

1 SHEILA A. KEITER : IN THE COURT OF COMMON PLEAS  
2 VS : OF DAUPHIN COUNTY, PENNSYLVANIA  
3 UPPER DAUPHIN COUNTY  
EMERGENCY SERVICES, INC.,  
4 a/k/a "Medic 6" : No. 2003 CV 3915

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EXCERPT OF PROCEEDINGS

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TESTIMONY OF MICHAEL KRASKA AND VERDICT

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BEFORE: HONORABLE LAWRENCE F. CLARK, JR.

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DATES: JANUARY 29, 30 2013

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PLACE: COURTROOM NO. 6  
DAUPHIN COUNTY COURTHOUSE  
HARRISBURG, PENNSYLVANIA

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18 APPEARANCES:

19

Elliott A. Strokoff, Esquire  
Jennifer Nachamkin, Esquire

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For - Plaintiff

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James K. Thomas, II, Esquire  
Stephanie L. Hersperger, Esquire

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For - Defendant

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**EXCERPT OF PROCEEDINGS****JANUARY 29, 2013 - TESTIMONY OF MICHAEL KRASKA****JANUARY 30, 2013 - VERDICT**

THE COURT: All right, Mr. Strokoff.

MR. STROKOFF: Mr. Kraska.

**MICHAEL KRASKA,**

called as a witness, being duly sworn, testified as follows:

**EXAMINATION AS ON CROSS**

BY MR. STROKOFF:

Q Sir, would you state, for the record, your name, please.

**A Michael Kraska.**

Q And, Mr. Kraska, for a period of time you had an affiliation with Medic 6; isn't that correct?

**A That is correct.**

THE COURT: Can I understand as to whether or not -- is he being called as on cross?

MR. STROKOFF: I'm sorry, Your Honor, I should have said that. Yes, he is.

THE COURT: Thank you.

BY MR. STROKOFF:

Q Mr. Kraska, about when did that relationship

begin?

**A October, 1990.**

Q In what capacity did you become affiliated with Medic 6?

**A At that time, staff paramedic, volunteer.**

Q That was an unpaid position?

**A That is correct.**

Q Did there come a point in time when you assumed a paid position?

**A Yes.**

Q When was that?

**A About 1992, '93.**

Q In what capacity was that?

**A Staff paramedic.**

Q And did your position change with Medic 6 from the staff paramedic at any point time?

**A Yes.**

Q When was that?

**A About 2002.**

Q And in 2002, what did you become at Medic 6?

**A Director of services.**

Q And for how long did you remain director of services?

**A Approximately a year and a half.**

Q And how did that term as director of services

end?

**A I resigned.**

Q And with respect to that resignation, wasn't there an issue with respect to overtime pay?

**A Yes.**

Q Could you tell the Judge what that issue was?

**A At the time, I was being --**

MR. THOMAS: I object, Your Honor. I don't know that Mr. Kraska is on trial here. I don't know why it is relevant.

THE COURT: I think maybe, among other things, it could be motivation. I will let him connect the dots.

THE WITNESS: At that time, it was a salaried position. I was actually working approximately 95 to 100 hours in a pay period. That was over and beyond, you know, what the salaried position required. I then talked to John Shultz, who was the president of Medic 6. He agreed that I should be paid the overtime because I was actually working on the truck, not in the office, which was my primary responsibility. He approved it. Subsequently, never went to the board of directors about it.

Then, when it was called on why -- I can't remember when it was the question came up. I referred

it to John Shultz. John Shultz emphatically denied that he ever made that affirmation that I could do that.

BY MR. STROKOFF:

Q So you had been being paid overtime while you were director of services?

**A That is correct.**

Q When you testified at your deposition on May 25, 2010, do you remember testifying that you had your overtime pay put on your wife's salary?

**A I did.**

Q Isn't that, in fact, what you did?

**A That is correct.**

Q So you were earning overtime that was being paid on your wife's payroll?

**A Yes.**

Q She was an employee of Medic 6 at the time?

**A Yes.**

Q What was her title?

**A She was one of our staff RNs.**

Q And isn't it a fact that your motivation for doing this was so that your overtime wouldn't show up on your salary for purpose of child support?

**A That is correct.**

Q Sir, going to refer you to an exhibit that is

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1 In that looseleaf book, and the exhibit I am going to  
 2 refer you to is plaintiff's Exhibit No. 36, which is  
 3 about three-quarters of the way through that book.  
 4 The exhibits are numbered in numerical order.  
 5 Do you have that?  
 6 **A I do.**  
 7 Q Do you recognize it?  
 8 **A Yes, I do.**  
 9 Q What is it?  
 10 **A It's a termination notice.**  
 11 Q And your signature is on it, right?  
 12 **A That is correct.**  
 13 Q It says 121031740. What does that mean?  
 14 **A It was executed on January 21, 2003 at 1740**  
 15 **hours.**  
 16 Q So for us lay people, that's 5:40 p.m.?  
 17 **A That's correct.**  
 18 Q And when you say that it was executed, you  
 19 signed it at that time?  
 20 **A Yes.**  
 21 Q And when did you give it to Mrs. Keiter?  
 22 **A Probably before that. Around that time.**  
 23 Q Well, when did you prepare it or did you  
 24 prepare it? Did someone else prepare it for you?  
 25 **A I prepared this document, sir.**

8

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1 Q When did you prepare it?  
 2 **A I don't know.**  
 3 Q At the top of the notice under specific  
 4 description there is a reference to Saturday, January  
 5 18, 2003. Do you see that?  
 6 **A That is correct.**  
 7 Q So you didn't prepare this before Saturday,  
 8 January 18, 2003, isn't that correct?  
 9 **A That is correct.**  
 10 Q So you prepared this sometime between Saturday  
 11 January 18, 2003 and three days later, right?  
 12 **A Correct.**  
 13 Q Now, later down in the employment termination  
 14 notice, there is a reference to the affected employee  
 15 reporting to work on January 20, 2003; is that  
 16 correct?  
 17 **A That's correct.**  
 18 Q That's when you first found out about this  
 19 allegation; isn't that correct?  
 20 **A No, it is not.**  
 21 Q You found out about it before the 20th?  
 22 **A That's correct.**  
 23 Q Well, you didn't find out about it before the  
 24 18th, correct?  
 25 **A No, I did not.**

1 Q Let's back up a tad. Can you take a look at  
 2 plaintiff's 28? It is only about four or five pages  
 3 before that.  
 4 Did you see the first page of plaintiff's 28?  
 5 **A Yes.**  
 6 Q It's got somebody's initials on it. Are those  
 7 your initials?  
 8 **A Yes.**  
 9 Q And this refers to you're being approached by  
 10 Jill Halterman?  
 11 **A Yes.**  
 12 Q On January 20th, 2003 at 10:30 hours?  
 13 **A Yes.**  
 14 Q That is 10:30 a.m.?  
 15 **A Um-hum.**  
 16 Q The court reporter will ask you to --  
 17 **A Yes.**  
 18 Q And you wrote here that you asked Miss  
 19 Halterman who reported this to her. She said Jackie  
 20 Dougherty did, right?  
 21 **A That is correct.**  
 22 Q My question is, is this the first you knew  
 23 about this incident on January 20th, 2003, when Jill  
 24 Halterman came in to tell you about it?  
 25 **A No.**

1 Q How did you find out about that?  
 2 **A I received a phone call from Jill.**  
 3 Q When did you receive a phone call from Jill?  
 4 **A I'm going to say on or about the 18th, to my**  
 5 **best recollection.**  
 6 Q What did she say?  
 7 **A She was upset because the three employees that**  
 8 **were -- a couple of employees came up to her,**  
 9 **approached her about what was being said at the Lykens**  
 10 **station regarding her position at Medic 6, and that**  
 11 **Sheila had made comments, basically, saying she was**  
 12 **not doing her job and that if it was up to her, she**  
 13 **would lose her job.**  
 14 Q That's what Miss Halterman told you in the  
 15 telephone call?  
 16 **A That's correct.**  
 17 Q Now, Miss Keiter did not have the power to  
 18 fire Miss Halterman; is that correct?  
 19 **A That is correct.**  
 20 Q So, plaintiff's Exhibit No. 29 -- are you  
 21 familiar with that?  
 22 **A Yes, I am.**  
 23 Q And this is the actual incident report that  
 24 Miss Halterman filed; isn't that correct?  
 25 **A That is correct.**

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13

1 Q And beginning on the third line, now, this is  
2 Miss Halterman's --  
3 THE COURT: I'm sorry, Mr. Strokoff, we're on  
4 29?

