

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

THE STATE EDUCATION DEPARTMENT
THE UNIVERSITY OF THE STATE OF NEW YORK

In the Matter of
NEW YORK CITY DEPARTMENT OF EDUCATION
v.
THEODORE SMITH
Section 3020-a Education Law Proceeding (File #5,432)

DATE: October 1, 2007
TIME: 10:04 a.m. to 11:15 a.m.
LOCATION: NYC Department of Education
Office of Legal Services
49-51 Chambers Street
New York, New York 10004
BEFORE: HOWARD EDELMAN, ESQ.
Hearing Officer
119 Andover Road
Rockville Center, NY 11570

Page 2001

1 Theodore Smith - 10-1-2007
 2 APPEARANCES:
 3 FOR THE COMPLAINANT:
 4 SUSAN JALOWSKI, ESQ., of Counsel
 MICHAEL BEST, ESQ.
 5 NYC Department of Education
 Office of Legal Services
 6 49-51 Chambers Street
 New York, New York 10004
 7 Telephone: (212) 374-6741
 8 FOR THE RESPONDENT:
 9 WILLIAM GERARD, ESQ.
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24

Page 2002

1 Theodore Smith - 10-1-2007
 2 INDEX OF PROCEEDINGS
 3 Closing Argument by Ms. Jalowski 2052
 4
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24

Page 2003

1 Theodore Smith - 10-1-2007
 2 THE HEARING OFFICER: Good
 3 morning. This is a proceeding in the Matter of
 4 the New York City Department of Education
 5 versus Theodore Smith, State Education file
 6 number 5,432.
 7 My name is Howard Edelman,
 8 the hearing officer, designated to hear and
 9 decide this dispute. I note that on behalf of
 10 the Department, Ms. Jalowski is present and she
 11 has just gone out front to see if Mr. Smith and
 12 his counsel, Mr. Gerard are here. And as soon
 13 as they come in we will begin the proceedings.
 14 Christine, you can stay off for a bit. Okay?
 15 THE REPORTER: Okay. I'll
 16 put you on pause.
 17 THE HEARING OFFICER: Thanks.
 18 (Off the record)
 19 THE HEARING OFFICER: Okay.
 20 We have Ms. Jalowski present, Mr. Smith present
 21 and Mr. Gerard present. So we are all here. I
 22 am in receipt of an e-mail communication
 23 between Mr. Gerard and what he intends to do,
 24 but let me ask him now, what arguments do you

Page 2004

1 Theodore Smith - 10-1-2007
 2 intend to make at this time?
 3 MR. GERARD: Well, I'm,
 4 the -- the position that we're taking in this
 5 matter is that if there is to be a -- a
 6 continuation of the hearing, that it should be
 7 a de novo hearing. And we've submitted some
 8 written material.
 9 THE HEARING OFFICER: I
 10 received it.
 11 MR. GERARD: And you have
 12 issued sort of a decision.
 13 THE HEARING OFFICER: Yes.
 14 MR. GERARD: Or ruling
 15 dealing with that. We're -- we're adhering
 16 essentially to the same position. I'm not
 17 intending to take the offer to, you know, to
 18 try to supplement the record. The -- the --
 19 the -- my feeling is from looking at the
 20 history of the matter and -- and the documents,
 21 as the incoming arbitrator, you may not be
 22 familiar with some of the things. You have
 23 indicated that you've read the -- the existing
 24 record.

Page 2005

1 Theodore Smith - 10-1-2007
 2 THE HEARING OFFICER:
 3 Correct.
 4 MR. GERARD: But there's also
 5 a number of things that sort of go a little bit
 6 outside the existing record which have an
 7 impact on our -- on our decision here, as well.
 8 So, we're -- we're making an appearance to --
 9 to put our position on the record and to supply
 10 some, you know, additional information. But
 11 basically it's -- it's our feeling that the --
 12 the -- the proceedings had thus far, really are
 13 so tainted and so defective that -- that they
 14 shouldn't play any role in this matter as and
 15 when it goes forward or if it goes forward.
 16 And that's for a number of reasons.
 17 One of the -- one of the
 18 difficult things here was the breakdown between
 19 Mr. Smith and his own attorney which surfaced
 20 in the form of the attorney making, what I
 21 believe, are unethical ex parte communications
 22 with both the arbitrator and the attorney for
 23 the City.
 24 You know people can debate

Page 2007

1 Theodore Smith - 10-1-2007
 2 resolution that would resolve not only the
 3 disciplinary case but would resolve the Federal
 4 lawsuit as well.
 5 And I'm in a difficult
 6 position here because I don't know, as the
 7 incoming attorney, I have a problem proceeding
 8 on this record, as well. The prior attorney,
 9 Mr. Kearney and -- and his firm has essentially
 10 refused to communicate with me. They refuse to
 11 supply the contents of their file to Mr. Smith.
 12 They then indicated that if I contacted them,
 13 they would cooperate with me. So, when I
 14 contacted them and asked them for records, I
 15 haven't heard back from them. The first thing
 16 I asked them for was records involving any stay
 17 that they claimed. I have --.
 18 THE HEARING OFFICER: A stay
 19 in the Federal proceeding or a stay in this
 20 proceeding?
 21 MR. GERARD: A stay in the
 22 Federal proceeding. I can supply for the
 23 parties here, this is one page, it's actually
 24 not a great copy. But this is one page of an

Page 2006

1 Theodore Smith - 10-1-2007
 2 whether the underlying situation occurred,
 3 whether his accusations, you know, were -- were
 4 accurate or inaccurate. But certainly the way
 5 of handling a problem with a client and this
 6 -- his problem with his client seems to have
 7 been largely fee generated. This was a case
 8 where the lawyer had a contingency fee
 9 arrangement involving a pending Federal case
 10 and he ended up handling the disciplinary
 11 matter as well.
 12 And, then, at some point
 13 during the disciplinary matter, he attempted to
 14 have the client accept a settlement. When the
 15 client wouldn't accept the settlement, we have
 16 a series of communications going back and forth
 17 between the lawyer and the client. Essentially
 18 since March at some point the lawyer was
 19 basically insisting that the client owed him,
 20 you know, some large amount of money, like
 21 fifty thousand dollars, when they had a
 22 contingency fee arrangement on the whole case.
 23 And was essentially pressuring him to accept an
 24 unfavorable, what he viewed as an unfavorable

Page 2008

1 Theodore Smith - 10-1-2007
 2 affirmation, which Mr. Kearney submitted to the
 3 Federal court in an application to be relieved
 4 as counsel. And if you look at paragraph
 5 twenty-three, in or around November '06
 6 however, upon motion by defendants, this
 7 honorable court decided over opposition and
 8 objection by Smith to stay the Federal action
 9 pending the outcome of the 3020 proceeding
 10 citing collateral estoppels concerns to a
 11 related problem of inconsistent judgments as
 12 well as concerns regarding judicial efficiency.
 13 Well, there was no contested
 14 motion in the Federal court. I went and
 15 checked the docket. There's no motion papers.
 16 There's no decision from the Judge.
 17 MS. JALOWSKI: Mr. Gerard,
 18 I'm sorry to interrupt, that's not true. I
 19 sent you -- I gave you an e-mail giving you the
 20 Judge's order that he refers to here. It was
 21 opposition and objection. There was no written
 22 motion. It was an oral objection when the
 23 Judge said she was staying the proceedings on
 24 her own.

3 (Pages 2005 to 2008)

Page 2009

1 Theodore Smith - 10-1-2007
 2 MR. GERARD: Well --.
 3 MS. JALOWSKI: So that is
 4 what happened and here, here it is.
 5 THE HEARING OFFICER: Hold
 6 on. I understand what Ms. Jalowski's saying,
 7 but I just don't want to get into a back and
 8 forth.
 9 MR. GERARD: Right.
 10 THE HEARING OFFICER: Just
 11 finish everything you have to say. I may have
 12 a question or two for you and then I'll let Ms.
 13 Jalowski --
 14 MR. GERARD: Sure.
 15 THE HEARING OFFICER: -- say
 16 whatever she wishes. Go ahead.
 17 MR. GERARD: The -- the
 18 document, which has now been provided.
 19 THE HEARING OFFICER: Right.
 20 MR. GERARD: It was never
 21 provided to me by Mr. Kearney. It was provided
 22 to me by the Department of Education and by the
 23 Federal court has now provided it to me.
 24 But -- and it's not an order. It's a letter.

Page 2011

1 Theodore Smith - 10-1-2007
 2 discussed. I understand that. But, and I have
 3 again a series of e-mails back and forth
 4 between the attorney and Mr. Smith where they
 5 were -- where they outlined a proposed
 6 settlement involving him taking a U-rating and
 7 a -- and a suspension for some period of time.
 8 And it would avoid termination, but it also
 9 involved withdrawing or settling the Federal
 10 action, as well.
 11 Now, the -- the curious thing
 12 that appears from this scenario and the series
 13 of correspondence, is that I don't know what
 14 provisions were made. Maybe Ms. Jalowski knows
 15 for paying Mr. Smith's attorney's fees as part
 16 of the settlement of the Federal action. And
 17 as part of the global settlement. Nowhere in
 18 any of the documents where Mr. Kearney
 19 communicates with Mr. Smith and offers him, and
 20 describes the terms of his settlement. Nowhere
 21 in those documents does he address the payment
 22 of the attorney's fees, which at that point
 23 were somewhat about fifty thousand or
 24 fifty-seven thousand dollars. And Mr. Smith

Page 2010

1 Theodore Smith - 10-1-2007
 2 I mean I -- I practice in Federal court. I
 3 know when -- when you write a letter and it's
 4 so-ordered at the bottom. This was not
 5 so-ordered. This was some kind of a, it
 6 appears to me to be some kind of a stipulation.
 7 Something that they sat down and discussed and
 8 agreed upon. And I have, you know, this was
 9 not disclosed to the client. It was presented
 10 to him at the time and subsequently as a
 11 contested written motion, which his attorneys
 12 allegedly opposed. And I have e-mails where
 13 they talk about attempting to lift the stay and
 14 that sort of thing. The whole thing appears to
 15 be somewhat of a sham in terms of how they were
 16 dealing with Mr. Smith.
 17 Then the -- the proceeding
 18 goes forward. The arbitration proceeding goes
 19 forward and there are settlement discussions,
 20 which I have no problem with. I've been an
 21 attorney for -- for twenty-five years. I've
 22 engaged in settlement discussions. You know,
 23 they're -- they're generally without prejudice
 24 and, you know, all kinds of things get

Page 2012

1 Theodore Smith - 10-1-2007
 2 had a contingency arrangement and the
 3 settlement at least on Mr. Smith's end, did not
 4 involve any monetary payment to him, no
 5 compensation for -- for settling the case or
 6 withdrawing the case. Now, I suspect that part
 7 of the settlement terms that were offered to
 8 Mr. Kearney by -- in either the Federal action
 9 or in this action or as -- as a joint offer was
 10 some payment of the attorney's compensation.
 11 MS. JALOWSKI: That's not
 12 correct.
 13 THE HEARING OFFICER: Let him
 14 finish.
 15 MR. GERARD: All right. Well
 16 I don't know because the prior attorney will
 17 not give me any documents, any notes, any
 18 correspondence.
 19 So, whatever occurred with
 20 the Federal court in terms of this stay, I
 21 haven't seen. It's not in the Court file.
 22 I've looked at the hard file and the E.C.F.
 23 file. The attorney won't give it to me. And
 24 it was only when Mr. Smith refused to accept

4 (Pages 2009 to 2012)

Page 2013

1 Theodore Smith - 10-1-2007
 2 the settlement, that the attorney then said
 3 well, you know, you owe me all this money now.
 4 I want you to sign this paper acknowledging you
 5 owe me all this money. So, you know, I don't
 6 know the answer because no one will give me the
 7 documents, or -- or provide me with the
 8 information that I need to kind of evaluate
 9 this.

10 But, it appears to me that
 11 they bought a Federal case. They somehow
 12 stipulated or agreed to stay discovery in the
 13 Federal case while this went forward. At some
 14 point during this the attorney soured on the
 15 case and on the client. His fees got up to an
 16 unmanageable amount and he wanted to bail in a
 17 way that would accomplish some -- cut his loses
 18 or -- or pay his attorney's fees. And I cannot
 19 get to the bottom of it yet. I may have to go
 20 to the ethics committee to obtain these
 21 documents and sort out what really happened
 22 here. But, what we have was a -- a breakdown
 23 between Mr. Smith and his attorney.

24 Now, at the point that this

Page 2015

1 Theodore Smith - 10-1-2007
 2 came into this building. Now, I've only been
 3 in here once with my client. That's this
 4 morning. We went through the metal detectors
 5 like everyone else. He wasn't passed through.
 6 He had to empty his pockets. He had to go
 7 through the metal detectors. His possessions
 8 had to go through the x-ray machine. So, first
 9 of all we know that it's not true that he was
 10 not being searched as he came in. So any --
 11 any -- any discussion or claim about this with
 12 the City is -- is -- is false.

13 But as a result apparently
 14 the City advised Mr. Kearney, well if you're so
 15 afraid of your own client or afraid of what
 16 you're client's going to do and the fact that
 17 he's not being searched, you know, bring it up
 18 with the arbitrator. Now, apparently there
 19 were.

20 MS. JALOWSKI: Mr. Gerard --.

21 THE HEARING OFFICER: No, no,
 22 let him just finish. You just finish.

23 MR. GERARD: Apparently, he,
 24 Mr. Kearney, then went to the arbitrator and

Page 2014

1 Theodore Smith - 10-1-2007
 2 breakdown occurred and we have all the e-mails
 3 where the attorney says in his e-mail, that if
 4 you don't go along with what I'm proposing,
 5 things are going to get ugly. That's a quote
 6 from Mr. Kearney's e-mail. That's an e-mail I
 7 think of May 8th or thereabouts. And it was
 8 May 10th that things got ugly.

