



1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
3

4 M. REBECCA DOWNING, et al.,)
Plaintiffs)
5 VS) Civil Action - Law
) No. 1:CV-05-0351
6 YORK COUNTY DISTRICT ATTORNEY)
H. STANLEY REBERT, et al.)
7 Defendants)
8

9 --oOo--

10 DEPONENT: Lori Mitrick
11 TAKEN BY: Plaintiffs
12 DATE: Monday, April 24, 2006
13 TIME: 9:05 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 ---oOo---

20
21
22 KEY REPORTERS
keyreporters@suscom.net

23
24 1300 Garrison Drive, York, PA 17404
25 (717) 764-7801 Fax (717) 764-6367

1 that had taken place, I think that it should
 2 be -- What I would do is immediately turn it
 3 over to Human Resources.
 4 Q If you learned that one of your
 5 fellow employees told his subordinate that his
 6 subordinate should tell a co-worker to push
 7 herself away from the table in order for weight
 8 control, would you find that to be an
 9 inappropriate conduct?
 10 MR. HUTCHINSON: Objection.
 11 THE DEPONENT: Yes.
 12 BY MR. JACOB:
 13 Q And why is that?
 14 A I just think it's inappropriate.
 15 Q Should the employee be fired if they
 16 were to complain about that type of comment?
 17 MR. HUTCHINSON: Objection.
 18 THE DEPONENT: The employee who
 19 complained?
 20 BY MR. JACOB:
 21 Q Yes.
 22 A No. (Pause.) I must state, it's
 23 difficult to answer some of your hypotheticals
 24 because your questions are so limited. You
 25 know, obviously, there would be other factors

1 conduct would -- it would be appropriate to fire
 2 that employee?
 3 A It's difficult for me to answer about
 4 the appropriateness of the complaint.
 5 Q Okay. I believe you said that you
 6 did review the original Complaint in this
 7 matter; is that correct?
 8 A I did a long time ago.
 9 Q Okay. Were you aware that Miss
 10 Downing made complaints that Mr. Rebert asked
 11 her to improperly use the CLEAN system or the
 12 NCIC system--Are you familiar with those
 13 systems?--in order to obtain information for
 14 either political supporters, friends, family?
 15 A I don't recall that specifically in
 16 the Complaint. As I said, I read the first one
 17 quite a while ago. It may be there.
 18 Q Are you aware that Miss Downing had
 19 made a complaint about Mr. Rebert receiving free
 20 fair passes to the York Fair?
 21 A I recall seeing that somewhere -- I'm
 22 embarrassed to say it could have been in the
 23 newspaper.
 24 Q That's fine. That's fine. Were you
 25 aware that Miss Downing had raised an issue with

1 involved.
 2 Q No, I appreciate that. What factors
 3 would make it appropriate to fire someone like
 4 that?
 5 MR. HUTCHINSON: Objection. Now
 6 you're just simply asking her a question of law
 7 that's not necessarily --
 8 BY MR. JACOB:
 9 Q Is there a context when it would
 10 be -- In your mind--forgetting the legal side,
 11 but from the administrative side--is there a
 12 context when such comments or conduct would be
 13 appropriate?
 14 A Would be appropriate as it's stated?
 15 Q In the workplace.
 16 A I wouldn't like it. I don't think
 17 it's appropriate.
 18 Q Okay. And can you think of any
 19 circumstances in which an employee complaining
 20 about such conduct would deserve to be fired?
 21 A I basically would not make that
 22 decision alone. It would first go to Human
 23 Resources for investigation.
 24 Q Okay. And can you think of any
 25 reason why an employee complaining of such

1 Mr. Rebert that in the process of the manner in
 2 which he was hiring or attempting to hire Mr.
 3 Daryman that it may cause a labor issue?
 4 A No.
 5 Q Okay. Were you aware that Miss
 6 Downing had raised an objection to Mr. Rebert's
 7 attempts to promote Mr. Daryman once he did come
 8 work for the county?
 9 A I'm sorry. Would you repeat that?
 10 Q Yes. Were you aware that Miss
 11 Downing had complained to Mr. Rebert about his
 12 attempts to promote John Daryman, Detective
 13 Daryman to a different position once he was
 14 already working for the D.A.'s office?
 15 A I only know that through Human
 16 Resources.
 17 Q Okay. When did you learn of that
 18 complaint?
 19 A Honestly, I can't tell you. Sometime
 20 ago.
 21 Q Was it before Miss Downing was fired?
 22 A I can't accurately tell you yes or
 23 no. I believe it was, but I don't know.
 24 Q Okay. Why was Miss Downing fired; do
 25 you know?

1 A No.
 2 Q Did you ever look into that matter?
 3 A No.
 4 Q Are you aware of any of Miss
 5 Downing's complaints about Mr. Rebert?
 6 MR. HUTCHINSON: Objection.
 7 THE DEPONENT: I'm aware of the ones
 8 that I read in, particularly the Amended
 9 Complaint, but specifically do I have knowledge
 10 of what occurred with them? No.
 11 BY MR. JACOB:
 12 Q Okay. How about prior to Miss
 13 Downing being fired? Did you at any point in
 14 time prior to her being fired become aware of
 15 any of her complaints about Mr. Rebert or how
 16 the D.A.'s office was being run at the time?
 17 A Do I know any of them with certainty?
 18 I do not. I mean, I heard rumors, but I don't
 19 trust rumors, so I can't tell you that I know
 20 any of them.
 21 Q What rumors did you hear prior to her
 22 firing?
 23 A I knew there was some concern over
 24 the position of Mr. Daryman. I knew that there
 25 were -- I mean, I recall the rumor about the

1 All of the row officers are elected officials
 2 and responsible for their offices. And
 3 basically, the responsibilities of the board of
 4 commissioners is the budgetary issues and that
 5 department -- or those offices.
 6 BY MR. JACOB:
 7 Q Okay.
 8 A But beyond that we have no authority
 9 for the activities in the row offices.
 10 Q If you find out that an elected
 11 official is going to wrongfully terminate
 12 somebody, is there any way for you to stop that?
 13 A No.
 14 Q There's no mechanism in place in the
 15 county code that you're aware of in order for
 16 you to step in and stop, if you decide, a
 17 wrongful termination?
 18 A It's my understanding through
 19 1620 that the row officers have the right to
 20 hire and fire independent of the commissioners.
 21 Therefore, I don't get involved in it.
 22 Q Okay. Did you ever speak to Mr.
 23 Rebert about his intention to fire Miss Downing
 24 prior to his firing her?
 25 A No.

1 tickets, I believe to York Fair. And honestly,
 2 I don't recall a lot because the D.A.'s office
 3 is really separate from our office and the D.A.
 4 has his own rights. So, I did not become
 5 knowledgeable of it as I would have if it were
 6 one of the departments that fall under the board
 7 of commissioners.
 8 Q Okay. So is it your testimony then
 9 that prior to Miss Downing being fired, you
 10 really didn't have a specific knowledge about
 11 her complaints about Mr. Rebert or the D.A.'s
 12 office; is that correct?
 13 A As I said earlier, I reviewed the
 14 Amended Complaint. But did I know specifically?
 15 I did not.
 16 Q Okay. Let's get into this whole
 17 issue of the D.A. has his separate rights. I
 18 believe we referred to them as 1620 rights.
 19 And, of course, York County has a certain
 20 administration of government. Can you explain
 21 the interplay between the two? How does an
 22 elected official run his office and how do you
 23 run your office?
 24 MR. HUTCHINSON: Objection.
 25 THE DEPONENT: The row officers --

1 Q Did you ever send somebody to speak
 2 to Mr. Rebert about that?
 3 A No.
 4 (County Exhibit Number 1 was marked
 5 for identification)
 6 Q Let me show you an exhibit that's
 7 marked as County 1. Have you ever seen this
 8 document?
 9 A No.
 10 Q In here it discusses, if I'm correct,
 11 a request that Mr. Daryman be approved at an
 12 upcoming salary board as a county detective on
 13 April 23rd of 2003. Are you a member of the
 14 salary board?
 15 A Yes.
 16 Q And do you recall such a meeting
 17 involving Mr. Daryman?
 18 A This was prior to my tenure in the
 19 county.
 20 Q Okay. Do you know whether Mr.
 21 Daryman was ever, in fact, placed in the
 22 position that's requested there?
 23 A I know that Mr. Daryman worked for
 24 Stan Rebert, I believe in the capacity of a
 25 detective.

