are said -- would you call it a
5 locker room -- and I don't want to say a locker room
6 atmosphere because I'm not saying that those are
7 permitted.

8 But, do people speak differently from what
9 you've seen in the fire department --

10 **A. Absolutely.**

11 Q. -- context?

12 And how so?

13 Why do you say absolutely?

14 **A. Well, because it is a locker room mentality and is**
15 **a -- it is a good 'ol boy network. I've seen many**
16 **things done that are inappropriate and even at points**
17 **unlawful. And not only did the administration and the**
18 **City cover things up, but it -- they condoned certain**
19 **behaviors and allowed them to persist.**

20 Q. Okay. So when you saw things that were unlawful, tell
21 me, who did you report those to, other things other
22 than what you're calling in this incident?

23 If you saw things that were unlawful and
24 that city leaders were trying to cover them up, who
25 did you report that unlawful activity to?

1 Because you didn't just sit on it, did you?

2 **A. I didn't have anybody to report it to, sir, because**
3 **the administration and the leadership of the**
4 **department were made aware of these things, and they**
5 **were themselves the ones that were trying to conceal**
6 **things.**

7 **So who would I go to?**

8 **Q. Oh. Did you go to police?**

9 **A. No, sir.**

10 **Q. Did you go to law -- anybody in law enforcement?**

11 **A. No, sir.**

12 **Q. Did you go to the EEOC?**

13 **A. Yes, I did.**

14 **Q. With regard to other activities that you felt were**
15 **unlawful?**

16 **A. No, sir. When I filed my original complaint with the**
17 **EEOC, I did document other things in there that I did**
18 **witness.**

19 **Q. Okay. And that was years after your alleged witness**
20 **of them, correct?**

21 **A. Not years after, sir.**

22 **Q. It was --**

23 **A. Some -- some things happened actually --**

24 **Q. Didn't you --**

25 **A. -- in the recent history.**

1 Q. Oh. Sir, we can split hairs if you'd like.

2 You did share in your EEOC complaint that
3 we'll go through later. You attached the letters that
4 you called 'evidence', and you referenced some things
5 that were taking place in 2013 and '14 in your
6 complaint that was dated 2016; isn't that true?

7 **A. Possibly.**

8 Q. Yeah. So some of the alleged instances of illegality
9 that you allegedly reported to the EEOC happened years
10 earlier despite your earlier testimony, correct?

11 **A. I'm not --**

12 Q. You don't know what I mean?

13 **A. No. What do -- can you clarify the question, please?**

14 Q. Yeah. A few minutes ago you told me that you did
15 report to the EEOC and that you really hadn't reported
16 anything because they had just taken place or were
17 rather recent.

18 The evidence that you allegedly submitted
19 to the EEOC, some of the acts of inappropriate
20 behavior or unlawful behaviors you describe occurred
21 two or three years before you filed your complaint,
22 correct?

23 **A. I'm not sure of the dates.**

24 Q. You're not?

25 **A. No, sir. I haven't reviewed any documentation. I'd**

1 **to look at the dates on that.**

2 Q. Um, did you ever engage in any, any, any inappropriate
3 behavior while you were employed by the City of Warren
4 Fire Department?

5 A. **No, sir.**

6 MR. LAURILA: Objection to form. It calls
7 for speculation.

8 Do you want to define inappropriate --

9 MR. GILLOOLY: Yeah.

10 MR. LAURILA: -- behavior?

11 MR. GILLOOLY: Behavior that is not
12 acceptable to standard norm.

13 BY MR. GILLOOLY:

14 Q. Did you do -- did you ever do anything against the
15 rules or regulations of the City of Warren?

16 A. **I'm not sure what you're asking.**

17 Q. Did you ever violate any rules or regulations of the
18 City of Warren and its fire department when you worked
19 there?

20 Did you ever do anything inappropriate?

21 A. **Not knowingly, sir, no, I did not.**

22 Q. How about unknowingly?

23 A. **I'm not sure.**

24 Q. You're not sure?

25 A. **I'm not sure. I don't think that I did anything**

1 untoward or unprofessional or, you know, that was
2 indicative of misrepresenting of my profession, you
3 know, in a way that would be unfavorable.

4 Q. Did you ever do anything while in this locker room
5 mentality or say anything that would not be accepted
6 outside the City of Warren Fire Department?

7 A. **No, sir.**

8 MR. LAURILA: Objection: Calls for
9 speculation.

10 How could he possibly know that?

11 BY MR. GILLOOLY:

12 Q. Where are you working now?

13 A. **I am currently applying to multiple fire departments
14 and going through the interview process, as well as
15 renewing all my certifications and becoming instructor
16 certified in ACLS and BLS.**

17 Q. Okay. Do you have a list of the fire departments to
18 whom you've applied since you --

19 A. **They were provided to defense counsel.**

20 Q. No, that's not my question, sir.

21 Do you have a list of the fire departments
22 that you have applied to since you left the City of
23 Warren?

24 A. **I've applied to the City of Ferndale.**

25 Q. That's not my question.

1 Do you have a list?

2 Do you --

3 **A. Yes.**

4 Q. -- have a written list of them?

5 **A. Yes, there's proof. There's proof of oral interviews**
6 **as well, sir.**

7 Q. Have you told the truth on your application for
8 employment to all your perspective employers?

9 **A. Yes.**

10 Q. You've answered every question on your applications
11 truthfully?

12 **A. Yes.**

13 Q. And give me your best estimate as to how many
14 firefighter/paramedic jobs you've looked for, either
15 one, since you terminated your employment at the City
16 of Warren.

17 **A. Well, I was my mother's full-time caregiver while her**
18 **illness was in the late stages.**

19 Q. Sir --

20 **A. And I was --**

21 Q. -- I understand. That's not my question. I
22 understand that. We'll get into that.

23 My question is how many have you applied
24 to, not how -- that you had to wait or why. I'm not
25 asking you about your mother, you had to take time to

1 help her.

2 I'm asking you how many jobs have you
3 applied for as a firefighter/paramedic since you quit
4 your job at Warren; that's it.

5 **A. Since -- since my mother's passing July 20th I applied**
6 **to four fire departments.**

7 **Q. And those are who?**

8 **A. Sterling Heights.**

9 **Q. Okay.**

10 **A. Ferndale, Hazel Park, and Lansing.**

11 **Q. Have you received interviews for any of those?**

12 **A. I have. Three out of the four.**

13 **Q. Okay. And have you gone through oral boards at any of**
14 **those?**

15 **A. Yes, three out of four.**

16 **Q. Have you received offers of employment from any of**
17 **those?**

18 **A. No, I -- I'm currently waiting for Ferndale's results**
19 **and list placement, as well as Lansing's, but I did**
20 **receive a placement on Sterling Heights' list of**
21 **employment.**

22 **Q. And where are you on Sterling Heights' list?**

23 **A. Twenty-three out of 25.**

24 **Q. Okay. Have you applied for jobs in the private sector**
25 **since you terminated your employment with the City of**

1 Warren?

2 A. No, sir. I have been going to school and finishing up
3 all my research and trying to get myself back on
4 track.

5 Q. And where have you been going to school?

6 A. I've been doing my ACLS recertifications through
7 Babcock emergency cer -- health -- or emergency
8 education services. I became an ACLS instructor and a
9 BLS instructor through them, so I can now certificate
10 professional licensed paramedics and doctors in
11 advanced cardiac life support.

12 I re -- retook and reestablished my
13 qualifications with Empco, which is one of the premier
14 agencies within Oakland County that most fire
15 departments go to to pull qualified candidates from.

16 I've been doing the legwork to get myself
17 back into being in the position of -- to be qualified
18 for a position with a fire department, sir.

19 Q. What date did you quit your employment at the City of
20 Warren?

21 A. July 5th, 2015 -- or 2017.

22 Q. Where were you living at that time?

23 A. 13700 Man -- 13700 Manhattan, Oak Park, Michigan
24 48327.

25 Q. And do you still live there?

1 A. No, sir.

2 Q. You live in [REDACTED] now?

3 A. No, sir, I live in [REDACTED].

4 Q. [REDACTED]. What's your address there?

5 A. [REDACTED].

6 Q. And who do you live at that address with?

7 A. My girlfriend, Sandi Teall Portwine.

8 Q. Do you expect to call her as witness in this case?

9 A. That would be up to my attorney, sir.

10 Q. Have you discussed with her the facts and
11 circumstances of your employment at the City of
12 Warren?

13 A. She was a nurse at St. John Macomb for 20-some-odd
14 years, and she's well aware of my hardships at
15 Warren, yes --

16 Q. Okay.

17 A. -- sir.

18 Q. So my question was: Have you discussed with her the
19 facts and circumstances of your employment at the City
20 of Warren, and you told me that she was a nurse and
21 that she's well aware.

22 Sir, with all due respect that's not my
23 question.

24 A. Okay.

25 Q. My question is, have you -- and please listen

1 carefully.

2 **A. Sure.**

3 Q. Have you discussed with her the facts and
4 circumstances of your employment at the City of
5 Warren?

6 **A. She's aware.**

7 Q. No. Have you --

8 **A. Yes.**

9 Q. -- discussed with --

10 **A. Yes, sir, I have.**

11 Q. You verbally talked to her about it?

12 **A. Yes.**

13 Q. Words are important today, okay?

14 **A. Yes, sir.**

15 Q. Okay. And did you tell her why you -- why you quit?

16 **A. Yes.**

17 Q. You told her because it was a hostile work
18 environment?

19 **A. Yes, sir.**

20 Q. Okay.

21 **A. She's aware.**

22 Q. Did you -- did you tell her any other reason why you
23 quit your employment?

24 **A. No, sir, just the circumstances surrounding the
25 hostile work environment and racist remarks and the**

1 administration's lack of inaction -- or lack of
2 action. I'm sorry.

3 Q. And I have you, thank you, on tapes.

4 Are you on a tape recorder with you today?

5 A. No, sir.

6 Q. Are you taping this deposition?

7 A. No, sir, I am not.

8 Q. Do you have any weapons with you?

9 A. No, sir.

10 Q. Why do you grin and sort of smirk when I asked if you
11 had a weapon?

12 A. Because it would be absurd to assume that I'm carrying
13 a weapon, sir.

14 Q. Who -- who's assuming if I asked?

15 Who's assuming that by asking a question?

16 A. Well, just the implication by the question, I just
17 mis -- misunderstood what you were trying to imply.

18 Q. Yeah. No, I -- I'm -- use literate. I'm just asking.

19 A. Okay.

20 Q. I -- as your -- you know that your attorney's taken
21 depositions in this case, right?

22 A. Yes.

23 Q. And you know he's asked a lot of questions of my
24 clients, right?

25 A. Yes, sir.

1 Q. And you know I get to ask questions about you today,
2 right?

3 **A. Absolutely.**

4 Q. And some of them might not be very comfortable, but
5 you're the people -- you're the person suing my
6 clients, right?

7 **A. Yes, sir.**

8 Q. Okay. Do you have permit to carry a weapon?

9 **A. I do, sir.**

10 Q. Yeah, okay.

11 **A. I'm not carrying now, no, sir.**

12 Q. Okay. But, see, we do our homework, too, okay?

13 **A. No, that's fine.**

14 Q. That's why I ask if you're carrying a weapon because I
15 know you have a permit to carry a concealed weapon.
16 Don't you, sir?

17 **A. Yes, sir.**

18 Q. And you usually carry a weapon with you, don't you?

19 **A. Not all the time, no, sir.**

20 Q. You -- you carry a weapon a great deal of the time
21 with you, don't you?

22 **A. No, I do not.**

23 Q. Do you have one in your car?

24 **A. No, I do not.**

25 Q. Okay.

1 A. If you'd like to go check, we can go check.

2 Q. Sir, I have no interest in your vehicle, okay?

3 A. Okay.

4 Q. Have you ever told anybody that you generally carry a
5 weapon with you?

6 A. No, sir.

7 Q. Did you ever tell anybody that?

8 A. No, sir. If -- if people knew that I had a CPL,
9 people knew that as a CPL holder that one is inclined
10 and legally abide -- am legally allowed to carry a
11 firearm, that does not necessarily mean that I carry
12 all the time, nor did I ever tell anybody that I
13 carried all the time.

14 Q. I just asked you if you told people that --

15 A. No.

16 Q. -- you generally carry a gun with you most of the
17 time --

18 A. No, sir, I never --

19 Q. -- for safety reasons?

20 A. I never said that.

21 Q. Never said that?

22 A. No.

23 Q. Okay. How many guns do you own?

24 A. A -- a handgun, a long rifle. That's it.

25 Q. Do you have any more?

1 **A. No.**

2 Q. To the best of your knowledge you only have two
3 registered firearms in your name --

4 **A. Yes, sir.**

5 Q. -- at the present time?

6 **A. Yes, sir.**

7 **A Kimber 45 caliber pistol and a Colt HBAR.**

8 **That's it.**

9 Q. Have you had any other weapons registered in your name
10 in the last 24 months, sir?

11 **A. In the last 24 months?**

12 Q. Yes, sir.

13 **A. No, sir.**

14 **I have been a gun owner most of my life,**
15 **but those are the only two weapons that I currently**
16 **have.**

17 Q. Do you hunt?

18 **A. I do, sir.**

19 Q. Okay. Have you -- you've received hunting and fishing
20 licenses through the State of Michigan for each of the
21 last several years, correct?

22 **A. The last couple years, yes, sir.**

23 Q. And have you physically gone hunting in the last few
24 years?

25 **A. Yes, sir, I have.**

1 Q. And who have you gone hunting with?

2 A. Re -- retired Captain Curtis Thrift, who is now
3 deceased. Rest his soul. And Firefighter (FEO)
4 Daniel Doty (phonetic). Retired police officer,
5 Jonathan Gaul (phonetic), who is friend of Dan's. And
6 retired Battalion Chief John Dalton has been there
7 with his children. He came last year.

8 Q. Okay. And you -- you have discussed with them at some
9 point in hunting camp things about the City of Warren,
10 correct?

11 A. Be more specific, sir. What -- what did I discuss
12 about the City of Warren?

13 Q. Anything.

14 You expressed -- you expressed your
15 displeasure this past fall at hunting camp with Mr.
16 Dalton about several people of the City of Warren,
17 correct?

18 A. He asked me how things were going, and I told him
19 that, you know, we are currently going to federal
20 court and the procedure was well under way. But as
21 far as specifics or my dissatisfaction with
22 individuals or citing specific instances, I never
23 shared that information with him.

24 Q. So it's your testimony under oath here today that last
25 year in November of 2017 that you made absolutely no,

1 no remarks whatsoever of a personal nature concerning
2 any City of Warren employee, correct?

3 **A. I don't remember any personal comments that I made,**
4 **sir.**

5 Q. And that you don't remember making any disparaging
6 comments about anyone in hunting camp in November
7 2017, correct, who were employed at the City of
8 Warren?

9 You didn't call anybody a dick or
10 motherfucker, anything like that, at the hunting camp
11 last year who might be a witness in this suit?

12 **A. I -- I do not remember.**

13 Q. You don't remember?

14 **A. No, sir.**

15 Q. You guys were drinking at the hunting camp last year?

16 **A. There was some alcohol there, yes, sir.**

17 Q. Yes, sir.

18 Is Mr. Dalton a generally pretty honest
19 person as far as you can tell?

20 Is --

21 **A. As --**

22 Q. -- he honest?

23 **A. As far as I'm aware, he is.**

24 Q. Yeah. Okay. You filed for bankruptcy before,
25 correct?

1 A. 2008/2009, yes --

2 Q. That --

3 A. -- sir.

4 Q. Okay. If I just ask you -- forget it.

5 Why did you file bankruptcy?

6 A. At the time the economy had shifted, and I was at a
7 point where I was on the verge of losing my house;
8 there was no more work coming in, and I had to make a
9 decision as to whether or not to try to salvage my
10 business by relocating or go back to school and try to
11 reinvent myself.

12 Q. And you went back to school to try to reinvent
13 yourself, correct?

14 A. Correct.

15 Q. And after that you became a licensed paramedic,
16 correct?

17 A. I became an EMT and then a par -- then I worked as an
18 EMT and became a paramedic and a fireman and -- yes,
19 sir.

20 Q. Okay. And the nature of your business, you were in
21 the flooring business before that?

22 A. Yes, I did hardwood floors and custom carpentry for --

23 Q. It --

24 A. -- people.

25 Q. It was your hardwood flooring business that -- and

1 car -- and custom carpentry business that, so to
2 speak, went down the tubes?

3 **A. Yes.**

4 Q. And your debts were discharged?

5 **A. Correct.**

6 Q. And did you ever make any attempt after that to repay
7 any of the debts that were discharged in bankruptcy of
8 the people that say you had owed money to?

9 **A. No, sir.**

10 Q. None whatsoever?

11 **A. No.**

12 Q. Credit card, phone company, you just let all those
13 debts slide after they were discharged in bankruptcy?

14 **A. Yes, sir.**

15 Q. Why didn't you attempt to repay any of those people
16 whose money you le -- used before?

17 **A. Well, because I was in a place where I could not**
18 **afford to pay it back. When I went to school and**
19 **became a basic EMT, I was making less than nine**
20 **dollars an hour trying to pay my rent, trying to put**
21 **food in my fridge. The last thing that I could have**
22 **done was to pay back the few hundred dollars on a**
23 **credit card. I did not have that money.**

24 Q. You didn't have that money when you became employed
25 with the City of Warren to make any payment whatsoever

1 to any of your former creditors; that's your
2 testimony, correct?

3 **A. Well, sir, at that time that I became an employee of**
4 **the City of Warren, that was long after the discharge**
5 **was in place and that the bankruptcy was over, so**
6 **it -- you know, why would I revisit a debt that has**
7 **already been weighed -- weighed against me, and I've**
8 **already got that on my record.**

9 (Talking over each other)

10 BY MR. GILLOOLY:

11 Q. Why --

12 **A. Going -- going back to --**

13 Q. So you -- so you saw no reason whatsoever, even though
14 those debts were discharged, to try to go back and
15 repay some of those creditors once you got a better
16 job in 2013?