9 THE HEARING OFFICER: That's
 10 May 10, '07?

11 MR. GERARD: Yeah.

12 THE HEARING OFFICER: Okay.
 13 Go ahead.

14 MR. GERARD: And what -- what
 15 Mr. Kearney apparently did was first went to
 16 the City. I don't know if he went to you or he
 17 went to someone else in your Department and
 18 made what we claim are untrue allegations about
 19 Mr. Smith being, about the security downstairs
 20 failing to search Mr. Smith when he enters this
 21 building. And he expressed apparently to the
 22 City that he was in fear of his own client
 23 because his own client was -- was going crazy.
 24 And was not subject to search downstairs, as we

Page 2016

1 Theodore Smith - 10-1-2007
 2 told him that Mr. Smith was threatening to you
 3 know beat him up and kill him. Now, these
 4 threats apparently occurred in February or
 5 March and they are now reported to the
 6 arbitrator in May, some two months later once
 7 the relationship of attorney/client broke down,
 8 because Mr. Smith would not accept the
 9 settlement.

10 So, here are these alleged
 11 threats that go unreported for two months. And
 12 then when the attorney/client relationship
 13 breaks down and the lawyer sends an e-mail to
 14 his client, saying if you don't go along with
 15 my recommendations here things are going to get
 16 ugly. The very next opportunity he goes to the
 17 arbitrator and tells him my client threatened
 18 to kill you.

19 Now, so here we have some ex
 20 parte communication that the client is not
 21 aware of. It's -- it's, even if it were true
 22 that this occurred, this is not an ethical way
 23 for any attorney to handle it. The attorney
 24 can withdraw, there's a bunch of other things

5 (Pages 2013 to 2016)

Page 2017

1 Theodore Smith - 10-1-2007
 2 the attorney can do rather than go to the
 3 adversary and the arbitrator and disclose
 4 something like this. But this is how he chose
 5 to deal with it. Now, once that's out in the
 6 open what the -- what the -- what the,
 7 apparently and I'll give you the transcript
 8 although I -- I know you've already seen some
 9 of these matters. But this is -- this is the
 10 transcript and I have three copies. This is
 11 the transcript of the May 10th phone conference
 12 where this comes out. And I'll also hand you
 13 what's an additional transcript. This stuff is
 14 not --.

15 THE HEARING OFFICER: What --
 16 what is this from, I just don't.

17 MR. GERARD: That is --.

18 THE HEARING OFFICER: Other
 19 document. I understand from May 10th.

20 MR. GERARD: Right. That is
 21 from a tape recording that Mr. Smith made while
 22 the phone conference was occurring. And I have
 23 the tape here in this tape recorder if the
 24 Court is inclined to listen to it. But --.

Page 2019

1 Theodore Smith - 10-1-2007
 2 know. That's not what off the record means.
 3 And here what they did was repeatedly went off
 4 the record. Excluded the client from the
 5 conversation. I've given you what is missing
 6 from the official tape. But we will never know
 7 what happened outside of this record and
 8 outside of the hearing of Mr. Smith. But it's
 9 fairly clear if you look at the transcript that
 10 what occurred was the parties got together, Mr.
 11 Kearney spoke to Ms. Jalowski, they apparently
 12 spoke to the arbitrator.

13 THE HEARING OFFICER:
 14 Jalowski.

15 MR. GERARD: Jalowski.
 16 Apparently spoke to the
 17 Arbitrator. And he set up, being -- being, you
 18 know deathly afraid of Mr. Smith, he set up a
 19 phone conference because he didn't want to be
 20 face-to-face with him. Apparently everyone is
 21 afraid he's a homicidal maniac. And, so, they
 22 did this over the phone and they went through a
 23 script.

24 THE HEARING OFFICER: You

Page 2018

1 Theodore Smith - 10-1-2007
 2 THE HEARING OFFICER: I
 3 assume what you have on the paper, go ahead.

4 MR. GERARD: That's a
 5 verbatim transcript of additional, off the
 6 record, well this is actually on the record.
 7 But it's not in the transcript that -- the
 8 official transcript. So, if you want to know
 9 what happened at the May 10th conference, you
 10 have to read both of those things. And you
 11 still won't know what happened because the tape
 12 is essentially, the -- the speaking portion on
 13 the tape is about five minutes long, five,
 14 eight minutes long. The session was something
 15 like an hour. So, during that session there
 16 were about three off-the-record conferences
 17 where the parties called each other, where the
 18 attorneys and the arbitrator called each other
 19 on cell phones and discussed these matters
 20 outside of the hearing of the client. Now, my
 21 understanding of -- of -- of an off-the-record
 22 conference is something that is not
 23 transcribed. It's not on the official record.
 24 But the client is not excluded from it, you

Page 2020

1 Theodore Smith - 10-1-2007
 2 don't look like a homicidal maniac.

3 MR. GERARD: They went
 4 through a script where the arbitrator purported
 5 to recluse himself based on a letter he had
 6 received you know ten days earlier when Mr.
 7 Smith was saying Geez, I overheard some
 8 settlement discussions. I think they're tilted
 9 against me in this regard, or whatever.

10 Now, this was used as the
 11 basis on the record for the arbitrator to
 12 recuse himself. And you can hear, you can see
 13 Mr. Kearney. He basically says, you know, I
 14 think it was, not Ms. Jalowski but --.

15 MS. JALOWSKI: Jalowski.

16 MR. GERARD: Ms. Jalowski,
 17 the -- the -- the other, Ms. Europe, Theresa
 18 Europe.

19 Basically, once the
 20 arbitrator had gone through his script and --
 21 and said that he recused himself for this
 22 reason, and certainly he didn't disclose at
 23 that time any of these ex parte communications.
 24 Ms. Europe basically says,

6 (Pages 2017 to 2020)

Page 2021

1 Theodore Smith - 10-1-2007
 2 Well, I think we've got to really go on the
 3 record with a little more here and really
 4 disclose what's going on. And at that point
 5 you can see Mr. Kearney gets nervous and says,
 6 hey I -- I thought we had a deal here. I
 7 thought we weren't going to go there. And Ms.
 8 Europe says Well, I really think we have to
 9 now. And they say, well let's -- let's talk
 10 off the record again and sort this out. So
 11 they go off the record again, and we don't know
 12 what occurred there. And there's actually
 13 several sort of off the record, on the record,
 14 off the record, on the record. That's where
 15 this extra portion comes in.
 16 Then the arbitrator gets back
 17 on. He says well, you know that's really not
 18 what was going on. That's only part of it.
 19 The real reason is that the lawyer in his
 20 ethical obligation came to me and told me his
 21 client is trying to kill me. And we had an
 22 agreement that we were going to paint it one
 23 way, but apparently now we have to come out
 24 with the whole thing.

Page 2023

1 Theodore Smith - 10-1-2007
 2 client, who makes statements that are -- are --
 3 are provably demonstrably untrue. Who attempts
 4 to bail out of a case like this, under these
 5 circumstances. And, when he can't get his
 6 client to go along, he then, basically what
 7 happened was the City attorney and Mr. Kearney
 8 sandbagged the arbitration. The arranged for
 9 the arbitrator to have a reason to recuse
 10 himself and put this thing back in this present
 11 posture.
 12 And -- and now we want to
 13 rely on this record to proceed ahead. And I --
 14 I -- I just don't think it's appropriate. The
 15 other thing, and it's also apparent after
 16 making an agreement to go with this script and
 17 have the arbitrator recuse himself on this --
 18 on this fictitious basis, the very next day I
 19 think, yeah, this is a copy of a letter that
 20 the City now sends, trying to exploit the
 21 situation.
 22 THE HEARING OFFICER: Let me
 23 see --.
 24 MR. GERARD: And I'll

Page 2022

1 Theodore Smith - 10-1-2007
 2 So the Arbitrator describes
 3 now that he was aware that there were these
 4 death threats and therefore, although the
 5 letter itself would not be grounds for recusal
 6 and he certainly would pay no attention to such
 7 a letter. It's really this other situation
 8 that causes him to have to get off.
 9 So, we don't know what
 10 occurred off the record. It certainly wasn't
 11 appropriate. And we're dealing now with --
 12 with a proceeding where the whole thing wasn't
 13 transcribed. I mean one of the requirements of
 14 these proceedings to ensure fairness and
 15 integrity is that a transcript be made. And
 16 here we are talking about proceeding ahead with
 17 the hearing where there's already been about
 18 thirteen sessions and we know that there were
 19 off the record discussions, which the client
 20 was not privy to. There were on the record
 21 discussions, which are not contained in the
 22 transcript. And I don't feel comfortable
 23 relying on the work of a -- of a -- of a lawyer
 24 who does something like this, who sandbags his

Page 2024

1 Theodore Smith - 10-1-2007
 2 provide, yeah I'll provide.
 3 So, it -- it now becomes
 4 clear why the City wanted to bring this out on
 5 the record, after making a deal to keep it
 6 secret. They wanted to turn around the next
 7 day and invoke a contractual provision where
 8 they could have someone fired as being mentally
 9 unfit.
 10 So they immediately go and
 11 exploit the situation. Have him evaluated and
 12 as a result of the evaluation he was actually
 13 found fit to return to work. So, you know they
 14 didn't get anywhere with that. But, you know,
 15 this seems to be part and parcel of -- of -- of
 16 what they were attempting to do in destroying
 17 the arbitration up to this point, removing the
 18 arbitrator and then seeking to exploit the
 19 situation by getting him fired for -- for on
 20 another basis. So, you know, as an incoming
 21 attorney unable to ascertain what occurred you
 22 know off the record, in ex parte conversations
 23 in this prior proceeding with -- with -- with
 24 the work done by a -- a conflicted lawyer

7 (Pages 2021 to 2024)

Page 2025

1 Theodore Smith - 10-1-2007
 2 whose -- whose relationship had broken down
 3 with his client, I'm not comfortable proceeding
 4 on this record at all. And I cited to you
 5 the -- the -- the Sequoia (phonetic spelling)
 6 case.

7 THE HEARING OFFICER:
 8 Sequoia.

9 MR. GERARD: Yeah. I'm not
 10 great on pronouncing that. And I -- and I have
 11 a copy, I don't have actually. I didn't have
 12 time to make extra copies. But I have -- this
 13 is the lower court ruling and then this is the
 14 ruling of the Court of Appeals, which upheld
 15 it.

16 And the language in there is,
 17 you know, fits exactly this sort of situation.
 18 Yes, there was a different -- there was a
 19 different basis. It involved one of the
 20 arbitrators in a panel receiving a higher
 21 compensation than the others.

22 THE HEARING OFFICER:
 23 Correct.

24 MR. GERARD: But what they

Page 2027

1 Theodore Smith - 10-1-2007
 2 on it at all in -- in going forward. And in
 3 fact having even reviewed the record as you
 4 have now, I think you're in a sense tainted.

5 You've -- you've seen a whole
 6 bunch of evidence which -- which is -- is
 7 really no good and which really shouldn't be
 8 considered at this point. And, now, you've --
 9 you've seen it all and considered it all and
 10 apparently feel that it was -- it was done
 11 okay. And that there was nothing wrong with it
 12 at least that you can see on the surface of it.

13 Well, there's a lot wrong
 14 underneath the surface. And there's a lot
 15 wrong on the surface. I mean just as an
 16 example, and, you know, this is why I don't
 17 want to -- I don't want to, I would have to
 18 relitigate this whole case. Here's a -- here's
 19 an excerpt from 4/23/07. This is from the
 20 transcript of 4/23/07. Apparently Mr. Smith's
 21 attorney had subpoenaed a -- a witness.

22 THE HEARING OFFICER: Which
 23 page of the four pages, please?

24 MR. GERARD: This, well

Page 2026

1 Theodore Smith - 10-1-2007
 2 found was, that you know there was no evidence
 3 at all of any ex parte communication or any
 4 bias or any other such thing in the -- in the
 5 record itself.

6 However, the -- the -- the
 7 requirements of due process are -- are
 8 important enough, so that if there's even
 9 the -- the -- the appearance that something
 10 could be wrong, basically there's quotes in
 11 there like, you know, once -- once humpty
 12 dumpty falls off the wall, all the kings horses
 13 and all the kings men, cannot put him back
 14 together again. That's what happens when due
 15 process fails. And clearly this underlying
 16 case is a case where due process failed.
 17 There's ex parte communications. There's
 18 things not on the record. There's -- there's a
 19 conflicted attorney who behaves in an unethical
 20 manner and colludes with the City and with the
 21 arbitrator.

22 And it's so defective, it's
 23 so tainted that I can't -- I don't think I can
 24 rely on it at all. I don't think you can rely

Page 2028

1 Theodore Smith - 10-1-2007
 2 it's -- it's.

3 THE HEARING OFFICER: Or all
 4 four of them?

5 MR. GERARD: Yeah. It's -- I
 6 think its, I think it was Mr. Laforgia.

7 THE HEARING OFFICER: Kline.

8 MR. GERARD: That's right,
 9 Kline, Chancellor Kline. And these are parties
 10 who Mr. Smith had written letters of complaint
 11 to during the incident before any charges were
 12 brought against him and -- and he was
 13 complaining about the illegal class size and
 14 that sort of thing. And he subpoenaed
 15 Chancellor Kline. And Chancellor Kline didn't
 16 show up at the hearing. The City didn't --
 17 didn't -- didn't have him produced. I guess
 18 they told him don't come. So, the hearing
 19 officer rules, Well, they've been served with a
 20 subpoena, they have not appeared and the
 21 Respondent's make an application for more time
 22 to obtain their appearance. That application
 23 has been opposed by the Department. And my
 24 ruling is that the application is denied.

8 (Pages 2025 to 2028)

Page 2029

1 Theodore Smith - 10-1-2007
 2 We've had ample time for Respondent to bring
 3 his witnesses. We're going to close the
 4 hearing now, okay? Any other applications? In
 5 other words, the Respondent subpoenas a
 6 witness. The City tells the witness don't
 7 come. And the hearing officer says, Well,
 8 okay. He's not here. You've wasted enough
 9 time, we're going ahead. I mean, isn't the
 10 obligation or shouldn't there be an inquiry as
 11 to whether they should compel this witness to
 12 appear? Or ask the City why he's not
 13 appearing? Or why they -- they think he
 14 doesn't have to appear? No. They just don't
 15 produce him and the arbitrator says, Well, you
 16 know we don't need him. We're just going to go
 17 ahead.

18 So, you know I'm supposed to
 19 pick through this record and, you know, figure
 20 out all the -- the -- the numerous things that
 21 were done wrong and then try to redo them all?
 22 You know, I don't think it works. There's no,
 23 you know, one witness or -- or one set of
 24 testimony that I can think of that can cure

Page 2031

1 Theodore Smith - 10-1-2007
 2 certain calls were made, certain meetings were
 3 had. And yet our bills don't reflect it. So,
 4 I can't even put together what occurred here.
 5 And I'm not comfortable taking it over and
 6 proceeding on this record. And that's --
 7 that's -- that's our position. That's what I'm
 8 here to place on the record. I'm not even
 9 comfortable arguing, you know, summing up on
 10 someone else's record that I can't obtain the
 11 underlying documents for. And the guy won't
 12 speak to me.