5 MR. STROKOFF: 29, that's correct.

6 THE COURT: I am sorry.

7 BY MR. STROKOFF:

8 Q This is the incident report that Miss  
9 Halterman filed on January 20th, 2003; is that  
10 correct?

11 A That's correct.

12 Q You asked her to file this?

13 A Yes.

14 Q And she put here on the third line, quote, I  
15 was told that she said if she ever saw me not doing my  
16 job, she would write me up and that she wanted me  
17 fired.

18 That's what she wrote on the 20th, what she  
19 was told?

20 A Sure.

21 Q Now, did she make any reference to Jackie  
22 Dougherty? She didn't make any reference to her?

23 A In her incident report, she did not.

24 Q When she spoke to you before that she filed  
25 the incident report, she told you that Jackie

1 very shortly after Jill Halterman filed her incident  
2 report?

3 A That's correct.

4 Q Now, on the 20th, you say you make a note, "I  
5 advised that she stop and we'll discuss this further;"  
6 is that correct?

7 A Yes.

8 Q Did you discuss it with her further?

9 A After she filed -- I believe after she filed  
10 her incident report.

11 Q Did you tell her to file an incident report in  
12 this telephone conversation?

13 A Yes.

14 Q Now here you have January -- this is 31.  
15 January 20, at 3:00 p.m., Jackie Dougherty submitted  
16 an incident report?

17 A That's correct.

18 Q And the incident report was placed into  
19 Sheila's file, right?

20 A That is correct.

21 Q And is that the incident report that Jackie  
22 Dougherty filed?

23 A That is correct.

24 Q Now, that incident report is handwritten on  
25 the first page and it says that you received it on

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14

1 Dougherty told her that?

2 A Yes.

3 Q You knew Jackie Dougherty was the fiance or  
4 girlfriend of Matt Shultz?

5 A Yes.

6 Q And Matt Shultz was the son of John Shultz; is  
7 that correct?

8 A That is correct.

9 Q You knew at this time about ongoing disputes  
10 about whether or not Mrs. Keiter was going to get  
11 reports and financial data that she'd been requesting?

12 A That's correct.

13 Q Now, plaintiff's exhibit 30, that is also  
14 something you typed up; is that correct?

15 A That's correct.

16 Q Now, do you know how Jackie -- let me rephrase  
17 this. Did you call Jackie Dougherty to follow-up on  
18 Miss Halterman's incident report?

19 A I did.

20 Q And then she called you back?

21 A Yes.

22 Q And this is your notes of what her substance  
23 was?

24 A Yes.

25 Q That's January 20th at 11:30 hours, which is

1 January 20 of '03; is that correct?

2 A That is correct.

3 Q And it says, "reviewed by." Who reviewed it?

4 A That was me.

5 Q So you reviewed it and received it on the  
6 20th?

7 A That's correct.

8 Q Now, the incident report up top is  
9 handwritten; that the dated report is January 18th,  
10 2003?

11 A That's correct.

12 Q And this typed written incident report for  
13 January 18th, 2003, who typed that up? Do you know?

14 A Jackie.

15 Q Did she do it in the Medic 6 office when she  
16 stopped by?

17 A I don't know.

18 Q And that's -- this is what Jackie Dougherty  
19 submitted to you on the 20th, this typed written  
20 incident?

21 A That's correct.

22 Q Then you've got plaintiff's exhibit 33, a  
23 substance of a follow-up note with respect to a Dennis  
24 Smith telephone call?

25 A That's correct.

15

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1 Q Now, you had called Mr. Smith after you got  
2 Jackie Dougherty's incident report?  
3 **A That's correct.**  
4 Q And in your report, you don't note that he  
5 says that Mrs. Keiter said something -- anything about  
6 Jill Halterman, do you?

7 **A Not in this report or note.**

8 Q Was Mr. Smith in Florida at the time you spoke  
9 to him?

10 **A He was.**

11 Q Then you have another memo concerning  
12 Mr. Smith, plaintiff's exhibit No. 24.

13 Now, could you explain to us why there are two  
14 memos for January 21, 2003?

15 **A As I recall, I needed clarification from**  
16 **Dennis on the incident that occurred in Lykens. So**  
17 **this would be, I believe, a follow-up phone call to**  
18 **the original phone call that I received from Dennis or**  
19 **I requested from Dennis.**

20 Q And in the follow-up telephone call at  
21 2:30 p.m.?

22 MR. THOMAS: 1:30.

23 MR. STROKOFF: I'm sorry, I'm sorry.

24 THE COURT: 1330 is -- whenever you got a  
25 number more than 1200, you subtract 12 and you get the

16

1 time.  
2 BY MR. STROKOFF:  
3 Q Mr. Smith says that Mrs. Keiter said, quote,  
4 Out of the blue, talking about Jill not doing her job  
5 and that she will report any time she is not working.  
6 Further, he added that, Well, if Jill gets fired,  
7 then, oh well.

8 What Mr. Smith said was different than what  
9 Jackie Dougherty said; isn't that correct?

10 **A Yes.**

11 Q And there's no notation here about Troy  
12 O'Neil; is that correct?

13 **A I guess.**

14 Q Do you remember speaking to Mr. O'Neil?

15 **A Yes.**

16 Q Days after -- after you terminated Miss  
17 Keiter?

18 **A That's correct.**

19 Q And the very next day, at 1720 hours, you are  
20 having a meeting with Mrs. Keiter to terminate her;  
21 isn't that correct?

22 **A That's correct.**

23 Q At that meeting, you came with the termination  
24 notice; isn't that correct?

25 **A That is correct.**

1 Q You also had at that meeting, according to  
2 plaintiff's exhibit No. 35, Elaine Henninger?

3 **A That is correct.**

4 Q And Don Fetterhoff?

5 **A That's correct.**

6 Q Why did you have them there?

7 **A The reason why I had them there is because**  
8 **they were members of the personnel committee.**  
9 **Sheila's position at Medic 6 was dual. She was a**  
10 **board director and also an employee. I wanted them to**  
11 **be aware of the actions and why, so that they had at**  
12 **least a basis of the actions being taken.**

13 Q Now, you say here in your notes, going down,  
14 Keiter was informed that two employees reported that  
15 she made inappropriate, threatening statements toward  
16 Jill Halterman. More specifically, 'I am going to get  
17 Jill fired,' end quote.

18 **A Yes.**

19 Q That is not what Dennis Smith said, though, is  
20 it?

21 **A If you go back to 34, it does.**

22 Q Fourth paragraph down, it says, Smith does not  
23 recall Keiter specifically -- recall saying that  
24 Keiter stated that she was going to get Jill fired?

25 **A Continue down.**

18

1 Q But the conversation indicated that she had  
2 that intention?

3 **A Continue down.**

4 Q I asked Smith why he did not submit a report.  
5 He indicated that he was going to support Jackie  
6 Dougherty's report of the events?

7 **A That's correct.**

8 Q Without knowing what Jackie Dougherty's report  
9 was going to be?

10 **A That was his statement to me.**

11 Q Were there any other steps of the

12 investigation here that we missed? You spoke to  
13 Halterman, who didn't hear anything firsthand. You  
14 spoke to Dougherty. You spoke to Smith by phone  
15 twice. Anybody? Any other party in your  
16 investigation?

17 **A Tried to get ahold of Troy O'Neil, but like**  
18 **many of our employees, they were out of the area.**  
19 **Dennis Smith was in Florida. I just happened to get**  
20 **ahold of him.**

21 **Troy O'Neil was out of the area as well.**

22 **Sometimes getting hold of these employees is**  
23 **difficult, whether it is this or any other situation**  
24 **in Medic 6.**

25 **So at that point, I don't think Troy was going**

1 to add anything or substantiate or whatever. I felt  
 2 that I had enough with Dennis, Jackie and Jill.  
 3 Q My question was, was there anything else in  
 4 your investigation, so the answer is no?  
 5 A Sure. I believe -- I mean --  
 6 Q So you believe that you did the proper  
 7 investigation and you had enough to terminate Sheila  
 8 Keiter?  
 9 A That plus referencing her personnel file.  
 10 Q Her personnel file?  
 11 A That's correct.  
 12 Q Did you reference her personnel file?  
 13 A I sure did.  
 14 Q What did you find in her personnel file?  
 15 A There would have been a warning from me. I  
 16 believe there was actually a total of three warnings  
 17 about circumventing the chain of command; not going  
 18 through the proper chain.  
 19 Q Three warnings from you?  
 20 A Two.  
 21 Q Two from you?  
 22 A That's correct.  
 23 Q That was in her personnel file?  
 24 A That's correct.  
 25 Q And what was the chain of command issue here?