17 **A. No, sir, because at that point --**

18 Q. Right.

19 **A. -- I was concerned with moving forward and trying to**
20 **reestablish myself and get back on my feet.**

21 Q. Okay. What's your financial condition now?

22 **A. Can you be more specific?**

23 Q. Yeah. I -- do you have money in the bank?

24 **A. I do.**

25 Q. Okay. You working?

1 **A. I am seeking employment.**

2 Q. Sir, that's not my question.

3 **A. I --**

4 Q. Excuse me. I'll ask it again.

5 Are you working?

6 Not if you're looking because you can be
7 doing both.

8 Are you working?

9 **A. Am I currently employed, no, sir.**

10 Q. Okay. Did you understand my question?

11 The first time I asked you are you working,
12 did you understand it?

13 Do you understand those words?

14 **A. I do.**

15 Q. Okay. Have you worked anywhere since you quit your
16 employment at the City of Warren?

17 **A. Yes.**

18 Q. Where have you worked?

19 **A. Henry Ford Hospital -- Henry Ford Health Care System.**

20 Q. Okay. And did you voluntarily quit that position, or
21 were you terminated?

22 **A. No, I voluntarily quit that position.**

23 Q. And why did you quit?

24 **A. Because my mother was reaching end-stage.**

25 Q. And your mother passed, unfortunately?

1 A. July 20th in Beaumont Hospital in Royal Oak, Michigan.

2 Q. Okay. Sir, I don't need to know where, okay? You can
3 to -- we'll be here two days, okay?

4 A. Yes, sir.

5 Q. If -- if it could -- capable of yes or no, if your
6 mother passed unfortunately, yes, sir will do. I
7 don't need to know --

8 A. Okay.

9 Q. -- okay?

10 A. Yes, sir.

11 Q. Okay. How long had your mother been sick before her
12 passing that she required care from you?

13 A. Approximately a year and a half, a year and three-
14 quarters.

15 Q. So she did not need any care from you at the time you
16 were employed by the City of Warren if you're correct?

17 She passed on July 2018, one and
18 three-quarter years going back; is that correct?

19 You weren't a caregiver for her --

20 A. Not --

21 Q. -- when you were there?

22 A. Not a full-time caregiver, sir, no, but I did assist
23 her with her day-to-day chores and the things that she
24 needed.

25 Q. And did you assist her with her day-to-day chores

1 because she was incapable or that she was --

2 **A. Yes.**

3 Q. -- sick or just old?

4 Incapable?

5 **A. She was getting to the point to where just walking and**
6 **standing and moving around was extremely difficult.**
7 **So the things that I did for her, like cleaning her**
8 **house and helping her with her business and doing**
9 **cleanings around the yard, things that she herself**
10 **couldn't do anymore.**

11 Q. Did -- was she diagnosed with a disease when you were
12 employed with the City of Warren?

13 **A. Correct.**

14 Q. So she did require some assistance of you while you
15 were employed at the City of Warren?

16 Because a minute ago I asked you when did
17 your mom first require care from you, and you said
18 maybe a year and three-quarters ago after you left the
19 City of Warren.

20 **A. No, sir, not after. I became her full-time caregiver**
21 **when I left the City of Warren.**

22 Q. Okay. And before that you were doing tasks for her,
23 correct?

24 **A. Correct.**

25 Q. Have you recorded any conversations with your mother

1 that pertain to this suit?

2 **A. No, sir.**

3 Q. Okay. Your mother allegedly overheard a conversation
4 that you had with your union representative, correct?

5 **A. Yes, sir.**

6 Q. Okay. Have you recorded that anywhere with her
7 preserved -- her alleged overhearing that conversation
8 anywhere, via affidavit, or tape-recording, or video,
9 or anything?

10 **A. I have --**

11 Q. You can look at me.

12 **A. I have -- I have not recorded her. She did sign an**
13 **affidavit as to what she witnessed, and we -- my -- my**
14 **attorney has a copy of that.**

15 Q. And when did you give that to your attorney?

16 **A. I'm not sure of the date but --**

17 Q. Recently?

18 **A. Within the last couple months I believe it was.**

19 **Within the last -- well, she's been passed away for**
20 **two months, so it was two or three months be -- two**
21 **months before that. So in the last four to five**
22 **months.**

23 Q. And who wrote the affidavit?

24 Literally, who wrote it?

25 **A. I mean --**

1 Q. Your lawyers?

2 A. I'm -- I'm not -- I'm not sure.

3 Q. You don't know who wrote the affidavit that was given
4 to your mom?

5 Okay, let me ask you that if you're not
6 sure.

7 So, then, you didn't write it, correct?

8 A. No, sir, I did not write it.

9 Q. And your mom didn't write it, correct?

10 A. That I don't know. She -- she --

11 Q. Oh --

12 A. She --

13 Q. -- you never --

14 A. -- had her account -- she had her account of the
15 affidavit. She -- she spoke of what she saw and what
16 she witnessed.

17 Q. I want to know, not what her -- if she had an account.
18 I want to know who wrote the affidavit.

19 Do you think your mother at Stage 4 cancer
20 wrote an affidavit?

21 MR. LAURILA: Objection: Asked and
22 answered. He --

23 MR. GILLOOLY: Did she?

24 MR. LAURILA: -- said he doesn't know.

25 MR. GILLOOLY: No, he didn't say that.

1 BY MR. GILLOOLY:

2 Q. Did she write it?

3 A. I was not present when she wrote it. All I know is
4 that she came back from having it notarized and gave
5 it to me.

6 Q. Did she meet with your attorneys at any point?

7 A. I have no idea.

8 Q. She ever been here?

9 A. No, sir.

10 Q. How did she initially get the affidavit?

11 Who gave her an affidavit to -- to sign?

12 You don't know, do you?

13 Who gave it to her?

14 A. That I'm not sure, sir.

15 Q. You don't -- you're the plaintiff in this case, and
16 you don't know who gave your mom an affidavit that's
17 directly related to claims that you're making in this
18 case?

19 A. The affidavit was based on her recollection --

20 (Talking over each other)

21 BY MR. GILLOOLY:

22 Q. Yeah.

23 A. -- of what she witnessed.

24 Q. Okay.

25 A. As far as who it was -- how -- who wrote it --

1 Q. Yeah.

2 A. -- or how she got it --

3 Q. Yeah.

4 A. -- it was -- it was probably sent to her e-mail. That
5 I'm not sure.

6 Q. By who: By your law firm or someone else?

7 That's all I want to know.

8 A. I -- it wasn't -- I -- I have no idea. I would
9 assume --

10 Q. Yeah. You have no -- your testimony is I have no
11 idea, correct?

12 A. I -- I do not recall. I --

13 Q. Oh, okay.

14 A. I'm -- I'm unaware. I'm unaware of the facts that
15 you're asking me for, sir.

16 Q. First it was I have no idea; then it's I don't recall,
17 and now it's I'm -- I am unaware of the facts.

18 Here's my question.

19 A. Yes, sir.

20 Q. Okay. Do you have any personal knowledge whatsoever,
21 Mr. Suarez, as to the identity of the person who gave
22 that affidavit to your mother?

23 Do you have any idea?

24 Do you have any idea?

25 A. At the time that she received it, no, sir.

1 Q. No, that's not my question. My question is in the
2 present tense.

3 Do you have any idea who gave that
4 affidavit to your mother?

5 A. Well, the affidavit was signed and notarized by her
6 and provided to my attorney.

7 Q. Yeah. Who gave her the affidavit to sign?

8 A. I would assume that it would have been some --
9 (Talking over each other)

10 BY MR. GILLOOLY:

11 Q. Who?

12 A. -- someone to do with my case.

13 Q. Okay. Who?

14 That's all. I get to know this stuff.
15 Who did--

16 A. I --

17 Q. Your mom --

18 A. Sir, you're asking me to -- to give you a name. I
19 don't know if it came from my counsel, senior counsel,
20 a third --

21 Q. Mr. Suarez, no.

22 Did it come from this law firm?

23 A. The aff -- the affidavit?

24 Q. Yeah.

25 A. I -- if you look at the affidavit, it clearly says,

1 you know, who it came from and who -- what it was
2 pertaining to.

3 Q. Oh, so you do know who it came from? Okay.

4 MR. GILLOOLY: Do you have the affidavit,
5 please?

6 May I please have the affidavit?

7 MR. LAURILA: I don't have a copy with me.
8 I can go print one for you. Do you want one?

9 MR. GILLOOLY: I'd like one at some point,
10 sure.

11 MR. LAURILA: Hang on one second. Let's go
12 off the record for a minute.

13 MR. GILLOOLY: You know what, let's keep
14 going, if you don't mind, and do that in a little bit.

15 MR. LAURILA: Okay, that's fine.

16 MR. GILLOOLY: If you don't mind.

17 BY MR. GILLOOLY:

18 Q. And you don't know. You weren't involved in writing
19 down the words of the affidavit --

20 (Talking over each other)

21 A. **No, sir, I --**

22 BY MR. GILLOOLY:

23 Q. -- anything --

24 A. **-- was not.**

25 Q. None whatsoever?

1 **A. None whatsoever.**

2 Q. You've never been in a meeting here with your mom?

3 **A. I've never been here with my mother.**

4 Q. Okay. You never suggested the words that should go on
5 the affidavit?

6 **A. Mmm, no, sir.**

7 Q. Never made any changes to the affidavit?

8 **A. No, sir.**

9 Q. Never introduced your mom to this law firm for any
10 reason whatsoever?

11 **A. No, sir, other than telling counsel of my mother and**
12 **her knowledge and what -- you know, what she was**
13 **witness to.**

14 Q. And when did -- did your mom -- did you fill out any
15 forms with the government that your mom was suffering
16 from some mental health disorder that she could not
17 remember things accurately?

18 Do you remember signing something in that
19 respect about a year ago --

20 **A. About --**

21 Q. -- that she was having problems with her memory and --
22 did you file anything in court with regard to your
23 mom?

24 **A. Did I file anything in court regarding my mom's mental**
25 **capacity?**

1 Q. Yeah.

2 A. Not that I'm aware of, sir, no.

3 Q. That you needed to be appointed a conservator for her?

4 A. That was during -- that was through Beaumont.

5 Q. Yeah.

6 A. That was through Beaumont, but I don't know why --
7 that was handled by the doctors. The forms were
8 presented to me and my sister, and we signed state --
9 stating that, you know, were going to take
10 responsibility for my mother's medical. She was
11 diagnosed with brain cancer, and there was some, you
12 know, issues with her having headaches. But other
13 than that, there was nothing wrong with her mental
14 capacity.

15 Q. There wasn't? Okay.

16 So your testimony under oat -- oath here is
17 before her death, your testimony is, you personal
18 knowledge, there was nothing wrong with her mental
19 capacity?

20 Do I have that right, sir?

21 A. No, you do not.

22 Q. Because that's what you just told me?

23 A. No, sir. You -- you know, what you're saying is --

24 Q. Headaches?

25 A. What you're saying is, is that, you know, my mother's

1 mental capacity was compromised throughout this whole
2 process, and it was not. It was at the very end-stage
3 after she was diagnosed with brain cancer that she
4 became --

5 Q. Excuse me.

6 A. -- you know, forgetful.

7 Q. Sir, did I ever say your mother's mental capacity was
8 diagnosed -- was -- had gone down through this whole
9 process?

10 Did you hear me say that today?

11 A. No, sir.

12 Q. Okay. Because you just said I did it.

13 A. But you're implying it.

14 Q. No, I'm not implying it. I'm going after forms that
15 may have been filed in the Oakland County Circuit
16 Court to determine what your mother's mental health
17 condition was at the time she signed an affidavit that
18 you're going to try to introduce at trial, okay?

19 So I'd like to know, did your mom, in your
20 understanding, have any problems with mental capacity
21 at any time prior to the date that she signed that
22 affidavit?

23 Do you understand the question?

24 A. I'm not sure of the date that she signed the
25 affidavit.

1 Q. Okay.

2 A. **When was that date, sir?**

3 Q. Assume it was in the last couple months as you've
4 testified to earlier.

5 Did she have any mental problems before
6 that?

7 A. **Towards the tail end --**

8 Q. Yeah.

9 A. **-- yes. As a result of the brain tumors she did have
10 problems.**

11 Q. She had a lot of problems, didn't she, sir?

12 A. **Cancer, yes.**

13 MR. LAURILA: Objection to form.

14 BY MR. GILLOOLY:

15 Q. Did she have problems recognizing you shortly before
16 she passed away?

17 A. **She had problems recognizing me?**

18 Q. No. Did she have any problems recognizing you before
19 she passed away?

20 A. **No. No, sir.**

21 Q. When you signed those forms with Beaumont Hospital,
22 was the information on those forms truthful and
23 accurate?

24 Did you review them before you signed them?

25 A. **I did not read all of them, but it was explained to**

1 me -- it was paraphrased to me by the staff at the
2 hospital that because of the late stages of my
3 mother's illness that my sister and I need to sign
4 these documents in order to be powers of attorney for
5 my mother in her health-care decisions.

6 Q. And how long was that before her passing, if you know?

7 A. I don't recall.

8 Q. Are you taking any medications now, sir?

9 A. No.

10 Q. Are you treating with any type of psychologist,
11 psychiatrist, or mental health care provider?

12 A. No, sir.

13 Q. Have you treated with any psychologist, psychiatrist,
14 or mental health care provider, since you terminated
15 your employment with the City of Warren in 2017?

16 A. No, sir.

17 Q. Do you have any plans to?

18 A. At this point, no. I'm actually speaking with -- you
19 know, I -- I do have a pretty good network, support
20 network. You know, as far as the stress that was
21 caused to me by the situation with my employment at
22 the Warren Fire Department, I've been able to speak
23 with family and friends and I've gotten all the
24 support that I need through that.

25 Q. Okay. So only through family and friends, no one

1 else, correct?

2 A. During my -- the last several months of my employment
3 at the Warren Fire Department I did go to their
4 employment assistance program.

5 Q. CARE?

6 A. Yes.

7 Q. Okay.

8 A. And I spoke with one of their therapists. I had
9 several visits that were provided to me by the City of
10 Warren. And I spoke to him about the situation and
11 what was going on.

12 Q. And during those visits with your therapist did you
13 tell the truth?

14 A. Yes, I did.

15 Q. And the City of Warren made that program available to
16 you, correct?

17 A. Yes.

18 Q. And they suggested you go to that program, correct?

19 A. Actually, I was given a pamphlet by Chief Fredericks
20 (sic) back in January after I initially dropped off my
21 complaint, and he gave me a pamphlet and said if I
22 need to talk to anybody about things that I can start
23 here.

24 Q. Okay. And you did start there, correct?

25 A. Yes, sir.

1 Q. And have you gone anywhere else?

2 A. No, sir.

3 Q. In fact, just to make sure, only family and friends is
4 what you said, correct?

5 A. Well, yes. And I've gone to church a few of times.
6 I've spoken to the pastor. I've also spoken to
7 members of the Warren Fire Department during my employ
8 the last six months before I left. We have a -- a
9 Firefighter Justin Kelly, as well as Cliff Roberts,
10 who are very spiritual men, and we've spoken in great
11 detail about things.

12 Q. What's your cell phone number?

13 A. (248) 217-6407.

14 Q. And who's your provider?

15 A. Verizon.

16 Q. And have you had that phone number for at least the
17 last four years?

18 A. Oh, yes, sir.

19 Q. And you have texted various people from the City of
20 Warren from that number, correct?

21 A. Yes, sir.

22 Q. I'm requesting you retain and save. Do not delete any
23 texts from that number that you received or sent to
24 any current or former employee of the City of Warren,
25 fair?

1 **A. Yes, sir.**

2 **Q.** In your text messages, Mr. Suarez, to current or
3 former City of Warren employees, I -- I'll ask you,
4 have you ever used any demeaning words about anyone
5 else in those text messages?

6 Say you were writing to a former employee
7 at the City of Warren, have you ever used any
8 demeaning language in your text messages referring to
9 any former city employee, a third party so to speak,
10 who was not receiving that text?

11 **A.** **I don't recall. I know that there was some texts sent**
12 **by me to Mr. Selakowski during the incidents that are**
13 **in question here today, and I used language that I'm**
14 **not proud of.**

15 **Q.** What language did you use that you weren't proud of?

16 **A.** **I basically, essentially, called out Lieutenant**
17 **Selakowski and said I didn't appreciate his language**
18 **or racist comments. And I did use language that was**
19 **disparaging when I called him, and I'm quoting myself,**
20 **"a pussy", and, you know, off -- you know, and**
21 **continued on. I'm not -- I don't remember exactly**
22 **everything that was said, but I was pretty heated**
23 **after the several years of abuse. I --**

24 **Q.** Why didn't you -- did you forget that when I asked you
25 right off the bat of the deposition if you ever used

1 disparaging comments about anybody and you said no,
2 you know, that you may have in firehouse things
3 mentioned somebody was a dick, or a motherfucker,
4 you -- third-party.

5 But you've directly gone after people and
6 called them names, haven't you?

7 **A. No -- well, sir --**

8 (Talking over each other)

9 BY MR. GILLOOLY:

10 Q. Haven't you?

11 **A. -- I -- I feel that your question is actually leading.**

12 Q. I can ask you leading --

13 **A. Yeah.**

14 Q. -- questions, as a matter of fact. That's permitted.

15 **A. Okay.**

16 Q. I get to ask you leading questions until the cows come
17 home, sir.

18 **A. Okay.**

19 Q. Okay? So, when you testified earlier that you hadn't
20 used any names to anyone directly, you weren't
21 accurate, were you, sir?

22 **A. Actually, I knew that those tests were sent by me to**
23 **Lieutenant Selakowski. I --**

24 Q. Okay.

25 **A. I -- I have read the texts. I know that, you know,**

1 the language that I used previously. When you were
2 asking me the questions, you -- I understood your
3 question as asking me if there was any direct
4 hostilities or language used directed towards
5 somebody, and when I said it was in third person --

6 Q. Yeah.

7 A. -- I was referring to specifics in-person. The result
8 of those texts that I sent Lieutenant Selakowski came
9 at -- at the end of several years of abuse, and when I
10 was upset I texted him and I used the language that I
11 used.

12 Q. And that's what --

13 A. And I --

14 Q. -- I asked you about. I didn't care what context is
15 it. I simply asked you early on in the deposition,
16 did you ever use any demeaning language toward anyone
17 that you worked with. And you said no, that the only
18 demeaning language you used was in connection with
19 firefighters who were discussing third parties, that
20 you may have agreed that somebody was a dick, or an
21 asshole, or motherfucker.

22 Do you remember that testimony?

23 A. I do, sir.

24 Q. Okay.

25 A. I misunderstood your question.

1 Q. I'll ask it again, then, sir.

2 A. Okay.

3 Q. Have you ever used any demeaning language, called
4 anyone an inappropriate name that worked at the City
5 of Warren?

6 Whatever name it is, I don't care.

7 Did you ever use any inappropriate name to
8 anyone at the City of Warren?

9 I don't care about the reason. I don't
10 care what they did to you. I don't care what you did
11 to them, what the context was.

12 Did you ever, ever, ever, use any
13 appropriate term to somebody that you worked with at
14 the City of Warren?

15 A. Yes, sir, I did.

16 Q. Okay. And more to just -- then to just Selakowski,
17 correct?

18 A. Selakowski's comments and what I said to him in text
19 was directed towards him. I have never spoken to
20 anybody else directly in such a way, nor have I ever
21 cast disparities to anybody directly. It was only
22 conversation with third parties.