13 So, if -- if I were to go
 14 along with that it -- it might well be seen as
 15 acquiescing, or -- or -- or waiving my
 16 objection. I have a continuing objection. I'm
 17 not acquiescing. I'm taking a -- a principled
 18 position here. The -- the, actually you know
 19 your -- you're the boss. You can go ahead.
 20 You can make whatever rulings you have to make,
 21 you know and -- and we'll live with them.

22 THE HEARING OFFICER: Ms.
 23 Jalowski?

24 MS. JALOWSKI: Which is

Page 2030

1 Theodore Smith - 10-1-2007
 2 this record.
 3 There's something like twelve
 4 or thirteen, you know, appearances where
 5 testimony was taken and rulings were made. So
 6 that the product that we now have is the end
 7 result of all of these types of rulings and --
 8 and the witnesses who did or didn't appear. So
 9 I'm not -- I'm not comfortable in -- in taking
 10 over this slug at this stage and trying to, you
 11 know, turn it into a silk purse. And -- and --
 12 and I think that the prior record is -- is a
 13 nightmare. It's -- it's just atrocious what
 14 occurred here. I think I will have to go to
 15 the ethics committee to even get the -- to get
 16 the records for what happened. What were these
 17 settlement talks about? Where are the letters
 18 to the Federal court? Where -- where are the
 19 e-mails back and forth between the attorney and
 20 the City? Where are the notes? What meetings
 21 were had? You know, we have bills -- we have
 22 bills from the attorney, which don't reflect
 23 things that were done. I mean I have letters,
 24 which show when certain things were done,

Page 2032

1 Theodore Smith - 10-1-2007
 2 exactly what we had done during a conversation
 3 where we had on the record a motion made by me
 4 to continue this hearing based on the record
 5 and Mr. Edelman ruled against you. You already
 6 objected to this. Then you decide not to come.
 7 And then we're here a third time where you are
 8 trying to say the same thing that there should
 9 be a new hearing. A ruling has already been
 10 made by Mr. Edelman that the case is going to
 11 go forward based on you can use any new
 12 witnesses. Do you want to subpoena Mr. -- the
 13 Chancellor, then you can subpoena him and see
 14 if you can get him here. The City never told
 15 him not to show up. The Chancellor is not
 16 going to come testify at a 3020-a hearing. I
 17 highly doubt that he's ever going to be here at
 18 a hearing. Other people have subpoenaed the
 19 Chancellor. He's never shown up for a hearing.
 20 The City does not tell him -- I didn't speak to
 21 him and tell him not to come. The man is not
 22 going to come to a 3020-a hearing. An attorney
 23 could go through court to try to get it so
 24 ordered. And then try to do whatever other

9 (Pages 2029 to 2032)

Page 2033

1 Theodore Smith - 10-1-2007
 2 things they can do to compel him to testify. I
 3 doubt that any court is going to compel the
 4 Chancellor to come to a 3020-a hearing, when I
 5 don't even remember what the offer of proof
 6 was. I think that he wanted to put in e-mails
 7 that he sent to the Chancellor and I allowed, I
 8 said that the e-mails could come into the
 9 record. You have a full record here. There is
 10 absolutely no reason why this case has to be
 11 relitigated. There was no sandbagging.
 12 Believe me, on May 10th, we were supposed to do
 13 closing arguments. I very much wanted to do
 14 closing arguments. I've been dealing with this
 15 case since December of 2005, this case was
 16 supposed to start. And, then, got hampered
 17 because Mr. Smith changed attorneys three --
 18 had three different attorneys on the case.
 19 This case was supposed to end on May 10th. And
 20 because what happened was that Mr. Gerard made
 21 mention that in February there were threats
 22 made. What happened was Mr. Kearney said that
 23 threats were made against him but he didn't
 24 feel, fear for his safety. But what happened

Page 2035

1 Theodore Smith - 10-1-2007
 2 the Federal court case for the case to be -- to
 3 be off calendar while this case finished.
 4 So, first of all whatever
 5 happens in the Federal case had no bearing
 6 whether or not Mr. Kearney wrote a motion or
 7 didn't write a motion in staying the
 8 proceedings has absolutely nothing to do with
 9 this 3020-a case. What we're trying to do is
 10 get a decision whether or not Mr. Smith was
 11 incompetent, insubordinate and excessively
 12 absent. That is all that we are trying to do
 13 here. And it is Mr. Smith who has tried to
 14 thwart this at every level. So, again, the
 15 Department strenuously asks that this case
 16 continue on the record and that it just be set
 17 down for closing arguments. I have two cases,
 18 this is the case of David Randall where the
 19 Judge had to recuse herself and the case was
 20 decided by an arbitrator just based on the
 21 record. I also have the case of Michael
 22 Campbell, which was the case that was appealed.
 23 And, also, it was just sent back to a new
 24 arbitrator for -- for them to make a decision

Page 2034

1 Theodore Smith - 10-1-2007
 2 in May was that Mr. Smith then made threats
 3 against the Arbitrator. And that's when he
 4 felt he had to say something. And that's what
 5 happened. Is that the arbitrator felt at that
 6 point that he can no longer be fair and that's
 7 why he recused himself. There are plenty of
 8 times when there are off-the-record
 9 conversations as I'm sure you're aware of Mr.
 10 Edelman that you have, I'm sure asked the
 11 client to step out of the room while you talked
 12 to the attorneys. There's absolutely nothing
 13 inappropriate with having off-the-record
 14 conversations between all the parties without
 15 the client being there.

16 MR. GERARD: That's why I've
 17 asked --.

18 THE HEARING OFFICER: Let her
 19 finish, hold on. Let her finish. Continue,
 20 Ms. Jalowski.

21 MS. JALOWSKI: So, with all
 22 that being said, and again also I just want to
 23 put on the record how Mr. Gerard is also, I
 24 told him that it was the court's own motion in

Page 2036

1 Theodore Smith - 10-1-2007
 2 on the record.

3 THE HEARING OFFICER: Do you
 4 have copies of them here?

5 MS. JALOWSKI: I thought I
 6 did. I'll -- I'll make them.

7 MR. GERARD: Well, I'll just
 8 take the cites. It doesn't matter.

9 MS. JALOWSKI: It's not
 10 cites -- one's not a cite, it's a --.

11 THE HEARING OFFICER: Well,
 12 take a look at my copy. And we're going to
 13 take a break so we can actually review them,
 14 Ms. Jalowski.

15 MS. JALOWSKI: Well, that's
 16 just the, I mean the decision isn't really
 17 what's important. Although I do have a case
 18 here. Michael Campbell I have a copy too, but
 19 I just don't have that cover page with me.

20 THE HEARING OFFICER: In the
 21 Randall matter, does the new hearing officer
 22 deal with the issue of the prior record or is
 23 it just the decision?

24 MS. JALOWSKI: No. It was

10 (Pages 2033 to 2036)

Page 2037

1 Theodore Smith - 10-1-2007
 2 just that that's what happened in that case
 3 where, I'm just showing you that there was a
 4 case that was done here that literally the
 5 record was closed and a different hearing
 6 officer actually did the decision because of
 7 the hearing officer.
 8 MR. GERARD: And I want --.
 9 THE HEARING OFFICER: But
 10 this decision is not, when I say not helpful, I
 11 mean I accept your representation of the
 12 hearing officer who decided the case based on
 13 the record before the prior hearing officer.
 14 But, the new hearing officer as I understand
 15 it, did not make a specific ruling that she
 16 felt that it was properly --.
 17 MS. JALOWSKI: No, there's
 18 nothing like that.
 19 MR. GERARD: And it wasn't
 20 appealed. It wasn't article seventy-eighted.
 21 It wasn't seventy-fived.
 22 MS. JALOWSKI: So, anyway,
 23 though. What we have here also is even the --
 24 the case still went to decision. Let this case

Page 2039

1 Theodore Smith - 10-1-2007
 2 I -- and I think that's what I'm going to argue
 3 in the Federal action. That, you know, this --
 4 this -- this is just another example of the
 5 City's retaliation and attempts to, you know,
 6 deprive my client of his rights in this matter.
 7 I understand you're pretty familiar with these
 8 issues?
 9 THE HEARING OFFICER: I am.
 10 MR. GERARD: You've -- you've
 11 heard us. The only further thing I will say is
 12 that Ms. Jalowski may not be aware of the
 13 chronology of this but it's very clear that the
 14 alleged threats against the arbitrator that Mr.
 15 Kearney was reporting on May 10th, or May 8th
 16 and 9th, et cetera, were the ones that occurred
 17 allegedly in his conversations in February or
 18 March. I have --.
 19 THE HEARING OFFICER: Do you
 20 mean conversations between Mr. Smith and Mr.
 21 Kearney?
 22 MR. GERARD: That's right.
 23 That's right. They were arguing over the --
 24 the -- the proceedings and Mr. Kearney's

Page 2038

1 Theodore Smith - 10-1-2007
 2 finish. Then you have a remedy. You have the
 3 standing objection that you think it should be
 4 a whole new trial. Let this case be decided by
 5 Mr. Edelman and then go to -- go to Supreme
 6 Court and appeal what the decision that
 7 happened. But for this not to go forward is
 8 ridiculous at this point. It needs -- this
 9 case needs to come to a conclusion.
 10 THE HEARING OFFICER: Any
 11 further comments, Mr. Gerard that you haven't
 12 said before?
 13 MR. GERARD: All right.
 14 Well, you know, I mean I
 15 think based on the history of this, you know
 16 essentially misconduct, that this -- this case
 17 should be dismissed. It's -- it's
 18 irretrievably tainted. And I think it was only
 19 brought to obtain an advantage in the -- in the
 20 Federal action to -- to provide a defense in
 21 the Federal action. It's a self-serving case
 22 and they -- they've used it to whatever
 23 advantage they think they can gain in the
 24 Federal action. I think that's clear. And

Page 2040

1 Theodore Smith - 10-1-2007
 2 tactics and what he had done in the case and
 3 what he hadn't done. There was some dispute
 4 over obtaining some medical records and they --
 5 they had an argument over that. And it's, that
 6 argument in February or March that -- that --
 7 that Mr. Kearney claims Ted Smith made threats
 8 against him and against the arbitrator.
 9 And you can see for the next
 10 two months there's no mention of any of this in
 11 these e-mails. There's just attempts to get
 12 Mr. Smith to, you know, enter this agreement
 13 which talks all about -- it talks about
 14 everything except what happens to the fees.
 15 And I -- I know personally
 16 that, you know, making a deal for paying
 17 attorney's fees in a Federal case is a
 18 legitimate part of the settlement process.
 19 You're -- you're entitled,
 20 prevailing party is entitled to counsel fees in
 21 a Federal case. So, when you -- when you
 22 negotiate and I've done it, you know, in inmate
 23 cases. When you negotiate a settlement of the
 24 case, you negotiate your fees. They tell you

11 (Pages 2037 to 2040)

Page 2041

1 Theodore Smith - 10-1-2007
 2 send in your bill.
 3 MS. JALOWSKI: Mr. Gerard,
 4 I --.
 5 THE HEARING OFFICER: Let him
 6 finish.
 7 MR. GERARD: And so, you know
 8 I -- I suspect that that may be, you know, an
 9 important factor in this dispute. And,
 10 clearly, the -- the alleged conversations
 11 occurred you know some two months before this
 12 May 10th conference and it was only when the
 13 relationship broke down completely that Mr.
 14 Kearney then threatened to come forward with
 15 these matters. And then brought them up to the
 16 City and then brought them up to the
 17 arbitrator.
 18 And there's -- there's even a
 19 series of e-mails in the two or three days
 20 before the 10th that I have, because I got them
 21 from Smith, which -- in which Mr. Kearney is
 22 telling him, the arbitrator is recusing
 23 himself. This is what you've done by sending
 24 your letter. So, there was clearly discussions

Page 2043

1 Theodore Smith - 10-1-2007
 2 heard anything that really addresses this at
 3 all.
 4 MS. JALOWSKI: Mr. Gerard --.
 5 MR. GERARD: She was a
 6 personal participant in it. And I haven't
 7 heard a word here. I mean if this thing went
 8 forward, she'd probably have to be called as a
 9 witness so we could figure out who said what
 10 and what happened at these things. Is that
 11 what you want? Do you want to get another
 12 attorney and we can call you as a witness?
 13 THE HEARING OFFICER: Final
 14 comment, and then I want your cross.
 15 MS. JALOWSKI: Final comment
 16 is, Mr. Gerard has a lot of suspicions and
 17 suspects which all are really wrong. There was
 18 never any discussion of attorney's fees being
 19 paid to Mr. Kearney's firm as part of any
 20 settlement ever. The Department never would
 21 agree to pay attorney's fees.
 22 So, one that whole big reason
 23 for the breakdown that Mr. Gerard is saying
 24 is -- is a fallacy. Because that never

Page 2042

1 Theodore Smith - 10-1-2007
 2 between the arbitrator leading up to the
 3 conference between the arbitrator and the
 4 attorneys that Mr. Smith was not privy to where
 5 Mr. Kearney apparently knew what the script
 6 was, was in on arranging for this script and
 7 then, read the transcript. They attempt to go
 8 through with it.
 9 And the only reason it
 10 doesn't work is because the City double crosses
 11 him and decides to insist that the real reason
 12 come out on the record. And I -- I, it's
 13 interesting that Ms. Jalowski apparently
 14 handled the case all the way up to that time,
 15 but apparently at that one conference her
 16 superior is there pulling the strings and
 17 reneging on the deal. And that's when it comes
 18 out. So that's the history of the matter.
 19 That's the history, at least the history that I
 20 know having not, you know, been there. And I
 21 haven't heard anything really from Ms. Jalowski
 22 to -- to -- to correct any of that. The only
 23 thing she said is incorrect about -- about the
 24 timing of these alleged threats. So, I haven't

