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U.S. DISTRICT COURT
N.D. OF ALABAMA

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

BARBARA ANN WILSON,

Plaintiff,

VS. CIVIL ACTION
NO. 2:10-CV-02386-KOB

THE CITY OF BIRMINGHAM;
et al.,

Defendants.

DEPOSITION OF MIKE LEE
JUNE 23rd, 2011

STIPULATIONS

IT IS STIPULATED AND AGREED, by and between the parties, through their respective counsel, that the

deposition of MIKE LEE may be taken before Mellie Phillips, Commissioner, State of Alabama at Large, at the offices of Adam Morel, 517 Beacon Parkway West, Birmingham, Alabama, on the 23rd day of June, 2011, commencing at or about 3:40 p.m.

IT IS FURTHER STIPULATED AND AGREED that the reading and signature to the deposition by the witness is waived, said deposition to have the same force and effect as if full compliance had been had with all laws and rules of court relating to taking of depositions.

IT IS FURTHER STIPULATED AND AGREED that it shall not be necessary for any objections to be made by counsel as to any questions, except as to form or leading questions, and that counsel for the parties may make objections and assign grounds at the time of the trial, or at the time said

deposition is offered in evidence, or prior thereto.

IT IS FURTHER STIPULATED AND AGREED that notice of filing of the deposition by the Commissioner is waived.

I N D E X

EXAMINATION BY: PAGE NO.
Mr. Adam Morel ---------- 7 - 116
Mr. Fredric Fullerton, II --116 - 117

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BEFORE: Mellie Phillips
Commissioner

APPEARING ON BEHALF OF THE PLAINTIFF:
MR. ADAM MOREL, ESQ.
Law Offices of Mr. Morel
517 Beacon Parkway West
Birmingham, Alabama 35209

APPEARING ON BEHALF OF THE DEFENDANT:
MR. FREDRIC FULLERTON, II, ESQ.
Department of Law
710 North 20th Street
City Hall/Room 600
Birmingham, Alabama 35203

ALSO PRESENT:
BARBARA WILSON

I, Mellie Phillips, Commissioner, State of Alabama at Large, acting as commissioner, certify that on this date, in accordance with Rule 30 of the Alabama Rules of Civil Procedure and the foregoing stipulations of counsel, there came before me at the offices of Adam Morel, 517 Beacon Parkway West, Birmingham, Alabama, on the 23rd day of June, 2011, MIKE LEE, witness in the above cause for oral examination, whereupon the following proceedings were had:

MIKE LEE,
having been first duly sworn, was examined and testified as follows:

THE COURT REPORTER: Usual stipulations?

MR. MOREL: Yes. That's fine.

MR. FULLERTON: Yes. That's fine.

EXAMINATION BY MR. MOREL:

Q. Could you state your name for the record, please.

A. Michael Steven Lee.

Q. Mr. Lee, my name is Adam Morel, and I represent Barbara Wilson in this lawsuit. And I'm going to ask you a series of questions under oath, and if you don't understand any of my questions, please, tell me, and I will rephrase it. Okay?

A. Yes, sir.

Q. Any time you need to stop for whatever reason at all, just tell me, and we'll stop. Except for in between a question and an answer.

A. Okay.

Q. Once you've answered the question, and you want to take a break, that's fine with me.

A. Okay.

Q. Who is your employer?

A. The City of Birmingham Library Board.

Q. And my understanding is, that you were hired pursuant to a written employment contract; is that right?

A. Yes, sir.

Q. Okay. Do your paychecks come from the Board?

A. Yes, sir.

Q. All right. As opposed to from the City of Birmingham?

A. Yes, sir.

Q. All right. What's your title?

A. Chief of Security.

Q. All right. And are you Chief Security for the whole Library system or just for some part of it?

A. For the entire Library system.

Q. All right. And how many Security Guards does the entire system

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employ?
A. At the Branches, we'll have -- well it's 17 now since Pratt City got damaged. So we'll have one at each of those, which is 17. We have five full-time at Central. And we have part-time people that come in at Central who have been transferred from other Branches that closed. We had three Branches that closed. Those three people are there.
And on the weekend, we'll have three additional people who are part-time that work the weekends.
Q. So to make sure I understand, on any given weekday?
A. Um-hmm.
Q. Well let me ask it this way. Strike that.
There are five full-timers; correct?
A. Yes, sir.
Q. All right. And then how

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many part-timers?
A. There are two part-timers.
Q. Two part-timers?
A. Um-hmm.
Q. And how many of the full-timers are on the clock at any one time?
A. Five. With the exception of, you know, Freddie Lewis, the Sergeant, who's off on Wednesday and Thursday. So he wouldn't be there during the week. But five full-time. Did that make sense?
Q. Almost.
A. Okay.
Q. You have five. So if I walk in the Library on any day of the week except Wednesday and --
A. Thursday.
Q. -- Thursday, there should be five, assuming nobody's called in sick or what have you?
A. No. No. Freddie is off on

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Wednesday, Thursday. He works the weekend. He's the Sergeant. So in other words, as one of the full-time people we would have four.
Q. Okay.
A. And myself. And then the part-time people that would come in.
Q. All right.
A. But that's just Wednesday and Thursday.
Q. All right. Okay. Wednesday and Thursday, there's four?
A. Right.
Q. And then, plus you?
A. Right.
Q. Every other day, there's five?
A. Right.
Q. What about Saturdays and Sundays?
A. Well Saturdays and Sundays, Freddie who's off on Wednesday and Thursday, is the Supervisor there.

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And then he'll have three additional part-time people. And it's really flexible with them because they have full-time jobs.
And so sometimes they don't come in. So there should be five on the weekends. But sometimes there's four because they work full-time jobs. Real full-time jobs, and they can't come in, so.
Q. Do you have enough Security manpower to adequately address sexual misconduct at the Birmingham Central Library?
A. I need more Security in general. Because it being a public facility, there's so many opportunities for different things that could happen.
So it wasn't -- I wouldn't say just for sexual activity. But in general, it would be nice to have more people.

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Q. All right. Do you believe that the Security Department has adequately responded to the specific issue of sexual misconduct in the Library in the last four or five years?

A. Yes.

Q. Okay. And so, any lack of staffing that you may think you have, has not affected your opinion of your department's ability to address that particular issue?

A. Well I can only address it because the time that I've been there, five people are all that I've ever had. So that's been the Staff. So, you know, based on what I had. And based on budgetary restraints, that's sort of been adequate because that's all I've had.

Q. Well I want to make sure that -- I'm not asking you about what's possible --

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A. Um-hmm.

Q. -- or what's feasible financially --

A. Um-hmm.

Q. -- or what you're used to?

A. Um-hmm.

Q. I'm just asking you whether five people in your observation, in your experience, has been enough to address sexual miscon -- whatever sexual misconduct does take place in the Birmingham Public Library over the last several years?

A. Well once again, I think there should be more staffing to address every possibility of some criminal activity or something that would be in violation of a city ordinance or state law.

But, you know, overall, I think we need more people in general to cover everything.

Q. You're aware of Ms. Wilson's

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allegations in this lawsuit; correct?

A. Yes, sir. Um-hmm.

Q. And I assume you were aware of them from very shortly after she filed the lawsuit; correct?

A. Yes.

Q. And even before that, when she filed the EEOC charge? Were you made aware by anybody that Ms. Wilson had filed an EEOC charge against the Library, alleging a sexual hostile work environment?

A. Yes, I am. Yeah. I was made aware.

Q. When were you made aware of that roughly?

A. I believe, you know, if my dates are correct, this started like in '07. So I think sometime -- I don't know exactly what time frame after it originally was filed. But I would say some months after it was originally filed or a month or so

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maybe.

Q. Who told you about it? How did you learn about it?

A. I don't remember exactly. I don't know if it was, you know, one of the Associate Directors. Or if it was in like a meeting, you know, sort of an Administrative Department Head Meeting.

I don't remember any particular person coming to me and just, you know, sitting down and discussing that.

Q. Do you agree with me that having a Security Guard present among the patrons, tends to deter patrons from doing improper conduct?

