

McCaw's corrections received.

Respectfully submitted,

/s/ Chad W. Dunn
BRAZIL & DUNN, L.L.P.
Chad W. Dunn
State Bar No. 24036507
K. Scott Brazil
State Bar No. 02934050
4201 Cypress Creek Pkwy., Suite 530
Houston, Texas 77068
Telephone: (281) 580-6310
Facsimile: (281) 580-6362
chad@brazilanddunn.com

AND

DUNNAM & DUNNAM, L.L.P.
Jim Dunnam
State Bar No. 06258010
4125 West Waco Drive
Waco, Texas 76710
Telephone: (254) 753-6437
Facsimile: (254) 753-7434
jimdunnam@dunnamlaw.com

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing has been filed by ECF and sent to counsel of record via electronic notification on July 20, 2018.

/s/Chad W. Dunn
CHAD W. DUNN

**Amended
EXHIBIT B
to ECF 363**



Houston Lisa A. Brown
Dallas Partner
Austin
(713) 554-6741 Office
(713) 583-7934 Fax
lbrown@thompsonhorton.com

Thompson & Horton LLP
Phoenix Tower, Suite 2000
3200 Southwest Freeway
Houston, Texas
77027-7554

July 10, 2018

Mr. Chad W. Dunn
BRAZIL & DUNN, L.L.P.
4201 Cypress Creek Parkway, Suite 530
Houston, Texas 77068

Via Email: chad@brazilanddunn.com

Mr. Jim Dunnam
DUNNAM & DUNNAM, L.L.P.
P. O. Box 8418
Waco, Texas 76714-8418

Via Email: jimdunnam@dunnamlaw.com

Re: *Jane Doe 1, et al. v. Baylor University*, Civil Action No. 6:16-cv-00173-RP, in the United States District Court for the Western District of Texas – Waco Division

Dear Counsel:

In accordance with section seven of the Confidentiality Order in this case (Dkt. 156), Baylor notifies you by this letter of the portions of the Ian McCaw deposition transcript that it designates as Attorney's Eyes Only or Confidential:

(page number:line number)

39:20-21	66:1-2, 10-21	197:18-19	262:7
49:4-6, 17-19	68:5-6	203:5, 17, 20-22	263:20-21
50:3	69:14-15	205:14-16	276:12
54:18-24	70:1-3	236:24	277:3, 20
55:4	76:6, 9	237:3, 10	305:9, 14
60:14	140:23-24	240:17-18, 20	345:14
61:18-19	183:1-3	241:2	
64:6-7	195:6, 10	246:23	
65:13	196:2, 9, 14	253:16, 22	

By this letter, Baylor also reiterates the claw back stated on the record during the deposition (see transcript 348:13-20). Under FED. R. CIV. P. 26(b)(5)(B), a party making a claim of privilege "may



Mr. Chad W. Dunn
Mr. Jim Dunnam
July 10, 2018
Page 2

notify any party that received the information of the claim and the basis for it.” “After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim.” *Id.* As such, Baylor claws back the attorney impressions of Baylor’s retained counsel, Pepper Hamilton, revealed in McCaw’s testimony at 93:25-94:6.

Very truly yours,

THOMPSON & HORTON LLP

Lisa A. Brown

LAB:jnw

cc: Mr. Arturo G. Michel
Ms. Sandy D. Hellums
Ms. Holly G. McIntush
THOMPSON & HORTON LLP

Via Email: amichel@thompsonhorton.com
Via Email: shellums@thompsonhorton.com
Via Email: hmcintush@thompsonhorton.com

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094030.000005

Page 1

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

JANE DOE 1, JANE DOE 2,
JANE DOE 3, JANE DOE 4,
JANE DOE 5, JANE DOE 6,
JANE DOE 7, JANE DOE 8,
JANE DOE 9, and JANE DOE 10,

Plaintiffs,

v.

Cause No. 6:16-cv-173-RP

BAYLOR UNIVERSITY,

Defendant.

VIDEOTAPED DEPOSITION OF IAN MCCAWE

June 19, 2018

9:28 a.m. - 5:57 p.m.

Lynchburg, Virginia

REPORTED BY: Kimberly A. Henderson, RPR

1 Videotaped deposition of IAN MCCAW, taken and
2 transcribed on behalf of the Plaintiffs, pursuant to
3 notice and/or agreement to take depositions; by and
4 before Kimberly A. Henderson, a Registered
5 Professional Reporter and Notary Public in and for
6 the Commonwealth of Virginia at Large; commencing at
7 9:28 a.m., June 19, 2018, at the Virginian Hotel, 712
8 Church Street, Lynchburg, Virginia.

9 APPEARANCES OF COUNSEL:

10 DUNNAM & DUNNAM, L.L.P.
4125 West Waco Drive
11 Waco, Texas 76710
254.753.6438
12 jimdunnam@dunnamlaw.com
BY: JIM DUNNAM, ESQUIRE
13 ELEEZA JOHNSON, ESQUIRE
Counsel for the Plaintiffs

14 BRAZIL & DUNN, L.L.P.
4201 Cypress Creek Pkwy., Suite 530
15 Houston, Texas 77068
281.580.6310
16 chad@brazilanddunn.com
BY: CHAD W. DUNN, ESQUIRE
17 Counsel for the Plaintiffs

18 THOMPSON & HORTON LLP
3200 Southwest Freeway
19 Houston, Texas 77027
713.554.6741
20 lbrown@thompsonhorton.com
BY: LISA A. BROWN, ESQUIRE
21 JESSICA WITTE, ESQUIRE
22 DAVID ILER, ESQUIRE
Counsel for Baylor University

23

24

25

1 APPEARANCES CONTINUED:

2 FANNING HARPER MARTINSON BRANDT
3 & KUTCHIN, P.C.
4 4849 Greenville Ave., Suite 1300
5 Dallas, Texas 75206
6 972.860.0361
7 shenninger@fhmbk.com

8 BY: STEPHEN D. HENNINGER, ESQUIRE
9 Counsel for Ian McCaw

10 Also Present: Jason Levin, Videographer

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Page 4

1 I N D E X

2

3 WITNESS

PAGE

4 IAN MCCAWE

5 Examination by Mr. Dunn 6, 349

6 Examination by Ms. Brown 322

7

8

9 E X H I B I T S

10 Exhibit 1 - Text Message Records 316

11 Exhibit 2 - The Baylor Way 324

12 Exhibit 3 - Student-Athlete Handbook 328

13 2011-2012

14 Exhibit 4 - 11/8/2011 email from David 331

15 Murdock to Bethany McCraw

16 Exhibit 5 - 2/7/2014 email from Ian McCaw 339

17 to Nancy Post

18 Exhibit 6 - Cover email Paul Bradshaw 333

19 receiving police report

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22

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1 (9:28 a.m., June 19, 2018)

2

3 THE VIDEOGRAPHER: This is Disc Number
4 1 of the video deposition of Ian McCaw, in the matter
5 of Jane Doe 1, et al. versus Baylor University
6 pending in the United States District Court for the
7 Western District of Texas, Waco Division. The Cause
8 Number is 6:16-cv-173-RP.

9 This deposition is being held at the
10 Virginian Hotel in Lynchburg, Virginia, on June 19th,
11 2018 at approximately 9:28 a.m. My name is Jason
12 Levin from the firm of Associated Court Reporters,
13 and I'm the legal video specialist. The court
14 reporter is Kim Henderson, also in association with
15 Associated Court Reporters.

16 Will counsel please introduce
17 themselves for the record.

18 MR. DUNN: This is Chad Dunn, Eleeza
19 Johnson, and Jim Dunnam for the plaintiffs.

20 MS. BROWN: Lisa Brown and Jessica
21 Witte for Baylor University.

22 MR. HENNINGER: Stephen Henninger for
23 Ian McCaw.

24 MS. BROWN: And David Iler, also for
25 Baylor University.

Page 6

1 THE VIDEOGRAPHER: And would the court
2 reporter please swear in the witness.

3 IAN MCCAW

4 was sworn and testified as follows:

5 E X A M I N A T I O N

6 BY MR. DUNN:

7 Q. Please tell us your name.

8 A. Ian McCaw.

9 Q. Mr. McCaw, as you've just heard, my
10 name's Chad Dunn.

11 We met the first time this morning; is
12 that true?

13 A. That's correct.

14 Q. I'm sure you understand to some degree
15 what you're here for, but this is a federal lawsuit,
16 you understand that, to enforce civil rights?

17 A. Yes.

18 Q. And you're under oath here today, and
19 you understand that; is that true?

20 A. Yes.

21 Q. I represent, in this case, 10 women who
22 claim they were subjected to a hostile education
23 environment at Baylor University as a result of their
24 sex.

25 Are you aware of that?

Page 7

1 A. Yes.

2 Q. Obviously, the issues in this case are
3 important, and they're certainly important to my
4 clients, but I don't intend to get excited with you
5 or any more aggressive than a regular conversation.
6 We're here today just to find out what your
7 recollection is.

8 You understand that?

9 A. Yes.

10 Q. I may ultimately conclude, or the
11 evidence may ultimately conclude, that what you've
12 told us today is accurate or inaccurate. We'll deal
13 with that at trial.

14 You understand that?

15 A. I do.

16 Q. As informal and hopefully as polite and
17 cordial as we'll be with one another, you do
18 understand ultimately if we get to trial and
19 something you've told us today is different than what
20 some other records show, you'll be called to task for
21 that.

22 You understand that?

23 A. I do.

24 Q. All right. Have you ever given a
25 deposition before?

Page 8

1 A. Yes, sir.

2 Q. In what kind of context?

3 A. It was an employee discrimination case
4 at Northeastern University in approximately 2002.

5 Q. Is that the only time?

6 A. Yes.

7 Q. Have you ever been a party to
8 litigation?

9 A. I was named in the Hernandez lawsuit,
10 and then was dismissed later from that case before it
11 was settled.

12 Q. We'll get into that later, but any
13 other cases?

14 A. No, sir.

15 Q. Well, we've been going well so far, but
16 let me just give you a little bit of background.
17 Obviously, you're being recorded today by videotape,
18 but under the rules that govern us, the written
19 record is the official record of what happens here
20 today.

21 So it's important that your answers are
22 audible and that they're in words. So if you shake
23 your head or make a noise, I may ask you is that a
24 yes or a no. I'm not trying to give you a hard time.
25 I'm just trying to make sure our record's clear what

1 your answer is.

2 You understand that?

3 A. I do understand it.

4 Q. And obviously, you're the only person
5 that knows whether you understand a question; all
6 right? And so we assume that if you answered it, you
7 understood it. We're going to ask you to let us know
8 if I ask you a question you don't understand. I
9 suspect that'll happen every once in a while; okay?
10 So just let me know and I'm happy to rephrase it; all
11 right?

12 A. Yes, sir.

13 Q. Also, you're by no means trapped here.
14 If you need to take a break, let us know. There may
15 be an occasion where we want to finish an area of
16 discussion first before we take a break, but we're
17 happy to accommodate that. Just let us -- like I
18 said, just let us know.

19 The other -- you know, I guess the bad
20 news, I'll just go ahead and tell you now. I suspect
21 we're going to be here all day, so if you need to let
22 some family or friends know, we can make time for
23 that also.

24 A. I've blocked out the whole day. I'm
25 ready.

Page 10

1 Q. All right. So we're going to start
2 today with just a little bit of background about
3 these proceedings and how you got here today.

4 You've been served with a subpoena from
5 federal court; is that true?

6 A. Yes, it is.

7 Q. And so you're compelled to be here
8 today to testify?

9 A. Yes.

10 Q. All right. You have a lawyer with you;
11 is that right?

12 A. Correct.

13 Q. And who is that?

14 A. Steve Henninger.

15 Q. And could you spell that for our
16 record?

17 A. H-e-n- -- two Ns?

18 MR. HENNINGER: H-e-n-n-i-n-g-e-r.

19 BY MR. DUNN:

20 Q. There you go. Sorry. I didn't mean to
21 put on the spot. All right.

22 So Mr. Henninger represents you in this
23 case?

24 A. Correct.

25 Q. Does he represent you in any other

1 capacity?

2 A. He previously worked with me in the
3 Hernandez case as well.

4 Q. I see. All right. You have had an
5 opportunity, I assume, to prepare for this deposition
6 to some degree?

7 A. Yes.

8 Q. I don't want you to get into any
9 conversations you've had with your lawyer, but I
10 would like to know, have you met with anybody in
11 preparation for this deposition?

12 A. Just my attorney.

13 Q. Have you reviewed any documents to
14 prepare to be here today?

15 A. Yes.

16 Q. Which documents are those?

17 A. He gave me a set of documents to
18 review. I can't recall exactly how many pages it
19 was, but I'm going to say 100-plus pages of
20 documents.

21 Q. You recall at some point producing
22 documents to your attorney, who later produced them
23 to the lawyers in this case.

24 Are you aware of that?

25 A. Yes.

Page 12

1 Q. All right. And I believe there's about
2 137 documents, what we call Bates-labeled, numbered
3 at the bottom. It's Ian 1 through approximately 137.

4 Does that meet your recollection?

5 A. That sounds approximately right.

6 Q. Were those the documents that you
7 looked at in preparation for today?

8 A. Yes.

9 Q. Did you look at any other documents or
10 materials?

11 A. No.

12 Q. Is there any information that you have
13 reviewed with law enforcement officers in preparation
14 for today?

15 A. No.

16 Q. At any point in time regarding your
17 employment at Baylor, or any of the incidents that
18 you may have had knowledge of, did you give an
19 interview to law enforcement?

20 A. No.

21 Q. It's been reported, I'm sure you've
22 heard that Baylor is under a number of
23 investigations, or has been, including the Texas
24 Rangers, the NCAA, some other, Office of Civil
25 Rights, and the Department of Justice.

Page 13

1 Have you at any point spoken with any
2 of those organizations?

3 A. Yes.

4 Q. Which of those?

5 A. I've spoken with the NCAA and the Big
6 12.

7 Q. Any others?

8 A. I also spoke to Justice O'Neill, who
9 was conducting an investigation as well.

10 Q. Who is Justice O'Neill?

11 A. A former Texas Supreme Court Justice
12 who was conducting an investigation.

13 Q. Do you understand who, at whose request
14 Justice O'Neill was investigating?

15 A. I don't.

16 Q. When is it that you spoke with Justice
17 O'Neill?

18 A. I believe it was 2017.

19 Q. Did that take place here or in Texas?

20 A. Via phone.

21 Q. By phone. All right.

22 Do you have an understanding of whether
23 your interview or discussion with Justice O'Neill was
24 recorded in any way?

25 A. I'm not aware that it was recorded.

Page 14

1 Q. And in addition to sort of electronic
2 recording, whether it was recorded by stenography or
3 notes, some other type, are you aware of that?

4 A. I'm not aware that it was recorded.

5 Q. Okay. The interview you gave to the
6 Big 12, approximately when did that occur?

7 A. That occurred earlier this year. I'm
8 going to say approximately March of 2018.

9 Q. And again, do you have any information
10 that was -- that interview was recorded or kept in
11 some way?

12 A. I was told it was not recorded.

13 Q. Who told you that?

14 A. The representatives from the Big 12.

15 Q. Was a reason given for why there was no
16 recording?

17 A. No.

18 Q. Then the NCAA, approximately when did
19 you speak with them?

20 A. I believe that interview was in January
21 of 2018.

22 Q. And again, any information whether that
23 was recorded?

24 A. That was recorded.

25 Q. Okay. In what manner?

Page 15

1 A. There was a tape-recording device that
2 was utilized.

3 Q. In any of those three interviews you
4 gave, did you have an attorney present?

5 A. The NCAA interview, I had an attorney
6 named Julie Roe Lach. The Big 12 interview, I did
7 not have an attorney, and the Justice O'Neill
8 interview, I did not have an attorney.

9 Q. Is it Rolosh?

10 A. Julie Roe, R-o-e, Lach, L-a-c-h.

11 Q. Where is it that she's based, if you
12 know?

13 A. Indianapolis, Indiana.

14 Q. Other than those three occasions, has
15 there been any other occasion where you've sat down
16 and explained your recollection of events as it
17 relates to Baylor and the recent controversies?

18 A. Those are the only interviews.

19 Q. Have you given any other under-oath
20 testimony, say in the form of an affidavit, that's
21 been used in a legal proceeding?

22 A. Only related to Hernandez and the
23 materials produced for this lawsuit.

24 Q. All right. So we're here at Liberty
25 University in Lynchburg, Virginia, taking your

1 deposition; is that right?

2 A. Yes.

3 Q. And so want to just get a little bit of
4 background on you, sir.

5 Tell us a little about yourself; where
6 you grew up, where you went to college, that sort of
7 thing?

8 A. I grew up in Burlington, Ontario, just
9 outside of Toronto, and I went to undergraduate
10 school at Laurentian University in Sudbury, Ontario,
11 and pursued a degree in sports administration. I
12 then came to the States for graduate school at the
13 University of Massachusetts. They have a
14 well-renowned sport management program, and I
15 graduated from there in '86, and then began a career
16 in college athletics.

17 My first position was at the University
18 of Maine in 1986, working in media relations. I also
19 worked with marketing and corporate sponsorship. I
20 served there until 1992, when I was invited to go to
21 Tulane University and work for my mentor, Kevin
22 White.

23 I was at Tulane and served as the
24 Associate AD for External Affairs, the Senior
25 Associate AD for Development, and then for a period

Page 17

1 of time, Co-Interim Athletic Director, before being
2 named the Athletic Director at Northeastern
3 University in Boston in 1997.

4 I served at Northeastern until 2002 as
5 the Director Athletics, at which point I was hired at
6 my graduate alma mater, UMass, as the Athletic
7 Director. I worked there for approximately 15
8 months, until being named the Director of Athletics
9 at Baylor University in 2003.

10 I began at Baylor in September 2003 and
11 served as Director of Athletics until May of 2016, at
12 which time I moved into a -- resigned from the
13 Director of Athletics position and moved into a
14 nonexecutive position that reported to Reagan
15 Ramsower, where I remained until November of 2016,
16 when I was hired at Liberty University, and I've been
17 here ever since.

18 Q. And I'm not sure this is clear on our
19 record.

20 What's your position here at Liberty
21 University?

22 A. Director of Athletics.

23 Q. And give us a sense what, you know, for
24 our jurors who may not be familiar with what a
25 director of athletics does at a university, describe

1 that for us?

2 A. Right. So here at Liberty, I oversee
3 20 intercollegiate athletic programs that encompasses
4 about 550 student athletes and really oversee all of
5 the administration of our programs, everything from
6 fundraising, to marketing, compliance, academics,
7 facilities.

8 And I essentially make sure that the
9 program is run with integrity and meets the mission
10 of the university and has competitive success,
11 academic success. Here at Liberty, it's very
12 important that we invest in students spiritually and
13 also give them opportunities to grow as individuals
14 and develop their character.

15 Q. All right. So I want to back up and
16 talk about -- I don't need to go through your whole
17 history, but I want to -- I want to set you in time
18 when you're at, I guess, it's UMass, and you're
19 making the decision to go to Baylor.

20 How did that, how did potential
21 employment at Baylor come up?

22 A. The search firm that was doing the
23 Baylor search, Eastman & Beaudine, contacted me, and
24 I had become acquainted with them because they hired
25 my successor at Northeastern, and they asked me to

Page 19

1 consider the position. I was one of five finalists
2 to interview for that job.

3 I interviewed with President Robert
4 Sloan, Drayton McLane, Jim Turner, and David Brooks,
5 who was the CFO at the time, in Dallas. And after
6 the interview, I flew back to Massachusetts, and they
7 had left a voicemail on my phone offering me the job,
8 and I began a few weeks later.

9 Q. Other than the contact with those
10 interviews, did you know anybody at Baylor at that
11 point?

12 A. You know, it's possible I may have
13 known a staff member, but I really didn't have a
14 developed relationship with anyone at Baylor.

15 Q. Had you ever been to the campus?

16 A. No.

17 Q. Had you had -- ever had any interaction
18 with the school?

19 A. When I was at Tulane, you know, there
20 was some -- I think there was some competition
21 between Tulane and Baylor teams back during my time
22 there, and I knew some people in the Southwest
23 Conference back when Baylor was there.

24 So I had, I certainly had an interest
25 in it. Really, my connection to it was I was very

1 interested in serving at a Baptist Christian
2 university. That just aligns well with my faith, and
3 so that was really what attracted me to the
4 opportunity.

5 Q. Now, you mentioned earlier some of your
6 job responsibilities, and you gave us a survey of
7 that. But obviously, one of the things we're here to
8 discuss today is the requirements of the federal law
9 of Title IX.

10 You're familiar with that; is that
11 right, sir?

12 A. Yes.

13 Q. I want to get an understanding of your
14 interaction with Title IX, and I want to distinguish
15 between at least two components of it; the components
16 of equity and funding of athletics and the component
17 of providing a nonhostile educational environment to
18 students regardless of their sex.

19 Do you understand, even though those
20 are both Title IX areas, let's discuss them
21 separately, all right?

22 A. Yes.

23 Q. To the extent that you mention the word
24 Title IX or I mention it today, I'm going to intend
25 it in the hostile educational environment context

1 unless I say otherwise.

2 A. Uh-huh.

3 Q. Can we have that understanding?

4 A. Yes.

5 Q. All right. So when is it that you
6 first, at any one of the schools that you worked at,
7 that you received some information or training about
8 Title IX in the educational environment context?

9 A. The first time I would have received
10 training would have been in September 2014, at
11 Baylor.

12 Q. So is it the case that at none of the
13 prior schools that was an issue that had been brought
14 to your attention?

15 A. That's correct.

16 Q. Are you able -- and, you know, it may
17 be that you don't know, but are you able to relate to
18 us what you understood the process to be at the
19 schools you worked at before Baylor if you were to
20 receive information of a potential sexual assault
21 that occurred with a student?

22 A. I'm not familiar with what the
23 processes would have been at the prior schools, no.

24 Q. Is it the case that at the other
25 schools you worked at you never received a report or

1 information of sexual assaults?

2 A. I did not receive any reports of sexual
3 assaults at the prior schools.

4 Q. All right. So what happened in
5 September of 2014 when you first received some
6 information about Title IX?

7 A. There was a training conducted for the
8 athletic department staff that was essentially an
9 effort involving student life, under Kevin Jackson's
10 leadership, and the general counsel's office, under
11 Chris Holmes's leadership, to provide education to
12 the staff relative to Title IX sexual violence,
13 interpersonal violence.

14 And we were told that if we received
15 any reports of that, that that information needed to
16 be reported to the university, we were provided
17 information with how to report that. They indicated
18 that they were in the process of hiring a Title IX
19 coordinator later that fall, and once that person was
20 in place, then that would be the place to direct
21 the -- direct the -- such information.

22 But prior to that, it was to go to
23 either the interim Title IX coordinator, which at the
24 time was Juan Alejandro, or to the Office of Judicial
25 Affairs.

1 Q. All right. So I believe you testified
2 earlier you started at Baylor around September of
3 2003; is that right?

4 A. Yes.

5 Q. And it was in September of 2014 when
6 you received your first information about Title IX;
7 is that true?

8 A. Yes.

9 Q. So it was approximately 11 years into
10 your employment when you first received some
11 information about Title IX?

12 A. First time I received some training
13 relative to Title IX, yes.

14 Q. Well, I don't want to, you know, get
15 caught up in semantics with you.

16 Was there a time earlier than that that
17 you received -- I mean, if it wasn't a formal
18 training, but you nevertheless received some
19 information about it?

20 A. There was some discussion in executive
21 leadership meetings about implementation of Title IX,
22 that Kevin Jackson typically provided, that they were
23 in the process of getting ready to implement Title IX
24 and preparing for the training that took place in the
25 fall of 2014.

1 Q. Okay. So those, those discussions you
2 just described, those are in the months leading up to
3 September of 2014?

4 A. That's correct.

5 Q. So is it fair to say that, at least for
6 10 years while you were employed at Baylor, you
7 received no information about Title IX?

8 A. That's fair.

9 Q. All right. And again, I want to try to
10 be clear with you on the timeline, so you let me know
11 if I get lost.

12 But prior to, let's say, the summer and
13 fall of 2014, had you ever received any information
14 of the allegation of sexual assault involving a
15 student or on campus?

16 A. In 13 years at Baylor, I never had a
17 student come forward to me and bring information
18 about a sexual assault.

19 Q. Did you receive any information from
20 other means?

21 A. I know I received an email -- that went
22 to multiple people, but it would have been after
23 September 2014 -- about a sexual assault involving an
24 equestrian student athlete.

25 Q. So in your entire time at Baylor, the

Page 25

1 only time you've received a direct contact that
2 involved an allegation of sexual assault was the
3 email in September of 2014 involving the equestrian
4 issue?

5 A. Yeah. I think it was September, I
6 think it was in 2015, but, yes.

7 Q. Now, we'll focus on Baylor.

8 As the athletic director, you have a
9 number of coaches that are running various programs
10 that you hire and direct; is that true?

11 A. Yes.

12 Q. Approximately how many were there at
13 Baylor?

14 A. We had 19 intercollegiate sports, and I
15 believe there were 14 head coaches for those 19
16 sports.

17 Q. And so was it the case, and if you
18 know, that coaches, assistant coaches, were receiving
19 reports of sexual assault and dealing with them and
20 not informing you, or is it your belief they were not
21 receiving those reports?

22 A. Could you restate that question?

23 Q. Fair enough. I guess what I'm trying
24 to determine is, you've mentioned this one incident
25 in which you came into some knowledge about an

1 allegation of sexual assault.

2 Were you aware that any of your
3 coaches, assistant coaches, or other athletic staff
4 were receiving information about that and then going
5 to another source at the university or law
6 enforcement, et cetera, to report it and you just
7 were kept out of the loop?

8 A. Well, if I was out of the loop, I don't
9 know how I would know that.

10 Q. Right.

11 A. Yeah.

12 Q. No, I don't know if you came to learn
13 of it later, for example. So let's say somebody went
14 to X, Y, Z coach, and she reports it to so and so.
15 There's ultimately an investigation. You learn later
16 about all these events.

17 You can't think of an example of
18 that?

19 A. Oh, yeah. I can think of examples of a
20 number of incidents that I found out after the fact
21 about incidents that happened, yes.

22 Q. Okay. And these involved allegations
23 that student athletes were involved?

24 A. In some cases, yes.

25 Q. And were you made aware of cases

1 where -- that didn't involve student athletes?

