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              IN THE UNITED STATES DISTRICT COURT
           FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
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  3
      M. REBECCA DOWNING, et al.,
  4
                         Plaintiffs )
                                     ) Civil Action - Law
  5
               VS
                                      No. 1:CV-05-0351
 6
      YORK COUNTY DISTRICT ATTORNEY)
      H. STANLEY REBERT, et al.
 7
                         Defendants )
 8
                            --000--
 9
10
     DEPONENT: Sharon Luker
11
     TAKEN BY: Plaintiffs
12
     DATE:
                 Monday, April 24, 2006
13
     TIME:
                 11:50 a.m.
14
     PLACE:
                 Blakey Yost Bupp & Rausch
15
                 17 East Market Street
                 York, Pennsylvania
16
     REPORTER:
                Karen J. Meister
17
                 Reporter, Notary Public
18
19
                           --000--
20
21
22
                        KEY REPORTERS
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            1300 Garrison Drive, York, PA
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            (717) 764-7801 Fax (717) 764-6367
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	Page 26		Page 2
1	job scenario with Chuck Noll, Sharon Luker and	1	form a collective bargaining unit. The policies
2	their laborer counsel. At this point since the	2	and procedures that were in effect at that time
3	union does not yet have a contract, anything	3	then cannot be unilaterally changed.
4	other than a full-time position, eight hours per	4	BY MR. JACOB:
5	day for a five-day week, cannot be accomplished.	5	Q Let me just clarify for the record.
6	Do you recall a discussion of the	6	Which policies and procedures are you referring
7	hiring of Mr. Daryman in the D.A.'s office?	7	to?
8	A Not of the hiring, no.	8	A Terms and conditions of employment.
9	Q What discussions do you recall, then?	9	Q York County?
10	Aside from discussions you had with labor	10	A Um-hm.
11	counsel, but just within York County, what were	11	Q And how about
12	the issues that were discussed in regard to John	12	And now about A Or the District Attorney's.
13	Daryman back in April of 2003?	13	Q So were there two sets?
		14	
14 15	MR. HUTCHINSON: Objection. THE DEPONENT: Can you repeat the	15	
	- A	16	
16	question?		proper. There's a York There are York County
17	BY MR. JACOB:	17 18	rules and regulations, correct?
18	Q Yes. What issues were being	1	A Correct.
19	discussed about John Daryman's employment with	19	Q And there's also the D.A.'s office
20	York County or future employment with York	20	general orders; am I correct?
21	County in April of 2003?	21	A I don't know.
22	A I'm unaware that I was part of	22	(Mr. Hutchinson and Deponent confer
23	discussions about his hiring or future	23	privately.)
24	employment. I was aware of discussions on modification of the schedule after I believe he	24	Q Are you aware of York County
25	modification of the schedule after I believe ne	25	Detective Office general orders?
	Page 27		Page 2
1	was hired.	1	A Yes.
2	Q Okay. So, prior to May of '03, I	2	Q Okay. Were those in effect at the
3	believe was when he became an official county	3	time as well?
4	detective. You don't recall discussions about	4	A I believe so.
5	how or what position he would fill in May of	5	Q So then there were two sets of what
6	2003?	6	we'll call rules and regulations in effect, York
7	A There were discussions about From	7	County's and the detectives' offices; is that
8	my recollection, there were discussions about	8	correct?
9	him coming in as a county detective, but they	9	A That's correct.
10	were discussions on, really, him holding a	10	Q Okay. You can continue with your
11	different schedule.	11	answer then. You were explaining
12	Q Okay. Labor issues; is that correct?	12	A I forget the question.
13	A That's correct.	13	Q I'm sorry. You were explaining what
14	Q Okay. Who were these Who would	14	the labor issue was in regard to the schedule.
15	partake in these discussions that you remember?	15	A Essentially we were to maintain
15 16	A To the best my knowledge, some were	16	status quo, because we would be going into
	with Commissioner Donahue. The ones that I	17	negotiations.
		18	Ç .
	would have been in participation would have been		Q Was the county already involved in
	with Durrant and Noll and myself; possibly	19	negotiations for a contract at that time?
	Donahue.	20	A I believe they may have started.
21	Q What would be the labor issue? What	21	Honestly, I don't know.
22	was the problem with this scheduling? MR. HUTCHINSON: Objection	22	Q Okay. That's fair. And why would it

24

23 be important to retain status quo?

25 BY MR. JACOB:

MR. HUTCHINSON: Objection.

MR. HUTCHINSON: Objection.