Page 2044

1 Theodore Smith - 10-1-2007
 2 happened. Again, I can only stress, this case
 3 was on for closing arguments when this
 4 happened. Believe me, the last thing I needed
 5 was what happened that Mr. Tilman had to recuse
 6 himself. We were almost done with the case. I
 7 would have had a decision as of June. The
 8 discussion settlement, all they were were that
 9 Mr. Smith would have, I think it was a
 10 three-month suspension or some sort of fine.
 11 The discussions were not even
 12 that he be terminated or resignation. Mr.
 13 Edelman, you have been doing this for many
 14 years you are very familiar that that is more
 15 than a fair settlement in an incompetence case
 16 to have a three-month suspension. And I don't
 17 believe we were even asking for him to take any
 18 courses which, you know, that's also usually
 19 with a suspension we have them take courses.
 20 So there was no underlying
 21 factor or deals that were never anything that
 22 normally happen during a 3020-a proceeding.
 23 And what happened on May
 24 10th, the reason why Ms. Europe was on the

12 (Pages 2041 to 2044)

Page 2045

1 Theodore Smith - 10-1-2007
 2 phone was because I got stuck on a train. And
 3 Mr. Tillem called to see that, why wasn't I on
 4 the conference call and the reason why
 5 originally it was agreed to put something else
 6 on the record about why the recusal was was
 7 because Mr. Tillem thought that if Mr. Smith
 8 was in the room with Mr. Kearney that he was
 9 afraid that something violent might happen.
 10 So he took a lesser stance of
 11 what the reason was and then Ms. Europe was not
 12 happy with that and she felt that it needed to
 13 be all the real reason and that is what you see
 14 in the transcript. And that is what happened.
 15 Nobody was trying to do
 16 anything unethical. Mr. Tillem was recusing
 17 himself that day. We weren't going forward
 18 with the closing, so in effect really it didn't
 19 matter in the four corners of the transcript of
 20 what, you know, what happened was the facts was
 21 the same. A recusal was going to happen and
 22 then that's what leads us to here. And when
 23 the recusal happened a new arbitrator was
 24 appointed and then I went forward as I was

Page 2047

1 Theodore Smith - 10-1-2007
 2 again, first in writing and now orally, I see
 3 no basis to grant a de novo hearing. And
 4 that's for the following reasons.
 5 As I said, I have reviewed
 6 the transcript and I have read the transcript
 7 and I really candidly can find no taint within
 8 the transcript that would have so prejudiced
 9 Mr. Smith's rights for me to conclude that the
 10 transcript itself is prejudicial or fatally
 11 defective in any due process or context. Mr.
 12 Smith may have absolutely legitimate issues
 13 with his prior counsel. They may relate to
 14 fees. They may relate to other issues. I
 15 don't know. And, it's clearly not my role to
 16 intercede in that matter -- in that matter in
 17 any way. However, Mr. Kearney called on his
 18 behalf -- on Mr. Smith's behalf. He cross
 19 examined witnesses. He did so vigorously and
 20 perhaps most important, Mr. Tillem made
 21 rulings. I can't give you every ruling that he
 22 made, but I do not find an overall taint in the
 23 record so that Mr. Tillem's rulings would be
 24 considered somehow prejudicial to Mr. Smith's

Page 2046

1 Theodore Smith - 10-1-2007
 2 planning on which asking -- making a motion for
 3 it to be done on the papers and obviously you
 4 made your argument against it even Mr. Smith's
 5 had made the argument before he hired you. And
 6 then we say, well it's not right for Mr. Smith
 7 to make the argument since he's not an
 8 attorney. He got an attorney, you made your
 9 argument. It was denied. And, now, we're
 10 sitting here for the third time you're making
 11 this argument. So, again, the Department asks
 12 that you decide this on the record. I was at
 13 the hearing, you can see by the transcripts
 14 again, Mr. Edelman you've been doing this for a
 15 number of years. This looks like any other
 16 transcript. The cross examinations were more
 17 than competent. The case presented was more
 18 than competent. This case needs to end.
 19 THE HEARING OFFICER: All
 20 right. Let me give you these rulings. First,
 21 I will affirm, actually I guess reaffirm my
 22 prior ruling with respect to this matter. And
 23 the reasons are not only because this is the
 24 third time, but even after hearing Mr. Gerard

Page 2048

1 Theodore Smith - 10-1-2007
 2 interest.
 3 In fact it's interesting to
 4 note and I'll get into two or three specifics
 5 in a second. It's interesting to note that the
 6 alleged threats against Mr. Tillem did -- from
 7 everything we know, did not surface until
 8 sometime in May of '07. By then the hearing
 9 had been concluded with respect to merits. If
 10 my memory serves, the last hearing date on the
 11 merits was April 23rd, 2007. So that, excuse
 12 me, if anything Mr. Tillem was making rulings
 13 up until April 2007, at least so far as this
 14 record indicates without any knowledge of
 15 alleged threats by Mr. Smith.
 16 With respect to Mr. Tillem's
 17 ruling on May 10th, 2007, that with respect to
 18 subpoenas issued to Chancellor Kline and I
 19 believe the regional superintendent or local
 20 instructional superintendent name changed, Mr.
 21 Heany, he, Mr. Tillem, ruled that this hearing
 22 should go forward without their subpoena -- or
 23 without their presence.
 24 As I indicated to Mr. Gerard

13 (Pages 2045 to 2048)

Page 2049

1 Theodore Smith - 10-1-2007
 2 and Ms. Jalowski. And Mr. Gerard believes
 3 that -- that Mr. Heany and Chancellor Kline can
 4 offer probative testimony, he has the right to
 5 subpoena them and I'm going to give him relief
 6 to subpoena them now, if he wants. And if he
 7 can -- and if he can obtain their appearance by
 8 appropriate judicial process, then he can do so
 9 and I'll listen to them. Which leads to the
 10 next point. I am not, contrary to Ms.
 11 Jalowski's objection, I am not closing the
 12 record as of this particular moment. As much
 13 as Ms. Jalowski would like me to do so. I am,
 14 have and will afford Mr. Gerard the opportunity
 15 not to redo the record because I don't think
 16 the record's tainted, but to offer any
 17 additional testimony, any additional evidence
 18 whether testimony document in support of Mr.
 19 Smith's case.
 20 So, that in fact additional
 21 witnesses may be brought forward, and even Mr.
 22 Smith may be brought forward again. That would
 23 be fine on matters not covered by -- by this
 24 record.

Page 2051

1 Theodore Smith - 10-1-2007
 2 this way. Anticipating the closing argument
 3 and I'll even grant leave that they not be
 4 today, if that's your -- your desire.
 5 You can indicate to me that
 6 you intend to ask for a day of hearing to
 7 present additional witnesses and/or Mr. Smith,
 8 or you can indicate that you don't want to, you
 9 don't want to participate in this proceeding at
 10 all and allow Ms. Jalowski simply to make her
 11 closing argument. What's your preference, sir?
 12 MR. GERARD: I'll take option
 13 three. I don't want to participate in this
 14 proceeding any further and I'll allow Ms.
 15 Jalowski to make a closing argument.
 16 THE HEARING OFFICER: Ms.
 17 Jalowski, you may proceed. Do you want a few
 18 minutes?
 19 MS. JALOWSKI: Please.
 20 THE HEARING OFFICER: Okay.
 21 Off the record. Christina let's take a few
 22 minutes. Thanks.
 23 (Off the record)
 24 THE HEARING OFFICER: On the

Page 2050

1 Theodore Smith - 10-1-2007
 2 Finally, my role is that of a
 3 hearing officer. My role is to supervise and
 4 manage this process. Questions of
 5 attorney/client privilege, questions of Federal
 6 litigation, they really are just beyond my --
 7 the scope of my duties in this matter. And as
 8 hearing officer, my obligation is to go forward
 9 with this proceeding, continue hearings if
 10 necessary, take closing arguments if necessary
 11 and render a determination absent -- and this I
 12 want to make clear, absent a judicial stay of
 13 these proceedings.
 14 If Mr. Gerard believes that
 15 going forward is fatally -- that I cannot go
 16 forward on this record, he has the right to
 17 seek a stay in a Federal court. If a Federal
 18 court brings a stay in these proceedings, I'm
 19 done. I can't do anything. But absent that
 20 stay I must proceed. Off the record for a
 21 second, Christina.
 22 (Off the record)
 23 THE HEARING OFFICER: Mr.
 24 Gerard, that leaves the ball in your court in

Page 2052

1 Theodore Smith - 10-1-2007
 2 record. As previously indicated, Mr. Gerard
 3 has declined to, on behalf of Mr. Smith
 4 certainly declined to participate in this
 5 proceeding as I previously indicated I've
 6 afforded Ms. Jalowski the opportunity to make a
 7 closing argument. You may begin ma'am.
 8 CLOSING ARGUMENT
 9 MS. JALOWSKI: All right.
 10 The Department submits that they have proved by
 11 a preponderance of evidence that Mr. Smith
 12 during the 2004-2005 school year was
 13 insubordinate, incompetent, rendered
 14 inefficient service and was excessively absent
 15 and neglected his duty.
 16 During this 2004-2005 school
 17 year, Mr. Smith -- in the summer of 2004 Mr.
 18 Smith interviews with Principal Lindley Uehling
 19 for the position as a gym teacher. This
 20 school, the City Museum School, is an unusual
 21 school. It's a school within a larger school.
 22 She told Mr. Smith that this
 23 is a middle school, that he would be teaching
 24 the entire school. So, there was going to be

14 (Pages 2049 to 2052)

Page 2053

1 Closing - Jalowski
 2 large classes especially because they also had
 3 to share the gym with the high school that was
 4 also housed in the same building. She told Mr.
 5 Smith that, you know, was he okay with the
 6 large classes. You know that there would be an
 7 assistant but it would not be a gym teacher.
 8 It would be another teacher who would be
 9 assisting him. Mr. Smith then does take the
 10 job because he thought that it would lead to an
 11 opportunity to possibly be an administrator.
 12 So then what ends up happening? Mr. Smith has
 13 never taught gym in large groups. This is
 14 classes of over fifty or more by contract. If
 15 the class is over fifty you need to have an
 16 assistant with you. The assistant does not
 17 have to be a licensed gym teacher, they only
 18 need to be a licensed assistant. So, on the
 19 days that he did have classes that were bigger
 20 than fifty he was provided with an assistant.
 21 But unfortunately what happens is, is that Mr.
 22 Smith is not used to teaching this way. He's
 23 used to teaching only large classes with
 24 another licensed gym teacher. So the classes

Page 2055

1 Closing - Jalowski
 2 secure a substitute for himself?
 3 MS. JALOWSKI: Yes.
 4 THE HEARING OFFICER: Or that
 5 no assistant, as a substitute was.
 6 MS. JALOWSKI: I'm sorry,
 7 that was -- that was, the rule at the City
 8 school was that if you were going to be out
 9 that you were supposed to arrange for a
 10 substitute. And Mr. Smith was told to arrange
 11 for a substitutes and was given Susan Schron's
 12 phone number to call and other people. And on
 13 a number of days he didn't do that. Again, you
 14 have the -- you read Ms. Uehling's testimony,
 15 you'll see the evidence. I'm not going to go
 16 through every specification one-by-one. It is
 17 all there in the testimony about how he just
 18 could not control his classes. Didn't address
 19 students who were suited up for class, would be
 20 on the phone during instructional time. And
 21 all sorts of different incompetence.
 22 Mr. Smith again, contended
 23 that it was because he didn't have, you know
 24 that he should have had another licensed gym

Page 2054

1 Closing - Jalowski
 2 end up out of control.
 3 He doesn't have a way to take
 4 attendance. His ways of teaching these large
 5 classes, it ends up being chaos. Mr. Smith
 6 starts being observed, the observances don't go
 7 well. He becomes basically what I would just
 8 call, with a petulant attitude. In his mind,
 9 this is illegal. They're violating the
 10 contract. So he, literally what he sort of did
 11 was sort of like crossed his arms and sulked
 12 and didn't teach his gym classes because his
 13 own decision that his contract rights have been
 14 violated.
 15 Unfortunately as we all know
 16 that's not what you do. You make the best of
 17 the situation. You continue to be a competent
 18 teacher and you grieve. But not Mr. Smith.
 19 So, this leaves us with him not getting a
 20 substitute teacher for a number of days, which
 21 leads to --.
 22 THE HEARING OFFICER: I don't
 23 understand that comment. Not getting a
 24 substitute teacher, that Mr. Smith didn't

Page 2056

1 Closing - Jalowski
 2 teacher. He was told that that was impossible.
 3 There is testimony from Susan Schron who had
 4 been the gym teacher the previous year, but she
 5 had only worked, she only wanted to work part
 6 time, she's a retired gym teacher and was on
 7 what's called S status.
 8 So, they wanted a gym teacher
 9 there full time, so she didn't -- so that's why
 10 Ted Smith comes in 2004-2005. She testified
 11 that she had the same classes that Mr. Smith
 12 had and she had absolutely no problem with
 13 being able to teach a viable lesson of gym when
 14 she substituted for Mr. Smith. She also
 15 testified that she would actually be in the
 16 building for other reasons and she would see
 17 Mr. Smith's class and see what a disaster it
 18 was.
 19 You also heard, there was
 20 also testimony from Shanti Kantha, who was one
 21 of the teachers who was assigned to assist Mr.
 22 Smith during his gym class. And she will also
 23 tell you -- she also told how chaotic the
 24 situation was when Mr. Smith was teaching the

15 (Pages 2053 to 2056)

Page 2057

1 Closing - Jalowski
 2 classes and how when Ms. Schron was there,
 3 there were no problems with these classes.
 4 You also have specifications
 5 dealing with Mr. Smith's interaction with
 6 Victor Ramsey who was the local instructional
 7 superintendent, how Mr. Ramsey tried to help
 8 Mr. Smith, tried to show him how to handle
 9 large classes and then how Mr. Smith ended up
 10 disrespecting him because again, he wasn't
 11 getting what he wanted. He wanted either
 12 another licensed gym teacher, Mr. Smith did in
 13 the classroom, or to have smaller classes.
 14 Unfortunately it was not
 15 possible. But again, Mr. Smith didn't take the
 16 situation and try to make the best of it. He
 17 made it worse. And, then, you'll -- you'll see
 18 the specifications where he missed meetings
 19 with Mr. Ramsey. Said to Mr. Ramsey, get off
 20 my back, leave me alone. Again -- and then the
 21 last thing that we have besides the
 22 incompetence and the insubordination is
 23 excessive absences and excessive latenesses,
 24 Mr. Smith tried to say that

Page 2059

1 Closing - Jalowski
 2 told to do it. And Mr. Smith has not, this
 3 record does not show that Mr. Smith is that
 4 type of guy. This record shows that Mr. Smith,
 5 if he doesn't like the situation he's in, he's
 6 just not going to teach a viable gym class.
 7 So, therefore again, we are asking for
 8 termination.
 9 THE HEARING OFFICER: Thank
 10 you. Christina?
 11 THE REPORTER: Yes.
 12 THE HEARING OFFICER: This is
 13 the last hearing in this matter, so can you do
 14 it expedited?
 15 THE REPORTER: Okay.
 16 THE HEARING OFFICER: Okay.
 17 Back on, Christina.
 18 THE REPORTER: Okay. You're
 19 all set.
 20 THE HEARING OFFICER: Thank
 21 you. I will close the record upon my receipt
 22 of the transcript and I will issue a timely
 23 award. Thank you all.
 24 MS. JALOWSKI: Thank you.