2 A. Yes.

3 Q. All right. So I want to go back to the
4 training issue. You mentioned what happened in
5 September of 2014.

6 You know, approximately how long was
7 that discussion or training that you received?

8 A. I believe it lasted approximately an
9 hour. My recollection is that we had two separate
10 trainings and also captured it on video, and we
11 ensured that our entire staff had gone through that
12 training by the October regents meeting of 2014.

13 Q. Well, what did you mean by capture on
14 video?

15 A. The presentation that was made was
16 videotaped. And so anybody who happened to be
17 traveling or unavailable to attend the -- one of the
18 two sessions was required to watch it by video and
19 acknowledge that they had received the training.

20 Q. They acknowledged in terms of some
21 paperwork or --

22 A. We recorded the -- and documented that
23 everyone on our staff received the training.

24 Q. And who provided the training on the
25 video?

Page 28

1 A. Well, the training was done by, again,
2 a number of different staff, primarily general
3 counsel's office and student life. My recollection
4 is Bethany McCraw was one of the presenters. I can't
5 recall the people that were involved, but it was
6 several members of the general counsel staff and
7 student life staff.

8 Q. Did you retain a copy of this video?

9 A. I personally don't have a copy.

10 Q. But it sounds like, from your
11 testimony, this was played for scores of staff
12 members in the athletic department?

13 A. Well, we had approximately 200 staff
14 members, and all of them either attended one of the
15 two trainings or watched the video.

16 Q. Now, you mentioned that you had this
17 done by the October 2014 regents meeting.

18 Was that expressed to you as a
19 deadline --

20 A. Yes.

21 Q. -- by which it needed to happen?

22 Were you provided information as to
23 what was -- what was causing these trainings or what
24 was causing that deadline?

25 A. What I was told was there was the

1 desire to have everyone trained prior to the October
2 regents meeting so that we could indicate that there
3 was 100 percent training had been conducted for the
4 athletic department by that meeting.

5 Q. Did you know why?

6 A. I assumed, again, to demonstrate that
7 we had sufficiently trained our staff by that point
8 in time.

9 Q. Had anybody expressed to you whether
10 there was a particular regent or group of regents
11 that were focused on this issue?

12 A. I believe there -- I believe that the
13 Regent Audit and Compliance Committee had received a
14 report regarding the fact that everyone in the
15 athletic department was trained.

16 Q. Do you know who was on that committee
17 at that time or at least some of the members?

18 A. I know Dan Hord, H-o-r-d, was the chair
19 of it at one point. It may have been at that point
20 in time, but I'm not 100 percent certain.

21 Q. All right. So other than the
22 live/video recording in September of 2014, when, if
23 ever, did you receive some additional Title IX
24 training?

25 A. We, once -- once that training took

1 place, we began a very robust set of trainings for
2 our staff, and we trained all 19 intercollegiate
3 teams during the 2015 year. And there was, one of
4 the documents that we produced, it was documenting
5 essentially all the things that we did to educate and
6 train our staff relative to Title IX interpersonal
7 violence.

8 Q. And that took place over a period of
9 months in 2015 or --

10 A. Again, there's a spreadsheet that my
11 assistant, Callie Schrank, maintained that showed
12 essentially all of the training and all of the
13 education that we did, from September 2014 on,
14 relative to Title IX education, training and so
15 forth.

16 Q. All right. Have we talked about all of
17 the training that you underwent while you were at
18 Baylor?

19 A. We also did Clery training, and that
20 took place in May 2016.

21 Q. Who conducted that?

22 A. It was an attorney from Vermont that
23 was brought in by the general counsel's office. I
24 don't recall his name, but he conducted that training
25 at my request. I requested the training in March of

1 2016, and he completed it in May of 2016.

2 Q. What caused you to request that
3 training?

4 A. During my interview with Pepper
5 Hamilton, they asked questions about our --
6 essentially the knowledge of Clery, and I indicated
7 that, you know, we had never received any Clery
8 training. So at that point, I contacted Chris Holmes
9 in the general counsel's office and requested that we
10 have training.

11 Q. What is your understanding of, just,
12 you know, a thumbnail sketch of what the Clery
13 requirements are?

14 A. Well, the Clery Act, I know you need
15 you to report any incidents of violence on or
16 adjacent to campus.

17 Q. And have you at any point in time,
18 whether here at Liberty or at Baylor, reported to the
19 appropriate person at the university a criminal event
20 that you thought ought to be on the Clery report?

21 A. Well, we do an annual Clery report here
22 at Liberty to our Clery coordinator. But it involves
23 everything from travel, travel when student athletes
24 are away from campus to a whole variety of that. So
25 a member of my staff provides that to our Clery

1 coordinator here at Liberty.

2 Q. And in that report, that includes, I
3 assume, any event of criminal conduct?

4 A. It's a wide variety of issues. But,
5 again, I don't personally complete that, a member of
6 my staff does.

7 Q. I see. At any point in time, did you
8 do a similar, a similar type of Clery reporting at
9 Baylor, even if it was different procedurally?

10 A. Yeah, I don't recall submitting a
11 similar report at Baylor.

12 Q. There's been allegations in our
13 lawsuit, I believe it's also accepted in the regents
14 findings, that there were some inaccurate Clery
15 reports made by Baylor in the years that you were
16 there.

17 Are you aware of that allegation, at
18 least?

19 A. I'm not.

20 Q. So I assume you have no information,
21 then, on that one way or the other, whether the Clery
22 reports at the school were accurate?

23 A. Well, my understanding is there were
24 problems with Clery reporting.

25 Q. Are you able to provide us any more

1 detail than that, other than that's just your
2 understanding?

3 A. Yeah. Following the Margolis Healy
4 presentation in 2014, Reagan Ramsower told me that
5 Margolis Healy found hundreds of violations of Clery,
6 Title IX, and the Violence Against Women Act.

7 Q. In what context did Mr. Ramsower share
8 that information with you?

9 A. Following the -- they made a
10 presentation to the Board of Regents in July of 2014.
11 And it was an executive session, so the
12 administrative -- the administrator was not able to
13 participate in that, but Mr. Ramsower provided a
14 briefing to me.

15 He called it a scathing report, said
16 that Chief Doak was still running a 1980s-style
17 police operation and that Margolis Healy had found
18 hundreds of violations of Title IX, Clery, and the
19 Violence Against Women Act.

20 Q. And again, that information was shared
21 to you in July of 2014?

22 A. Correct.

23 Q. Did you understand that Margolis
24 Healy's report, in full or in part, was made in
25 writing?

1 A. I'm not aware if it was or not.

2 Q. At least from what you understand,
3 Dr. Ramsower and others were shared a briefing from
4 Margolis Healy in July of 2014, along those lines
5 that he described to you?

6 A. Yes.

7 Q. Did you receive a report of that
8 briefing from anybody other than Dr. Ramsower?

9 A. No.

10 Q. Did you note any changes occurring
11 after that report?

12 A. Yes.

13 Q. What were the changes implemented?

14 A. That, that resulted in the creating of
15 the Title IX coordinator, the full-time Title IX
16 coordinator position that Patty Crawford was later
17 hired into. And then obviously, that subsequent
18 September was the first Title IX training for the
19 athletic staff. And so that was referred to, I
20 recall it being referred to as a wake-up call, that
21 we needed to improve in those areas.

22 Q. So is it fair to describe the Margolis
23 Healy report as the event that triggered changes at
24 the school regarding Title IX?

25 A. It certainly was impactful in doing

1 that, yes.

2 Q. It sounds like, from your testimony,
3 that that report was what triggered your initial
4 training in Title IX; is that true?

5 A. I can't say that for certain, but it
6 certainly did initiate a significant amount of action
7 at the university.

8 Q. Did you have anything to do with the
9 Margolis Healy investigation?

10 A. No.

11 Q. Did they, as far as you understand,
12 speak to anybody in the athletic department?

13 A. I personally met the representatives
14 from Margolis Healy at an executive council meeting,
15 but that was the extent of my involvement.

16 Q. Did you understand how it was their
17 investigation was procured? I mean, who made the
18 decision to do it, hire them, that sort of thing?

19 A. My understanding was that a couple of
20 children of regents had had some crime experiences
21 at Baylor, while students at Baylor. And that
22 prompted the regents to be concerned about the
23 overall campus safety, and that's what led to the
24 hiring of Margolis Healy to conduct a campus safety
25 review.

1 Q. Are you able to identify any of the
2 regents who had these children that raised this
3 concern?

4 A. It would be secondhand. I could, I
5 heard it was the child of Buddy Jones. I heard it
6 was the child of Dary Stone, or, excuse me, Buddy
7 Jones and Cary Gray, but I'm not certain. That was
8 second or third-hand information.

9 Q. Is there any other information about
10 the Margolis Healy investigation of which you're
11 aware? I mean, it sounds like they didn't interview
12 you, so do you know what they did?

13 A. I don't.

14 Q. And it also sounds like they never gave
15 you a report directly, whether orally or in
16 writing?

17 A. I did not receive a report.

18 Q. Is it fair to say what you know about
19 that is from that one conversation with
20 Dr. Ramsower?

21 A. Yes.

22 Q. All right. So, I mean, one of the
23 purposes for having you here today is to just get
24 your version of events of the story. There's
25 obviously a lot of players and individuals involved.

Page 37

1 People no doubt recall events differently, have a
2 different opinion about what things happened.

3 So what I'd like to do is just have a
4 general understanding. We're going to go through
5 some documents today. We're going to look at some
6 other records. I'm not trying to quiz you on things
7 you don't remember, so just let us know that, but I'd
8 just like to have -- understand.

9 How did this controversy come about? I
10 mean, you went to this training; you learned about
11 Title IX, and then what happens in terms of the Title
12 IX context at Baylor?

13 MS. BROWN: Objection to form.

14 BY MR. DUNN:

15 Q. She's going to object, and the judge
16 will rule on that later, but you still go ahead and
17 answer.

18 MR. HENNINGER: Excuse me, Chad. Is
19 one good for all?

20 MR. DUNN: Yes.

21 MR. HENNINGER: Okay.

22 MR. DUNN: Well, no. Keep objecting
23 when you need to object.

24 MR. HENNINGER: Okay.

25 BY MR. DUNN:

1 Q. Go ahead.

2 A. Could you repeat? I was distracted.

3 Could you please repeat that question?

4 BY MR. DUNN:

5 Q. Sure. I'd like to understand, after
6 you get this Title IX training, then what sort of
7 what happens next in the Title IX story at Baylor,
8 from your perspective?

9 A. We ramp up dramatically in terms of
10 Title IX, in terms of staffing, in terms of
11 education, in terms of training. And obviously, the
12 number of reports dramatically changed as well, so
13 there was a very large number of Title IX reports.
14 And Patty Crawford and her colleagues had -- were
15 very active in terms of education, training, and
16 dealing with Title IX issues.

17 Q. And so at some point, there becomes
18 concern or allegation that the athletics department
19 is at least part of the problem.

20 You're aware of that; right?

21 A. Yes.

22 Q. When is it that you first learned that
23 the athletics department was being targeted as an
24 issue in the Title IX context?

25 A. Well, Patty called a meeting for

1 myself, Reagan Ramsower, Chris Holmes, Juan
2 Alejandro, in February, I believe it was February
3 4th, 2015, to conduct a Title IX investigation into
4 the football program.

5 Q. And so Ms. Crawford and these others
6 came to you and informed you that investigation was
7 beginning?

8 A. She initiated the investigation, yes.

9 Q. Did you express an opinion about
10 whether that investigation was appropriate?

11 A. No. I simply gathered and provided her
12 with the documentation that she requested to conduct
13 her investigation, which lasted from approximately,
14 again, approximately February 4th, and she had a
15 wrap-up meeting with me on April 8th of 2015.

16 Q. Describe for me the character of
17 information you were providing to her?

18 A. Essentially I think she requested it.
19 So she asked for rosters for certain years for

20 [REDACTED]
21 [REDACTED]
22 discussed bringing in.

23 She wanted information on certain
24 student athletes, about when they arrived on campus,
25 when they departed campus. And so my assistant,

Page 40

1 Callie Schrank, assembled that, that documentation
2 and had it hand-delivered to Patty several days
3 after, after that initial meeting.

4 Q. Did you look at it, the information,
5 after it was collected, before it was provided to
6 Ms. Crawford?

7 A. Yes.

8 Q. Can you give us a sense of its
9 volume?

10 A. I would say it was approximately
11 half-an-inch thick in terms of documentation.

12 Q. And again, you -- can you identify
13 again the staff person that compiled that for you?

14 A. Callie Schrank, S-c-h-r-a-n-k, and she
15 was my assistant to the athletic director.

16 Q. Do you understand or do you know
17 whether she's still at Baylor?

18 A. She's still at Baylor.

19 Q. Do you know whether your office kept a
20 copy of those materials that were provided to
21 Ms. Crawford?

22 A. Yes.

23 Q. And was that digitized or kept in paper
24 form or both?

25 A. I'm not aware of it being digitized.

Page 41

1 It was, I know it was kept in paper form.

2 Q. Okay. All right. So you provided this
3 information for Ms. Crawford.

4 I presume at some point you here back;
5 is that right?

6 A. Yes. I received a couple of emails,
7 that we produced for you, from Juan Alejandro,
8 providing the interim updates on the investigation
9 and requesting me to help arrange an interview with a
10 football student athlete. And so I assisted in
11 making the arrangement for the football student
12 athlete, and again, he provided kind of an interim
13 update on how the investigation was proceeding.

14 Q. The student athlete that you provided,
15 has that person's name been made public at some
16 point?

17 A. I'm not certain if it has or not.

18 Q. What event or, you know, what sport did
19 that student athlete participate in?

20 A. Football.

21 Q. I assume, then, it was a male?

22 A. Yes.

23 Q. What year or class was he in?

24 A. At that time, I believe he was either a
25 junior or senior.

1 Q. And the information with respect to
2 that specific athlete, was it requested by
3 Ms. Crawford by name, or was it a more general
4 request that happened to return his name in your
5 files?

6 A. No. It was a specific request to talk
7 to him because she believed he was a witness at a
8 party.

9 Q. Okay. Is this a party where an
10 allegation had been made that a gang rape had
11 occurred?

12 A. There's an allegation of a sexual
13 assault.

14 Q. But not a gang rape?

15 A. Not that Patty Crawford described to
16 me.

17 Q. Okay.

18 A. She said there's an allegation of
19 sexual assault.

20 Q. All right. So you provided this
21 additional information; then what happened?

22 A. I want to be clear on what additional
23 information. I provided the information based on the
24 February 4th meeting.

25 Q. Right. You provided that. Okay.

Page 43

1 Well, perhaps I misunderstood, but I
2 understood that Mr. Alejandro had given you some
3 updates, and there was a second request for
4 additional information, including information from
5 the student athlete that you provided.

6 A. The only request for the information
7 was to help Ms. Crawford arrange an interview with
8 that student athlete.

9 Q. Okay.

10 A. So I provided Mr. Alejandro with his
11 cell phone number and the windows of time when he was
12 not in practice or in class when he could be
13 available for an interview.

14 Q. And then what happened?

15 A. They did arrange the interview, and
16 Mr. Alejandro thanked me for assisting and
17 coordinating that.

18 Q. I believe I've seen an allegation and
19 points that you or your department was uncooperative
20 in scheduling interviews or investigations of student
21 athletes.

22 Are you aware of that allegation being
23 made?

24 A. Yes.

25 Q. Do you agree with it?

1 A. No.

2 Q. Is the interview you just described the
3 only time anybody has come to you and requested to
4 interview a student athlete at Baylor?

5 A. No. One of the Title IX staff members,
6 Gabrielle Lyons, wanted to interview a number of
7 football players. And so she worked with Colin
8 Shillinglaw, the Director of Football Operations, to
9 arrange a number of different interviews.

10 Q. And is it your understanding that
11 Mr. Shillinglaw participated and was cooperative to
12 set up those interviews?

13 A. Yes.

14 Q. Were you involved in that discussion
15 after it sort of transferred to Mr. Shillinglaw's
16 desk?

17 A. No. He -- well, at some point
18 Ms. Crawford contacted me and said they were having
19 difficulty getting some of the interviews set up. So
20 I contacted Mr. Shillinglaw and told him this is a
21 high priority to get these interviews arranged.

22 But both Mr. Shillinglaw and Coach
23 Briles said that the black football players were
24 afraid to go to the Title IX office because they were
25 being mistreated, and the only way they could get

1 them there was if they sent a staff member with
2 them.

3 Q. And just to make sure it's clear, you
4 mentioned the black football players.

5 I assume you're referencing their race
6 or ethnicity?

7 A. That's correct.

8 Q. Did you get -- receive any other
9 information as to why the black football players were
10 fearful of going to Ms. Crawford?

11 A. Only from Coach Briles and Colin
12 Shillinglaw both telling me that the black football
13 players were feeling like they were being mistreated
14 by the Title IX office.

15 Q. Were you ever given any examples of
16 that?

17 A. You'd have to ask the two of them for
18 examples.

19 Q. Okay. Well, when it came to these
20 Title IX investigations and issues, did you view it
21 as a delegated responsibility? In other words, when
22 it was Mr. Shillinglaw had been assigned to deal with
23 it, you expected it to be done and otherwise didn't
24 follow up on it?

25 A. Well, Mr. Shillinglaw knew the players'

Page 46

1 schedules and had their contact information. So he
2 was the best person to make arrangements for
3 interviews that, again, would fit within their
4 academic schedule, their football schedule and also
5 within the windows of time that the Title IX had
6 available. So he was the person coordinated directly
7 with the Title IX staff.

8 Q. Do you have an opinion or do you know
9 whether Mr. Shillinglaw was cooperative in scheduling
10 of interviews?

11 A. I believe he was as cooperative as he
12 could be, given that the players were very reluctant
13 about going over there.

14 Q. Now, you said you also had, or it
15 sounded like you had also had, some discussion with
16 Coach Briles about interviews with football players;
17 is that right?

18 A. Yes.

19 Q. And Coach Briles also expressed to you
20 that at least the black players were uninterested in
21 going and speaking to Ms. Crawford or her office; is
22 that right?

23 A. No, they were fearful.

24 Q. Fearful, I beg your pardon.

25 Did Coach Briles express anything else

Page 47

1 to you about the context of these investigations or
2 specific allegations?

3 A. Again, he just said the only way he
4 could get the players over there was to have a staff
5 member escort them over.

6 Q. And did he, in fact, do that?

7 A. I know on some occasions he did.

8 Q. Is it fair, though, to say that in
9 those occasions where a staff member escorted a
10 football player to the Title IX office, those
11 meetings were set up outside of your knowledge? I
12 mean, you might have known they occurred, but you
13 weren't involved in the coordination of them?

14 A. I was not involved in the
15 coordination.

16 Q. And it sounds like either
17 Mr. Shillinglaw or Coach Briles or both would be the
18 people we'd need to talk to about that?

19 A. Primarily Mr. Shillinglaw.

20 Q. I see. All right. All right.

21 So ultimately Ms. -- you talked to
22 Ms. Crawford, these interviews are taking place, and
23 then do you receive the results of her
24 investigation?

25 A. The -- I received the two emails that

Page 48

1 were interim reports from Mr alejandro, and then she
2 contacted me, I believe, in March of 2015 to arrange
3 a wrap-up meeting where she wanted to share good
4 news, or relatively good news, relative to her
5 investigation. And that meeting was conducted on
6 April 8th, 2015.

7 Q. And who was present for that?

8 A. Initially just Ms. Crawford and myself,
9 and then at the end of the meeting, we invited in a
10 couple of athletic staff members and one of her staff
11 members to begin talking about some training programs
12 that we were going to be doing.

13 Q. Who were the staffers that you brought
14 in?

15 A. On my staff, Tierra Barber and Callie
16 Schrank, and on her staff, Gabrielle Lyons.

17 Q. Where did this meeting take place?

18 A. In my office.

19 Q. All right. So what is it -- let's just
20 focus for now on the private session that you and
21 Ms. Crawford had.

22 What is it she communicated to you
23 about?

24 Q. Again, I documented. I think you have
25 a copy of the document, but basically she said we

1 have relatively good news. We've looked into the
2 alleged sexual assaults and no -- there were no women
3 that wanted to pursue charges.

4

5

6

7 allegations. And we transitioned from there into
8 some discussions about education and training for
9 student athletes.

10 Q. So why was it good news? Why was
11 Ms. Crawford's report good news?

12 A. You'd need to ask her.

13 Q. That was not your characterization of
14 her report to you; that was her characterization of
15 it?

16 A. That's correct.

17

18

19

20 February 4th, 2015 meeting because I believe
21 Mr. Ramsower brought it up and identified him as a
22 serial rapist during that meeting. And since there
23 were allegations of sexual assaults involving the
24 football program, that's why his name was brought up
25 by Mr. Ramsower.

1 Q. So was it your impression that
2 Ms. Crawford had completed a full investigation of
3 [REDACTED]
4 what the status of her investigation was in terms of
5 its completeness?

6 A. She didn't get into any specifics
7 relative to that. She was just, my understanding it
8 was just a wrap-up report to say that she had good
9 news, or relatively good news, relative to the
10 investigation, and that there were no women that
11 wanted to pursue any charges.

12 Q. And did you report the news that
13 Ms. Crawford had provided you to anybody else in the
14 athletics department?

15 A. I may have reported to some people that
16 the Title IX review was complete, but I don't have a
17 specific recollection of doing that at this point in
18 time.

19 Q. Now, you mentioned earlier that after
20 the training and after the Margolis Healy
21 investigation, when Title IX interest was increasing,
22 there was -- as more trainings took place, there was
23 an increase in reports.

24 Did I hear that right?

25 A. Yes.

1 Q. Was it your understanding that more
2 sexual assaults were starting to happen or that
3 people were coming forward with reports they hadn't
4 prior made?

5 A. I can't really differentiate. I just
6 know that there was a lot of discussion at the
7 executive leadership level that there were a
8 significant amount of reports coming forward. And we
9 also had Patty Crawford come make a presentation to
10 the athletic staff, and she reported the volume of
11 her work.

12 Q. And when you say "volume," it sounds
13 like there's some data that she provided; is that
14 right?

15 A. Yes.

16 Q. Was that data broken down by
17 departments? For example, could she tell you how
18 many reports she had that related to student
19 athletes?

20 A. Not that I'm aware of.

21 Q. So what you recall of the data is it
22 was sort of gross figures for the university as a
23 whole?

24 A. What I recall was she met with
25 our -- our -- at our compliance forum in, I believe,

1 it was February 2016, at our invitation. And she
2 reported that she had had upwards of approximately
3 300 cases since she'd arrived at Baylor, and she had
4 not detected any pattern relative to student athletes
5 within that number.

6 Q. She told you that, something along
7 those lines?

8 A. Yes.

9 Q. Do you recall her making that report to
10 anyone else?

11 A. This was in a large group of people, so
12 there would be upwards of 30, 40 people in the
13 room.

14 Q. Did you have an opinion, surprise or
15 otherwise, as to the number of reports, the 300
16 number approximately?

17 A. It seemed like a large volume of
18 reports.

19 Q. Did you relate it to anything in
20 particular, or did you have an opinion on why such a
21 large number of reports?

22 A. I didn't really have anything to
23 compare it to, but it did seem like a significant
24 number.

25 Q. And when that information was provided

1 to you, was it broken down sort of by year of
2 assault, or it was just a gross number?

3 A. It was a gross number.

4 Q. At any point in time, have you seen
5 data at a more granule level of reports of sexual
6 assaults at Baylor, whether it's, you know, by month
7 or year or department?

8 A. Not that I recall.

9 Q. Is that the only time you've heard of a
10 number of reports at Baylor?

11 A. I know she periodically would provide
12 updates to the executive leadership where she cited
13 some general numbers, but I can't provide any
14 specific detail on that.

15 Q. All right. And you've used that phrase
16 a number of times, "executive leadership," so can you
17 give us a sense of who makes up that crowd?

18 A. Yeah. There was, it was actually
19 called the executive council, and that was President
20 Starr along with essentially the vice president level
21 leaders in each area. So it was, represented
22 approximately a dozen vice presidents, along with the
23 president of the university.

24 Q. And that included you, I assume?

25 A. Yes.

1 Q. All right. I want to start, I guess,
2 with regents.

3 At any point in time, have you had
4 contact with regents as it relates to Title IX? I
5 know you've been to some meetings, and we'll exclude
6 those. I mean, you know, direct contacts?

7 A. Can I ask you to --

8 Q. Sure.

9 A. Any discussions with regents
10 individually or discussions with regents within a
11 meeting setting or both?

12 Q. Well, I'm excluding the meetings for
13 now. You've mentioned obviously you've gone to
14 regent meetings, and we're going to talk about some
15 of those today. But, you know, a phone call, a text,
16 an email, maybe with several regents, but not in, you
17 know, a formal meeting setting.

18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

25 And so, yes, there was, and then I was

Page 55

1 also asked by Richard Willis, the Chairman of the
2 Board, to provide regular updates to him, Jay
3 Allison, Reagan Ramsower, and Judge Starr relative to
4 [REDACTED]

5 Q. So is it fair to say when it comes to
6 sexual assault, the only regent contact you had was
7 the Ukwuachu case?

8 A. That's the only one I can recall right
9 now.

10 Q. On a day-to-day basis, on any subject,
11 would you regularly have contact with regents outside
12 of the formal meetings?

13 A. Yeah. So I, as the Director of
14 Athletics, reported to the Regent Athletic Committee.
15 And so we were expected to keep -- keep the chair, in
16 particular, up-to-date on any important issues in the
17 athletic department.

18 Q. And the chair was at least Jay
19 Allison?

20 A. At that point in time. It rotated.

21 Q. How often did it rotate?

22 A. Annually.

23 Q. So in the time periods -- so from 2013
24 to when you leave in 2016, who are the regents you're
25 having regular contact about on any issue? Jay

1 Allison's one, but --

2 A. Mark Hurd was the Vice Chair of the
3 Athletic Committee, so some -- certainly some
4 communication with him; and, of course, Richard
5 Willis, the Chair of the Board, was very hands-on,
6 and so he was active as well.

7 Q. Was there a protocol you were expected
8 to follow when you would have contact with regents,
9 in terms of whether the president's office or some
10 other executive were made aware of your direct
11 contacts?

12 A. Yeah. President Starr's directive was
13 to be in regular communication with the chair of your
14 appropriate committee, and so that was his
15 expectation, to keep them -- keep them informed and
16 work on agendas for upcoming meetings and key topics.
17 But that was the extent of his direction, was just to
18 maintain communication with that individual.