25 had been a certification by the detectives to

THE DEPONENT: I believe that there

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	Page 30)	Page 3
1	· · · · · · · · · · · · · · · · · · ·	1	MR. JACOB: She's authorized to give
2		2	her opinion on such matters.
3	A Well, I believe that we would have an	3	MR. HUTCHINSON: No, she's not.
4	issue with the PLRB if we didn't maintain status	4	MR. JACOB: Yeah, actually she is.
5	quo.	5	MR. HUTCHINSON: No, she's not.
6	Q And PLRB is?	6	MR. JACOB: Fine. Then it will be
7	A Pennsylvania Labor Relations Board?	7	improperly struck by the judge at a later time.
8	Q Okay. And why is that?	8	MR. HUTCHINSON: Great.
9	MR. HUTCHINSON: Objection.	9	BY MR. JACOB:
10	· · · · · · · · · · · · · · · · · · ·	10	Q In your opinion at that time had
11	viewed as either a positive or a negative change	11	there been a change in the status quo,
12	to influence votes with respect to the	12	would that be an unfair labor practice?
13	certification of the union and/or the terms and	13	MR. HUTCHINSON: Objection.
14	conditions of employment.	14	THE DEPONENT: An actual change does
15	BY MR. JACOB:	15	not automatically have an unfair labor practice
16	Q Could that create an unfair labor	16	charge.
17	practice	17	BY MR. JACOB:
18	MR. HUTCHINSON: Objection.	18	Q I don't understand what you mean.
19	BY MR. JACOB:	19	A How do I explain that? Changes are
20	Q in your opinion?	20	made all the time to certain things. Whether or
21	MR. HUTCHINSON: Objection.	21	not the union attempts to file an unfair labor
22	THE DEPONENT: Anything can create an	22	practice charge, I have no control over that.
23	unfair labor practice charge.	23	And then once it's filed, as to whether or not
24	BY MR. JACOB:	24	it truly meets the criteria established by the
25	Q Okay, fair enough. Do you believe	25	PLRB, I wouldn't know that either.
			D
	Page 31		Page 3:
	that it would be an unfair labor practice in the	1	Q You don't know what the criteria are
2	event that that occurred?	2	for the PLRB?
3	MR. HUTCHINSON: Objection. I'm	3	A I may know about what they are, but
4	going to instruct her not to answer that. I	4	I'm not attorney. And I have not sat there and
5	mean, you're asking her to give to you	5	studied or presented any cases, if you will
6	information that may have come from labor	6	Q Okay, fair enough.
7	counsel and things like that, her opinion on	7	A in front of the PLRB.
8	what is or is not, and I'm	8	Q Fair enough. And I'm not asking you
9	MR. JACOB: I specifically excluded	9	for a legal opinion here. Just so you
10	any advice from counsel in that. I want to know	10	understand that.
11	hers as a human resource director's	11	A Thank you. I'm not an attorney.
12	MR. HUTCHINSON: Well, it's pretty	12	Q No, I'm not asking you for that. I
13	hard, though, when she had that the discussions	13	don't want you to think that I am, and I'm not
14	took place with labor counsel, and then asking	14	asking you for any conversations with your
15	her about the specific subject matter and then	15	counsel. However, you did detail an extensive,
16	simply say, don't pay attention what labor	16	I think it was 20 something years in human
17	counsel said.	17	resources, at least five of which as a director.
18	MR. JACOB: Her personal opinion is	18	And I'm asking you in your opinion,
19	completely different than that of	19	though, if an unfair labor practice was filed
20	MR. HUTCHINSON: Her personal opinion	20	over the very issue that had come up, in your
21	is one hundred percent totally irrelevant.	21	opinion would that be an unfair labor practice?
22	MR. JACOB: No. She's the Human	22	MR. HUTCHINSON: At this point you're
44	The state of the s	23	getting way beyond anything that's remotely
	Resource Director for the county. Therefore	20	Botting way objoin any timing and contour,
23 24	MR. HUTCHINSON: It's still one	24	
23			relevant to this case. I'm not going to have her speculate on what the PLRB might do in the