A. No doubt about it.

Q. Okay. That's pretty clear; right?

A. Oh, yes.

Q. And would you also agree with me then that, given that, if you

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could assign a Security Guard full-time?
A. Um-hmm.
Q. To patrol only the computer areas, that that would help address any misconduct that takes place within the computer areas?
A. Well I don't necessarily agree with that. Simply because from my law enforcement background, the two facilities are so large that the buildings are big. And for just to say the computer area would be sort of the minimize what, you know, what they really should be doing overall, it's just so large, that I think, you know.
Q. Are the computers spread out? Well let me ask you this: Prior to -- y'all have developed something called a "Computer Commons" now; right?
A. Yes, sir.
Q. And that's happened sometime

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around January of this year?
A. It got in place January of this year. It had been in the works. But, apparently, there was some problem with cable -- some sort of cable connection or something that they need.
Q. But prior to January, there were departments dispersed around the East Building in the different departments; correct?
A. Yes, sir.
Q. All right. And it's hard to have a Security presence where all the different computers are, the more spread out the computers are; correct?
A. Yes, sir.
Q. All right. And the corollary of that or the reverse of that is also true; right? The more centralized all the computers are, the easier they are to maintain a Security presence?

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A. Yes, sir.
Q. And if you have a Security presence around the computers, assuming that they're all centralized, you can help or you can better address sexual misconduct as it relates to that particular location; correct?
A. Yes, sir.
Q. All right. That's all I was asking.
A. Um-hmm.
Q. All right. Are there security cameras in the East Building?
A. We do have a CC TV System in the East Build. Yes, sir.
Q. Closed circuit television?
A. Yes, sir.
Q. All right. You seemed to hesitate when you answered that question. Why?
A. Well because the way they're located, we try to, you know, get the coverage for things like -- they're

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centered toward the elevators. People coming up the elevators, the escalators, that sort of thing. Because, obviously, we could get people that come and go.
So, you know, my thought went to it. It's not like it's -- I can cover everything in the Library.
Q. How many cameras are there in that building, the East Building?
A. East Building we have -- on the first floor, we have each elevator. That's four for the elevators. We have the hallway, five. We have the loading dock, six. We have the back hallway, seven. There are nine.
Q. Okay. And how many of those are on the third floor?
A. Third floor, one toward the elevator. Now when you said the East Building, now there's a camera that shoots or takes a -- the crosswalk

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there. I'm sure you're familiar with the Library. That will cover the crosswalk.
Q. Okay.
A. And we have one that's on the elevator. And that's -- that's everything we have right there.
Q. Okay. So there's two cameras on the third floor. One that looks down the crosswalk?
A. Right.
Q. And one that looks at the elevator?
A. Um-hmm.
Q. Is that yes?
A. Yes.
Q. Okay.
A. Oh, I'm sorry.
Q. That's okay. And for how long a period of time going back as that been the case, where there's been those two cameras in those two places on the third floor?

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A. We got that system I'm going to say in '06. I don't remember for sure.
Q. But the entire time there's been cameras, they've only been in those two locations on the third floor?
A. Yes, sir.
Q. There's never been a camera on the third floor that was able to take a visual of the computer area where the computers are, either before or after the Computer Commons was put together; right?
A. No, sir.
Q. Am I right?
A. Yes, you're right. Um-hmm.
Q. Where are the monitors for those cameras?
A. The monitors, we have one at the Security Desk on the first Floor in the East Building. And I'm able to pull it up, I keep a display on my

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computer at my desk.
Q. Okay.
A. And I'm able to pull up all the screens. There's like, you know, 12 screens now that they show the other side also.
Q. One for each camera?
A. Yes. Um-hmm.
Q. All right. So two places where you can look at them?
A. Right.
Q. One is at a monitor at the Security Desk behind the big desk downstairs --
A. Right.
Q. -- first floor? And then one back in your office on a computer?
A. Right. And also it can be pulled up in the -- and there's a little Security Office. There's a corridor you go through. It's a little Security Office. It can be pulled up on that also.

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Because that's where I record. Our DVR to the system is in there.
Q. And what is the Retention Policy for those videos? How long do you -- how often do you save and store a video and how long do you save it for?
A. Well, to the best of my understanding, it will record up to 14 days. And, you know, as far as the other technical aspects, up to 14 days. We've had to use them on a couple of occasions with the Police. There was some other incidents, but.
Q. At the end of 14 days, they start to tape over?
A. Yeah, they tape over after 14 days. Um-hmm.
Q. Okay. All right. And the Library doesn't do anything to store it beyond those 14 days that you know of?

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A. Not that I know of. I mean, I.T. may know something. Not that I know of.
Q. All right. Would you expect to probably know though, if there was something else happening like that, being the Chief of Security?
A. Yeah. I would think so. Um-hmm.
Q. And so, it's just every 14 days, for a lack of a better word, everything resets for all the computers, all the cameras, and there's a new tape made?
A. Yeah. As far as I know, I think so. Yes. Um-hmm.
Q. Okay. Who made the decisions on where to place the cameras?
A. It was sort of made in conjunction -- there was a person by the name of Hope Cooper who was the building -- what do you call that?

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The Facilities Manager. And she, you know, sort of went around with the people to, you know, for the placement because one of the things that we have, the East Building is 25 years old. The other -- the Linn Henley Building is however old. And there were situations where they had problems with wiring and going through sheetrock or going through concrete.
And Hope was the Facility's Manager. So they -- where they could get access to wiring. And I'm sorry, I don't know all the aspects of that.
Q. Do you think it would assist you at your job in Security, if you could have a video camera that had a view of the computer areas?
A. Yes. Yes. I do.
Q. Tell me why you think it would help you.
A. Well for situations. I mean, obviously, like the situation

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we're here, you know, when we get in a situation like this, it'd be, you know, readily available to pull up the information and look at individuals.
And, you know, that would help tremendously to be able to do that.
Q. All right. Have you ever suggested to anybody that that be done, the cameras be added to areas where the computers are?
A. Well, when I was in some of the meetings with Hope, I wasn't in all of them. And when the people hooked up the system, that was mentioned. But there -- you know, there were other, you know, little logistical problems as far as the wiring and that sort of thing. That they tried to get the best coverage that they could for those.
Q. I want to make sure I'm clear there. Did you ever actually

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say if we can, it would be nice to have cameras, it would help me if we had cameras around the computers?
A. I don't remember ever just particularly asking that. And the reason I didn't is because at the time, they were so spread out, and I didn't.
Q. Has the Administration of the Library, in your opinion, adequately supported the Security Department in terms of addressing sexual misconduct issues of the Library?
A. In my opinion, based on the skills that they have as far as what they, you know, thought or think they know about Security, I -- yes, they have. But, you know, coming from a police background, dealing with those sort of issues, was something they never really had to deal with.
And so I mean, with the

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onset of the technology with all these computers and everything, you know, they were keeping up with the Library, you know, responsibility. But, you know, I think maybe the technology got ahead of them, you know.

And they were doing the best that they could. But they've always been supported based on like I said before, things like budgetary, constraints, and that sort of thing.

Q. Have your Security Officers in your department received all the training that you believe they should have received with respect to handle patron Security issues?

A. Well, in order to answer that question, I got to lead up to it. The Guards that we have now, have only been city employees for I'm going to say three or four years, maybe three.

Because before, they were not city employees. They were just

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Security Guards.

Q. Who were they employed by?

A. The Library Board. I can't explain it. It was a weird set up. I can't even explain it. But they've recently become city employees in the last I'll say three years. It may be four.

But they weren't city employees. They were just Security Guards that were paid by the Board.

Q. Did they each have their own contract like you do with the Board?

A. No. They didn't. They were just --

Q. Just hired by the Board?

A. Yes. Yes.

Q. Okay.

A. Because all the guys that are there, were there when I got there. So they were hired by the Board I guess.

Q. So the same -- the five guys

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that are now, are the same ones that are there when you got there?

A. I got there in October 1st of 2001. The same guys were there.

Q. There's been no turnover?

A. With full-time guys?

Q. Right.

A. No. No. Not with full-time guys. Those are the same guys.

Q. Have you ever -- first of all, who has the power to fire Security Guards?

A. Administration.

Q. Okay. Not you?

A. Not me.

Q. Okay. Have you ever recommended termination of a Security Guard?

A. Yes.

Q. Okay. How many times?

A. I'm going to say three.

Q. All right. Tell me the ones that you know. Name of the person and

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approximately when it was.

A. I had a gentleman by the name of Ollie Lewis who was at Wyler.

Q. Let me do this. Let me narrow it down. Have you ever recommended the termination of a Security Guard that was working at or assigned to Central, the Downtown Branch?