19 Q. I'll note, and I can provide it to you
20 later, but there is a provision in your employment
21 contract with Baylor that says you're not to have
22 direct contacts with regents.

23 Are you aware of that generally?

24 A. Yes.

25 Q. Was there ever any discussion as to why

1 you were having regent contact, even though your
2 contract said you shouldn't?

3 A. Well, I was directed to, by both the
4 chairman of the board, to communicate with him on
5 certain issues, and by the president, to communicate
6 with Mr. Allison, as the Chair of the Athletic
7 Committee.

8 And in addition to that, a number of
9 our regents were also donors. And so part of my job
10 is to raise money. And so I certainly communicated
11 with them in that context, and/or oftentimes they
12 would have special requests for tickets or
13 privileges, whatever it may be, and so they would
14 frequently contact -- contact me as well.

15 Q. And was that true from when you started
16 in 2003 all the way until you left in 2016?

17 A. Yeah. There was regular communication
18 with the regents as well, and then we also encouraged
19 regents to contact us if they had a concern about,
20 say, an NCAA compliance issue. We wanted them
21 calling us to ask questions so we didn't have NCAA
22 violations taking place.

23 Q. All right. So back to kind of the
24 timeline of what happened, you know, from your
25 perspective. Ms. Crawford makes a report on the data

Page 58

1 in February of 2016. You've already met with her at
2 that point. She's explained that there's -- they've
3 done an investigation about the athletics department.

4 Then what happens?

5 A. And give me the date of when you're
6 asking?

7 Q. So, I mean --

8 A. Because the investigation concluded in
9 April of 2015. The report she made to the athletic
10 department, I believe, was in February of 2016.

11 Q. Okay. So what happens next after
12 February of 2016 as it relates to Title IX and your
13 involvement?

14 A. At that point, the Pepper Hamilton
15 investigation is ongoing.

16 Q. And did you have an understanding of
17 how it came about?

18 A. Yes.

19 Q. And how was that?

20 A. Following the Sam Ukwuachu verdict,
21 when he was found guilty, there was a media firestorm
22 that erupted, and President Starr recommended to the
23 Board of Regents hiring Pepper Hamilton to come in
24 and conduct an investigation relative to Title IX and
25 that matter.

1 Q. Were you involved in that at all in
2 terms of the decision to do the investigation, who to
3 hire, the scope of it, that sort of thing?

4 A. Maybe, could you break that down?

5 Q. Sure.

6 A. Yeah.

7 Q. I'm trying to find out what role, if
8 any, did you have in instigating the Pepper Hamilton
9 investigation?

10 A. Yeah. I didn't have any role in
11 instigating it or recommending them.

12 Q. So it sounds like, like other
13 stakeholders at the university, you learned Pepper
14 Hamilton was doing an investigation?

15 A. Yes.

16 Q. Okay. After the fact, after the
17 decision had been made?

18 A. President Starr informed me that he
19 was -- during a, I believe, it was an executive
20 council meeting that he had spoken to Pepper Hamilton
21 and was recommending to the Board of Regents that
22 Pepper Hamilton be hired to conduct an
23 investigation.

24 Q. Now, I believe the records reflect that
25 immediately prior to Pepper Hamilton's engagement,

Page 60

1 there had been an investigation by Jeremy Counseller.

2 Are you familiar with him or his
3 investigation?

4 A. Yes.

5 Q. Did you ever have any contact with
6 him?

7 A. Yes.

8 Q. Tell me about that?

9 A. So his role at the time, he was NCAA
10 Faculty Athlete Representative, so he was essentially
11 our liaison with the faculty, so I had, you know,
12 regular engagement with him. And initially President
13 Starr asked Jeremy to conduct an investigation into
14 ████████████████████

15 And principally because obviously the
16 judicial affairs office had found him not
17 responsible, and then the trial court in Waco found
18 him guilty, but then gave him probation. So it was
19 very curious outcome, and as a result President Starr
20 asked Jeremy Counseller to conduct an investigation
21 into that matter.

22 Q. And did you provide Mr. Counseller --
23 (Cell phone ringing.)

24 BY MR. DUNN:

25 Q. Did you provide Mr. Counseller

1 information?

2 A. I believe -- I believe our staff did.
3 I don't recall personally providing him information,
4 but I believe our staff provided him with some
5 documents.

6 Q. Do you know whether his activities
7 resulted in any type of report?

8 A. My understanding is his work culminated
9 with him basically reporting back to President Starr
10 that he recommended outside counsel be brought in
11 because of the scope of work required.

12 Q. But it sounds like, from your testimony
13 at least, you weren't -- although you were aware of
14 it and you provided Mr. Counsellor information, you
15 weren't directing the investigation, arranging for
16 it; that was being handled by Judge Starr or others?

17 A. Yes.

18 [REDACTED]
19 [REDACTED]

20 result of that investigation a moment ago.

21 Did you have anything to do with that
22 investigation? Did you provide information to it,
23 speak to it? Were you involved at all?

24 A. I was not involved in it.

25 Q. Do you know who at judicial affairs was

1 involved?

2 A. My understanding was Bethany McCraw,
3 the Director of the judicial affairs office, was the
4 person who handled the investigation.

5 Q. Was there anyone else?

6 A. Paul Bradshaw on our staff was the
7 liaison, and so I know he was involved to some level.
8 But you'll have to ask him about the level of his
9 involvement.

10 Q. Well, you know, I don't want to -- I
11 don't want to make the situation what it isn't, so,
12 you know, obviously correct me.

13 But it seems like it would be sort of a
14 big deal if you're the director of the athletics
15 department if one of the football players could
16 potentially be found responsible for a sexual
17 assault; right? I mean, that's kind of a big deal?

18 A. Yes.

19 Q. And I would assume, then, this was
20 something you were paying a lot of attention to?

21 A. Yes.

22 Q. And did you view it as sort of events
23 outside your control? In other words, judicial
24 affairs does what judicial affairs does, and then we
25 respond to it appropriately?

Page 63

1 A. We were not allowed to have any -- the
2 only person in the athletic department that was even
3 allowed to communicate with judicial affairs was Paul
4 Bradshaw. The rest of us were not even permitted to
5 contact the office.

6 Q. Who laid down that rule?

7 A. That came out of the 2003 men's
8 basketball infractions case. And that was part of
9 the -- it was one of the corrective actions that was
10 taken because there was abuse that took place in the
11 men's basketball case. And so that came from the
12 attorneys representing Baylor in that case that
13 included Mike Rogers, David Guinn, and Bill
14 Underwood.

15 Q. And you came in as the 2003 basketball
16 case was unfolding; is that right?

17 A. I came in on the back end, yes.

18 Q. And this policy that you just
19 described, I mean, would you describe it as a
20 policy?

21 A. It was a directive or a policy, yes.

22 Q. Is it -- was it reduced to writing?

23 A. Yeah. We regularly received
24 communications from the compliance staff reminding
25 athletic staff not to communicate with any of the

1 offices in Robinson Tower. And so that included
2 financial aid, the registrar's office, the whole
3 series of offices in that building, including
4 judicial affairs.

5 Q. All right. And so as far as you

6 [REDACTED]

7 [REDACTED]

8 place?

9 A. Yes.

10 Q. And your office was complying with
11 it?

12 A. Yes.

13 Q. Was it your understanding that
14 President Starr was aware of that policy, if you
15 know?

16 A. You'd have to ask him.

17 Q. Did you have an understanding whether
18 the regents were aware of that policy?

19 A. I don't know.

20 Q. But in any event, you and -- was it
21 you who decided that Mr. Bradshaw would be the point
22 of contact, or did someone else select him?

23 A. That was in place when I arrived at
24 Baylor.

25 Q. I see. So Mr. Bradshaw was already the

1 athletic department official contact with judicial
2 affairs?

3 A. Yes.

4 Q. How long had he served in that
5 capacity?

6 A. I don't know.

7 Q. But in any event, it sounds like you
8 didn't have anything to do with his hiring or that
9 sort of thing?

10 A. He preceded me by a significant number
11 of years.

12 Q. Okay. Did you give any direction to
13 [REDACTED]

14 A. No. I know he was requested to meet
15 with the alleged victim's family, and I believe he
16 did that. And then I just asked him to keep me
17 informed as he learned about the outcome of the
18 investigation, which culminated in judicial affairs
19 ruling in his favor and finding him not
20 responsible.

21 Q. Now, I would assume that that was good
22 news, when you learned that judicial affairs had
23 found him not responsible?

24 A. It was surprising news.

25 Q. Was it your belief, based upon the

1 [REDACTED]
2 [REDACTED]
3 A. I don't know the details of what
4 happened, but both Mr. Bradshaw and I expected him to
5 be found responsible.

6 Q. And so as a result of him being found
7 not responsible, I assume that impacted what, if
8 anything, you could do to discipline him, discharge
9 him, remove him from the team, that sort of thing?

10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 A. Again, I think both Mr. Bradshaw and I
23 were again very surprised at the outcome of the
24 judicial affairs decision. And -- but we have to go
25 by that because that's the authorized entity within

1 the university to adjudicate it.

2 Q. Did you ever -- I appreciate that
3 answer. I guess my question is a little bit
4 different.

5 After the indictment came down, did you
6 inquire from judicial affairs, hey, why are these
7 people indicting if you found no case?

8 A. I didn't inquire, no.

9 Q. Okay.

10 MS. BROWN: Chad, if I could interrupt.
11 We're using a lot of student names, and there has not
12 been a review of the FERPA orders, and I would just
13 like to go ahead and designate all of the student
14 name references as confidential in the proceeding
15 here.

16 MR. DUNN: So we object to that
17 designation. We can deal with that later. So far
18 the only student names we've mentioned are all over
19 the media and completely public. So I've actually
20 taken pains to not discuss a student name that wasn't
21 already extensively public, but we can take that up
22 at a later time.

23 BY MR. DUNN:

24 Q. We've been going about an hour here,
25 Mr. McCaw.

1 Would you like to take a break or
2 proceed?

3 A. I'm fine.

4 Q. Okay. All right. So we're turning

5 [REDACTED]

6 [REDACTED]

7 focus now on football players -- going on in judicial
8 affairs?

9 A. I'm not aware of any that were going on
10 at that point in time, no.

11 Q. How about allegations in other
12 departments? After the Title IX training in 2013, up
13 until the time you left, did you receive information
14 that other student athletes may have been involved in
15 a sexual assault?

16 A. Other student athletes or other
17 departments or both?

18 Q. Other student athletes in other
19 departments other than football?

20 A. Okay. Yes. There was an allegation
21 against a men's tennis player. I believe there was
22 an allegation against a track athlete, and then there
23 were allegations against the rugby club in general.
24 That did not report to me. That was under Kevin
25 Jackson in student life.

1 Q. How about the volleyball team?

2 A. There wasn't an allegation of sexual
3 assault committed by a volleyball player to my
4 knowledge. But, yes, there was an allegation about
5 an volleyball player being sexually assaulted.

6 Q. And if I didn't make that clear, I
7 guess, I'm asking about a student athlete being
8 involved in a sexual assault, whether the assailant
9 or the victim?

10 A. Okay. Yes.

11 Q. So I've got tennis player, track,
12 rugby, volleyball.

13 Any others?

14

15

16 Q. Any others?

17 A. There were other Title IX issues, not
18 necessarily sexual assault, but, yes. Men's
19 basketball. That's all I can think of right now.

20 Q. I've seen some information about an
21 event involving the equestrian team?

22 A. Oh, equestrian, I'm sorry. Yes,
23 yeah.

24 Q. So you're familiar with that one as
25 well?

1 [REDACTED]
2 [REDACTED]
3 [REDACTED].

4 But then the other two equestrian incidents that have
5 occurred have been since I've left the university.

6 Q. Have you ever received any information
7 about an alleged gang rape involving student
8 athletes?

9 A. I received information about a sexual
10 assault. I was never told of a gang rape.

11 Q. You've seen that since you left the
12 university, at least, reported in the media?

13 A. Yeah. The regents seem to like to use
14 that term.

15 Q. Do you have a sense of why that's so?

16 A. I think to inflame the scandal.

17 Q. So is it your belief that the regents
18 have made a bigger deal of this than was needed or
19 merited?

20 A. I think the regents have intentionally
21 set the football program on fire to deflect attention
22 away from their own failures and the other failures
23 across campus.

24 Q. So we'll obviously get into your
25 departure from the university and that of Coach

Page 71

1 Briles, but is it your belief you were made to be a
2 scapegoat?

3 A. Principally Coach Briles was made to be
4 a scapegoat. I think I was in probably the wrong
5 place at the wrong time.

6 Q. At one point in time, and I know this
7 was after you left, so you may not be aware of it,
8 but Dr. Garland, who had been appointed the
9 president, gave some testimony to the state
10 legislature and talked about responsibility.

11 Do you have any familiarity with this?
12 I mean, have you seen it or seen a report of it?

13 A. Yes.

14 Q. One of the things I think the records
15 will reflect is that Dr. Garland told the legislature
16 that everybody responsible had been removed.

17 Do you believe that to be the case
18 based on what you understand?

19 A. No.

20 Q. Who is it that you think is still there
21 that bears some responsibility?

22 A. I think the bad actors at the regent
23 level include Buddy Jones, Dary Stone, Richard
24 Willis, who have all rotated off the board, David
25 Harper, Ron Murff, who are on the board this year,

1 and Cary Gray, who I know remains on the board.

2 At the administrative level, I think
3 the major failings were Reagan Ramsower, Kevin
4 Jackson in his area, general counsel's office, and
5 certainly the epicenter was Chief Doak in the police
6 department.

7 Q. So other than -- do you have an
8 understanding whether anybody other than athletic
9 staff, you know, I don't want to get caught in
10 semantics because I know some people resigned, some
11 people were discharged, but so I'll just say it this
12 way.

13 Was there anybody other than athletic
14 staff that suffered in terms of their employment in
15 the aftermath of the Pepper Hamilton investigation?

16 A. President Starr.

17 Q. Anybody else?

18 A. That's it to my knowledge.

19 Q. Do you have an opinion as to whether
20 President Starr was responsible, in part, for these
21 failings?

22 A. I'm not aware of any wrongdoing on his
23 part.

24 Q. So going back to the regents that you
25 mentioned, I presume that you have, you know,

1 particular examples or interactions with those
2 regents that make you believe they bear some
3 responsibility?

4 A. Yes.

5 Q. Well, let's start with Buddy Jones.

6 What is the information you can provide
7 us about what involvement he had, in the Title IX
8 context?

9 A. Well, I've seen, again, reports that he
10 had information relative to one of the victims and in
11 his personal possession.

12 Q. Anything else?

13 A. That's all I can think of at this
14 time.

15 Q. And what, I guess, what significance
16 does it have that Mr. Jones had information about one
17 of the victims?

18 A. That would seem to be inappropriate for
19 a regent to have that type of information in his
20 possession.

21 Q. I see. So in other words, one of your
22 concerns is that Regent Jones had been dealing with
23 staff directly and had obtained information about an
24 ongoing investigation?

25 A. That would seem inappropriate to me.

Page 74

1 Q. And how is it you came to learn he had
2 that information?

3 A. I read about that in the newspaper.

4 Q. Did you have any direct contacts with
5 Regent Jones regarding Title IX issues?

6 A. No.

7 Q. And you also -- I believe the next one
8 I wrote down was Mr. Stone; is that right?

9 A. Yes.

10 Q. And what issues did you have with him
11 as it relates to Title IX?

12 A. Coach Briles told me that Mr. Stone was
13 notified about the volleyball player incident by his
14 neighbor, who was a teammate of the volleyball
15 player, back in approximately 2013 and was fully
16 aware of that situation.

17 Q. Did Coach Briles tell you how he had
18 that information?

19 A. He said that Mr. Stone called Coach
20 Briles and told him that.

21 Q. So was it your understanding that
22 Mr. Stone was involved in some way of preventing a
23 fair adjudication of whether or not that sexual
24 assault occurred involving the volleyball player?

25 A. Well, as a current regent he had that

1 information and obviously is a fiduciary of the
2 university.

3 Q. So is it your understanding that it is
4 inappropriate for regents to be provided personal,
5 identifiable information about ongoing Title IX
6 investigations?

7 A. It would seem inappropriate to me.

8 Q. I mean, here at Liberty University, do
9 you understand that to be the case, that regents have
10 individual knowledge of Title IX complaints?

11 A. I'm not aware of any of our trustees at
12 Liberty having that type of information.

13 Q. All right. The next person you
14 mentioned was Mr. Willis.

15 What information did you gather that
16 gave you concern that he bears some responsibility?

17 A. I think he was the main conspirator in
18 putting together this elaborate plan that essentially
19 scapegoated the black football players and the
20 football program for being responsible for what was a
21 decades-long, university-wide sexual assault
22 scandal.

23 Q. What makes you believe that?

24 A. Information I've received from a number
25 of sources.

1 Q. And can you describe any of that for
2 us?

3 A. I can. Mr. Ramsower told me that
4 initially the centerpiece of the Pepper Hamilton
5 presentation was going to be about the athletic
6 [REDACTED]
7 the university and did not receive any help and that
8 Mr. Willis changed the centerpiece to the story about
9 [REDACTED]

10 Q. Changed it how so? In terms of dealing
11 with the media directly or through a consultant?

12 A. No. He directed the Pepper Hamilton
13 presentation to -- and shaped it to accomplish the
14 goals he was seeking.

15 Q. And what makes you think that was the
16 case?

17 A. He -- one of the regents, Jay Allison,
18 played a voicemail for me that he received from
19 Mr. Willis, disinviting him to attend the Pepper
20 Hamilton presentation meeting. And explained that
21 Mr. Allison during -- in the voicemail that he would
22 not agree with the direction that they needed to go
23 in terms of how the preparation was going to be
24 shaped.

25 Q. And did you gather that was because

1 Mr. Allison was the chair of the athletics
2 committee?

3 A. And an advocate for athletics and the
4 football program.

5 Q. So is it your belief that Mr. Allison
6 doesn't agree with many of the findings of failings
7 in the athletics department?

8 A. I think he disagreed with the personnel
9 actions that were taken and the overall handling of
10 the matter.

11 Q. Was there any other information that
12 you gathered that led you to believe that Regent
13 Willis was directing the Pepper Hamilton
14 investigation and release?

15 A. Well, he was the chair of the board.
16 So the -- Pepper Hamilton was working for the
17 regents, not the university. They reported to a
18 regent committee chaired by David Harper that was
19 ultimately responsible to Richard Willis, as the
20 chair of the board.

21 Q. Mr. Harper was another person you
22 mentioned.

23 Is there any more specific information
24 you can provide about why you relate him as one of
25 the persons bearing responsibility for the Title IX

1 issue?

2 A. Well, he chaired the special committee
3 of the Board of Regents who worked with Pepper
4 Hamilton. So he received very detailed information
5 about the investigation that was provided to him on a
6 regular basis. And ultimately, the finding of facts
7 document and the information presented by Baylor is
8 false and misleading.

9 Q. All right. When you say the findings
10 of fact were false and misleading, are you talking
11 about solely its discussion of the athletics
12 department or more globally?

13 A. It was a misleading finding of facts
14 skewed to make the football program look bad and
15 cover up the campus-wide failings.

16 Q. You recognize the findings of fact do
17 acknowledge campus-wide failings?

18 A. Without any specific incidents.

19 Q. And so, but there are detailed
20 discussion about the athletic department failings;
21 would you agree?

22 A. Yes.

23 Q. And so was that one of your concerns,
24 is that the Pepper Hamilton report was heavily
25 focused on athletics?

1 A. It was the regents finding of facts
2 that was focused on athletics, and Mr. Willis told me
3 the day before it was released that once I saw that
4 document, everyone would understand why they needed
5 to fire Coach Briles.

6 Q. Did you have an opinion or come to
7 learn, whether by rumor or otherwise, why it is
8 Regent Willis would want Coach Briles fired?

9 A. I think they needed a scapegoat.

10 Q. Do you view Judge Starr as a
11 scapegoat?

12 A. My belief is that they were looking for
13 a reason to make a leadership change. They had
14 attempted various, I'm going to call it a coup, in
15 previous years to try to remove Judge Starr. If you
16 read his book, Bear Country, you can get good detail
17 on that. And they were looking for a reason to get
18 rid of Judge Starr, and they going to use this
19 opportunity to do it.

20 Q. Do you know what the complaints were of
21 the regents regarding Judge Starr?

22 A. I think they didn't like his leadership
23 style and the way he ran the university, and they
24 were -- they just had different opinions than he
25 did.

1 Q. Was it the case, if you know, that
2 Judge Starr carried an independence from the regents
3 in terms of direction of the school that wasn't
4 appreciated?

5 A. Yeah.

6 MS. BROWN: Objection to form.

7 BY MR. DUNN:

8 Q. The judge will rule on her objection
9 later. You can answer, if you understand.

10 A. Okay. Judge Starr had a different
11 leadership and management style than the regents
12 appreciated, and there was a lot of conflict between
13 him and the regents. And the relationship between
14 him and the regent leadership deteriorated
15 significantly, especially between 2014 and 2016.

16 Q. And was it these same regents who were
17 having trouble with Judge Starr, or were there
18 others?

19 A. Those were some of the primary regents
20 that had conflict with Judge Starr.

21 Q. So going back, the next name that you
22 provided was Mr. -- Regent Murff.

23 What information do you have that he
24 bears some responsibility for the Title IX issue?

25 A. So he succeeded Richard Willis as the

Page 81

1 chair, chairman of the board, and he just, on several
2 occasions just provided outright dishonest
3 information to the public.

4 Q. What is an example of that?

5 A. I'd have to probably pull a couple
6 newspaper articles. But one of his comments was that
7 they -- he made to the faculty senate that was
8 reported in the Waco Tribune-Herald was that
9 they'd -- there were no case -- no instances
10 of -- I'm paraphrasing, but there were no instances
11 of inappropriate communication between regents and
12 coaches.

13 Q. And was that something that happened
14 regularly --

15 A. Yes.

16 Q. -- communication between regents and
17 coaches?

18 A. Yes.

19 Q. All right. And then the last name I
20 think you mentioned is Cary Gray; is that right?

21 A. Yes.

22 Q. What information do you have about his
23 responsibility for Title IX?

24 A. I believe he was the author of the
25 finding of facts. And he was very involved in, I

1 believe, just the whole conspiracy to develop this
2 concept to try to turn a longstanding campus-wide
3 sexual assault scandal into a football problem.

4 Q. And what makes you think he was the
5 author of the findings of fact?

6 A. Based on the fact that I believe it was
7 written by an attorney and that he was intimately
8 involved in the details of the handling of the Pepper
9 Hamilton information.

10 Q. I'm not trying to quarrel with you
11 because I don't know.

12 A. Right, yeah.

13 Q. But why is it you don't believe that
14 Pepper Hamilton, which clearly has lawyers, was the
15 author of the findings of fact?

16 A. Well, it was the Board of Regents
17 finding of fact. Pepper Hamilton wrote the
18 recommendations, but it was the Board of Regents who
19 wrote the finding of fact.

20 Q. But you don't believe it to be the case
21 that the Pepper -- that Pepper Hamilton also wrote
22 the regents findings and the regents just adopted it
23 as their own?

24 A. Correct.

25 Q. Instead you believe that Mr. Gray or

1 others drafted that?

2 A. Yes. Despite the fact that they didn't
3 interview any of the witnesses or conduct the
4 investigation.

5 Q. So did you see any of this coming? I
6 mean, you've been administrator at major universities
7 for, you know, a couple of decades now.

8 I'm sure you're familiar with the
9 politics, right? Every school's got politics, I
10 assume; is that right?

11 A. Yes.

12 Q. And so did you have some sense that
13 some of this was coming, that the athletic department
14 would be made a scapegoat?

15 A. Yes.

16 Q. And what gave you that sense, that that
17 might happen?

18 A. So Mr. Bradshaw, after he returned from
19 his initial interview with Pepper Hamilton, told me
20 that Chris Holmes in the general counsel's office
21 pulled him aside and said, don't worry. They aren't
22 after you, which suggested to me that they may be
23 after some people.

24 Up to that point, I believed that it
25 was just a, you know, an investigation to find out

1 what had actually happened. Then, prior to my
2 interview with Pepper Hamilton, I asked Gina Smith
3 what the final work product would be that Pepper
4 Hamilton would produce for the university, and she
5 said --

6 MS. BROWN: I have to object to the
7 extent you're going to describe her work product, and
8 the Court has ruled here that work product remains
9 intact.

10 BY MR. DUNN:

11 Q. So this is an area where the judge will
12 have to rule, and unfortunately, we may have to ask
13 you in writing or to come back here to fill in your
14 testimony. So I'm going to try to rephrase to work
15 around that objection, even though I don't agree with
16 it, and we'll have to take it up with the judge at
17 some point.

18 But without getting into describing
19 what Pepper Hamilton was preparing as a work product,
20 were there any communications that Pepper Hamilton,
21 Ms. Smith, or other representatives made directly to
22 you about what was to come of their investigation?

23 A. Yes. So she asked -- again, I asked
24 what the final work product would be they would
25 provide the university. She said it would be up to

1 the regents. They may want a detailed document.

2 They may want a summary report, or they may ask us to
3 whitewash the whole thing.

4 Q. And so did you ever find out what
5 direction they ultimately received from the
6 regents?

7 A. No.

8 Q. But ultimately are you aware of there
9 ever being any Pepper Hamilton report per se authored
10 by them?

11 A. Not a public report. Just the
12 presentation that they made to the regents.

13 Q. Were you present for the presentation
14 for the regents?

15 A. No.

16 Q. So again going back to the issue, I
17 mean, Mr. Bradshaw, I guess, was told by a regent,
18 that don't worry. They're not coming after you. Was
19 your --

20 A. Just to clarify, Chris Holmes.

21 Q. I'm sorry.

22 A. In the general counsel's office.

23 Q. Yeah, Chris Holmes told Mr. Bradshaw,
24 don't worry they're coming after you.

25 Was there any other information you got

1 that gave you the sense maybe it was coming,
2 something was coming?

3 A. Yes. So President Starr was calling
4 for complete transparency relative to a Pepper
5 Hamilton report. Reagan Ramsower, who was the
6 conduit to the regent leadership, was calling for a
7 mea culpa moment when all of the university's
8 failings would be revealed. And so that was -- my
9 assumption was that we were moving in that direction.

10 I had a meeting with Mr. Ramsower in
11 his office in April of 2016 and asked are we going to
12 have a mea culpa moment? And he said, no. The
13 lawyers are pushing back on it for legal liability
14 reasons and loss of insurance coverage.