1 written or verbal complaints about Miss
2 Downing's work performance, conduct, behavior,
3 et cetera.

4 At the time of the termination did
5 that statement hold true?

6 A Yes.

7 Q Number 7 you were asked to identify
8 any persons employed by York County who
9 attempted to prevent or stated that the
10 determination of Miss Downing's employment or
11 benefits was improper or unlawful. The answer
12 was none.

13 Now, as you sit here today, did you
14 ever come to learn of anybody within York County
15 government who did attempt to prevent Miss
16 Downing's termination?

17 A No one to my knowledge.

18 Q Did anybody speak out about her
19 termination either prior to or after indicating
20 to you that it was wrong or improper?

21 A I don't believe so.

22 Q Did you ever speak out in that
23 regard?

24 A No, I didn't. I didn't have the
25 facts of the situation.

1 A I believe risk management.

2 Q And who would that person be?

3 A Keith Wentz.

4 Q And does Keith Wentz answer to
5 anybody?

6 A He basically works for the board of
7 commissioners.

8 Q Okay. So he answers to the board of
9 commissioners and ultimately, as president, you;
10 is that correct?

11 A Yes. And there may be some
12 involvement of Human Resources in that as well.

13 Q Okay. Is there some sort of a report
14 that comes to your office? How do you oversee
15 what Mr. Wentz is doing?

16 A Basically, we have delegated that
17 responsibility to Chuck Noll, the county
18 administrator.

19 Q So, Mr. Wentz would report to Chuck
20 Noll who would report to you?

21 A Right.

22 Q Okay. Prior to Miss Downing's
23 termination, did you ever discuss the issue of
24 an open claim, workers' comp claim with anybody
25 in York County?

1 Q Did you ever indicate to anybody that
2 you thought this termination --

3 (Cell phone interpretation. Mr.
4 Hutchinson leaves the deposition room.)

5 (Pause.)

6 (Mr. Hutchinson returns to the
7 deposition room.)

8 MR. HUTCHINSON: I'm sorry. Is there
9 a question pending or not?

10 MR. JACOB: I can rephrase it.
11 (Court reporter read back the last
12 question.)

13 BY MR. JACOB:

14 Q -- was improper?

15 A No.

16 Q Did you ever make a comment to the
17 effect that it's not right; that it shouldn't
18 occur?

19 A I felt it was none of my business.

20 Q Did you ever make the comment that
21 it's not right and it shouldn't occur?

22 A I don't remember ever saying anything
23 like that.

24 Q Okay. Who controls workers' comp
25 benefits within the County of York?

1 A No.

2 Q Did you ever come to learn that Miss
3 Downing had an open claim at the time of her
4 termination?

5 A Let me explain. On Mondays, usually
6 Monday afternoons, we have human resource
7 briefings. And at that time Sharon Luker, the
8 Director of Human Resources, will provide
9 information on various aspects of county
10 business, human resource business. She may have
11 mentioned that, that there was an outstanding
12 claim, but I don't recall it specifically.

13 Q Okay.

14 A Keith Wentz never came to us
15 regarding it.

16 Q Okay. But you're telling me that the
17 chain of command that was established in York
18 County was for him to report to Mr. Noll who
19 would then report to you or to the
20 commissioners?

21 A Right, or go through Human Resources
22 if it's something that involves Human Resources.

23 Q Did you ever come to learn after Miss
24 Downing's termination that there was an open
25 claim and that York County was not paying the

1 wage benefits?
 2 MR. HUTCHINSON: Objection.
 3 THE DEPONENT: I don't recall that.
 4 BY MR. JACOB:
 5 Q You don't recall whether you ever
 6 came to learn that?
 7 A I don't recall knowing that. And I
 8 don't want to sit here and -- (pause.) for you
 9 to misunderstand my position, but this was a
 10 matter that was clearly in the office of the
 11 District Attorney. So, therefore, we believed
 12 that the District Attorney was handling the
 13 issues related to the Complaint.
 14 Q Who's we?
 15 A The board of commissioners.
 16 Q And you believe the District Attorney
 17 was handling the issues in regard to the
 18 Complaint; is that correct?
 19 A Yes.
 20 Q What Complaint were you referring to?
 21 A Well, you were mentioning workmen's
 22 comp. And I would assume that the District
 23 Attorney is far better informed on the specifics
 24 of that than we would be as a board of
 25 commissioners.

1 County does not have a policy in place or a
 2 practice in place in order to inform the carrier
 3 that they need to start to pay out on a claim?
 4 MR. HUTCHINSON: Objection.
 5 THE DEPONENT: I'm aware of the
 6 policies in general, but the specifics of who
 7 does what, when, I can't tell you right now.
 8 BY MR. JACOB:
 9 Q Okay. Who can tell me?
 10 A I would suspect the Director of Human
 11 Resources or the Director of Risk Management.
 12 Q And you're referring to Miss --
 13 A Sharon --
 14 Q -- Luker or Mr. Wentz?
 15 A Sharon Luker and Mr. Wentz, yes.
 16 Q Okay. But am I correct in saying
 17 that the carrier would have no knowledge of the
 18 termination unless they were informed of such;
 19 is that correct?
 20 A That makes sense to me.
 21 Q Okay. So then the carrier, am I
 22 correct, would have no reason to start paying
 23 out unless they've been informed by the county
 24 that there's a need to; is that correct?
 25 MR. HUTCHINSON: Objection.

1 Q So is it your testimony today that
 2 Mr. Rebert has control of the administration of
 3 workers' comp benefits in York County?
 4 MR. HUTCHINSON: Objection.
 5 THE DEPONENT: No. I believe he has
 6 the responsibility to work through Human
 7 Resources and Risk Management. But the
 8 workmen's comp is not Mr. Rebert's decision nor
 9 Human Resources or Risk Management. I believe
 10 the workmen's comp decision is made by the
 11 carrier.
 12 BY MR. JACOB:
 13 Q By the carrier. What decision are
 14 you referring to? What is made by the carrier?
 15 A When you said that it was terminated.
 16 I mean, I don't believe, to my understanding,
 17 that that is a decision that York County would
 18 make.
 19 Q If someone is receiving wages in lieu
 20 of compensation -- Do you follow me here? At
 21 the time they're terminated, who would inform
 22 the carrier that there's been a termination and
 23 there's wages no longer being paid out?
 24 A I can't tell you specifically.
 25 Q Okay. Are you telling me that York

1 THE DEPONENT: I'm sorry. I
 2 really -- You're asking the wrong person those
 3 specific questions. I can't answer them
 4 knowledgeably.
 5 BY MR. JACOB:
 6 Q Okay. Have you ever come to learn
 7 the reason why benefits were not paid out to
 8 Miss Downing at the time of her termination and
 9 from that point forward?
 10 MR. HUTCHINSON: Objection.
 11 THE DEPONENT: I did not get involved
 12 in that.
 13 BY MR. JACOB:
 14 Q Did you ever do an investigation to
 15 find out what happened?
 16 A No. I felt that if an investigation
 17 was necessary, the appropriate people would do
 18 so.
 19 Q But wouldn't it have been the
 20 workers' comp office and the risk manager who
 21 was in control of the decision to either start
 22 or stop benefits?
 23 MR. HUTCHINSON: Objection. I think
 24 she's already testified that it's not.
 25 THE DEPONENT: I'm sorry. Would you