A. No. No.

Q. So of the five guys that you say have been there since you started?

A. Yes, sir.

Q. You've never felt the need to recommend termination for any of those guys?

A. No, sir.

Q. Have you ever suspended -- do you have the power to suspend those guys?

A. No, sir.

Q. Again Administration?

A. Yes, sir.

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Q. Do they look to you for recommendations on those matters?
A. Oh, yeah. They would, you know, confer with me. And often times, you know, if it was a situation that presented itself, I would go to them like I did with the guys I told you about and say, "Hey, this person is not working out."
Q. Right.
A. That sort of thing. But the ultimate decision rest with them.
Q. Have you ever recommended a suspension of any of the five Security Guards working at the Downtown Library?
A. No, sir.
Q. Do you have the power to discipline those five Guards in any way?
A. No, sir.
Q. All right. So you can't write them up?

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A. Write them up. I can write them up. I can do an oral.
Q. Let's do it step by step. You have the power or the authority to verbally reprimand them?
A. Verbal reprimand.
Q. All right. Do you have the power to do a written reprimand?
A. Written reprimand.
Q. And then the written reprimands end up in their personnel files; is that right?
A. Yes, sir.
Q. Okay. And so you do have the power to do that?
A. Yes, sir.
Q. All right. Have you ever done a written reprimand on any of those five Security Guards that are down at the Birmingham Library Downtown?
A. No, sir.
Q. Never in all those years?

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A. Not that I can remember. No, sir.
Q. What about a verbal reprimand?
A. Yes.
Q. Okay. When's the last time that you verbally reprimanded any of the guys that work for you that are assigned to the Downtown Library?
A. The full-time guys?
Q. Yes.
A. The last one was a verbal reprimand about report writing that I can remember.
Q. And who was it?
A. Sergeant Lewis.
Q. And when was it?
A. Two months ago.
Q. Characterize for me about how many times you've given verbal reprimands in the last, say, five years, to the five full-timers?
A. In the last how many years?

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Q. Five years.
A. Verbal reprimands?
Q. Yes.
A. Ten. Ten.
Q. Not very often?
A. No, sir.
Q. Other than the one you did two months ago for Mr. Lewis, have you given any other verbal reprimands in 2011 to any of those five?
A. No, sir.
Q. How about in 2010?
A. Yes, sir. And I don't remember -- I don't remember how many.
Q. Okay. My understanding from previous witnesses, is that when you do a verbal reprimand, nothing goes in the personnel file, but there's a note that's made that stays in the supervisor's file, is that your understanding as well?
A. Not officially. No, sir. I can't say I know that officially.

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Q. As a matter of practice, when you have verbally reprimanded the gentleman we're speaking about, have you made a note of that to go into your own files?
A. Not that I can remember. No, sir.
Q. And so to ask it a another way, there is no written memorialization that exist anywhere to show when you verbally reprimanded anybody down there?
A. No, sir.
Q. Is that true?
A. That's true. Um-hmm.
Q. All right. Were you made aware of the results of the Security Survey that was done for the Birmingham Public Library Staff back in September of 2009?
A. Yes, sir.
Q. And I'll show you Plaintiff's Exhibit 32.

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A. Um-hmm.
Q. Were you made privy to that document?
A. Yes, sir.
Q. Okay. And once you received that document, who did you receive it from, the Director?
A. I can't recall exactly. I think it was from the Associate Director Pam Lyons I believe.
Q. All right.
A. Because she was -- she's basically my immediate supervisor then. So I think it was.
Q. And to be specific about what you were provided, you would have been provided the pages that -- the first pages, which are the conclusions that were --
A. Right.
Q. -- drawn by the Director; is that right?
A. Yes, sir.

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Q. Or the summary that she prepared? All I want to hang up on with her is her conclusions or her summary.
A. Yes, sir.
Q. You were provided with this first page?
A. Yeah. Can I look at it?
Q. Absolutely.
A. Yeah. The first page. Yeah. I definitely saw the first page.
Q. And the second that goes with it?
A. The second page.
Q. All right. What about the third page?
A. Yes. I saw this.
Q. Saw the third page. Just for the record so we can identify it, the third page says what at the top? It's got handwriting. What does that say?

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A. It's okay to take this apart?
Q. Absolutely.
A. Comments from Central Staff Security Committee. 11/5/09.
Q. All right. And then what about the rest of the document behind there, were you provided with the rest of that document?
A. I've seen this.
Q. We'll call the rest of it, the guts of the survey where the actual trend results of the survey.
A. I think I have seen it. Yes, sir. I think Pam and I have looked at it. Yeah.
Q. After you got the results, or after you were provided with a copy of Plaintiff's Exhibit 32, did you take any action as a result of that?
A. Yes, sir. I did.
Q. Okay. And tell me what actions you took.

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A. I won't be able to remember everything that was done. But first of all, was to meet with the full-time people and the part-time people to discuss --
Q. Full-time people and part-time people where?
A. At Central. At Central.
Q. The whole staff?
A. Well we did actually bring in the entire -- as many part-time people as -- I think there may have been one or two for some reason that wasn't there. But we brought them all in.
Q. But you're talking about Security Department?
A. Yeah. Security.
Q. That's what I was asking.
A. Security. Yeah. Um-hmm.
Q. All right. So go ahead.
A. And discussed report writing. I had somebody to come in to

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teach report writing because we needed to get -- I felt that they needed to contain more elements, more information, you know, to help in case there was a prosecution.
Q. Who did you have come in?
A. I had Sergeant Katrina Johnson from the Police Academy. She used to work for me at the Police Academy.
Q. Okay. All right. What else did you do with your people from the results of Plaintiff's Exhibit 32 being provided to you, if anything?
A. Walk through on being more observant. The fact that there are certain things that they needed to look for. You know, anything that might, you know, tip them off to something that somebody may be, you know.
The fact that they could, you know, actually as they look over

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someone's shoulder, if they were looking at pornographic material. The -- you know, I had to borrow from the Judge's thing and tell them, I don't have a definition for it, "But I know it when I see it." You know, so.
Basically, but I said, you know, you're going to have to be careful about First Amendment Rights. Things like looking at -- you know, we have people coming in there look at BET and rap videos and all this crazy stuff. And people are jumping around in bikinis and bathing suits, which is offensive to some people.
And there were things about the Library -- you know, I didn't know all the workings about the computers and that sort of thing, that they could be cut off.
You know, because my thing was, I thought that you couldn't pull up that stuff, that it was all

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filtered and everything. And I found out that wasn't correct. So as time progressed -- and I'm sorry I don't have time lines -- as time progressed and I learned more about the way the video systems themselves work. I was like, well, look, that doesn't mean that somebody couldn't come in with a laptop and pull up something with their own site or that sort of thing.
So what I tried to do, was to address especially in the vain of the sexual harassment thing, is you really have to be observant. First of all, these things are serious lawsuits. I know about litigation when I was on the police force.
And it makes a really really bad environment. And I said that's one thing to catch guys drinking beer in here. But we try to do that. And one of the, you know, things that I noticed that the guys seem to be more

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attentive about that. And I don't know, you know, how much of it helped. But it appeared as though that we had, you know, we had an aura at what was going on.

But, basically, to answer your question, I tried to give more training based with what I had, you know, to offer and the limitations of budget and that sort of thing. I tried to give more training, especially, in that vain. But overall as far as being observant.

And the fact that so many of these things that we had addressed are against the Law. I mean, in the State of Alabama. In the City of Birmingham. I mean, it's against all these different codes.

So, you don't have to stop and think what the Library Administration may say. If you -- unpermitted touching and things like

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that are assaults and things like this. Well people you can call Birmingham right away. You don't have to wait to make a decision through Administration, so.

I just tried to pass on my police knowledge as far as being observant and that sort of thing to the Officers.

Q. I want to make sure I understand what all you did.

A. Um-hmm.

Q. It sounds like that what you're telling is, after you got Plaintiff's Exhibit 32 and understood the results of Plaintiff's Exhibit 32, in the survey?

A. Um-hmm.

Q. You, number one, you brought in somebody from the Academy to teach the guys better how to fill out reports properly?

A. Right.

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Q. Number two, you spent time with them trying to educate them on how to observe -- make better observations?

A. Yes, sir.

Q. And then you also taught them that there were certain things, actions they could take with respect to law enforcement right away, if they crossed certain lines; is that right?