15 Q. But where did that -- it sounds like
16 that phrase, the mea culpa moment, it sounds like
17 that's a regular phrase you used while these events
18 were going on and others.

19 A. I didn't use it, but Mr. Ramsower used
20 it on multiple occasions.

21 Q. So how did you come to learn that
22 Mr. Ramsower was interested in this? I know you had
23 that meeting where they said no they weren't going to
24 do it, but it sounds like you knew about that being
25 considered prior to that point.

Page 87

1 A. Yeah. Again, you know, the president
2 of the university wanted completely transparency, and
3 Reagan Ramsower, who was the most powerful
4 administrator and had direct connection to the regent
5 leadership, was calling for a mea culpa moment where
6 we would admit all the campus-wide failings. So that
7 was the direction I expected things to go, until that
8 meeting in Ramsower's office in April 2016.

9 Q. Did you get the sense that Dr. Ramsower
10 and Judge Starr were aligned and working from the
11 same handbook, so to speak?

12 A. Very rarely.

13 Q. So was there conflict there?

14 A. Yes.

15 Q. Do you relate that conflict to Judge
16 Starr's ultimate departure from the school?

17 A. He felt --

18 MS. BROWN: Objection to form.

19 BY MR. DUNN:

20 Q. Again, the judge will rule. You can go
21 ahead.

22 A. He felt Reagan Ramsower was undermining
23 him with the regents.

24 Q. What made you believe that?

25 A. It was evident in terms of the way the

1 two of them interacted.

2 Q. That was something that you witnessed
3 yourself?

4 A. Yeah. And he actually raised it in
5 some meetings that I was present in.

6 Q. And who is "he"?

7 A. President Starr.

8 MR. DUNN: All right. I have to take a
9 restroom break, if you don't mind. So if it's all
10 right with you, we'll take a quick break.

11 THE WITNESS: Very good.

12 THE VIDEOGRAPHER: Going off the record
13 at 10:53 a.m.

14 (Recess.)

15 THE VIDEOGRAPHER: We are going back on
16 the record at 11:07 a.m. This is the start of Disc
17 Number 2 in the deposition of Ian McCaw.

18 BY MR. DUNN.

19 Q. All right, Mr. McCaw. I thank you for
20 the break.

21 So we were talking about a conspiracy,
22 I think, as you called it, of Baylor officials to
23 scapegoat the athletics department.

24 Do I have that right?

25 A. Yeah, primarily the football program.

1 Q. Okay. And I want to just wrap up our
2 discussion of these regents you mentioned, and I
3 think inadvertently skipped over Mr. Harper.

4 What information do you have that
5 Mr. Harper bears some responsibility for this?

6 A. Well, again, he was the chair of the
7 special committee that Pepper Hamilton reported to.
8 So he received detailed information about all of
9 their interviews. And again, I think he allowed a
10 false, misleading narrative to be created and
11 produced in the form of a finding of fact instead of
12 full disclosure and telling the truth.

13 Q. So when you mentioned -- you mentioned,
14 for example, on Mr. Willis that there was an
15 implication that -- of black football players.

16 I mean, was the issue of race involved
17 here at all, in your mind?

18 A. In my opinion, it was.

19 Q. And among whom? Among which of these
20 conspirators were motivated, at least in part, by
21 race?

22 A. I don't know if they were motivated,
23 but the entire focus was on a very small percentage
24 of the sexual assaults involving black football
25 players, at the exclusion of the vast majority of

1 sexual assaults that involved other students at
2 Baylor in either the rugby club, fraternities.

3 Mr. Ramsower told me there was a very
4 high percentage in the honors college. You know,
5 this was a campus-wide problem, and all of the
6 attention was focused on black football players.

7 Q. Did anybody ever tell you directly why
8 that was so, why all the attention was focused on
9 football?

10 A. I was stunned when I read the finding
11 of facts on May 26th, 2016, in terms of the way they
12 framed it up.

13 Q. Do you have any opinions as to why
14 football was made the focus?

15 A. Well, that was, of course, where the
16 media attention was. And I think they felt like they
17 could get the media off their back if they focused
18 the attention on the football players, took some
19 decisive action, and that the media would not keep
20 digging and find out the scope of the scandal.

21 Q. Other than Judge Starr, were there any
22 dismissals, resignations, removals, punishments, that
23 sort of thing, against nonathletic staff?

24 A. Yeah. My understanding was that
25 Mr. Ramsower received some type of discipline.

1 Q. What is your information about his
2 discipline?

3 A. Mr. Patulski told me that Mr. Ramsower
4 told him that he was dinged in the Pepper Hamilton
5 report and received some type of internal
6 discipline.

7 Q. Was Dr. Ramsower at the university when
8 you started there in 2003?

9 A. Yes.

10 Q. Was he in the same capacity then as he
11 is when you left?

12 A. No. He changed. Initially the CFO was
13 David Brooks, and then Mr. -- after he left,
14 Mr. Ramsower took on additional responsibilities, and
15 his responsibilities changed over the years.

16 Q. In our investigation, we've learned
17 from others their opinion that Dr. Ramsower
18 essentially runs the university.

19 Was that your assessment?

20 A. Yes.

21 Q. And then was it your assessment that
22 Dr. Ramsower was involved intimately in the rolling
23 out of the Pepper Hamilton activities and the
24 aftermath?

25 A. Well, I can't say that. I do know he

1 was in regular communication with the regent
2 leadership.

3 Q. Now, you mentioned that some of the
4 regents were -- as part of this conspiracy were
5 trying to protect.

6 Who they were trying to protect?

7 A. Well, I think in part they were trying
8 to protect the university. Because if all of the
9 details were revealed, again, I think the concern
10 that Mr. Ramsower raised with me was the legal
11 liability and loss of insurance coverage would be
12 staggering, not to mention the damage to the brand
13 and admissions.

14 Q. And did you get the sense the legal
15 liability was cases such as this, cases brought by
16 female students?

17 A. I didn't get any specific information
18 about that.

19 Q. Did you have a sense of whether any of
20 the lawyers or staff in the legal department were a
21 part of this conspiracy?

22 A. I know they were working very closely
23 with Pepper Hamilton.

24 Q. Do you review -- do you or did you view
25 Mr. Holmes as part of this group that was trying to

1 scapegoat the football department?

2 A. Yes.

3 Q. What made you have that belief?

4 A. He was very involved, again, in all the
5 Pepper Hamilton information. I know he was involved
6 in the dismissal of Tom Hill, and he was also
7 involved in putting out and shaping a lot of
8 the marketing and public relations information that
9 came out from the university.

10 Q. How does the dismissal of Tom Hill fit
11 into this?

12 MS. BROWN: Objection to form.

13 MR. DUNN: I'll rephrase it.

14 BY MR. DUNN:

15 Q. You mentioned the dismissal of Tom Hill
16 as an issue that made you believe Mr. Holmes was
17 involved in this conspiracy; why so?

18 A. Mr. Patulski told me that he was, he
19 was involved in that.

20 Q. Obviously, there will be other
21 testimony from other places about Tom Hill.

22 But, generally, what's your
23 understanding about what happened with regard to his
24 dismissal?

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Q. Did you believe Ms. Gomez to be inaccurate in her description of Mr. Hill?

A. I've known Tom Hill for a long time. I think he's a high integrity person.

Q. Do you know what particular set of events or circumstances Ms. Gomez was referring to when she made that comment?

A. I don't.

Q. I mean, in other words, you don't know what it is that she claimed Hill had lied about?

A. I don't.

Q. And you mentioned in your other discussion, before the break, with Pepper Hamilton that there was sort of three potential outcomes. They could, I believe the phrase you used was whitewash it, they could -- Pepper Hamilton could issue a report, or the regents may issue a report.

Did I hear that right?

A. No. It was -- it was up to the regents

Page 95

1 to determine whether Pepper Hamilton was going to
2 issue a detailed report, a summary document or
3 whitewash the whole thing.

4 Q. And was that term, "whitewash," used by
5 the Pepper Hamilton attorney?

6 A. By Gina Smith, yes.

7 Q. And what did you understand that to
8 mean?

9 A. I don't use that term in my normal
10 course of business, so I went home and looked it up
11 on dictionary.com and found that it said to conceal
12 or cover up wrongdoing.

13 Q. And did you know what it is that she
14 was referring to in terms of covering up?

15 A. I didn't.

16 Q. You mentioned that part of your concern
17 about this scapegoating of the football program was
18 that it covered up for university-wide failings, I
19 think, is what I took down.

20 Does that sound like what you said?

21 A. Yes.

22 Q. What were the university-wide failings
23 that were being covered up, in your view?

24 A. Again, as -- if you look at, read Judge
25 Starr's book, in Bear Country, I think he lays it out

1 pretty well. It was failures primarily by first
2 responders. It was the police, judicial affairs,
3 counseling center, health center, people that --
4 faculty members.

5 People that came in contact with
6 alleged sexual assault victims not handling the
7 matters correctly. And so it was across the entire
8 campus, as were the alleged victims, as were the
9 alleged perpetrators.

10 Q. So is it your view that the athletics
11 department bears no responsibility?

12 A. No.

13 Q. So when you mention these
14 university-wide failings you just itemized, you
15 include in that the athletic department?

16 A. We had student athletes who engaged in
17 misconduct, yes.

18 Q. And you would agree that the athletic
19 department didn't handle them appropriately?

20 A. I'm not aware of any wrongdoing by any
21 member of the athletic department. There was a lack
22 of training, so things were not handled as they would
23 be based on today's standards, but I'm not aware of
24 any wrongdoing within the athletic department.

25 Q. Well, up until you left in 2016, in

Page 97

1 your opinion, was the Title IX program working in any
2 part of the university?

3 A. I thought that we had a done a very
4 good job in athletics in terms of the training that
5 we had done with our student athlete staff and
6 coaches. So I thought we had made great strides in a
7 very short period of time.

8 Q. What period of time was that?

9 A. Again, started in September 2014 until
10 May 2016. I thought we made really good progress in
11 that period of time.

12 Q. So did you feel that when you left the
13 athletics department that it was up to snuff in terms
14 of Title IX compliance?

15 A. It was definitely dramatically
16 improved.

17 Q. Did you have a sense that the other
18 parts of the university had gone through the similar
19 degree of reform?

20 A. No. I thought they were far behind
21 us.

22 Q. And was it your sense, then, that at
23 the point in time that you left the university that
24 sexual assault treatment outside the athletic
25 department was not up to the training that you had

1 received?

2 A. Yeah. The faculty training and the
3 training across campus lagged behind what we were
4 doing.

5 Q. Did you get a sense of why that was
6 so?

7 A. Again, I think it, a lot of it just
8 came down to the ability to, you know, fully
9 implement everything across a very large campus
10 environment.

11 Q. Now, going back to the regents that
12 were involved in this, you mentioned one example of a
13 regent providing misinformation. And, I guess, you
14 know, we can go through these each one, and I know
15 you probably can't remember all of this. But I want
16 to get a sense from you, like this is a, you know, a
17 pretty direct allegation that you've made here. So I
18 want to understand the -- all the support you can
19 recall for it; okay?

20 So what are some of the other concerns
21 you had about these regents that you've listed being
22 part of this conspiracy or cover-up?

23 A. Other concerns?

24 Q. Well, you mentioned, for example, that,
25 you know, one of the regents had personal information

Page 99

1 about one of the students. You mentioned that there
2 was some misleading statements made in the press.
3 You gave some other examples.

4 And just I want to see, are there some
5 other thoughts, you know, on your forehead here about
6 things that gave you concern about these regents when
7 it relates to Title IX?

8 A. I know certainly Patty Crawford
9 referenced that she was contacted directly by regents
10 to gather Title IX information about cases, and I
11 believe that was played up in the media extensively.

12 I know in one instance, in a July 2015
13 regent meeting, one of the regents started asking
14 questions about the sexual history of an alleged
15 victim and had to be admonished by the general
16 counsel present. Those are a couple of examples.

17 Q. Who was that?

18 A. Who was the general counsel or who was
19 the regent?

20 Q. Who was the regent?

21 A. I don't recall.

22 Q. And was the general counsel Mr. Holmes
23 or one of his deputies?

24 A. It was either Mr. Holmes or Mr. Welch.
25 I don't recall.

Page 100

1 Q. And they were reprimanded because it
2 was inappropriate to get into the victim's sexual
3 history?

4 A. Yes.

5 Q. Did you notice other experiences such
6 as that when you were at the school? In other words,
7 what some people refer to as victim blaming or
8 attacking the victims?

9 A. Certainly there was an allegation that
10 that was going on with the -- within the police
11 department at Baylor.

12 Q. Again, going back to these regents, are
13 there any other examples of things that gave you
14 pause as it relates to Title IX?

15 A. Those are all I can think of at this
16 time.

17 Q. Sure. Now, I want to -- we've talked a
18 little bit about the Pepper Hamilton investigation,
19 and you mentioned that you learned -- you weren't
20 involved in Pepper Hamilton's hiring, but you were
21 interviewed at some point; is that right?

22 A. On three occasions.

23 Q. Okay. Did you ask to be interviewed,
24 or was it the case that the interviewers asked you to
25 be?

Page 101

1 A. The first time I was requested to be
2 interviewed, and then at the advice of Mike Rogers,
3 our long-time faculty athletic representative, he
4 told me he was going back for a second interview
5 because he had thought of some additional
6 information, and so I did as well.

7 So I requested the second interview
8 with Pepper Hamilton, and then I was also scheduled
9 for a third interview as well.

10 Q. And was it the same people each time
11 you went to this interview?

12 A. The constants were Leslie Gomez and
13 Gina Smith and Kris Jones, I believe, participated in
14 two of the three interviews.

15 Q. Who is Mr. Jones?

16 A. Kris Jones is a female, and she was
17 actually the point person from Pepper Hamilton
18 that --

19 Q. Okay.

20 A. -- dealt primarily, she was identified
21 to us as a point person if we had any questions. I
22 found her to be a person of integrity and very
23 trustworthy.

24 Q. And so you, when you went to these
25 interviews, you had those three Pepper Hamilton

Page 102

1 people in there, and that's it; is that right?

2 A. They, on at least one occasion, had
3 somebody by phone as well.

4 Q. Okay. Somebody you understood to be
5 employed by Pepper Hamilton?

6 A. Yes.

7 Q. So, and I guess that's what I'm trying
8 to establish.

9 There wasn't somebody else under the
10 Baylor umbrella that sat in on these? It was just
11 you and Pepper Hamilton folks?

12 A. Correct.

13 Q. Okay. And was there any recording made
14 as far as you understand?

15 A. There's no, to my knowledge, no audio
16 reporting. There was, they took various notes.

17 Q. And you observed that, notes being
18 taken?

19 A. Yes.

20 Q. Did each have their own set of notes,
21 or was it the case that one person was the
22 notetaker?

23 A. I wasn't watching that closely.

24 Q. But you're confident that there were
25 notes taken by at least one of the persons from

Page 103

1 Pepper Hamilton to each of the interviews that you
2 went through?

3 A. There were, there were notes taken,
4 yes.

5 Q. So focus now, I guess, on the first
6 interview.

7 About how long did that take?

8 A. It was fairly lengthy. I believe they
9 scheduled it for fours hours, and it ended up taking
10 perhaps six.

11 Q. And I know that's a long time. I'm not
12 asking you to remember all that you were asked.

13 But give us a sense of what you can
14 recall you were being asked about?

15 A. It was really relative to alleged
16 sexual assaults involving football players,
17 primarily. And what was curious was when I would
18 bring up other things like the rugby club or the
19 tennis player or other things that I was aware of
20 through executive leadership meetings, they changed
21 the subject, didn't want to talk about it. They
22 wanted to focus exclusively on football players, all
23 of whom -- all of whom were black.

24 Q. And some of the other incidents
25 involving sexual assault that you would mention, did

Page 104

1 they involve people of other races other than black
2 individuals?

3 A. Yes.

4 Q. And so was it your sense that the
5 Pepper Hamilton investigators were not interested in
6 those?

7 A. They'd change the subject whenever
8 those were brought up. I actually requested to talk
9 about the tennis player because he had come to my
10 office to complain about how badly he was treated by
11 the Title IX office. And they said that they didn't
12 want to talk about it.

13 Q. So, I mean, was -- did you at some
14 point just say, look, what's the deal? Why are we
15 only talking football players?

16 A. I just answered the questions to the
17 best of my ability.

18 Q. All right. And at that first meeting,
19 was -- I mean, did you get any sort of feedback from
20 the Pepper Hamilton folks, or was it all just fact
21 collection at that point?

22 A. Again, it was just fact collection
23 focused primarily on football. Although they'd bring
24 up some other issues relative to, you know, a regent
25 trying to influence a drug test appeal involving a

1 student athlete. And so they referenced some
2 non-Title IX matters as well.

3 Q. What was the case where a regent tried
4 to influence a drug test?

5 A. They just asked, they just said they
6 had information that that happened and asked if I
7 knew who was aware of it, and I said I didn't, didn't
8 know about it.

9 Q. You did or didn't?

10 A. Did not.

11 Q. And did they identify what regent was
12 involved?

13 A. No.

14 Q. Now, I would assume that if there's an
15 allegation of sexual assault involving any athletic
16 department, regardless of whether it's football, that
17 doesn't necessarily reflect upon you well either;
18 right? It's not just the -- you're not just
19 responsible for the football program. You're
20 responsible for these other sports programs; am I
21 right?

22 A. I oversee the whole umbrella, yes.

23 Q. So when you would bring up other
24 sports-related allegations of sexual assault, that
25 was not in your interest in terms of making yourself

1 look good; am I right?

2 A. No.

3 Q. But nevertheless, when you would bring
4 up these other sexual assaults involving other
5 student athletes other than football, your impression
6 was there was no interest in exploring those
7 subjects?

8 A. Correct.

9 Q. And I know you've already told me, this
10 question is slightly different than the one I've just
11 asked you. But I know you've already told me you
12 didn't ask them, hey, why do you keep going to
13 football? But did they ever give you any impression
14 as to why they kept focusing on football?

15 A. They didn't give me an impression. But
16 obviously, again, the media coverage was focused on
17 the Ukwuachu case and then Tevin Elliott to some
18 extent. So, you know, clearly football was a central
19 topic, but that was almost exclusively what they
20 wanted to talk about.

21 Q. Did the Pepper Hamilton folks get into,
22 in that first interview, discussions about governance
23 of the university generally, in terms of what kind of
24 failings there might be in the hierarchy of
25 directions between the regents and the president's

Page 107

1 office and Ramsower and others?

2 A. They asked who my reporting out chain
3 would be if I had significant information. So I told
4 them that I was instructed to always notify Richard
5 Willis, the Chair of the Board, Jay Allison, the
6 Chair of the Athletic Committee, President Starr and
7 Reagan Ramsower. Those were kind of my -- the four
8 go-to people that I was instructed to keep informed
9 on significant issues.

10 Q. Does that include an allegation of
11 sexual assault?

12 A. It would include an allegation of
13 anything significant, including sexual assault,
14 yes.

15 Q. Did you ever have a sexual assault
16 allegation that you went and reported to those four
17 folks?

18 A. Again, in 13 years, I never had an
19 allegation brought to me, other than the email from
20 the equestrian student athlete back in, I believe,
21 2009.

22 Q. All right. So then you had a second
23 interview with Pepper Hamilton.

24 Give us a sense of how long that was
25 after the first? I mean, a month later, weeks

1 later?

2 A. Yeah, I'm going to say it was
3 approximately a month or six weeks later. And just
4 really just shared a couple more specificity relative
5 to some of the things that they had asked about in
6 the first interview, things that I had thought
7 about.

8 Q. Can you recall any of these things?

9 A. I mean, they certainly focused a lot of
10 attention on the volleyball player matter, and I
11 think there were a couple other things that I had
12 additional detail on. But again, it was a relatively
13 short interview.

14 Q. And did they ask for that interview, or
15 did you?

16 A. No, I requested it.

17 Q. What was the volleyball player matter,
18 without naming the student?

19 A. Yeah, what happened?

20 Q. Yeah?

21 A. So again, to my knowledge, what
22 happened was Coach Barnes, the volleyball coach, came
23 to me in the late spring of 2013 and said that he had
24 learned about an alleged sexual assault involving one
25 of his players.

Page 109

1 She was unwilling to talk to the
2 police, asked me where he should go, and I directed
3 him to the Office of Judicial Affairs. And so
4 subsequently my understanding was he went there, but
5 I know that's a major dispute in this whole case, as
6 to whether he, in fact, contacted judicial affairs or
7 not.

8 Q. Did you document that in any way, that
9 you told him to go to judicial affairs?

10 A. I did not.

11 Q. All right. What was the third meeting
12 with Pepper Hamilton?

13 A. That was at their request, and they set
14 up a series of meetings. I'm going to say it was
15 approximately, you know, it would have been April of
16 2016. And they had at that point interviewed Coach
17 Barnes and wanted, you know, to go through to kind of
18 clarify some things that were either unclear or
19 misunderstandings or what have you.

20 I asked to have Coach Barnes put on the
21 phone so that we could talk through them together and
22 share our recollections, and they refused to comply
23 with that request. And they went on to again ask
24 some more detailed questions.

25 Ms. -- it's interesting, Ms. Smith said

Page 110

1 are you aware of a phone call that went into the
2 general counsel's office about that matter, and I
3 said I was not.

4 Q. Did you -- did they express why they
5 were unwilling to get on a call with you and
6 Mr. Barnes together?

7 A. They just shook their head and
8 continued to ask questions.

9 Q. So is it fair to describe the third
10 interview as solely about the Coach Barnes
11 situation?

12 A. It seemed to be almost entirely about,
13 yes, the volleyball situation.

14 Q. Do you understand why the coach left?

15 A. Why Coach Barnes left?

16 Q. Right?

17 A. Yeah, we terminated him.

18 Q. And was that your decision?

19 A. Ultimately, but I sought feedback from
20 a number of people in making that decision.

21 Q. Was it a termination for cause?

22 A. No.

23 Q. What was the -- I mean, what ultimately
24 spurred the termination?

25 A. Performance of the team had declined

Page 111

1 badly in the previous two seasons. There were a lot
2 of student athlete complaints. There was a student
3 athlete survey that was conducted by the Faculty
4 Athletic Council in the spring of 2014 that was
5 extremely critical of him.

6 And then we also had two additional
7 student athletes come forward during the course of
8 the year to complain about him. Just a lot of
9 negative feedback about his direction of the program.
10 And actually, Dary Stone, one of the regents, called
11 me twice during the season.

12 The first time he said that the team
13 doesn't feel that they'll be able to win as long as
14 Barnes is the head coach. And then the second time,
15 he called me later in the season and said that the
16 team is unified in wanting a coaching change at the
17 end of the season. So that was significant feedback
18 from, obviously, a very influential persona at
19 Baylor.

20 Q. So was what commonplace, for a regent
21 to be involved in the management of a particular
22 team?

23 A. Was it commonplace; it was fairly
24 commonplace for that regent to be very involved.

25 Q. And what was his connection to the

Page 112

1 team, if you know?

2 A. His connection was the neighbor who was
3 on the volleyball team.

4 Q. I see. Okay. And so but in any event,
5 the termination of Barnes, in your view, had nothing
6 to do with Title IX or a sexual assault?

7 A. Zero.

8 Q. Did you discharge any coaches or
9 assistant coaches for sexual assault-related
10 issues?

11 A. No.

12 Q. There's been some discussion about the
13 equestrian team.

14 What happened there?

15 A. In terms of the coach's termination?

16 Q. Right?

17 A. That happened after I left, so
18 Mr. Patulski would be a better person to ask about
19 that.

20 Q. Did you, prior to leaving, observe
21 problems with the equestrian coach?

22 A. Not significant problems. There are
23 always -- it's a very large roster of women, most of
24 whom don't get to compete. So there's always some
25 level of complaint. Typically in equestrian, you

Page 113

1 have a -- she carried a roster of close to 70 women,
2 and typically only, you know, about a dozen to 16
3 competed regularly.

4 So you had a lot of noncompetitors, and
5 oftentimes they were not satisfied with their
6 experience. So there were a few complaints about the
7 program.

8 Q. But whatever complaints you were aware
9 of before you left, about the equestrian team, had
10 nothing to do with sexual assault?

11 A. No.

12 Q. What about the acrobatics team; did you
13 come to learn of some issues related to sexual
14 assault related to it?

15 A. There was a -- I know there was a
16 manager of the acrobatics and tumbling team who
17 alleged she was sexually assaulted by a football
18 player. Or, excuse me, it was involved in
19 interpersonal violence with a football player.

20 Q. And was that during your tenure
21 there?

22 A. Yes.

23 Q. What happened with that?

24 A. Nancy Post, who was the sports
25 administrator of that, I think, received the report

Page 114

1 from the coach. She's our Title IX coordinator
2 within the athletic department, and so she notified
3 both Mr. Patulski and I about that matter. And then
4 my understanding is that woman filed a lawsuit
5 against the university.

6 Q. And again, I know you just said it in
7 your answer, but sometimes it's helpful for us to
8 have these things separate.

9 So who was the person in the athletics
10 department responsible for Title IX, the coordinator
11 you just mentioned?

12 A. Yeah, Nancy Post. So she was our
13 Senior Women Administrator, and she handled all of
14 our Title IX matters.

15 Q. And when was she in that role?

16 A. She was the Title IX coordinator from
17 early in my tenure, I can't tell you exactly when,
18 until recently, when they assigned that role to
19 another person under Mack Rhoades.

20 Q. So she was in that role; to the extent
21 you had a Title IX person in athletics while you were
22 there, it was her?

23 A. It was her.

24 Q. There wasn't somebody else that did
25 it?

Page 115

1 A. No.

2 Q. And you said a long time, so, you know,
3 people think a long time is different.

4 I mean, was she there in 2003 or --

5 A. She preceded me at Baylor. So she was
6 in the athletic department in an administrative
7 capacity before I arrived. And then my recollection
8 is that Paul Bradshaw was actually the Senior Women
9 Administrator and handling the Title IX matters at
10 that time. It's not ideal to have a male in that
11 role, so we assigned it to Nancy.

12 Q. And was that sometime in the first
13 decade of the century or the second?

14 A. I'm going to say it would have been
15 approximately 2003, 2004, in that range.

16 Q. I see. And then she served in that
17 capacity uninterrupted until you left?

18 A. Yes.

19 Q. There's also some allegations of a
20 sexual assault involving the rowing team.

21 Are you familiar with that?

22 A. The rowing club, yeah. That's a club
23 sport that did not report to athletics.

24 Q. I see. All right.

25 Are you familiar with that event, or is

Page 116

1 that something you know nothing about?