23 Q. Okay. So your testimony is, so I understand,
24 Selakowski was the only person at the City of Warren
25 to whom you have ever made a derogatory remark,

1 correct?

2 **A. Selakowski was the only person that I sent texts to**
3 **with derogatory remarks specifically geared towards --**

4 Q. Okay.

5 **A. -- to -- that situation.**

6 Q. Texts. During conversations, during phone calls,
7 anything, not just texts, sir.

8 Have you ever said any derogatory term?

9 Have you ever called anybody a name, any
10 derogatory term to anyone at the City of Warren for
11 whatever reason by whatever medium: Phone, text,
12 e-mail, anything?

13 **A. No.**

14 Q. Okay. He's the only one?

15 **A. That I made direct --**

16 Q. Yeah.

17 **A. -- comments to?**

18 Q. Yes.

19 **A. Yes, sir.**

20 Q. And that was the only time you did that was in a text
21 message, correct?

22 **A. Yes, sir.**

23 Q. Okay. Never to his face, correct?

24 **A. I never had a confrontation physically face-to-face**
25 **with that man.**

1 Q. Okay. You've never called him a name face-to-face --

2 A. I --

3 Q. -- correct?

4 A. -- never called him anything face-to-face. He was my
5 lieutenant.

6 Q. That's not my question.

7 I just want to know, sir: Have you ever
8 called him or anyone else a name at --

9 A. To their face?

10 Q. -- the City of Warren to their face?

11 A. No, sir.

12 Q. How about behind their back?

13 A. In speaking with other firefighters while they're
14 talking about someone's behavior or comments --

15 Q. Yeah.

16 A. -- I would interject, as I stated previously --

17 Q. Yes.

18 A. -- yeah he's kind of a dick or yeah he's an asshole.
19 Other than that, I have never actually physically
20 confronted anybody and called them a name to their
21 face.

22 Q. Okay. So you called other firefighters dicks,
23 correct?

24 A. Yes, sir.

25 Q. You've called other firefighters motherfuckers,

1 correct?

2 **A. Yes, sir.**

3 Q. You've called other firefighters pussy, correct?

4 **A. Yes, sir.**

5 Q. You've called other firefighters cunts, correct?

6 **A. Never.**

7 Q. You've never used that word?

8 **A. I'm not saying I've never used that word. I don't --**

9 Q. To firefighters?

10 **A. I don't -- I don't recall -- I don't recall ever**
11 **calling anybody that.**

12 Q. Okay. You use the word 'fuck' a lot in your
13 vocabulary, correct?

14 You throw a lot of F-bombs out there?

15 **A. No more or less than the average individual.**

16 Q. I'm not asking about average.

17 I'm -- do you use the word a lot in your
18 own vocabulary, sir?

19 **A. Well, define a lot.**

20 Q. Have you listened to the tapes that you produced to me
21 and other people at all the times you're using fuck
22 and that fucker?

23 Have you used that?

24 **A. I'm not denying that. I don't --**

25 Q. Right.

1 A. -- recall specifics, but I would say that I probably
2 have.

3 Q. Have you ever threatened any third party during
4 conversations with a City of Warren employee, like
5 you'd like to kick their ass or you should kick their
6 ass?

7 A. Never.

8 Q. Never?

9 Have you ever sued anyone else before?

10 A. No, sir.

11 Q. Have you ever filed for Social Security Disability
12 benefits?

13 A. No, sir.

14 Q. Have you ever filed any type of workers' compensation
15 benefits in this or any other state?

16 A. Not that I'm aware of, sir, no.

17 Q. What's your -- your e-mail addresses, each and every
18 e-mail address that you know of, that you have used in
19 the last five years?

20 A. Primarily just Suarezjosep@gmail.com. That's what
21 I've used for the last several years. I used to have
22 a Yahoo account, but I no longer use that one. I
23 don't even know the password to it.

24 Q. Okay. Did it used to be Suarezjosep@yahoo.com?

25 A. Yes, that was my first e-mail.

1 Q. Did you ever use J_suarez@comcast.net?

2 A. I believe so.

3 Q. Yeah. Did you ever use Jsuaréz01@comcast.net?

4 You used that one, too, didn't you, sir?

5 A. Possibly.

6 Q. Yeah.

7 A. It was never used very regularly. When I --

8 Q. I didn't ask you --

9 A. -- said I was --

10 Q. Sir --

11 A. That's okay.

12 Q. -- my question is, what e-mail addresses have you had
13 in the last five years?

14 A. Oh, no, those -- those e-mails that you just recited,
15 the _J@comcast hasn't been used in over 20. The Yahoo
16 was my first mainstream Gmail. The Comcast was used
17 when I had cable and web TV before the -- before I
18 even got on the internet. So no e-mails were sent
19 from or to those e-mail addresses, nor was I on them
20 with any regularity.

21 Q. Have you ever used Suarezjosep@yahoo.com in the last
22 five years?

23 You have, haven't you?

24 A. No.

25 Q. No?

1 A. No, not in the last five years.

2 Q. How about Suarez01@bellsouth.net?

3 A. I don't even know what that is, sir.

4 Q. How about a cos.net, did you ever use that, C-O-S dot
5 net?

6 A. I don't even -- I've never heard of that before.

7 Q. Okay. Where were you born?

8 A. Miami, Florida.

9 Q. And when did you come to Michigan?

10 A. At or around 11 and 12 I believe.

11 Q. And what high school did you graduate from, please?

12 A. Ferndale High School.

13 Q. In what year?

14 A. It was -- I got -- I got my GED I believe in '91 or
15 '92.

16 Q. And what year did you drop out of high school?

17 A. I never dropped out. I just didn't have the credits
18 to graduate, so I had to go to adult education to
19 continue my education.

20 Q. So you went continuously through Ferndale High School
21 for four years?

22 Is that your testimony?

23 A. No, sir. I went to Royal Oak Dondero and then went to
24 Ferndale Adult Education to get my GED.

25 Q. And you went to Royal Oak Dondero for four years?

1 A. No, sir. I went to two years -- two years there.

2 Q. And where else did you go to high school?

3 A. I finished some of my high school in a program that I
4 was in in Clinton, Clinton Macon.

5 Q. So you didn't go to high school for four years?

6 A. I went Ferndale High School, nine -- ninth grade.
7 From there incidents occurred that caused me to have
8 to go to a different school.

9 Q. And what was those incidents?

10 A. I was incarcerated as a juvenile.

11 Q. Okay. And what did you do?

12 Subject to your attorney's objection, what
13 did you do?

14 You can answer. It's okay.

15 A. Me and one of my fellow classmates broke into one of
16 the classroom windows, and he poured gas and --

17 Q. It was an arson, then, correct?

18 A. -- and paint.

19 Yes.

20 -- and paint all over the place.

21 Q. And then you pled no contest, correct?

22 A. Yes.

23 Q. And what year did you plead no contest?

24 A. I don't remember. I was 13 years old, 14 years old.

25 Q. You had had a lot of police contacts at that time for

1 other matters as well?

2 **A. No, sir. I had a possession of marijuana when I was**
3 **17. And other than that, that juvenile offense was**
4 **the only thing.**

5 MR. LAURILA: Just for the record, I'm
6 going to object to the entire line of questioning.
7 Mr. Gillooly knows all of that's not admissible, but
8 he's free to ask his question.

9 MR. GILLOOLY: Sure. I disagree --

10 MR. LAURILA: So --

11 MR. GILLOOLY: -- with your statement, but
12 I knew you'd be objecting and I said subject to your
13 objection. That's all preserved.

14 MR. LAURILA: I appreciate that.

15 MR. GILLOOLY: Yeah.

16 MR. LAURILA: Thank you.

17 MR. GILLOOLY: Nope.

18 BY MR. GILLOOLY:

19 Q. And how many times have you been arrested in your
20 life?

21 **A. Twice. Twice with the possession of marijuana at 17,**
22 **which was taken under advisement, article 7411, and,**
23 **therefore, sealed, as well as my juvenile records that**
24 **were sealed.**

25 Q. And did you successfully complete the terms of your

1 probation?

2 **A. I sure did.**

3 Q. Sir, if you could have done anything differently, do
4 you think you did anything wrong while you were
5 employed at the City of Warren with regard to what's
6 happened here?

7 Would you have done anything differently?

8 **A. I had moments of -- of -- of regret that I wrote the**
9 **letter and that I tried to hold people accountable**
10 **because I've seen firsthand what happens when letters**
11 **get written on fellow firefighters. They get**
12 **submitted to the administrative offices. So I -- I**
13 **do -- the hardships that it's caused me and my family,**
14 **the hardship that it's caused me with losing my career**
15 **of being discredited and attacked and then -- and**
16 **constant barrage, you know, from the City of Warren**
17 **and -- and their alleged account of what happened, I**
18 **feel it's very, very skewed and --**

19 Q. Okay. You indicated --

20 **A. -- inaccurate.**

21 Q. -- you lost your career.

22 How did you lose your career if you
23 voluntarily quit your employment there?

24 How did -- how did you lose your career?

25 **A. Since the submission of my original complaint letter**

1 on January 3rd, 2017, I had been unfairly scrutinized
2 by my officers. I've had union stewards tell me that,
3 "The commissioner, as well as my union president,
4 Christopher Andary, had told members of the union to
5 start documenting everything I do and writing
6 everything down."

7 Mr. McAdams was actually present and asked
8 Todd Jacobs if I could ever be a good employee again,
9 and this is during meetings that they held all in the
10 month of January after my complaint letter was
11 submitted.

12 As a result of that Lieutenant Steve Zanin
13 wrote two letters, that I was not aware of until these
14 processes were well under way, regarding his feeling
15 that he was in danger or that his crew was subject to
16 something because of something that he said I brought
17 to the table. He said that he was worried about my
18 behavior, that he was worried about anything, and at
19 that point I had never been spoken to regarding any
20 disciplinary action with regards to behavior, nor were
21 any of his concerns founded or brought forward to me
22 at all.

23 Q. Well, you had been spoken to about disciplinary things
24 because there was an issue years before you quit about
25 improper reports, correct?

1 It started the whole problem with

2 Ricketts --

3 **A. And actually --**

4 Q. -- right?

5 You were talked to about that, correct?

6 **A. Yes. We --**

7 Q. So -- no, excuse me. You just told me a minute ago
8 that you had never been talked to by anybody about
9 your job performance.

10 That's not a true statement, is it, sir?

11 **A. Yes, it is. Yes, it is.**

12 Q. Okay. So -- wait. I -- just to make sure, prior to
13 your voluntary termination of your employment with the
14 City of Warren, your testimony under oath is, you had
15 never been talked to about any job issue at the City
16 of Warren Fire Department?

17 Is that your testimony?

18 **A. That -- that is not what I am saying, sir.**

19 Q. You have --

20 **A. What --**

21 Q. -- done everything by the book and nothing wrong while
22 you were there. Is that your testimony?

23 **A. That's not what I'm saying, sir. What I --**

24 Q. Okay.

25 **A. What I --**

1 Q. Un-un-un. That's all my question.

2 A. Okay.

3 Q. That's my question.

4 How did Mr. McAdams unfairly scrutinize
5 you?

6 A. Well, during his interview processes and with -- with
7 all the members involved in this situation he
8 basically -- what I was told by both Todd Jacobs and
9 Firefighter Jim Stephenson was that everybody was
10 assembling all month and that the union hates me, they
11 want me out, that Skip McAdams, as well as Christopher
12 Andary, was telling people to start a paper trail on
13 me and, you know, to document everything I do and say.

14 Q. So you heard that hearsay through other firefighters,
15 correct?

16 A. But I physically saw it, sir.

17 Q. You heard it physically through other people, correct?
18 Hearsay, correct?

19 A. Yes --

20 Q. You said that --

21 A. -- sir.

22 Q. You just told me you heard it from two others,
23 correct?

24 A. Yes, sir.

25 Q. Okay. Did you ever hear the commissioner say that to

1 you?

2 **A. No, sir.**

3 **Q. Okay.**

4 **A. But the behavior by Lieutenant Zanin and other members**
5 **of the off -- the fire department, with me being**
6 **pulled out into the apparatus bay, and told by**
7 **Lieutenant Steve Zanin that I need to drop my**
8 **questions as to what they're doing about my concerns**
9 **because it makes me look crazy. He told me that all**
10 **anybody has to do is say that I went in there yelling**
11 **and screaming and it would make -- make things**
12 **untoward for me.**

13 **He even threatened me by telling me that if**
14 **I thought things weren't going to work out here at the**
15 **City of Warren and I was going to go anywhere else**
16 **that Warren would destroy my life more than it already**
17 **has.**

18 **Q. Okay. Who said that, Zanin?**

19 **A. Steve Zanin.**

20 **Q. Okay. That's not the commissioner, though, is it? Is**
21 **it?**

22 **A. No.**

23 **Q. You never heard the commissioner say anything to you**
24 **or about you to unfairly scrutinize you, have you,**
25 **sir?**

1 (Back on the record at 1:10 p.m.)

2 VIDEO TECHNICIAN: We are back on the
3 record. It is 1:10 p.m.

4 BY MR. GILLOOLY:

5 Q. Mr. Suarez, we just took a break at your attorney's
6 request, correct?

7 A. Yes, sir.

8 Q. And during the break you pulled out a document out of
9 a file, correct?

10 A. Well, not a doc -- yes, sir. Yes. Yes.

11 Q. You pulled a document out of a file?

12 A. Yes, I did. Yes, sir.

13 Q. Yes. Show me what you pulled out of the file that you
14 were reading during our deposition, please?

15 Is there anything in there that was created
16 by your attorney that you contend is privileged?

17 A. No, sir. That's actually statements from your
18 defendant. And I was look -- looking for the name of
19 the young lady that I spoke to at the Macomb County
20 Medical Control because the City of Warren's alleging
21 that there was a hearing held, and I spoke to the
22 young lady today, along with her husband, Luke, who
23 assured me that there was no hearing held, that that
24 is the wrong verbiage that was used and that it was
25 more of a review.

1 And I asked for any substantiated
2 documentation or anything else to be sent to my
3 e-mail, and he --

4 Q. So, you're saying, where it says here on March 17,
5 2017, as a result of a hearing held, that should be a
6 review held?

7 Sir, you can be pretty choice on words,
8 too, yeah?

9 A. No, sir. I was actually --

10 Q. You must be.

11 A. No, sir. I was --

12 Q. Okay.

13 A. -- actually asking them to clarify what hearing took
14 place because I was not notified of any hearing,
15 nor -- I would think that I would have to be present
16 if there was something that happened that was of such
17 severity that required a hearing, then that implies
18 that my licensure will be in question or that I did
19 something inappropriate.

20 Q. Have you re -- you've recorded a lot of conversations
21 without people's consent while you were employed at
22 the City of Warren, haven't you?

23 A. Only a handful or so. I don't know how many, but --

24 Q. More than a handful, yeah?

25 What's a handful, five?

1 A. Maybe six. Six.

2 Q. Yeah. So more than a handful, right?

3 A. Yeah. I said or so. I said --

4 Q. Why --

5 A. -- a handful or so.

6 Q. Why are you recording things without their consent?

7 Why?

8 A. Well, because at the time that I filed my complaint
9 and I realized the backlash and the adversity that I
10 was getting from my union president, Chris Andary, as
11 well as my union, the things that were said to me and
12 the general disposition of people towards me, I
13 realized that at that point, you know, if Mr. Zanin or
14 somebody pulled me out and wanted to speak to me
15 regarding anything to do with my complaint that I
16 would have to record it in order to keep people
17 honest.

18 Q. Did you ever record things before you filed your
19 letter?

20 You did, though, didn't you?

21 You recorded people at the City before you
22 filed -- before you gave your letter to
23 administration, correct?

24 A. Not that I can remember, sir, no.

25 What did I record? I didn't record

1 **anything. I started recording after January 3rd.**

2 Q. Your testimony here under oath is that you never
3 recorded anybody at the City of Warren prior to
4 January 3, 2017?

5 Is that your testimony, sir?

6 **A. With regards to my -- my --**

7 (Talking over each other)

8 BY MR. GILLOOLY:

9 Q. No --

10 **A. -- complaint, yes, sir.**

11 Q. -- with regard to anything, sir. I didn't put any
12 limits on it.

13 **A. Okay.**

14 Q. Mr. Suarez, here's my question again.

15 **A. Yes, please, sir.**

16 Q. You picked the word 'hearing' out and said it was only
17 a review. So you, obviously, are very picky about
18 wording. So I want you to listen, please, as I said,
19 carefully to the question.

20 Here's my question: Prior to January 3,
21 2017, you recorded people at the City of Warren
22 without their knowledge, didn't you, sir?

23 **A. Not that I can remember, sir. I'm -- I'm unaware of**
24 **it. I've taken pictures and recorded training things**
25 **that --**

1 Q. I'm sorry.

2 A. -- went on the Facebook.

3 Q. I'm sorry.

4 A. That's okay, sir. You can throw it at me.

5 Q. No, I'm -- I meant to slide it. I didn't throw it at
6 you.

7 A. That's what you intended and you know it.

8 Q. Pardon me?

9 A. I said I did -- that was uncalled for, but...

10 Q. Sir, you've never recorded anyone on a phone or tape
11 recorder prior to January 3, 2017?

12 Is that your testimony under oath?

13 A. I don't recall recording anybody prior to January 3,
14 2017, sir, other than pictures and posting things on
15 Facebook that we all do.

16 Q. You took pictures of people without their knowledge
17 before January 3, 2017, didn't you, sir?

18 A. On fire scenes, sir, yes, and --

19 Q. Sir, I didn't --

20 A. -- anything to (inaudible) the department. As we were
21 training and doing things --

22 Q. I didn't ask you --

23 A. -- just like everybody else.

24 Q. I didn't ask you where you did it. I --

25 A. Yeah.

1 Q. -- just asked you if you did it.

2 A. Yes, we all took --

3 Q. It's not --

4 A. -- pictures of each other, yes.

5 Q. You do?

6 A. Yes.

7 Q. Okay. In any of your Facebook captions did you ever
8 write demeaning comments about anybody that you may
9 have thought were humorous --

10 A. In regards --

11 Q. -- that other people might not?

12 A. In regards to?

13 Q. When you posted the pictures, did you ever write
14 anything demeaning on any of your Facebook posts about
15 anybody, about how they looked or anything like that?