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Ì	Page 34		F	Page 36
] 1	case of a charge being filed.	1	Q You're aware of them. You just	
2	MR. JACOB: I agree. That's fine.	2	indicated you were. So such as?	
3	I'm not either.	3	A I indicated that I'm aware of	
4	MR. HUTCHINSON: Well, that's what	4	discussions that occurred. I did not indicate	
5	you're asking.	5	what they were.	
6	MR. JACOB: No, I asked her	6	Q I know. I'm asking you what they	
7	MR. HUTCHINSON: She just said	7	were.	
8	MR. JACOB: her opinion.	8	A I don't recall.	
9	MR. HUTCHINSON: She just said it's	9	Q Do you know who would partake in these conversations?	
11	up to them.	11	A It was common discussion around the	
12	MR. JACOB: You know what? I'm just going to move on to a different topic.	12	county. I could not tell you any one	
13	MR. HUTCHINSON: Please.	13	individual, no.	
14	BY MR. JACOB:	14	Q So the whole county then was talking	
15	Q There were complaints, am I correct,	15	about the issue that this could be a labor	
16	about the issue of John Daryman possibly coming	16	issue?	
17	on as a detective with a schedule that differed	17	MR. HUTCHINSON: Objection.	
18	from the other detectives already working in the	18	THE DEPONENT: No, not this specific	
19	detective's office; is that correct?	19	issue.	
20	MR. HUTCHINSON: Objection.	20	BY MR. JACOB:	
21	THE DEPONENT: Yes.	21	Q Then what was the general talk?	
22	BY MR. JACOB:	22	A I can't answer that.	
23	Q And who were those complaints coming	23	Q Why not?	
24	after?	24	A Because it's two years ago and I	
25	A Other detectives.	25	can't recall.	
	Page 35		Pi	age 37
1		١.		age 37
1 2	Q Such as?	1	Q If you don't remember, that's fine.	age 37
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	Page 3	8	Page 4
1	MR. JACOB: That's fair enough.	I	something about trying to avoid a labor issue?
1 2	MR. HUTCHINSON: another employee	2	A It's an either/or. Can you ask the
3	raises an issue.	3	question again?
4	MR. JACOB: That's fair enough.	4	Q I'm asking
5	We'll ask her to clarify.	5	A I'm sorry.
6	MR. HUTCHINSON: Okay.	6	Q From your conversations with Miss
1 7	BY MR. JACOB:	7	Downing, did you think that this was something
8	Q What's your understanding of a labor	8	personal between her and Mr. Daryman, or did you
9	issue?		think that this was always geared towards, we
10	A My answer was in the context of, with	10	need to avoid a labor issue here or a possible
lii	respect to the collective bargaining agreement	11	labor issue here?
12	we had discussions on it.	12	MR. HUTCHINSON: Objection.
13	Q Okay. And when I'm saying labor	13	BY MR. JACOB:
14	issue, I'm saying something that could lead to a	14	Q You can answer.
15	grievance or an unfair labor practice, just so	15	A Geared toward following rules and
16	you understand where I'm coming from.	16	procedures appropriately so that we would have a
17	A That would have been with respect to	17	defense in case of a labor issue.
18	any terms and conditions that might have been	18	Q Okay. So did it appear to you then
19	being negotiated, and yes, we had discussions on	19	that Miss Downing had York County's interest in
20	that.	20	mind when she entered into these discussions
21	Q Okay. With Becky?	21	with you?
22	A Yes.	22	MR. HUTCHINSON: Objection.
23	Q Okay. And do you remember generally	23	THE DEPONENT: Her behavior would
24	what the substance of those discussions?	24	indicate that.
25	A Yes.	25	BY MR. JACOB:
	Page 39		Page 4
1	Q And what were they?		Q Her behavior? Okay. And how about
2	A How we could work something out that	2	just the things she was discussing with you? I
3	everybody could be happy about.	3	mean, could you get a feel for what you believed
4	Q Okay. Did Miss Downing ever express	4	her intentions to be?
5	to you that she didn't like John Daryman, the	5	MR. HUTCHINSON: Objection.
6	man, and that's why she didn't want him to work	6	THE DEPONENT: Other than what she
7	there?	7	stated. I can't tell you what her intentions
8	A No.	8	were.
9	Q Or was the context of her	9	BY MR. JACOB:
10	conversation something to the effect of, this	10	Q Okay. But you never came to believe
11	could create some sort of labor issue. Let's	11	that she didn't have York County's best interest
12	figure out a way to hire him properly so we can	12	in mind; am I correct?
13	avoid a labor issue?	13	A No, I did not.
		14	Q When an employee Or let me rewind.
14	A There was nothing discussed with	4	
15	respect to hiring.	15	Did you ever come to learn that John Daryman was
15 16	respect to hiring. Q Okay. And in fairness to you, you	15 16	Did you ever come to learn that John Daryman was performing any services to the D.A.'s office
15 16 17	respect to hiring. Q Okay. And in fairness to you, you did say you don't recall it in terms of hiring;	15 16 17	Did you ever come to learn that John Daryman was performing any services to the D.A.'s office between January of '03 and May of '03?
15 16 17 18	respect to hiring. Q Okay. And in fairness to you, you did say you don't recall it in terms of hiring; just in terms of a schedule. Do you recall the	15 16 17 18	Did you ever come to learn that John Daryman was performing any services to the D.A.'s office between January of '03 and May of '03? A I have no direct knowledge of that.
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1	Page 7			Page 72
1	compensation issue for York County?	1	Q They're not obligated to follow that	
2	MR. HUTCHINSON: Objection.	2	policy?	
3	THE DEPONENT: Risk management.	3	A It's not my testimony that they are	
4	BY MR. JACOB:	4	or they aren't. The D.A. makes the	
5	Q And who's risk management?	5	determination.	
6	A A department.	6	Q I'm asking you as the human	
7	Q In York County?	7	resource	
8	A Yes.	8	MR. HUTCHINSON: I think she's told	
9	Q I see there are certain policies	9	you.	
10	listed here, equal opportunity, sexual	10	MR. JACOB: No, no, no.	
11	harassment. Those are policies of York County;	11	BY MR. JACOB:	
12	am I correct?	12	Q I'm asking you as the Human Resource	
13	A Correct.	13	Director whether an employee who's been hired	
14	Q Are those policies that an employee	14	2	
15	of York County working in the D.A.'s office	15	obligated to follow York County's sexual	
16	would be bound by?	16	harassment policy?	
17	MR. HUTCHINSON: Objection.	17	MR. HUTCHINSON: Objection.	
18	THE DEPONENT: They would be bound by	18	THE DEPONENT: You have to ask the	
19	the law. I'm not sure they would be bound	19	courts that one.	
20	necessarily by York County policy.	20	BY MR. JACOB:	
21	BY MR. JACOB:	21	Q So, does that mean you're not sure?	
22	Q Okay. Is this something, though,	22	A What I'm sure of is his 1620 rights	
23	that the Director of Human Resources for York	23	and what he has the ability to do within his	
24	County is involved with, decisions such as this,	24	• •	
25	such as what policies apply to who within York	25	obligated by who? The D.A.?	
	Page 71			Page 73
1		1		Page 73
1 2	County?	1	Q I'm asking you, does York County	_
2	County? MR. HUTCHINSON: Objection.	1 2	Q I'm asking you, does York County require that employees hired by the D.A. through	_
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23 Q And she was fired from the D.A.'s 25 BY MR. JACOB:					
	4 0	Q And she was fired from the D.A.'s	20	DI MK. JACOB:	