2 A. I'm not aware of that specific event.

3 MS. BROWN: Chad, did you say rowing?

4 MR. DUNN: Yes.

5 MS. BROWN: Thank you.

6 BY MR. DUNN:

7 Q. All right. So have we talked about all
8 your discussions with the Pepper Hamilton, those
9 three interviews?

10 A. Correct, there were three interviews.

11 Q. I mean, after the regents findings were
12 released, did you have any follow-up, hey, where did
13 this come from or --

14 A. No.

15 Q. -- anything?

16 Was there any discussion had with you
17 about whether you were permitted to communicate with
18 Pepper Hamilton?

19 A. We were told from the outset that the
20 point person at Pepper Hamilton was Kris Jones.
21 Again, she remains with the firm. The other two
22 women, you know, parted ways with Pepper Hamilton
23 after they were sued by Tom Hill.

24 Q. Well, what is your information about
25 that? I mean, do you believe his lawsuit, Tom Hill's

Page 117

1 lawsuit, had something to do with their departure
2 from Pepper Hamilton?

3 A. Well, no. Well, the timing of Pepper
4 Hamilton parting ways with Smith and Gomez was
5 approximately at the end of 2016. It was shortly
6 after Tom Hill sued Pepper Hamilton and those two
7 women for negligence.

8 Q. So with Smith and Gomez, did you get
9 the sense that they were, you know, rowing in a
10 different direction than Jones?

11 A. Yes.

12 Q. How so?

13 A. I thought Kris Jones was a person of
14 integrity, very honorable, very honest. I thought
15 Ms. Smith was unethical. The term that several of us
16 have used to describe Gomez was "evil."

17 Q. Was, excuse me?

18 A. Evil.

19 Q. Evil.

20 So what made you think Smith was
21 unethical?

22 A. Really, the whitewash comment was one
23 that certainly got my attention. And I just thought
24 her line of questioning, she was not seeking truth,
25 the whole picture, the story. She was very focused

1 on the football program exclusively.

2 Q. Anything else about Smith that made you
3 think she was unethical?

4 A. No.

5 Q. Now, what made you think Gomez was
6 evil?

7 A. Again, the feedback from a number of
8 our staff. You know, Tom Hill described being
9 attacked by her. Other staff members described --
10 Coach Briles told me Coach Kazadi walked in the room
11 and she said, "So you're the black coach we've been
12 hearing about." I was concerned about her racism.

13 Coach Bennett reported to me that she
14 said, "Why are there so many blacks on the team?"
15 She was very intense in her line of questioning. I
16 personally believe she engaged in prosecutorial
17 misconduct with the witnesses that I spoke with,
18 including myself.

19 Q. How so?

20 A. Just, again, she was -- she would just
21 go after you on lines of questioning that I just
22 thought were inappropriate.

23 Q. So it was clear to you, back in the
24 investigation stage, that whitewash was on the table
25 as an option that might happen?

1 A. That's what Ms. Smith said.

2 Q. Is that what you view what ultimately
3 occurred?

4 A. No. I think it was a scapegoating of
5 the football program and a cover-up of everything
6 else.

7 Q. And you mentioned this discussion that
8 there ought to be a mea culpa moment, and we talked
9 about that a little bit.

10 But was that a term that you think came
11 from Dr. Ramsower or from some other source?

12 A. Dr. Ramsower was the person who I heard
13 first articulate it and then articulate it on
14 multiple occasions. I think some other people may
15 have repeated it.

16 Q. And so, you know, that could go, I
17 suppose depending upon the listener, could have a
18 positive or a negative connotation. We need to
19 genuinely have a mea culpa moment and clean up, or we
20 need to make it look like we're having a mea culpa
21 moment and not actually clean up.

22 Which of those was it?

23 A. I believe Dr. Ramsower was sincere and
24 wanted to have a mea culpa moment, admit all the
25 failures, apologize and then take corrective

1 action.

2 Q. So I guess what confuses me, then, is
3 if he's part of this conspiracy, but he also has the
4 genuine belief that we should, you know, accept
5 responsibility, how do those connect? How do those
6 two motivations connect?

7 A. I think he genuinely wanted to do the
8 right thing. But then the lawyers, as he told me in
9 the April 2016 meeting, the lawyers pushed back due
10 to the legal liability and loss of insurance
11 coverage.

12 Q. Now, if he is, as you mentioned
13 earlier, somebody who was one of the most powerful
14 people running the university, I mean, do you think
15 he had the ability to push back against the general
16 counsel's office and say, look I'm not going that
17 route?

18 A. I don't know.

19 Q. Okay. Did you ever get a -- so one of
20 the other things too that you mentioned was that
21 there was, you know, never a written Pepper Hamilton
22 report, instead there's these regents findings.

23 Did you ever learn or hear why that was
24 the decision, why Pepper Hamilton didn't make a
25 report?

1 A. I did not.

2 Q. And did you ever get a sense, rumor or
3 otherwise, who made the decision or who was involved
4 in that?

5 A. My understanding was it was there was a
6 group that traveled to Philadelphia that was very
7 involved in working with Pepper Hamilton on shaping
8 the presentation that was shared with the Board of
9 Regents at the May 2016 meeting.

10 Q. And do you know who made that trip to
11 Philadelphia?

12 A. I know Richard Willis did. It was
13 supposed to be the chairs of all of the regent
14 committees and Chris Holmes, but again, Jay Allison,
15 the Chair of the Athletic Committee, was disinvited
16 from that meeting.

17 Q. Was he told, I think you've talked
18 about this a little bit earlier, and you heard the
19 message, as I understand it, right, a voicemail that
20 was left with him by Chairman Willis telling him he
21 was disinvited; is that right?

22 A. He played the message for me.

23 Q. All right. Did he give a reason in
24 that message as to why he was being disinvited?

25 A. I would encourage you to listen to the

Page 122

1 full message. It was fairly lengthy, and I listed to
2 it during the Baylor-Liberty football game, and there
3 was a fair amount of noise, so I can't tell you I
4 heard every word.

5 But basically it was, you would
6 disagree with the -- with what's going to take place,
7 so you're not invited to be at this meeting.

8 Q. I mean, was it an aggressive message?
9 I mean, was it a rough conversation or speaking?

10 A. Again, it was a voicemail, so it was
11 only one person speaking. It didn't seem
12 particularly rough to me. It was just explained that
13 he was being uninvited, and he would not be in
14 agreement with what they were going to do.

15 Q. Did you hear this before the
16 Philadelphia meeting took place or after the fact?

17 A. No, I heard about it. I had listened
18 to the message at the Baylor-Liberty game, which was
19 played September 2017. He had referenced it with me
20 on a couple of occasions prior to that.

21 Q. Do you have a copy of this message?

22 A. I do not.

23 Q. Do you understand Mr. Allison to have
24 retained it?

25 A. He had it as of September 2017.

Page 123

1 Q. And so I assume you and he had a
2 discussion at that point about what this might mean,
3 that he wasn't included?

4 A. Yeah. Mr. Allison was clearly in
5 dissent with the personnel actions and overall
6 handling of this matter by the regent leadership.

7 Q. Did you get a report from anybody else
8 after the Pepper Hamilton briefing in Philadelphia
9 about what happened? I understand Mr. Allison wasn't
10 there, so you didn't learn anything from him. Did
11 anybody else report to you what happened there?

12 A. Not about the briefing in
13 Philadelphia.

14 Q. Okay. Did you get information about
15 what happened at the briefing in Waco?

16 A. Yes. I've spoken to several regents
17 who were part of the briefing in Waco during the
18 meeting in May of 2016.

19 Q. All right. Well, I'll come back to
20 that.

21 You may not know, but did you have a
22 sense that some regents were getting some information
23 from Pepper Hamilton and others were getting
24 different or less?

25 A. Well, certainly the special committee

Page 124

1 that included David Harper, Chris Howard, and Jerry
2 Clements received the most information from Pepper
3 Hamilton. And so, yes, there would be a disparate
4 amount of information among the regent board as to
5 what they knew.

6 Q. But -- all right, that's helpful.

7 But did you ever come to learn that
8 some regents were being told something different than
9 those core group of regents?

10 A. I don't know that.

11 Q. Going now to the May, May 2016 Pepper
12 Hamilton briefing, were you present for that?

13 A. No.

14 Q. How is it that you came to learn what
15 happened there?

16 A. I spoke to several regents in the
17 aftermath of that presentation.

18 Q. And who they were?

19 A. Let's see. Jay Allison, Milton Hixson,
20 Mark Hurd, Phil Stewart.

21 Q. And was their relaying of what happened
22 at that briefing consistent with one another?

23 A. They shared, there were various levels
24 of detail and various amount of information that they
25 shared with me.

Page 125

1 Q. And what is it that you can recall
2 about that? What were you told about the May 2016
3 Pepper Hamilton briefing?

4 MS. BROWN: And I'm going to object to
5 the extent the recollection involves the disclosure
6 of the work product from Pepper Hamilton to the Board
7 of Regents at that meeting.

8 MR. DUNN: Okay. So are you
9 instructing him not to answer?

10 MR. HENNINGER: To the -- I will
11 instruct him not to answer to the extent it
12 implicates matters to which Baylor is asserting a
13 claim of work product or attorney-client privilege.

14 MR. DUNN: All right. So -- well, how
15 is it you define work product privilege in this
16 context? I mean, the judge has ruled that Pepper
17 Hamilton's, at least in part, its activities have
18 been waived, the privilege has been waived.

19 MS. BROWN: Attorney-client privilege
20 has been waived. As to work product, information
21 reflecting the attorney impressions, opinions, that
22 remains intact, and specifically with respect to that
23 presentation.

24 BY MR. DUNN:

25 Q. All right. So other than -- if you

Page 126

1 could stay away from any attorney impressions or
2 opinions and just describe events that were related
3 to you about that meeting? Tell us what happened at
4 that meeting?

5 A. I obviously was not present so I don't
6 know what happened.

7 Q. Sure.

8 A. I can only tell you what I was told by
9 regents, what their impression was.

10 Q. And again, staying away from mental
11 impressions and opinions of lawyers, what were you
12 told?

13 A. Okay. Do you want me to go through
14 each one?

15 Q. Yes, sir.

16 A. Okay. So starting with Phil Stewart,
17 he called me in the fall of 2016. He said he did not
18 believe the Pepper Hamilton presentation. He called
19 it a highly theatrical closing argument of what they
20 made seem the most serious case they had ever
21 prosecuted, and no defense was provided.

22 He said that he's an attorney and that
23 he has investigated white collar crime in the past,
24 so he's done work similar to Pepper Hamilton. So he
25 conducted his own investigation and contacted Coach

Page 127

1 Barnes directly.

2 He told me he has in writing from Coach
3 Barnes that he contacted judicial affairs. He has in
4 writing from Coach Barnes that he told Pepper
5 Hamilton that he contacted judicial affairs, and he
6 concluded that I was the person who directed Barnes
7 to judicial affairs and said I am completely
8 exonerated.

9 He went on to discredit Pepper Hamilton
10 and the presentation, citing a number of issues,
11 including false and misleading information and racial
12 insensitive comments.

13 Q. All right. Next. Mr. Hurd, I guess?

14 A. Mr. Hurd, had multiple conversations
15 with him. He also did not agree with or had concerns
16 about the Pepper Hamilton presentation. He said he
17 challenged them on a number of issues. He told me
18 that he asked whether staff members had committed any
19 felonies, and they told me him no.

20 He asked whether any staff members had
21 committed misdemeanors, and they told him no. And he
22 asked whether staff members had committed any policy
23 violations, and they said they were not sure. And
24 then they began yelling at him.

25 Q. Do you know why they were yelling at

1 him?

2 A. He didn't say.

3 Q. What is Mr. Hurd's background?

4 A. He's the CEO of Oracle, was previously
5 the CEO at Hewlett-Packard.

6 Q. And then Mr. Hixson, what did he report
7 to you?

8 A. Mr. Hixson was very careful because he
9 was under a directive not to share any information
10 about that. He really spoke to me about the
11 presentation that Coach Briles and I had to make to
12 the regents, a few days before May 26th, I don't
13 recall the exact date.

14 And he wanted to be an advocate and
15 gave me some guidance in terms of how I should shape
16 my comments with the Board of Regents based on what
17 they had heard from Pepper Hamilton.

18 Q. Did Hixson tell you who directed him
19 not to share any information with you?

20 A. He did not.

21 Q. Did you get the sense, though, that he
22 was tasked with contacting you to arrange for this
23 presentation for you and Coach Briles?

24 A. No. I think he did it, I think he did
25 it voluntarily or was encouraged by a fellow regent

1 to contact me.

2 Q. And what were some of the notes he gave
3 you about how that presentation between you and Coach
4 Briles should go?

5 A. He said we should be very contrite. He
6 said it will be a very somber mood, and you just want
7 to acknowledge that bad things have happened, and
8 that was basically his guidance.

9 Q. And then Mr. Allison --

10 A. Yeah.

11 Q. -- what did he report?

12 A. Mr. Allison and I had a few
13 conversations. He told me I did absolutely nothing
14 wrong. Do not resign. He said that just to go in
15 there and be yourself. He described one conversation
16 they had among the Board of Regents.

17 And he said that he asked the regents,
18 he said, if something happened to you and you needed
19 someone to run your family, how many of you would ask
20 Ian to do it? And he said every hand in the room
21 went up.

22 Q. He said that happened in that May
23 meeting?

24 A. He said that happened in a regent
25 meeting in May, yes.

Page 130

1 Q. Anything else that you recall either of
2 those gentlemen reported to you about the Pepper
3 Hamilton meeting there in May with the regents?

4 A. That's all I can think of at this
5 time.

6 Q. Did you get a sense or did anyone
7 mention whether the presentation Pepper Hamilton made
8 included slides, pictures, evidence, handouts,
9 exhibits, that sort of thing?

10 A. Yes.

11 Q. What type of -- what type of those
12 items did you get a sense were handed out or used?

13 A. Mr. Stewart described Pepper Hamilton
14 using PowerPoint slides. And that was one of the
15 things he took exception to, was that he said they
16 would put up a slide that would say, for example,
17 victim --

18 MS. BROWN: Objection. The slide shows
19 are covered by work product privilege and the Court
20 so held.

21 BY MR. DUNN:

22 Q. So don't --

23 MR. HENNINGER: I'll instruct the
24 witness not answer those questions based upon that
25 assertion of privilege and the Court's ruling.

Page 131

1 MR. DUNN: And I guess I'm just
2 making -- obviously we're going to, for the purposes
3 of today we're going to comply with counsel's
4 instruction. But we maintain our position these
5 items and the other items that have come up today
6 prior in the deposition are discoverable. We'll deal
7 with that with the Court later.

8 BY MR. DUNN:

9 Q. So for now, don't get into what the
10 slides showed.

11 But other than the PowerPoint
12 presentation, was there any other, you know, like I
13 said, exhibits, documents or other things that you
14 had an understanding were used? Pamphlets, handout,
15 brochure, that kind of stuff?

16 A. I'm not aware of that, and Mr. Stewart
17 said they were not permitted to take notes, so that
18 no notes existed.

19 Q. Did the others report to you they were
20 not permitted to take notes?

21 A. My recollection is he's the only one
22 who shared that information.

23 Q. Did you -- did any of them report to
24 you who told them they couldn't take notes or where
25 they got that direction from?

1 A. I don't recall that.

2 Q. In terms of -- and, again, I don't want
3 you to share with them -- I don't want you to share
4 these with me at this moment.

5 But in terms of the descriptions that
6 were made of the Pepper Hamilton slides, were they in
7 the form of argument or opinions, or were they
8 describing purported facts about individual incidents
9 or both?

10 A. Mr. Hurd said that they told -- they
11 told stories as opposed to presenting facts.

12 Q. All right. In that context, are you
13 using stories as a synonym for lies?

14 A. No. I'm just telling you what he said.
15 He said they told stories as opposed to presenting
16 facts.

17 Q. Did you get the sense that they were
18 stories about individual sexual assault victims?

19 A. My understanding was they were
20 essentially vignettes of alleged incidents that took
21 place.

22 Q. And each of these vignettes, was it
23 your understanding, involved a football player or an
24 allegation against a football player?

25 A. My understanding is they were all

Page 133

1 involving black football players. And some of the
2 comments that were made included racially insensitive
3 information such as it involved a 300-pound black
4 football player or a black football player. Both
5 Mr. Stewart and Mr. Hurd raised the racial
6 insensitivity issue.

7 Q. You believe -- they reported to you
8 that they actually spoke up about that at the
9 meeting?

10 A. They said that alleged perpetrators
11 were described as large black men, 300-pound black
12 football players.

13 Q. And they were offended by that and
14 noted it at the meeting?

15 A. I don't know that.

16 Q. Okay.

17 A. They just shared that information with
18 me.

19 Q. Now, Mr. Stewart ultimately wrote a
20 memo.

21 Have you come to see that?

22 A. Mr. Hurd told me about it.

23 Q. Then it sounds to me like it's been
24 reported but you haven't actually laid eyes on it; is
25 that --

1 A. I've not seen it.

2 Q. Have you heard of or seen any other
3 memo or email or documentation from regents about the
4 Pepper Hamilton report and their reflections on it?

5 A. No.

6 Q. Do you know where Pepper Hamilton came
7 into the conversation? I know you said Judge Starr
8 is the one that appointed them, but do you know where
9 their name originated as a potential vendor for this
10 effort?

11 A. Judge Starr made a comment that they
12 had been recommended to him by the president at the
13 University of Virginia.

14 Q. Did you understand that person, the
15 president at UVA, was a friend of Judge Starr's?

16 A. I don't know that.

17 Q. Did you have a sense that anybody at
18 Pepper Hamilton -- at any point during the whole
19 Pepper Hamilton process, did you have a sense that
20 anybody had ever dealt with these people before, had
21 a relationship with them one way or the other?

22 A. Anybody in the Baylor community?

23 Q. Anybody in the Baylor community knowing
24 anybody in the Pepper Hamilton community?

25 A. I'm not aware of that.

1 Q. Okay. So you mentioned earlier about
2 the issue of a regent asked whether anybody had
3 committed a felony or a misdemeanor, and you said
4 that the answer to that was no, at least as the
5 regents were reported.

6 Did I get that right?

7 A. That's what Mr. Hurd reported to me,
8 yes.

9 Q. Did you believe anybody under your
10 watch in the athletic department or at the university
11 as a whole had committed a felony or misdemeanor?

12 A. I'm not aware of anyone in the athletic
13 department that committed a felony or misdemeanor,
14 but I can't speak for the entire university.

15 Q. All right. So I assume after this May
16 Pepper Hamilton briefing to the regents, you find out
17 you're expected to go before the board and make a
18 presentation.

19 You described that Mr. Hixson called
20 you; right?

21 A. Yes.

22 Q. Was that the only notice you got of the
23 need for you to make a presentation?

24 A. No. Mr. Willis actually contacted both
25 Coach Briles and I, I'm going to say it was Tuesday,

Page 136

1 but I'm not 100 percent sure, the Tuesday before the
2 Thursday when they released the finding of facts.
3 And Coach Briles and I were scheduled with -- for
4 consecutive one-hour interviews with the Board of
5 Regents.

6 Q. I mean, was it just the facts from
7 Willis, hey, we need you to come do this interview,
8 or did he give you some editorialization like, hey,
9 your head's on the block or you better do this or
10 something of that nature?

11 A. No. I think, my understanding was some
12 regents had requested that Coach Briles and I have
13 the opportunity to speak to the board on that
14 Tuesday.

15 Q. And before I forget, but going back to
16 the felony and misdemeanor issue, was -- did Mr. Hurd
17 express to you that he thought somebody had committed
18 felonies or misdemeanors? I'm curious as to why that
19 conversation came up.

20 A. He -- no. He simply, in questioning
21 the work of Pepper Hamilton, asked them has
22 any -- have any staff committed a felony? Have any
23 staff committed a misdemeanor? Have any staff
24 committed a policy violation? And they answered no,
25 no, and we're not sure.

Page 137

1 Q. I see. But Hurd, as far as you know,
2 didn't have an opinion himself as to whether there
3 had been a violation of policy, a misdemeanor or a
4 felony committed?

5 A. He didn't express it to me.

6 Q. All right. So going back to the
7 presentation, I mean, do you do anything to prepare
8 for it?

9 A. Yes.

10 Q. Okay. What was that?

11 A. I prepared approximately a three-page
12 document that I read to the Board of Regents during
13 the -- during that meeting.

14 Q. Now, in the documents you've produced
15 to us today, I don't recall seeing that.

16 Is that something you produced?

17 A. We didn't produce it.

18 Q. Do you have a reason why?

19 A. I believe that we had that under
20 attorney-client privileged document.

21 Q. I see. And maybe I misunderstand the
22 document.

23 So you were at a regents meeting and
24 you read this statement to all of the regents; is
25 that right?

Page 138

1 A. To the regents who were gathered, and
2 there were some involved telephonically. I can't say
3 all the regents were involved.

4 Q. Okay. And were there participants at
5 this meeting? So obviously the regents were there.
6 Who else was present when you read the statement?

7 A. Chris Holmes, general counsel's office,
8 was present.

9 Q. Anybody else?

10 A. That's all I recall. I'm going to say
11 it was approximately a dozen regents in person,
12 others by phone, and Chris Holmes.

13 Q. And so was there any -- did you get any
14 help in the preparation of this document?

15 A. Just the advice of Mr. Hixson and
16 Mr. Allison and, I believe, Mr. Hurd.

17 Q. Did you sort around drafts? In other
18 words, did you draft it, send it to some people, they
19 make some edits, it would come back?

20 A. That's a good question. I -- my
21 recollection is I found out that this presentation
22 was going to take place at 6:00 sometime during that
23 day, so I only had a matter of a few hours to prepare
24 it. So I primarily worked on it myself. I may have
25 asked a staff member a question or two about a

Page 139

1 particular item, but I basically did the work
2 myself.

3 Q. Did you work with Coach Briles to
4 prepare his presentation?

5 A. No.

6 Q. Did you and he have any discussion in
7 advance? I mean, in other words, after you talked to
8 these regents and knew this presentation needed to be
9 made, did you call Coach Briles and talk to him about
10 it?

11 A. Yes. We both knew that we had
12 consecutive presentations, but we didn't discuss the
13 content.

14 Q. Okay. So I assume on this statement,
15 you still have it and you've provided it to your
16 attorney; is that true?

17 A. Yes.

18 Q. And do you only have the final version,
19 or do you have any earlier drafts of it?

20 A. My recollection is there was only one
21 draft. Again, I didn't have much time to prepare.
22 It was very quickly pulled together.

23 Q. Was it prepared Microsoft Word or Word
24 Perfect?

25 A. It was a Word document.

Page 140

1 Q. And do you still have the digital file
2 from when it was originally prepared?

3 A. No.

4 Q. So is it fair to say you either only
5 have a paper or PDF version?

6 A. I only have a paper version.

7 Q. And you provided that to your attorney
8 in response to the subpoena?

9 A. Yes.

10 Q. What was the message that you delivered
11 to the regents? I mean, what was -- tell us some of
12 the things that you said that you can recall.

13 A. Again, I took Mr. Hixson's advice and
14 was very contrite and talked about the fact that, you
15 know, I certainly regret that bad things happened in
16 terms of behavior of student athletes. And that, you
17 know, we'd built a great athletic program but it's
18 obviously very disappointing that the student
19 athletes had, you know, damaged Baylor's brand and
20 reputation.

21 And basically then went on, and I
22 talked about the three cases where there had been a

23 [REDACTED]

24 [REDACTED]

25 I felt like we handled them well from an athletic

Page 141

1 standpoint appropriately, based on once we learned
2 information we dealt with it appropriately.

3 And then I went on said moving forward
4 I had put together a six-point plan of how I thought
5 we should move forward. In addition to that, I
6 recommended that Coach Briles be retained and that we
7 keep our athletic leadership in place and that we
8 could move forward very effectively in doing that.

9 Q. Were you asked any questions?

10 A. Yes. So there was an opening statement
11 by Mr. Willis that I think essentially turned into a
12 question.

13 Q. Which was what?

14 A. He said something along the lines of,
15 what do you have to say about the fact that there's
16 four gang rapes and a large number of sexual assaults
17 involving the football program? You know, how do you
18 respond to that? And that was essentially the
19 opening of the meeting.

20 Q. I see. So in response to that, you
21 read your statement?

22 A. Yes.

23 Q. Was it common for you to make a
24 presentation to the regents?

25 A. Yes.

Page 142

1 Q. And was it common for you to have a
2 written statement that you read from?

3 A. Yes.

4 Q. I mean, is that just kind of your MO?
5 Is that how you handle it today when you have to
6 speak to the trustees at Liberty, you prepare a
7 written statement and go present it?

8 A. Yes.

9 Q. So there wasn't anything out of the
10 ordinary in terms of the methodology you went through
11 to make this presentation?

12 A. Correct.

13 Q. After you had read -- so if I have it
14 right, Regent Willis mentioned the four gang rapes,
15 and what's your explanation? You read the statement,
16 then what happened?

17 A. There were a couple of kind of
18 follow-up questions, but not much -- not much
19 discussion, and then they thanked me, dismissed me.
20 Coach Briles came in, we exchanged greetings. I
21 left, and then he made his presentation.

22 Q. Can you recall anything about the
23 follow-up discussion after you read your statement?

24 A. Willis was trying to take notes about
25 the six-point plan and was trying to jot down some

Page 143

1 notes relative to that, I do recall that. At one
2 point, we were talking about student housing, and
3 there was some discussion about where that
4 actually -- where the student athletes or the
5 football players were being housed. So there was a
6 little bit of discussion about that, but that's what
7 I recall.

8 Q. Did you get a sense whether this
9 meeting was recorded in any way?

10 A. There was no evidence to me that it was
11 recorded.

12 Q. What was the six points in your plan?

13 A. I don't have them memorized, but it was
14 basically things that we were going to do, you know,
15 best ensure that student athletes were trained in
16 Title IX. One of the things I know I talked about
17 was we need to improve communication between the Waco
18 police, the Baylor police, and judicial affairs.

19 Because ESPN was reporting incidents
20 that I knew nothing about, based on Waco PD reports
21 that somehow either didn't get to the Baylor police
22 or got stuck in the Baylor Police Department that we
23 knew nothing about. So I'm reading about alleged
24 incidents and police reports and have absolutely no
25 knowledge of them taking place.