Page 2058

1 Closing - Jalowski
 2 this was fibrillaly related. That he had
 3 fibrillation. You read testimony of his own
 4 doctor who said that usually fibrillation
 5 doesn't isn't really caused by stress. You
 6 don't know when it's going to happen. So, this
 7 is not a FEMLA issue. He even said if he
 8 does -- was feeling it, he just needs to sit
 9 down. He doesn't need to leave, and you also
 10 see -- and you also see from the evidence
 11 presented that even some of these absences were
 12 to go to doctor's appointments, not for this
 13 all of a sudden emergency palpitation of his
 14 heart that he seemed to have whenever he just
 15 really wanted to leave the building and just
 16 use as an excuse. So, I would submit that it
 17 is not -- FEMLA was not shown that this was a
 18 serious illness as intended by FEMLA. So
 19 again, the Department in this case is after
 20 termination. And that is because Mr. Smith is
 21 not remediable. He thinks that he -- it should
 22 be his way and that's not how a school works.
 23 A school works by having to be -- to listen to
 24 the authority figures and do your job as you're

Page 2060

1 Theodore Smith - 10-1-2007
 2 MR. GERARD: Thank you Judge.
 3 THE HEARING OFFICER: Thank
 4 you.
 5 (The hearing concluded)

16 (Pages 2057 to 2060)

1 Theodore Smith - 10-1-2007
 2 STATE OF NEW YORK
 3 I, Christina Lynch, do hereby certify that the
 4 foregoing was reported by me, in the cause, at
 5 the time and place, and in the presence of
 6 counsel, as stated in the caption hereto, at
 7 Page 2000 hereof; that the foregoing
 8 typewritten transcription, consisting of pages
 9 number 2000 through 2060, inclusive, was
 10 prepared under my supervision and is a true
 11 record of all proceedings had at the hearing.

12 IN WITNESS WHEREOF, I have
 13 hereunto subscribed my name, this the 4th day
 14 of October, 2007.

15 _____
 16 _____

17 Christina Lynch, Reporter
 18
 19
 20
 21
 22
 23
 24

1 Theodore Smith - 10-1-2007
 2 ERRATA SHEET
 3 Case: Theodore Smith, File #5,432
 4 Date: October 1, 2007
 5 CORRECTIONS:
 6 Page_- _line_
 7 _____
 8 _____
 9 _____ Word or phrase: _____
 10 Corrected to: _____
 11 _____ Word or phrase: _____
 12 Corrected to: _____
 13 _____ Word or phrase: _____
 14 Corrected to: _____
 15 _____ Word or phrase: _____
 16 Corrected to: _____
 17 _____ Word or phrase: _____
 18 Corrected to: _____
 19 _____ Word or phrase: _____
 20 Corrected to: _____
 21 _____ Word or phrase: _____
 22 Corrected to: _____
 23 _____ Word or phrase: _____
 24 Corrected to: _____

1 Theodore Smith - 10-1-2007
 2
 3
 4
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24

A		
able 2056:13	2041:10 2042:24 2048:6 2048:15	2020:4,11,20 2021:16 2022:2 2023:9,17
absences 2057:23 2058:11	allegedly 2010:12 2039:17	2024:18 2026:21 2029:15
absent 2035:12 2050:11,12 2050:19 2052:14	allow 2051:10,14	2034:3,5 2035:20,24
absolutely 2033:10 2034:12 2035:8 2047:12 2056:12	allowed 2033:7	2039:14 2040:8 2041:17 2041:22 2042:2,3 2045:23
accept 2006:14,15,23 2012:24 2016:8 2037:11	amount 2006:20 2013:16	arbitrators 2025:20
accomplish 2013:17	ample 2029:2	argue 2039:2
accurate 2006:4	Andover 2000:15	arguing 2031:9 2039:23
accusations 2006:3	and/or 2051:7	argument 2002:3 2040:5,6 2046:4,5,7,9,11 2051:2 2051:11,15 2052:7,8
acknowledging 2013:4	answer 2013:6	arguments 2003:24 2033:13,14 2035:17 2044:3 2050:10
acquiescing 2031:15,17	Anticipating 2051:2	arms 2054:11
action 2008:8 2011:10,16 2012:8,9 2038:20,21,24 2039:3	anyway 2037:22	arrange 2055:9,10
additional 2005:10 2017:13 2018:5 2049:17 2049:17,20 2051:7	apparent 2023:15	arranged 2023:8
address 2011:21 2055:18	apparently 2014:15,21 2015:13,18,23 2016:4 2017:7 2019:11,16,20 2021:23 2027:10,20 2042:5,13,15	arrangement 2006:9,22 2012:2
addresses 2043:2	appeal 2038:6	arranging 2042:6
adhering 2004:15	appealed 2035:22 2037:20	article 2037:20
administrator 2053:11	Appeals 2025:14	ascertain 2024:21
advantage 2038:19,23	appear 2029:12,14 2030:8	asked 2007:14,16 2034:10 2034:17
adversary 2017:3	appearance 2005:8 2026:9 2028:22 2049:7	asking 2044:17 2046:2 2059:7
advised 2015:14	appearances 2001:2 2030:4	asks 2035:15 2046:11
affirm 2046:21	appeared 2028:20	assigned 2056:21
affirmation 2008:2	appearing 2029:13	assist 2056:21
afford 2049:14	appears 2010:6,14 2011:12 2013:10	assistant 2053:7,16,16,18 2053:20 2055:5
afforded 2052:6	application 2008:3 2028:21,22,24	assisting 2053:9
afraid 2015:15,15 2019:18 2019:21 2045:9	applications 2029:4	assume 2018:3
agree 2043:21	appointed 2045:24	atrocious 2030:13
agreed 2010:8 2013:12 2045:5	appointments 2058:12	attempt 2042:7
agreement 2021:22 2023:16 2040:12	appropriate 2022:11 2023:14 2049:8	attempted 2006:13
ahead 2009:16 2014:13 2018:3 2022:16 2023:13 2029:9,17 2031:19	April 2048:11,13	attempting 2010:13 2024:16
allegations 2014:18	arbitration 2010:18 2023:8 2024:17	attempts 2023:3 2039:5 2040:11
alleged 2016:10 2039:14	arbitrator 2004:21 2005:22 2015:18,24 2016:6,17 2017:3 2018:18 2019:12,17	attendance 2054:4
		attention 2022:6

<p>attitude 2054:8 attorney 2005:19,20,22 2007:7,8 2010:21 2011:4 2012:16,23 2013:2,14,23 2014:3 2016:23,23 2017:2 2023:7 2024:21 2026:19 2027:21 2030:19 2030:22 2032:22 2043:12 2046:8,8 attorneys 2010:11 2018:18 2033:17,18 2034:12 2042:4 attorney's 2011:15,22 2012:10 2013:18 2040:17 2043:18,21 attorney/client 2016:7,12 2050:5 authority 2058:24 avoid 2011:8 award 2059:23 aware 2016:21 2022:3 2034:9 2039:12 a.m 2000:10,10</p>	<p>believes 2049:2 2050:14 best 2001:4 2054:16 2057:16 beyond 2050:6 bias 2026:4 big 2043:22 bigger 2053:19 bill 2041:2 bills 2030:21,22 2031:3 bit 2003:14 2005:5 boss 2031:19 bottom 2010:4 2013:19 bought 2013:11 break 2036:13 breakdown 2005:18 2013:22 2014:2 2043:23 breaks 2016:13 bring 2015:17 2024:4 2029:2 brings 2050:18 broke 2016:7 2041:13 broken 2025:2 brought 2028:12 2038:19 2041:15,16 2049:21,22 building 2014:21 2015:2 2053:4 2056:16 2058:15 bunch 2016:24 2027:6</p>	<p>2035:21,22 2036:17 2037:2,4,12,24,24 2038:4 2038:9,16,21 2040:2,17 2040:21,24 2042:14 2044:2,6,15 2046:17,18 2049:19 2058:19 2062:2 cases 2035:17 2040:23 cause 2061:4 caused 2058:5 causes 2022:8 cell 2018:19 Center 2000:15 certain 2030:24 2031:2,2 certainly 2006:4 2020:22 2022:6,10 2052:4 certify 2061:3 cetera 2039:16 Chambers 2000:12 2001:6 Chancellor 2028:9,15,15 2032:13,15,19 2033:4,7 2048:18 2049:3 changed 2033:17 2048:20 chaos 2054:5 chaotic 2056:23 charges 2028:11 checked 2008:15 chose 2017:4 Christina 2050:21 2051:21 2059:10,17 2061:3,17 Christine 2003:14 chronology 2039:13 circumstances 2023:5 cite 2036:10 cited 2025:4 cites 2036:8,10 citing 2008:10 City 2000:5 2003:4 2005:23 2014:16,22 2015:12,14 2023:7,20 2024:4 2026:20 2028:16 2029:6,12 2030:20 2032:14,20 2041:16 2042:10 2052:20 2055:7 City's 2039:5</p>
<hr/>		
B		
<p>back 2006:16 2007:15 2009:7 2011:3 2021:16 2023:10 2026:13 2030:19 2035:23 2057:20 2059:17 bail 2013:16 2023:4 ball 2050:24 based 2020:5 2032:4,11 2035:20 2037:12 2038:15 basically 2005:11 2006:19 2020:13,19,24 2023:6 2026:10 2054:7 basis 2020:11 2023:18 2024:20 2025:19 2047:3 bearing 2035:5 beat 2016:3 behalf 2003:9 2047:18,18 2052:3 behaves 2026:19 believe 2005:21 2033:12 2044:4,17 2048:19</p>	<p style="text-align: center;"><hr/>C<hr/></p> <p>C 2002:2 calendar 2035:3 call 2043:12 2045:4 2054:8 2055:12 called 2018:17,18 2043:8 2045:3 2047:17 2056:7 calls 2031:2 Campbell 2035:22 2036:18 candidly 2047:7 caption 2061:6 case 2006:7,9,22 2007:3 2012:5,6 2013:11,13,15 2023:4 2025:6 2026:16 2026:16 2027:18 2032:10 2033:10,15,15,18,19 2035:2,2,3,5,9,15,18,19</p>	

<p>claim 2014:18 2015:11 claimed 2007:17 claims 2040:7 class 2028:13 2053:15 2055:19 2056:17,22 2059:6 classes 2053:2,6,14,19,23 2053:24 2054:5,12 2055:18 2056:11 2057:2 2057:3,9,13 classroom 2057:13 clear 2019:9 2024:4 2038:24 2039:13 2050:12 clearly 2026:15 2041:10,24 2047:15 client 2006:5,6,14,15,17,19 2010:9 2013:15 2014:22 2014:23 2015:3,15 2016:14,17,20 2018:20 2018:24 2019:4 2021:21 2022:19 2023:2,6 2025:3 2034:11,15 2039:6 client's 2015:16 close 2029:3 2059:21 closed 2037:5 closing 2002:3 2033:13,14 2035:17 2044:3 2045:18 2049:11 2050:10 2051:2 2051:11,15 2052:7,8 2053:1 2054:1 2055:1 2056:1 2057:1 2058:1 2059:1 collateral 2008:10 colludes 2026:20 come 2003:13 2021:23 2028:18 2029:7 2032:6 2032:16,21,22 2033:4,8 2038:9 2041:14 2042:12 comes 2017:12 2021:15 2042:17 2056:10 comfortable 2022:22 2025:3 2030:9 2031:5,9 comment 2043:14,15 2054:23</p>	<p>comments 2038:11 committee 2013:20 2030:15 communicate 2007:10 communicates 2011:19 communication 2003:22 2016:20 2026:3 communications 2005:21 2006:16 2020:23 2026:17 compel 2029:11 2033:2,3 compensation 2012:5,10 2025:21 competent 2046:17,18 2054:17 COMPLAINANT 2001:3 complaining 2028:13 complaint 2028:10 completely 2041:13 concerns 2008:10,12 conclude 2047:9 concluded 2048:9 2060:5 conclusion 2038:9 conference 2017:11,22 2018:9,22 2019:19 2041:12 2042:3,15 2045:4 conferences 2018:16 conflicted 2024:24 2026:19 considered 2027:8,9 2047:24 consisting 2061:8 contacted 2007:12,14 contained 2022:21 contended 2055:22 contents 2007:11 contested 2008:13 2010:11 context 2047:11 contingency 2006:8,22 2012:2 continuation 2004:6 continue 2032:4 2034:19 2035:16 2050:9 2054:17 continuing 2031:16 contract 2053:14 2054:10</p>	<p>2054:13 contractual 2024:7 contrary 2049:10 control 2054:2 2055:18 conversation 2019:5 2032:2 conversations 2024:22 2034:9,14 2039:17,20 2041:10 cooperate 2007:13 copies 2017:10 2025:12 2036:4 copy 2007:24 2023:19 2025:11 2036:12,18 corners 2045:19 correct 2005:3 2012:12 2025:23 2042:22 Corrected 2062:6,7,9,10 2062:12,13,15,16,18,19 2062:21,22,24 CORRECTIONS 2062:3 correspondence 2011:13 2012:18 counsel 2001:4 2003:12 2008:4 2040:20 2047:13 2061:6 courses 2044:18,19 court 2008:3,7,14 2009:23 2010:2 2012:20,21 2017:24 2025:13,14 2030:18 2032:23 2033:3 2035:2 2038:6 2050:17 2050:18,24 court's 2034:24 cover 2036:19 covered 2049:23 crazy 2014:23 cross 2043:14 2046:16 2047:18 crossed 2054:11 crosses 2042:10 cure 2029:24 curious 2011:11 cut 2013:17</p>
--	--	--