1 THE COURT: Who?  
 2 MR. THOMAS: Plaintiff's counsel.  
 3 THE COURT: Oh, I thought you were telling me.  
 4 MR. THOMAS: No, no. I would never  
 5 transgress.  
 6 THE WITNESS: In this case, I did not believe  
 7 that she was going to follow the chain of command. I  
 8 believe I have documentation or there is some  
 9 documentation where she was going to take it directly  
 10 to the board of directors.  
 11 BY MR. STROKOFF:  
 12 Q So your perception that she was going to avoid  
 13 filing an incident report and go to the board of  
 14 directors if she saw Miss Halterman not doing her job,  
 15 was part of the reason why you decided to terminate  
 16 her?  
 17 A That was my belief, that's correct.  
 18 Q Now, you asked Miss Henninger and Mr.  
 19 Fetterhoff to be with you when you terminated  
 20 Mrs. Keiter; isn't that correct?  
 21 A That is correct.  
 22 Q So you had to contact them, right?  
 23 A I didn't have to contact them. I did that  
 24 as --  
 25 Q I'm sorry, bad question.

1 A Chain of command issue is that it has been  
 2 long established at Medic 6, long established, that  
 3 when there is a problem with operations, it goes  
 4 through the director of services or, prior to the  
 5 director of services position, to the paramedic  
 6 coordinator.  
 7 Q So, if Mrs. Keiter said, if I see Miss  
 8 Halterman not working, I'm going to file an incident  
 9 report, that is not following the chain of command?  
 10 A If -- again, we're talking 10 years ago. I'm  
 11 trying to remember this whole thing. Please give me a  
 12 chance.  
 13 Q Sir, if you can't --  
 14 A Please give me a chance.  
 15 THE COURT: Hold it. You are called as on  
 16 cross, right?  
 17 MR. STROKOFF: That's true, but I don't want  
 18 him to speculate.  
 19 THE COURT: We're not going to get into this.  
 20 We are going to have a question, and then we're going  
 21 to have an answer. Then we are going to have a  
 22 question. It's very simple.  
 23 Mr. Thomas.  
 24 MR. THOMAS: He should not interrupt the  
 25 witness when he is in the middle of an answer.

1 In order to get them to the meeting, didn't  
 2 you have to contact them ahead of time and ask them to  
 3 come?  
 4 A Yes.  
 5 Q And when did you do that?  
 6 A Sometime before the actual meeting. I don't  
 7 recall what time.  
 8 Q Did you phone them?  
 9 A Yes.  
 10 Q Did you tell them why you wanted them there?  
 11 A Yes.  
 12 Q And what did you tell them was the reason why  
 13 you wanted them there?  
 14 A I told them that I believe Sheila was again  
 15 not following the chain of command; that she was using  
 16 her board position inappropriately; that other  
 17 employees were very disturbed and could not tell  
 18 whether or not she was an employee versus a board  
 19 member.  
 20 This is not the first time that it came up  
 21 that we've had this problem with Sheila, and I decided  
 22 to terminate her employment. I also just notified  
 23 them because she was a board member. Obviously, when  
 24 you terminate employment at Medic 6, it terminates  
 25 your position as a board member.

1 Q Didn't you notify any other board members that  
2 you were going to be doing this?  
3 **A Not to my knowledge.**  
4 Q Well, weren't there three members of the  
5 personnel committee at that time?  
6 **A I believe.**  
7 Q Did you notify the third member?  
8 **A I don't think I got ahold of the third member,**  
9 **because he wasn't there.**  
10 Q Wasn't the president of the Medic 6 ex officio  
11 a member of all committees?  
12 **A Sure, I guess. I don't know.**  
13 Q Did you notify the president that you were  
14 going to be terminating Miss Keiter?  
15 **A I notified the president that I was bringing**  
16 **the personnel members in to terminate an employee.**  
17 Q You didn't identify it as Mrs. Keiter?  
18 **A I don't believe I did.**  
19 Q He didn't ask?  
20 **A I can't recall.**  
21 Q Now, on the termination notice, which is  
22 plaintiff's exhibit 36, typed at the bottom, bold  
23 print, big letters, the employee's advised of the  
24 ability to appeal this termination to the personnel  
25 committee?

1 (Pause.)  
2 (The Judge left the bench.)  
3 (Pause.)  
4 (A deputy sheriff entered the courtroom.)  
5 THE COURT: Do you have some help?  
6 A DEPUTY SHERIFF: How many do I need?  
7 (More deputy sheriffs entered the courtroom.)  
8 THE COURT: Escort this gentleman off the  
9 witness stand.  
10 A DEPUTY SHERIFF: All right. Come on, sir.  
11 THE COURT: Now -- right here.  
12 Let me just tell you, fella, you do not sit in  
13 the witness chair in my courtroom and glare at me with  
14 the contempt that you had in your face towards this  
15 Court. That just does not happen.  
16 Now, deputies, I want you to take him for a  
17 little walk. Show him the basement cells, so he'll  
18 understand where he'll be if he engages in this kind  
19 of disrespect in this courtroom again.  
20 We're gonna go to lunch now.  
21 Do you understand me, Mr. Kraska?  
22 THE WITNESS: Yes, sir.  
23 THE COURT: Good.  
24 Deputies, take him for a walk.  
25 A DEPUTY SHERIFF: Follow me.

1 **A Yes.**  
2 Q You put that on there?  
3 **A I did.**  
4 Q You believe -- you also believed that Mrs.  
5 Keiter had the right, did you not, if the personnel  
6 committee voted against her, to appeal that decision  
7 to the board?  
8 **A No.**  
9 Q Oh, you didn't.  
10 (Pause.)  
11 THE COURT: Can I help you?  
12 Don't you dare sit there and stare at me.  
13 MR. THOMAS: Can we take a break, Your Honor?  
14 THE COURT: Pardon me?  
15 MR. THOMAS: Can we take a break?  
16 THE COURT: No. We got the sheriff coming in  
17 about 30 seconds.  
18 MR. STROKOFF: I'm sorry, Your Honor --  
19 THE COURT: No. Don't -- don't go any  
20 further.  
21 BY MR. STROKOFF:  
22 Q Sir, do you remember --  
23 THE COURT: Mr. Strokoff --  
24 MR. STROKOFF: I'm sorry.  
25 THE COURT: -- do not go any further.

1 (Mr. Kraska was escorted from the courtroom.)  
2 THE COURT: Joe, that alarm did not work. Get  
3 it fixed immediately.  
4 A SECURITY OFFICER: All right, sir.  
5 THE COURT: Thank you.  
6 We will be in recess until after lunch. I'll  
7 see counsels in my chamber at about quarter after one.  
8 Thank you.  
9 MR. THOMAS: Thank you, Your Honor.  
10 (The Court took a recess.)  
11 AFTER RECESS  
12 THE COURT: Good afternoon, everyone.  
13 MR. THOMAS: Good afternoon, Your Honor.  
14 THE COURT: All right. Prior to convening  
15 this afternoon, the Court had a brief conference in  
16 chambers with counsel. We discussed the morning's  
17 events.  
18 Mr. Thomas had indicated that he wanted to put  
19 a motion of record before we got started this  
20 afternoon.  
21 Mr. Thomas.  
22 MR. THOMAS: Thank you, Your Honor.  
23 In view of this morning's events, Your Honor,  
24 and the witness on the stand was an important witness  
25 for the defense, the witness who actually made the



1 decision to terminate Miss Keiter, there obviously was  
2 an exchange. The witness was removed from the court  
3 by three deputy sheriffs and given a tour of the jail  
4 facilities in the courthouse.

5 In view of those facts in this nonjury trial,  
6 I feel compelled on behalf of my client to  
7 respectfully request a mistrial in this matter at this  
8 time, and that the matter be reassigned to another  
9 jurist for retrial.

10 THE COURT: Thank you.

11 Mr. Strokoff.

12 MR. STROKOFF: Your Honor, we would oppose the  
13 motion. We don't believe that the Defense should  
14 benefit from what I would regard as misconduct by a  
15 witness, but not of a serious enough level to create  
16 the kind of lasting impression in the trial judge's  
17 mind in respect to making a determination in this  
18 matter.

19 We don't believe that the defendant should  
20 benefit from the incident this morning.

21 THE COURT: Well, as we expressed to counsels,  
22 it is -- it was unfortunate that we had that  
23 circumstance arise. Possibly, Mr. Kraska was just  
24 having an aberrant moment or something of that nature.  
25 We didn't think it arose to the level of holding him

1 (The witness resumed the witness stand.)

2 THE CLERK: Sir, you are still under oath.

3 THE WITNESS: Thank you.

4 THE COURT: When we were last together, the  
5 witness was still being examined as on cross by you,  
6 Mr. Strokoff, so you can resume that.

7 MR. STROKOFF: Thank you, Your Honor.

8 With the Court's permission, I would like to  
9 show the witness page 56, lines 21 through 24, of the  
10 deposition which he gave on May 25 of 2010.