Page 144

1 Q. We'll come back to the police
2 department.

3 But just to button up this meeting, so
4 after you -- it sounds to me like you left the room
5 and then Coach Briles went in?

6 A. We actually were in the room together
7 briefly for a moment.

8 Q. But you weren't there for any part of
9 his discussion?

10 A. No.

11 Q. Was it relayed to you later by
12 anybody?

13 A. Yes.

14 Q. Who?

15 A. Richard Willis called me around
16 midnight and said that I'd be staying as the athletic
17 director, and he said we're going to put you on
18 probation, but Art didn't make it.

19 Q. Did you respond to that comment?

20 A. No. I was -- I was in shock.

21 Q. So I assumed you were pleased, at
22 least, that you were keeping your role, or what was
23 your reaction to this news?

24 A. I was numb.

25 Q. All right. And then does Mr. Willis or

Page 145

1 anyone else tell you what Coach Briles had said to
2 the regents?

3 A. He said -- yes. Mr. Willis said that
4 all Art did was cry for the whole time, didn't offer
5 any change, and as a result, he didn't make it.

6 Q. Did you say to Willis, look, I think
7 this is all garbage. You guys are scapegoating the
8 football department? I mean, did you express that to
9 him or anyone at any point?

10 A. Not at -- no.

11 Q. Any reason why not?

12 A. Again, I don't know what Coach Briles
13 was accused of doing or not doing. So I didn't have
14 any basis to know, you know, what information they
15 had at hand and the basis for their decision.

16 Q. You had this feeling, but at that
17 point, you know, you weren't sure exactly what they
18 were relying upon, so you just kept your opinions to
19 yourself?

20 A. Correct.

21 Q. All right. Then, you know, what
22 happens next in terms of, you know, some days later
23 you end up resigning; am I right?

24 A. Well, the next thing that happened was
25 Richard Willis told me to meet the next day at

1 approximately the middle of the day at the Waco
2 residence of Cary Gray.

3 Q. Did you take that meeting?

4 A. Yes.

5 Q. Did you attend with anyone else?

6 A. There were a number of people there.

7 Q. Who were the people you can recall
8 being there?

9 A. Richard Willis, Mark McCollum, David
10 Harper, Reagan Ramsower, Greg Jones, the provost at
11 the time, Cheryl Gochis from human resources, and
12 myself. And there were a couple of people that kind
13 of came and went during the course of the meeting.

14 Q. Was Briles there?

15 A. No.

16 Q. Was there anyone that, you know, sort
17 of aligned with you that you brought or was from your
18 department?

19 A. No.

20 Q. What was discussed at this meeting?

21 A. It was, the plan for the termination of
22 the employees was discussed. And so Mr. Willis said
23 that Tom Hill and Colin Shillinglaw were going to be
24 fired at human resources at 8:00 the next morning,
25 and that was going to be handled by HR and some

1 attorneys.

2 And that I needed to contact Coach
3 Briles that next morning, invite him to an 8:00
4 meeting at my office, where he was going to be
5 suspended with an intent to terminate.

6 Q. So was that, I know you disagreed with
7 those decisions, you've expressed some of that, but
8 was that an abnormal procedure in terms of who was
9 going to communicate to whom the discharge?

10 A. Everything about this was abnormal.

11 Q. Okay.

12 A. But, you know, I was Coach Briles's
13 supervisor, so it would be appropriate for me to be
14 present at that meeting.

15 Q. Well, you were for Hill and Shillinglaw
16 as well; am I right?

17 A. No.

18 Q. Okay. All right. So is there any
19 other discussion other than here's what's going to
20 happen?

21 A. No.

22 Q. I mean, did you say, hey, what's going
23 on, or where is this coming from, or, you know, any
24 of that sort of thing?

25 A. Yeah. I asked Richard Willis, why is

Page 148

1 Coach Briles being terminated?

2 Q. And what did he tell you?

3 A. There was a long pause, and then David
4 Harper spoke up and said, "He is not our guy."

5 Q. Did you have an opinion what that
6 meant?

7 A. I don't know what it means.

8 Q. Anybody else make any comments?

9 A. No.

10 Q. So it sounds like this was a very short
11 meeting?

12 A. It took a while to discuss all the
13 logistics of how this was going to unfold, but I
14 don't think -- I'm going to guess it might have been
15 an hour, approximately.

16 Q. There wasn't any more discussion of
17 your status?

18 A. No. I was told I would remain
19 and -- but be on probation.

20 Q. Did you have a process available to you
21 to appeal a decision like that?

22 A. He didn't offer one.

23 Q. You're not aware in terms of the
24 documentation, having been there over 10 years,
25 whether there was an appeal process you could have

1 invoked?

2 A. I'm sure that HR would have an appeal
3 process. I was not inclined to pursue that.

4 Q. All right. So then I assume these
5 terminations took place as the plan was laid out?

6 A. Again, I wasn't present for Hill and
7 Shillinglaw, but I've obviously since learned they
8 were terminated at 8:00 over in HR. And then I
9 contacted Coach Briles at approximately 7:30 on that
10 Thursday morning and told him that we need to meet in
11 my office.

12 He asked -- I also -- Mr. Willis told
13 me I could not -- Coach Briles was trying to call me
14 while these meetings were going on the day before,
15 and Mr. Willis instructed me not to answer the phone
16 when Coach Briles called.

17 So I called him about 7:30 on the
18 Thursday morning, May 26, and said I need to set up a
19 meeting with you in my office, and he asked if I was
20 okay. And I said, I'm okay, but you didn't make it,
21 and I essentially told him that he was going to lose
22 his job.

23 Q. And did -- was that the first contact
24 you had with Coach Briles since you had seen him at
25 the regents meeting when you made your

Page 150

1 presentations?

2 A. No, I think we had seen each other.

3 Well, I can't say for sure. I can't say for sure.

4 Q. When you informed Coach Briles of his
5 termination, did he ask, you know, hey, what's going
6 on here? Why is this or anything of that?

7 A. Again, I didn't terminate him. I set
8 up the meeting and told him to come to my office and
9 that we would be meeting with Chris Holmes from the
10 general counsel's office and Cheryl Gochis from HR.
11 But I did foreshadow what was going to happen.

12 Q. So it sounds like there were four
13 participants in the meeting in your office?

14 A. Correct.

15 Q. And tell us how that went?

16 A. Coach Briles arrived early, so we had
17 kind of an awkward few minutes with Cheryl Gochis,
18 myself, and Coach Briles. In light of the
19 circumstances, he was very emotional.

20 Q. You want to take a minute?

21 A. Please.

22 THE VIDEOGRAPHER: Going off the record
23 at 12:11 p.m.

24 (Lunch recess.)

25 THE VIDEOGRAPHER: We are going back on

Page 151

1 the record at 1:28 p.m. This is the start of Disc
2 Number 3 in the deposition of Ian McCaw.

3 BY MR. DUNN:

4 Q. All right, Mr. McCaw. Before our lunch
5 break, we were talking about the meeting where Coach
6 Briles was discharged.

7 A. Uh-huh.

8 Q. You recall that's where we were at.
9 You got emotional about that, and I
10 guess it just might be helpful to the Court and
11 jurors to know why? I mean, why is it something that
12 touches you so deeply?

13 A. Why does it touch me?

14 Q. Yeah.

15 A. I'm obviously very fond of Coach Briles
16 and recognize the amazing contribution that he made
17 to the university over a long period of time. And I
18 know him personally and know what a fine person he
19 is.

20 Q. I mean, when you had gotten to Baylor
21 in 2003, I mean, give us a sense of what the athletic
22 program liked like?

23 A. Well, we were coming off the men's
24 basketball infractions case, so we were down to, I
25 think, six scholarship players in men's basketball,

Page 152

1 arguably one of the worst programs in the country at
2 that point. Football was in the midst of a 14-year
3 bowl drought, really struggling. We really weren't
4 winning in any programs at any significant level.

5 Women's basketball was starting to turn
6 up with Kim Mulkey, and men's tennis was starting to
7 get better, but it was a struggling athletic program
8 on the field. We had some issues in the classroom,
9 and we didn't have any resources or facilities. But
10 other than that, things were in good shape.

11 Q. And so what did it look like when -- as
12 you're heading into this meeting to discharge
13 Briles?

14 A. Yeah, again, I think that my state of
15 mind was I was numb at that point in time, and
16 obviously, it was a very dark day.

17 Q. What did the program look like? I
18 mean, had you turned it around and had it improved?
19 I mean, give us a sense of the condition of the
20 athletics program at Baylor at that time?

21 A. Yeah, you know, we were coming off, you
22 know, a series of four or five extremely successful
23 years across the board. Obviously Coach Briles had
24 rejuvenated the football program and taken them to
25 two conference championships. I think we were in the

Page 153

1 midst of either five or six straight bowl games.

2 Coach Drew was doing a great job with
3 men's basketball. They'd had a couple of Elite Eight
4 appearances. Kim Mulkey, two national championships
5 and a string of success in women's basketball.

6 Really our program, across the board, was thriving.

7 We had the best record in the nation
8 among football, men's and women's basketball, and,
9 you know, we were, quite frankly, the top program in
10 the Big 12 at that point in time.

11 Q. All right. So I think you were saying
12 Coach Briles showed up a little early, there was some
13 pleasantries, and then the meeting began.

14 Then what happened?

15 A. Chris Holmes was the fourth person to
16 arrive at the meeting, and he sat down, and we began
17 and really just got right into it. He read a
18 prepared statement that essentially informed Coach
19 Briles that he was being suspended with an intent to
20 terminate for cause, and again, read a several
21 paragraph statement. There wasn't much conversation
22 after that, and Coach Briles left, and everyone else
23 departed my office.

24 Q. Do you recall the coach have any
25 response to the statement Holmes read?

Page 154

1 A. I think the only one comment I remember
2 him making to Cheryl Gochis is, "I'm not the monster
3 they're making me out to be."

4 Q. Is there anything you can -- other
5 than, you know, relaying the information of the
6 termination for cause, what -- were there any other
7 comments made in the presentation or the statement
8 that Holmes read?

9 A. It was, I would say, fairly carefully
10 worded, and nothing really stands out in my
11 recollection.

12 Q. You don't recall, in other words, it
13 itemizing what the complaint was, what the cause was
14 for the termination?

15 A. I don't recall them stating a specific
16 cause other than that it was for cause.

17 Q. Okay. All right. What's the next
18 thing that happened in terms of the Title IX Pepper
19 Hamilton fallout, after Briles was discharged?

20 A. So Briles left, and that was the day
21 that they issued the press release. It was scheduled
22 to go out at 11:00 based on the meeting we had the
23 previous day, and it was delayed for some reason. I
24 think it went out closer to 11:30, and obviously
25 Briles had left, and at that point the finding of

Page 155

1 facts and the Pepper Hamilton recommendations were
2 disseminated.

3 Q. Did you look at drafts of that press
4 release before it was issued?

5 A. No.

6 Q. Are you aware that a draft exists
7 saying that you were terminated as well?

8 A. No.

9 Q. I assume, then, when the finding of
10 facts was released by the board, that was your first
11 knowledge of it? I mean, I know you knew generally
12 what Pepper Hamilton was doing, but that's the first
13 you had seen those findings or the content in them;
14 is that right?

15 A. Yes.

16 Q. Did you review the recommendations as
17 well?

18 A. I couldn't get past the finding of
19 facts.

20 Q. And what struck you about them?

21 A. I was in shock.

22 Q. Did you find them untruthful?

23 A. False and misleading.

24 Q. And so there's two, what I'll describe
25 as two general categories of findings. One finds

Page 156

1 that it was an institution-wide failure, that senior
2 administrators, unnamed, were -- had some failings,
3 in some cases undescribed. Then there was more
4 detail on the football department, and so I just want
5 to be clear what you disagreed with.

6 Did you disagree with the
7 university-wide part and the athletics football part,
8 or all of it, some part of it?

9 A. I disagreed with the way they
10 categorized the football-related failings as being a
11 failing of the athletic department, when, in fact,
12 there were failings of the police department and
13 others on campus.

14 Q. And so you thought it was lacking in
15 detail in terms of the other departments that had
16 similar issues?

17 A. Yes. And coupled with the fact that
18 the campus-wide problems were not described in detail
19 and were covered at a very high level was also false
20 and misleading, in my opinion.

21 Q. So after they had come out and you had
22 reviewed them, what did you do next as it relates to
23 this issue?

24 A. I was in shock. I called, I spoke to a
25 couple other senior administrators in athletics, and

Page 157

1 all of us were just stunned, wondering what in the
2 world the regents are up to.

3 Q. Did you reach out to some of the
4 regents to see what their reaction was or what was
5 going on?

6 A. I don't recall reaching out to them at
7 that particular time. I was just, again, floored by
8 what they had put out.

9 Q. And so I think this is clear, but just
10 to put a finer point on it, it sounds to me like even
11 though you knew you were meeting with Briles and he
12 would be discharged that day, you knew there'd be a
13 press statement, but you didn't know there was going
14 to be these findings and 105 recommendations?

15 A. I knew there were going to be
16 recommendations coming. I didn't know the number,
17 and I had no idea about a finding of facts
18 document.

19 Q. And so that struck you, and it sounds
20 like everybody else in the athletics department, by
21 surprise?

22 A. Yes.

23 Q. I assume, then, athletics didn't have
24 an opportunity to sort of rebut it or review it in
25 advance or explain its response to various issues or

Page 158

1 anything of that sort?

2 A. We were not given an opportunity to
3 respond.

4 Q. I mean, do you find that abnormal, that
5 the university issues a detailed report on athletics
6 going-ons and the athletic department's not invited
7 to comment on it?

8 A. Yes.

9 MS. BROWN: Objection to form.

10 BY MR. DUNN:

11 Q. You can answer.

12 A. Yes.

13 Q. All right. So did you have any more
14 contact with Briles after the meeting where he was
15 discharged?

16 A. Not for a while, no.

17 Q. Then what's the next thing, then, that
18 happens after that day where the findings came out?

19 A. So that's the Thursday, I think the
20 26th. So, you know, again, I think everyone was just
21 in a state of shock that entire day. On the 27th, we
22 had an executive council meeting in the morning to
23 try to regroup and figure out what we're going to do
24 with this.

25 I'm in the midst of launching a

Page 159

1 football search unexpectedly to try to find a
2 football coach during the month of May. So that was
3 really where my primary focus was, quite honestly,
4 when that was taking place, which we did quite
5 quickly. So I would say 90-plus percent of my time
6 was focused on the football search.

7 And I did attend one meeting the
8 morning of the 27th, as people were trying to wrap
9 their arms around what had happened. And then Reagan
10 Ramsower came to my office, I'm going to say early
11 afternoon on the 27th, and told me that I need to
12 resign.

13 Q. Was that the first inclination or
14 indication that you had that you might be leaving?

15 A. Well, it was the first time anyone had
16 said anything to me. That -- he told me I need to
17 resign. Apparently, then, he sent out a
18 communication to regents notifying them that, and the
19 then phone started ringing. The regents started
20 calling me telling me not to resign. Don't stay. We
21 want you to stay. We vetted your situation five
22 times. 90 percent of the regents want, you know,
23 want you to remain as the AD.

24 And I was just so disgusted at that
25 point with the regents, the racism, the phony finding

Page 160

1 of facts, the firing of Briles and innocent people in
2 my department. I talked it over with my wife, we
3 prayed about it, and I said, I got to go.

4 Q. When Ramsower came to you and told you
5 you needed to resign, did he say why?

6 A. Yes. He said that there was going to
7 be a very negative article on ESPN, a story on ESPN
8 that will cast me in a negative light, and so I need
9 to resign before that airs.

10 Q. Anything else you recall he said about
11 it?

12 A. It was about the volleyball player.

13 Q. And did you say to him, wait a minute.
14 I thought just yesterday we agreed I was staying on
15 suspension. Why the change of heart?

16 A. I really didn't. Quite honestly, I was
17 looking for a way out. I did not want to be part of
18 some Enron cover-up scheme that Richard Willis
19 concocted, so I was looking to get out.

20 Q. And that was your sense of what was
21 going on, is that Willis and Ramsower were working on
22 a cover-up?

23 A. Yes.

24 Q. So you said some regents called.

25 Which regents were those?

Page 161

1 A. I know Jay Allison, Mark Hurd, you
2 know, I remember those two. There may have been
3 others. It was kind of blurred. Then they set up a
4 conference call for later in the afternoon to have me
5 speak to the regents in a group.

6 And the regents then clarified
7 Ramsower, Ramsower misstated what he was supposed to
8 say. He was supposed to say I think you should
9 consider resigning as opposed to I need you to
10 resign. So they came back to me later that afternoon
11 and didn't really apologize but restated what the
12 intent was, and said it was my decision, I could stay
13 or not.

14 Q. So, I guess, what's the difference in
15 the two potential Ramsower statements that --

16 A. Well, it's one thing to be told I need
17 you to resign and another thing to be told it's
18 elective. If you want to resign, you can. If you
19 want to stay, you're able to. So I was able to stay
20 if I wanted to.

21 Q. Well, why would the -- I guess the
22 point I'm getting at, why do you need to be told
23 that; right? You have the option to resign whenever
24 you want to.

25 A. Right.

Page 162

1 Q. So did you take it, however it was
2 worded, even if it had of been worded, you know, you
3 ought to consider resigning, or you can consider
4 resigning, you didn't consider that, though, a
5 directive?

6 A. The initial conversation with Ramsower
7 I considered a directive, and then they restated it
8 and said it's totally your call. You can stay if you
9 want. If you want to leave, you can as well.

10 Q. This conference call with regents, was
11 that with a larger group of them or that -- those
12 names you just listed?

13 A. I don't know how many were on the
14 call.

15 Q. Okay. And so did you tell the regents
16 on that call what your decision was?

17 A. No.

18 Q. All right. What happened after the
19 call?

20 A. I then discussed the terms that I was
21 willing to resign under with Ramsower, and we reached
22 an agreement later that evening.

23 Q. What were the terms?

24 MR. HENNINGER: I'll instruct the
25 witness not to answer those to the extent those terms

1 were held to be confidential.

2 MR. DUNN: Well, he's under a federal
3 court subpoena, so --

4 MR. HENNINGER: Well, I know.

5 MR. DUNN: -- confidential --

6 MR. HENNINGER: I believe the Court has
7 already ruled that all the information about his
8 separation from Baylor is not discoverable.

9 BY MR. DUNN:

10 Q. Well, it was publicly reported that you
11 were paid money. Baylor University filed 990s with
12 the IRS that was reported on how much money you were
13 paid.

14 Were you familiar with that media?

15 A. Yes.

16 Q. Was it accurate?

17 A. Not entirely.

18 Q. What was it missing?

19 MR. HENNINGER: Again, I'm going to
20 instruct the witness not to disclose the contents of
21 the separation agreement without the consent of
22 Baylor, who negotiated a confidentiality provision
23 with regard to it, and based on the Court's order, as
24 I understand it, ruling that those matters were not
25 discoverable.

Page 164

1 BY MR. DUNN:

2 Q. Was the amount reported in the media
3 accurate?

4 A. There was a lump sum payment in
5 November of 2016 that was accurately reported.

6 Q. So there were other payments not
7 reported?

8 MR. HENNINGER: Again, I'm going to
9 instruct the witness not to answer any more questions
10 about the details of that separation agreement, for
11 the reasons previously stated.

12 MR. DUNN: We obviously think this
13 information is relevant, and we certainly think it
14 goes to credibility of the witness. And so
15 ultimately there's nothing we can do about your
16 instruction today, but we do jeopardize having to
17 return here and do this again, at which time we're
18 going to seek costs for doing so.

19 So is it final decision he can't
20 discuss this?

21 MR. HENNINGER: Based upon the Court's
22 ruling, as I understand it, and a negotiated
23 agreement between those entities, yes, it is.

24 BY MR. DUNN:

25 Q. Was there a written agreement

1 ultimately entered between you and Baylor as to your
2 separation?

3 A. Yes.

4 Q. And when you said that those
5 negotiations took place over the course of that day,
6 did I have that right?

7 A. Yes.

8 Q. Did you have any representation
9 involved in that or did you deal with Mr. Ramsower,
10 or Dr. Ramsower, directly?

11 A. I dealt with him directly.

12 Q. Did Dr. Ramsower have any
13 representation, as far as you know, in dealing with
14 you in the negotiations?

15 A. My assumption would be the general
16 counsel's office drafted the agreement.

17 Q. But you didn't deal with them in the
18 general counsel's office?

19 A. No.

20 Q. Did you have a lawyer look at the
21 agreement?

22 A. Not that agreement.

23 Q. So was it prepared and signed that same
24 day?

25 A. Yes.

Page 166

1 Q. And did you clean out your office and
2 go?

3 A. No.

4 Q. What happens next?

5 A. Busy trying to conduct a football
6 search, and so at that point we were vetting
7 candidates the following day, the 28th. We met in
8 Dallas with Coach Grobe, and I believe it was on --
9 between Saturday night and Sunday, we were able to
10 make an offer. He accepted, and we provided him with
11 an employment contract.

12 Q. So, I guess, if you had resigned, why
13 is it you stayed on to finish the coach search?

14 A. I remained an employee of Baylor
15 University.

16 Q. And was the understanding so that you
17 could finish the coach search?

18 A. I remained an employee of Baylor
19 University until November of 2016.

20 Q. How was that intervening time, from
21 your, you know, resignation agreement until when you
22 finally leave?

23 A. Right. I was in a nonexecutive
24 position that reported to Dr. Ramsower, and my duties
25 were limited. So I spent a lot of my time working

1 for Eastman & Beaudine as a consultant.

2 Q. So when you continued until November
3 2016, in addition to whatever your separation
4 agreement was, were you continued to pay the same
5 salary you were when you were athletic director?

6 MR. HENNINGER: Again, if that was part
7 of what you negotiated with Baylor, with the
8 understanding of those negotiations that that be
9 confidential, then I'm going to instruct you not to
10 answer.

11 BY MR. DUNN:

12 Q. Is that the case, you believe that to
13 be confidential as well under your agreement you
14 signed?

15 A. The agreement is marked confidential.

16 Q. Is there a provision in the agreement
17 regarding the confidentiality provisions?

18 A. Yes.

19 Q. Is there language in that agreement
20 about what your responsibilities are if you receive a
21 subpoena from a state or federal court?

22 A. Not that I recall.

23 Q. Were you compensated separately for the
24 nondisclosure part of the agreement?

25 A. Not that I'm aware of.

Page 168

1 Q. Was that part of the negotiation, or
2 did it just show up in a draft that there would be
3 nondisclosure?

4 A. I didn't negotiate it.

5 Q. I mean, in other words, it wasn't the
6 case that when you and Dr. Ramsower were talking
7 about what's going in the agreement one of you
8 mentioned, and by the way, there will need to be
9 nondisclosure?

10 A. That was not mentioned.

11 Q. So the first you learned of it is when
12 you received a draft of the agreement?

13 A. Yes.

14 Q. Now, this consultant work that you were
15 doing during this period when you were in the
16 nonexecutive role at Baylor, what did that involve?

17 A. Eastman & Beaudine was the firm that I
18 worked with, and we did consulting primarily with
19 college athletic programs. We had a number of
20 different clients we worked with doing a variety of
21 projects where they basically used my 20 years of
22 expertise as a Division I athletic director to help
23 other athletic programs with various projects.

24 Q. And was that -- I mean, presumably you
25 believe this, but just to be clear, was that a

Page 169

1 permitted activity even though you were still an
2 employee at Baylor?

3 A. Yes.

4 Q. Now, at some point you get considered
5 to come here to Liberty University.

6 About when was that?

7 A. I was first contacted by Coach Teaff,
8 I'm going to say it was mid to late October of
9 2016.

10 Q. Was that the case that you had a
11 headhunter out searching for you, or they came a
12 calling, so to speak?

13 A. No. President Falwell contacted Coach
14 Teaff and indicated that they needed to hire an
15 athletic director, and Coach Teaff said I have one
16 recommendation for you, and it was me.

17 Q. Had you -- how had you dealt with the
18 coach before?

19 A. Coach Teaff, longstanding relationship,
20 my entire time in Waco. I consider him to be one of
21 my mentors.

22 Q. I see. All right.

23 Now, there was some controversy, some
24 of which had played out in the media, about whether
25 or not you were an appropriate hire for Liberty

Page 170

1 University; is that right?

2 A. Yes.

3 Q. Do you have any sense of how those
4 stories got placed, that you were being considered a
5 at Liberty and attacking you as a potential hire
6 here?

7 A. Well, I don't think there were any
8 stories in advance of me being hired. I think the
9 stories were after I was hired and, you know, it was
10 certain media criticized the hire based on the
11 scandal at Baylor.

12 Q. Did you ever get the sense that
13 somebody was driving that media?

14 A. I didn't.

15 Q. And so -- and again, we're going to go
16 through some documents in a minute, so I'm not trying
17 to quiz you. I'm just trying to get your best
18 recollection at this point.

19 There was, I believe President Falwell
20 came out and said that Liberty had conducted an
21 investigation as to what had happened at Baylor.

22 Do I have that right?

23 A. They had done a thorough vetting of my
24 candidacy, yes.

25 Q. And so what did that involve, that

Page 171

1 vetting or I mean, what steps were involved, if you
2 know?

3 A. I don't know.

4 Q. There was some mention in an interview
5 that -- is it Reverend Falwell or President Falwell?

6 A. President Falwell.

7 Q. -- President Falwell gave to the media
8 about board members at Baylor that had been spoken
9 to.

10 Do you recall that generally?

11 A. Yes.

12 Q. Do you know what board members or
13 regents at Baylor had been interviewed by Liberty
14 folks?

15 A. I don't know all of them, but I do know
16 some of them.

17 Q. Who are those?

18 A. I know Jay Allison, I know Chris
19 Howard. There were the two emails from Milton Hixson
20 and Mark Lovvorn. I can't think of others at this
21 point in time.

22 Q. Did any of the regents who had not been
23 supportive of you, at least towards the end, reach
24 out and give a statement or information to Liberty?

25 A. I'm not aware of that.

1 Q. Do you know whether the Liberty
2 investigation involved, you know, people on the
3 ground, investigators on the ground in Waco?

4 A. I don't.

5 Q. Do you know who at Liberty was
6 responsible for that investigation?

7 A. I don't.

8 Q. Did you get the sense that when that
9 media came out that folks at Baylor were trying to
10 make it hard for you to keep the position here at
11 Liberty?

12 A. No.

13 Q. When you got to Liberty, when did you
14 get your first sort of training or briefing on their
15 Title IX expectations?