A. Yes, sir. And I probably forgot something. But, yes, sir.

Q. Did you conduct any investigation to determine whether your own Security Guards were engaged in any sexually inappropriate activity?

A. As far as an official investigation, you know, take statements and that sort of thing, no, sir. But what I did in asking Administration and myself to go around, I wanted to know if anyone

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knew of any Guard, any Guard that they could tell me that was involved in any of these activities.

Because in that exhibit right there, there was some questions and things -- there was even, I remember reading a couple of statements where somebody said, "Well some of the Guards are worse than the patrons."

Q. Right.

A. And to me, that would mean, that we've got Guards who are masturbating and doing sexual acts. And I sure as heck wanted to know who it was. I was never presented with a name of any one particular Guard that said it was Bob or it was, you know, Bill.

Q. Why didn't you conduct a formal investigation?

A. Formal as in?

Q. Or I think you used the word

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"official?"
A. Um-hmm.
Q. Why didn't you do an official investigation?
A. Well --
Q. You had an allegation that you had Security Guards in the nest --
A. Right.
Q. -- involved in making sexually inappropriate comments and also they may be behaving worse than some of the things the patrons were doing?
A. Um-hmm.
Q. That you recognize those were significant and very important allegations; right?
A. Yes, sir.
Q. All right. Why didn't you conduct an official investigation?
A. Well in my thinking, what I'm saying, it was official to me. And I'm basing this on the fact that

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there was some litigation that was impending and that there was a complaint that had been filed. And I was just under the assumption that the Administration itself was taking the lead as far as that situation went.
Q. And I mean, that's kind of what I'm getting at. Isn't it a fact that you did not actually conduct a formal or official investigation because you believed that was being handled by somebody in the Administration?
A. Yes, sir.
Q. All right. Now, when you say that by then there was already an allegation or complaint being made, what do you mean by that? This survey was done September 1st, 2009. So what do you mean when you say that?
A. Well forgive me if I don't have my time lines in order.
Q. Okay.

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A. And, you know, I didn't honestly look at the date. I couldn't tell you what that date is right now. In particular --
Q. Right.
A. -- I remember that.
Q. Right.
A. But I'm speaking in terms that after we had the session with the Officers and there was some situations, allegations about sexual harassment and the survey that that's where, you know, I'm talking from that. And I don't remember dates. I'm sorry. I don't remember dates.
Q. Did you ever go to anyone and say, "Who is it that is reporting that our Guards are guilty of making inappropriate conduct -- comments?"
A. Yes. I did.
Q. All right. Who did you go to?
A. Pam Lyons, who was my

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immediate Supervisor.
Q. All right.
A. She was Associate Director.
Q. All right. And did you go to anybody else besides Pam Lyons to try to find that information out?
A. Anybody in Administration, anyone?
Q. Anybody else?
A. Other than talking to the Guards, no, sir.
Q. Okay. All right. Guards aside, the only person you went to, to find out who is it on the staff that's saying these things was Ms. Lyons?
A. Yes.
Q. And what did Ms. Lyons tell you?
A. I was never told -- I was never given a name.
Q. All right. Did she tell you she just wouldn't or did she never get back to you or what happened?

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A. Never got back to me as far as I remember.
Q. Okay. All right. Did you go to her in person or did you send her an E-mail or call her or what?
A. In person.
Q. All right.
A. Because the minute the allegations -- you know, after the survey came out, and I read the part about the Guards being worse, I said, "Look, if I got somebody here, you know, working under me like that, they need to be gone."
Q. Right.
A. I said this is serious. They can be arrested. They can be fired. We need to know.
Q. And you had that conversation with Ms. Lyons?
A. Yes.
Q. All right. And Ms. Lyons, did she say I'll get back to you with

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the names or did she -- I mean, I want to know why -- what did she say to you when you said "I need to know who it was so I can investigate it?"
A. I can't, you know, speak for her. But she -- my --
Q. What did she say to you?
A. That she'd get back to me.
Q. Okay.
A. She'd get back to me.
Q. And did she ever get back to you?
A. No, sir.
Q. All right. But you never went to anybody else on the Library Staff or in the Administration to try to get the answer to that question, who on staff was making this allegation?
A. No, sir.
Q. Okay. And did you ask Ms. Lyons not only who on the Staff was reporting it, but which Guards are

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they saying are doing it? Did you try to find out th -- did you ask Ms. Lyons to find out which Guards were alleged to have done this?
A. Yes, sir.
Q. All right.
A. That was my question.
Q. And did she say "I'll get back to you?"
A. I don't remember exactly what she said.
Q. All right. Did you ever get any information from her?
A. I never got any information of any particular Guard by name that was the culprit here.
Q. Did you ever ask Ms. Lyons or anybody else what are the comments that were made? Or what are the actions that were done?
In other words, what it says here that staff report that our Guards are as guilty of making inappropriate

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comments as the patrons. And also staff has observed our Guards leering at women who come in our doors. Did you ever ask Ms. Lyons what are the comments that are being made?
A. I can't remember if I did or not. I really don't recall if I did.
Q. Were you ever told what they were?
A. Like the particular comments?
Q. Right.
A. No, sir.
Q. Weren't you highly interested to find that out?
A. Very interested.
Q. All right. And so when you didn't get any information from Ms. Lyons after inquiry what did you do?
A. Me personally, what I did after I didn't get that, I was relieved that I didn't get a name.
Q. You were?

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A. Yes. Because I was hoping there wasn't any Guard there. And I also kept my faith in the fact that the Administration would surely not withhold from me any information about some Guard who was, you know, particularly named as an individual involved.

Q. Did you go to the Department Heads and say, "Please tell me whether or not you have any staff that made this allegation?"

A. No, sir. I didn't.

Q. All right. Why not?

A. Once again, I thought Administration was in command to that situation where was there. Because once they got the results back, I assume there would be some action. I assume there would be some action resulting from the survey. And at that time, they would say, Mike, I hate to tell you, but it's Bob. Okay.

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Q. Right. But did you also have the feeling that if there was an investigation to be conducted of the Security Department, it would probably best be done by somebody other than the Chief of the Security Department?

A. Oh, of course, definitely. No doubt about it.

Q. Somebody -- an outsider that's not involved in the Department with the guys?

A. Oh, yes, sir. Yeah.

Q. But to your knowledge, that never occurred?

A. Not to my knowledge.

Q. I want to ask you about the comments that you made to another employee in which you stated that you -- where you made the observation that all the complaints regarding sexual misconduct seemed to be coming from the same two people.

Do you remember making that

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comment?

A. No, sir. Not related to sexual misconduct. No, sir.

Q. Okay. Do you recall having a couple of meetings with Ms. Hall about a complaint from a staff member that you had made a comment to another employee that the complaints were coming from the same two people all the time?

A. I remember having one meeting with Ms. Hall. Yes, I do. I remember one.

Q. All right. Do you recall having a informal talk with Ms. Hall where she kind of gave you an idea of what was on the table so you wouldn't be blindsided later by it?

A. Yes. I do.

Q. Okay. And do you recall later coming to a meeting with Ms. Hall and Karen Jackson in which there was some discussion about some

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complaints that Ms. Jackson had?

A. Yes, sir.

Q. All right. And do you recall that Ms. Jackson's complaint was that she had overheard in the atrium say to another employee, "These complaints are coming from the same two people?"

A. Can you repeat that question?

Q. Well you tell me what you remember about what her complaint was.

A. I remember working at an event called "Bards & Brews." That's the first Friday of each month. One of my Guards asked me some questions about what was going on with one of my part-time Guards.

I don't remember the gist of the conversation because it was water cooler talk. It was, you know, just nothing official.

Q. Where were y'all standing

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when you had the conversation?
A. I was at a table in the atrium.
Q. In the Downtown Library?
A. You know how you enter like off the parking lot?
Q. Right.
A. There was a table -- we have a table set there for "Bards & Brews" so I can check I.D. for, you know, underage people. And so I was sitting there at the table. One of my Guards walked up -- part-time Guard and asked me what was going on. I don't remember the date. But it was, you know.
Q. Are you saying "Barge and Brew?"
A. "Bards & Brews." Bards like the poets.
Q. Oh, B-A-R-D-S?
MR. FULLERTON: B-A-R-D-S.
THE WITNESS: Um-hmm.