D		
D 2002:2,2	destroying 2024:16	Edelman 2000:14 2003:7
date 2000:9 2048:10	detectors 2015:4,7	2032:5,10 2034:10
2062:3	determination 2050:11	2038:5 2044:13 2046:14
David 2035:18	different 2025:18,19	Education 2000:2,5,7,11
day 2023:18 2024:7	2033:18 2037:5 2055:21	2001:5 2003:4,5 2009:22
2045:17 2051:6 2061:13	difficult 2005:18 2007:5	effect 2045:18
days 2020:6 2041:19	disaster 2056:17	efficiency 2008:12
2053:19 2054:20 2055:13	disciplinary 2006:10,13	eight 2018:14
de 2004:7 2047:3	2007:3	either 2012:8 2057:11
deal 2017:5 2021:6 2024:5	disclose 2017:3 2020:22	else's 2031:10
2036:22 2040:16 2042:17	2021:4	emergency 2058:13
dealing 2004:15 2010:16	disclosed 2010:9	empty 2015:6
2022:11 2033:14 2057:5	discovery 2013:12	ended 2006:10 2057:9
deals 2044:21	discussed 2010:7 2011:2	ends 2053:12 2054:5
death 2022:4	2018:19	engaged 2010:22
deathly 2019:18	discussion 2015:11	ensure 2022:14
debate 2005:24	2043:18 2044:8	enter 2040:12
December 2033:15	discussions 2010:19,22	enters 2014:20
decide 2003:9 2032:6	2020:8 2022:19,21	entire 2052:24
2046:12	2041:24 2044:11	entitled 2040:19,20
decided 2008:7 2035:20	dismissed 2038:17	especially 2053:2
2037:12 2038:4	dispute 2003:9 2040:3	ESQ 2000:14 2001:4,4,9
decides 2042:11	2041:9	essentially 2004:16
decision 2004:12 2005:7	disrespecting 2057:10	2006:17,23 2007:9
2008:16 2035:10,24	docket 2008:15	2018:12 2038:16
2036:16,23 2037:6,10,24	doctor 2058:4	estoppels 2008:10
2038:6 2044:7 2054:13	doctor's 2058:12	et 2039:16
declined 2052:3,4	document 2009:18	ethical 2016:22 2021:20
defective 2005:13 2026:22	2017:19 2049:18	ethics 2013:20 2030:15
2047:11	documents 2004:20	Europe 2020:17,18,24
defendants 2008:6	2011:18,21 2012:17	2021:8 2044:24 2045:11
defense 2038:20	2013:7,21 2031:11	evaluate 2013:8
demonstrably 2023:3	doing 2044:13 2046:14	evaluated 2024:11
denied 2028:24 2046:9	dollars 2006:21 2011:24	evaluation 2024:12
Department 2000:2,5,11	double 2042:10	evidence 2026:2 2027:6
2001:5 2003:4,10	doubt 2032:17 2033:3	2049:17 2052:11 2055:15
2009:22 2014:17 2028:23	downstairs 2014:19,24	2058:10
2035:15 2043:20 2046:11	due 2026:7,14,16 2047:11	ex 2005:21 2016:19
2052:10 2058:19	dummy 2026:12	2020:23 2024:22 2026:3
deprive 2039:6	duties 2050:7	2026:17
describes 2011:20 2022:2	duty 2052:15	exactly 2025:17 2032:2
designated 2003:8		examinations 2046:16
desire 2051:4	E	examined 2047:19
	E 2002:2,2,2 2062:2,2,2	example 2027:16 2039:4
	earlier 2020:6	

<p>excerpt 2027:19 excessive 2057:23,23 excessively 2035:11 2052:14 excluded 2018:24 2019:4 excuse 2048:11 2058:16 existing 2004:23 2005:6 expedited 2059:14 exploit 2023:20 2024:11,18 expressed 2014:21 extra 2021:15 2025:12 e-mail 2003:22 2008:19 2014:3,6,6 2016:13 e-mails 2010:12 2011:3 2014:2 2030:19 2033:6,8 2040:11 2041:19 E.C.F 2012:22</p>	<p>2013:11,13 2030:18 2035:2,5 2038:20,21,24 2039:3 2040:17,21 2050:5,17,17 fee 2006:7,8,22 feel 2022:22 2027:10 2033:24 feeling 2004:19 2005:11 2058:8 fees 2011:15,22 2013:15,18 2040:14,17,20,24 2043:18,21 2047:14 felt 2034:4,5 2037:16 2045:12 FEMLA 2058:7,17,18 fibrillaly 2058:2 fibrillation 2058:3,4 fictitious 2023:18 fifty 2006:21 2011:23 2053:14,15,20 fifty-seven 2011:24 figure 2029:19 2043:9 figures 2058:24 file 2000:7 2003:5 2007:11 2012:21,22,23 2062:2 Final 2043:13,15 Finally 2050:2 find 2047:7,22 fine 2044:10 2049:23 finish 2009:11 2012:14 2015:22,22 2034:19,19 2038:2 2041:6 finished 2035:3 fired 2024:8,19 firm 2007:9 2043:19 first 2007:15 2014:15 2015:8 2035:4 2046:20 2047:2 fit 2024:13 fits 2025:17 five 2018:13,13 following 2047:4 foregoing 2061:4,7 form 2005:20</p>	<p>forth 2006:16 2009:8 2011:3 2030:19 forward 2005:15,15 2010:18,19 2013:13 2027:2 2032:11 2038:7 2041:14 2043:8 2045:17 2045:24 2048:22 2049:21 2049:22 2050:8,15,16 found 2024:13 2026:2 four 2027:23 2028:4 2045:19 front 2003:11 full 2033:9 2056:9 further 2038:11 2039:11 2051:14</p>
<hr/>		
G		
<p style="text-align: center;">F</p> <hr/> <p>F 2002:2 face-to-face 2019:20 fact 2015:16 2027:3 2048:3 2049:20 factor 2041:9 2044:21 facts 2045:20 failed 2026:16 failing 2014:20 fails 2026:15 fair 2034:6 2044:15 fairly 2019:9 fairness 2022:14 fallacy 2043:24 falls 2026:12 false 2015:12 familiar 2004:22 2039:7 2044:14 far 2005:12 2048:13 fatally 2047:10 2050:15 fear 2014:22 2033:24 February 2016:4 2033:21 2039:17 2040:6 Federal 2006:9 2007:3,19 2007:22 2008:3,8,14 2009:23 2010:2 2011:9 2011:16 2012:8,20</p>	<p>gain 2038:23 Geez 2020:7 generally 2010:23 generated 2006:7 Gerard 2001:9 2003:12,21 2003:23 2004:3,11,14 2005:4 2007:21 2008:17 2009:2,9,14,17,20 2012:15 2014:11,14 2015:20,23 2017:17,20 2018:4 2019:15 2020:3 2020:16 2023:24 2025:9 2025:24 2027:24 2028:5 2028:8 2033:20 2034:16 2034:23 2036:7 2037:8 2037:19 2038:11,13 2039:10,22 2041:3,7 2043:4,5,16,23 2046:24 2048:24 2049:2,14 2050:14,24 2051:12 2052:2 2060:2 getting 2024:19 2054:19,23 2057:11 give 2012:17,23 2013:6 2017:7 2046:20 2047:21 2049:5 given 2019:5 2055:11</p>	<p>G 2002:2 gain 2038:23 Geez 2020:7 generally 2010:23 generated 2006:7 Gerard 2001:9 2003:12,21 2003:23 2004:3,11,14 2005:4 2007:21 2008:17 2009:2,9,14,17,20 2012:15 2014:11,14 2015:20,23 2017:17,20 2018:4 2019:15 2020:3 2020:16 2023:24 2025:9 2025:24 2027:24 2028:5 2028:8 2033:20 2034:16 2034:23 2036:7 2037:8 2037:19 2038:11,13 2039:10,22 2041:3,7 2043:4,5,16,23 2046:24 2048:24 2049:2,14 2050:14,24 2051:12 2052:2 2060:2 getting 2024:19 2054:19,23 2057:11 give 2012:17,23 2013:6 2017:7 2046:20 2047:21 2049:5 given 2019:5 2055:11</p>

<p>giving 2008:19 global 2011:17 go 2005:5 2009:16 2013:19 2014:4,13 2015:6,8 2016:11,14 2017:2 2018:3 2021:2,7,11 2023:6,16 2024:10 2029:16 2030:14 2031:13 2031:19 2032:11,23 2038:5,5,7 2042:7 2048:22 2050:8,15 2054:6 2055:15 2058:12 goes 2005:15,15 2010:18 2010:18 2016:16 going 2006:16 2014:5,23 2015:16 2016:15 2021:4 2021:7,18,22 2027:2 2029:3,9,16 2032:10,16 2032:17,22 2033:3 2036:12 2039:2 2045:17 2045:21 2049:5 2050:15 2052:24 2055:8,15 2058:6 2059:6 good 2003:2 2027:7 grant 2047:3 2051:3 great 2007:24 2025:10 grieve 2054:18 grounds 2022:5 groups 2053:13 guess 2028:17 2046:21 guy 2031:11 2059:4 gym 2052:19 2053:3,7,13 2053:17,24 2054:12 2055:24 2056:4,6,8,13,22 2057:12 2059:6</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>H 2062:2 hampered 2033:16 hand 2017:12 handle 2016:23 2057:8 handled 2042:14 handling 2006:5,10 happen 2044:22 2045:9,21 2058:6</p>	<p>happened 2009:4 2013:21 2018:9,11 2019:7 2023:7 2030:16 2033:20,22,24 2034:5 2037:2 2038:7 2043:10 2044:2,4,5,23 2045:14,20,23 happening 2053:12 happens 2026:14 2035:5 2040:14 2053:21 happy 2045:12 hard 2012:22 Heany 2048:21 2049:3 hear 2003:8 2020:12 heard 2007:15 2039:11 2042:21 2043:2,7 2056:19 hearing 2000:14 2003:2,8 2003:17,19 2004:6,7,9,13 2005:2 2007:18 2009:5 2009:10,15,19 2012:13 2014:9,12 2015:21 2017:15,18 2018:2,20 2019:8,13,24 2022:17 2023:22 2025:7,22 2027:22 2028:3,7,16,18 2029:4,7 2031:22 2032:4 2032:9,16,18,19,22 2033:4 2034:18 2036:3 2036:11,20,21 2037:5,7,9 2037:12,13,14 2038:10 2039:9,19 2041:5 2043:13 2046:13,19,24 2047:3 2048:8,10,21 2050:3,8,23 2051:6,16,20 2051:24 2054:22 2055:4 2059:9,12,13,16,20 2060:3,5 2061:11 hearings 2050:9 heart 2058:14 help 2057:7 helpful 2037:10 hereof 2061:7 hereto 2061:6 hereunto 2061:13</p>	<p>hey 2021:6 high 2053:3 higher 2025:20 highly 2032:17 hired 2046:5 history 2004:20 2038:15 2042:18,19,19 hold 2009:5 2034:19 homicidal 2019:21 2020:2 honorable 2008:7 horses 2026:12 hour 2018:15 housed 2053:4 Howard 2000:14 2003:7 humpty 2026:11</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>illegal 2028:13 2054:9 illness 2058:18 immediately 2024:10 impact 2005:7 important 2026:8 2036:17 2041:9 2047:20 impossible 2056:2 inaccurate 2006:4 inappropriate 2034:13 incident 2028:11 inclined 2017:24 inclusive 2061:9 incoming 2004:21 2007:7 2024:20 incompetence 2044:15 2055:21 2057:22 incompetent 2035:11 2052:13 inconsistent 2008:11 incorrect 2042:23 indicate 2051:5,8 indicated 2004:23 2007:12 2048:24 2052:2,5 indicates 2048:14 inefficient 2052:14 information 2005:10 2013:8 inmate 2040:22</p>
---	---	--

<p>inquiry 2029:10 insist 2042:11 insisting 2006:19 instructional 2048:20 2055:20 2057:6 insubordinate 2035:11 2052:13 insubordination 2057:22 integrity 2022:15 intend 2004:2 2051:6 intended 2058:18 intending 2004:17 intends 2003:23 interaction 2057:5 intercede 2047:16 interest 2048:2 interesting 2042:13 2048:3 2048:5 interrupt 2008:18 interviews 2052:18 invoke 2024:7 involve 2012:4 involved 2011:9 2025:19 involving 2006:9 2007:16 2011:6 irretrievably 2038:18 issue 2036:22 2058:7 2059:22 issued 2004:12 2048:18 issues 2039:8 2047:12,14</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>Jalowski 2001:4 2002:3 2003:10,20 2008:17 2009:3,13 2011:14 2012:11 2015:20 2019:11 2019:14,15 2020:14,15 2020:15,16 2031:23,24 2034:20,21 2036:5,9,14 2036:15,24 2037:17,22 2039:12 2041:3 2042:13 2042:21 2043:4,15 2049:2,13 2051:10,15,17 2051:19 2052:6,9 2053:1 2054:1 2055:1,3,6 2056:1</p>	<p>2057:1 2058:1 2059:1,24 Jalowski's 2009:6 2049:11 job 2053:10 2058:24 joint 2012:9 Judge 2008:16,23 2035:19 2060:2 Judge's 2008:20 judgments 2008:11 judicial 2008:12 2049:8 2050:12 June 2044:7</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>Kantha 2056:20 Kearney 2007:9 2008:2 2009:21 2011:18 2012:8 2014:15 2015:14,24 2019:11 2020:13 2021:5 2023:7 2033:22 2035:6 2039:15,21 2040:7 2041:14,21 2042:5 2045:8 2047:17 Kearney's 2014:6 2039:24 2043:19 keep 2024:5 kill 2016:3,18 2021:21 kind 2010:5,6 2013:8 kinds 2010:24 kings 2026:12,13 Kline 2028:7,9,9,15,15 2048:18 2049:3 knew 2042:5 know 2004:17 2005:10,24 2006:3,20 2007:6 2010:3 2010:8,22,24 2011:13 2012:16 2013:3,5,6 2014:16 2015:9,17 2016:3 2017:8 2018:8,11 2019:2,6,18 2020:6,13 2021:11,17 2022:9,18 2024:13,14,20,22 2025:17 2026:2,11 2027:16 2029:16,18,19 2029:22,23 2030:4,11,21 2031:9,18,21 2038:14,15</p>	<p>2039:3,5 2040:12,15,16 2040:22 2041:7,8,11 2042:20,20 2044:18 2045:20 2047:15 2048:7 2053:5,6 2054:15 2055:23 2058:6 knowledge 2048:14 knows 2011:14</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>Laforgia 2028:6 language 2025:16 large 2006:20 2053:2,6,13 2053:23 2054:4 2057:9 largely 2006:7 larger 2052:21 latenesses 2057:23 Law 2000:7 lawsuit 2007:4 lawyer 2006:8,17,18 2016:13 2021:19 2022:23 2024:24 lead 2053:10 leading 2042:2 leads 2045:22 2049:9 2054:21 leave 2051:3 2057:20 2058:9,15 leaves 2050:24 2054:19 Legal 2000:12 2001:5 legitimate 2040:18 2047:12 lesser 2045:10 lesson 2056:13 letter 2009:24 2010:3 2020:5 2022:5,7 2023:19 2041:24 letters 2028:10 2030:17,23 let's 2021:9,9 2051:21 level 2035:14 licensed 2053:17,18,24 2055:24 2057:12 lift 2010:13 Lindley 2052:18 line 2062:4</p>
---	---	--