11 MR. THOMAS: I'm sorry, which page?

12 MR. STROKOFF: Page 56, lines 21 through 24.

13 THE COURT: 56, lines 21 through 24.

14 This was given when, sir?

15 MR. STROKOFF: May 25, 2010.

16 THE COURT: Thank you.

17 Do you want to approach the witness and give  
18 him that?

19 MR. STROKOFF: Thank you, Your Honor.

20 BY MR. STROKOFF:

21 Q Mr. Kraska, if you would, please, read lines  
22 -- to yourself, lines 21 through 24 of the deposition  
23 which you previously gave on May 25, 2010.

24 THE COURT: If you need to read earlier or  
25 later in the transcript so that it gives some

1 in criminal contempt, but we did think that it was of  
2 a significant enough circumstance that we ought to  
3 have the benefit of having a discussion with law  
4 enforcement and maybe a tour of the courthouse  
5 facilities, so that he didn't get himself in any  
6 deeper situation.

7 We harbor no ill will against Mr. Kraska. The  
8 facts of this case are going to be the facts of the  
9 case, and that's how the matter will come out.

10 Under the circumstances, this Court has no  
11 doubt that we can separate the wheat from the chaff,  
12 so to speak, and make a decision in this case based on  
13 the facts and the evidence and any reasonable  
14 inferences drawn from the evidence.

15 We would not be persuaded in any respect with  
16 regards to Mr. Kraska's unfortunate demeanor. We have  
17 every reason to believe that he will conduct himself  
18 appropriately going forward. And so, therefore, under  
19 that circumstance, we think that the matter can  
20 proceed.

21 Your objection is noted, Mr. Thomas, for the  
22 record, but the Court is constrained to deny it.

23 MR. THOMAS: Thank you very much, Your Honor.

24 I will obtain the witness and we will resume.

25 THE COURT: All right. Thank you.

1 contextual meeting to what you are reading on line 21  
2 to 24, you can do that to a reasonable degree,  
3 Mr. Kraska.

4 BY MR. STROKOFF:

5 Q Sir, did you have the opportunity to refresh  
6 your memory with respect to that testimony?

7 A Yes.

8 Q And do you agree, sir, that at that time you  
9 did refer to the second appeal which my client had to  
10 go to the full board?

11 A Yes.

12 Q But today you earlier testified that you  
13 didn't think that she had that right?

14 A No.

15 Q Have you read any documents or anything  
16 between May 25, 2010 and today that has caused you to  
17 change your mind?

18 A I believe I mistook on that, only because in  
19 our personnel manual it did say that the personnel  
20 committee's decision was final. And also, previously,  
21 another employer was just discharged by myself,  
22 attempted to appeal to the board and the board refused  
23 to listen to that appeal because the personnel  
24 committee's findings -- the personnel committee's  
25 findings were final.

1 Q When you refer to the policy, you are  
2 referring to the blue book?  
3 A That is correct.  
4 Q May I have the deposition back.  
5 If you would, sir, could you turn to  
6 plaintiff's exhibit 19?  
7 Q Do you have it, sir?  
8 A Yes.  
9 Q Are you able to identify that for us?  
10 A The results of the truck raffle.  
11 Q This is a document that you prepared?  
12 A Yes.  
13 Q This was the truck raffle that was held in  
14 September of 2002?  
15 A Yes.  
16 Q May I ask you, please, to turn to exhibit No.  
17 21. Are you familiar with that document?  
18 A Yes.  
19 Q And was this an incident report that  
20 Mrs. Keiter gave to you on or about November 6, 2002?  
21 A Yes.  
22 Q It concerns her scheduling?  
23 A (No response.)  
24 Q I should say the scheduling of EMTs?  
25 A Yes.

1 Q Can you tell us briefly what your educational  
2 background is?  
3 A Went to Harrisburg Area Community College,  
4 allied health paramedic program. Also hold a  
5 bachelor's degree in organizational communication and  
6 leadership from Duquesne.  
7 Q What year did you get the BS from Duquesne?  
8 A I believe it was '06.  
9 Q How about your experience in the field of  
10 emergency medical service?  
11 A I have been an emergency services provider for  
12 29 years.  
13 Q Have you worked for various companies?  
14 A Yes, I have.  
15 Q Can you name a few of the companies that you  
16 have worked for?  
17 A Prior life team was Harrisburg River Rescue,  
18 Capital Region EMS, Community Life Team, South Central  
19 EMS, Polyclinic Medic 5.  
20 Q What types of positions have you held with  
21 those various EMS companies?  
22 A I have been a staff medic; I have been a  
23 charge medic; shift supervisor; and, of course,  
24 director of services.  
25 Q Are you the individual that made the decision

1 Q And could you please go to plaintiff's exhibit  
2 25. Do you have plaintiff's exhibit 25?  
3 A Yes.  
4 Q That's an incident report dated November 7,  
5 2002?  
6 A Yes.  
7 Q And that was -- that concerns, among other  
8 things on the attachment, a discussion that my client  
9 alleged she had with you on November 12, 2002; isn't  
10 that correct?  
11 A That is correct.  
12 Q Could you tell us whether or not this incident  
13 report that she filed was shared with any member of  
14 the personnel committee by you?  
15 A I don't recall.  
16 MR. STROKOFF: Pass the witness, Your Honor.  
17 THE COURT: Okay, Mr. Thomas.  
18 MR. THOMAS: Thank you, Your Honor.  
19 EXAMINATION  
20 BY MR. THOMAS:  
21 Q Mr. Kraska, I would like to get a little  
22 background on you, if we could, please.  
23 You were the director of operations of Medic 6  
24 in January 2003, correct?  
25 A Yes.

1 to terminate Sheila Keiter?  
2 A Yes, I was.  
3 Q Before January of 2003, when she was  
4 terminated, had there been other issues with Miss  
5 Keiter's job performance?  
6 A Yes.  
7 Q Do you recall, without looking at the  
8 documents, when that -- when the first event was?  
9 A With me or --  
10 Q The first one -- you were familiar with her  
11 personnel file? You were familiar with her personnel  
12 file, were you not?  
13 A Yes.  
14 Q And did you refer to the personnel file at the  
15 time you made the decision to terminate her?  
16 A Yes, I did.  
17 Q While Stephanie is locating that one, let's  
18 jump ahead for one moment.  
19 Let me ask you to look at what has been marked  
20 as defendant's exhibit No. 4.  
21 Do you recognize what has been marked as  
22 defendant's exhibit No. 4?  
23 A Yes, I do.  
24 Q Can you identify that for the record, please?  
25 A It is a note regarding a meeting with Sheila

1 Keiter.

2 Q Who prepared that note?

3 A I did.

4 Q Can you explain to the Court what the  
5 background of it was and what the date of it was?

6 A It is dated November the 9th, 2002. It was  
7 regarding incident reports that were being filed and  
8 the yellow copies. There was a three-part form. The  
9 yellow copies were missing from the submissions.

10 Q Was there something incorrect about that?

11 A Yes, because the whole incident report is  
12 supposed to be filed with the director of services.

13 Q What does the director of services do with it?

14 A Well obviously, or, excuse me, I investigate  
15 the incident that is being reported and make a  
16 determination whether actions need to be done.

17 Q Had Sheila been previously criticized for  
18 violating the chain of command?

19 A Yes.

20 Q Were you aware of that when you prepared this  
21 memo of November 9, 2002?

22 A Yes.

23 Q Would you read for me the next to last  
24 paragraph, slowly, of defendant's exhibit No. 4, so  
25 the court reporter can get it of record?

1 A The next to the last?

2 Q Starting, I noted?

3 A I noted that the incident report concerning --

4 Q Slowly, slowly.

5 A I noted to her that in her incident report  
6 concerning Jim was handled in the same manner. I  
7 informed her that my position is that she was  
8 attempting to circumvent the chain of command. She  
9 stated, quote, No, I just thought the personnel  
10 committee should know what's going on, unquote.

11 I advised her that she'd been involved in a  
12 similar episode prior to my appointment as director of  
13 services. I told her that I would not tolerate  
14 circumventing the chain of command.

15 Q Thank you.

16 Why did you believe that the procedure she was  
17 following was an attempt to circumvent the chain of  
18 command?

19 A She was taking the yellow copies and she was  
20 submitting them to the personnel committee, which is  
21 out of the chain of command.

22 Q I will show you what we have marked as  
23 defendant's exhibit No. 5, and ask you to take a  
24 moment and review that.