16 You did, didn't you?

17 A. The only -- the only thing that I can remember, that I
18 can recall, was I made a comment -- I posted a meme
19 where one of the firefighters, he had red hair, and I
20 posted on Facebook saying -- and it was a memes that
21 had a -- a pale face, red-headed kid, who said, you
22 know, I wear sunblock and it's called roof. But I
23 have never purposely written anything demeaning
24 anybody based on religion, based on beliefs, based on
25 color or --

1 Q. Looks, nothing? Nothing?

2 You've never done anything like that,
3 right?

4 A. **Not that I --**

5 Q. Not purposely --

6 A. **No, sir.**

7 Q. -- I'm saying did you ever post anything like that.

8 You never have, have you?

9 It's your testimony you never put anything
10 like that --

11 A. **Not that I can recall that --**

12 Q. You didn't make jokes about anybody's weight or
13 height?

14 You didn't do that, did --

15 A. **Not that I --**

16 Q. -- you?

17 A. **Not that I can recall, sir.**

18 Q. You know that you deleted things from your Facebook
19 account that were very, very critical of other people,
20 didn't you, sir?

21 A. **When was this, sir?**

22 Q. I'm asking you.

23 You deleted things on your Facebook page
24 that were extremely critical of other people, haven't
25 you, Mr. Suarez?

1 A. I am not sure what you speak of, sir.

2 Q. Okay. That's all I need to know because evidently --

3 A. No, if you would like to present me with that, I would
4 love to see it.

5 Q. Okay.

6 A. Because I have -- I've never written anything that is
7 extremely critical or racist --

8 Q. I didn't ask --

9 A. -- about anybody.

10 Q. I didn't ask if it was extremely critical words like
11 that.

12 I'm asking you if you've ever put anything
13 on Facebook that was demeaning of anyone:

14 Weight, height, color, ethnic origin --

15 (Talking over each other)

16 A. Sir --

17 BY MR. GILLOOLY:

18 Q. -- none of those?

19 A. Certain --

20 Q. None of those, right?

21 A. Certainly not ethnic origin or color, sir.

22 Q. How about -- those weren't the only two I asked you
23 about.

24 How about weight and height, have you ever
25 posted anything --

1 A. I --

2 Q. -- about somebody at the Warren Fire Department on
3 Facebook making comments about their weight or height?

4 A. Height, everybody gets talk --

5 Q. I didn't ask about --

6 A. Hold on.

7 Q. -- everybody. Did you? Not if everybody, did you?

8 Did you post any unflattering comments on
9 Facebook about people's height at the City of Warren?

10 You have, haven't you?

11 A. Everybody makes fun of everybody to --

12 Q. They do?

13 A. -- some -- to some -- to some degree --

14 Q. Okay, thank you.

15 A. To some -- to some degree with --

16 Q. Great.

17 A. -- the height.

18 Q. Perfect. So --

19 A. There's been -- there's been --

20 Q. -- you did that --

21 A. -- multiple --

22 Q. -- then, didn't you?

23 A. No. No, sir.

24 Q. You made fun of people because of their height at the
25 City of Warren, correct?

1 That's all I want to know. Not if
2 everybody does it.

3 I want you to confirm that Jose Suarez has
4 done that. Haven't you?

5 You've made fun of people because of their
6 height --

7 **A. I never --**

8 Q. -- made --

9 **A. -- made fun of. I might have posted a comment or a**
10 **like to somebody making fun of like T.J. Valente, for**
11 **example --**

12 Q. Okay. So you saw --

13 **A. -- on his stature.**

14 Q. -- someone else's -- oh, his stature?

15 **A. Yes.**

16 Q. Do you think that's appropriate?

17 **A. He jokes about his height, sir.**

18 Q. Do you think it's appropriate to joke about other
19 people's height?

20 Do you think that's appropriate, the
21 physical characteristics of some -- I'm just asking
22 you.

23 Do you think that's appropriate?

24 **A. In the context in which it was said everybody found it**
25 **funny, and he even joked about his own height.**

1 Q. Good. So -- and you found it funny as well, correct?

2 You found the Facebook postings about the
3 person's height and looks to be funny, didn't you, Mr.
4 Suarez?

5 You said everybody did. Were -- are you --

6 **A. -- the --**

7 Q. -- included in there? That's all I want to know.

8 Did you find it funny?

9 Did you find it funny, the things you
10 posted on Facebook about people's height --

11 **A. I didn't --**

12 Q. -- even if you were responding to other people?

13 You did. You did. You just told me you
14 did, and you replied to other people's posts. You
15 know you did.

16 **A. I did, but you're making it sound --**

17 Q. Thank you. You did.

18 **A. You're -- you're making it sound as if I was the one
19 that spearheaded this --**

20 Q. No, not --

21 **A. -- and --**

22 Q. -- spearheaded it.

23 **A. Yeah.**

24 Q. -- I'm just asking --

25 **A. No.**

1 Q. -- if you made fun, and you said you did, right?

2 A. **Yes, sir.**

3 Q. Do you think that's appropriate?

4 Do you think that's appropriate?

5 A. **At the time I thought I did -- I thought it was.**

6 Q. Okay. All right. Thank you for being honest.

7 Are you claiming in this case that you're
8 discriminated against on the basis of your age?

9 Nobody ever discriminated against you on
10 the basis of your age at the City of Warren, did they,
11 sir?

12 That's not what this is about?

13 A. **No, this is about race, sir --**

14 Q. Okay.

15 A. **-- and discrimination.**

16 Q. No one's ever discriminated against you on the basis
17 of your age at the City of Warren, have they?

18 A. **Yes, they have.**

19 Q. Who?

20 A. **Joel Ricketts used to come up to me and torment me and
21 call me old as fuck and make comments like that.**

22 **He --**

23 Q. Who was? You mean you -- Ricketts discriminated
24 against you?

25 A. **My -- my -- my --**

1 Q. He wasn't --

2 A. -- subordinate.

3 Q. -- even a supervisor of yours?

4 A. No. But as a subordinate he went around telling
5 people that his whole M.O. was to push me over the
6 edge, make me snap, to antagonize me, and he did so
7 daily.

8 Q. That's not my question.

9 A. Yeah.

10 Q. Did anyone above you --

11 A. Oh.

12 Q. -- in a powerful position discriminate against you,
13 change any condition of your employment at the City of
14 Warren based on your age?

15 They didn't, did they?

16 A. I can't -- I can't speak intelligently about other
17 people's intentions, sir. I don't know what their
18 intentions were when they discriminated against me. I
19 don't know if it was based on --

20 Q. Well --

21 A. -- you know, age or other.

22 Q. Well, then why did you file the complaint with the
23 EEOC saying that you've been subject to harassment due
24 to your age?

25 A. Age --

1 Q. Is that Ricketts?

2 A. **Age and ethnicity, yes, sir.**

3 Q. Oh, age?

4 A. **Yes.**

5 Q. Who -- that's only Ricketts?

6 Is that only Ricketts?

7 A -- **somebody, a -- a firefighter below**
8 **you?**

9 You haven't been subject to the -- you
10 don't have any evidence that McAdams discriminated
11 against you on the basis of your age, do you?

12 A. I have no evidence of that, sir --

13 Q. Thank you.

14 A. -- no.

15 Q. Or Selakowski?

16 A. **Actually --**

17 Q. Did he discriminate -- he -- what position did he
18 change of yours because of your age?

19 How did he discriminate specifically and
20 when? Go ahead.

21 A. **Well, there was no specific situation that he --**

22 Q. Thank you.

23 A. **Yeah.**

24 Q. Okay. We need specifics, yeah?

25 A. **Okay.**

1 Q. If you're going to accuse somebody of discriminating
2 against you on the basis of age, we need specifics.

3 A. Well, if you would like specifics, sir, Lieutenant
4 Selakowski, Chris Andary, Rob Loring, people at
5 Station 4, would make comments to me and would say
6 that I was a little too long in the tooth. And they
7 would make comments to me regarding the fact that --
8 you know, by looking at my Facebook, which I'm sure
9 you've already done, you can see that I have done a
10 lot of things. I rock climb. I mountain bike. You
11 know, I'm bilingual. I've helped guys do their
12 brakes. I've -- I've epoxyed the floor at Station 4.

13 Q. You make a lot of comments about people. You make a
14 lot of unflattering comments about people in the past
15 well, right?

16 A. No.

17 Q. You thought were funny. You jumped on the bandwagon
18 of the others, and you've said a lot of -- you've
19 picked on people in the past?

20 A. Not quite, no.

21 Q. Not quite, but you --

22 A. I've never -- I've never picked on anybody, sir.

23 Q. You've never picked on anybody?

24 You've never started --

25 A. Not --

1 Q. -- out --

2 A. No, I've never initiated the hostilities towards
3 anybody. The comments --

4 Q. But you carried on -- okay.

5 A. The comments that were made in front of me or around
6 me, okay --

7 Q. You never initiated, but you participated in it.
8 You've picked on people when people were getting on
9 somebody else?

10 A. Negative.

11 Q. You've gone along with -- never?

12 Your testimony is never? Is it?

13 You just said negative.

14 A. Yeah.

15 Q. I want to make sure we're on the same page.

16 Have you ever joined in others in picking
17 on anybody at the City of Warren?

18 A. You said specifically with the height thing?

19 Q. No, any --

20 A. Or the --

21 Q. -- thing. Anything.

22 A. -- the -- or the red head, I made comments regarding
23 that. I have never victimized anybody, nor have I
24 ever picked on anybody regarding their race, religious
25 belief, or anything else.

1 To say -- to say to a guy and post the meme
2 of two midget wrestlers wrestling when the gentleman
3 that in question posted it to Facebook himself and
4 everybody laughed and said look there's T.J.
5 wrestling --

6 Q. Uh-huh.

7 A. -- with so and so, you know, for me to like the
8 comment or --

9 Q. You think that's funny, don't you?

10 A. That -- that was --

11 Q. That's funny?

12 A. No.

13 Q. Or do you like the word -- do you think the use of the
14 word 'midget' is appropriate, Mr. Suarez? Do you?

15 A. No, sir.

16 Q. You -- midget, you just referred to like it was
17 nothing: Two midget wrestlers.

18 Do you think that's appropriate?

19 Do you think that's appropriate, sir, for a
20 little person to be called a midget?

21 Is that appropriate in your mor -- in your
22 world?

23 A. I'm not sure the --

24 Q. I'm just asking you.

25 A. -- difference between the two.

1 Q. I'm asking you --

2 **A. I'm not --**

3 Q. You're -- what? You don't understand that 'midget' is
4 an offensive term to a person who might have a
5 dwarf --

6 **A. That --**

7 Q. -- condition?

8 **A. That -- that --**

9 Q. You don't understand that?

10 **A. That I did not know.**

11 Q. You did not know that?

12 **A. No.**

13 Q. You didn't know it's offensive to call a dwarf or a
14 little person a midget?

15 You didn't know that, and you're making
16 these claims?

17 And did you see your Face -- you didn't
18 know that before today?

19 I just want to know.

20 Your testimony under oath is you didn't
21 know that before today that calling somebody -- a
22 dwarf who has a biologic condition a midget is no
23 longer acceptable, is not acceptable?

24 **A. I did not know that that was not a -- I did not know**
25 **that that -- that --**

1 Q. You did not --

2 A. -- that was --

3 Q. That was what?

4 A. -- like not PC. When I said --

5 Q. You didn't, okay. All right.

6 A. They really --

7 Q. No, that -- that -- there is no pending question.

8 A. Okay.

9 Q. Let's make sure: You did not know before today that
10 calling somebody a midget was inappropriate, correct?
11 Correct?

12 A. Apparently.

13 Q. Apparently,

14 I'm asking that you make no further
15 deletions from your Facebook page until the conclusion
16 of this litigation.

17 A. I have not been on my Facebook --

18 Q. I'm not asking --

19 A. -- to delete anything.

20 Q. Sir, I didn't ask you that.

21 A. Uh-huh.

22 Q. Because you have deleted posts from your Facebook
23 within the last 12 months, haven't you, sir?

24 A. Not that I'm aware of.

25 Q. Is your meme with regard to the -- the use of your

1 term 'midgets' and the comments you made about the
2 midget wrestlers and one of your colleagues, is that
3 still on your Facebook page?

4 **A. That was actually posted by a Warren fireman on the**
5 **Warren Facebook.**

6 Q. And you ---

7 **A. So I don't --**

8 Q. -- liked it?

9 **A. I don't have -- I don't have access to that anymore**
10 **because they -- they've cut me off of that. So,**
11 **there's plenty of comments that were made on Warren**
12 **Facebook page that --**

13 Q. Do you think all your appropriate on the Warren
14 Face -- your comments on the Warren Facebook page
15 were -- were appropriate to people?

16 Do you think they were appropriate?

17 **A. Sir, I don't remember every single post or --**

18 Q. I didn't you ask --

19 **A. -- every comment.**

20 Q. -- that.

21 You don't remember some -- making some
22 comments that were completely inappropriate to people?

23 You don't remember any?

24 **A. Not offhand, no, sir.**

25 Q. Okay. You gave -- you were involved in an employee

1 interview with Mr. Fournier (phonetic) and Mr. Sim --

2 **A. Simlar.**

3 Q. -- lar, correct?

4 **A. Yes, sir.**

5 Q. And on May 3, 2017, correct?

6 **A. Yes, sir.**

7 Q. Did you tell the complete truth during that
8 proceeding?

9 **A. Yes, sir, I did.**

10 Q. And do you have any changes or anything you'd like to
11 make to your testimony at this time?

12 **A. I don't --**

13 Q. Is there anything in that testimony that you would
14 like to change, that you might have been inaccurate
15 on, anything along those lines?

16 **A. No, sir. To the best of my knowledge everything was
17 accurate and truthful.**

18 Q. Okay. You had met with each of them before that
19 formal interview, at least one prior time, correct?

20 **A. When was the date on that?**

21 Q. This is May 3, 2017.

22 **A. I --**

23 Q. You met them during the interview process, correct?

24 **A. May 12th, 2017? I met with Chief Frederick and Mr.
25 McAdams. January 3rd I had my complaint letter**

1 originally filed, and then on the 6th I believe -- the
2 6th or 7th. I believe the 7th. It was a Saturday.
3 It was a Unit 3 day. I came back and -- and I met
4 with Mr. McAdams and a couple people in the room.
5 Other than that, I did not speak to anybody regarding
6 administration of my complaint letter until May 12th.

7 Q. A little while ago you told me that the City of Warren
8 was doing nothing with regard to your complaint.

9 That wasn't accurate, your testimony, was
10 it?

11 A. To the best of my knowledge, sir, when I would inquire
12 as to what they were doing with the complaint letter.
13 I was told by Mr. Simlar on February 7th, 2017, that
14 he hadn't gotten to it yet. He pointed to a stack of
15 papers on his desk, and he said: Do you see this?
16 Between the drama at the may -- at the mayor's office,
17 to all these complaints that are going towards the
18 police department and fire department, I haven't had a
19 chance to look at your -- your complaint.

20 That's what Mr. Simlar told me on February
21 7th --

22 Q. Okay.

23 A. -- which was not accurate because Todd Jacobs and
24 other members of the fire department told me --

25 Q. Had been interviewed?

1 A. Jeff Stephenson told me that they were having
2 interviews all month long trying to do damage
3 control --

4 (Talking over each other)

5 BY MR. GILLOOLY:

6 Q. So you knew --

7 A. -- according to them.

8 Q. -- that something was being done?

9 You knew that they were looking into your
10 complaint?

11 A. Well, no --

12 Q. Right?

13 A. -- sir. No, sir, because what I was --

14 Q. You did --

15 A. -- what I was told --

16 Q. Excuse me. They were conducting interviews.

17 A. Uh-huh.

18 Q. Isn't that doing something with regard to your
19 complaint?

20 A. The nature of those interviews were untoward towards
21 me, sir.

22 Q. Oh, so you believe because the -- the interviews
23 weren't being done correctly?

24 A. No. I was told by Todd Jacobs and other members that
25 the City has it out for me; the union hates me, and

1 **they want me gone.**

2 Q. Okay. So you think that this whole interview process
3 and everything was a sham --

4 A. **I'm not --**

5 Q. -- correct?

6 A. **I'm not saying that, sir. I --**

7 Q. Well, you just said it was untoward toward you and
8 they wanted you gone.

9 So it was a sham, correct?

10 A. **Well, you're putting words in my mouth. I'm not --**

11 Q. I can. I'm asking you --

12 A. **I'm saying it was very poorly handled.**

13 Q. Okay. How much were you making at the time of your
14 separation from your employment, when you voluntarily
15 quit your job?

16 A. **I'm not sure. I think close to 60,000, 57 or 59.**

17 Q. Was that, generally speaking, an accurate statement of
18 what you were making every year?

19 A. **No, because it was per contract and every year there
20 was step raises along the way.**

21 Q. Was your projected compensation closer to 50 as
22 opposed to \$60,000 the year you left, sir?

23 A. **I'm not sure, sir. I would -- you know, I would defer
24 to the documentation in my contract.**

25 Q. Have you filed tax returns for each of the last ten

1 years with the State of Michigan?

2 **A. Yes, sir.**

3 Q. Have you filed tax returns for each of the last ten
4 years with the federal government?

5 **A. Yes, sir.**

6 Q. Are there any more IS -- IRS liens on you?

7 **A. No, sir. Just the previous lien from my bankruptcy
8 and the debts that I -- were owed when I filed
9 bankruptcy.**

10 Q. You -- my only question was, are there any currently
11 liens on you, not if they were formal ones, not --

12 **A. I mean, not that I'm --**

13 Q. Do you have any currently?

14 **A. -- aware.**

15 **The IRS -- the IRS had a lien on me, and it
16 should have been lifted because my IRS, that along
17 with all of my debt, are current and taken care of.
18 All past debt has been taken care of.**

19 Q. Okay. What are your current sources of income,
20 please?

21 **A. I --**

22 Q. Every one. Every source of income that you have.

23 **A. I currently do not have any. I am taking care of my
24 mother's home and going through her personal effects
25 after she passed away. I am currently seeking**

1 employment with a fire department. I'm renewing all
2 my certifications and becoming instructor certified
3 and other things --

4 Q. Sir --

5 A. -- just to make me more marketable, but I'm not --

6 Q. -- my question is --

7 A. -- currently employed.

8 Q. Sir, my question is not what you're doing or what
9 you're trying to do.

10 A. Uh-huh.

11 Q. My question is, what are your current sources of
12 income?

13 Are you making any money now?

14 A. I have no current streams of revenue at this point.
15 Just job --

16 Q. When --

17 A. -- prospects.

18 Q. I didn't ask you.

19 When's the last time you've had a job?

20 A. With Henry Ford earlier this year. I believe I left
21 them -- I believe I left Henry Ford's employ, I want
22 to say May --

23 Q. And --

24 A. -- of 2018.

25 Q. And what were you doing for them?

1 A. I was an emergency medical services navigator. I
2 provided emergency room patients with outpatient
3 service, trying to intervene and -- and unclog the ER
4 and traffic to the hospital.