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"Bards & Brews."
Q. (BY MR. MOREL) Okay. It's a word I guess they use in Libraries; right?
A. Um-hmm. Bard, poetry. Brew.
Q. I think I know that word.
A. Yeah.
Q. Is it brew like beer?
A. Yes. Definitely.
Q. Okay. Poets and beer?
A. Um-hmm.
Q. Okay. So is this -- tell me what that is. What kind of event is that?
A. It's a -- what do you call this when you say the spoken word kind of thing? You know, where people -- poets get up, or want to be poets or --
Q. Okay.
A. -- future poets or whatever you call them. Get up and say their

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poetry, you know.
Q. Okay. In front of an audience?
A. Right. In front of an audience.
Q. All right. So this would be happening -- something that would happen during the Library hours or after hours?
A. After hours. It starts at 7:00 o'clock on the first Friday of each month except December.
Q. Okay. And is it a private event, or is it open to the public?
A. Open to the public. You know, no charge. But you have to be 21 to come in.
Q. Okay. Because beer is served?
A. Right.
Q. In the Library?
A. Right.
Q. All right. Who sponsors

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this event?
A. I don't know. The Library. But it's some organization. I don't know which particular group it is though.
Q. Okay.
A. I don't know, you know.
Q. Okay. Who buys the beer?
A. You got me. Now as much as I know, they're sampled beers from these, you know, private breweries where people come in.
Q. Handcraft breweries?
A. Right.
Q. Okay.
A. Right. And they give samples. You can, you know, get one cup or two cups of something, so.
MR. FULLERTON: I think the Library rents space for events.
MR. MOREL: Okay. Okay.
THE WITNESS: Right.
Q. (BY MR. MOREL) All right.

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So this is when you're having kind of water cooler talk with one of your guys?
A. Right. Um-hmm.
Q. And you say to him what about to her?
A. Um-hmm.
Q. What do you say to her?
A. I don't remember exactly. But it was in response to a question. You know, and this is not verbatim. What the heck's going on kind of thing. Well, you know.
Q. Let me ask you this: Y'all were discussing complaints from the Staff about people doing inappropriate sexual stuff; right?
A. Were we?
Q. If that's -- if she said what's going on? That's what y'all were talking about; right?
A. Oh, no, she meant. Not -- well let me not -- I don't know what

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she meant. The question to me as I understood her, was that there was just a lot of activity going on, people were talking a lot.
And apparently, she was up on the floors talking to other people. And I just happen to be there. And being the Chief, she asked me because, you know, she walks the floors.
So I'm just assuming that she talked to other people and they said something was going on, you know.
Q. So tell me what you said.
A. I don't remember exactly. I know I did something -- I said something about complaints from the third floor. And I don't, you know, remember. It was in response to her question. But that was, you know, not --
Q. Isn't it true though, one of the things you said was you alluded to the fact that the complaints always

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seem to be coming from the same two people?
A. I don't remember saying that. I really don't. I may have. But I don't remember saying that, that particular statement.
Q. If Ms. Hall has testified under oath?
A. Um-hmm.
Q. That you acknowledged in that meeting and admitted that that's exactly what you said, do you have any reason to dispute her testimony?
A. Once again, I don't remember. And I possibly could have said that. But I don't remember. If that's what Ms. Hall recollects, that's your recollection.
Q. Well you would remember though had you ever been verbally chastised or verbally disciplined by Ms. Hall for it; right? I mean, if that happens, you would recall that,

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wouldn't you?
A. Yes. I would.
Q. Did that happen?
A. Oh, I recall that. Because -- and didn't appreciate it. Because the entire conversation that I had, hadn't been heard. It's like when you read a statement and don't read it all.
Q. Right.
A. If you had listened to the entire question or overheard everything that was being said.
Q. Right.
A. I was answering in response to a question. So I didn't appreciate the fact that someone would eavesdrop into my conversation and not have the full facts.
I mean, there was nothing to hide. I wasn't -- to the best of my knowledge, discussing anything official that would, you know, that

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sort of thing. I was answering in response to a question.
Q. Right.
A. Um-hmm.
Q. But my question really is, and I think I understand your answer, but I want to make sure it's clear. As a result -- when that meeting concluded with you and Ms. Hall and Ms. Jackson, at any time subsequent to the meeting, were you chastised by Ms. Hall for anything you had done?
A. I was chastised at "Bards & Brews" for what she thought she heard me say.
Q. Oh, by Ms. Jackson?
A. No. No. By Ms. Hall.
Q. Oh, okay. Did Ms. Hall think she heard you say it?
A. After -- let me get this thing in order. After I guess Karen thought she heard something, she went to Ms. Hall. And Ms. Hall came to me

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and chastised me. And I said, "You didn't hear the entire conversation." And I was just responding to a question. I didn't call anybody over and say, hey, let me give you the scoop.
Q. Okay.
A. Okay. So that's -- that's how that happened. And I didn't appreciate her coming to me with that when she didn't have all the facts.
Q. Right. So you deny that -- your point was that you thought -- that you were skeptical of the fact that the same two people on the third floor were the only two that kept making repeated complaints about sexual misconduct?
A. What I will say is, if I made the comment, it wasn't meant to be derisive in any sort of way. The facts it is what it is. That's where they were coming from. And if I said

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that, the same way as I say to my Guards "Be on your toes. If they call, we want to get there right away." So if I said it, there was no malicious intent. And I don't remember if I particularly made that statement.
Q. I gotcha.
A. Um-hmm.
Q. How did you -- what were your feelings about when the Library brought in Warren Graham and he gave his presentation and everything? Tell me what you thought about that.
A. I didn't have a problem with Warren Graham. But I didn't think that was addressing the issues we needed to address.
Because it's been my experience, when I ran the Police Academy, I would bring in people who were retired Secret Service Agents. And FBI Agents. People that could

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enhance what we, you know, knew it and take us forward.
And when I spoke to Warren Graham and he came into my office and he was mystified by the fact that I had been to the FBI Academy. And these sorts of things. And I thought, you know, we should bring somebody in that could address our issues. I didn't have a problem with him.
But it, you know, I guess maybe from my professional background as a police officer, the fact that they're bringing in somebody who was mall security, I had a problem with that, me personally. Me personally.
Q. That's what I'm asking.
A. Okay. Yes, sir.
Q. Man to man, I'm asking you that.
A. Yes, sir. Yes, sir.
Q. Okay. You had a law enforcement background. And are you

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saying that Mr. Graham did not have a law enforcement background?
A. No, sir. I mean, he comes into my office, he's all mesmerized. Oh, you have a law degree. You've been to -- oh, you've been here and there.
And I'm thinking this guy is going to come in, oh, I'm retired Secret Service Agent. I'm the da, da, da. The guy says, well, I was working at the mall and then I got to meet the manager, you know, and they promoted me to Security, Head of Security.
I said at a mall. I said okay.
Q. Okay.
A. I mean, I'm not trying to be flip.
Q. Right.
A. That -- maybe that was my cop and machismo coming in. But that's where we went with that.

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Q. Well, you're certainly frank about that.
A. Okay.
Q. Had he been a mall cop? Was that his background?
A. Yes. He had worked at a mall. And he got to know the owner who made him Head of Security. I'm waiting for this guy to tell me, gee, all these cases -- he had never made an arrest. You know, I have made hundreds of felony arrests.
I worked narcotics. I worked homicide. He had never arrested anybody. He had never cuffed anybody. And he was coming to teach them about verbal jujitsu. I'm sorry, that was the cop in me coming out.
Q. Did you -- I think it's -- I guess it would be fair for me to say that, you thought that bringing -- nothing personal against him as a man?
A. No. No.

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Q. But you thought bringing that man with his background in to train the Staff and your Security People, Security in the Library, was a waste of time?
A. I did me personally because we had the Sheriff's Department right there. We have the FBI Office over there. We had the Birmingham Police Department with people who are really bam, you know.
Q. All right. So you thought -- who made the judgment to bring him?
A. I have no idea.
Q. Did you ask?
A. All I heard was Warren Graham is coming and hooray, hooray. That's all I heard.
Q. Did you ask who it was, who made the decision?
A. No. I didn't.
Q. Not even after the fact?
A. No. No. I'm not telling

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the truth. You know how I found out? They told me they had gone to a -- and I don't know all these different titles, ALA Book Convention. And Warren Graham spoke, and he was the second coming. And he was coming to --
Q. Who told you that?
A. Pam Lyons.
Q. Okay.
A. He is the second coming. And when he leaves here, you know, law enforcement will have a new sheen on it.
Q. Right.
A. Okay.
Q. All right. Now the way you're describing your feelings to me here at the table?
A. Um-hmm.
Q. I get the feeling that those are pretty sincere feelings that you have just by your demeanor?