	Page 8	2	Page 84
		$\begin{bmatrix} 1 \end{bmatrix}$	complaining, and this is Let me rephrase.
		2	
] 3	, i	3	The next set of questions will be in that
4		4	regarddid you ever become aware that Miss
5	Q And currently, what's her position	5	Downing was complaining that the District
1 6		6	Attorney be participating in some unlawful
7		7	conduct?
8		8	A Did I become aware I'm sorry.
9	,	1 9	Q Prior to Miss Downing being fired-So
10		10	
11		11	that Miss Downing was alleging and complaining,
12		12	
13	A I don't know.	13	1 0 ,
14	Q And when was she promoted into that	14	A I believe so.
15		15	Q Okay. What time did you become aware
16	A I believe at the beginning of this	16	
17	year.	17	A Well, not knowing if it was lawful or
18	Q I believe so as well. Did you or	18	unlawful, you need to give me a specific
19	your office ever investigate the allegations of	19	request. I couldn't
20		20	Q You may have misunderstood my
21	MR. HUTCHINSON: Objection.	21	question. You learned of Miss Downing's
22	THE DEPONENT: No.	22	complaints in that regard just prior to her
23	BY MR. JACOB:	23	being fired; am I correct?
24	Q Why is that?	24	A Yes.
25	MR. HUTCHINSON: Objection.	25	Q Okay. And am I also correct that you
	Page 83		Page 85
1	THE DEPONENT: Because I provided the	1	learned just before Miss Downing was fired that
2	information given to me to the commissioners.	2	she had raised an issue with the District
3	BY MR. JACOB:	3	Attorney receiving free York Fair tickets in
4	Q Do you know if the commissioners ever	4	what she said was an exchange for free law
5	requested an investigation into the	5	enforcement; am 1 correct?
6	circumstances under which Miss Dorm was	6	A What do you mean by just before?
7	terminated?	7	Q Meaning within, let's just say
8	MR. HUTCHINSON: Objection.	8	Actually, hold on a minute. Let me try to
9	THE DEPONENT: I have no direct	9	narrow this down for you.
10	knowledge of that.	10	(Mr. Jacob and Miss Downing confer
111	BY MR. JACOB:	11	privately.)
12	Q In fact, do you know whether there	12	Q Let's just say in October of 2004, am
13	was a mishandling of grant funds in the district	13	I correct you learned of Miss Downing's
14	attorney's office?	14	complaint that she was alleging that the D.A.
15	MR. HUTCHINSON: Objection.	15	was possibly participating in unlawful conduct;
16	THE DEPONENT: I would have no idea.	16	am I correct?
17	BY MR. JACOB:	17	MR. HUTCHINSON: Objection.
18	Q Do you know if Miss Dorm was	18	BY MR. JACOB:
19	responsible for any irregularities that may have	19	Q I'm just trying to put a time frame
20	appeared in any grants in the D.A.'s office?	20	on your earlier admission that yes, you did
21 22	MR. HUTCHINSON: Objection.	21	learn of that. I just want to bring you back
23	THE DEPONENT: I would have no idea.	22	to, it was October of '04 when Miss Downing was
24	BY MR. JACOB:	23	raising these complaints, correct?
25	Q Fair enough. At some point in time	24	(Pause.) And to put it in
L_,	did you become aware that Miss Downing was	25	perspective, she was fired in December of 2004.

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	Page 8	5	Page	88
1	MR. LEBER: Objection.	1	THE DEPONENT: She made that	
2	MR. JACOB: I think we can stipulate	2	complaint.	
3		3	BY MR. JACOB:	
4	MR. HUTCHINSON: No, we can't.	4	Q And she made it to you; am I correct?	
5	MR. LEBER: No, we can't stipulate to	5	A That's correct.	
6		6	Q Okay. And, in fact, Miss Downing at	
7	MR. JACOB: All right. My apologies.	7	that time again reiterated the labor issues that	
8	I guess we're not going to stipulate.	8	she believed were occurring in regard to John	
9	BY MR. JACOB:	9	Daryman; am I correct?	
10	Q Assuming the termination occurred in	10	MR. HUTCHINSON: Objection.	
11	December of '04, do you recall that the	11	THE DEPONENT: At sometime she did.	
12		12	BY MR. JACOB:	
13	_ · ·	13	Q Okay. But you're not sure if it	
14		14	occurred	
15	A I don't know that it's been	15	A I'm not sure on exact dates.	
16	determined that anything has been unlawful.	16	Q That's fine. No, that's absolutely	
17		17	fine.	
18	saying she was simply alleging that. She was	18	And do you recall Miss Downing	
19	simply speaking out saying, I believe this is	19	raising an issue about the fact that John	
20	happening.	20	Daryman was performing as a detective during	
21	A In October?	21	January of '03 and in May of '03, and that she	
22	Q Um-hm.	22	found that to be improper?	
23	A Yes.	23	MR. HUTCHINSON: Objection.	
24	Q Okay. And if I correct, in October	24	THE DEPONENT: Yes.	
25	of 2004 Again, I'm not saying this happened.	25	BY MR. JACOB:	
_				_
	Page 87		Page	89
1	I'm just saying that at that time Miss Downing	1	Q And that was in October of 2004 when	j
2	was speaking out about the issue of whether Mr.	2	she raised this issue again with you; am I	ı
3	Rebert was improperly receiving free fair passes	3	correct?	
4	in exchange for York County providing free law	4	A I don't know when she raised it.	
5	enforcement to the fair; am I correct?	5	Q Fair enough. And knowing these	l
6	A I believe so.	6	complaints, did you perform any investigation to	
7	Q Okay. And am I also correct that	7	find out whether what Miss Downing was saying to	
8	during October of 2004, Miss Downingand again,	8	you was, in fact, correct?	ľ
9	I'm not saying this happened-but that Miss	9	A No, I did not.	
10	Downing was complaining and speaking out that	10	Q Did Miss Downing express to you that	
11	she felt that the District Attorney was	11	she was being asked to resign because of her	Š
[12]	improperly intervening in criminal	12	making such complaints?	3
13	investigations on behalf or to benefit political	13	A Miss Downing expressed that she was	- 1
14	supporters, friends or family; is that correct?	14	asked to resign.	ı
15	MR. HUTCHINSON: Objection.	15	Q And was it your belief that Miss	ļ
16	BY MR. JACOB:	16	Downing believed, based on the conversation she	ŀ
17	Q You can answer.	17	had with you, that the reason she was being	
18	A Yes.	18	asked to resign was because she was speaking out	
19	Q And, in fact, did you not also come	19	about such matters?	Agyn.
20	to learn in October of 2004, that Miss Downing	20	MR. HUTCHINSON: Objection.	Š
21	was speaking out about the improper use or	21	(Pause.)	
22	alleged improper use of drug task force funds to	22	BY MR. JACÓB:	ŀ
23	pay for things such as cell phones for the	23	Q I'm not saying it's true or not. I'm	ž ž
24	District Attorney's wife; am I correct?	24	just saying whether, after talking to her, did	2
25	MR. HUTCHINSON: Objection.	25	you believe that Miss Downing felt that she was	Š