25 A (Witness complies.)

1 Okay.

2 Q Have you reviewed that?

3 A Yes.

4 Q And the date on that memorandum was what?

5 A December 3, 2002.

6 Q Who prepared it?

7 A I did.

8 Q This was about a month after the one we just  
9 reviewed marked defendant's exhibit No. 4, correct?

10 A That is correct.

11 Q This is a little more than a month before you  
12 made the decision to terminate her; is that correct?

13 A That is correct.

14 Q What is the background behind this memorandum?

15 A She was at this point making a complaint  
16 regarding one of my shift supervisors and also  
17 scheduling matters which was being handled by my  
18 scheduling coordinator.

19 Q And had you made a decision or provided an  
20 instruction to the shift supervisor with regard to  
21 Sheila Keiter's schedule?

22 A I had instructed the scheduling coordinator to  
23 restrict her hours.

24 Q Why did you do that?

25 A In so much as the fact that we have PRN

1 employees, we have the flexibility to schedule those  
2 employees whenever we want, however we see fit. As  
3 director of services, that is my job. When I feel  
4 that the employee is not beneficial to the  
5 organization, then I can control their involvement  
6 with the organization through the schedule.

7 Q Was her conduct as documented in November and  
8 earlier, such that you decided to restrict the number  
9 of hours that Sheila was receiving?

10 A Yes.

11 Q Was there any other reason why you restricted  
12 her schedule?

13 A No.

14 Q You make a note in the last paragraph, which  
15 I've highlighted. Will you read that for the record,  
16 please?

17 A However -- is that the December 3rd?

18 Q Yes. Starts, "interference?"

19 A Interference with her duties as an employee  
20 and board member were a disruption to staff. She  
21 needed to monitor herself and her actions as an  
22 employee. She was advised that some fellow employees  
23 were concerned for their welfare when they are being  
24 scheduled with her.

25 Q Is that something she was informed of on

1 December 3, 2002, by you?

2 **A Yes.**

3 **Q** Tell us how the incident of January 20, 2003,  
4 first came to your attention?

5 **A Jill Halterman had called me and provided**  
6 **information that she received from a couple of the**  
7 **providers at the Lykens station that Sheila was making**  
8 **threats towards her regarding her position at Medic 6.**

9 **Q** Did you, at the time you received that report  
10 from Miss Halterman, create a file memorandum for the  
11 personnel file of Miss Keiter?

12 **A Yes.**

13 **Q** I placed in front of you defense exhibit  
14 No. 6. Can you identify that for the record?

15 **A It is a memo regarding this -- for the file,**  
16 **regarding this incident.**

17 **Q** I think you testified earlier on direct that  
18 as a result of that, you asked Miss Halterman to  
19 actually prepare an incident report, correct?

20 **A That is correct.**

21 **Q** I placed in front of you defendant's exhibit  
22 No. 7. Can you identify that for the record, please.

23 **A It would be the incident report from Jill**  
24 **Halterman regarding the incident involving Sheila.**

25 **Q** I believe you then started a formal

1 **is a board member or whether she is an employee. At**  
2 **this point, she had no real basis, you know, to make**  
3 **that kind of a threat, or authority.**

4 **Q** As a manager and director of operations, was  
5 that something that you considered to be of  
6 significance?

7 **A Yes.**

8 **Q** Let me put in front of you exhibit No. 9 and  
9 ask you to identify that for the record, please.

10 **A This is an incident report by Jackie Dougherty**  
11 **detailing the incident with Sheila.**

12 **Q** Did you have any hand in the preparation of  
13 this document?

14 **A No.**

15 **Q** So it was prepared by Jackie Dougherty and  
16 submitted to you as part of your investigation,  
17 correct?

18 **A That is correct.**

19 **Q** On the second page of this document, I have  
20 highlighted a portion of it which is in quotes. Can  
21 you read that for the record, please?

22 **A I am going to get Jill fired.**

23 **Q** Who chose that specific language?

24 **THE COURT:** Do you want to read that again,  
25 because that is not what I read.

1 investigation of the complaint that you had received  
2 from Jill Halterman, correct?

3 **A That is correct.**

4 **Q** Was one of the first things you did was the  
5 calling of Jackie Dougherty?

6 **A Yes.**

7 **Q** I place in front of you defendant's No. 8.  
8 Can you identify that for the record?

9 **A That is a memo regarding my, me calling --**  
10 **excuse me. It's a memo stating that I called Jackie**  
11 **Dougherty and that she would stop by the station to**  
12 **fill out an incident report.**

13 **Q** What information did you get from your  
14 conversation with Jackie Dougherty?

15 **A Jackie had stated to me that, if I'm correct,**  
16 **that the three employees that were at the station were**  
17 **engaged in a totally different conversation. Sheila**  
18 **had reported for work and then entered into the**  
19 **conversation, not knowing what the conversation was**  
20 **about, and started making comments regarding Jill, her**  
21 **job performance, lack thereof, and if she had her way**  
22 **that she would be fired.**

23 **Q** What's the significance of that?

24 **A Again, that's another threat towards another**  
25 **employee. It is confusing the employees whether she**

1 **MR. THOMAS:** Okay.

2 **BY MR. THOMAS:**

3 **Q** Can you read that again and read it slowly?

4 **A I am going to try to get Jill fired.**

5 **Q** Who chose that language?

6 **THE COURT:** "To try," didn't come through the  
7 first time.

8 **BY MR. THOMAS:**

9 **Q** Who chose that language?

10 **A That was Jackie's words to me.**

11 **Q** Did Jackie prepare this document?

12 **A I'm sorry, that was Jackie's quotes of Sheila.**  
13 **I'm sorry.**

14 **Q** Jackie prepared the document?

15 **A Yes.**

16 **Q** She placed that language in quotes, correct?

17 **A Yes.**

18 **Q** That was information that was provided to you?

19 **A Yes.**

20 **Q** In addition to the incident report that you  
21 received from Jackie Dougherty, you also had a couple  
22 of conversations with her, correct?

23 **A That's correct.**

24 **Q** Let me put in front of you defendant's exhibit  
25 No. 10, and ask if you can identify that for the

1 record, please.

2 **A This is a follow-up note of the January 21,**  
3 **2003 conversation with Jackie Dougherty regarding the**  
4 **incident with Sheila.**

5 Q Are you always this careful in documenting  
6 investigations, sir?

7 **A Always.**

8 Q Was there anything unusual about the  
9 documentation and recording of these documents? Did  
10 you do it for any specific reason or ulterior motive  
11 with respect to this complaint against Miss Keiter?

12 **A Other than to properly document the incident,**  
13 **no.**

14 Q I place in front of you defendant's exhibit  
15 No. 11, and ask you to identify that for the record.

16 **A This is a memo of January 21, 2003, regarding**  
17 **a phone call I received from Dennis Smith.**

18 Q How many phone conversations did you have with  
19 Mr. Smith?

20 **A I believe I had two conversations with him.**

21 Q I place in front of you defendant's No. 12 and  
22 ask you to identify that for the record, please.

23 **A That's a follow-up note, again, phone call**  
24 **from Dennis Smith at my request.**

25 Q And I note in the second paragraph of that

1 **A This is an e-mail from Dennis Smith detailing**  
2 **as an incident report form because he was not**  
3 **available in Pennsylvania. He was in Florida at the**  
4 **time.**

5 Q I've highlighted a portion of his e-mail.  
6 Will you read that slowly for the record, please?

7 **A Sheila replied no. I reported it to the**  
8 **board. I am one of her bosses, being that I am on the**  
9 **board just like the other board members are her**  
10 **bosses.**

11 Q The word is relied. I think it should be  
12 replied?

13 **A I replied to her to say you should have**  
14 **reported it to Mike Kraska. She works for him. If**  
15 **you have a problem with what she was doing or not**  
16 **doing at the time, maybe she was just taking a break.**  
17 **Sheila replied, No, I will report to the board and**  
18 **keep reporting her to the board.**

19 Q Was that information that he had conveyed to  
20 you in a previous telephone call before he submitted  
21 this written e-mail?

22 **A Yes.**

23 Q What is significant about that information?

24 **A It clearly demonstrates that Sheila was**  
25 **attempting to circumvent the chain of command.**

1 exhibit that you are asking him specifically about  
2 whether there was a conversation or who initiated the  
3 conversation with respect to Jill Halterman. Do you  
4 see that language?

5 **A Yes.**

6 Q Why were you asking questions about that?

7 **A I wanted to know what the conversation was**  
8 **about that started the whole thing.**

9 **Dennis had indicated that they have talking**  
10 **about a former employee of the organizations who no**  
11 **longer work there and that it had nothing to do with**  
12 **what Sheila was even commenting about later.**

13 Q Now, I know you made a decision to terminate  
14 Sheila Keiter and we will deal with that in a moment.

15 After the actual decision you continued to  
16 investigate, did you not?

17 **A That is correct.**

18 Q And, in fact, you then had -- you had a  
19 conversation, I believe, with Mr. Smith, but you asked  
20 him to submit his recollection in writing; is that  
21 fair?