5 Q. And why didn't you just take a quick leave as opposed
6 to quitting there?

7 A. Because I did not know exactly the demands that were
8 going to be needed. FMLA, I did not qualify for FMLA
9 because I had only been there a few months at that
10 point, four -- three or four months, and I was unsure.

11 My supervisor loved the fact that I was
12 doing a good job, and he even told me to take a leave
13 of absence, but I did not know if at the conclusion of
14 my mother's passing if I would return to Henry Ford or
15 if I --

16 Q. Why?

17 A. -- would continue on.

18 Because I really want to return to fire
19 service and -- and being a --

20 Q. Couldn't --

21 A. -- paramedic/firefighter.

22 Q. -- you continue at Henry Ford until you went back to
23 the fire service after your mom's passing?

24 A. I --

25 Q. Wasn't that an option?

1 A. I don't -- I'd have to go through the application
2 process all over again, sir, and that's not
3 something --

4 Q. And?

5 A. Well, I found it better that if I applied to fire
6 departments and tried to, you know, rein -- reinstall
7 myself into the profession that I was good at and was
8 a part of for the better part of 12 years, that would
9 better for me because, ultimately, that is my dream
10 job and that is what I wanted to do.

11 Q. How much were you making at Henry Ford?

12 A. Not much. Every two weeks I would bring home like
13 950, \$1,000 give or --

14 Q. Okay.

15 A. -- take.

16 Q. And what was your gross wage, please?

17 A. I don't know.

18 Q. Have you given any expert witness any evidence of
19 gross wages from Henry Ford Hospital in connection
20 with this litigation?

21 A. No, sir.

22 Q. Have you ever filed for Social Security Disability
23 benefits?

24 A. Never.

25 Q. Have you ever been on Medicaid or Medicare?

1 **A. No, sir.**

2 Q. Do you currently have a policy of health insurance?

3 Do you have health insurance?

4 **A. No, sir.**

5 Q. Did you extend your COBRA benefits after you quit your
6 position at the City of Warren?

7 **A. I never received any documentation regarding COBRA.**

8 Q. That wasn't my question.

9 **A. No.**

10 Q. I'm going to ask you, sir, if I might, with all due
11 respect, if you understand this question, its intents
12 and form: Did you ever extend your COBRA benefits
13 after you left the City of Warren?

14 **A. No.**

15 Q. What's your ethnic background?

16 You're Cuban?

17 **A. Yes, sir.**

18 Q. Did your parents immigrate to the United States from
19 Cuba?

20 **A. Yes, they did.**

21 Q. And when did they come to the United States, please?

22 **A. In the '60s. Early '60s. Early to mid-'60s.**

23 Q. And your father's full name was?

24 **A. Jose Manuel Suarez.**

25 Q. And your mother's full name was?

1 A. Maria Teresa Velazquez. Maria Teresa, T-E-R-E-S-A,
2 Velazquez, V-E-L-A-Z-Q-U-E-Z.

3 Q. Are you bilingual?

4 A. Yes, sir.

5 Q. So you're fully competent in understanding the Spanish
6 language?

7 A. Yes, sir.

8 Q. Do you regularly speak Spanish?

9 A. I do at home with my mother when she was alive.

10 Q. Sir, what's your date of birth?

11 A. November 29th, 1972.

12 Q. Sir, do you wear glasses?

13 A. No.

14 Q. Hearing aids?

15 A. No.

16 Q. How's your physical health these days?

17 A. Good.

18 Q. Why don't you describe it as excellent, please?

19 A. Why don't I describe it as excellent?

20 Q. Yeah.

21 A. Because I'm about ten or 15 pounds heavier than I'd
22 like to be.

23 Q. Any appreciable weight gain since you quit your job at
24 the City of Warren?

25 A. That's pretty much it.

1 Q. You gained ten to 15 pounds?

2 A. Uh-huh.

3 Q. Yes?

4 A. Yes.

5 Q. Do you exercise regularly?

6 A. I try to, although I haven't been able to.

7 Q. So the answer's no?

8 Do you exercise regularly?

9 A. Not currently, no.

10 Q. Do you smoke?

11 A. No.

12 Q. Any physical condition that might shorten your life
13 expectancy?

14 A. No, sir.

15 Q. Ever been diagnosed with any type of cancer, diabetes,
16 or heart issue?

17 A. No, sir.

18 Q. Ever been married?

19 A. No, sir.

20 Q. Any children?

21 A. No, sir.

22 Q. Anyone dependent upon you for financial support at the
23 time you terminated your employment at the City of
24 Warren?

25 A. No, sir.

1 Q. I want to ask you about your history at the Warren
2 Fire Department.

3 Were you first assigned to Unit 1, Station
4 4, at the Warren Fire Department?

5 A. No, sir.

6 Q. Sorry, I misspoke.

7 Unit 1, Station 3?

8 A. Yes, sir.

9 Q. And how old were you when you began working at the
10 City of Warren?

11 A. I believe 40 years old.

12 Q. And did you quickly come to learn that working in the
13 fire department was somewhat different than working at
14 other places?

15 A. I had worked for the fire department before at
16 Redford.

17 Q. Redford?

18 A. Yes.

19 Q. And had you ever gotten any -- on anyone at Redford
20 before you came to Warren, teased anybody or any --

21 A. No --

22 Q. -- thing like that?

23 A. No, sir.

24 Q. Never?

25 A. No, sir.

1 Q. So if somebody would say at the Redford Fire
2 Department that you would frequently join in, that you
3 were one who liked to pick on people but didn't like
4 to be picked on, that wouldn't be accurate?

5 A. **No, sir. I was an auxiliary firefighter. I had no --**
6 **no rights. I kept my head down and did my job.**

7 Q. Okay. And you didn't like to pick on people at the
8 City of Warren either, did you, sir?

9 A. **I don't like picking on anybody, sir.**

10 Q. So the answer to my question is no?

11 A. **Correct.**

12 Q. Okay.

13 A. **And things said in jest that are comical where one**
14 **laughs at themselves I did not consider being me**
15 **picking on someone.**

16 Q. Oh, you didn't?

17 So give me --

18 (Talking over each other)

19 A. **No.**

20 BY MR. GILLOOLY:

21 Q. -- some examples of things that you thought were in
22 jest that you thought were humorous, like people si --
23 we know that you didn't know about midgets and thought
24 calling short people midgets was okay, right?

25 You thought that was fine?

1 A. When -- when comments were made, for example, by
2 Anthony Valente, T.J., okay, Firefighter Anthony
3 Valente --

4 Q. He would throw -- okay.

5 A. -- he would -- he would joke about himself. He would
6 post things about him being short in stature, and then
7 guys would just, you know, rib him about that --

8 Q. And you were --

9 A. -- you know. So he would --

10 Q. -- one that ribbed him --

11 A. He would --

12 Q. -- right?

13 A. -- make fun of himself, and guys would, you know, just
14 giggle with it and then play along.

15 Q. And Jose Suarez was one of the guys who would giggle
16 with it and play along, correct?

17 A. Well, I found that it was -- it was -- it was amusing
18 at the time that he himself would joke about something
19 because I'd been joked with about the size of my
20 head --

21 Q. Oh, you have?

22 A. -- or -- yes, I have.

23 Q. You think that's funny?

24 A. No.

25 Q. You --

1 A. No, but I mean I --

2 Q. Do you think it's appropriate?

3 A. I -- I have myself have made jokes because it seemed
4 the best way to diffuse things at the culture of the
5 fire department because it --

6 Q. Oh, so it's a cultural thing?

7 A. Yes.

8 Q. Oh.

9 A. Because if somebody at the fire department were to see
10 that something bothers you, then they are going to
11 keep harping on it, just like the comments that were
12 made to me where -- with regards to me being called
13 what I was called or what --

14 Q. Then why would you follow other people and -- and joke
15 on with regard -- why -- why would you carry on and
16 joke at people's heights and rashes on their skin or
17 whether or not they had something else going on?

18 Why would you joke about those things?

19 A. I don't know what you're referring to regarding --

20 Q. You don't?

21 A. -- rashes on the skin. I never made any comments
22 about rashes on the skin.

23 Q. Okay. Are you generally a truthful person?

24 A. Yes, sir.

25 Q. You piled on to people a lot while you were employed

1 at the City of Warren and jumped in a lot of these
2 what you call is giggling and humorous types of things
3 at other people's expense, right?

4 **A. No, sir.**

5 Q. No?

6 **A. You're characterizing it as a lot. It did not happen**
7 **a lot. There was maybe a couple instances in which**
8 **someone made fun of themselves, and I was there in the**
9 **room and we just all laughed about it. But I never**
10 **ever jumped on somebody or singled them out. You're**
11 **implying that I sought this behavior and exhibited**
12 **this behavior on people, you know --**

13 Q. And you're saying --

14 **A. -- voluntarily.**

15 Q. -- you never -- you never did. You never started out
16 on anybody, right?

17 **A. No.**

18 Q. You were always perfect, right?

19 **A. No, sir. I'm not per -- I'm far from perfect. I**
20 **never -- never claimed to be perfect.**

21 Q. Did you ever joke to anybody -- excuse me.

22 Did you ever jump on the bandwagon during
23 this funny stuff about somebody's age?

24 You did, didn't you?

25 **A. No, sir.**

1 Q. And you were -- no?

2 A. No.

3 Q. Okay. All right. Did you ever jump -- did you ever
4 jump on this -- this bandwagon where people are making
5 fun of themselves about physical handicaps that other
6 people might have?

7 Did you ever do that?

8 A. Never.

9 Q. Never?

10 How about their skin color?

11 A. Never.

12 Q. Never? Okay.

13 How about their religious affiliation?

14 A. Never.

15 Q. How about ethnic affiliation?

16 I'll give you one more -- whether they be
17 Polish or an Italian or anything like that?

18 A. No, sir. I never --

19 Q. No, sir?

20 A. I never made Polish references or racially derogatory
21 comments toward anybody.

22 Q. Okay. You were transferred from Unit 1, Station 3, to
23 Unit 1, Station 4, on June 20, 2013; is that correct?

24 A. Yes, sir.

25 Q. And why were you transferred, if you know, from Unit

1 1, Station 3, to Unit 1, Station 4?

2 **A.** Because I was a new hire who was hired on in May -- on
3 May 15th, I believe, 2013, and I was hired in a group
4 of 11. And it is customary that -- what was told to
5 me by the battalion chief was that he wanted everybody
6 to do a month or two at every station and rotate in
7 the position so they can become familiar with the City
8 and the way every different house operates.

9 Q. And were things going well for you at the Warren Fire
10 Department at that time?

11 **A.** Yes, sir.

12 Q. And then you were supervised by Captain Sitek,
13 S-I-T-E-K, correct?

14 **A.** Yes, sir.

15 Q. And that was at Unit 1, Station 4, correct?

16 **A.** Yes, sir.

17 Q. And shortly after you began working at Unit 1, Station
18 4, you became -- you began working with Firefighter
19 Ricketts, R-I-C-K-E-T-T-S, correct?

20 **A.** Yes, sir.

21 Q. Okay. And a couple months after you began working
22 with Firefighter Ricketts you two had a work-related
23 incident that caused some damage, correct?

24 MR. LAURILA: Objection: Form.

25 MR. GILLOOLY: Okay.

1 BY MR. GILLOOLY:

2 Q. You had a work-related incident that caused some
3 tension between the two of you, correct?

4 A. **What incident specifically are you referring to, sir?**

5 Q. I'm asking you.

6 A. **Oh yeah, no. Yes, we did. Yeah.**

7 Q. Okay.

8 A. **Yeah.**

9 Q. And you had an incident with Firefighter Ricketts that
10 caused your relationship to deteriorate, correct?

11 A. **Yes, sir. We never -- we never had a relationship
12 just to be clear. He was my subordinate who from the
13 get-go came in and was giving me trouble.**

14 Q. From the get-go?

15 A. **Yes, sir.**

16 Q. All right. And what type of problems did he begin
17 to -- did he give problems to everybody, Ricketts?

18 A. **Some -- some people, yes.**

19 Q. And what kind of problems did he get to -- give you
20 from the get-go, as you've described?

21 A. **He was just giving me a hard time at Station 4. He
22 would be very dismissive in his general behavior. He
23 would make comments to the fact that I'm older and
24 I'm, you know -- and I'm old as, quote on quote, fuck.**

25 Q. And did you -- did -- he didn't control the shift you

1 worked, anything along those lines, did he?

2 **A. No, sir. Captain Sitek did.**

3 Q. Okay. Did you report these problems that you
4 thought -- you held in your mind to Captain Sitek?

5 **A. Those comments and that behavior went on in front of
6 Captain Sitek to which he responded with laughter.**

7 Q. And did Captain Sitek refer to you as anything
8 inappropriate?

9 **A. Yes.**

10 Q. What did he refer to you?

11 **A. Oh, he called me a pussy. He called me a faggot. He
12 called me -- you know, he just -- I mean, his general
13 disposition was pretty aggressive and hostile.**

14 Q. Did you report that to anybody?

15 **A. A lot of -- a lot of --**

16 Q. My question is --

17 **A. No.**

18 Q. -- did you report it to anybody?

19 Not if it was in front of other people, not
20 if it was inappropriate.

21 Did you report the fact that he called you
22 a pussy and a faggot to anybody?

23 **A. No.**

24 Q. Okay. Why not?

25 **A. Because it was said in front of the battalion chief,**

1 his boss, Don Barrett (phonetic), among other members
2 of my fire department.

3 Q. Did you go above the battalion chief's head and report
4 it to anybody?

5 A. Sir, during that time, no, I did not because I was a
6 rookie fireman on probation and I feared that at one
7 point -- number one, I'm not a nark. Okay, I -- I
8 don't write letters. I don't -- I don't turn people
9 in for things that they didn't do. I wanted to go to
10 the City of -- of Warren and work there and finish and
11 retire with the honor and distinguish that I would
12 have earned over the course of my career.

13 As a result of actions taken by other
14 people, you know, I was faced with a lot of choices on
15 a daily basis where I could go to somebody, I could
16 write a letter, I could complain, but the fallout
17 would have been extremely great. I would have --
18 yeah, it would not have been conducive for a career at
19 Warren if I would have said anything about --

20 (Talking over each other)

21 BY MR. GILLOOLY:

22 Q. Did you ever call anybody a pussy or a faggot?

23 MR. LAURILA: Objection: Asked and
24 answered.

25 MR. GILLOOLY: Go ahead. I'm asking it

1 again.

2 **A. I believe in a text to -- yeah.**

3 MR. GILLOOLY: Because he said no before.

4 That's why, Andrew. Thank you. It's important.

5 **THE WITNESS: Yeah.**

6 MR. GILLOOLY: Sorry.

7 **THE WITNESS: Directly --**

8 MR. GILLOOLY: He told me before when I
9 asked him he said never, and now --

10 **THE WITNESS: Well, no, directly in -- in**
11 **cont -- in a physical face-to-face, I never used those**
12 **words. In a text, at the end of two and a half years**
13 **of racial discrimination and hostilities by Lieutenant**
14 **Selakowski and other members of the fire department,**
15 **I -- I had enough. So when I sent him that text, yes,**
16 **I used language that I'm not proud of.**

17 BY MR. GILLOOLY:

18 Q. Who else discriminated against you on the basis of
19 your race?

20 MR. LAURILA: Objection: Form, calls for a
21 legal conclusion.

22 MR. GILLOOLY: Go ahead.

23 BY MR. GILLOOLY:

24 Q. You said that -- who discriminated you -- against you
25 on the basis of your race?

1 A. It was Lieutenant Selakowski back -- his first
2 comment -- because it was two comments that he made
3 that affected me adversely. One, I was at Station 4
4 on a detail from Station 1 during the end of summer/
5 fall of 2014. I was stationed at Station 1 working
6 with John Dalton and another member of the fire
7 department, and I was detailed at Station 4. While at
8 Station 4, at that time I had never worked with
9 Lieutenant Selakowski before.

10 I was -- it was after lunch. I was sitting
11 in the kitchen doing dishes while Captain Sitek sat on
12 one end of the table; Lieutenant Selakowski sat at the
13 other. Captain Sitek turned to Lieutenant Selakowski
14 and asked him if he ever met Suarez, at which point
15 Lieutenant Selakowski said, "Suarez, what is he
16 Mexican?" Lieutenant -- or Captain Sitek said, "No,
17 he's Cuban." At which point Lieutenant Selakowski, at
18 the time Sergeant Selakowski, puffed or made a (making
19 noise). Captain Sitek said, "What's that?"
20 Lieutenant Selakowski said Cubans are just like the N
21 word.

22 Q. He said that in front of you?

23 A. Yes, sir. At which point -- again, I had just gotten
24 off probation. I just got my badge. I was not proud
25 of it. Months later, and I would say in the month of

1 November, before Christmas, it was during that time
2 that we had shift rotations, Christopher Andary
3 was -- was assigned to Station 4, Unit 1. I was down
4 at Station 1. Ricketts had come down to take his
5 place, and I was on a detail to Station 4 when the
6 first time that Lieutenant Selakowski actually used
7 that term, 'the all-around', 'the all-around N word',
8 my nickname that he gave me.

9 Because Chris Andary was present, had been
10 there for a couple of months, was bragging about how
11 he should have rotated there long before, and when
12 Lieutenant Selakowski cast that disparaging remark my
13 way he looked at me with a grin. Andary looked at me
14 with a grin.

15 And that comment was made in front of my
16 union -- well, then just senior man, senior personnel,
17 you know, and it continued in front of all the
18 officers.

19 Q. All right. How -- how often -- when did the -- use of
20 the term, excuse me for using his quote "the
21 all-around niger", when did that begin specifically?

22 A. That began between the middle of November and
23 Christmas was the first time he used that term.

24 Q. Was that 2015?

25 A. No, 2014, sir.

1 Q. While you were at Station 4?

2 A. I was on a detail. I was on at a normal -- I was
3 actually assigned to Station 1, and I was on a detail
4 on the squad.

5 Q. Were you called the all-around niger by Lieutenant
6 Selakowski on a regular basis, or no?

7 A. It seemed that way, yes, sir.

8 Q. That's not my question if it seemed that way, sir.

9 A. Yes, sir.

10 Q. Please, that's not my question.

11 A. It happened often enough that it would be on a regular
12 basis, yes, sir.

13 Q. It did not happen on daily basis, did it?

14 A. Not that --

15 Q. And I'm not min -- I'm not saying anything about it
16 did not -- I just want to know how often.

17 It did not happen on a daily basis, did it?

18 A. Regularly.

19 Q. Okay. What do you mean by regularly?

20 You've got to quantify it for me if you're
21 able.

22 A. In the time from the -- from 2014 until the time that
23 I was moved from Station 4, Unit 1, to my new duty
24 position at Station 1, Unit 3, well over a 100
25 and -- a hundred times. A hundred and -- I mean,

1 honestly, I can't quantify a direct -- exact amount,
2 but it happened with some regularity to where if it
3 was not every day, it was at least multiple times a
4 month.