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A. Right.
Q. Okay. And my question for you is: Do you think that perhaps those feelings came across from you during his presentation?
A. They may have. Because a part wisenheimer, part co-median. And I may have made jokes while he was talking. That sort of thing. And that's on me personally, you know, that's bad behavior on my part.
Q. Okay.
A. You know, and, of course, you look back, gee, I shouldn't have done it kind of thing.
Q. Right.
A. And perhaps I did. But it was just frustrating because it wasn't addressing what I thought that we needed. You know, that was my concern.
Q. Okay.
A. Um-hmm.

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Q. Did you bring any documents with you in response to the Deposition Notice for you?
A. No. I didn't.
Q. Okay.
A. I thought that they were here. Or I didn't bring anything.
Q. I just want to make sure that -- I mean, there's a bunch of documents that I have not seen. I don't know if they exist. I'll ask you about them now and see. They may not exist. For instance, I have this question for you?
A. Um-hmm.
Q. In the last -- since 2006, how many patrons have been banned for any period of time at all from the Library?
A. Well I have to go back and say, the banning process and trespassing process is new because it -- it wasn't there. You know, it was

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sort of like you're out of here kind of thing with no determined amount of time.
Q. Right.
A. I went to Administration and said, "We need to kind of --
Q. At some point that became more formalized?
A. Right.
Q. And how recently is that been?
A. Since we did the -- did the -- they call it -- I did the Security Manual. It's now the Custom --
Q. Customer Service?
A. It's something like that. Yeah.
Q. Let me get that out and show it to you. I heard that there was a Security Manual in the works?
A. Right.
Q. There was at one time; correct?

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A. Right.
Q. And were you preparing that?
A. I finished that.
Q. Okay. What became of it?
A. I turned it in to Administration.
Q. All right. Have you seen it since?
A. In a revised form. I think it sort of meshed into that.
Q. Okay. Let me show you Plaintiff's Exhibit 3A. Is this what has come out of your work on the Security Manual?
A. Yes.
Q. All right. And this is the -- y'all decided or Administration decided to call it Customer Service Handbook?
A. Yes, sir.
Q. Okay. Have you reviewed this book?
A. Oh, yeah. I mean, yes.

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Um-hmm.
Q. Does this book contain the important -- let me strike that and see if I can ask this the right way.
How much time did you spend working on the Security Manual?
A. Three months. You know, I mean, forgive me.
Q. Are your efforts reflected in this 3A.?
A. Some. Some of them are. Some of them are.
Q. Some of them are not?
A. Yes, sir.
Q. All right. Do you believe Plaintiff's Exhibit 3A, it is an adequate handbook for addressing the issue that it states it's addressing?
A. Well from my understanding, once again, this is me speaking. My understanding was, and my feeling is, that we needed a separate Security Manual.

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As I tried to tell the Administration before, this is the hard part of this. This is the dirty part. This is not about an overdue fine.
Q. Right.
A. You know, and I said these are things about masturbation, lewdness, assault. These are things -- these are what we have to deal with.
Q. Right.
A. So now, my feeling is, we needed a separate Security Manual. And it meshed into that. It was, you know, Administration decided that.
Q. Okay. Ultimately, you were overridden on that?
A. Yes, sir.
Q. All right. You disagree professionally speaking with the outcome?
A. Well disagreed?

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Q. Well I mean, do you still believe there should have been -- that Security issues for dealing with the kind of behavior you just described, should have been separately issued apart from this Customer Service Handbook?
A. With my background from law enforcement, I'd rather see -- if I'm going to be held responsible for Security issues?
Q. Right.
A. I'd rather teach my guys out of a Security Book.
Q. Okay.
A. You know, that's my feeling.
Q. Is there a lot of this in the Customer Service Handbook that you think doesn't necessarily apply to your Security people for whatever reason?
A. Well, yeah, I mean, I think so.

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Q. All right. Who made the final decision not to have a separate Security Handbook?
A. I have no idea. I mean, as far as the individual.
Q. You don't know?
A. No, I don't know who, you know, who individually. It was an Administrative decision as far as I know.
Q. Okay. But prior to this Handbook coming out, this came out November 2010; correct?
A. Well, yeah. I'm looking -- yeah, that late. Yes, sir. Yes, sir.
Q. And it sounds like what you were saying before is, prior to this coming out formalizing how the Administration was going to guide the Staff on handling the patrons?
A. Um-hmm.
Q. It was kind of -- was it kind of Helter Skelter prior to that

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in terms of, there wasn't any guidelines about banning or how long they'd be banned and for what things could get you banned?

A. No, sir. The existing Security Manual that I did when I first got there, was really basic. It was sort of a copy for me. And it was just basic. But it didn't address banning patrons and that sort of thing.

Q. Okay.

A. And, at the time, that was ten years ago, we didn't address any, you know, Security, E-mail kind -- I mean, issues as far as E-mails and, you know, pulling porn up on the computer kind of thing.

Q. Right. So I just want to make sure the record's clear, that up until November 2010, the Birmingham Public Library, specifically, the Central location Downtown, did not

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have any real formal guidelines or policies with respect to banning or removing patrons from the Library?

A. Well, if I'm not mistaken this is not the first version that it sort of evolved. And I'm going to say maybe two or three years prior to this, that a version came out and it sort of evolved. And the version that I initially sent in, had banning and trespassing. But it evolved. And I can -- I think this is the latest version.

Q. I've heard that this is a new book?

A. Okay then.

Q. Okay. Do you have any reason -- I mean, if the other testimony has been this book's new?

A. Okay.

Q. First version?

A. Um-hmm.

Q. Any reason to dispute that?

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A. Well when I say "evolved," as things were submitted -- well my understanding, is that the Customer Service Manual, it sort of evolved.

Like I said, it started out as the Security thing and it sort of evolved.

Q. But my question is: The first time it became an Official Policy of the Library and was distributed to the Staff would have been November 2010?

A. To the best of my recollection. Um-hmm.

Q. Yeah. Okay. And prior to that time, prior to Exhibit 3A. being distributed to the Staff and becoming the Official Policy to the Library in November 2010, there were no set guidelines for either Security or the Staff about what was a bannable-offense, when somebody should be removed, for how long or anything

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like that; is that true?

A. Well I'll say in particular as far as using the terminology "banned or trespassed."

Q. Okay. Is that a yes as it relates to being banned or trespassed, is that what you're saying?

A. Could you repeat it for me one more time?

Q. Yeah. Let me see if I can get it. Prior to November 2010, there was no Official or Written Policy or Guidelines about when a patron should be or could be banned; is that true?

A. True.

Q. Okay.

A. True.

Q. Or who had Authority -- there was nothing telling anybody who had the Authority to ban somebody, was there?

A. If my understanding is unspoken, it was on Security or if the

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police came in, that decision at that level would be like that.
Q. Clearly, if the Police come in, they could do what they want; right?
A. Exactly. Exactly.
Q. Okay. Prior to -- well let's say as of today, who has the Authority to remove a patron from the Library?
A. The way the procedure is now and after talking with, you know, people from the Police Department, is that, when we trespass somebody, what we do in the presence of a Police Officer, we say John Smith violated, you know, Library Policy, and we want him trespassed from the premises.
Q. I don't know what that means. "We want him trespassed from the premises."
A. Well that's police terminology. The banned thing, I

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mean, it's sort of --
Q. Here's my question?
A. Um-hmm.
Q. Take it literally.
A. Um-hmm.
Q. As of today, who has the Authority to remove, to tell a patron that they must leave the Library?
A. Any Security Officer.
Q. Okay. All right. But no staff member who's not a Security Officer?
A. Not to my knowledge. No, sir.
Q. All right. And that's different from banning; right? Because banning means you've got to stay away for some period of time; correct?
A. Right. And, of course, the procedure was to be -- you know, we were going to set up a procedure where there would be some sort of a hearing

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if somebody appealed that. You know, depending on the seriousness of the offense obviously.
Q. Right. Has any such system for appeal been set up?
A. Not to my knowledge.
Q. All right. So as of today, is there anything in writing that says how long a person must be away from the Library, if they're removed from the Library?
A. My understanding was, and I haven't referred to this very recently, is that, they had put in some sort of time frame, but.
Q. I mean, ultimately, whose discretion is it to determine whether a person is allowed back in the Library after they've been removed? Who decides?
A. If we call a Police Officer in a trespassing situation, the Police Officer, they're, in essence, banned

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--
Q. Trespassing?
A. Yeah. Trespassed forever, you know.
Q. Okay. But if I come into the Library and I do something that you determine in your discretion is unacceptable in the Library and I should be removed, what guidelines are there that tell you what to tell me? Like when I can come back or whether you just set me out for the day or what, I mean, how do you know what to do?
A. Well the way the process works is, Security would, in essence, you know, try to make a determination on the serious -- if the offense is serious.
And the things that we had included were fighting, pornographic, you know, looking at pornography, theft. And, obviously, you know, any

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Part I offenses like violating the City or State Law, that sort of thing. Anything that violated any Municipal State Laws.