1 ask your question again?
 2 BY MR. JACOB:
 3 Q Let me ask it a different way. So
 4 after Miss Downing was terminated, at some point
 5 in time did you come to learn that she had a
 6 complaint that she was not receiving her
 7 workers' comp benefits?
 8 A I don't recall that.
 9 Q You did indicate, though, that you
 10 read a copy of the Complaint; am I correct?
 11 A Yes, but I also indicated that I --
 12 admitted that I didn't recall all of it, yes.
 13 Q No, that's fine. But I would assume
 14 that at the time that York County received
 15 notice of a lawsuit that the commissioners
 16 probably had an interest in reading the entire
 17 Complaint; am I correct?
 18 MR. HUTCHINSON: Objection.
 19 THE DEPONENT: I believe at the time
 20 I read the entire Complaint. But even when the
 21 Complaint came in, I felt that it would be
 22 handled through the district attorney's office.
 23 BY MR. JACOB:
 24 Q Okay. And did you ever reach out,
 25 put feelers out, start an investigation to find

1 that York County, Pennsylvania, has over
 2 Mr. Rebert. Do the commissioners --
 3 MR. HUTCHINSON: Well, the
 4 interrogatory was Dauphin County.
 5 MR. JACOB: Yes, it says Dauphin
 6 County. It should have read York County.
 7 MR. HUTCHINSON: But the
 8 interrogatory is, does Dauphin County.
 9 MR. JACOB: Again, the question says
 10 Dauphin County. It should have read York
 11 County.
 12 BY MR. JACOB:
 13 Q My question to you is, does York
 14 County in any way, let's start with, oversee Mr.
 15 Rebert?
 16 A Only on budgetary matters.
 17 Q Does York County control any aspect
 18 of Mr. Rebert's employment?
 19 A No.
 20 Q Not in charge of his benefits?
 21 A Well, his benefits come through York
 22 County, yes, through Human Resources. I'm
 23 sorry, I thought you meant his position itself.
 24 Q Any aspect of his employment, does he
 25 have to sign for an employee handbook?

1 out if any of the claims made in the Complaint
 2 or the Amended Complaint were, in fact, true?
 3 A No.
 4 Q And did you ever reach out to the
 5 departments under your jurisdiction, your
 6 command, your supervision to find out if
 7 everything with Miss Downing's termination was
 8 handled properly?
 9 A No.
 10 Q So am I correct, then, you were
 11 relying on the D.A. to make sure that everything
 12 was handled correctly?
 13 A I can't -- I don't believe relying on
 14 him is the appropriate way to say it. It was
 15 his responsibility, and it was not mine.
 16 Q Even though the D.A., as you have
 17 already testified, doesn't control things such
 18 as benefits; is that correct?
 19 A Well, that's the Human Resource
 20 Department, yes.
 21 Q Okay. I refer you to number 10. I
 22 believe there's a typo in the question. Number
 23 10 asks you to explain any oversight, control,
 24 supervision or training responsibilities, it
 25 says that Dauphin County -- It should have read

1 A I would imagine so.
 2 Q Is he bound by any rules or
 3 regulations that are established through York
 4 County?
 5 A I believe that the row officers
 6 generally abide by the policies in the handbook
 7 of York County.
 8 Q What happens if the policy is
 9 violated?
 10 MR. HUTCHINSON: Objection.
 11 THE DEPONENT: Then it would go
 12 through Human Resources.
 13 BY MR. JACOB:
 14 Q And who would initiate that
 15 investigation?
 16 A Most likely Sharon Luker.
 17 Q And Human Resources, if I'm correct,
 18 answers to Mr. Noll, who answers to the board of
 19 commissioners; is that correct?
 20 A No. Sharon Luker answers directly to
 21 the board of commissioners.
 22 Q Okay. So there's no middle person
 23 there?
 24 A Right.
 25 Q Okay. Does York County supervise Mr.

Page 50

1 Rebert in any manner?
 2 A No.
 3 Q Except for, as you just testified, as
 4 far as the rules and regulations of York County;
 5 is that correct?
 6 A Generally.
 7 Q So then, I guess a more correct
 8 answer would be that York County does supervise
 9 Mr. Rebert in regard to the rules and
 10 regulations of York County?
 11 MR. HUTCHINSON: Objection.
 12 THE DEPONENT: No, we do not
 13 supervise Mr. Rebert at all. The policies and
 14 procedures in the handbook of York County
 15 largely apply to the people who work for him.
 16 BY MR. JACOB:
 17 Q Okay. How about training? Does York
 18 County provide Mr. Rebert with any training?
 19 A I believe if he chooses to attend
 20 training classes, that's his decision.
 21 Q His decision. Is he required to
 22 train in sexual harassment training?
 23 A I don't believe he's required to. I
 24 believe that it would be encouraged by the
 25 county for all elected officials to receive

Page 51

1 training.
 2 Q Is it a policy of York County that
 3 all employees of York County are to receive such
 4 training?
 5 A I believe training was provided,
 6 perhaps, sometime last year.
 7 Q You believe or you know?
 8 A I believe.
 9 Q Okay. So as you sit here today, you
 10 have no knowledge of specific training that was,
 11 in fact, provided to Mr. Rebert; is that
 12 correct?
 13 A To Mr. Rebert directly? I have no
 14 knowledge of that.
 15 Q And that would be something that
 16 would be administered by Human Resources,
 17 correct?
 18 A Yes.
 19 Q And Human Resources answers directly
 20 to the commissioners; am I correct?
 21 A Yes.
 22 Q Are there any policies or practices
 23 in place in York County to ensure that
 24 employees, including elected officials, were
 25 following the rules and regulations of York

Page 52

1 County?
 2 MR. HUTCHINSON: Objection.
 3 THE DEPONENT: Required the elected
 4 officials? I don't believe so.
 5 BY MR. JACOB:
 6 Q You reviewed a copy of the Complaint,
 7 I believe you've already testified to that.
 8 Now, with the knowledge that York County does
 9 have rules and regulations, at any time did it
 10 come to your attention that some of the
 11 allegations in the Complaint may violate some of
 12 the York County rules and regulations?
 13 MR. HUTCHINSON: Objection.
 14 THE DEPONENT: I don't recall it ever
 15 being presented to us in that way.
 16 BY MR. JACOB:
 17 Q Well, I'm not asking if it was
 18 presented to you that way. I would assume as a
 19 supervisor you have an obligation, am I correct,
 20 to actually review complaints that are made
 21 about employees of York County; am I correct?
 22 MR. HUTCHINSON: Objection.
 23 THE DEPONENT: Yes.
 24 BY MR. JACOB:
 25 Q If you, yourself, as a commissioner

Page 53

1 come to learn that a York County employee has
 2 violated a policy or a regulation, do you have a
 3 reporting requirement to Human Resources?
 4 A Yes.
 5 Q And --
 6 MR. HUTCHINSON: Objection.
 7 BY MR. JACOB:
 8 Q Did you ever take the complaints that
 9 were made by Miss Downing that you've indicated
 10 you have read through, and did you ever sit down
 11 with someone in Human Resources or speak to
 12 someone in Human Resources to make sure that the
 13 policies and practices of York County were being
 14 followed by Mr. Rebert?
 15 MR. HUTCHINSON: Objection.
 16 THE DEPONENT: That is the
 17 responsibility of the Director of Human
 18 Resources. And if there was an issue, then she
 19 would deal directly with that row officer.
 20 BY MR. JACOB:
 21 Q Did you ensure that Miss Luker
 22 actually did her duties, performed her duties in
 23 that regard?
 24 MR. HUTCHINSON: Objection.
 25 THE DEPONENT: We have confidence

1 that she does her job well.
 2 BY MR. JACOB:
 3 Q I respect your confidence. Did you
 4 ever check to make sure that she did her job?
 5 MR. HUTCHINSON: Objection.
 6 THE DEPONENT: Did I personally ever
 7 check?
 8 BY MR. JACOB:
 9 Q Yes.
 10 A I don't recall.
 11 Q Do you know if the commissioners ever
 12 checked?
 13 A I don't recall. If you were to learn
 14 that a -- Strike that.
 15 If you were to learn that Mr. Rebert
 16 was going to attempt in any way -- I'm not
 17 saying he did. But, hypothetically, if you were
 18 to ever learn that he was going to try to
 19 pressure someone in York County to either
 20 terminate, effect, or wrongfully stop payment on
 21 any workers' comp benefits after somebody's
 22 employment ceases with the county, do you have
 23 any way of preventing that?
 24 MR. HUTCHINSON: Objection.
 25 BY MR. JACOB:

1 MR. JACOB: Okay.
 2 BY MR. JACOB:
 3 Q Now, at some point in time I believe
 4 you did become aware of a lot of Miss Downing's
 5 complaints. And that was prior to her
 6 termination; isn't that correct?
 7 A Well, I read the Complaint. And did
 8 I have any factual knowledge? No.
 9 Q So you didn't know that she was going
 10 to be asked to resign? Is that your testimony?
 11 MR. HUTCHINSON: Objection. Let me
 12 just -- I think there's, perhaps, a
 13 misunderstanding of time frames --
 14 MR. JACOB: Okay.
 15 MR. HUTCHINSON: -- and things here
 16 because I think the commissioner answered that
 17 she read the Complaint. I don't believe that
 18 she would have read the Complaint prior to --
 19 MR. JACOB: I agree.
 20 MR. HUTCHINSON: -- termination,
 21 so --
 22 MR. JACOB: I'm trying to get before
 23 the termination, but we keep going back to, we
 24 read the complaint.
 25 MR. HUTCHINSON: Well, that's where

1 Q I should say, when I say preventing
 2 it, I mean preventing Mr. Rebert from taking
 3 such action.
 4 A I believe that the action is solely
 5 in control of the D.A.
 6 Q So, are you now saying that the D.A.
 7 has full control over workers' comp benefits?
 8 A No, I'm --
 9 MR. HUTCHINSON: Objection.
 10 THE DEPONENT: I'm a little confused
 11 on what --
 12 MR. JACOB: Maybe my question wasn't
 13 clear.
 14 THE DEPONENT: Yes, I'm sorry.
 15 BY MR. JACOB:
 16 Q Let me put it this way. The D.A.
 17 doesn't have control over whether workers' comp
 18 benefits are paid out or not; is that correct?
 19 A I believe you're right.
 20 Q Okay. So, really, Mr. Rebert should
 21 not have the ability to affect whether benefits
 22 are paid or not; is that correct?
 23 MR. HUTCHINSON: Objection.
 24 THE DEPONENT: I believe that's
 25 correct.

1 she learned the information.
 2 BY MR. JACOB:
 3 Q So prior to the termination you never
 4 knew that Mr. Rebert was going to ask Miss
 5 Downing to resign?
 6 A That may have been reported in one of
 7 the Monday H.R. work sessions that we have at
 8 two o'clock on Monday, but it would only come to
 9 us as informational.
 10 Q Who is Mike Flannelly?
 11 A County solicitor.
 12 Q Does that name ring a bell as to
 13 whether you ever came to learn that Miss Downing
 14 was going to be asked to resign?
 15 A I believe that Mr. Flannelly did tell
 16 us that. I believe he did.
 17 MR. HUTCHINSON: Note my objection to
 18 discussions with counsel.
 19 MR. JACOB: No, I respect that. I
 20 just wanted to know if she knew who he was.
 21 BY MR. JACOB:
 22 Q And again, I don't want to know your
 23 discussions directly with Mr. Flannelly. I
 24 apologize.
 25 A I think --

1 was concern over Mr. Daryman and his position or
 2 his work responsibilities.
 3 Q You need to speak up just so we have
 4 a clear record.
 5 A I'm sorry.
 6 Q And that was the only complaint that
 7 you're saying you are aware of before Miss
 8 Downing was terminated?
 9 A I heard rumors, but did I assume any
 10 of them were factually based? No, they were
 11 rumors.
 12 Q Okay. What rumors did you hear?
 13 These topics should help to remind you.
 14 MR. HUTCHINSON: Objection.
 15 THE DEPONENT: I heard a rumor about
 16 a couch, about a machine.
 17 BY MR. JACOB:
 18 Q You mean a slot machine?
 19 A I don't know. I couldn't tell you
 20 specifically.
 21 Q Okay.
 22 A In here it says poker machine.
 23 Q Okay. Did you hear a rumor about a
 24 poker machine then?
 25 A I can't tell you if it was a poker

1 machine. I just heard a rumor about some
 2 machine.
 3 Q Fair enough. Any other rumors?
 4 A I don't believe so.
 5 Q In the Answer of York County, it's a
 6 pleading -- I'm not going to enter it as an
 7 exhibit. I'm just going to represent to your
 8 counsel he can object if he feels necessary.
 9 There's a statement that her
 10 termination was for good and sufficient cause
 11 with legally proper grounds. What factual basis
 12 do you have on behalf of York County to say that
 13 Miss Downing's termination was for good and
 14 sufficient cause?
 15 A Well, I know that Sharon Luker and
 16 Bob Durrant were in contact with Mr. Rebert, and
 17 I trusted their abilities and judgment.
 18 Q But they ultimately answer to the
 19 commissioners; is that correct?
 20 A Sharon Luker does.
 21 Q And did you ever ask for a report or
 22 did you ever review the information that Miss
 23 Luker had to reach that decision that her
 24 termination was for good and sufficient cause?
 25 A No, I never saw a report.

1 Q So then, are you or is York County
 2 assuming that the termination was for good and
 3 sufficient cause?
 4 MR. HUTCHINSON: Objection.
 5 THE DEPONENT: We're confident that
 6 the individuals responsible for that
 7 determination did their job.
 8 BY MR. JACOB:
 9 Q But doesn't the ultimate
 10 responsibility fall on the commissioners as the
 11 head of the county?
 12 MR. HUTCHINSON: Objection. She's
 13 testified to that over and over.
 14 THE DEPONENT: Not in regards to hire
 15 and fire in a row office.
 16 BY MR. JACOB:
 17 Q No. I'm talking about when you said
 18 you were hoping that -- or trusting that the
 19 individuals that these responsibilities were
 20 delegated to, did their jobs. I'm assuming you
 21 were referring to Miss Luker; am I correct?
 22 A Yes.
 23 MR. HUTCHINSON: Same objection.
 24 BY MR. JACOB:
 25 Q Okay. Now, as far as Miss Luker, I

1 guess I should say, the buck don't stop at her
 2 desk; am I correct? It stops at the
 3 commissioner's desk. Would that be correct?
 4 MR. HUTCHINSON: Objection. She has
 5 testified over --
 6 MR. JACOB: She can answer.
 7 MR. HUTCHINSON: -- and over.
 8 MR. JACOB: Then she can answer it
 9 again.
 10 BY MR. JACOB:
 11 Q Who ultimately makes the final
 12 decision in York County? Would it be Miss Luker
 13 or the commissioners?
 14 MR. HUTCHINSON: Objection. The
 15 decision about what?
 16 MR. JACOB: Employment decisions.
 17 MR. HUTCHINSON: About what?
 18 BY MR. JACOB:
 19 Q The commissioners would have the
 20 ability to overrule a decision of Miss Luker; is
 21 that correct?
 22 A Miss Luker's, but not Stan Rebert's.
 23 Q Okay. Now, it was also stated in
 24 York County's Answer that, at no material time
 25 was any act or failure to act motivated by a

1 retaliatory or discriminatory intent.
 2 What factual basis does York County
 3 have to make that representation?
 4 A I'm sorry? Is it in the
 5 interrogatories?
 6 Q No. That's in York County's Answer.
 7 A I'm sorry. Would you read that
 8 again?
 9 Q Yes. In York County's Answer it
 10 stated that, no material -- it says hereto, but
 11 I believe it's, at no material time was any act
 12 or failure to act motivated by a retaliatory or
 13 discriminatory intent.
 14 What factual basis does York County
 15 have to make that representation?
 16 A Is that referring to Mr. Rebert's
 17 office or --
 18 Q Any action of the defendants is what
 19 it states in here. So I'm asking what factual
 20 basis York County has to make that
 21 representation?
 22 MR. HUTCHINSON: Well, objection.
 23 She can certainly testify to what she knows.
 24 MR. JACOB: Right.
 25 MR. HUTCHINSON: But she isn't