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	Page 9	0	Page 9
1	being asked to resign simply because she was	1	THE DEPONENT: I don't know.
2		2	BY MR. JACOB:
3		3	Q Have you since learned whether the
4	`	4	commissioners took any action in regard to the
5		5	anticipated termination?
6	resign is because I spoke out about these	6	MR. HUTCHINSON: Objection.
7	things?	7	BY MR. JACOB:
8	A Yes.	8	Q Meaning, before it took place, did
9	Q And knowing that as the Director of	9	you know whether the commissioners said, hold
10		10	on, don't do anything, we need to do an
11	need to find out if, in fact, this is what's	11	investigation? Do you know if they did anything
12	1, , ,	12	in that regard?
13	A.	13	A I don't know.
14		14	Q How about once the termination took
15	<i>y</i> 1	15	place, do you know if the commissioners said, we
16		16	need to investigate what happened here?
17	BY MR. JACOB:	17	A I don't know.
18	Q Yes. Knowing that, knowing that that	18	Q How about in regard to the workers'
19	was Miss Downing's complaint before she was	19	compensation benefits? Have you ever come to
20	fired, did you do anything, direct an	20	learn why there was not payment made on an open
21	investigation to occur, talk to Mr. Rebert and	21	claim once Miss Downing was terminated?
22	say, we need to find out why we're really firing	22	MR. HUTCHINSON: Objection.
23	this employee? Did you direct such an	23	THE DEPONENT: No. I would have no
24	investigation?	24	
25	A I directed no investigation.	25	BY MR. JACOB:
	Page 91		Page 9
1	Q Okay. Did you report to the	1	Q Do you know why Miss Downing was, in
2	commissioners your concerns?	2	fact, terminated from the D.A.'s office?
3	MR. HUTCHINSON: Objection.	$\frac{2}{3}$	MR. HUTCHINSON: Objection.
4	THE DEPONENT: Yes, I did.	4	THE DEPONENT: No.
5	BY MR. JACOB:	5	BY MR. JACOB:
6	Q And what were those concerns?	6	Q You are Human Resources for York
7	MR. HUTCHINSON: Objection.	7	County, though, correct?
8	THE DEPONENT: My concerns were, when	8	A That's correct.
وا	there's a complaint brought to our office that	9	Q And is there any obligation for the
10	somewhere, somehow it should be looked at.	10	heads of agencies to report the reasons for
111	BY MR. JACOB:	11	terminating a York County employee?
12	Q So, in your opinion then you did your	12	A Row officers do not have to do that
13	job? You took the Complaint that you received	13	under 1620.
14	from Miss Downing that she was being fired for	14	Q So it says in 1620 that row officers
15	speaking about for speaking out about these	15	don't need to report to the Human Resource
16	matters, you took that to the commissioners and	16	Department the reason for a
17	did your job; am I correct?	17	A No, it
18	MR. HUTCHINSON: Objection.	18	Q termination?
19	THE DEPONENT: Correct.	19	A does not say that.
20	BY MR. JACOB:	20	Q Okay. So I'm asking you, did
21	Q Once the commissioners received this	21	Number 1, did Mr. Rebert report to Human
22	information, what actions, if any, did they take	22	Resources the reasons why he was terminating
1	in regard to Miss Downing's termination or	23	Miss Downing's employment?
1 23	m regard to Miss Downing a ferring and or		ATALOG AFO TTAKKING O WELLPHO PHILIPIDE
23 24			
23 24 25	future anticipated termination? MR. HUTCHINSON: Objection.	24 25	A No. Q And did Human Resources ever inquire