And like I said in the Library a theft or fighting. And we would -- you would just be out.

Q. How many people have been just asked to leave the Library, removed from the Library? Forget banning. But just removed from the Library since 2006?

A. Since 2 -- if I had to venture a guess. Since 2 -- I don't have an exact figure.

Q. Is that documented anywhere? Do you keep documentation of any time somebody is removed?

A. You mean any sort of documentation whatsoever? Like if we ask somebody -- no. No. We didn't have any official system of documentation.

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Q. Okay.

A. And we don't.

Q. So really, you could never answer that question, except for just by kind of thinking back over the years and try to come up with some general number; right?

A. Unless it was something that really stood out.

Q. Okay.

A. Something was really, you know.

Q. How many times do you think somebody has been removed from the Library since 2006?

A. Asked to -- banned, trespassed?

Q. Asked to leave the Library.

A. Since 2006? This is 2011. 25 times.

Q. Is it just a complete guess?

A. Yes.

Q. And there's nothing you

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could go back to refer to, to answer that question because there's no documentation of it?

A. Yeah. Not with any -- you know, like I said, other than, you know, any reports that, you know, that we use for this meeting that were particular. You know, that we remembered those numbers. But just overall because --

Q. I mean, if I said to you, please go back and get whatever documents you would need to so that you could answer the question of how many times somebody has been removed?

A. Um-hmm.

Q. You wouldn't be able to do that?

A. No. I wouldn't.

Q. All right. And that's true whether we use the terminology removed or banned or banned for life or anything else; right?

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A. Yeah. Because it's system wide. And we have Police Officers, Sheriff Deputies sometimes they do it. And they don't always file a report. So I may I get a report. One of the Deputies or Police Officers may call and say, "Hey, Chief, I put out old Bob. He finally got to the point where I put him out."

And they haven't filed like sheriff's report or a City report, so.

Q. How do you keep track of people who are banned to make sure they don't come right back?

A. Well at one time, we used to take their photograph. But we stopped taking their photographs. There was some concern about there may be some, you know, some privacy issues or something right there. So try to remember. Try to remember.

Q. Pretty Helter Skelter?

A. Yes.

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Q. Okay. Of course, you're taking their photographs in theory all day, every day that they're in the Library through the video cameras; correct?
A. When they -- if they -- when they come through the doors.
Q. Yeah.
A. Yes. They take it when they come through the doors.
Q. And that's never been a problem? I mean, it's continued to go on; right?
A. Yeah. As far as I know. Yeah.
Q. Okay.
A. If you want to call that a picture, I mean, you know, it's a play on words there.
Q. But there's no list kept of the names or Library Card Numbers or anything else for anybody that's been removed from the Library, there's no

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compilation of that?
A. I don't know that -- I don't know that for a fact. I know they do retrieve cards from people and do things. But I couldn't, you know, tell you exactly.
Q. You're not aware of any such documentation of who's put out of the Library by their either Library Card Number or --
A. No, sir.
Q. -- name?
A. No.
Q. Not that you know of?
A. Huh-uh.
Q. Does the Security Department keep records of complaints of incidents of sexual misconduct that are made by Birmingham Library employees at the Central location?
A. Yes, sir.
Q. All right. What do you call that document?

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A. In-house Report. Incident Report. Yes, sir. And it may be accompanied by a Police Report all depending. But an In-house Report.
Q. And for how long have y'all used In-house Reports in the Security Department to document complaints made by staff members of sexual misconduct in the Library?
A. Since I've been there. The ten years that I've been there. And prior to that, they had a reporting system.
Q. And how many times have those Reports been generated? How many of those reports are there since 2006?
A. What type of Reports?
Q. The Reports we're discussing. The In-house Reports or Incidents Reports that the Security Department keeps?
A. All reports or particular

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reports?
Q. All reports?
A. Oh, all reports? Every day. I mean, I couldn't give you a number. I mean, there's a range of everything. When you say "all reports." I mean, everything from people that sleep to, you know, destruction of, you know, of books or something.
Q. And how are those kept, are they in a paper file?
A. Now the Reports are online. You can fill a Report out online.
Q. Okay. And are they stored on the Library Server after the Reports are generated?
A. I'm not sure. Stored on the server?
Q. What I'm saying is, if you wanted to go back as the Chief of the Security Department --
A. Oh, yeah, I'm sure I could. Yeah.

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Q. Well listen to my question. If you wanted to go back as the Chief of the Security Department and review all of the Incident Reports or In-house Reports that your department has generated in the last month, could you do that?
A. I'm sure I could. Yeah.
Q. Have you ever done it before?
A. All of the Reports?
Q. Yes.
A. I've never reviewed all the Reports. Not --
Q. But have you reviewed enough of them to know that you can go and just pull them up off the computer and review them, if you want to?
A. Oh, yes, sir.
Q. Okay.
A. I make copies. All Incident Reports are always sent to me. And they're sent to ADCAL. So, you know.

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Q. Okay.
A. I'll pull those up. And some like I said are medial things. I mean it's some kid, you know, making a noise. Or it could be something, you know, serious.
Q. All right. And the reason I'm asking, I don't have any of those Reports. All I have are the Reports I've given to y'all. And so my question is -- or maybe I do. I don't know.
MR. FULLERTON: Yeah. There in there.
MR. MOREL: Have you all provided, Fred, all Incident or In-house Reports that contain allegations of sexual misconduct in the Library since 2006?
MR. FULLERTON: Yes. Because here's one right here.
MR. MOREL: Okay.
MR. FULLERTON: I'm not sure

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which exhibit this is. We went for 2006. There was nothing in 2006. And leaving in 2007 there was three. And then, I think it was part of the packet of stuff. It's a combination of the Incident Reports and like that Police Report right there.
MR. MOREL: Okay. This is Plaintiff's Exhibit 6. And this is Plaintiff's Exhibit 33.
MR. FULLERTON: Okay.
MR. MOREL: And those contained all of the Reports of any kind that we received.
MR. FULLERTON: Okay.
Q. (BY MR. MOREL) So here's my question for you?
A. Um-hmm.
MR. FULLERTON: I think you entered it as an exhibit.
MR. MOREL: Yeah. There's actually -- there's one with a sticker on it. Let's go ahead and get that

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one out. It's Number 6, here it is.
Q. (BY MR. MOREL) I want to put in front of you Plaintiff's Exhibit 6 and Plaintiff's Exhibit 33.
A. Um-hmm.
Q. Those two documents were provided in response to our Request that all Incident Reports containing allegations of sexual misconduct from the Birmingham Public Library for the Downtown Branch since 2006.
And my question to you is: First of all, looking at the volume of those two exhibits, just the general thickness of it. Does that look to you like -- I mean, would you expect to see more documents than that or not?
A. I don't understand the question.
Q. It's a poor question. Did you go back and compile for purposes of this lawsuit, Reports that your

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department generated that dealt with sexual misconduct complaints by employees?
A. Yes, sir.
Q. Okay. All right. And did you make a search of all of them since 2006?
A. Yes, sir.
Q. All right. And did you provide everything that you found?
A. Yes, sir.
Q. Okay.
MR. MOREL: Off the record.
(Whereupon, an off the record discussion occurred.)
MR. MOREL: All right. Give me a minute with my client. I may be done.
MR. FULLERTON: Okay.
Q. (BY MR. MOREL) Back on. There were two security studies that were done by some outside outfit. You