1 question.
 2 BY MR. JACOB:
 3 Q What's the factual basis for that
 4 confidence?
 5 A Because I've worked with her for two
 6 and a half years. We don't micromanage her
 7 office, and we don't manage the Office of the
 8 District Attorney.
 9 Q Now, your -- In the answer that the
 10 plaintiff failed to exhaust her administrative
 11 remedies, I understand there's a legal aspect to
 12 that. My question to you is, is there some
 13 administrative process that York County believes
 14 Miss Downing was supposed to go through within
 15 York County in order to assert her complaints
 16 that York County is alleging she did not do?
 17 MR. HUTCHINSON: Objection.
 18 THE DEPONENT: I'm sorry. Would you
 19 read that again?
 20 BY MR. JACOB:
 21 Q It says in the answer that the
 22 plaintiff failed to exhaust her administrative
 23 remedies. Now, in the legal side that means
 24 something to lawyers. But, I'm asking, is there
 25 some administrative process that York County is

1 totally York County.
 2 MR. JACOB: Well, actually, she's
 3 here as a representative of York County to
 4 answer such questions. This is also a Rule
 5 30(B)(6) deposition.
 6 MR. HUTCHINSON: All right. And in
 7 that regard, although she is a commissioner and
 8 represents -- and is here in response to that,
 9 we certainly on behalf of the county adopt Mr.
 10 Rebert's testimony as a representative of the
 11 county as well.
 12 MR. JACOB: Okay.
 13 BY MR. JACOB:
 14 Q So what factual basis do you have to
 15 make that representation?
 16 A I'm confident that Sharon Luker went
 17 through the correct steps, gathered the
 18 information, and we had confidence in her.
 19 Q So you're confident, but you already
 20 said that you didn't do anything to ensure that
 21 she did her job. So what's the basis for your
 22 confidence?
 23 MR. HUTCHINSON: Objection. This is
 24 just argumentative at this point.
 25 MR. JACOB: No, I'm asking a

1 alleging Miss Downing failed to follow
 2 internally to assert her complaints prior to
 3 being terminated?
 4 A I can't answer that question. I am
 5 only to assume that Human Resources was involved
 6 in the case and that, hopefully, the steps were
 7 followed.
 8 Q So then, as a commissioner, the
 9 president commissioner and being here as the
 10 York County representative, you can think of no
 11 administrative process that Miss Downing failed
 12 to utilize in York County prior to being
 13 terminated?
 14 MR. HUTCHINSON: Objection.
 15 THE DEPONENT: Not at this time, but
 16 I go back to say it was not the responsibility
 17 of York County. This business came under the
 18 district attorney's office.
 19 BY MR. JACOB:
 20 Q Now, York County stated in its answer
 21 that, plaintiff's conduct and communications
 22 related solely to matters of personal concern.
 23 What personal concerns were asserted by Miss
 24 Downing prior to her termination?
 25 MR. HUTCHINSON: Objection.

1 Q Yes. I'm confused why it's not the
 2 business of the commissioners if the D.A. is
 3 bound by the rules and regulations of York
 4 County.
 5 MR. HUTCHINSON: What's not the
 6 business of the commissioners?
 7 MR. JACOB: The whole --
 8 MR. HUTCHINSON: The settlement
 9 negotiations?
 10 MR. JACOB: She said that --
 11 MR. HUTCHINSON: Is that what you're
 12 discussing?
 13 MR. JACOB: Well, let me answer. She
 14 said that this termination, the details of the
 15 termination, the reasons for it, it was not the
 16 business of the commissioners. And I'm asking
 17 her, why isn't it if he's bound by the rules and
 18 regulations of York County and possibly violated
 19 some of those rules and regulations. Why
 20 wouldn't --
 21 MR. HUTCHINSON: In that case I'll
 22 object because that's a completely improper
 23 question.
 24 BY MR. JACOB:
 25 Q You can answer.

1 BY MR. JACOB:
 2 Q So then, is it your testimony that
 3 there's nothing the commissioners could do or
 4 York County could do to stop Mr. Rebert from
 5 firing someone simply because they're black?
 6 MR. HUTCHINSON: Objection.
 7 THE DEPONENT: I think it would be a
 8 concern, but the D.A. has the final authority.
 9 BY MR. JACOB:
 10 Q Okay. What if Mr. Rebert were to
 11 call up Miss Luker and say, Miss Luker, somebody
 12 spoke out about the ways in which our office is
 13 using grant money and because of that I'm firing
 14 them. Can York County stop that firing from
 15 occurring?
 16 MR. HUTCHINSON: Objection.
 17 THE DEPONENT: In the D.A.'s office?
 18 BY MR. JACOB:
 19 Q Yes.
 20 A No.
 21 Q But can York County then immediately
 22 reemploy that individual in York County, in
 23 another area of York County?
 24 MR. HUTCHINSON: Objection.
 25 THE DEPONENT: Could they?

1 A The elected officials have full
 2 authority over the hiring and firing of the
 3 people who work in that office. The way it --
 4 To the degree that it comes into county business
 5 is anything that is financially related. So,
 6 that's where I believe -- And if I recall -- I
 7 just don't know if I'm recalling accurately, but
 8 I believe that that probably would have been why
 9 I showed some hesitation with an agreement and
 10 indicated that it had to come through Sharon
 11 Luker and us, because if there was an agreement
 12 it was going to cost the county money.
 13 Q A hypothetical, and maybe this will
 14 finally get me to understand what I'm having
 15 trouble understanding. If Mr. Rebert were to
 16 pick up the phone -- I'm not saying this
 17 happened. This didn't happen.
 18 I'm saying, if he were to pick up the
 19 phone and call Sharon Luker and say, Miss Luker,
 20 I am firing X because they're black, what
 21 happens at that point, because clearly, that
 22 would not be permitted; am I correct?
 23 MR. HUTCHINSON: Objection.
 24 THE DEPONENT: Firing and the reasons
 25 why would be in the office of the D.A.

1 BY MR. JACOB:
 2 Q Yes.
 3 A I'm sure there would be a process to
 4 go through. But could they? I suppose they
 5 could.
 6 Q When an employee leaves the
 7 employment with York County, what information is
 8 disseminated to the public in regard to the
 9 reasons for their separation from the county?
 10 MR. HUTCHINSON: Objection.
 11 THE DEPONENT: Generally none.
 12 BY MR. JACOB:
 13 Q Generally none. What's the reason
 14 for that?
 15 A It's personnel.
 16 Q Okay. And when you say generally
 17 none --
 18 THE COURT REPORTER: Excuse me. Is
 19 personal or personnel?
 20 MR. HUTCHINSON: Personnel.
 21 THE DEPONENT: Personnel, I'm sorry.
 22 Am I driving you crazy? I'll speak up.
 23 BY MR. JACOB:
 24 Q Is there a policy in York County that
 25 covers what information is to be disseminated or

1 not to be disseminated to the general public in
2 regard to an employee whose employment -- who's
3 been separated from employment?

4 A I'm sure there's a confidential
5 policy.

6 Q Okay. Do you usually give the terms,
7 the reasons why the person -- such as they were
8 fired, they resigned, they quit? Is that
9 information generally offered to the public?

10 A I'm trying to think of an instance
11 to -- Generally.

12 Q Generally it is provided, or is not?

13 A I would imagine in unusual
14 circumstances it would be provided. And I'll
15 give you an example. Recently we hired a
16 director of Children and Youth. He was on the
17 job for a limited amount of time. It was a
18 significant position in the county, and there
19 was a statement made, I believe, by the
20 Executive Director of Human Services that the
21 gentleman had resigned.

22 Q Okay. When York County solicits for
23 applicants for new positions, do they -- how is
24 that done?

25 A It depends on the position.

1 practice in place where soliciting for an
2 employee to fill a vacant position in York
3 County needs to go through some sort of chain of
4 command at York County such as Human Resources,
5 the commissioners, or anything of that nature?

6 A I believe that when an individual is
7 being considered for a position, there are some
8 steps in Human Resources that must take place.

9 Q My question, though, goes to the
10 actual advertisement. The solicitation for
11 applicants, is there some policy, practice,
12 process in place where whatever agency within
13 York County needs an employee goes through Human
14 Resources in order to then solicit for
15 applicants?

