

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**MICHAEL SALLIE and MELINDA PERKINS,** )  
)

Plaintiffs, )

vs. )

2:10cv456

**Electronic Filing**

**BRYAN LYNK**, individually and in his )  
official capacity as a Police Officer of )

Midland Borough; **BRUCE TOOCH**, )  
individually and in his official capacity as a )

Police Officer of Midland Borough; )

**RONALD LUTTON**, individually and in )  
his official capacity as a Police Officer of )

Midland Borough; **GEORGE** )  
**HRUBOVCAK**, individually and in his )

official capacity as a Police Officer of )  
Midland Borough; and **MIDLAND** )  
**BOROUGH**, )

Defendants. )

**MEMORANDUM ORDER**

AND NOW, this 19<sup>th</sup> day of November, 2012, upon due consideration of defendants' motion in limine to exclude evidence of lost opportunity for a promotion and the parties' submissions in conjunction therewith, IT IS ORDERED that [87] the motion be, and the same hereby is, denied without prejudice to renew on the record at trial. Although it appears that the evidence may well be insufficient to support a recovery for such alleged economic loss, Sallie did testify that he was in line for the promotion, he interviewed for the position and the company had to move forward and fill the position while he was in jail. The court will permit plaintiffs to make a full proffer on the record so that Sallie can provide any additional details underlying

these generalized statements. Defendants can then renew the motion and make further argument based on the fully developed record. At trial, plaintiffs' counsel shall give defense counsel advance notice of plaintiffs' intent to proffer the evidence falling within the scope of the instant motion so that defendants may challenge its introduction outside the presence of the jury. The court will resolve any renewed motion in the context and setting of the record as then developed. Failure to comply with this order may result in sanctions.

s/ David Stewart Cercone  
David Stewart Cercone  
United States District Judge

cc: Patrick Sorek, Esquire  
Douglas C. Hart, Esquire  
Charles H. Saul, Esquire  
Kyle T. McGee, Esquire

*(Via CM/ECF Electronic Mail)*