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remember those?
A. I remember.
Q. All right. Tell me about them.
A. I can't.
Q. Why not?
A. I don't know. They were done. And I -- I don't know anything about them.
Q. All right. So it is a fact that two different studies were done by outside organizations on security at the Birmingham Public Library Downtown; is that right?
A. I think so.
Q. Okay.
A. I think so.
Q. But you were never provided with the results of those studies; is that true?
A. No. I've never seen them.
Q. All right. Tell me approximately when the studies took

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place.
A. I can only remember hearing about them. I can only guess. This is 2011. Like three years ago.
Q. Were they both done in the same year? Or were they done at intervals?
A. I think they were done the same year. I think. But I just only know about them in passing.
Q. All right. Tell me what you heard about them and from whom about them? I mean you're the Head of Security. And there's two security studies being done. Tell me what you know about it.
A. I honestly don't know. I'm serious, I don't know.
Q. Okay. You agree they were both done, but you don't know anything about them?
A. Well I agree that I heard about them. Never seen them. And

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don't know for a fact. I heard, but I don't know for a fact.
Q. All right. What did you hear about it?
A. Just people talking. Once again, water cooler talk between my guys, Security guys. Hey, they was doing this. But nobody officially -- I wasn't in on it, so I -- I don't know.
Q. Did you feel like what they were trying to say was that y'all were being audited in some way, like there was somebody coming to the Library to do an audit of the Security Department or how Security was going at the Library?
A. Once again, my opinion, just the little bit I heard, I just assumed that they were doing it to get information to enhance to help us with Security. Now that's just me, and that's all I know.

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Q. Okay. But you were never provided with anything from either one?
A. No. No, sir.
Q. All right. Have you ever asked the Administration what happened to the two security studies?
A. No. I haven't. No, sir.
Q. Why not?
A. To be honest, they slipped my mind. I had so little information about them. I never saw the results from them. You know, anything that would help me or assist me, anything enhance I've never met, you know. Let's try to reach these goals.
So, I'm sorry, they just -- I never questioned them. Don't know anything about them.
Q. You're in charge of Security at the Library; right?
A. Yes, sir.
Q. And you hear scuttlebutt

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from your people -- the guys that work for you that there are not one, but two different security studies being performed at your Library; right?
A. I mean, and I'm -- but what I'm saying is, very very -- they had little or -- they hear it from somewhere else.
Q. Right.
A. Once again, water cooler talk.
Q. Right.
A. They don't know it for a fact. In other words, nobody interviewed my guys where they could say, "Hey, Chief this is going on."
Q. Right.
A. Nobody came to them and said, "Hey." So, no.
Q. But when you heard what you did hear that that might be happening, that there might be two security studies going on at your Library where

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you're the Chief of Security, you're not telling me you didn't go to somebody in Administration and say, "What's this I'm hearing about two security studies going on here?"
A. I'm telling you I didn't go to anybody. Because I assumed like they do other things, that that was something for Administration that they would pass on to me, you know. So, no, I didn't. I didn't.
Q. Tell me about your relationship with Edith Majors.
A. She's a close friend of mine. Um-hmm.
Q. Y'all are friends outside the office; true?
A. Yes, sir. Yes, sir.
Q. Go to lunch together all the time?
A. Pretty much. Yes, sir.
Q. How extensive is your friendship?

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A. We are close.
Q. All right.
A. I mean, good friends. Um-hmm.
Q. Have y'all dated each other romantically?
A. No, sir.
Q. Have you ever gone to the movies together?
A. Have we ever gone to the movies? Not that I can remember. No, sir.
Q. Have you ever gone to dinner together?
A. We may have had dinner. Yes, sir.
Q. How many times have you and Ms. Major gone to dinner together?
A. I don't remember. A couple. A couple maybe.
Q. Tell me where y'all went.
A. I don't remember. I think -- I don't even remember. I don't

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remember.
Q. Tell me what you were going to say. You think?
A. I was trying to think of a place. I couldn't even think of a name. I don't remember. Over ten years, I just don't remember.
Q. For how long have y'all been close?
A. Well, I met her when I was on the Police Force, you know. Interacted with the City, so. And I actually met her through Negro League Baseball. Because I collect. And met her through Negro League Baseball. She had -- she's had a lot of collections with Negro League Baseball, so.
We've been to, you know, luncheons and that sort of thing.
Q. But you've also been to lunch together just the two of you on a regular basis; correct?

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A. What -- what -- I don't understand "regular basis." What do you mean?
Q. Well, I mean --
A. We don't go daily.
Q. You don't go daily?
A. No, sir.
Q. How many times have you and she gone to lunch together just the two of you?
A. I don't remember.
Q. More than a dozen?
A. Yeah.
Q. More than two dozen?
A. Maybe. Yeah.
Q. All right.
A. Over ten years, yes, sir. Or more. Um-hmm. Yeah. Um-hmm.
Q. Probably, at least once a week?
A. Yeah. Yeah.
Q. And usually, more than once a week?

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A. Probably, once a week. Um-hmm.
Q. What is Ms. Major's title?
A. She is the Personnel Director now.
Q. All right. And how long has she been in that position?
A. Not that long. When I got here, Norma Blunt was the Personnel Director. And I think Norma may have passed away in -- I -- '08 maybe. I'm not really sure.
Q. At least for the last few years, she's been the highest ranking personnel or Human Resources person for the Birmingham Public Library; is that correct?
A. Whenever -- since -- well, she didn't take over right after Norma. Yeah. I would guess so. Yes, sir. Um-hmm.
Q. All right.
MR. MOREL: That's all the

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questions I have. Thank you.
MR. FULLERTON: I've just got a couple.
EXAMINATION BY MR. FULLERTON:
Q. You have stated a couple of times that you were a former Birmingham Police Officer?
A. Um-hmm.
Q. Could you give us a quick background -- employment background with the Birmingham Police Department and the Divisions of Sections that you worked for?
A. Well I started out in Patrol at West Precinct. I went from Patrol, I went to the Inspections Division. I went from Inspections to Narcotics and Vice. From Narcotics and Vice, I went to Homicide and Robbery.
From there I went -- I got promoted, I went to the Chief's Administrative Assistant.
Q. Okay.

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A. Then I was Director of the Police Academy. And then I was promoted to Lieutenant. And I retired from South Precinct as the day shift Commander.
Q. Okay. How long were you with the Birmingham Police Department?
A. 24-and-a-half-years.
Q. Okay. And what's your educational background?
A. I have a Bachelor's Degree from the University of Alabama. A Master's Degree from UAB. Public Administration. I have a Law Degree from Birmingham School of Law. And I have a -- a graduate of the FBI Academy.
Q. Okay.
MR. FULLERTON: That's all I have.
THE WITNESS: Um-hmm.
FURTHER EXAMINATION BY MR. MOREL:
Q. When you moved into your new

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office, did Ms. Major decorate the office for you?
A. Decorate it?
Q. Right.
A. No. No. I did. I decorated it.
Q. She didn't put flowers in your office?
A. Flowers?
Q. Yes.
A. No, sir.
Q. Or rearranged your furniture in the office?
A. There was none in there. I mean, I brought it up on the --
Q. Prune in?
A. Yeah. There was -- Hope Cooper was in that office. And I brought the junk I had from upstairs. No. I didn't have any flowers.
Q. So your testimony is, Ms. Major didn't do anything with respect to your office and any office that

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you've had with the Library?
A. No, sir.
Q. All right. Is that true? I want to make sure your testimony is right. Your testimony is, Ms. Major never did anything to decorate or rearrange furniture or bring in furniture or put flowers or anything like that for any of the offices you've ever had at the Birmingham Library?
A. In the office I'm in now, the only thing Ms. Major did, was help me level off some pictures. To make sure they were level. That's it.
Q. Okay.
A. By showing me whether they were level or not.
Q. Okay. Fair enough.
A. Okay.
Q. All right.
MR. MOREL: That's all I have.

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FURTHER THE DEPONENT SAITH NOT.

CERTIFICATE

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, MELLIE PHILLIPS, hereby certify that the above and foregoing deposition was taken down by me on Computerized Stenotype, and the questions and answers thereto were transcribed by me, and that the foregoing represents a true and correct transcript of the deposition given by said witness upon said hearing.

I further certify that I am neither of counsel nor of kin to the parties in the action, nor am I in any way interested in the result of said cause.

/s/Mellie M. Phillips
MELLIE M. PHILLIPS

CCR #448, Expires 9/30/11
Commissioner for the
State of Alabama at Large
My Commission Expires: 9/6/11