16 A You'd have to ask that of Sharon
17 Luker.

18 Q Okay, fair enough. Is there any
19 reason that you can think of, though, that a
20 solicitation for an applicant for a vacant
21 position would need to contain the reasons for
22 the prior employee leaving that position?

23 A Typically, no.

24 Q Okay.
25 (County Exhibit Number 7 was marked

1 Q Go ahead.

2 A Many positions are advertised on the
3 web site. Some positions I believe are put in
4 the newspaper, and for executive positions
5 there's oftentimes a regional or national
6 search.

7 Q Okay. What type of information would
8 be contained in these advertisements? We'll
9 just call them advertisements.

10 A An overview of the job description,
11 the qualifications required. That's probably
12 it. Where to contact.

13 Q I'm assuming that there's someone in
14 the county who works with whatever department or
15 whomever needs an employee, is that correct, in
16 order to prepare the advertisement?

17 A Yes.

18 Q And who would that person be?

19 A Typically it would be someone in
20 Human Resources.

21 Q Okay. Did that hold true for a
22 position in the D.A.'s office?

23 A (Pause.) I'm sorry. That I couldn't
24 tell you.

25 Q Fair enough. Is there a policy or

1 for identification)

2 Q Do you know who Kenneth Ingle was?

3 A No.

4 Q Okay. That's fair enough.

5 A The only thing I know is that he was
6 an employee in the D.A.'s office.

7 Q Do you know which position Mr. Ingle
8 held?

9 A No.

10 Q Did you ever come to learn that he
11 held the chief county detective position at some
12 point?

13 A No.

14 Q Did you ever come to learn that prior
15 to Mr. Ingle's leaving York County he was
16 actually suspected of padding his overtime and
17 was forced to resign?

18 A I know nothing about that. I heard
19 rumors, but I know nothing.

20 Q Okay. I'm showing you what's been
21 marked as Exhibit Number 7. Have you ever seen
22 this document?

23 A No.

24 Q I'll represent to you that this was
25 the solicitation, for want of better words, to

1 all county chiefs from the D.A.'s office looking
 2 for a new county detective to replace Chief
 3 Ingle upon his resignation. I'm going to ask
 4 you to review that document.
 5 A (Deponent complies.)
 6 Q Now, I'll further represent to you
 7 that when Mr. Ingle resigned, he kept his
 8 pension and benefits. Now, knowing that, do you
 9 see in this advertisement any reference to the
 10 suspicion of padding overtime?
 11 MR. HUTCHINSON: Objection.
 12 THE DEPONENT: There's no reference
 13 to that.
 14 BY MR. JACOB:
 15 Q Okay. And would there be any reason
 16 in your mind as a commissioner for that type of
 17 information to be contained in a solicitation
 18 for a new county chief?
 19 MR. HUTCHINSON: Objection.
 20 THE DEPONENT: No.
 21 BY MR. JACOB:
 22 Q Did you ever see what was circulated
 23 as an advertisement by the D.A.'s office in
 24 order to search for a new chief detective after
 25 Miss Downing was terminated?

1 familiarize yourself with that document.
 2 A (Deponent complies.) Okay.
 3 Q Now, have you ever seen that document
 4 before?
 5 A No.
 6 Q And in that document, am I correct
 7 that it says that Miss Downing -- or excuse me.
 8 In the latter part of September the District
 9 Attorney requested the resignation of then Chief
 10 County Detective M. Rebecca Downing. Miss
 11 Downing declined and was subsequently terminated
 12 for cause effective December 15th, 2004.
 13 Is there any reason that you can
 14 think of as a county commissioner that a
 15 solicitation for an applicant for chief county
 16 detective would need to contain that
 17 information?
 18 MR. HUTCHINSON: Objection.
 19 THE DEPONENT: I don't know what Mr.
 20 Rebert's reasoning for it was.
 21 BY MR. JACOB:
 22 Q I agree. I'm asking you if you know
 23 of any reason why a solicitation for applicants
 24 would need to contain that information?
 25 A Not necessarily.

1 A No.
 2 Q Do you think that there would be any
 3 reason or can you think of any reason why an
 4 application -- or excuse me, a solicitation for
 5 applicants would contain the reason for her
 6 termination?
 7 A Probably not.
 8 Q Probably not? Is there any reason --
 9 A Well, I say probably not because it
 10 wasn't my decision. The advertisement did not
 11 come under my direction.
 12 Q Okay. But you yourself as you sit
 13 here can't think of any reason to mention in
 14 there that she was, for instance, terminated for
 15 cause, correct?
 16 MR. HUTCHINSON: Objection.
 17 THE DEPONENT: Correct.
 18 (County Exhibit Number 8 was marked
 19 for identification)
 20 Q I'm showing you an exhibit that's
 21 been marked as Exhibit Number 8. I'll represent
 22 to you that this was circulated to the York
 23 County Police Departments soliciting for a new
 24 chief county detective upon Miss Downing's
 25 termination. I ask you to take a moment to

1 Q Not necessarily. Why don't you tell
 2 me the circumstances where it would require that
 3 information?
 4 MR. HUTCHINSON: Objection. All
 5 you're doing now is getting off into
 6 hypotheticals that have no --
 7 MR. JACOB: No. I'm looking at the
 8 actual solicitation. I believe Ms. Mitrick has
 9 to get out of here, so --
 10 MR. HUTCHINSON: Well, yeah, but
 11 you're asking about something she's never seen
 12 before, had no involvement in. And you're
 13 asking her to speculate and give you
 14 hypotheticals on that. That is totally --
 15 MR. JACOB: I believe we discussed
 16 hypotheticals the other day. And I'm asking her
 17 a hypothetical based on the document.
 18 MR. HUTCHINSON: I don't agree with
 19 that.
 20 MR. JACOB: Well, I believe we did.
 21 Ms. Mitrick is here not only here as the chief
 22 commissioner, she's also here on behalf of York
 23 County.
 24 MR. HUTCHINSON: Right.
 25 MR. JACOB: I'm asking her --

1 MR. HUTCHINSON: And that doesn't
2 give you a right to just simply ask her to
3 speculate on things.

4 MR. JACOB: I'm not asking her to
5 speculate. I'm asking her if she, as a
6 commissioner, can think of any reason why that
7 information would need to be in a solicitation
8 for a new chief county detective. That's not
9 speculation.

10 MR. HUTCHINSON: Sure it is. She
11 already told you she doesn't know what --

12 MR. JACOB: Maybe there's some county
13 reason that I'm not aware of.

14 MR. HUTCHINSON: She's told you that
15 she doesn't know --

16 MR. JACOB: Actually, she said not
17 nec --

18 MR. HUTCHINSON: -- what Mr.
19 Rebert's --

20 MR. JACOB: Right.

21 MR. HUTCHINSON: -- position was.

22 MR. JACOB: And aside from what --

23 MR. HUTCHINSON: And she doesn't know
24 what the facts are, so she can't answer that.
25 She's told you that.

1 reason in your mind as to why this information
2 would need to be contained in a solicitation for
3 applicants? If your answer is no, that's fine.

4 A All I can tell you, I don't know
5 because I don't know all of the facts around the
6 request for Rebecca Downing to resign, and then
7 the subsequent termination, so I really don't
8 know.

9 Is this something that I feel would
10 be typical? No. But, I don't have the facts
11 related to this. And once again, this all falls
12 under the authority of the district attorney's
13 office.

14 Q I understand that that's your opinion
15 on the issue.

16 MR. HUTCHINSON: I move to strike
17 that gratuitous comment.

18 MR. JACOB: I'm just clarifying that
19 that's her opinion.

20 MR. HUTCHINSON: That's your opinion.

21 MR. JACOB: That's fine.

22 (County Exhibit Number 9 was marked
23 for identification)

24 BY MR. JACOB:

25 Q I'm showing you an exhibit that's

1 MR. JACOB: Aside from what Mr.
2 Rebert's mindset was, that wasn't the question.
3 I'm asking if there's a purpose in York County,
4 if there's something I don't know about, some
5 policy such as all --

6 MR. HUTCHINSON: But you're asking
7 about something that she doesn't know about
8 either.

9 MR. JACOB: Right.

10 MR. HUTCHINSON: She already told you
11 that.

12 MR. JACOB: Exactly. But she's here
13 on behalf of York County as well.

14 BY MR. JACOB:

15 Q So I'm asking, is there a policy,
16 practice, something I'm missing, that requires
17 that information to be within here?