22 **A That's correct.**

23 Q Let me show you what has been marked as  
24 defendant's exhibit 13, and ask if you can identify  
25 that for the record?

1 Q That is something that you had reprimanded her  
2 for previously?

3 **A Yes.**

4 Q Just to sort of complete where we are, I am  
5 going to show you what is marked defendant's exhibit  
6 No. 14, and ask you to identify that for the record,  
7 please.

8 **A This is a memo regarding conversation between**  
9 **myself and Troy O'Neil. It is dated Saturday, January**  
10 **25, 2003.**

11 Q You prepared that memo?

12 **A Yes, I did.**

13 Q And that is a true and accurate copy of it?

14 **A Yes, it is.**

15 Q You had a meeting with Miss Keiter, correct?

16 **A Yes, I did.**

17 Q And you had received the information from  
18 Jackie Dougherty, Jill Halterman, Ken Smith and Mr.  
19 O'Neil, with respect to this incident, right?

20 **A Yes.**

21 Q You pretty much made up your mind that she was  
22 going to be terminated, correct?

23 **A That is correct.**

24 Q Did you make that decision on your own?

25 **A Yes, I did.**

1 Q Did you have the authority to hire and fire?  
 2 **A Yes, I did.**  
 3 Q Did you need anybody's approval in making  
 4 those decisions?  
 5 **A No, I did not.**  
 6 Q Will you identify defendant's exhibit No. 15  
 7 for us?  
 8 **A A memo dated January 21 regarding a meeting in**  
 9 **my office and that Don Fetterhoff and Elaine Henninger**  
 10 **were in attendance.**  
 11 Q And the meeting was with Sheila Keiter,  
 12 correct?  
 13 **A That's correct.**  
 14 Q That was to both ask her version and also  
 15 provide her with a termination notice if she didn't  
 16 give you a satisfactory one?  
 17 **A That's correct.**  
 18 Q Did you confront Miss Keiter with the  
 19 information you had received from the employees as  
 20 part of your investigation?  
 21 **A Yes, I did.**  
 22 Q What was her response?  
 23 **A She denied making those statements.**  
 24 Q You were asked some questions about the actual  
 25 termination. I show you what we've marked as

1 **yes.**  
 2 Q When you met with Miss Keiter, you had Don  
 3 Fetterhoff and Miss Henninger with you, correct?  
 4 **A Yes.**  
 5 Q And do I understand that was because she was  
 6 -- Miss Keiter was both an employee and a board  
 7 member?  
 8 **A That is correct.**  
 9 Q If she had not been a board member, would you  
 10 have had a representative of the personnel committee  
 11 present?  
 12 **A No.**  
 13 Q What role, if any, did the board members have  
 14 in your decision to terminate Miss Keiter?  
 15 **A None.**  
 16 Q Did you receive any instruction or influence  
 17 from the board with respect to that decision?  
 18 **A No.**  
 19 Q After she filed her appeal to the personnel  
 20 committee, did you have any further involvement?  
 21 **A No, I did not. Other than to report -- give**  
 22 **everything over to the personnel committee.**  
 23 Q So you did provide the memos and documentation  
 24 which had been created and provided them with a report  
 25 of the decision you made; is that fair?

1 defendant's exhibit No. 16, and ask you to identify  
 2 that for the record.  
 3 **A That's the termination notice for Sheila.**  
 4 Q That was delivered to her on the day of this  
 5 meeting on January 21, correct?  
 6 **A That is correct.**  
 7 Q At about 5:40 in the afternoon?  
 8 **A That's correct.**  
 9 Q And at the bottom in all caps the termination  
 10 notice advises that she has a right of appeal to the  
 11 personnel committee, correct?  
 12 **A That is correct.**  
 13 Q Why did you advise her that she had a right of  
 14 appeal to the personnel committee?  
 15 **A Because that is what is in the employee**  
 16 **handbook.**  
 17 Q Meaning the blue book?  
 18 **A The blue book.**  
 19 Q Was the blue book treated as the applicable  
 20 manual at Medic 6 in this time frame?  
 21 **A Yes, it was.**  
 22 Q Do you know who prepared the blue book?  
 23 **A Dave Drumheller.**  
 24 Q Had it been distributed to the employees?  
 25 **A During his employment as director of services,**

1 **A Yes.**  
 2 Q There has been some reference during the  
 3 course of this trial to the truck raffle. In fact,  
 4 you were asked to identify an exhibit that you  
 5 prepared. Do you recall that testimony?  
 6 **A Yes, I do.**  
 7 Q Can you tell us, in your judgment, why there  
 8 were problems with the truck raffle, if there were?  
 9 **A The truck raffle started prior to my**  
 10 **employment as director of services. It was -- I don't**  
 11 **want to say -- coordinated by a gentleman by the name**  
 12 **of Eric Lawrence, who had a sponsor. I believe it was**  
 13 **the I.O. Silver Foundation.**  
 14 Q Out of Hershey?  
 15 **A Out of Hershey. They wanted to do a truck**  
 16 **raffle for Medic 6. Sometime after being head of**  
 17 **director of services for Medic 6, I noted that there**  
 18 **was money out of a cash box. We reported that to**  
 19 **appropriate authorities. There was obviously problems**  
 20 **with the truck raffle at that time.**  
 21 Q There was earlier testimony in this indicating  
 22 that the money that was missing was approximately  
 23 \$480, as I remember the testimony. Does that sound  
 24 like the appropriate magnitude of what was missing?  
 25 **A That sounds about right.**

1 Q Was that money ever located?

2 **A To my knowledge, no, it was not.**

3 Q You have been involved in the EMS industry for

4 a long time, sir?

5 **A Yes, sir.**

6 Q Are you generally familiar with the

7 availability of employment for EMTs in the community?

8 **A Yes, I am.**

9 Q And from the time frame 2003 through 2007,

10 were there generally EMT jobs available at various

11 companies?

12 **A Yes.**

13 Q Can you tell us a few of the companies that

14 would have had EMT jobs available during that time

15 frame?

16 MR. STROKOFF: Objection.

17 THE COURT: Nature?

18 MR. STROKOFF: It is speculating, "would have

19 had."

20 THE COURT: All right, sustained. You want to

21 try it again?

22 MR. THOMAS: Yes, Your Honor.

23 BY MR. THOMAS:

24 Q Were there jobs available for EMTs in the

25 central Pennsylvania area in the period 2003 through

1 **A South Central EMS?**

2 Q Yeah.

3 **A It is a company that services Lower Paxton,**

4 **West Hanover and East and South Hanover.**

5 Q And university hospital is what?

6 **A Hershey, Palmyra.**

7 Q West Shore?

8 **A Perry County, the west shore.**

9 Q You said Americus out of Sunbury?

10 **A A nonprofit that ran BLS.**

11 Q And Susquehanna Township, is that Dauphin

12 County?

13 **A That's right.**

14 Q Sir, I would like to go back over some of

15 these defendant exhibits that Mr. Thomas had you

16 identity. The first one is going to be defendant's

17 exhibit 3.

18 MR. THOMAS: I don't think there was any

19 testimony about defendant's exhibit 3, since I

20 couldn't locate it.

21 BY MR. STROKOFF:

22 Q Well, let me ask you to take a look at

23 defendant's exhibit 3, because I testified to a prior

24 incident involving a director of services before you,

25 and ask if that is the incident you are referring to?

1 2007, of your personal knowledge?

2 **A Yes.**

3 Q Can you give us the name of some of those

4 companies that you know were actively recruiting EMTs

5 during that time?

6 **A South Central, University Hospital EMS, West**

7 **Shore EMS, I think it's Americus out of Sunbury,**

8 **Susquehanna Township EMS.**

9 Q Are you familiar with the rates of pay for an

10 EMT during that time period?

11 **A If I'm correct, that you can start out from**

12 **8.50 an hour to almost \$11 an hour.**

13 Q Would your answer to those questions be the

14 same if I expanded the time frame to 2006 and 2007?

15 **A Yes.**

16 Q EMT jobs are not hard to come by, are they?

17 **A No. In fact, she probably could go to an**

18 **emergency department and work as an emergency room**

19 **tech. They usually hire EMTs.**

20 MR. THOMAS: That's all I have, Your Honor.

21 THE COURT: Mr. Strokkoff.

22 MR. STROKOFF: Thank you.

23 FURTHER EXAMINATION AS ON CROSS

24 BY MR. STROKOFF:

25 Q South central is what, sir?

1 **A I don't have the exhibit in front of me.**

2 Q That would make it extremely difficult.

3 MR. STROKOFF: May I pass it up?

4 THE COURT: Yeah, sure.

5 BY MR. STROKOFF:

6 Q Sir, is defendant's exhibit No. 3, the prior

7 incident involving chain of command that you were

8 referring to?