16 A. Did fairly early on. I met with -- as
17 I was conducting a variety of initial meetings on
18 campus, I met with Dean Robert Mullin, who oversees
19 the Title IX office at Liberty. So I had that
20 meeting fairly early on, I believe it was in my first
21 week.

22 Q. And did you understand -- I mean, how
23 would you describe the interest level of Liberty
24 administrators in terms of ensuring compliance with
25 Title IX?

Page 173

1 A. It's very important to them.

2 Q. And did you get that sense from day
3 one?

4 A. Yes.

5 Q. Was that ever the case when you were at
6 Baylor, that you got the sense that it was important
7 to senior leadership?

8 A. I got the sense it was extremely
9 important to senior leadership once the scandal
10 broke.

11 Q. But not before?

12 A. No.

13 Q. And just to be clear, when is it that
14 the scandal broke, in your mind?

15 A. I would say the late summer, early fall
16 of 2015.

17 Q. I want to go back to this ESPN article
18 that was coming out that Dr. Ramsower referenced when
19 he said you ought to -- something about resignation,
20 and you said that he mentioned it had to do with
21 volleyball.

22 Without mentioning any student names,
23 what was the issue or allegation there?

24 A. He didn't tell me.

25 Q. Did the article actually come out at

1 some point?

2 A. No. No, there's no article.

3 Q. What do you make of that, if
4 anything?

5 A. It was an attempt to get me to resign
6 because I think they realized that I'm a person of
7 integrity, and I'm not going to stand by and let my
8 department be, you know, scapegoated, our football
9 program being scapegoated when the failures were
10 elsewhere on campus.

11 Q. So you don't believe that was ever
12 true, there was ever any ESPN article coming?

13 A. All I can tell you is there was no
14 article.

15 Q. And according to our information at
16 this point and our investigation, Baylor's had at
17 least two public relations firm, one of the Ketchum
18 and the other one Bunting, or at least that's how we
19 refer to them.

20 Are those two that you recognize?

21 A. Yes.

22 Q. Are you aware of them having any other
23 public relations advisors?

24 A. No.

25 Q. All right. I want to start with

1 Ketchum.

2 Did you ever deal with them directly?

3 A. Yes.

4 Q. When did that start?

5 A. I believe they were retained in the
6 early fall of 2015.

7 Q. Prior to the fall of 2015, I assume you
8 had to communicate with the media?

9 A. Yes.

10 Q. And how would you do that if you needed
11 media advice or communication issues?

12 A. Either within our in-house media
13 operation within the athletic department or in
14 consultation with John Barry and his staff, who
15 oversaw marketing communications for the
16 university.

17 Q. So how did the Ketchum hire come about,
18 if you know?

19 A. I don't know who ultimately made the
20 hire. My sense is it was the regents, but I'm not
21 100 percent sure of that. But that all happened in
22 approximately the same time as Pepper Hamilton was
23 engaged.

24 Q. How is it that you learned to deal with
25 them? I mean, get their contact information to know

1 you were supposed to talk to them?

2 A. There were daily meetings set up with
3 Ketchum. I didn't participate in each one, but there
4 was a regular set of meetings with Ketchum to
5 discuss, really, crisis management strategy.

6 Q. And who were the -- I know you said you
7 weren't regularly there, but you attended some?

8 A. I participated as needed.

9 Q. When you were asked?

10 A. Yes.

11 Q. Who would ask you to participate?

12 A. Typically either John Barry, the Vice
13 President of Marketing and Communications, or Reagan
14 Ramsower was on -- participated in all those
15 meetings.

16 Q. Who were the participants on a regular
17 basis?

18 A. I think it was largely the marketing --
19 members of the marketing communication staff,
20 Dr. Ramsower, and there may be some others depending
21 on what the topic of the day was.

22 Q. Can you recall for us the names of any
23 of the people at Ketchum that you recall dealing
24 with?

25 A. Oh, gosh. The principal was -- went by

Page 177

1 two initials, I think it was J.D., but I'm not 100
2 percent certain.

3 Q. That's the only one you recall?

4 A. I remember several of them. I don't
5 remember all the names.

6 Q. Sure. Men, women, mix?

7 A. Both.

8 Q. And what is some of the issues you can
9 recall having gone to Ketchum about?

10 A. I can't say that I went to them with
11 issues. They were, again, they were trying to
12 manage, they had essentially a crisis management PR
13 strategy. And so to extent that they wanted to talk
14 about football-related issues or athletic-related
15 issues, that's when I was engaged.

16 Q. Did you get the sense that they were
17 fair in terms of their advice?

18 A. Yes.

19 Q. I mean, did you ever get the sense that
20 Ketchum was part of this, let's just blame it on the
21 black football players?

22 A. No. I thought Ketchum was, I thought
23 their advice was average, but I thought they were
24 people of good character.

25 Q. And ultimately Ketchum ceased working

1 for the school?

2 A. Yes.

3 Q. Was that during your time?

4 A. It was during Mr. Patulski's time as
5 interim athletic director.

6 Q. And have you come to learn at any point
7 why they stopped working for the school?

8 A. Yeah. He told me they resigned.

9 Q. Did he tell you why?

10 A. He said they were frustrated with the
11 general counsel's office and the way they were
12 shaping the releases of information or the release of
13 information.

14 Q. How so?

15 A. That their spin on it was negating
16 Ketchum's ability to properly manage the public
17 relations for Baylor University.

18 Q. When Ketchum was -- when they resigned,
19 you were in the nonexecutive capacity at that point,
20 or had you left altogether?

21 A. I can't say for certain. I believe I
22 was in the nonexecutive position, but it's possible I
23 may have left by that point. I'm not 100 percent
24 certain.

25 Q. Can you recall any of the advice that

Page 179

1 Ketchum gave in terms of how to deal with this in the
2 media?

3 A. Well, they just provided all of us with
4 talking points in terms of what we should say or not
5 say. So that was, there was essentially kind of a
6 daily update, a regular update, as to appropriate
7 talking points.

8 Q. Would you receive those by email?

9 A. I believe so.

10 Q. And were you authorized to speak with
11 the media, or were you expected to go through
12 somebody before you spoke with the media about these
13 issues?

14 A. There were times when I was directed to
15 talk to the media on certain topics.

16 Q. What are some of the talking points you
17 remember?

18 A. I remember they prepped me for a press
19 conference we had relative to football and the Pepper
20 Hamilton investigation, where basically I was just
21 told to refer to select talking points they gave me,
22 and that, you know, Pepper Hamilton is going to be
23 conducting a thorough investigation as to what's
24 taken place.

25 Q. You didn't get any instruction, focus

Page 180

1 attention here, there, on this issue or the other?

2 A. Again, I can't recall specific talking
3 points at this time.

4 Q. Were any of the people that you dealt
5 with at Ketchum, as far as you know, lawyers?

6 A. I'm not aware of any of them being
7 lawyers, but it's possible they were.

8 Q. And at some point, Baylor hired Bunting
9 to do public relations advice for them; you're aware
10 of that?

11 A. Yes.

12 Q. Were you at the school when that
13 started?

14 A. I was in the nonexecutive capacity,
15 yes.

16 Q. Did you have any interactions with
17 Bunting?

18 A. Yes.

19 Q. How so?

20 A. Mark Hurd called me one day and said
21 that Glenn Bunting is a friend of his, and he had
22 helped him through his relationship crisis at HP when
23 he resigned there, said he was a good guy, and asked
24 if I would speak to him by phone. He thought he
25 could come up with something that would be mutually

1 beneficial for Baylor and for me.

2 Q. And what do you mean come up with
3 something? Like a message?

4 A. He didn't give me specifics.

5 Q. I see. So did you call Mr. Bunting?

6 A. Mr. Bunting called me.

7 Q. And about what time was this, month or
8 year?

9 A. I'm going to say it was approximately
10 October of 2016.

11 Q. Tell us about that telephone
12 conversation?

13 A. So Mr. Bunting called and said I think
14 we can do something that'll benefit both of us. If
15 you admit that you didn't report the volleyball
16 incident, we will admit that we didn't have anything
17 in place in terms of a Title IX office, Title IX
18 education or training or reporting. And he thought
19 that that would be something that would be a win, he
20 proposed that as a win-win outcome.

21 Q. And what did you tell him about that?

22 A. I said that's not true. I said, when I
23 learned the information I directed Coach Barnes to
24 the Office of Judicial Affairs, and so I'm not going
25 to agree to what he proposed, and he hung up on me.

1 Q. He hung up on you?

2 A. Yes.

3 Q. What was driving this conversation
4 right then, you know, the volleyball situation and a
5 joint statement? I mean, was the media on it? Had
6 there been an article? Do you know what was causing
7 this?

8 A. I suspect so, but it was shortly
9 thereafter -- I immediately -- well. It was shortly
10 thereafter where Baylor issued a release that
11 essentially said Art Briles, myself, and Tom Hill,
12 without naming him as an individual, failed to report
13 a gang rape.

14 Q. And that gang rape involved the
15 volleyball team or a player?

16 A. Yes.

17 Q. But what is it that you knew? I mean,
18 we've talked about the volleyball thing, and
19 obviously we're familiar with it, but the Court might
20 not be at this point. So what did you learn about
21 volleyball, when did you learn it, and what did you
22 do with it?

23 A. Barnes came to me in the late spring of
24 2013 and said that he had learned about this alleged
25 incident involving a volleyball player on his team.

Page 183

1 [REDACTED]
2 [REDACTED]
3 [REDACTED] [REDACTED]
4 have slipped something in her drink and she passed
5 out.

6 When she woke up, she thought she may
7 have been sexually assaulted, and she was unwilling
8 to speak to the police. So he asked where, where can
9 I go? And so I directed him to the Office of
10 Judicial Affairs.

11 Q. And that, is that all the involvement
12 you had?

13 A. Well, at that point in time. Then
14 Barnes came back to me at a later time and said at
15 this point the volleyball player is back in her home
16 state, which is not Texas, and said that -- he said
17 he spoke to her the previous night. She was still
18 unwilling to talk to anyone about what happened,
19 judicial affairs couldn't do anything unless she was,
20 and he didn't know what else could be done.

21 Q. Did you do anything else in relation to
22 her case?

23 A. Not at that time, no.

24 Q. So those two conversations you had with
25 Mr. Barnes --

1 A. Yeah.

2 Q. -- were back in 2013; is that right?

3 A. They were in 2013, that's correct.

4 Q. And now we're going to fast-forward,
5 and you're talking to Mr. Bunting in 2016; right?

6 A. Correct.

7 Q. So why is it on the agenda in the
8 discussion?

9 A. That's a great question. I don't
10 know.

11 Q. And just to be clear, at the time
12 Bunting, Mr. Bunting and you had the conversation,
13 you had resigned. You were in this nonexecutive
14 capacity essentially on your way out the door; is
15 that right?

16 A. Yes.

17 Q. Is there anything else about the
18 conversation with Mr. Bunting, that you can remember,
19 that we haven't discussed?

20 A. I immediately called Jay Allison after
21 I got off the phone with Mr. Bunting and -- because I
22 was troubled by his tone and the content of the
23 conversation. And I said to Jay, "Jay, is this guy
24 running a smear campaign?" And Jay was silent, which
25 told me what I needed to know and what I later

1 learned.

2 Q. How did you learn that later?

3 A. A couple days later, several days
4 later, whenever it was, in November, on the -- I
5 can't remember which game it was. But on a Saturday,
6 Baylor issued some kind of a release or statement
7 that Art Briles, myself, and another athletic
8 department staff member, who was Tom Hill, failed to
9 report a gang rape.

10 Q. And again, you don't know why that was
11 done that day, on a Saturday?

12 A. I don't.

13 Q. Do you know who the chair of the board
14 was at the time, this time with Bunting and the
15 volleyball press release on a Saturday?

16 A. Yeah, Ron Murff.

17 Q. Did you go to anybody at that point and
18 say, well, what's the deal with the statement, or why
19 are we talking about this, or why is there any focus
20 on this?

21 A. Not that I can recall.

22 Q. Back when the volleyball events were
23 alleged to have occurred, in 2013, who was the
24 president of the board?

25 A. Richard Willis.

Page 186

1 Q. All right. So after that news article,
2 or excuse me, after the press release comes out on
3 November, on that Saturday in November, and
4 presumably there was some media following up; am I
5 right about that?

6 A. Yes.

7 Q. Then what did you do or what happened
8 next?

9 A. I chalked that up to being, you know,
10 just more false and misleading information coming out
11 of Baylor and continued on with life.

12 Q. You didn't decide to just leave now? I
13 mean, I'm just -- I'm --

14 A. No. I spoke to a couple of attorneys
15 about filing a defamation lawsuit.

16 Q. I don't want you to get into any advice
17 you got from lawyers; okay?

18 So did you ultimately file a defamation
19 lawsuit?

20 A. No.

21 Q. And during this time, a number of
22 people -- well, let me just ask.

23 At any point in time, did you get any
24 what you consider to be legal advice from Baylor or
25 Bunting or Ketchum or any of their consultants?

Page 187

1 A. Baylor, Bunting, or the consultants.
2 So I didn't get any legal advice from Baylor or
3 Bunting. I did speak to three attorneys to ask them
4 about a defamation lawsuit.

5 Q. How about Ketchum; did you speak with
6 them?

7 A. No.

8 Q. And did you get any legal advice -- and
9 I'm not just limited to this time period now.

10 So at any point in time, did you get
11 legal advice from Bunting, Baylor or Ketchum?

12 A. Well, I got legal advice all the time
13 from Baylor when I was the Director of Athletics. I
14 don't recall getting any legal advice from Bunting or
15 Ketchum.

16 Q. Now, again, taking you back to this
17 November when this Saturday press release, the
18 volleyball incident.

19 During this time, there was a part of
20 the, you know, Baylor community was vocally
21 displeased about Briles's firing; would you agree?

22 A. Yes.

23 Q. Did you have any interaction with that
24 group?

25 A. Yes.

Page 188

1 Q. How so?

2 A. Well, there is a large number of people
3 in that constituency. So I regularly had, whether it
4 was alumni, friends, donors, former board members,
5 whoever it may be, contact me to voice disagreement
6 with the way it was handled, with the decisions that
7 were made, the personnel actions, really all aspects
8 of what the regents had done.

9 Q. And did people actually ask your side
10 of the story?

11 A. I'm sure people asked me about my
12 opinions and various topics, yes.

13 Q. I've seen in some of the documentation
14 public statements by Baylor officials that they had
15 an outside auditor review the Pepper Hamilton
16 process.

17 Do you have any knowledge of that?

18 A. I don't. I was in the nonexecutive
19 role at that point.

20 Q. Did you ever deal at any time with
21 Baylor outside auditors?

22 A. Primarily Mr. Patulski did the work
23 with auditors since he was our -- essentially our
24 chief financial officer, so he was the primary
25 contact. I typically would meet auditors, you know,

Page 189

1 once a year when they came through, and they would
2 ask me a few questions.

3 Q. Okay. And I assume that has to do with
4 the athletic department's finances, those meetings
5 you just described?

6 A. Yes.

7 Q. Are you familiar at any time with
8 outside auditors reviewing, you know, something other
9 than the books?

10 A. We would have compliance audits as
11 well. So we'd have like a compliance consultant come
12 in and evaluate our compliance office. So financial
13 area and compliance were the two primaries that we
14 had audited.

15 Q. What kind of compliance?

16 A. NCAA compliance, NCAA rules
17 compliance.

18 Q. In other words, making sure you're
19 following the athletic rules the NCAA puts out so
20 that you don't get suspended or disciplined by them;
21 is that right?

22 A. Yes.

23 Q. Did you ever have a compliance audit
24 for your Title IX performance?

25 A. Not that was conducted by the athletic

Page 190

1 department.

2 Q. Well, are you familiar with one, other
3 than Pepper Hamilton, if that is, in fact, a
4 compliance audit, are you familiar with any other
5 audit of Title IX performance?

6 A. Margolis Healy.

7 Q. Any others?

8 A. Not that I can think of at this time.

9 Q. Now, you've mentioned it a few times,
10 but in 2003, there had been an incident with the
11 basketball team, and that was sort of the scene which
12 you came into at Baylor; is that fair to say?

13 A. Yes.

14 Q. What was the incident with the
15 basketball team?

16 A. It was a major NCAA infractions case.
17 I believe the number was seven major infractions
18 involving the men's basketball program. It involved
19 a variety of different issues, from coaches paying
20 players and unethical conduct by the coaches, drug
21 allegations, a variety of misconduct.

22 So that had all happened in the spring
23 into the summer of 2013 [sic], and then the men's
24 basketball coach athletic director resigned, and then
25 I was -- Scott Drew and I were hired as their

1 replacements in September of 2003.

2 Q. So what was the aftermath of that?

3 A. Well, there was about two years it took
4 us to complete the NCAA investigation and resolve
5 that case.

6 Q. You mentioned one of the reforms
7 earlier, but what were the, you know, if'd call them
8 that --

9 A. Yeah.

10 Q. -- what were the reforms that went into
11 place after that investigation?

12 A. Oh, there's drug testing reforms,
13 again, contact with the Robinson Tower. There was a
14 litany. I -- a long list. I wouldn't be able to go
15 through all those --

16 Q. I assume these --

17 A. -- off the top of my head.

18 Q. I beg your pardon. I interrupted.

19 A. Yeah, I wouldn't be able to go through
20 all those of the top of my head.

21 Q. I assume these were written down at
22 some point in a report or policy manual?

23 A. I actually was kept somewhat at arm's
24 length on a lot of that because it was handled by
25 counsel. There were three Baylor attorneys; Mike

Page 192

1 Rogers, David Guinn, and, Bill Underwood, that were
2 members of the faculty of Baylor Law School, that
3 handled it.

4 And so as a result of that, it was kind
5 of under an attorney-client privilege umbrella. And
6 so I was provided information and a need-to-know
7 basis.

8 Q. You weren't inside the privileged
9 umbrella, as far as you recall?

10 A. I was not.

11 Q. Now, what was the -- what was the point
12 or motivation, if you know, around the no contact
13 with Robinson Tower?

14 A. A lot of the scandal base was based on
15 the coaches contacting people in financial aid, the
16 registrar's office and so forth, to arrange payments
17 for players and so forth. So that was the -- that
18 was at the crux of the investigation.

19 So that's why the policy was changed,
20 to prohibit any athletic staff members from
21 contacting anyone at Robinson Tower, with the
22 exception of Paul Bradshaw in the judicial affairs
23 office.

24 Q. So after those reforms were put into
25 place, Mr. Bradshaw had to go communicate. So Coach

1 Briles --

2 A. Yeah.

3 Q. -- coach of the swim team or coach of
4 the volleyball team needed an issue, they had to go
5 to Bradshaw, Bradshaw had to go to Robinson?

6 A. And there was also a provision for the
7 compliance staff. In order to do their job, they had
8 the ability to communicate with Robinson Tower as
9 well.

10 Q. Did you think these reforms were
11 worthy?

12 A. They were unusually strict, but in
13 light of the seriousness of the 2003 scandal, it was
14 understandable.

15 Q. Do you think these reforms had any
16 effect on Title IX compliance?

17 A. Only to the extent that we didn't have
18 permission to communicate directly with the Office of
19 Judicial Affairs. So if somebody learned about
20 something, there was no ability, other than going to
21 Bradshaw, to communicate it.

22 Q. So going back to the volleyball
23 example, did Mr. Barnes go to Bradshaw and then go to
24 judicial affairs, or did he go directly?

25 A. Again, you'd have to ask him.

Page 194

1 Q. Okay. All right. There's been some
2 discussion about Mr. Doak and the Baylor Police
3 Department.

4 And did you ever have any dealings with
5 the Baylor Police Department or Mr. Doak as it
6 relates to a sexual assault allegation?

7 A. No.

8 Q. Did you ever deal with him? I mean,
9 did you have cause to regularly deal with him?

10 A. Very rarely. I recall just a couple
11 dealings with him. When we were doing the football
12 coaching search in 2007, there was kind of an online
13 threat to my safety, and Chief Doak contacted me and
14 asked if I wanted a security detail, which I
15 appreciated.

16 And then, you know, I would certainly
17 see him at athletic contests that he would typically
18 work, basketball games or football games. So I knew
19 him from just interaction at athletic contests.

20 Q. So you never had any contact with him
21 about a sexual assault?

22 A. No.

23 Q. Now, you mentioned earlier that you did
24 have a complaint, though, in terms of how his office
25 dealt with allegations of sexual assault involving

1 student athletes; is that right?

2 A. Yes.

3 Q. What was that? What was that
4 complaint?

5 A. Well, it's really, if you look at both

6 [REDACTED]
7 failings in both those were in the police
8 department.

9 Q. How so?

10 [REDACTED]
11 received a call from Charlie Beckenhauer on April
12 25th, 2012 saying that he had just come from a
13 meeting with --

14 MS. BROWN: Okay. I have to object to
15 the extent you're going to reveal privileged
16 information in the conversation with Beckenhauer,
17 Mr. Beckenhauer, who was general counsel at the
18 time.

19 MR. HENNINGER: And I'll instruct the
20 witness not to answer based upon that assertion of
21 attorney-client or work product privilege.

22 BY MR. DUNN:

23 Q. So without describing what some lawyer
24 said, what do you view was the failing in Mr. Doak's
25 office?

1 A. He knew about sexual assault

2 [REDACTED]

3 notify athletics or take action against the student
4 athlete.

5 Q. Was that an isolated case, or did you
6 come to learn there were other cases such as that,
7 where the police department knew about it and didn't
8 notify your office or take action?

9 [REDACTED]

10 cases involving different student athletes?

11 Q. Other sexual assault cases involving
12 student athletes?

13 A. Okay. Yeah, it's the same situation

14 [REDACTED]

15 Q. And did you ever take this up with
16 Mr. Doak?

17 A. No, no.

18 Q. What was your understanding, if you
19 ever got one, as to what Doak did with this
20 information when he would get these reports?

21 A. I don't know.

22 Q. Did you get the sense that the police
23 department was burying requests or complaints about
24 sexual assault?

25 MS. BROWN: Objection to form.

Page 197

1 BY MR. DUNN:

2 Q. You can answer.

3 A. They did not share information with the
4 athletic department about sexual assault allegations
5 that they had information about.

6 Q. Did anybody ever explain that to you,
7 why that was case, why the police department didn't
8 bring you in the loop?

9 A. Mr. Ramsower said the reports were
10 stuck in the police department.

11 Q. So let's say Mr. Doak, is it
12 Mr. Doak?

13 A. Chief Doak.

14 Q. Chief Doak. All right.

15 Let's say Chief Doak gives you this
16 information, what would you have done with it?

17 A. If he gave me information that there

18 [REDACTED]

19 [REDACTED]

20 from the team or suspended him, you know, pending a
21 resolution.

22 Q. We keep mentioning Robinson Tower. I
23 just want to make sure the record's clear.

24 Does Robinson Tower include judicial
25 affairs?

Page 198

1 A. Yes.

2 Q. Okay. Do you know whether Doak, Chief
3 Doak, suffered any, you know, punishments,
4 reprimands, et cetera for his activities with regard
5 to Title IX enforcement?

6 A. Well, Mr. Ramsower told me that Chief
7 Doak had no alternative but to resign following the
8 Margolis Healy report in July of 2014.

9 Q. And did he, in fact, do that?

10 A. Yes. Technically retired.

11 Q. Anybody explain to why he was allowed
12 to retire rather than be terminated?

13 A. No.

14 Q. Do you know whether Mr. Doak entered
15 into an agreement, a separation agreement, with the
16 university?

17 A. No.

18 Q. You don't know one way or the other?

19 A. I don't know.

20 Q. Do you know whether -- did you attend
21 his retirement party?

22 A. Yes.

23 Q. Approximately how many attendees were
24 there?

25 A. I believe it was held in Truett

Page 199

1 Seminary, and I'm going to say there were
2 approximately 40 or 50 people.

3 Q. Dr. Ramsower there?

4 A. Yes.

5 Q. Judge Starr?

6 A. I don't recall about Judge Starr.

7 Q. Were the regents present?

8 A. I don't recall.

9 Q. Was, I mean, was it a celebration of
10 retirement or a somber you-just-got-fired affair?

11 A. It was a recognition of his 28 years, I
12 believe, of service to the university community. So
13 it was certainly a positive-type of event.

14 Q. Were there speeches given praising his
15 actions?

16 A. Yes.

17 Q. Ultimately there was a reporting in the
18 media that praised his service to the university;
19 isn't that true?

20 A. Yes.

21 Q. So, I mean, the way Mr. Doak, or Chief
22 Doak, was treated in the media was significantly
23 different than how you were treated in the media
24 after the Pepper Hamilton report and after the sexual
25 assault events came to light; isn't that true?

Page 200

1 A. Oh, yes.

2 Q. You ever wonder why?

3 A. I know why.

4 Q. Why is that?

5 A. Again, the regents were looking
6 for -- looking to scapegoat and the football program
7 to cover up the campus-wide failings. And obviously,
8 if anyone were to unearth all the things that were
9 happening in the police department, it would be
10 devastating to the university.

11 Q. You have any contact with Mr. Doak, or
12 Chief Doak, after the retirement party?

13 A. Yes.

14 Q. How so?

15 A. We attend the same church.

16 Q. Even today?

17 A. No.

18 Q. Oh, okay. But back when you were still
19 in Waco, you would attend the same church?

20 A. Yes.

21 Q. He make any comments to you that was
22 relevant to the Title IX issues?

23 A. No.

24 Q. What makes you think that if there was
25 issues, if there was an actual disclosure

Page 201

1 investigation of what happened in the police
2 department under Doak's watch, it would be, you know,
3 embarrassing for the university?

4 A. Brian Nicholson told me that.

5 Q. Who is Mr. Nicholson?

6 A. He took over supervision of the Baylor
7 police after -- following the Margolis Healy report.
8 They removed oversight of the police from Reagan
9 Ramsower and put it under Brian Nicholson, who
10 reported to Reagan Ramsower.

11 Q. Is Mr. Nicholson still there at the
12 school?

13 A. No.

14 Q. When did he leave?

15 A. I don't know the exact date. I'm going
16 to say approximately a year ago.

17 Q. Was it voluntary?

18 A. I assume so, but I don't know for a
19 fact.

20 Q. What is it Mr. Nicholson told you about
21 what would be revealed if people knew what had
22 happened under Doak's watch?