18 MR. HUTCHINSON: You can answer.

19 THE DEPONENT: I believe that Sharon
20 Luker, the Human Resources Department, would be
21 the proper office to answer that question.

22 BY MR. JACOB:

23 Q And I will ask her. But I'm asking
24 you as the president commissioner and as the
25 representative of York County if you have any

1 been marked as York County Number 9. Have you
2 ever seen this document?

3 A I've never seen it, no.

4 Q I'll represent to you this was
5 circulated within the D.A.'s office after Miss
6 Downing's termination. Can you think of any
7 reason as a commissioner that an agency head
8 would need to circulate to all of his
9 subordinates the specific reasons why an
10 employee was terminated?

11 MR. HUTCHINSON: Objection.

12 THE DEPONENT: This was the decision
13 of the District Attorney.

14 BY MR. JACOB:

15 Q I realize that. Is it a normal
16 practice in York County to circulate to
17 subordinates the reasons why different employees
18 are terminated?

19 A In the offices that fall under the
20 authority of the board of commissioners, most
21 likely not. But, once again, the elected
22 officials do not come under our office.

23 Q Fair enough. Is there a policy or
24 practice in place that would govern what
25 information an agency head can provide to their

1 subordinates in regard to the reasons why an
 2 employee is terminated?
 3 A You'd have to ask the Director of
 4 Human Resources.
 5 Q Okay. I'm asking you too as a
 6 commissioner and as head if you know -- or
 7 excuse me, the representative from York County,
 8 if you know whether there's a policy or practice
 9 that governs that?
 10 A A specific policy, I don't know.
 11 Q Or practice.
 12 A The only practice I would know is
 13 that the offices under -- the departments under
 14 our office would go through the steps with the
 15 Human Resource Department.
 16 Q If personnel decisions or information
 17 in regard to the details of a termination were
 18 subsequently leaked to the press, would that be
 19 something that you feel York County would need
 20 to investigate?
 21 MR. HUTCHINSON: Objection.
 22 THE DEPONENT: Depends on which
 23 office it came from.
 24 BY MR. JACOB:
 25 Q I'm sorry. Is --

1 Q An understanding that there is a
 2 policy or just an understanding that that would
 3 be improper to leak such information?
 4 A That there's respect for
 5 confidentiality.
 6 Q Okay, fair enough. But you would do
 7 an investigation?
 8 MR. HUTCHINSON: Objection.
 9 BY MR. JACOB:
 10 Q I mean, you would pick up the phone
 11 and call Miss Luker and inquire what happened
 12 and find out if there's a violation; am I
 13 correct?
 14 MR. HUTCHINSON: Objection.
 15 THE DEPONENT: I would call Miss
 16 Luker and not say that there was a violation.
 17 I'd ask her what occurred. And if she didn't
 18 know, I'd ask her to find out.
 19 BY MR. JACOB:
 20 Q Okay. And that would be because it
 21 may -- or you wanted to find out if it violated
 22 any policy or regulation of York County?
 23 MR. HUTCHINSON: Objection.
 24 THE DEPONENT: I would just simply
 25 want to know why it occurred first.

1 A If there was a termination in a
 2 department that fell under the authority of the
 3 board of commissioners, I'd certainly want to
 4 know why that information was leaked to the
 5 press. But, once again, the hiring and firing
 6 and related factors in the row offices is their
 7 business.
 8 Q I understand that. You would want to
 9 investigate, though, you just said if it
 10 happened within the auspices of York County
 11 government, that fell under the commissioners,
 12 correct?
 13 A Yes.
 14 Q Okay. Why? Does it violate some
 15 policy or regulation?
 16 A Well, I would question if it was a
 17 violation of confidentiality.
 18 Q Okay. Would that be covered by rules
 19 or regulations of York County?
 20 A As far as information going out to
 21 the press?
 22 Q Yes.
 23 A Specific policy, I can't tell you,
 24 but you should ask Sharon Luker that. I would
 25 think that it's an understanding.

1 MR. JACOB: Okay.
 2 BY MR. JACOB:
 3 Q What if you came to learn that
 4 information that was leaked to the press was, in
 5 fact, not even correct? At that point would you
 6 feel that it was necessary to investigate or
 7 inquire into what happened?
 8 MR. HUTCHINSON: Objection.
 9 THE DEPONENT: From one of the
 10 offices under the board of commissioners? Yes,
 11 I'd want to know what happened.
 12 BY MR. JACOB:
 13 Q And is that because it could possibly
 14 violate a York County rule or regulation?
 15 A As I said, I don't know if there's
 16 something written.
 17 Q I realize that.
 18 A But it would violate what I would
 19 consider an expectation.
 20 Q Did you have the same expectations
 21 that elected county officials would be following
 22 those same rules and regulations of York County?
 23 MR. HUTCHINSON: Objection.
 24 THE DEPONENT: I would hope so, but
 25 is it a requirement? I can't say that it is.

1 BY MR. JACOB:
 2 Q As you sit here today, do you know
 3 whether Mr. Rebert is bound by the rules and
 4 regulations of York County?
 5 MR. HUTCHINSON: Objection.
 6 THE DEPONENT: Is he bound by the
 7 rules and regulations? I don't know if bound is
 8 the correct word. I believe that he abides by
 9 them generally.
 10 BY MR. JACOB:
 11 Q I'm not saying voluntarily. I'm
 12 saying, is Mr. Rebert obligated to follow the
 13 rules and regulations? Do you know as you sit
 14 here today?
 15 MR. HUTCHINSON: Objection.
 16 THE DEPONENT: Related to some
 17 matters of business, probably yes.
 18 BY MR. JACOB:
 19 Q Which matters?
 20 MR. HUTCHINSON: Objection.
 21 THE DEPONENT: For example, this year
 22 we just implemented a paid time-off program.
 23 And that would be a policy that we would expect
 24 Mr. Rebert's office to abide by.
 25 BY MR. JACOB:

1 Q So then the practice was that this
 2 information would have been reported to you, but
 3 you don't specifically recall this specific
 4 incident?
 5 MR. HUTCHINSON: Objection.
 6 THE DEPONENT: I don't believe I was
 7 aware of the specifics of this claim. I simply
 8 mean that Miss Luker would most likely mention
 9 that an incident report had been filed.
 10 (County Exhibit Number 11 was marked
 11 for identification)
 12 BY MR. JACOB:
 13 Q I'm showing you an exhibit that's
 14 been marked as Exhibit 11. Have you ever seen
 15 this document before?
 16 A No, not that I recall.
 17 Q I'll represent to you that this is
 18 the decision of the workers' compensation judge
 19 in regard to Miss Downing's workers'
 20 compensation benefits. I'll point you to the
 21 end of the document.
 22 Did you come to learn that the county
 23 was ordered and directed to pay temporary total
 24 disability benefits at the rate of \$690 from
 25 December 16, 2004 to the present and continuing?

1 Q I just have two more exhibits to show
 2 you. I know people down at the other end of the
 3 table are getting antsy, so we'll move this
 4 along here.
 5 (County Exhibit Number 10 was marked
 6 for identification)
 7 Q I'll show you what's been marked as
 8 Exhibit Number 10. Have you ever seen this
 9 document?
 10 A No.
 11 Q I realize you haven't seen the
 12 document as it's filled out. But generally,
 13 have you ever seen a blank document, County of
 14 York Employee Incident Report?
 15 A No.
 16 Q Okay. Did you ever receive a report
 17 from anybody under your command, being Mr. Noll,
 18 Miss Luker, in regard to the fact that Miss
 19 Downing was alleging that she had been injured
 20 in the workplace on September, I believe it was
 21 the 20th, 2004?
 22 A I don't recall specifically, but this
 23 is something that it is likely the Director of
 24 Human Resources would mention to us in the
 25 Monday afternoon meeting.