9 **A That is correct.**

10 Q Now, Defendant's exhibit 4 is yours; is that

11 correct?

12 **A That is correct.**

13 Q And at the very end of that it says, No formal

14 corrective action was necessary; isn't that correct?

15 **A That is correct.**

16 Q And you are using that term as it is used in

17 the blue book; is that correct?

18 **A That is correct.**

19 Q The blue book is found as plaintiff's exhibit

20 No. 4 in the looseleaf book and I would ask you to

21 turn to page 20 of the blue book, which is plaintiff's

22 exhibit 4.

23 Does that not set forth the four steps of

24 corrective action: Verbal warning, written warning,

25 suspension, termination?

1 **A That is correct.**  
 2 Q And you said in defendant's 4, that no  
 3 corrective action was necessary?  
 4 **A That is correct.**  
 5 Q You also said in 4, if we go up to the third  
 6 paragraph, where you talk about incident reports, you  
 7 instructed her to file incident reports. Then you say  
 8 later on in the third line, quote, I must forward  
 9 these reports to the personnel committee after I have  
 10 reviewed and signed them.  
 11 **A That's correct.**  
 12 Q So that was the process, right?  
 13 **A That's correct.**  
 14 Q So why are you unable to tell us whether or  
 15 not you forwarded plaintiff's exhibit No. 25, which  
 16 was her incident report concerning a discussion she  
 17 had with you on November 12, 2002, to the personnel  
 18 committee?  
 19 **A I believe because I didn't have the yellow**  
 20 **copy.**  
 21 Q Do you have plaintiff's exhibit No. 25?  
 22 THE COURT: What's the number?  
 23 MR. STROKOFF: 25.  
 24 BY MR. STROKOFF:  
 25 Q Defendant's exhibit 4 refers to her incident

1 performance?  
 2 **A Let's clarify job performance. Job**  
 3 **performance meaning her job as an EMT in the back of**  
 4 **an ambulance. That is what I meant by that. However,**  
 5 **the problem we were having, she was circumventing the**  
 6 **chain of command and continued to do so and I had to**  
 7 **put a stop to it.**  
 8 Q Again, you wrote at the end of this  
 9 defendant's exhibit No. 5, No formal action was  
 10 necessary?  
 11 **A That is correct.**  
 12 Q Had there been corrective action, then Mrs.  
 13 Keiter would have had the right to appeal that to the  
 14 personnel committee; isn't that correct?  
 15 **A That is correct.**  
 16 Q You can't appeal no formal corrective action;  
 17 isn't that correct?  
 18 **A That's correct.**  
 19 Q Just so we're clear, defendant's exhibit 10,  
 20 is dated -- I'm sorry, you wrote it up January 21,  
 21 2003 at 2030 hours?  
 22 **A That's correct.**  
 23 Q That was almost three hours after you had  
 24 terminated Mrs. Keiter?  
 25 **A That's correct.**

1 report of November 6. She then filed another incident  
 2 report, did she not, on November 27?  
 3 **A Yes.**  
 4 Q That is what plaintiff's 25 is; isn't that  
 5 correct?  
 6 **A Yes.**  
 7 Q She makes allegations against you in that  
 8 incident report, does she not?  
 9 **A She, I believe, was criticizing my use of the**  
 10 **schedule as a part of a corrective measure.**  
 11 Q Which you have testified here today, you were  
 12 using as part of the corrective measure?  
 13 **A Yes.**  
 14 Q Even though you wrote on your memos, No formal  
 15 corrective action was necessary?  
 16 **A Yes; however, as director of services, I may**  
 17 **determine who can work and not work. We are PRN**  
 18 **employees.**  
 19 Q Now, in your memo of December 5, I'm sorry  
 20 December 3, 2002, which is defendant's exhibit 5, on  
 21 the third paragraph, second line, quote -- you wrote,  
 22 quote, Sheila was told that her job performance was  
 23 not lacking, end quote.  
 24 So she was being punished on scheduling on  
 25 something that did not have to do with her job

1 Q And this report from Dennis Smith, which is  
 2 defendant's exhibit No. 13, that's about three days  
 3 after you terminated Mrs. Keiter?  
 4 **A That's correct.**  
 5 Q And defendant's exhibit 14 is four days after  
 6 you terminated Mrs. Keiter?  
 7 **A That's correct.**  
 8 **MR. STROKOFF: Pass the witness.**  
 9 MR. THOMAS: Nothing further, Your Honor.  
 10 THE COURT: I have no questions. You may step  
 11 down, sir, thank you.  
 12 MR. THOMAS: May I escort the witness out,  
 13 Your Honor?  
 14 THE COURT: Sure.  
 15 MR. STROKOFF: Your Honor, may I have five  
 16 minutes?  
 17 THE COURT: Let's take a little recess.  
 18 (The Court took a recess.)  
 19 (The testimony of Michael Kraska was  
 20 completed.)  
 21  
 22  
 23  
 24  
 25



1 **JANUARY 30, 2013**

2 **VERDICT**

3 THE COURT: To say this has been a troublesome  
4 case since we first had contact with it would be an  
5 understatement.

6 I think I will address some of this stuff -- I  
7 hope I don't intermix it too much that I lose you on  
8 this.

9 Although sitting as the finder of fact, I am  
10 not obliged to give you my rationale, I am  
11 nevertheless going to give you at least an overview of  
12 how I see some things.

13 Let's talk about the contract claim.

14 I do not find that the employment at will  
15 status of Mrs. Keiter was altered by the policies and  
16 procedures, bylaws, or anything else as it relates to  
17 the ability of the entity, Medic 6, Upper Dauphin  
18 County Emergency Services, Inc. -- we are going to  
19 talk about it as Medic 6.

20 However, I do find that the law supports her  
21 contention that because of the adoption of  
22 particularly policy No. 2 as it has been referred to,  
23 she did become entitled to a three-step process  
24 relating to employment; the final step of which could  
25 only be made, and determination be made, by the board

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1 of directors.

2 Nowhere in the record has anyone pointed to  
3 the amendment or revocation of policy No. 2 as being  
4 an officially adopted policy of Medic 6.

5 Now, although the individuals who from time to  
6 time were in charge of the operations of Medic 6, and  
7 maybe even some of the board members of that  
8 organizations, may have perceived what has been  
9 referred to as the blue book as being a substitute for  
10 the policies and procedures, that is not the case.

11 Indeed, there is some discussion periodically  
12 in those minutes which seem to suggest that they are  
13 -- they, the board, is grappling with how to integrate  
14 or handle the blue book within the operational and  
15 organizational context of Medic 6. It does not appear  
16 that they ever reached the point of finalization.  
17 And, by its own terms, it is a guide.

18 Indeed, it refers the reader to someplace else  
19 explicitly with regards to the actual standards of  
20 operation and other things within Medic 6.

21 So therefore, the question that resounded in  
22 the motions for non pros. that were proffered by the  
23 Defense earlier, and that is according to Medic 6's  
24 own process, did Mrs. Keiter receive the benefit of  
25 that process? The Court finds she did not.

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1 Now, had they given her the process and had we  
2 not had this whistleblower issue, the Court also finds  
3 they could have fired her, but that's not what  
4 happened.

5 So the Court finds that she was never properly  
6 terminated in the first instance, because it never got  
7 to go to the board, even though she specifically  
8 invoked what appears to be the appropriate citation  
9 for appeal to the board in her memorandum which flowed  
10 from her denial of her appeal to the personnel  
11 committee.

12 I think for the moment that takes care of the  
13 issue of the contract claim.

14 Now we turn to the whistleblower.

15 Mrs. Keiter had substantial public service to  
16 a political subdivision of this Commonwealth over a  
17 score of years, having served on the Jefferson  
18 Township Board of Supervisors. There was not one  
19 shred of anything negative brought forward about that  
20 service. We will therefore presume it was honorable  
21 and forthright.

22 But it also gave her, as evidenced by what  
23 happens with her interrelationship with Medic 6, a  
24 substantial background with regard to how  
25 organizations ought to be run and the finances of

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1 those organizations, especially when they involve  
2 public money.

3 Now, to say that there was a difference of  
4 perspective and approach as it relates to Mrs.  
5 Keiter's service both as a board member first and  
6 eventually an employee part-time to start with,  
7 full-time then, I think would -- of Medic 6, I think  
8 would be an understatement.

9 It is remarkable to the Court that someone  
10 such as Mrs. Keiter coming onto the scene of Medic 6  
11 as a board member and then an employee was able to get  
12 books and records for the late nineties and be able to  
13 reconcile them in a fashion that resulted in  
14 approximately \$147,000 of recoupment to the company,  
15 and that nobody on that board or in the administration  
16 of Medic 6 or its predecessor apparently had even  
17 tried to do that or even looked at it.