5 Q. And that would have been between 2014 and January
6 2017?

7 A. Yes, sir.

8 Q. And you say at least a hundred times?

9 A. Yes, sir. It became a condition of my employment,
10 along with other aggression and hostilities.

11 Q. Did you ever challenge Selakowski to a fight to settle
12 things like a man?

13 A. At the -- at -- when I filed -- right before I filed
14 my complaint as a result of actions taken by
15 Lieutenant Selakowski and the two and a half years of
16 abuse, the text that I sent to him, in which you asked
17 if I used unfavorable language, it was in that text
18 that I said, hey, because he bragged about being a
19 boxer and a fighter and -- and there were guys in the
20 department that, I guess, go to MMA gyms.

21 So I said if they -- if you really want to
22 beat me up, because he threatened with physical
23 violence on more than one occasion, he would call me
24 that -- that horrible moniker that I did not deserve,
25 you know. And at one point I realized I have a few

1 choices. I can either write a letter, you know, and
2 hold -- try to hold him accountable in which case I
3 will be self-destructing and ruining my career because
4 of all the fallout that -- that befell me afterwards,
5 or I can continue to take it and not say anything at
6 which point I'd be miserable, or another outcome would
7 be that I end up having a stroke or a heart attack
8 from the stress that they'd caused me and the constant
9 beratement. And neither one of those were acceptable
10 to me other than writing a letter and holding them
11 accountable.

12 Q. Excuse me.

13 A. Bless you.

14 Q. Thank you. We'll be done in a few minutes. All
15 right.

16 Why did you quit your job?

17 A. I did not feel safe at the City of Warren. Between
18 the unfair scrutiny and the assault by Mike Owczarek,
19 I just realized it was just a matter of time before
20 people --

21 (Witness is being talked over.)

22 BY MR. GILLOOLY:

23 Q. The -- I'm sorry. The -- the unfair scrutiny and the
24 assault by who?

25 A. Michael Owczarek.

1 Q. Oh, the stretcher incident?

2 A. Yes.

3 Q. Did Lieutenant Selakowski ever make the comments, the
4 all-around comments, in front of other people?

5 A. Yes, sir, he did.

6 Q. How off -- excuse me.

7 How often?

8 A. Regularly.

9 Q. Hey, let me ask you this: Isn't it true that you and
10 Selakowski were really tight and spent a lot of time
11 with each other?

12 A. That's not true.

13 Q. Not true?

14 A. He and I were never friends, and that man and I never
15 hung out outside of work, nor did we ever do anything
16 outside of work.

17 Q. How about at work?

18 Didn't you spend a lot of time discussing
19 politics with him --

20 A. No, sir.

21 Q. -- watching things? No?

22 A. No, the -- obviously, if I'm -- if I'm on a shift with
23 you for 24 hours, we spend time together. If the
24 calls go out, we go in a truck to the call. But never
25 once did I consider Lieutenant Selakowski close to me,

1 nor did we, you know, bond as -- as much as you're
2 trying to imply over --

3 Q. Sir, I'm not --

4 A. -- this --

5 (Talking over each other)

6 BY MR. GILLOOLY:

7 Q. -- to implying a darn thing. I'm asking you
8 questions, but I can ask you leading questions --

9 A. Sure.

10 Q. -- okay? I'm not implying a darn thing. I'm trying
11 to get information --

12 A. Sure.

13 Q. -- okay?

14 A. Well, Lieutenant Selakowski were -- he and I were not
15 good friends as you so questioned me. He was my
16 superior, and I was his subordinate and that --

17 Q. Did you ever discuss --

18 A. (Inaudible)

19 (Talking over each other)

20 BY MR. GILLOOLY:

21 Q. -- traveling with him, going somewhere with him?

22 A. No. He and Dennis Wallace were discussing possibly
23 going to Washington, D.C. over the Trump inauguration,
24 and I said, oh, yeah, I guess that would be cool. But
25 I never made plans to go anywhere with that man, nor

1 **did we discuss details about anything.**

2 Q. So -- yeah, that -- that was going to be my question.

3 You never discussed going to the Trump
4 inauguration with Lieutenant Selakowski?

5 A. **No, sir.**

6 Q. That was his idea?

7 A. **Him and Dennis Wallace were making plans to go and**
8 **were talking about it. I simply commented, saying**
9 **that was -- that's pretty cool, and that was it. That**
10 **was the extent of it. I was not in the position to go**
11 **to Washington, D.C. and do that. Between my job and**
12 **then taking care of my mother's affairs, there just**
13 **wasn't enough time in the day.**

14 Q. Okay. You wrote a letter on January -- you wrote and
15 turned into the City of Warren a letter on January 2,
16 2017, correct?

17 A. **Well, it was January 3rd, 2017.**

18 Q. Okay. I'm going to show you what was previously
19 marked.

20 You've got the letter. You have in front
21 of you that you turned into the City of Warren?

22 A. **I want to make sure. Yes, sir.**

23 Q. Okay. And what's the date on it?

24 A. **January 2nd. That was when I wrote it, but --**

25 Q. Okay.

1 A. -- it was turned in on the 3rd.

2 Q. Okay. I asked you did you write a letter to the City
3 of Warren on January 2, 2017. The answer is?

4 A. Yes.

5 Q. Okay. And did you tell the truth in this letter?

6 A. Yes, I did.

7 Q. Do you have anything whatsoever that you'd like to
8 modify in this letter, whether it's a stretch, if it's
9 inaccurate --

10 A. Not at all.

11 Q. Okay.

12 -- or you're second-guessing?

13 Everything contained in here is true and
14 accurate?

15 A. Yes, sir. I experienced it personally.

16 Q. Okay. And after you wrote this letter, your
17 contention is, and you said this on tape, that they
18 didn't do -- those fuckers didn't do shit for you,
19 right?

20 You claim they didn't do anything for --

21 A. I --

22 Q. -- you?

23 A. I never said that. I never --

24 Q. You never said that?

25 A. That -- that language, sir, I never said that those

- 1 **F-ers never did anything for me.**
- 2 Q. Okay.
- 3 A. **I mean, now you're paraphrasing what I said.**
- 4 Q. Well, no, I -- I'm not paraphrasing. I'm asking you
- 5 if --
- 6 A. **No.**
- 7 Q. -- you said that.
- 8 A. **I never said that, sir.**
- 9 Q. Okay.
- 10 A. **Okay. But it is my testimony --**
- 11 Q. It's your testimony that they didn't do anything for
- 12 you or about your complaints after you sent in this
- 13 letter, right?
- 14 A. **Correct.**
- 15 Q. Okay. Sir, but you know that on January 3, the same
- 16 day, that work began to take place within the City of
- 17 Warren about your letter and that steps were taken
- 18 immediately, correct?
- 19 You know that, don't you?
- 20 A. **I'm aware that some steps were taken.**
- 21 Q. Okay. So, your testimony that nothing was done is
- 22 that true?
- 23 A. **No.**
- 24 Q. Because you know things were done?
- 25 A. **No, sir. Nothing -- nothing resulted for several**

1 months, for six months. Actually, a month after I
2 left their employ that's when Lieutenant Selakowski
3 was held accountable.

4 Q. No, not -- resulted. But they began things that --
5 there were meetings the day you submitted your
6 complaint, right?

7 A. Yes.

8 Q. So something resulted, they began to do meetings,
9 correct?

10 A. That's not what I was referring to, sir.

11 Q. Okay.

12 A. It will --

13 Q. You said nothing resulted until seven months. Those
14 were your words. That's why I'm asking you.

15 What did they do -- tell me in your own
16 words what they did after you submitted your
17 complaint.

18 What did they do?

19 MR. LAURILA: Objection: Form. It calls
20 for speculation.

21 BY MR. GILLOOLY:

22 Q. That you know of. That you know, what did they do?
23 Nothing?

24 A. No.

25 Q. That you told --

1 (Talking over each other)

2 A. That I'm --

3 BY MR. GILLOOLY:

4 Q. -- me two minutes --

5 A. That I'm --

6 Q. -- ago?

7 A. That I'm aware of.

8 Q. Right.

9 A. They interviewed a variety of different personnel.

10 Q. Okay.

11 A. And in those -- in those meetings, according to other
12 members of the fire department, I need to watch my
13 back because the hostilities towards me by both the
14 union and that administration are real and that this
15 is what they were trying to do.

16 As far as what I meant by resulted, I mean
17 there was no one held accountable. There was no
18 formal investigation that was done that I'm aware of
19 aside from the initial interviews because when I spoke
20 to --

21 Q. Isn't that a formal investigation starting that?

22 Do you know where these things start?

23 A. Yes, I'm just --

24 Q. Isn't that a good first step?

25 A. Possibly.

1 Q. Okay.

2 A. **Possibly.**

3 Q. So do you know that this chief that you've gone after
4 pretty hard now, the commissioner, within minutes of
5 receiving the complaint indicated that a formal --
6 demanded that a formal investigation be initiated and
7 that city hall be notified of your complaints?

8 Do you know he did that?

9 A. **I was not aware of that, no.**

10 Q. Yeah. And do you know that he called Mark Simlar
11 immediately and said that he needed to meet with Mark
12 and that he had already met with the fire chief about
13 your allegations?

14 Do you know that happened?

15 A. **No.**

16 Q. And do you know that this commissioner within minutes
17 of your meeting told the powers under him that the
18 fire department had to ensure that your contact with
19 Ricketts and Selakowski be limited as much as possible
20 and to detail you to a different station?

21 Do you know he did that within --

22 A. **Well --**

23 Q. -- minutes?

24 A. **-- I know the chief told -- asked me if I could to
25 Station 1, Unit 3.**

- 1 Q. No, that's not my question.
- 2 A. **I was not aware --**
- 3 Q. Do you know --
- 4 A. -- no.
- 5 Q. -- within minutes of your complaint that he told
- 6 people in writing, in writing, that you had to be
- 7 detailed and to keep -- and to keep Ricketts and
- 8 Selakowski away from you?
- 9 And you said he did nothing.
- 10 You didn't know --
- 11 A. **The --**
- 12 Q. -- that, did you, sir?
- 13 A. **The documentation --**
- 14 Q. (Inaudible)
- 15 A. -- that -- now, if that's what you're speaking of,
- 16 sir, he -- he forwarded all the -- all those -- the --
- 17 all his claims and all that investigation to Mr.
- 18 Simlar. I spoke to Mr. Simlar on February 7th of
- 19 2017, and Mr. Simlar said that he hadn't done
- 20 anything.
- 21 Q. That he hadn't done anything, but that doesn't speak
- 22 of the fire department, does it, sir?
- 23 A. **He said he didn't have any of my investigation or my**
- 24 **paperwork --**
- 25 Q. Done. Okay.

- 1 A. -- and that was the human resources manager.
- 2 Q. But you're saying -- you told me earlier today in the
3 deposition the chief didn't do a damn thing?
- 4 A. He's a commissioner --
- 5 Q. That nobody did --
- 6 A. -- not a chief, sir.
- 7 Q. -- any -- commissioner, excuse me.
- 8 MR. GILLOOLY: I'm sorry, commissioner.
9 I insult him all the time.
- 10 BY MR. GILLOOLY:
- 11 Q. You told me earlier in the dep he didn't do anything,
12 didn't you?
- 13 A. Yes, because I --
- 14 Q. Okay.
- 15 A. -- was not aware of any actions taken --
- 16 Q. (Inaudible)
- 17 A. -- and they did not yield any results because no one
18 was held accountable. And from what I heard and --
- 19 Q. Well, after -- after you were transferred did
20 Selakowski bother you again?
- 21 A. No, Selakowski --
- 22 Q. Thank you.
- 23 A. -- didn't, but Lieutenant Zanin continued to harass
24 me.
- 25 Q. All right. So it did work at some point, right?

1 It did work?

2 **A. No, it really didn't, sir.**

3 Q. It didn't?

4 Well, it stopped Selakowski from bugging
5 you, right?

6 **A. It did.**

7 Q. It stopped Ricketts from bugging you, right?

8 **A. It did.**

9 Q. Okay.

10 **A. But it --**

11 Q. Thank you. It (inaudible) --

12 **A. -- yielded a lot more harassment. It yielded a lot**
13 **more harassment from --**

14 (Talking over each other)

15 BY MR. GILLOOLY:

16 Q. You're right, it did.

17 **A. -- other members.**

18 Q. You're right, it did.

19 MR. LAURILA: Hang on. Gentlemen, let's
20 try not to talk over each other, okay?

21 MR. GILLOOLY: You're right.

22 MR. LAURILA: The court reporter --

23 MR. GILLOOLY: I apologize.

24 MR. LAURILA: -- has got to be dying over
25 there. Go ahead.

1 MR. GILLOOLY: She is. I looked over there
2 a moment ago.

3 BY MR. GILLOOLY:

4 Q. Do you know that the fire chief advised you that he
5 had con -- advised others that he had the unit
6 battalion chief, senior station officers, and all
7 employees, that there will be no further conversation
8 of any types regarding you and those and that all duty
9 interactions have to remain appropriate, have to be
10 appropriate, that he sent formal memos out to
11 everybody --

12 **A. I never received --**

13 MR. LAURILA: Objection: Form. It's a
14 super compound question.

15 MR. GILLOOLY: It is.

16 BY MR. GILLOOLY:

17 Q. Do you know he sent memos out to people about the
18 conduct you complained of?

19 **A. I never received anything.**

20 Q. I didn't ask you if you se -- received anything.

21 Do you know that he sent it to others?

22 **A. No.**

23 Q. And you said in your complaint he did nothing?

24 Do you think it's important to be accurate,
25 sir, when you're suing somebody?

1 A. Absolutely, sir, but --

2 (Talking over each other)

3 BY MR. GILLOOLY:

4 Q. By name?

5 A. But I was privy to any of that documentation that
6 you're saying --

7 Q. Did you ask for it?

8 A. Yes, I did, multiple times. I even forward requested
9 any documentation regarding my -- my incident or my
10 complaint letter at which point I was denied any
11 documentation.

12 Q. Sir, you've -- you've seen this letter before -- wait.

13 You've seen this May 12th, 2017, letter
14 before because --

15 A. No, I --

16 Q. You've never seen that letter before?

17 A. No. No, sir I have not.

18 Q. Thank you.

19 MR. LAURILA: John, can we clarify what
20 letter you're referring to?

21 MR. GILLOOLY: Yeah, it's Exhibit 8.

22 It was marked as Exhibit 8 by your attorney
23 during a deposition of the commissioner.

24 MR. LAURILA: Thank you.

25 BY MR. GILLOOLY:

1 Q. You've never seen that letter before, sir?

2 A. **Not -- not while I was in service, sir.**

3 Q. No, sir, that's not my question. I'm not limiting it
4 to a time and place. Excuse me.

5 Have you ever seen this letter before?

6 You have, haven't you?

7 A. **Sir, that letter --**

8 Q. Un-un. No, no.

9 A. **No.**

10 Q. Have you seen this letter before?

11 A. **Not before today.**

12 Q. Okay, thank you.

13 This is the first time you saw the letter?

14 A. **Yes, sir.**

15 Q. Didn't the fire chief speak with you for almost two
16 hours on the day you brought your written complaint to
17 him?

18 A. **I'm not sure of the time frame.**

19 Q. Did he meet with you for an extended period of time
20 the day you brought your complaint in?

21 A. **We discussed my complaint, yes, sir.**

22 Q. Okay. Do you know that on January 4, the day after
23 your complaint, the fire commissioner, the fire chief,
24 and labor relations director met, do you know that, to
25 discuss your complaint?

- 1 **A. No, sir.**
- 2 Q. Is Joe Scherr, S-C-H-E-R-R --- do you know him?
- 3 **A. He is a union member.**
- 4 Q. That's not my question.
- 5 Do you know him?
- 6 **A. I -- I -- he's a member of the fire department, yes,**
- 7 **sir.**
- 8 Q. Do you know him?
- 9 **A. I -- I know of him. I know he's a member of the fire**
- 10 **department, yes.**
- 11 Q. Is his an honest person to the best of your knowledge?
- 12 **A. I have no idea. I don't know him that well.**
- 13 Q. Do you know Joe Roth?
- 14 **A. Yes.**
- 15 Q. Is he an honest person?
- 16 **A. I would --**
- 17 Q. To you?
- 18 **A. -- guess so.**
- 19 **Yes.**
- 20 Q. Has he done anything for you to dispute his honesty?
- 21 **A. Not that I'm aware of.**
- 22 Q. Do you know that they met on January 4, 2017, with the
- 23 commissioner and others about the need for a formal
- 24 investigation?
- 25 **A. I was not aware of that.**

1 Q. Do you know that these people met almost the entire
2 day to discuss how to eliminate this problem from
3 happening again?

4 MR. LAURILA: Objection: Form. It assumes
5 facts --

6 MR. GILLOOLY: Go ahead.

7 MR. LAURILA: -- not in evidence.

8 MR. GILLOOLY: Let's say it is in evidence.
9 You moved it into evidence. I'm sorry. You made
10 the --

11 **THE WITNESS: No, repeat the question.**

12 BY MR. GILLOOLY:

13 Q. Do you know that the fire chief, labor relations
14 director, and fire commissioner, met privately almost
15 the entire day to go over plans to rectify the
16 situation to make sure it wouldn't happen to you
17 again?

18 Do you know that?

19 A. No, I don't.

20 Can I see that real quick, sir?

21 Q. Sure. Your attorney can show it to you later.

22 A. Okay.

23 Q. He marked it as evidence.

24 A. Okay.

25 Q. Do you know that there was another meeting on January

1 6, 2017?

2 **A. I -- I'm not sure.**

3 Q. Do you know who Amy Hart is?

4 **A. Yes.**

5 Q. Is she an honest person to you?

6 **A. I don't know her well enough to say either way, yes or**
7 **no, but she seems to be.**

8 Q. Okay. Is it true that you and Ricketts did not like
9 each other?

10 MR. LAURILA: Objection: It calls for
11 speculation.

12 BY MR. GILLOOLY:

13 Q. Did you not like Ricketts?

14 MR. GILLOOLY: I agree. The objection's
15 sustained.

16 BY MR. GILLOOLY:

17 Q. Did you not like Ricketts?

18 **A. Given his past treatment of me and interactions, I did**
19 **not like him.**

20 Q. Did you ever have a verbal battle with him that you
21 initiated, or it was all Ricketts and you did nothing?

22 **A. It was mostly Ricketts.**

23 Q. Okay.

24 **A. Yeah.**

25 Q. So did you some stuff?

1 When you say mostly, what is it that you
2 initiated?

3 Did you ever go after him a little bit?

4 **A. No, I went --**

5 (Talking over each other)

6 BY MR. GILLOOLY:

7 Q. -- retaliation?

8 **A. I went right to Captain Paul Lesnau to discuss the**
9 **Ricketts' behavior and aggression towards me that he**
10 **made very clear and nothing came of it. But I --**

11 Q. Do --

12 **A. I never initiated anything with Ricketts in regards to**
13 **aggression or violence or comments or anything like**
14 **that.**

15 Q. Do you know that this commissioner put into place a
16 plan to assist you and protect you, to move you to
17 Unit 3, Station 1, permanently, so that you could
18 continue?