Total Mr. Rebert to find out what is the specific 1	Γ_		Т	
2 reason why you are firing this employee? 3 A No. 4 Q Okay. When an employee is fired, 5 what information is disseminated to the public in regard to the reasons, if any, why the 7 employee was fired? 8 MR. HUTCHINSON: Objection. 9 THE DEPONENT: Disseminated by who? 10 BY MR. JACOB: 11 Q By anybody. Is there a reason why 2 York County – anybody in York County would disseminate any information in regard to the reasons why an employee is fired? 15 MR. HUTCHINSON: Objection. 16 THE DEPONENT: I have no clue. 17 BY MR. JACOB: 18 Q Okay. In Human Resources is there any any policy, practice governing the release of 20 information in regard to an employee's employee the fired, and someone from the public calls and says, was this employee fired, you will not release that information? 18 MR. HUTCHINSON: Objection. 19 Q Will you give the reason for the separation from the county? 21 Q Will you give the reason for the separation from the county? 22 A Yes. 23 Q And what is that policy or practice? 24 A The practice is that we will confirm 25 dates of hire and pay range. Page 95 1 Q Will you give the reason for the 2 separation from the county? 21 Q Okay. So in December of 2004, the 2 practice was that if somebody from the general 2 public inquired as to whether an employee was 5 fired, they could not receive that information; it shat correct? 10 MR. HUTCHINSON: Objection. 11 BY MR. JACOB: 12 Q Okay. So in December of 2004, the 2 practice was that if somebody from the general 3 public inquired as to whether an employee was 5 fired, they could not receive that 1 firefrent from the 20 information; it shat correct? 10 MR. HUTCHINSON: Objection. 11 BY MR. JACOB: 12 Q Okay. So in December of 2004, the 1 practice was that if somebody from the general 2 public inquired as to whether an employee was 5 fired, they could not receive that 1 firefrent from 4 process for the 2 practice was that if somebody from the general 2 public inquired as to whether an employee was 5 fired, they could not receive that 1 firefrent from 4 process			۱	
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7 employee was fired? 8 MR HUTCHINSON: Objection. 9 THE DEPONENT: Disseminated by who? 10 BY MR. JACOB: 11 Q By anybody. Is there a reason why 12 York County - anybody in York County would 13 disseminate any information in regard to the 14 reasons why an employee is fired? 15 MR. HUTCHINSON: Objection. 16 THE DEPONENT: I have no clue. 17 BY MR. JACOB: 18 Q Okay. In Human Resources is there 19 any policy, practice governing the release of 19 information in regard to an employee's 21 employment history with the county? 22 A Yes. 23 Q And what is that policy or practice? 24 A The practice is that we will confirm 25 dates of hire and pay range. Page 95 1 Q Will you give the reason for the 2 separation from the county? 3 A No. 4 Q So if an employee is terminated, 5 fired, and someone from the public calls and 6 says, was this employee fired, you will not 7 release that information? 8 MR. HUTCHINSON: Objection. 9 THE DEPONENT: At the time of this 10 issue, no. 11 BY MR. JACOB: 12 Q Okay. So il December of 2004, the 13 practice was that if somebody from the general 14 public inquired as to whether an employee was 15 fired, they could not receive that information; 16 is that correct? 17 MR. HUTCHINSON: Objection. 18 BY MR. JACOB: 19 Q Okay. Now, I believe in Human 12 kesources that you probably had the opportunity to solicit for applicants for vacent positions 14 reasons why the previous person left the 15 my fork County: 16 A Yes. 17 A Yes. 18 Yes. 19 Q Okay. And when you do that, do you put in the refreseons with the previous person left the position? 18 BY MR. JACOB: 29 A Yes. 20 Q Okay. So all you need then in a 20 Gokay. So all you need then in a 21 distinction for applicants is simply that you have an open position and the terms and conditions of that position; am I correct? 21 A Correct. 22 A Yes. 23 Q Okay. So all you need then in a 24 If si trateomethody was position he formerly had the opportunity to solicit for applicants for vacent positions. 24 A Yes. 25 Q Okay. So all you need then in a 26 If that someb	5	what information is disseminated to the public	5	your understanding that somebody who calls up to
7 employee was fired? 8 MR HUTCHINSON: Objection. 9 THE DEPONENT: Disseminated by who? 10 BY MR. JACOB: 11 Q By anybody. Is there a reason why 12 York County - anybody in York County would 13 disseminate any information in regard to the 14 reasons why an employee is fired? 15 MR. HUTCHINSON: Objection. 16 THE DEPONENT: I have no clue. 17 BY MR. JACOB: 18 Q Okay. In Human Resources is there 19 any policy, practice governing the release of 19 information in regard to an employee's 21 employment history with the county? 22 A Yes. 23 Q And what is that policy or practice? 24 A The practice is that we will confirm 25 dates of hire and pay range. Page 95 1 Q Will you give the reason for the 2 separation from the county? 3 A No. 4 Q So if an employee is terminated, 5 fired, and someone from the public calls and 6 says, was this employee fired, you will not 7 release that information? 8 MR. HUTCHINSON: Objection. 9 THE DEPONENT: At the time of this 10 issue, no. 11 BY MR. JACOB: 12 Q Okay. So il December of 2004, the 13 practice was that if somebody from the general 14 public inquired as to whether an employee was 15 fired, they could not receive that information; 16 is that correct? 17 MR. HUTCHINSON: Objection. 18 BY MR. JACOB: 19 Q Okay. Now, I believe in Human 12 kesources that you probably had the opportunity to solicit for applicants for vacent positions 14 reasons why the previous person left the 15 my fork County: 16 A Yes. 17 A Yes. 18 Yes. 19 Q Okay. And when you do that, do you put in the refreseons with the previous person left the position? 18 BY MR. JACOB: 29 A Yes. 20 Q Okay. So all you need then in a 20 Gokay. So all you need then in a 21 distinction for applicants is simply that you have an open position and the terms and conditions of that position; am I correct? 21 A Correct. 22 A Yes. 23 Q Okay. So all you need then in a 24 If si trateomethody was position he formerly had the opportunity to solicit for applicants for vacent positions. 24 A Yes. 25 Q Okay. So all you need then in a 26 If that someb	6	in regard to the reasons, if any, why the	6	York County should not be able to receive the
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Page 102 Page 104 supposed to be consulted about how to go about whatever it was. soliciting on behalf of York County for 2 Okay. I'll submit to you that this 3 applicants? was circulated to the chief (sic) county 4 For row officers it is recommended. detectives in the D.A.'s office. If you want to 5 Recommended, okay. And who 5 take a moment to review the document, if you 6 recommends this? haven't seen it, that's fine with me, I'll 7 I guess I do and the commissioners. 7 represent to you that only the middle paragraph 8 O Did you recommend this by memo, by 8 is different from the previous exhibit. rule, by regulation? How does the 9 Q It couldn't have been sent to the 10 recommendation get conveyed to the row officers? 10 chief county detectives because there weren't 11 It was conveyed through a ī 1 any. presentation that I did--But I couldn't tell you 12 12 No, I may have misspoken. To the 13 if the row officers were there or not-to the 13 county detectives within the D.A.'s office. 14 county when I first came on board. 14 Okay. 15 Q Fair enough. In this case was the 15 I may have been looking at the 16 recommendation followed? 16 reference line when I was trying to speak. 17 MR. HUTCHINSON: Objection. 17 And was there a question? 18 THE DEPONENT: In what case? 18 Yeah. I want you to be familiar with 19 BY MR. JACOB: 19 the middle paragraph there. In this case, the January 7, 2005 20 20 MR. HUTCHINSON: I don't believe memo. Are you telling me, then, that your 21 21 that's a question. recommendation was not followed? That Human 22 22 MR. JACOB: You're right, it's not. 23 Resources was not first consulted before this 23 I'm making sure she's familiar with the 24 document was circulated? 24 paragraph before I ask the question. 25 We were not consulted about this 25 (Deponent reviews document.) Page 103 Page 105 1 document. THE DEPONENT: I read it. 2 In the beginning part of the document BY MR. JACOB: 3 it says: In the latter part of September the 3 Q Okay. Is there any reason as the 4 District Attorney requested the resignation of 4 Director of Human Resources that you could think then Chief County Detective M. Rebecca Downing. 5 5 that a document of this nature would need to be 6 Miss Downing declined and was subsequently 6 circulated throughout the D.A.'s office after 7 terminated for cause effective December 15, 7 Miss Downing's termination? 8 2004. 8 MR. HUTCHINSON: Objection. 9 Is there any reason as the Director 9 THE DEPONENT: That's the D.A.'s 10 of Human Resources that you can think of that 10 prerogative. that language would need to be contained in a 11 BY MR. JACOB: 11 12 document that's circulated to all of the York 12 Okay. If somebody is fired in York 13 County police departments soliciting applicants 13 County, is it the normal practice, does Human 14 for the position of chief counsel detective? 14 Resources -- Is it your normal practice that a 15 MR. HUTCHINSON: Objection. 15 document should be circulated throughout the 16 THE DEPONENT: No. 16 office explaining the reasons why the person was 17 BY MR. JACOB: 17 terminated? 18 Q If you could take a look at Exhibit 18 MR. HUTCHINSON: Objection. Number 9, have you ever seen Exhibit Number 9? 19 19 THE DEPONENT: Human Resource does 20 20 not circulate that type of information. 21 O So when did you see Exhibit Number 9? 21 BY MR. JACOB: 22 А I can't recall a date. 22 Q Do you instruct anybody or any 23 0 Approximately. 23 division head that that's a process they should 24 Probably at the time or shortly 24 do; that's a procedure they should do upon the thereafter that it was issued or posted, or 25 25 termination of an employee?