<p>listen 2017:24 2049:9 2058:23 literally 2037:4 2054:10 litigation 2050:6 little 2005:5 2021:3 live 2031:21 local 2048:19 2057:6 LOCATION 2000:11 long 2018:13,14 longer 2034:6 look 2008:4 2019:9 2020:2 2036:12 looked 2012:22 looking 2004:19 looks 2046:15 loses 2013:17 lot 2027:13,14 2043:16 lower 2025:13 Lynch 2061:3,17</p>	<p>means 2019:2 medical 2040:4 meetings 2030:20 2031:2 2057:18 memory 2048:10 men 2026:13 mentally 2024:8 mention 2033:21 2040:10 merits 2048:9,11 metal 2015:4,7 Michael 2001:4 2035:21 2036:18 middle 2052:23 mind 2054:8 minutes 2018:13,14 2051:18,22 misconduct 2038:16 missed 2057:18 missing 2019:5 moment 2049:12 monetary 2012:4 money 2006:20 2013:3,5 months 2016:6,11 2040:10 2041:11 morning 2003:3 2015:4 motion 2008:6,14,15,22 2010:11 2032:3 2034:24 2035:6,7 2046:2 Museum 2052:20</p>	<p>2043:24 2044:21 2053:13 new 2000:2,5,13,13 2001:6 2001:6 2003:4 2032:9,11 2035:23 2036:21 2037:14 2038:4 2045:23 2061:2 nightmare 2030:13 normally 2044:22 note 2003:9 2048:4,5 notes 2012:17 2030:20 November 2008:5 novo 2004:7 2047:3 number 2003:6 2005:5,16 2046:15 2054:20 2055:12 2055:13 2061:9 numerous 2029:20 NY 2000:15 NYC 2000:11 2001:5</p>
<p style="text-align: center;">M</p> <p>machine 2015:8 making 2005:8,20 2023:16 2024:5 2040:16 2046:2 2046:10 2048:12 man 2032:21 manage 2050:4 maniac 2019:21 2020:2 manner 2026:20 March 2006:18 2016:5 2039:18 2040:6 material 2004:8 matter 2000:4 2003:3 2004:5,20 2005:14 2006:11,13 2036:8,21 2039:6 2042:18 2045:19 2046:22 2047:16,16 2050:7 2059:13 matters 2017:9 2018:19 2041:15 2049:23 ma'am 2052:7 mean 2010:2 2022:13 2027:15 2029:9 2030:23 2036:16 2037:11 2038:14 2039:20 2043:7</p>	<p style="text-align: center;">N</p> <p>N 2002:2,2 name 2003:7 2048:20 2061:13 necessary 2050:10,10 need 2013:8 2029:16 2053:15,18 2058:9 needed 2044:4 2045:12 needs 2038:8,9 2046:18 2058:8 neglected 2052:15 negotiate 2040:22,23,24 nervous 2021:5 never 2009:20 2019:6 2032:14,19 2043:18,20</p>	<p style="text-align: center;">O</p> <p>O 2002:2,2 objected 2032:6 objection 2008:8,21,22 2031:16,16 2038:3 2049:11 obligation 2021:20 2029:10 2050:8 observances 2054:6 observed 2054:6 obtain 2013:20 2028:22 2031:10 2038:19 2049:7 obtaining 2040:4 obviously 2046:3 occurred 2006:2 2012:19 2014:2 2016:4,22 2019:10 2021:12 2022:10 2024:21 2030:14 2031:4 2039:16 2041:11 occurring 2017:22 October 2000:9 2061:14 2062:3 offer 2004:17 2012:9 2033:5 2049:4,16 offered 2012:7 offers 2011:19 Office 2000:12 2001:5</p>

<p>officer 2000:14 2003:2,8 2003:17,19 2004:9,13 2005:2 2007:18 2009:5 2009:10,15,19 2012:13 2014:9,12 2015:21 2017:15,18 2018:2 2019:13,24 2023:22 2025:7,22 2027:22 2028:3,7,19 2029:7 2031:22 2034:18 2036:3 2036:11,20,21 2037:6,7,9 2037:12,13,14 2038:10 2039:9,19 2041:5 2043:13 2046:19 2050:3 2050:8,23 2051:16,20,24 2054:22 2055:4 2059:9 2059:12,16,20 2060:3 official 2018:8,23 2019:6 off-the-record 2018:16,21 2034:8,13 okay 2003:14,15,19 2014:12 2027:11 2029:4 2029:8 2051:20 2053:5 2059:15,16,18 once 2015:3 2016:6 2017:5 2020:19 2026:11,11 ones 2039:16 one's 2036:10 one-by-one 2055:16 open 2017:6 opportunity 2016:16 2049:14 2052:6 2053:11 opposed 2010:12 2028:23 opposition 2008:7,21 option 2051:12 oral 2008:22 orally 2047:2 order 2008:20 2009:24 ordered 2032:24 originally 2045:5 outcome 2008:9 outlined 2011:5 outside 2005:6 2018:20 2019:7,8</p>	<p>overall 2047:22 overheard 2020:7 owe 2013:3,5 owed 2006:19</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>P 2002:2 page 2007:23,24 2027:23 2036:19 2061:7 2062:4 pages 2027:23 2061:8 paid 2043:19 paint 2021:22 palpitation 2058:13 panel 2025:20 paper 2013:4 2018:3 papers 2008:15 2046:3 paragraph 2008:4 parcel 2024:15 part 2011:15,17 2012:6 2021:18 2024:15 2040:18 2043:19 2056:5 parte 2005:21 2016:20 2020:23 2024:22 2026:3 2026:17 participant 2043:6 participate 2051:9,13 2052:4 particular 2049:12 parties 2007:23 2018:17 2019:10 2028:9 2034:14 party 2040:20 passed 2015:5 pause 2003:16 pay 2013:18 2022:6 2043:21 paying 2011:15 2040:16 payment 2011:21 2012:4 2012:10 pending 2006:9 2008:9 people 2005:24 2032:18 2055:12 period 2011:7 personal 2043:6 personally 2040:15 petulant 2054:8</p>	<p>phone 2017:11,22 2019:19 2019:22 2045:2 2055:12 2055:20 phones 2018:19 phonetic 2025:5 phrase 2062:5,7,8,10,11,13 2062:14,16,17,19,20,22 2062:23 pick 2029:19 place 2031:8 2061:5 planning 2046:2 play 2005:14 please 2027:23 2051:19 plenty 2034:7 pockets 2015:6 point 2006:12,18 2011:22 2013:14,24 2021:4 2024:17 2027:8 2034:6 2038:8 2049:10 portion 2018:12 2021:15 position 2004:4,16 2005:9 2007:6 2031:7,18 2052:19 possessions 2015:7 possible 2057:15 possibly 2053:11 posture 2023:11 practice 2010:2 preference 2051:11 prejudice 2010:23 prejudiced 2047:8 prejudicial 2047:10,24 prepared 2061:10 preponderance 2052:11 presence 2048:23 2061:5 present 2003:10,20,20,21 2023:10 2051:7 presented 2010:9 2046:17 2058:11 pressuring 2006:23 pretty 2039:7 prevailing 2040:20 previous 2056:4 previously 2052:2,5</p>
--	--	--

<p>Principal 2052:18 principled 2031:17 prior 2007:8 2012:16 2024:23 2030:12 2036:22 2037:13 2046:22 2047:13 privilege 2050:5 privy 2022:20 2042:4 probably 2043:8 probative 2049:4 problem 2006:5,6 2007:7 2008:11 2010:20 2056:12 problems 2057:3 proceed 2023:13 2050:20 2051:17 proceeding 2000:7 2003:3 2007:7,19,20,22 2008:9 2010:17,18 2022:12,16 2024:23 2025:3 2031:6 2044:22 2050:9 2051:9 2051:14 2052:5 proceedings 2003:13 2005:12 2008:23 2022:14 2035:8 2039:24 2050:13 2050:18 2061:11 process 2026:7,15,16 2040:18 2047:11 2049:8 2050:4 produce 2029:15 produced 2028:17 product 2030:6 pronouncing 2025:10 proof 2033:5 properly 2037:16 proposed 2011:5 proposing 2014:4 provably 2023:3 proved 2052:10 provide 2013:7 2024:2,2 2038:20 provided 2009:18,21,21,23 2053:20 provision 2024:7 provisions 2011:14 pulling 2042:16</p>	<p>purported 2020:4 purse 2030:11 put 2003:16 2005:9 2023:10 2026:13 2031:4 2033:6 2034:23 2045:5</p> <hr/> <p style="text-align: center;">Q</p> <p>question 2009:12 questions 2050:4,5 quote 2014:5 quotes 2026:10</p> <hr/> <p style="text-align: center;">R</p> <p>R 2002:2 2062:2,2 Ramsey 2057:6,7,19,19 Randall 2035:18 2036:21 read 2004:23 2018:10 2042:7 2047:6 2055:14 2058:3 reaffirm 2046:21 real 2021:19 2042:11 2045:13 really 2005:12 2013:21 2021:2,3,8,17 2022:7 2027:7,7 2036:16 2042:21 2043:2,17 2045:18 2047:7 2050:6 2058:5,15 reason 2020:22 2021:19 2023:9 2033:10 2042:9 2042:11 2043:22 2044:24 2045:4,11,13 reasons 2005:16 2046:23 2047:4 2056:16 receipt 2003:22 2059:21 received 2004:10 2020:6 receiving 2025:20 recluse 2020:5 recommendations 2016:15 record 2003:18 2004:18,24 2005:6,9 2007:8 2018:6,6 2018:23 2019:2,4,7 2020:11 2021:3,10,11,13 2021:13,14,14 2022:10 2022:19,20 2023:13</p>	<p>2024:5,22 2025:4 2026:5 2026:18 2027:3 2029:19 2030:2,12 2031:6,8,10 2032:3,4 2033:9,9 2034:23 2035:16,21 2036:2,22 2037:5,13 2042:12 2045:6 2046:12 2047:23 2048:14 2049:12 2049:15,24 2050:16,20 2050:22 2051:21,23 2052:2 2059:3,4,21 2061:11 recorder 2017:23 recording 2017:21 records 2007:14,16 2030:16 2040:4 record's 2049:16 recusal 2022:5 2045:6,21 2045:23 recuse 2020:12 2023:9,17 2035:19 2044:5 recused 2020:21 2034:7 recusing 2041:22 2045:16 redo 2029:21 2049:15 refers 2008:20 reflect 2030:22 2031:3 refuse 2007:10 refused 2007:10 2012:24 regard 2020:9 regarding 2008:12 regional 2048:19 relate 2047:13,14 related 2008:11 2058:2 relationship 2016:7,12 2025:2 2041:13 relief 2049:5 relieved 2008:3 relitigate 2027:18 relitigated 2033:11 rely 2023:13 2026:24,24 relying 2022:23 remediable 2058:21 remedy 2038:2 remember 2033:5</p>
---	---	---

<p>removing 2024:17 render 2050:11 rendered 2052:13 reneging 2042:17 repeatedly 2019:3 reported 2016:5 2061:4 Reporter 2003:15 2059:11 2059:15,18 2061:17 reporting 2039:15 representation 2037:11 requirements 2022:13 2026:7 resignation 2044:12 resolution 2007:2 resolve 2007:2,3 respect 2046:22 2048:9,16 2048:17 Respondent 2001:8 2029:2 2029:5 Respondent's 2028:21 result 2015:13 2024:12 2030:7 retaliation 2039:5 retired 2056:6 return 2024:13 review 2036:13 reviewed 2027:3 2047:5 ridiculous 2038:8 right 2009:9,19 2012:15 2017:20 2028:8 2038:13 2039:22,23 2046:6,20 2049:4 2050:16 2052:9 rights 2039:6 2047:9 2054:13 Road 2000:15 Rockville 2000:15 role 2005:14 2047:15 2050:2,3 room 2034:11 2045:8 rule 2055:7 ruled 2032:5 2048:21 rules 2028:19 ruling 2004:14 2025:13,14 2028:24 2032:9 2037:15</p>	<p>2046:22 2047:21 2048:17 rulings 2030:5,7 2031:20 2046:20 2047:21,23 2048:12</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>S 2002:2 2056:7 2062:2 safety 2033:24 sandbagged 2023:8 sandbagging 2033:11 sandbags 2022:24 sat 2010:7 saying 2009:6 2016:14 2020:7 2043:23 says 2014:3 2020:13,24 2021:5,8,17 2029:7,15 scenario 2011:12 school 2052:12,16,20,20,21 2052:21,21,23,24 2053:3 2055:8 2058:22,23 Schron 2056:3 2057:2 Schron's 2055:11 scope 2050:7 script 2019:23 2020:4,20 2023:16 2042:5,6 search 2014:20,24 searched 2015:10,17 second 2048:5 2050:21 secret 2024:6 Section 2000:7 secure 2055:2 security 2014:19 see 2003:11 2020:12 2021:5 2023:23 2027:12 2032:13 2040:9 2045:3 2045:13 2046:13 2047:2 2055:15 2056:16,17 2057:17 2058:10,10 seek 2050:17 seeking 2024:18 seen 2012:21 2017:8 2027:5,9 2031:14 self-serving 2038:21 send 2041:2 sending 2041:23</p>	<p>sends 2016:13 2023:20 sense 2027:4 sent 2008:19 2033:7 2035:23 Sequoia 2025:5,8 series 2006:16 2011:3,12 2041:19 serious 2058:18 served 2028:19 serves 2048:10 service 2052:14 Services 2000:12 2001:5 session 2018:14,15 sessions 2022:18 set 2019:17,18 2029:23 2035:16 2059:19 settlement 2006:14,15 2010:19,22 2011:6,16,17 2011:20 2012:3,7 2013:2 2016:9 2020:8 2030:17 2040:18,23 2043:20 2044:8,15 settling 2011:9 2012:5 seventy-eighted 2037:20 seventy-fived 2037:21 sham 2010:15 Shanti 2056:20 share 2053:3 she'd 2043:8 show 2028:16 2030:24 2032:15 2057:8 2059:3 showing 2037:3 shown 2032:19 2058:17 shows 2059:4 sign 2013:4 silk 2030:11 simply 2051:10 sir 2051:11 sit 2058:8 sitting 2046:10 situation 2006:2 2022:7 2023:21 2024:11,19 2025:17 2054:17 2056:24 2057:16 2059:5</p>
---	---	---