19 Do you know that he did that, the guy that
20 you're suing here to my right? Do you know --

21 **A. No, I'm not aware of that.**

22 Q. Okay.

23 **A. And it didn't work.**

24 Q. Because of the stretcher incident, right?

25 **A. No.**

1 (Talking over each other)

2 BY MR. GILLOOLY:

3 Q. No?

4 A. Because -- because of the hostilities that Chris
5 Andary brought to Lieutenant Steve Zanin, and
6 Lieutenant Steve Zanin would then harass me and try to
7 tell me that due to the fact that I was inquiring
8 about my complaint letter that it made me look like I
9 was out of control and that what I needed to do was
10 let it go. And he --

11 Q. And he said that to you once?

12 A. Multiple times.

13 Q. Multiple times?

14 A. Multiple times.

15 Q. And you --

16 A. And then he even threatened me that if I thought I was
17 going to go elsewhere that the City of Warren would
18 destroy my life more than they already have.

19 Q. And you're not aware of any evidence that the City of
20 Warren has done anything after you left to try to
21 destroy your life, so to speak, are you?

22 A. I'm just aware of the adversity that they heaped upon
23 me as a result of my complaint letter, sir.

24 Q. Okay. Now tell me everything that the City of Warren
25 has done adversely to you since you left.

1 That's all I want to know.

2 **A. Nothing since I left. I've had --**

3 Q. Oh, okay.

4 **A. -- no contact with the fire department --**

5 Q. Okay. Have they --

6 **A. -- or person.**

7 Q. -- contacted fire departments to say bad things about
8 you?

9 **A. Not -- that that I'm aware of.**

10 MR. LAURILA: Objection to form. It calls
11 for speculation.

12 BY MR. GILLOOLY:

13 Q. Do you know if they've contacted others?

14 MR. LAURILA: Thank you.

15 **A. I don't have that knowledge.**

16 BY MR. GILLOOLY:

17 Q. Do you have any evidence, any evidence whatsoever,
18 that the City of Warren has gone out and said anything
19 to anyone about you since you left their employment?

20 **A. No, sir.**

21 Q. Do you know that the commissioner met with Lieutenant
22 Zanin to discuss you and what would be expected of
23 lieu -- of the lieutenant and you going forward?

24 **A. No.**

25 Q. After you wrote your letter on January 2 and turned it

1 in on January 3, did you make any other complaint to
2 the City of Warren?

3 A. No, sir.

4 Q. After you were transferred --

5 A. They -- the EEOC letter, that's -- yeah, that --

6 Q. Thank you.

7 A. To the City of Warren, any formal complaints, no, sir,
8 I did not file any formal complaints with the City of
9 Warren.

10 Q. Now, after you were transferred to Unit 3, Station 1,
11 under the command in part of Lieutenant Zanin, did you
12 ever make any written complaint to anybody about your
13 job?

14 A. No, sir.

15 Well, are you -- you're saying the City of
16 Warren, not the EEOC or any outside --

17 Q. Correct.

18 A. -- third party?

19 Q. Yes, sir.

20 A. No, sir, I never put anything in writing regarding
21 anything after --

22 Q. Did you --

23 A. -- January 3rd.

24 Q. Did you ever, other than the EEOC, to any third party,
25 document what happened?

1 **A. Yes, I wrote --**

2 Q. To who?

3 **A. -- the attorney general.**

4 Q. Okay. Do you have a copy of that letter?

5 **A. My attorney does.**

6 Q. All right.

7 MR. GILLOOLY: Can I -- I'm requesting
8 that, please, Andrew. Thank you.

9 BY MR. GILLOOLY:

10 Q. Do you know that the City of Warren had a workplace
11 violence training program for all employees as a
12 result of the complaint that you made?

13 **A. Yes, sir. I was --**

14 Q. And --

15 **A. -- a part of it.**

16 Q. -- you said that the only reason they did that was to
17 cover their ass, correct?

18 You said that to people, right?

19 **A. I said that? I don't --**

20 Q. Yeah.

21 **A. -- recall that, sir.**

22 Q. You don't recall that on a tape in your car when you
23 were talking with another firefighter about how you
24 should do it and they're just doing these things to
25 cover their ass?

1 A. He actually -- Firefighter Scott Holzen told me what
2 the commissioner intended to do with following --
3 starting a paper trail on me and everything else.
4 When I simply asked him, you know, why are they doing
5 this, he said because you wrote your letter. I may
6 have made the comment that they're doing this to
7 protect themselves and implement policy after the
8 fact, but there was nothing in place, nor did they do
9 anything prior to.

10 Q. Did you go to the workplace violence training program?

11 A. Yes, sir, I did.

12 Q. Did you find it to be beneficial?

13 A. I did.

14 Q. Are you glad that they had it?

15 A. It was a little too -- little too late, but I feel
16 that anyone can benefit from that, especially in a
17 professional setting such as a fire department.

18 MR. GILLOOLY: Thank you very much. I have
19 no further questions.

20 MR. LAURILA: All right. Can we take a
21 quick break? I don't think I have a lot, but I'm
22 going to have a few questions.

23 MR. GILLOOLY: Yep.

24 MR. LAURILA: But maybe like five, ten
25 minutes. I'm going to chat with Mr. Suarez for a

1 couple minutes to --

2 MR. GILLOOLY: Sure.

3 MR. LAURILA: -- make sure that we cover
4 everything that we need to.

5 VIDEO TECHNICIAN: We are going off the
6 record. It is 2:09 p.m.

7 (Recess taken at 2:09 p.m.)

8 (Back on the record at 2:38 p.m.)

9 VIDEO TECHNICIAN: We are back on the
10 record. This is the beginning of disk number two. It
11 is 2:38 p.m.

12 MR. LAURILA: Thank you.

13 Mr. Suarez, as you know, I'm Andrew
14 Laurila. I'm going to ask you some questions,
15 specifically about some of the things that you
16 discussed with Mr. Gillooly.

17 EXAMINATION

18 BY MR. LAURILA:

19 Q. First and foremost, you were asked a bunch of
20 questions today.

21 VIDEO TECHNICIAN: Hold on. Hold on.
22 Let's go off. I'm sorry.

23 MR. LAURILA: No problem.

24 VIDEO TECHNICIAN: We're going off the
25 record. It is 2:38 p.m.

1 (Recess taken at 2:38 p.m.)

2 (Back on the record at 2:39 p.m.)

3 VIDEO TECHNICIAN: We are back on the
4 record. It is 2:39 p.m.

5 BY MR. LAURILA:

6 Q. Again, as I was saying before we went off the record
7 there for a second, you were asked a bunch of
8 questions about a bunch of different things, but I
9 simply want to ask you some stuff about happened
10 because you were not asked a lot of questions about,
11 really, the incidents and events that form the basis
12 of this complaint, this lawsuit.

13 So, just so we're clear on the time frame,
14 the first time that you can recall being called --
15 and, again, I'm going to use some less than colorful
16 language here.

17 But the all-around nigger, when did that
18 occur?

19 **A. That occurred approximately between the middle of**
20 **November through Christmas, the Christmas holiday of**
21 **2014.**

22 Q. And who called you that?

23 **A. Lieu -- Lieutenant Selakowski.**

24 Q. And that was the end of 2014.

25 Did those comments continue into 2015?

1 A. Yes, sir.

2 Q. And during that time were you working with Mr.
3 Selakowski at the same station, same unit?

4 A. I was actually detailed into Station 4 on a regular
5 basis from Station 1. My original station that I
6 worked out of was Station 1, Unit 1.

7 Q. Okay. And during that time was Mr. Selakowski your
8 supervisor?

9 A. Yes, sir.

10 Q. Above you in the chain of command?

11 A. Yes, sir.

12 Q. Okay. And at some point did you tell another one of
13 your supervisors about the comments that Mr.
14 Selakowski was making?

15 A. Yes, sir, I did.

16 Q. And who was that individual?

17 A. At the time Lieutenant Jeff Sloan.

18 Q. And do you recall when you talked to Mr. Sloan about
19 that?

20 A. I want to say it was probably in the summer to fall of
21 2015. Lieutenant Selakowski and Lieutenant Sloan were
22 both assigned to Station 4. That --

23 Q. So the summer of 2015 give or take?

24 A. Yes.

25 Q. And prior to you talking to Mr. Sloan about these

1 comments, were there other individuals in the
2 department that were present when Mr. Selakowski
3 called you that?

4 **A. Yes, sir.**

5 **Q. And without going through every single incident in**
6 **detail --**

7 MR. GILLOOLY: (Inaudible)

8 BY MR. LAURILA:

9 **Q. -- can you give me, you know, an example of a time**
10 **when there were other individuals present?**

11 **A. Um, well, one morning in particular I was greeted by**
12 **Lieutenant Selakowski who was sitting at the table as**
13 **I walked in the door, and everybody was around the**
14 **coffee klatch. Lieutenant Selakowski exclaimed in a**
15 **loud tone: Hey, the all-around N word is here. At**
16 **which point Rob Loring joined in with: The all-around**
17 **N, you can't get away from him, he's here every day.**
18 **And everybody had a good laugh.**

19 I went right into the kitchen and grabbed a
20 cup of coffee, and then I went out to the apparatus
21 bay to check out my stuff.

22 **Q. And where did that occur?**

23 **A. At Station 4 as I walked into the main living**
24 **quarters.**

25 **Q. Okay. And do you recall when that occurred?**

1 A. Um.

2 Q. And I understand --

3 A. Yeah.

4 Q. -- not the specific date, but just generally.

5 A. Any time after November to December of 2014 and the
6 time that I was reassigned.

7 Q. Did that one specific incident that you just told me
8 about, do you have a sense for even like sev -- what
9 year that was in?

10 A. 2015.

11 Q. And how about month?

12 A. I would say the spring or summer because at that point
13 his comments became very commonplace, and he felt very
14 comfortable.

15 Q. Okay. And when you talked to Lieutenant Sloan about
16 the comment, can you explain the substance of that
17 discussion?

18 A. We were all around lunch, and I was assigned to the
19 heavy rescue. Lieutenant Sloan was the officer on
20 heavy rescue. Lieutenant Selakowski was the officer
21 on the ladder truck with Rob Loring as his FEO driver.

22 And during -- like follow -- following
23 lunch, Lieutenant Selakowski eluded to the same
24 comment, made the comment, referred to me as the
25 all-around N. Everybody had a laugh.

1 When the truck was called out on a run,
2 they went out on their run. It was just me and
3 Lieutenant Sloan sitting in the kitchen, and I told
4 Lieutenant Sloan that I didn't appreciate the
5 nickname. They've been calling me that for a long
6 time. I have sister who is African American and
7 Cuban. I have, you know, relatives within the Cuban
8 culture that are related to me that, you know, are --
9 are mulatto and dark complected, and I don't like that
10 word or the use of that word, let alone being
11 described as such.

12 Q. And do you recall when you had that conversation with
13 Lieutenant Sloan?

14 You told me summer of 2015?

15 A. I would say the summer going into like maybe June,
16 July, August of 2015.

17 Q. And did Lieutenant Sloan tell you in -- during that
18 conversation what he intended to do in regards to what
19 you told him?

20 A. No, sir.

21 Q. Did Mr. Selakowski call you the N word again after
22 that conversation you had with Lieutenant Sloan?

23 A. Yes. Yes, sir.

24 Q. On how many occasions would you say?

25 A. Too many to count. It seemed that that resumed after

1 my initial telling of -- of what I was nicknamed to
2 Lieutenant Sloan and that I didn't appreciate it.

3 Lieutenant Sloan, apparently, talked to
4 Lieutenant Selakowski because a couple of shifts later
5 Lieutenant Selakowski cornered me in the kitchen in
6 Station 4 and tried to make an excuse as to why he
7 referred to me as such, citing that he was from
8 Detroit and that's how he bonds. At which point I
9 told him you don't talk to anybody else like that, nor
10 do you refer to them as such, and I excused myself
11 from the room.

12 Q. After you had that discussion with Lieutenant
13 Selakowski, he made those comments again?

14 A. Yes, sir.

15 Q. Did you ever tell Mr. Selakowski not to call you that?

16 A. No, sir.

17 Q. Not necessarily in those exact words, but did you
18 express in some way a desire to have him -- that you
19 wished him to stop doing that?

20 A. I -- I think it was implied with my reaction and my
21 telling another superior officer that I didn't
22 appreciate the comments. I did feel intimidated by
23 the fact that his comments were made in front of
24 Captain Ron Laszczak, Captain Steve Sitek, Battalion
25 Chief Paul Lesnau, and it seemed to be widely

1 **tolerated.**

2 Q. So all of those individuals that you just listed, they
3 were all present for instances in which Lieutenant
4 Selakowski, or Sergeant Selakowski, called you that?

5 A. **Yes, at one point or another.**

6 Q. And this would have been during 2015 into 2016?

7 A. **Correct.**

8 Q. During the time that you worked for Warren Fire
9 Department were you ever suspended?

10 A. **I believe there was one disciplinary action for one
11 day, and it was regarding the incident with Joel
12 Ricketts and the inaction of my crew on a medical run.
13 I think we all were disciplined at one point.**

14 Q. Apart from that incident?

15 A. **No, sir.**

16 Q. Were you ever written up?

17 A. **Regarding that one incident, yes, sir.**

18 Q. Other than that?

19 A. **Not that I'm aware of. I -- I did speak with Amy Hart
20 regarding an issue where the individual that I worked
21 with administered the wrong amount of medication on a
22 medical run while I was bandaging up the patient's
23 injuries.**

24 **But, you know, as far as being written up,
25 I never signed anything other than that initial**

1 incident with the inaction.

2 Q. Did you like being a firefighter?

3 A. I loved it.

4 Q. And what made you decide to -- strike that.

5 Earlier you were asked some questions about
6 your employment history, and you testified that at
7 some point you had a con -- I'm going to call it
8 construction business, loose use of the term, and that
9 that fell apart and that you then decided to become a
10 firefighter.

11 Is that fair, accurate?

12 A. Yes, sir.

13 Q. And what made you decide to become a firefighter?

14 A. Well, quite frankly, Firefighter Dan -- Dan Doty
15 (phonetic), who's a Warren fireman, has been my -- one
16 of my really good friends for the past 27 years, and
17 we know each other very well. We've done a lot of
18 things, hiking, backpacking, climbing. And when I
19 expressed to him that I need to go back to school and
20 do something, he was the one that recommended fire
21 service and -- and public safety because he knew that
22 I loved to work with my hands, and, you know, it was a
23 great job. And I went right after the career.

24 Q. Did the work that you were doing while you were a
25 firefighter for the City of Warren, did that give you

1 satisfaction?

2 **A. Yes, sir. It was part of who I was.**

3 Q. Can you explain a little bit more about how -- why
4 that is and how that is?

5 MR. GILLOOLY: Object to the form of the
6 question.

7 MR. LAURILA: I'll rephrase.

8 BY MR. LAURILA:

9 Q. What -- what -- in more detail what about working as a
10 firefighter for the City of Warren gave you personal
11 satisfaction?

12 **A. I love serving a higher purpose than myself. I loved**
13 **helping people, and I really saw the purpose in --**
14 **in -- in -- I really saw the purpose in what I did and**
15 **the services that it provided. The fact --**

16 Q. Can you --

17 **A. I'm sorry.**

18 Q. No, go ahead.

19 **A. The fact that when people call 911, it is in some**
20 **instances the worst day of their possible life. And**
21 **the fact that I can step in and have some impact on**
22 **that outcome and help them, I derive a lot of pride**
23 **from that.**

24 Q. Did you ever receive any awards or commendations while
25 you were working for the City of Warren as a

1 firefighter?

2 A. No, sir, nothing other than the common attaboys when
3 we would fight fires and -- and tend to medical calls
4 that were considered ex -- extreme and we managed it
5 well, we would get attaboys. The chief would stop by
6 and bring us doughnuts and say you guys did a great
7 job. But as far as awards or formal ceremonies, I've
8 never been a part of that.

9 Q. Did you have performance reviews while you were
10 working at Warren?

11 A. Yes, sir. During my probationary period they were
12 daily. And then every month, there would have to be a
13 monthly summary that would have to be done, and then
14 at the end of my probationary period there was a -- a
15 final evaluation, I suppose.

16 Q. In any of those performance reviews, to your
17 knowledge, did anybody ever express to you that you
18 were not doing a good job as a firefighter?

19 A. No, sir. As a matter of fact, the scale on those
20 performance review sheets went from one to four; four
21 being excellent. Most, if not all, of my review
22 sheets had excellent and the comments within the
23 review sheets were exceptional.

24 Q. After you submitted the complaint letter on January
25 3rd that you were asked some questions about, just for

1 some clarity, I want you to tell us what you recall
2 happening from the time that you submitted that
3 complaint letter -- I guess I would go all the way
4 until you quit. And I understand that's a big time
5 frame, but I want -- I want to know what you were
6 present for that you recall happening.

7 **A. Well, I -- I, obviously, wrote the complaint letter**
8 **over the New Year's holiday of 2017. I returned to**
9 **work, I believe it was on January 3rd, at which point**
10 **I submitted the complaint letter to Chief Frederick,**
11 **the union president, Chris Andary, and Captain Ron**
12 **Laszczak, and I believe Battalion Chief Paul Lesnau**
13 **was in the room.**

14 **Q. And at some point shortly thereafter you had a meeting**
15 **with the commissioner, correct?**

16 **A. Yes, sir.**

17 **Q. And in that meeting did he discuss your complaint**
18 **letter with you?**

19 **A. Yes, sir. Due to the fact that my complaint letter**
20 **was five pages of single space there was lot of**
21 **information to go over, and we went through the whole**
22 **document.**

23 **Q. Was one of the things that was included in that**
24 **complaint letter the racist comments being made?**

25 **A. Yes, sir, I believe I actually wrote it in there as**

1 **racist comments.**

2 Q. And during your meeting with the commissioner did he
3 ask you about racist comments?

4 A. **No, sir, he did not.**

5 Q. Were you ever asked in any meeting subsequent to you
6 filing that complaint letter with the City about
7 racist comments that were made?

8 A. **They -- no one ever asked me specifically what was
9 said. Everything was covered in general terms.**

10 Q. And apart from that one meeting that you had with the
11 commissioner, how many other instances that you can
12 recall were there where you met with members of the
13 department, people from the City, any -- anybody
14 regarding the substance of what you put in that
15 complaint letter?