1 A I don't remember that.
 2 Q Did you ever come to learn that, in
 3 fact, penalties were issued against York County
 4 for unilaterally suspending wage loss benefits
 5 from December 16, 2005 (sic) through March 1,
 6 2005?
 7 A What were those dates? I'm sorry.
 8 Q December 16th, 2005 (sic) through
 9 March 1st, 2005.
 10 A I don't remember specifically, but
 11 this is an issue that we would probably be
 12 informed of at a Monday meeting.
 13 Q Did you ever become aware that, in
 14 fact, Miss Downing's employer being, we can
 15 debate that, York County or the D.A.'s office,
 16 admitted during the hearing that there was an
 17 open claim on February 28, 2005, and agreed to
 18 reinstate wage loss benefits?
 19 A That would be handled through H.R.
 20 and our H.R. attorney.
 21 Q I realize that. I'm asking if you
 22 ever came to learn that that was admitted; that
 23 there was an open claim on February 28, 2005,
 24 and that benefits were reinstated?
 25 A I don't remember that.

1 Q Do you know if there was ever an
2 investigation into the reasons why wage loss
3 benefits were not paid to Miss Downing even to
4 date? Not paid. I'm saying, was there an
5 investigation even to this day as to why that
6 occurred?

7 A I don't know.

8 Q You don't know? Did you ever direct
9 that one be started?

10 A I would imagine that if there was a
11 reason to do it, that Human Resources and Risk
12 Management would handle it.

13 Q Reason to do the investigation?

14 A Right.

15 Q Okay. But those departments fall
16 under the commissioners; is that correct?

17 A Right, but -- Yes, it does. They do.

18 Q Did the commissioners ever to your
19 knowledge order that investigation be done?

20 A Did we order it? No. I believe it
21 would be a natural step.

22 Q Okay. Did you ever check to make
23 sure then that the natural step was taking
24 place?

25 MR. HUTCHINSON: Objection.

1 Q I'll assert that is an obligation of
2 York County. I'm going to ask that you direct,
3 whoever is necessary, to make such a search and
4 to turn over any such e-mails or electronic
5 communications related to Miss Downing's
6 termination or to the reasons for her
7 termination, or to any -- after retaliation or
8 any discussion of Miss Downing's separation from
9 York County, that those be turned over
10 immediately to your counsel and then turned over
11 to me.

12 MR. HUTCHINSON: Objection. You're
13 making an assumption that it wasn't done.

14 MR. JACOB: I didn't make an
15 assumption. I'm asking that it be done if it
16 hasn't already.

17 MR. HUTCHINSON: Well, that's the
18 point. You're asking it be done if it hasn't
19 already, and you're make the assumption that it
20 hasn't been done.

21 MR. JACOB: Well, if you say if it
22 hasn't been done already, then there's no
23 assumption that it hasn't been done.

24 THE DEPONENT: Would I direct someone
25 to gather that information?

1 THE DEPONENT: No.

2 BY MR. JACOB:

3 Q Okay. So, as you sit here today, you
4 don't even know if anybody has ever investigated
5 the reasons why the wage loss benefits were not
6 reinstated; is that correct?

7 A I don't have knowledge of it.

8 Q What efforts did York County do to
9 search for any e-mails that may discuss Miss
10 Downing's termination after her termination?

11 A I did not direct a search, so I don't
12 know beyond that.

13 Q Okay. But you were involved in the
14 preparation of responses to discovery requests
15 that were made by the plaintiffs; am I correct?

16 A Yes.

17 Q One of the requests was for all
18 e-mail communications related to Miss Downing's
19 termination, where her termination is discussed,
20 the reasons for her termination. And you're
21 telling me that there's been -- that you did not
22 instruct that there be any such search for such
23 documents?

24 A I believe that Mr. Flannelly would
25 handle that.

1 MR. JACOB: Can you make sure --

2 MR. HUTCHINSON: That's not --

3 MR. JACOB: -- that it be done?

4 MR. HUTCHINSON: No, that's not her
5 role?

6 MR. JACOB: No, it's not.

7 THE DEPONENT: Yeah.

8 MR. JACOB: But I'm making that
9 representation to you that that needs to be
10 done. This way --

11 MR. HUTCHINSON: Counsel, you don't
12 get to direct her to do things. That's not your
13 role.

14 MR. JACOB: I know. I asked that it
15 be done.

16 MR. HUTCHINSON: That's right, you've
17 asked.

18 MR. JACOB: That's right.

19 MR. HUTCHINSON: That's it.

20 MR. JACOB: I know.

21 MR. HUTCHINSON: Done.

22 MR. JACOB: I just want to make sure
23 that York County knows I'm making the request
24 directly for when I go to the judge in the
25 future.

Page 114

1 MR. HUTCHINSON: There's nothing to
2 respond to.

3 MR. JACOB: No, there's not.

4 BY MR. JACOB:

5 Q Do you know who Samantha Dorm is?

6 A Yes.

7 Q And who is she?

8 A She's the grant writer for the County
9 of York.

10 Q And when was she hired as the grant
11 writer for the County of York?

12 A The exact date I don't know.
13 Approximately a year ago, and she wasn't really
14 hired by York County at that time. I believe
15 that it was an in-house transfer.

16 Q An in-house transfer.

17 A Well, a job opening came up. She was
18 already employed by York County, so taking this
19 position she was not a new hire.

20 Q I see. What position was she
21 transferring from?

22 A I believe a position in the judicial
23 center. I don't know if it was a court's
24 position. I know that she worked with some of
25 the grants that were in place in some of the

Page 115

1 offices.

2 Q Okay. And prior to that position in
3 the judicial center, do you know who she worked
4 for?

5 A Prior to the grant position?

6 Q Yes.

7 A I believe she worked for the court
8 administrator.

9 Q Okay. And prior to that, do you know
10 who she worked for?

11 A I believe she worked for the district
12 attorney's office.

13 Q Do you know the reasons why she's no
14 longer employed by the district attorney's
15 office?

16 A Specific reasons, no.

17 Q In fact, she was fired, wasn't she?

18 A I don't know.

19 Q You don't know?

20 A If she was fired by the district
21 attorney's office, then -- I don't know the
22 history of that. I mean, I don't know if she
23 was a new hire then to the court administrator's
24 office or was a transfer. I don't know.

25 Q The question is solely, do you know

Page 116

1 if she was fired from the D.A.'s office?

2 A No.

3 Q Okay. Do you know if she ever spoke
4 out about irregularities or any issue in regard
5 to grants prior to her separation from the
6 D.A.'s office?

7 A I've heard that there are some claims
8 pending, but I don't really know what they are.

9 Q When you say claims pending, can you
10 explain what you mean by that?

11 A I don't know your lingo exactly. I
12 only know that when Samantha was considered for
13 the position of a grant writer, and that was a
14 concept that I brought for overall, for all of
15 York County; not specific to any particular
16 office, I believe I was told that she -- there
17 was a pending lawsuit--I don't know if lawsuit
18 is the correct word--with the district
19 attorney's office. I simply questioned if that
20 would have any impact on bringing her into our
21 office as a grant writer and I was told no.

22 Q Okay. And, in fact, she did sue York
23 County, am I correct, over a termination?

24 A I don't know.

25 Q Did you ever do an investigation to

Page 117

1 find out what her claims were that are pending
2 against York County?

3 MR. HUTCHINSON: Objection.

4 THE DEPONENT: No.

5 MR. HUTCHINSON: Counsel, if she
6 didn't know it existed, why would she --

7 MR. JACOB: Actually, she just
8 testified --

9 MR. HUTCHINSON: -- order an
10 investigation?

11 MR. JACOB: -- that she knew that
12 there were pending claims and that she was told
13 it wouldn't affect her employment. So I'm
14 asking if she ever decided to look into those
15 claims.

16 THE DEPONENT: I was told that she
17 was a good employee.

18 BY MR. JACOB:

19 Q From whom?

20 A I believe the court administrator,
21 but that probably did not come directly to me
22 from the court administrator. It probably came
23 through Human Resources.

24 Q Fair enough. Is there any reason why
25 a commissioner would need to authorize a