<p>size 2028:13 slug 2030:10 smaller 2057:13 Smith 2000:6 2001:1 2002:1 2003:1,5,11,20 2004:1 2005:1,19 2006:1 2007:1,11 2008:1,8 2009:1 2010:1,16 2011:1 2011:4,19,24 2012:1,24 2013:1,23 2014:1,19,20 2015:1 2016:1,2,8 2017:1 2017:21 2018:1 2019:1,8 2019:18 2020:1,7 2021:1 2022:1 2023:1 2024:1 2025:1 2026:1 2027:1 2028:1,10 2029:1 2030:1 2031:1 2032:1 2033:1,17 2034:1,2 2035:1,10,13 2036:1 2037:1 2038:1 2039:1,20 2040:1,7,12 2041:1,21 2042:1,4 2043:1 2044:1,9 2045:1,7 2046:1,6 2047:1,12 2048:1,15 2049:1,22 2050:1 2051:1,7 2052:1,3 2052:11,17,18,22 2053:5 2053:9,12,22 2054:5,18 2054:24 2055:10,22 2056:10,11,14,22,24 2057:8,9,12,15,24 2058:20 2059:2,3,4 2060:1 2061:1 2062:1,2 2063:1 Smith's 2011:15 2012:3 2027:20 2046:4 2047:9 2047:18,24 2049:19 2056:17 2057:5 somewhat 2010:15 2011:23 soon 2003:12 sorry 2008:18 2055:6 sort 2004:12 2005:5 2010:14 2013:21 2021:10 2021:13 2025:17 2028:14</p>	<p>2044:10 2054:10,11 sorts 2055:21 soured 2013:14 so-ordered 2010:4,5 speak 2031:12 2032:20 speaking 2018:12 specific 2037:15 specification 2055:16 specifications 2057:4,18 specifics 2048:4 spelling 2025:5 spoke 2019:11,12,16 stage 2030:10 stance 2045:10 standing 2038:3 start 2033:16 starts 2054:6 State 2000:2,2 2003:5 2061:2 stated 2061:6 statements 2023:2 status 2056:7 stay 2003:14 2007:16,18 2007:19,21 2008:8 2010:13 2012:20 2013:12 2050:12,17,18,20 staying 2008:23 2035:7 step 2034:11 stipulated 2013:12 stipulation 2010:6 Street 2000:12 2001:6 strenuously 2035:15 stress 2044:2 2058:5 strings 2042:16 stuck 2045:2 students 2055:19 stuff 2017:13 subject 2014:24 submit 2058:16 submits 2052:10 submitted 2004:7 2008:2 subpoena 2028:20 2032:12 2032:13 2048:22 2049:5 2049:6</p>	<p>subpoenaed 2027:21 2028:14 2032:18 subpoenas 2029:5 2048:18 subscribed 2061:13 subsequently 2010:10 substitute 2054:20,24 2055:2,5,10 substituted 2056:14 substitutes 2055:11 sudden 2058:13 suited 2055:19 sulked 2054:11 summer 2052:17 summing 2031:9 superintendent 2048:19,20 2057:7 superior 2042:16 supervise 2050:3 supervision 2061:10 supplement 2004:18 supply 2005:9 2007:11,22 support 2049:18 supposed 2029:18 2033:12 2033:16,19 2055:9 Supreme 2038:5 sure 2009:14 2034:9,10 surface 2027:12,14,15 2048:7 surfaced 2005:19 Susan 2001:4 2055:11 2056:3 suspect 2012:6 2041:8 suspects 2043:17 suspension 2011:7 2044:10 2044:16,19 suspicious 2043:16</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>T 2062:2,2 tactics 2040:2 taint 2047:7,22 tainted 2005:13 2026:23 2027:4 2038:18 2049:16 take 2004:17 2036:8,12,13 2044:17,19 2050:10</p>
--	--	--

<p>2051:12,21 2053:9 2054:3 2057:15 taken 2030:5 talk 2010:13 2021:9 talked 2034:11 talking 2022:16 talks 2030:17 2040:13,13 tape 2017:21,23,23 2018:11,13 2019:6 taught 2053:13 teach 2054:12 2056:13 2059:6 teacher 2052:19 2053:7,8 2053:17,24 2054:18,20 2054:24 2056:2,4,6,8 2057:12 teachers 2056:21 teaching 2052:23 2053:22 2053:23 2054:4 2056:24 Ted 2040:7 2056:10 Telephone 2001:7 tell 2032:20,21 2040:24 2056:23 telling 2041:22 tells 2016:17 2029:6 ten 2020:6 terminated 2044:12 termination 2011:8 2058:20 2059:8 terms 2010:15 2011:20 2012:7,20 testified 2056:10,15 testify 2032:16 2033:2 testimony 2029:24 2030:5 2049:4,17,18 2055:14,17 2056:3,20 2058:3 Thank 2059:9,20,23,24 2060:2,3 Thanks 2003:17 2051:22 Theodore 2000:6 2001:1 2002:1 2003:1,5 2004:1 2005:1 2006:1 2007:1 2008:1 2009:1 2010:1 2011:1 2012:1 2013:1</p>	<p>2014:1 2015:1 2016:1 2017:1 2018:1 2019:1 2020:1 2021:1 2022:1 2023:1 2024:1 2025:1 2026:1 2027:1 2028:1 2029:1 2030:1 2031:1 2032:1 2033:1 2034:1 2035:1 2036:1 2037:1 2038:1 2039:1 2040:1 2041:1 2042:1 2043:1 2044:1 2045:1 2046:1 2047:1 2048:1 2049:1 2050:1 2051:1 2052:1 2060:1 2061:1 2062:1,2 2063:1 thereabouts 2014:7 Theresa 2020:17 thing 2007:15 2010:14,14 2011:11 2021:24 2022:12 2023:10,15 2026:4 2028:14 2032:8 2039:11 2042:23 2043:7 2044:4 2057:21 things 2004:22 2005:5,18 2010:24 2014:5,8 2016:15,24 2018:10 2026:18 2029:20 2030:23 2030:24 2033:2 2043:10 think 2014:7 2020:8,14 2021:2,8 2023:14,19 2026:23,24 2027:4 2028:6,6 2029:13,22,24 2030:12,14 2033:6 2038:3,15,18,23,24 2039:2 2044:9 2049:15 thinks 2058:21 third 2032:7 2046:10,24 thirteen 2022:18 2030:4 thought 2021:6,7 2036:5 2045:7 2053:10 thousand 2006:21 2011:23 2011:24 threatened 2016:17 2041:14</p>	<p>threatening 2016:2 threats 2016:4,11 2022:4 2033:21,23 2034:2 2039:14 2040:7 2042:24 2048:6,15 three 2017:10 2018:16 2033:17,18 2041:19 2048:4 2051:13 three-month 2044:10,16 thwart 2035:14 Tillem 2045:3,7,16 2047:20 2048:6,12,21 Tillem's 2047:23 2048:16 Tilman 2044:5 tilted 2020:8 time 2000:10 2004:2 2010:10 2011:7 2020:23 2025:12 2028:21 2029:2 2029:9 2032:7 2042:14 2046:10,24 2055:20 2056:6,9 2061:5 timely 2059:22 times 2034:8 timing 2042:24 today 2051:4 told 2016:2 2021:20 2028:18 2032:14 2034:24 2052:22 2053:4 2055:10 2056:2,23 2059:2 train 2045:2 transcribed 2018:23 2022:13 transcript 2017:7,10,11,13 2018:5,7,8 2019:9 2022:15,22 2027:20 2042:7 2045:14,19 2046:16 2047:6,6,8,10 2059:22 transcription 2061:8 transcripts 2046:13 trial 2038:4 tried 2035:13 2057:7,8,24 true 2008:18 2015:9 2016:21 2061:10</p>
--	--	---

<p>try 2004:18 2029:21 2032:23,24 2057:16 trying 2021:21 2023:20 2030:10 2032:8 2035:9 2035:12 2045:15 turn 2024:6 2030:11 twelve 2030:3 twenty-five 2010:21 twenty-three 2008:5 two 2009:12 2016:6,11 2035:17 2040:10 2041:11 2041:19 2048:4 type 2059:4 types 2030:7 typewritten 2061:8</p>	<p>v 2000:5 verbatim 2018:5 versus 2003:5 viable 2056:13 2059:6 Victor 2057:6 viewed 2006:24 vigorously 2047:19 violated 2054:14 violating 2054:9 violent 2045:9</p>	<p>WILLIAM 2001:9 wishes 2009:16 withdraw 2016:24 withdrawing 2011:9 2012:6 witness 2027:21 2029:6,6 2029:11,23 2043:9,12 2061:12 witnesses 2029:3 2030:8 2032:12 2047:19 2049:21 2051:7</p>
<hr/> U <hr/>	<hr/> W <hr/>	<p>word 2043:7 2062:5,7,8,10 2062:11,13,14,16,17,19 2062:20,22,23 words 2029:5 work 2022:23 2024:13,24 2042:10 2056:5 worked 2056:5 works 2029:22 2058:22,23 worse 2057:17 wouldn't 2006:15 write 2010:3 2035:7 writing 2047:2 written 2004:8 2008:21 2010:11 2028:10 wrong 2026:10 2027:11,13 2027:15 2029:21 2043:17 wrote 2035:6</p>
<p>Uehling 2052:18 Uehling's 2055:14 ugly 2014:5,8 2016:16 unable 2024:21 underlying 2006:2 2026:15 2031:11 2044:20 underneath 2027:14 understand 2009:6 2011:2 2017:19 2037:14 2039:7 2054:23 understanding 2018:21 unethical 2005:21 2026:19 2045:16 unfavorable 2006:24,24 unfit 2024:9 unfortunately 2053:21 2054:15 2057:14 UNIVERSITY 2000:2 unmanageable 2013:16 unreported 2016:11 untrue 2014:18 2023:3 unusual 2052:20 upheld 2025:14 use 2032:11 2058:16 usually 2044:18 2058:4 U-rating 2011:6</p>	<p>waiving 2031:15 wall 2026:12 want 2009:7 2013:4 2018:8 2019:19 2023:12 2027:17 2027:17 2032:12 2034:22 2037:8 2043:11,11,14 2050:12 2051:8,9,13,17 wanted 2013:16 2024:4,6 2033:6,13 2056:5,8 2057:11,11 2058:15 wants 2049:6 wasn't 2015:5 2022:10,12 2037:19,20,21 2045:3 2057:10 wasted 2029:8 way 2006:4 2013:17 2016:22 2021:23 2042:14 2047:17 2051:2 2053:22 2054:3 2058:22 ways 2054:4 went 2008:14 2013:13 2014:15,16,17 2015:4,24 2019:3,22 2020:3 2037:24 2043:7 2045:24 weren't 2021:7 2045:17 we'll 2031:21 we're 2004:4,15,15 2005:8 2005:8 2022:11 2029:3,9 2029:16 2032:7 2035:9 2036:12 2046:9 we've 2004:7 2021:2 2029:2 WHEREOF 2061:12</p>	<hr/> X <hr/>
<hr/> V <hr/>	<p>X 2002:2 x-ray 2015:8</p>	<hr/> Y <hr/>
		<p>yeah 2014:11 2023:19 2024:2 2025:9 2028:5 year 2052:12,17 2056:4 years 2010:21 2044:14 2046:15 York 2000:2,5,13,13 2001:6,6 2003:4 2061:2</p>
		<hr/> # <hr/>
		<p>#5,432 2000:7 2062:2</p>

0	2060 2061:9 212 2001:7 23rd 2048:11	
06 2008:5 07 2014:10 2048:8	3	
1	3020 2008:9 3020-a 2000:7 2032:16,22 2033:4 2035:9 2044:22 374-6741 2001:7	
1 2000:9 2062:3 10 2014:10 10th 2014:8 2017:11,19 2018:9 2033:12,19 2039:15 2041:12,20 2044:24 2048:17 10-1-2007 2001:1 2002:1 2003:1 2004:1 2005:1 2006:1 2007:1 2008:1 2009:1 2010:1 2011:1 2012:1 2013:1 2014:1 2015:1 2016:1 2017:1 2018:1 2019:1 2020:1 2021:1 2022:1 2023:1 2024:1 2025:1 2026:1 2027:1 2028:1 2029:1 2030:1 2031:1 2032:1 2033:1 2034:1 2035:1 2036:1 2037:1 2038:1 2039:1 2040:1 2041:1 2042:1 2043:1 2044:1 2045:1 2046:1 2047:1 2048:1 2049:1 2050:1 2051:1 2052:1 2060:1 2061:1 2062:1 2063:1 10:04 2000:10 10004 2000:13 2001:6 11:15 2000:10 11570 2000:15 119 2000:15	4	
	4th 2061:13 4/23/07 2027:19,20 49-51 2000:12 2001:6	
	5	
	5,432 2003:6	
	8	
	8th 2014:7 2039:15	
	9	
	9th 2039:16	
2		
2000 2061:7,9 2004 2052:17 2004-2005 2052:12,16 2056:10 2005 2033:15 2007 2000:9 2048:11,13,17 2061:14 2062:3 2052 2002:3		