16 A. **Um, I don't recall every interaction, but there was at
17 least three meetings. One was with the people that I
18 previously stated my initial meeting when I dropped
19 off the complaint letter. The second meeting was
20 actually with Mr. Simlar in -- in the same room of the
21 administrative offices for which Mr. McAdams was not
22 present, and then I had another meeting with Mr.
23 McAdams, Chief Fredericks (sic), and a couple members
24 of the union.**

25 Q. And how about after you -- well, strike that.

1 When do you recall, approximately, filing
2 your EEOC complaint?

3 **A. I would say it was a couple of months after that I**
4 **believe. I want to say the month of March of 2017,**
5 **approximately, and that was secondary to the blowback**
6 **and the resistance and hostilities that I witnessed**
7 **from my union president, what other members of the**
8 **department told me was happening behind my back.**

9 **Q. And after you submitted that EEOC complaint did you**
10 **ever have any follow-up meetings with anybody from the**
11 **City, the department?**

12 **A. Never.**

13 **Q. And, again, I believe you testified when you resigned**
14 **your employment --**

15 **A. I'm sor -- sorry?**

16 **Q. Sure. I think you were asked and testified regarding**
17 **when you resigned your employment.**

18 Do you recall when that was?

19 **A. I resigned my employment July 5th of 2017.**

20 **Q. And prior to July 5th of 2017, to your knowledge, was**
21 **anything done in regards to discipline as far as the**
22 **individuals who you complained about making the**
23 **comments to you?**

24 **A. No, sir. I later learned that the discipline -- the**
25 **discipline came a month or two after I was already**

1 **separated from service.**

2 Q. And during the time that you were employed with the
3 City of Warren as a firefighter, and we'll just go
4 from when you started to 2017 when you turned that
5 complaint letter in, so during that span, did you ever
6 have any diversity training or workplace violence
7 training that you were a part of?

8 A. **Never.**

9 Q. Were you ever provided a copy of any policies or
10 procedures from the department or the City regarding
11 discrimination, racism, workplace violence, anything
12 like that?

13 A. **No, sir. The only thing documentation that I received**
14 **was a copy of the union contract.**

15 Q. So the first time, I believe you testified earlier,
16 that you were part of a workplace violence training
17 program or session or something like that, the first
18 time that occurred was when, again, approximately?

19 A. **I would say the spring of 2017 long after I had**
20 **submitted my -- my com -- original complaint letter.**

21 Q. I believe earlier you testified that one of the
22 reasons that you resigned your employment was because
23 you didn't feel safe?

24 A. **Yes, sir.**

25 Q. Can you explain why that is or why that was?

1 A. Well, initially I just didn't feel comfortable knowing
2 that there was multiple members of the fire department
3 that expressed certain individuals within the fire
4 department that they were very dissatisfied with my
5 writing the letter. I was called pariah and then
6 basically told that, you know, I need to let things go
7 by my immediate supervisor, Steve Zanin. I was told
8 by Todd Jacobs that everybody in the union hates me
9 and they -- they want me out, but I need to watch my
10 back. I was also told by Jim Stevenson that Andary
11 has it out for me.

12 During my -- after I dropped off my letter,
13 in the month of January alone, multiple letters were
14 written by my supervisor unbeknownst to me regarding
15 alleged activity that I took place in or hostilities
16 or threats that made him feel unsafe, which were not
17 founded. You know, I just felt that there was a
18 conspiracy to work -- work against me, you know, and
19 to discredit me and my compliant and at the same time
20 given the fact Chris Andary showed up at Station 1,
21 Unit 3, multiple times. Once even with the EEOC
22 complaint that he had and pulled my immediate
23 supervisor into the parking lot where he sat there,
24 Steve Zanin read the EEOC complaint and after that
25 talked to me yet again telling me I need to drop this,

1 that I can't go into people's offices, all they have
2 to do is write a letter saying that I went in there
3 screaming and yelling, and come to find out later on
4 that's exactly was going on.

5 Q. I just want to make sure we're clear. You were
6 instructed or advised, if you will, by your immediate
7 supervisor, Steve Zanin, that you should drop your
8 EEOC charge?

9 A. Yes. He told me that my inquiries into my complaint
10 and what the administration has done is making me look
11 crazy and that all anybody has to do to discredit me
12 is say that I went in there and I said or did things
13 that I did not do. And he also even told me at one
14 point that if I thought things weren't going to work
15 out with this fire department and I was going to go
16 somewhere else that the City of Warren is
17 all-powerful, that he learned this throughout the
18 course of his 23-year career, and they would destroy
19 my life more than they already have.

20 Q. And at that time, you referred to Chris Andary, he was
21 the union president, correct?

22 A. Yes, sir.

23 Q. You testified that after you took care of your mom,
24 recently you started trying to get back into
25 firefighting. We don't need to go through all that

1 from before.

2 But I just want to ask you why, why are you
3 looking to get back into firefighting?

4 **A. Well, it took me seven years to get there. I have**
5 **over 12 years experience as an EMT paramedic in public**
6 **safety. I've got six, seven years of firefighting**
7 **experience. I love the job. I identify with the job.**
8 **And it's not just something that I do, it's -- it's**
9 **who I am. And I feel that I still have several years**
10 **of good service to give the right department.**

11 **Q. And based on what you just told me, that it's central**
12 **to your identity, I mean firefighting.**

13 How did it make you feel and how did it
14 make you feel at the time knowing that you were not
15 able to work as a firefighter for the City of Warren
16 because of everything you've told us today?

17 **A. It's very disheartening.**

18 **Q. That's it, just disheartening?**

19 **A. Well, I mean -- do you want me to run through the**
20 **gamut of emotion that I've had?**

21 I've had regret, remorse, depression. I
22 mean, you know, I feel that at my current age, being
23 older than normal rookies, that, you know, I'm already
24 fighting an uphill battle when it comes to trying to
25 get on and that most departments might look at me

1 and -- and feel that I'm beyond my expiration date or
2 they can't get 20 years of service out of me, so,
3 therefore, I may not be selected or might end up on
4 the latter part of the lists.

5 So I feel that I seriously am in a fight
6 for my life here trying to re -- reestablish myself in
7 trying to reenter into a job that I love and identify
8 with.

9 Q. And as far as the comments that were made, the being
10 called the all-around nigger more than 100 times, how
11 did that make you feel?

12 A. Lieutenant Selakowski drew the distinction between
13 Cubans and the N word. He said that Cubans are just
14 like the N word. Weeks later, a month and a half
15 later, he started giving me the moniker 'the
16 all-around'.

17 How did it make me feel? It made me feel
18 like the man was trying to intimidate me. It made me
19 feel like the man was trying to say that I was
20 something that I was not or I was less than, and it
21 was his way of putting his boot on my throat on a
22 daily basis.

23 How do I feel? It frustrates me. It makes
24 me angry. It makes me sad. It makes me disgusted.

25 MR. LAURILA: I don't have any more

1 questions.

2 MR. GILLOOLY: A couple follow-ups. I want
3 to make sure I'm right.

4 RE-EXAMINATION

5 BY MR. GILLOOLY:

6 Q. Your attorney asked you a few minutes ago that after
7 you turned in your letter and after your meeting with
8 the commissioner that you had no follow-up meetings
9 with anyone from the City of Warren about your
10 complaints.

11 Do you remember that question?

12 A. I just stated there was a few meetings.

13 Q. Yes, yes.

14 A. And interviews.

15 Q. So action was being taken by the City after you made
16 your complaint in writing, correct?

17 A. He -- he was asking me about my involvement in
18 meetings, sir, not whether things were going on behind
19 the scenes --

20 Q. Yes.

21 A. -- I wasn't privy for.

22 Q. Okay. And your involvement, you met with other people
23 several times after you turned in your complaint,
24 correct, sir?

25 A. Three meetings, yes, sir.

1 Q. Okay. Who were they with?

2 A. **The initial meeting was with Chief Frederick.**

3 Q. Thank you.

4 Who else was there?

5 A. **Chris Andary, union president. Ron -- Captain Ron**
6 **Laszczak from Station 4, and Battalion Chief Paul**
7 **Lesnau.**

8 Q. And that happened the day after you turned in your
9 complaint?

10 A. **No, that happened the day of my complaint --**

11 Q. Okay.

12 A. **-- on the 3rd.**

13 Q. Okay, good. When was the second meeting?

14 A. **On or around the 6th, and it was with Mr. Simlar.**

15 Q. Okay.

16 A. **The Chief Frederick.**

17 Q. Yes.

18 A. **I believe union president, Andary, might have been**
19 **present.**

20 Q. Okay.

21 A. **And I'm not sure who else was in room.**

22 Q. All right. And did you make complaints to them about
23 hostile work environment and race discrimination?

24 A. **Yes, it was detailed in my letter.**

25 Q. Okay. And did you have a third meeting?

1 A. The third meeting was, I believe, with Mr. McAdams.
2 I'm not sure if the chief was -- oh no, the chief was
3 there because that's when he asked me if I would
4 consider going to Station 1, Unit 3, and that was at
5 or around the end of the first week give or take of
6 January because I was actually transferred and
7 officially part of Station 1, Unit 3, I want to say
8 maybe around the 11th, 12th, 13th, of January.

9 Q. And you accepted that transfer?

10 A. Yes, sir.

11 Q. And you thought you could still work at the City of
12 Warren at that point?

13 A. Yes, sir.

14 Q. Okay. And there were two more meetings, correct, one
15 with Mark Simlar and Mr. Fournier, correct?

16 A. Yes.

17 Q. And then a second meeting with Mr. Simlar that you
18 didn't tell your attorney about, and Mr. Fournier,
19 correct?

20 A. There was no second with Mr. Fournier and Mr. Simlar.
21 There was only one.

22 Q. There was -- didn't you meet with them twice?

23 A. No, sir. I met with them one time. Mr. Fournier
24 recorded the incident and so did I. There was no
25 second meeting with those two.

1 Q. Didn't they ask you during the interview process
2 whether or not you felt the hostile work
3 environment -- there was a big going on in the second
4 meeting with those two about what questions they had
5 asked you or not asked you?

6 Do you remember that?

7 **A. There was no --**

8 Q. You had two meetings with them?

9 **A. There was no second meeting, sir. I only met with**
10 **them once, and I will -- I will stand by that.**

11 Q. I'm going to read to you from page 21 beginning at
12 line 19, Mr. Fournier: "Do you remember when we asked
13 you during your interview process whether or not you
14 felt the hostile work environment was created by
15 Selakowski or Ricketts was a result of your race or
16 culture?" And you answered, "No, I do not."

17 You don't remember tell --

18 (Talking over each other)

19 **A. That never happened.**

20 BY MR. GILLOOLY:

21 Q. I don't remember that --

22 **A. That never happened, sir.**

23 Q. -- at all?

24 That preinterview never happened?

25 **A. I met with Mr. Fournier one time with Mr. Simlar. He**

1 recorded it, and it was just us one time. During that
2 interview they tried to lead me and ask me questions
3 like, similar to the ones you did, whether me and
4 Selakowski were friends, weren't we going to
5 Washington, D.C., did I feel this, that and the other,
6 but never -- there was no -- no second interview.
7 That never happened.

8 Q. So the -- you only spoke with Fournier --

9 A. One time, sir.

10 Q. -- one time?

11 A. Yes, sir.

12 Q. And Simlar one time?

13 A. No, no. Mr. Simlar was part of the original
14 investigation in the beginning of January --

15 Q. Okay.

16 A. -- after my notice had been turned in. Mr. Fournier,
17 I've only meet that man once and only -- have only
18 seen him once at the administrative offices. There
19 was never a second interview or deposition or whatever
20 you'd like to refer to it as. We only met once.
21 There was no two interviews.

22 MR. LAURILA: John, that transcript that
23 you're reading from, can I have a copy of that?

24 MR. GILLOOLY: Sure.

25 You have it. I think you produced it.

1 BY MR. GILLOOLY:

2 Q. You testified to your attorney, too, that no one ever
3 asked you about the comments, about the -- the
4 all-around comments?

5 A. No.

6 Q. Here in the second interview with Mr. Fournier they
7 asked you about them and you spoke about them?

8 A. There was no --

9 (Talking over each other)

10 BY MR. GILLOOLY:

11 Q. You know --

12 A. There wasn't a second interview, sir. That was --

13 Q. Okay.

14 A. -- during the first interview. You keep -- you keep
15 trying to tell me that --

16 Q. Okay, okay.

17 A. You keep trying to tell --

18 Q. Okay. All right.

19 MR. LAURILA: Hey guys, guys, you've got to
20 stop talking over each other. Come on.

21 MR. GILLOOLY: Direct it to your client,
22 please, not me.

23 BY MR. GILLOOLY:

24 Q. With regard to -- did you speak with Mr. Fournier and
25 Mr. Simlar on May 3, 2017?

1 A. May 3? I think that was possibly around the time. It
2 was prior to my --

3 Q. Okay.

4 A. -- meeting with Mr. Ad -- McAdams.

5 Q. I'm just trying to clear up. You told your attorney
6 that no one ever asked you about the comments. In
7 here you're quoted that you said, quote, Mr. Suarez:
8 "Because his ongoing disposition toward me and his
9 comments were reserved exclusively for me because I
10 was the only one that he referred to as the all-around
11 nigger day in and day out in front of everyone."

12 And they specifically asked you --

13 A. No.

14 Q. -- about it.

15 A. Yes, that was --

16 Q. Thank you.

17 A. That -- that was -- that transcript was from our first
18 and only --

19 Q. Okay.

20 A. -- meeting, sir.

21 Q. So the City did ask you about it?

22 They asked you about that comment?

23 A. To which I responded, but nothing --

24 Q. Okay.

25 A. -- was done.

- 1 Q. Nothing was done?
- 2 A. **No, sir.**
- 3 Q. Okay. So nothing was done with regard to your
4 complaint by the City of Warren; is that what you're
5 saying, sir?
- 6 A. **No. I'm saying that no one was held accountable at
7 that point, sir. And that their --**
- 8 Q. Well --
- 9 A. **Their line of questioning was trying to incriminate me
10 or trying to discredit me.**
- 11 Q. So as of May 3, 2017, nothing had been done; is that
12 what you're saying?
- 13 A. **No one had been suspended or held accountable or
14 disciplined in any way, shape or form, sir.**
- 15 Q. Okay. But other things had been done. You just
16 weren't satisfied that --
- 17 (Talking over each other)
- 18 A. **No, I --**
- 19 BY MR. GILLOOLY:
- 20 Q. -- Selakowski, right?
- 21 A. **I never knew of any letters that Mr. McAdams wrote to
22 Mr. Simlar. I wasn't privy to that until --**
- 23 Q. You --
- 24 A. **-- obviously, now.**
- 25 Q. You know that you were transferred? That was done?

1 A. Sure.

2 Q. Okay. You know that they ordered additional training
3 for members of the fire department?

4 You know that was done, correct?

5 A. Yes.

6 Q. You know they gave warnings to other people that this
7 conduct is inappropriate and can't be tolerated,
8 right?

9 A. That was long after the fact that they allowed it and
10 tolerated it for years.

11 Q. No.

12 A. Yes, sir.

13 Q. But they had still done it.

14 They had done it after you made your
15 complaint and before here, right?

16 A. So when they allowed that conversation and the -- that
17 treatment of me to go on, all the superior officers
18 and everybody just condoned that culture, that's
19 acceptable. But once I dropped off my letter and
20 complaint, now it's time for them to act and be
21 responsible?

22 Q. So you're suggesting that Commissioner McAdams knew
23 about this all along and did nothing?

24 Are you suggesting that?

25 A. I'm not suggesting that. I can't speak intelligently

1 **about what that man knows.**

2 Q. Well, you're suing him and you said that he condoned
3 it in your lawsuit, knew about it and did nothing
4 about it.

5 Is that --

6 A. I --

7 Q. Is that true? Is that ---

8 A. **I'm sorry. Repeat the question.**

9 Q. You alleged in your lawsuit that he knew about it and
10 did nothing about it.

11 You remember that --

12 A. I --

13 Q. -- don't you?

14 A. **I alleged that he knew about it --**

15 Q. Yeah.

16 A. -- and did nothing?

17 Q. Yes.

18 A. **When it came to his holding people accountable, yes,**
19 **he did nothing.**

20 MR. GILLOOLY: Okay. I have no further
21 questions.

22 MR. LAURILA: Nothing for me.

23 MR. GILLOOLY: Thank you.

24 VIDEO TECHNICIAN: This concludes the
25 deposition. It is 3:08 p.m. We are off the record.

1 (The deposition was concluded at 3:08 p.m.
2 Signature of the witness was not requested by
3 counsel for the respective parties hereto.)

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CERTIFICATE OF NOTARY

STATE OF MICHIGAN)
) SS
COUNTY OF MACOMB)

I, Tammy K. Nannini, certify that this deposition was taken before me on the date hereinbefore set forth; that the foregoing questions and answers were recorded by me stenographically and reduced to computer transcription; that this is a true, full and correct transcript of my stenographic notes so taken; and that I am not related to, nor of counsel to, either party nor interested in the event of this cause.



Tammy K. Nannini, CER, CSR-5899
Notary Public,
Macomb, Michigan.

My Commission expires: 3/21/2021

EXHIBIT C

WXYZ

WEATHER

TRAFFIC

ALL SECTIONS

1 CLOSING



32



Former Warren firefighter claims discrimination, harassment in federal lawsuit

POSTED: 6:46 PM, Dec 4, 2018

Share Article

WARREN, Mich. (WXYZ) - Warren Mayor Jim Fouts called a lawsuit filed by a former firefighter alleging racial discrimination "utterly ridiculous."

But on Monday, a jury in federal court is set to begin hearing the case in which Jose Suarez claims he was subjected to racial slurs by fellow firefighters and his superiors while at work.

Suarez claims one lieutenant told him that "Cubans were just like (n-word)."

Suarez, who is of Cuban descent, claims he often heard firefighters using the words "chimps" and "spooks" to refer to African Americans.

Suarez's attorney Jim Rasor told 7 Action News that when his client complained, he was told to drop it and called a traitor and a snitch, but that Suarez continued to "fight for what was right."

Mayor Fouts pointed out that Fire Commissioner Skip McAdams is African American, and he said that it doesn't make sense that a "white Cuban" would suggest that McAdams would tolerate discrimination.

City attorney Ethan Vinson, who is also African American, said the lawsuit is without merit.

"That's garbage and hogwash," said Vinson. "His (Suarez) initial complaint didn't even deal with the allegation of anything racial.

A settlement conference is set for later this week.

Vinson said a settlement is possible, simply because the case has been a nuisance.

Click on the video to watch the report.

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