	Pa	ge 118		I	Page 12
l was	schedule was going to be adjusted,	- }	1	one. That was my question.	
2 chan	ged, for him being hired in 2003, around		2	A No.	
3 that	time? We're talking April, May of 2003		3	Q Do you recall a meeting prior to Miss	
	o put it in context.		4	Downing's termination during which the possible	.
5	And if I'm correct, she expressed a	ļ	5	termination of Miss Downing's workers'	
6 conc	ern about the D.A.'s 1620 rights and the		6	compensation benefits was discussed?	
7 prov	sions of the detectives' contract; am I	ł	7	A Can you repeat that? I'm sorry.	
8 corre		1	8	Q No, that's fine.	
9	MR. HUTCHINSON: Objection.		9	A I'm listening intently.	
10	THE DEPONENT: It wouldn't have been		10	Q It's been a long day. You are.	
11 in Ap			11	You've been very forthcoming. I appreciate	
	ſR. JACOB:	,	12	that. It's hard because this takes us back	
13 Q	Okay. When do you recall it?		13	years.	
14 A			14	So, what I'm asking you is, do you	
15 Q		,	15	recall a meeting prior to Miss Downing being	
16 her co	oncern was that, possibly, the 1620 rights		16	terminated, so we're prior to December 2004	
17 and th	ne provision of the contract were in		17	let's say. And during that meeting it was	
18 confl.	ct; is that correct?	+	18	discussed that Miss Downing's workers'	
19 A	Yes.		19	compensation benefits should be terminated?	
20 Q	And, in fact, you yourself indicated		20	MR. HUTCHINSON: Objection.	
21 that y	ou weren't sure which one controlled; am I		21	THE DEPONENT: I don't know when	
22 correc			22	it I don't know.	
23 A	That's correct.		23	BY MR. JACOB:	
[24 Q	And, in fact, you indicated to her		24	Q You don't know when the conversation	
25 that sl	ne should call Bob Durrant to get a	2	25	took place?	
					
1 .1		119			age 121
l clarin	cation as far as which one would control;	- 1	1	A Correct.	
1	orrect?		2	Q Okay. So the conversation did take	
	Yes.		3	place then, correct?	
4 Q 5 am I c	And, in fact, that is what occurred; orrect?		4	A What conversation?	
6 A	Yes.	1	5	Q That the workers' compensation	
$\begin{array}{c c} 7 & \hat{Q} \end{array}$		T I	6	benefits should be terminated at the same time	
	Okay. And is it your belief that is ly time that Miss Downing did speak to Mr.			that her employment was terminated; am I	
9 Durrar	it about I should clarify that.			correct?	
10	Is the only time that Miss Downing		9	MR. HUTCHINSON: Objection.	
	to Mr. Durrant about the labor	11	_	THE DEPONENT: There was no	
	ations, labor issues going on in the	$\begin{vmatrix} 1 \\ 1 \end{vmatrix}$		conversation.	
	office; am I correct? This is to the			BY MR. JACOB:	
	your knowledge.	11.		Q But you did receive information that	
15 A	Repeat the question.	114		that was the plan; am I correct?	
16 Q	Yes. To the best of your knowledge	13 16		A I was told that, yes.	
~	ur belief that this is the only time	$\frac{10}{12}$		Q And who told you that? A Keith Wentz.	
•	ss Downing spoke to Bob Durrant about				
19 labor is	sues regarding York County or the	19		Q And what did Keith Wentz specifically tell you?	
	attorney's office; is that correct?	20		A That her benefits would be	ļ
	MR. HUTCHINSON: Objection.	21		terminated.	
	THE DEPONENT: It's the only one I	22			,
23 know o		23		· ·	
	:. JACOB:	24		the termination of the workers' compensation benefits?	
25 Q	Okay. So you don't know of any other	25		A I don't recall he gave one.	
~		143	,	as a record occurrate valve time	