18 We are also impressed with the fact that as  
19 she became familiar with the finances and operations,  
20 such as they were, she became more concerned. And  
21 again, this brings into play her public service as a  
22 supervisor, indeed chairperson, at least for a period  
23 of time on the Jefferson Township Board of  
24 Supervisors.

25 Again, we harken back to what we said just a

1 little bit ago, she knows what right is as with  
2 regards to how to run an organization, both  
3 administratively and financially. So one would  
4 logically presume see can also recognize wrong.

5 The request for information to continue with  
6 the attempt to reconcile the expenses of Medic 6 and  
7 its operations and the limited amount of financial  
8 information that she had was reasonable and logical.

9 The stonewall that apparently began to develop  
10 was unreasonable and illogical, unless we factor in  
11 other matters. Chief among those matters was the  
12 disclosure to this Court of essentially a civil  
13 conspiracy, possibly a criminal conspiracy, between at  
14 least Mr. Kraska and his then spouse, and possibly the  
15 president of the board, to accord overtime wages to  
16 his spouse, who was an employee of the organization so  
17 as to mask that income. And the objective was to  
18 result in a lower perceived income for Mr. Kraska  
19 against which a child support obligation in this  
20 Commonwealth would be calculated.

21 When you distill all of that away, that is a  
22 conspiracy to commit a fraud upon the court, because  
23 that employment data would be submitted to the office  
24 of Domestic Relations, which is the direct  
25 representative of the court itself, for the purposes

1 meeting in which she makes very specific requests and  
2 she also makes other statements with regards to the  
3 finances of Medic 6.

4 Now, turning to the 18th of January, 2003, the  
5 Court looked very carefully at some of the memorandums  
6 and incident reports that -- and the e-mail from  
7 Mr. Smith in Florida, which he told the Court was  
8 either done on the 24th or the day before the 24th,  
9 the 23rd, but not more distant than that. Realizing,  
10 of course, that by that time it was two days past the  
11 time that Mrs. Keiter had been fired.

12 So we can only wonder what was the actual  
13 discussion between Mr. Kraska and Mr. Smith, who was a  
14 part-time employee at Medic 6 and therefore subject to  
15 Mr. Kraska's supervision.

16 There are several salient ifs, i-f, in those  
17 written documents that relate to the January 18, 2003  
18 incident.

19 The Court finds that Mrs. Keiter probably did  
20 make some comment about her perception of Miss  
21 Halterman not doing the job she was employed to do,  
22 but right in several of the exhibits, the recitation  
23 of what is alleged to have been said is conditional.  
24 It says, effectively, If I find her not doing her job,  
25 then I'm going to write her up. That's the Court's

1 of a computation of child support due and owing.

2 That is at best a criminal -- a civil  
3 conspiracy, and likely a criminal conspiracy as well.

4 When you look at the timing of Mr. Kraska's  
5 departure from Medic 6, and you look at the timing of  
6 the demands for the data on the financial information,  
7 particularly the expenses, particularly the overtime,  
8 it is no quantum leap to understand why it might not  
9 be a good idea for Mrs. Keiter to be getting her hands  
10 on the kind of information that she wanted to have to  
11 do her job as a member of the finance committee who  
12 had to make up a proposed budget for Medic 6 so that  
13 they could have a sound operational perspective going  
14 forward.

15 This is not rocket science.

16 Now, Mr. Kraska -- this was unrebutted, by the  
17 way, unrebutted. Mr. Kraska's conduct as charged by  
18 Mrs. Keiter of cutting her hours back and the quote  
19 that's contained in the memorandum, handwritten by  
20 Mrs. Keiter, indicating that from Mr. Kraska's own  
21 mouth the attribution as to why he was cutting her  
22 hours back was at least in significant part because of  
23 what she was saying as a board member at the meetings.  
24 Indeed, that very memorandum where she memorializes  
25 that, I believe, is the very next day after the board

1 distilled version of that.

2 The Court does not find that whatever  
3 commentary -- and it is muddled at best -- was being  
4 exchanged between Mrs. Keiter and only peripherally  
5 some, Mr. Smith and Mr. O'Neil -- excuse me, between  
6 Mr. Smith and Ms. Dougherty, and only peripherally,  
7 possibly, with Mr. O'Neil, but we don't have a report  
8 from him. It is curious to the Court as to why no  
9 report was procured from Mr. O'Neil. That is another  
10 missing witness.

11 But what we do have clearly persuades the  
12 Court that there is significant uncertainty with  
13 regards to what was exactly said by whom to whom with  
14 regards to Ms. Halterman's continued employment.

15 We need to stop for a moment and take a look  
16 at who is collecting this information, and it is Mr.  
17 Kraska.

18 There is no doubt in this court's mind that  
19 Mr. Kraska had likely already hatched his plan with  
20 regards to deferred overtime payment to his wife.  
21 Maybe not implemented it, but he certainly couldn't  
22 have the likes of Mrs. Keiter digging around in those  
23 books and records on an ongoing basis. It would have  
24 exposed the entire conspiracy.

25 We therefore find that the basis upon which

1 Mrs. Keiter was terminated by Mr. Kraska was  
 2 pretextual. It served a purpose and that was to  
 3 separate her and what she was about with regards to  
 4 the books and records from Medic 6.

5 We do not find that any explanation of that  
 6 from the Defendant is sufficient to overcome it.  
 7 Therefore, on the basis of the state Whistleblower  
 8 Act, we find in favor of the plaintiff.

9 Now, the Court is going to defer any  
 10 allocation of attorney's fees, expenses and costs and  
 11 any number with regards to a wage loss, both past and  
 12 all -- No, I don't see it now, although I will keep an  
 13 open mind to it, what is commonly called in these kind  
 14 of things, a front pay situation. I am not sure it  
 15 applies here, because she's already making at or  
 16 possibly more than she was making at the time,  
 17 although I haven't done the math to determine whether  
 18 or not raises and costs of living and all the rest of  
 19 that, where that would be.

20 Here's what I am going to do. At 10:00  
 21 tomorrow morning we are going to have a damages  
 22 hearing.

23 MR. STROKOFF: I am sorry?

24 THE COURT: At 10:00 tomorrow morning, we are  
 25 going to have a damages hearing and attorney's fees

1 hearing.

2 Now, the Court would certainly appreciate if  
 3 counsels for the parties could see whether or not they  
 4 could somehow reconcile some of this and to come to  
 5 some kind of an understanding of what's in play here,  
 6 possibly even agree that if the damages are to be  
 7 awarded it should be X. If the attorneys' fees should  
 8 be awarded, it should be Y.

9 And so, we will ask that the attorneys use  
 10 their good office to see whether or not you can narrow  
 11 or even bridge that for the Court, which will assist  
 12 us in that undertaking.

13 I also want to say that it is without a doubt  
 14 a pleasure to have two very experienced, prime, lead  
 15 attorneys with their very worthy colleagues, by the  
 16 way, involved in a case such as this where we kept the  
 17 focus of what was going on, notwithstanding your  
 18 rightful roles as advocates. Both of you did an  
 19 outstanding job and I mean that very sincerely.

20 In fact, the Court doesn't think we could have  
 21 asked anymore from you, either or both of you, than  
 22 the professional performance of your sworn duty than  
 23 what we saw in here for the last several days, which  
 24 is in keeping with your fine reputations as members of  
 25 the bar of this court and of this Commonwealth.

1           The preponderance of the evidence is the           04:13:51  
2 standard. I applied it. You now know my finding on       04:14:00  
3 it. And I will look forward to seeing you tomorrow       04:14:09  
4 morning.   04:14:13

5           MR. THOMAS: Thank you, Your Honor.               04:14:15

6           MR. STROKOFF: Thank you.                           04:14:16

7           THE COURT: Thank you.                               04:14:16

8           Mr. Rohland, we stand adjourned for the           04:14:17  
9 evening.   04:14:20

10           (The proceedings were concluded.)

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1 I hereby certify that the proceedings and evidence  
2 are contained fully and accurately in the notes taken by me on  
3 the hearing of the above cause, and that this is a correct  
4 transcript of the same.

5  
6  
7  
8  
9 \_\_\_\_\_  
10 Date

\_\_\_\_\_  
Nativa P. Wood, RDR  
Official Court Reporter

11  
12  
13  
14 The foregoing record of the proceedings upon the  
15 hearing of the above cause is hereby approved and directed to  
16 be filed.

17  
18  
19 \_\_\_\_\_  
20 Date

\_\_\_\_\_  
Lawrence F. Clark, Jr., Judge