Page 122 Page 124 1 Q He just simply said, when she's fired going to be terminated? 2 her worker's compensation benefits will be 2 MR. HUTCHINSON: Objection. 3 terminated, correct? 3 THE DEPONENT: I don't know if he 4 MR. HUTCHINSON: Objection. 4 equated it to her leaving the county or not. 5 5 THE DEPONENT: He didn't say that. BY MR. JACOB: 6 6 BY MR. JACOB: Okay. Did he equate it to anything? 7 What did he say then? 7 0 Α I don't recall. 8 If she's no longer employed - Well. 8 Okay. And from that conversation, 9 I don't even know if he said that. He just 9 did you have an understanding as to when you 10 indicated that her workers' compensation 10 believed that that was going to take place? Did 11 benefits were going to be terminated. 11 you think it was going to be terminated a year 12 At the same time that she was 12 down the road, or did you think when she loses 13 terminated in December of 2004, correct? 13 her employment her benefits are going to be A I believe he would have said at the 14 14 terminated? 15 time she's no longer employed, maybe. I don't 15 MR. HUTCHINSON: Objection. recall exactly what he said. THE DEPONENT: To the best of my 16 16 17 What I mean is, did he indicate to 17 recollection, they were going to be terminated 18 you that when Miss Downing was to go off payroll 18 soon. 19 that her workers' compensation benefits would be 19 BY MR. JACOB: 20 terminated? 20 O Okay, soon. And the conversation you 21 He indicated to me that her workers' 21 had with Mr. Wentz was in the time frame of, I 22 comp benefits would be terminated, but I don't 22 think you've already said before December of 23 know that I can say that he gave a date or 2004, correct? 23 24 anything specific. I don't recall. 24 I believe so. A 25 Without a specific date then, was it 25 MR. HUTCHINSON: Objection. Page 123 Page 125 1 roughly around December of 2004, at the time BY MR. JACOB: 2 Miss Downing's employment was being terminated? 2 You believe so? O 3 A I believe at the time of the 3 (Affirmative head gesture.) 4 conversation I don't know that that had been 4 Okay. Did you ever do an 5 established yet. If it had, then I would say 5 investigation as to why the workers' 6 yes. 6 compensation benefits were going to be 7 So you're saying before it was even 7 terminated? 8 established that Miss Downing would be 8 Α 9 terminated; that in the event that she resigned 9 Q Do you know if you ever reported that 10 or was separated from employment from York 10 to the commissioners, that Mr. Wentz intended to 11 County for any reason, that Mr. Wentz indicated terminate the workers' compensation benefits? I 11 12 that her workers' compensation benefits would be 12 would assume that you did as the Human Resource 13 terminated; is that correct? 13 Director. 14 MR. HUTCHINSON: Objection. 14 MR. HUTCHINSON: Objection. 15 THE DEPONENT: You have me confused. 15 THE DEPONENT: I honestly don't 16 I honestly don't recall. I know he said her recall. 16 17 workers' comp would be terminated. 17 BY MR. JACOB: 18 BY MR. JACOB: 18 Do you know if the commissioners ever 19 Q Okay. Let me rephrase it. I 19 learned around that period of time that Mr. 20 actually confused myself on that one. 20 Wentz intended to terminate the workers' 21 Was the substance of the conversation 21 compensation benefits? 22 essentially that, at the time Miss Downing is 22 MR. HUTCHINSON: Objection. 23 separated from employment with York County for 23 THE DEPONENT: I don't personally 24 whatever reason, termination, resignation, 24 know. I don't think. whatever, her workers' compensation benefits are 25 BY MR. JACOB:

W. Rebecca Downing v 10th Co. D.A. H. Stallley Repert	Sharon Lui
Page 12	6 Page 12:
1 Q But it sounds like you have some 2 indirect knowledge? 3 A No. I would have assumptions, but I 4 don't know that I have any knowledge whether 5 they were — 6 Q That's fair. 7 A I mean, if I — I may have told him, 8 but I may not have. I don't know. 9 Q So it's possible then that you told 10 them? 11 A It's possible. 12 Q Okay. Is it probable? 13 MR. HUTCHINSON: Objection. 14 THE DEPONENT: I don't recall. I 15 just don't know. 16 MR. JACOB: If that's your answer, 17 you don't recall, that's fine. 18 BY MR. JACOB: 19 Q Do you know if the commissioners ever 20 asked you or anybody else in York County to look 21 into the issue of why Miss Downing's benefits 22 would be terminated; or to be more proper, that 23 there — that York County would not begin to pay 24 out on an open workers' compensation claim at 25 the time of Miss Downing's separation?	1 MR. HUTCHINSON: Objection. 2 THE DEPONENT: I don't know if he's 3 made any policies or not, so to speak. 4 MR. JACOB: That's all I have. 5 MR. LEBER: I don't have any. 6 (At or about 2 p.m., the deposition 7 concluded.) 8 **** 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
MR. HUTCHINSON: Objection. THE DEPONENT: Do I know Let me understand the question. Do I know if they asked anyone to look into it? BY MR. JACOB: Q Right. A No, I do not know. Q To the best of your knowledge, who is the person who would set policy for York County in the district attorney's office? A The District Attorney. Q And that would be policy on behalf of York County; am I correct? A That would be policy on behalf of the District Attorney. Q All right. But as far as a head policy maker for York County in that office, there's nobody above him; am I correct? MR. HUTCHINSON: Objection. THE DEPONENT: To the time best of my knowledge there isn't. BY MR. JACOB: Q And, in fact, he does make policy for York County in certain respects, such as hiring and firing within his office, correct?	Page 129 1