23 A. He said if anyone looked into it, it
24 will be bad.

25 Q. Did he give you an example?

1 A. Yes.

2 Q. What was the examples?

3 A. Told me a story about the police
4 dispatcher, from 2013.

5 Q. What was involved in that police
6 dispatch?

7 A. A sexual assault call came into the
8 Baylor Police Department. The dispatcher took the
9 call, was listening to the reported allegation of
10 sexual assault, and this was on a recorded line, and
11 then put the caller on hold, and then proceeded to
12 order his dinner. And after he completed the meal
13 order, he returned to the call, listened to the
14 remainder of the report, made a notation in the log
15 book, but took no action.

16 Q. And there's a recording of that as far
17 as you recall or you were told?

18 A. According to Mr. Nicholson.

19 Q. Do you know who the officer was that
20 took the report and paused to have dinner?

21 A. No.

22 Q. Is it the case you don't remember it
23 but Mr. Nicholson told it to you, or he didn't tell
24 it to you?

25 A. He didn't disclose the name of the

1 dispatcher.

2 Q. There any other examples that
3 Mr. Nicholson gave you?

4 A. Well, again, we -- he was involved in
5 [REDACTED]
6 an alleged victim reported to the Title IX office on
7 September 10th, 2015 that she was assaulted in April
8 of April of 2013, about two-and-a-half years earlier,
9 and that a call had been made to the Baylor Police
10 Department about that incident.

11 So on September 11th, Mr. Nicholson
12 arranged a meeting with myself, Ramsower, and several
13 other executive leaders. And it was found that that
14 log book that I referenced, that a call was made to
15 the police department regarding the April 2013 sexual
16 assault, and it also found a second police report
17 [REDACTED]
18 woman.

19 So there were two separate reports

20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 that day, and he had a game the next day he was
24 suspended for, and then we dismissed him from the
25 team based on the two reports.

Page 204

1 Q. Any other examples that Mr. Nicholson
2 gave you?

3 A. That's all I can think of right now.

4 Q. Did you get the sense that, if you did,
5 you know, that it was malfeasance, that reports were
6 being made and they were being buried, or did you get
7 the sense it was disorganization, you know,
8 negligence?

9 A. I don't know.

10 Q. Mr. Nicholson didn't express an opinion
11 to you?

12 A. Not on that topic.

13 Q. Has anyone expressed an opinion to you
14 about that?

15 A. Well, in some of the -- in the one
16 document that we produced, it certainly suggests that
17 police officers were discouraged from investigating
18 sexual assault matters, based on information from a
19 blog, which is not necessarily the most reliable.

20 But it suggested that actually officers
21 were reprimanded by the chief if they investigated
22 sexual assault matters because Baylor did not want
23 them showing up on their records and did not want
24 information that would discourage families from
25 sending their children to the university.

Page 205

1 Q. This is a record that you produced?

2 A. It's a record that I found.

3 Q. And is it included in the documents you
4 produced in this case?

5 A. Yes.

6 Q. Did you -- you mentioned you had a
7 conversation with Dr. Ramsower about what was
8 happening in the police department and what could be
9 discovered if it came to public light.

10 Did he give you any more detail about
11 what he considered was bad behavior in the police
12 department?

13 A. He -- yeah, two things he said to me

14 [REDACTED] [REDACTED]

15 [REDACTED]

16 [REDACTED] [REDACTED]

17 regents meeting in May of 2016, this was the Friday
18 of the regents meeting in May of 2016. He pulled me
19 aside and said if Chief Doak was still here, we
20 wouldn't fire him. We'd have to execute him.

21 Q. How long had he been gone at that
22 point?

23 A. So Chief Doak, the retirement -- well,
24 he left in the summer of 2014, and that was in May of
25 2016.

Page 206

1 Q. So why not, if you know, why doesn't
2 the university just make Doak the scapegoat? He's
3 gone. He's already left. Why you and Briles and the
4 football department?

5 MS. BROWN: Objection to form.

6 THE WITNESS: I don't know.

7 BY MR. DUNN:

8 Q. Did your department, and I'm just
9 talking about the athletics department now, did it
10 have a document retention policy that was reduced to
11 writing?

12 A. We didn't have a separate one beyond
13 what the university had.

14 Q. And I gather from your answer, then,
15 the university did have a written documentation
16 retention policy?

17 A. Yes.

18 Q. What's your best recollection of it in
19 terms of your responsibilities?

20 A. My recollection is that documents need
21 to be retained for a period of seven years.

22 Q. Did you do that?

23 A. Yes.

24 Q. Did that include emails and texts?

25 A. Again, that was handled centrally by

Page 207

1 the university. So you'd have to ask information
2 technology and general counsel --

3 Q. Sure.

4 A. -- and so forth to get that answer.

5 Q. Were you, at any point in time
6 suggested, asked to, insinuated you should destroy
7 some record or records?

8 A. No.

9 Q. Documents, emails, texts or
10 otherwise?

11 A. No.

12 Q. Are you aware of that happening with
13 anyone else?

14 A. I'm not aware of anyone destroying
15 documents.

16 Q. And when you were at the school, you
17 were provided a cell phone; is that right?

18 A. Yes.

19 Q. And you would presumably make text
20 messages on that phone?

21 A. Yes.

22 Q. Did you have a personal cell phone as
23 well?

24 A. No.

25 Q. So, I mean, in terms of checking on

Page 208

1 your wife, talking to your family, dealing with
2 Baylor, all that was on that one phone?

3 A. Yes.

4 Q. You understand that Pepper Hamilton at
5 some point collected a series of text messages from
6 certain custodians, emails from certain custodians as
7 part of their review? You're aware of that?

8 A. Yeah. My recollection is they gathered
9 somewhere in the neighborhood of, I think, 186
10 devices and -- yes.

11 Q. Did you understand your devices were
12 included in that?

13 A. Yes.

14 Q. Did you ever come to see what it is was
15 harvested from your devices?

16 A. I saw a couple things that they put out
17 into the public domain.

18 Q. This is a text that ended up in the
19 media?

20 A. Yes.

21 Q. Is this the texts that are included in
22 the Shillinglaw state court pleading?

23 A. Yeah. The Rusty Hardin filing.

24 Q. Right. But I mean, at any point in
25 time, did you -- were you presented the opportunity

Page 209

1 or did you request the opportunity of I'd like to see
2 everything collected from me?

3 A. I wasn't presented with that
4 opportunity, and I didn't ask for it.

5 Q. Do you -- we're going to talk about the
6 Shillinglaw document here in a minute, but was -- did
7 you -- was that an accurate representation of those
8 text exchanges, or was there context missing or --

9 A. Yeah, they're --

10 Q. -- were they misquoted? What's your
11 opinion?

12 A. I believe the specific words were
13 accurately quoted, but they were taken out of
14 context.

15 Q. Okay. All right. In terms of document
16 retention, as far as you know, any and every of your
17 texts and emails ought to be on Baylor's system if
18 they collected it; you didn't take any effort to
19 destroy anything?

20 A. No, sir.

21 Q. And you talked about how you believe
22 that there were efforts to, you know, cover up sexual
23 assaults that were reported; is that right?

24 A. Yes.

25 Q. And what do you think was the

1 motivation behind that?

2 A. It's bad for business.

3 Q. In terms of how?

4 A. It's bad for Baylor's brand, bad for
5 admission, bad for tuition revenue. And obviously,
6 you know, Baylor is heavily reliant -- it does not
7 have a large endowment, so it's heavily reliant on
8 tuition revenue. So if there's a dip in admissions,
9 a dip in tuition revenue, that severely affects the
10 university.

11 Q. Was that the kind of thing you heard
12 reported all the time? When those numbers would go
13 up and down, was that part of the conversation?

14 A. No. But there certainly was, I think,
15 a strong indication that, you know, as Mr. Ramsower
16 was over both the police as well as admission and the
17 budget, he had a conflicted position. I believe that
18 was why he was separated from those two roles after
19 the Margolis Healy report.

20 Q. So do you think he was directing, do
21 you think Dr. Ramsower was -- it was his desire to
22 cover up for sexual assault reports?

23 A. I think you'll have to determine
24 that.

25 Q. Were there efforts to cover up things

Page 211

1 other than sexual assaults that could be embarrassing
2 for the university?

3 A. I think the university, all
4 universities are very conscious of public relations
5 and how they're perceived. So, you know, I think,
6 generally, you know, Baylor worked hard to put out
7 good news and keep bad news away from the public
8 domain.

9 Q. So evidently our discussion earlier
10 about -- I'm going to go back to a topic about the
11 document destruction issues. I asked you if you had
12 ever been asked to destroy any records, and you said
13 that no one destroyed records, to your knowledge.
14 But my question has a little more nuance.

15 Were you ever asked, or are you aware
16 of anybody being asked to destroy records?

17 A. I'm not aware. I mean, I believe I did
18 see a media report that suggested that was the case,
19 but I'm not personally aware of anyone being asked to
20 destroy records.

21 Q. All right. Now I want to talk a little
22 bit about the process, and if you don't know, you
23 just tell me this as we go; okay?

24 But as I understand it, the protocol
25 for how to deal with a report of sexual assault

Page 212

1 changed from when you were there in 2003 to when you
2 left; is that fair to say?

3 A. Yes.

4 Q. So when is it you first became aware
5 that there was a protocol at all?

6 A. September 2014.

7 Q. All right. So from 2003 to September
8 of 2014, you were completely unaware of what, if any,
9 university policy there was on how to deal with a
10 report of sexual assault?

11 A. Correct.

12 Q. Okay. Then, in 2014, what did you
13 understand was the policy?

14 A. That before Patty Crawford's arrival,
15 any sexual assault information, reports, what have
16 you, should be directed to either Juan Alejandro, who
17 was the interim Title IX Coordinator or the Office of
18 Judicial Affairs. Once Patty Crawford was hired in
19 approximately November of 2014, they would be
20 directed to her office.

21 Q. And I appreciate that, that's who you
22 deliver the information to, but is there a
23 questionnaire you fill out? Is there a Q and A
24 you're supposed to go through with the reporter? Are
25 there any steps other than just tell this alleged

1 victim go see Patty Crawford?

2 A. Not at that point in time. The
3 reporting system was put in place in the summer of
4 2016, after I was in the nonexecutive position.

5 Q. And so what changed then, in the summer
6 of 2016?

7 A. They, under Mr. Patulski's time as
8 interim AD, a reporting system was developed in terms
9 of how a report should be made to the university of a
10 sexual assault allegation.

11 Q. And, you know, without getting too
12 technical, a form was created?

13 A. Again, I wasn't there, but my
14 understanding was there was an online form that was
15 created.

16 Q. Okay. Prior to that, it was just go
17 report it?

18 A. Yes.

19 Q. I mean, here's the phone number or
20 here's the room number, go report it; is that
21 right?

22 A. A phone call, email, some type of
23 communication was what was asked for.

24 Q. Did you ever have any discussion with
25 any faculty, you know, in any department about how

1 they handle reports?

2 A. Yes.

3 Q. What is it that you learned from
4 faculty?

5 A. Well, I learned that they had not
6 received training, and they received -- what little
7 training they did receive was after athletics had
8 already completed our training.

9 And they, I remember one faculty member
10 that worked in the private sector was surprised at
11 the contrast of the regular trainings he received in
12 the private sector versus receiving no training for
13 many years as a faculty member at Baylor.

14 Q. Were these athletics faculty or more
15 broad?

16 A. No, outside athletics.

17 Q. You, as part of your -- I mean,
18 presumably there's a faculty that teaches subjects
19 related to athletic majors; is that true?

20 A. There's a sport management major and
21 there's a sport sponsorship and sales major that --
22 but they don't have a direct correlation to
23 athletics.

24 Q. I see. So they're not under your
25 charge when you were there?

Page 215

1 A. No.

2 Q. That goes up through the provost, I
3 guess?

4 A. The provost, yeah.

5 Q. Okay. So do you direct -- I mean, when
6 you were athletic director, do you direct any faculty
7 at all?

8 A. No.

9 Q. Okay. Did you, at any point in time,
10 understand what involvement student life should
11 have?

12 A. Hey, can I just amend that last answer?

13 Q. Sure.

14 A. I believe there were some -- well, I
15 knew there were. There were some of our staff that
16 had some faculty status and taught classes, so they
17 were under my direction as -- in their athletic role
18 but not in their faculty role, just to clarify that
19 last point.

20 Q. Okay. Did you have any knowledge about
21 student life being involved in a report of sexual
22 assault?

23 A. Well, they oversaw judicial affairs.

24 Q. And so was -- and again, when you don't
25 know these things, you just tell me.

1 A. Right.

2 Q. But was it your understanding that a
3 report goes to judicial affairs and then it could be
4 appealed to student life? Is that how it worked?

5 A. That's my understanding. At some
6 point, student life was involved in the appeals
7 process, I believe, both before and after Patty
8 Crawford's appointment, where appeals from the Title
9 IX office would go to Kevin Jackson, Vice President
10 for Student Life.

11 Q. Where was Bethany McCraw in those
12 departments? Judicial affairs or student life?

13 A. She was the Director of Judicial
14 Affairs.

15 Q. Now, going back to Dr. Garland's
16 testimony in the state legislature that we mentioned
17 earlier, he mentioned Bethany McCraw as one of the
18 responsible parties for this.

19 Do you recall that?

20 A. That he mentioned she was one of the
21 responsibility parties?

22 Q. Yes.

23 A. I don't recall that.

24 Q. Okay. Do you recall him saying that
25 everybody responsible has been removed?

Page 217

1 A. I remember hearing about that, yes.

2 Q. Do you think that's accurate?

3 A. No.

4 Q. There's a student conduct code at
5 Baylor; is that right?

6 A. Yes.

7 Q. Is there here at Liberty as well?

8 A. Yes.

9 Q. Are you familiar with the conduct code
10 being used to discourage reports of sexual assault or
11 criminal activity or plagiarism or otherwise?

12 A. Could you restate that, please?

13 Q. Sure. So I'll just tell you, some of
14 my clients allege that when they went in and reported
15 sexual assault and mentioned that they had been
16 drinking, that they were punished for drinking, and
17 that they believed that was an effort to discourage
18 them from reporting.

19 And in most cases, the assailant,
20 whether or not there had been an assault, was not
21 punished for drinking, even often admitting that they
22 had. So I'm not asking you to know those things.
23 I'm just telling you --

24 A. Right.

25 Q. -- that's what my clients think

Page 218

1 happened. And so I tell you that in context so
2 you'll see where I'm getting at. You may not know
3 anything.

4 I just want to know, do you know of any
5 events or circumstances where the conduct code was
6 used to discourage reports of assault?

7 A. I've read reports about that. I know
8 Jim Vertuno from the Associated Press wrote at least
9 one, maybe two, stories along those lines, and there
10 may be other media reports as well.

11 Q. But nothing that you dealt with
12 directly or heard about at the school?

13 A. No.

14 Q. What was your impression about the
15 rigor at which the code of conduct was administered
16 against students?

17 A. It's rigorous.

18 Q. Did you -- did it strike you as
19 balanced?

20 A. It seemed extreme in the areas of
21 alcohol and drug use, and in matters of sexual
22 assault and interpersonal violence, sometimes lax.

23 Q. Did you -- there's a code of conduct
24 for faculty and staff as well; is that right?

25 A. I believe there are human resources

Page 219

1 policies related to that, yes.

2 Q. And they, these policies, involve many
3 similar provisions as the students about drinking and
4 sex and extramarital affairs and things of that
5 nature; is that right?

6 A. Yes.

7 Q. Did you -- how would you describe the
8 rigor of enforcement of those policies?

9 A. I'm not sure I would have enough
10 perspective to make a general statement about that.

11 Q. All right. You've discussed how you
12 thought race played a role, at least in the
13 motivation of some, with regard to the football
14 program and sexual assault.

15 Did you see race playing a role in
16 other administration at the university?

17 A. There were a number of, you know,
18 racial incidents across the university, you know,
19 many that played out in the media. The Mexican
20 party, the young woman with the racial comment
21 directed to her. You know, there were a number of
22 incidents over the years.

23 Q. Did you note it with administrators,
24 that race sometimes formed the basis for
25 administrative decisions?

Page 220

1 A. Yeah. I think we recognized, for
2 example, human resources was very slow to move on
3 minority staff members because they were so under
4 represented within the population. So there was
5 certainly some different treatment for staff
6 dependent on race, yes.

7 Q. We've taken the deposition in this case
8 of Dr. Trevathan, who was the provost there for some
9 period of time.

10 Did you have any dealings with
11 Dr. Trevathan?

12 A. He wasn't there long, but we did have
13 some dealings for, I think, his six- or nine-month
14 tenure, however long it lasted.

15 Q. What can you recall were the issues you
16 and he had to deal with together?

17 A. Well, he was the big driver for
18 creating a director of -- I'm trying to remember the
19 exact term, but essentially a Chief Diversity Officer
20 for the university.

21 Q. Were you supportive of that effort?

22 A. I was, yeah.

23 Q. And what did you gather, if you did, as
24 to what the institution's opinion of that effort?
25 Was it supportive?

Page 221

1 A. Well, it became a very politically
2 charged issue because diversity can cut a lot of
3 different ways, and ultimately it became extremely
4 divisive, and it was tabled.

5 Q. Do you think that had something to do,
6 again, if you know, with Trevathan leaving the
7 university?

8 MS. BROWN: Objection to form.

9 THE WITNESS: I'm not aware of all the
10 reasons, but yes, I believe that was a factor.

11 BY MR. DUNN:

12 Q. Are there any issues you dealt with
13 Dr. Trevathan directly?

14 A. We didn't have a lot of interaction. I
15 recall, you know, we were in the regular executive
16 council meetings each week. I recall that we had one
17 individual meeting, but we didn't have a lot of
18 interaction.

19 Q. Did you ever have any interaction with
20 him as it relates to sexual assaults?

21 A. He was in the same meetings that I was
22 in terms of when sexual assault issues were
23 discussed, yes.

24 Q. Did he appear responsive, engaged?

25 A. Absolutely.

Page 222

1 Q. Did you find, I mean, Dr. Trevathan to
2 be a forthright, honest, trustworthy individual?

3 A. He was extremely intelligent, and,
4 yeah, I found him to be a person of good character.

5 Q. You mentioned earlier that you had
6 given a report to the NCAA or that you had given an
7 interview. We talked a little bit about that.

8 Were you asked to sign anything as a
9 result of that interview? You know, a nondisclosure,
10 confidentiality of the proceedings?

11 A. Well, NCAA interviews are confidential,
12 so I'm not allowed to disclose any of the content of
13 that interview, or it would be a violation of the rules;
14 so --

15 Q. And I guess what I'm getting at
16 is -- I'm not trying to get you to disclose it right
17 now; okay?

18 A. Yeah.

19 Q. Right now I'm just asking you, did you
20 sign something or you just understood that to be the
21 rule, or how do you believe it to be confidential?

22 A. At the beginning of the meeting, they
23 describe the rules of engagement, so to speak, for
24 the interview. And so you're instructed that you
25 cannot share the content of the interview with

1 anyone.

2 Q. Now, does the NCAA have a way to force
3 you to give this interview? I mean, could you have
4 just told them no?

5 A. I couldn't since I worked at an NCAA
6 member institution, so there's an expectation that
7 since I serve at a university I need to cooperate.
8 There's a cooperative principle in place.

9 Q. Okay. Is there any information that
10 you have provided that is public as to the timeline
11 of when the NCAA investigation will be finalized?

12 A. There have been newspaper articles as
13 recently as within the last couple of weeks
14 about -- with Baylor officials notifying media when
15 they -- about the timetable of the investigation,
16 yes.

17 Q. Other than that, you don't have any
18 other information?

19 A. I'm not privy to that, no.

20 Q. You know, going back to the Doak issue,
21 I just want to fill in.

22 Did you get a sense that whatever Doak
23 was doing or not doing with regard to sexual assaults
24 was directed by others or was his idea or do you
25 know?

1 A. I don't know.

2 Q. You don't know whether it was the case
3 that he was told by executives or regents to bury,
4 cover up reports of sexual assault?

5 A. I don't know that.

6 Q. Returning to the Trevathan discussion
7 and that time period, do you recall being a part of a
8 conversation about a lack of representation among the
9 faculty of women?

10 A. Yes.

11 Q. And Dr. Trevathan was making efforts to
12 remedy that; is that your recollection?

13 A. Yes.

14 Q. Did you ever see any dated figures
15 about sort of the division of faculty based upon
16 gender?

17 A. They were occasionally provided. I
18 can't cite them at this point in time, but yes, we
19 occasionally received data along those lines.

20 Q. Were you ever party to discussions
21 about the compensation tiers used for men versus
22 women faculty?

23 A. I'm not aware of that.

24 MR. DUNN: All right. I think I'm
25 going to take a break here, then we'll turn to

Page 225

1 looking at the documents, if that's all right with
2 you.

3 THE WITNESS: Good, thanks.

4 THE VIDEOGRAPHER: Going off the record
5 at 2:47 p.m.

6 (Recess.)

7 THE VIDEOGRAPHER: We are going back on
8 the record at 2:58 p.m. This is the start of Disc
9 Number 4 in the deposition of Ian McCaw.

10 BY MR. DUNN:

11 Q. Okay. Mr. McCaw, as I mentioned before
12 we took the break, I want to ask you about some
13 documents now. I've given you one document, and we
14 are going to get to that in a moment, but let me call
15 your attention away from it for a second.

16 You received a subpoena for records in
17 this case; is that right?

18 A. Yes.

19 Q. I believe there was originally a
20 subpoena served, and then there was another one with
21 your deposition notice that requested documents that
22 were similar; is that your understanding?

23 A. Yes.

24 Q. And have you collected all the
25 documents available to you and provided them to your

1 attorney responsive to that subpoena?

2 A. Yes.

3 Q. Were there any documents that you knew
4 to be missing or had been destroyed?

5 A. No.

6 Q. You mentioned earlier that there was
7 the statement, the three-page statement, that you
8 read to the Board of Regents has been withheld on the
9 basis of privilege.

10 Do you recall that?

11 A. Yes.

12 Q. And there's another record that your
13 lawyer has provided to us in redacted form, a
14 three-page record involving a student incident.

15 Are there any other records that you're
16 aware are being withheld?

17 A. There are records being withheld,
18 yes.

19 Q. Yes. Okay.

20 A. Yeah.

21 Q. Well, tell us what those are, the ones
22 that you can remember?

23 A. Oh, gosh. I haven't reviewed that in a
24 while, so I don't know that I could tell you from
25 memory which.

Page 227

1 Q. Are there any that you can describe for
2 us?

3 A. Again, my recollection is that
4 we -- there were a number of records that we retained
5 under attorney-client privilege and so forth, but I
6 can't, I can't give you specifics on what they
7 were.

8 Q. Can you give me a sense of volume?

9 A. Let's see. There were -- you said
10 there were 137 pages that you received; is that
11 correct?

12 Q. Yes, sir.

13 A. So in terms of documents, I'm going to
14 guess there might have been a 100 pages of
15 documents.

16 Q. Additional to the 137?

17 A. Yes.

18 Q. And again, I don't want you to get into
19 your communications with your attorneys, but I assume
20 it was on attorney advice which documents you
21 retained and which you disclosed?

22 A. Yes.

23 Q. Are you paying your attorney in this
24 case?

25 A. No.

1 Q. Who is paying your attorney?

2 A. Baylor University.

3 Q. Was that a term of your separation
4 agreement?

5 MR. HENNINGER: Instruct the witness
6 not to answer anything about the terms of his
7 separation agreement with Baylor.

8 BY MR. DUNN:

9 Q. How was it you came to learn, if it was
10 separate from your separation agreement, that Baylor
11 would provide you an attorney for this type of
12 proceeding?

13 A. It wasn't apart from my separation
14 agreement.

15 Q. So did you just -- when you got our
16 subpoena, did you call up the school and say I need a
17 lawyer for this, or how did that come about?

18 A. My recollection is, I believe, I sent
19 the subpoena to my attorney.

20 Q. Is that the gentleman with you here
21 today?

22 A. Yes.

23 Q. And you knew him because he had
24 represented you in the Hernandez matter; is that
25 right?

1 A. Yes.

2 Q. And was it the case that your attorney
3 representing you in the Hernandez matter was also
4 paid by Baylor?

5 A. Yes.

6 Q. And so did you view the response to the
7 subpoena as just a continuation of that
8 representation?

9 A. Yes.

10 Q. In the Hernandez matter, were you
11 provided documents? You know, there's document
12 exchange in that case, was there not?

13 A. Yes.

14 Q. Did you receive any documents in that
15 case?

16 A. Yes.

17 Q. Did you review some of them?

18 A. Yes.

19 Q. Were there any that you found
20 troubling?

21 A. None that I can think of at this
22 time.

23 Q. And ultimately did you give testimony
24 in the Hernandez case in one way or the other;
25 affidavit, orally, otherwise?

1 A. Yes, an affidavit. No oral
2 presentation.

3 Q. What was the nature of the subjects of
4 your affidavit?

5 A. I mean, it was fairly wide ranging, but
6 it involved sexual assault allegations at Baylor
7 University.

8 Q. So I guess, you know, sometimes
9 witnesses will sign an affidavit proving up a
10 document, sometimes they'll sign a document that's a
11 more extensive discussion of the underlying facts.

12 And that's all I'm trying to find out,
13 was your affidavit just proving up some documents, or
14 did it have a discussion of the underlying facts?

15 A. It had a discussion of some of the
16 underlying facts.

17 Q. And is that affidavit consistent with
18 what you've told us here today?

19 A. Yes.

20 Q. Who prepared the affidavit, if you
21 know?

22 A. My attorneys.

23 Q. Was there just one?

24 A. It was Tom Brandt and Steve.

25 Q. Okay. Fair enough. My question wasn't

1 clear.

2 Was there just one affidavit?

3 A. Oh, I'm sorry. I recall one affidavit.
4 It's possible there were more, but one is what
5 strikes my memory right now.

6 Q. Have you, at any point in time, during
7 what I'll call the Baylor events had your own
8 personal attorney that you paid?

9 A. I paid a portion of my NCAA attorney.

10 Q. And who paid the other portion?

11 A. Baylor.

12 Q. How did that discussion come about?

13 A. That was an arrangement that was
14 reached.

15 Q. As part of your separation or
16 separately from the separation?

17 A. Separate.

18 Q. So how did you reach that arrangement?
19 Was it through counsel, or did you contact somebody
20 at Baylor?

21 A. It was through counsel.

22 Q. Okay. So is it fair to say the only
23 knowledge you have about how that came about, you'd
24 have to disclose communications with your lawyer?

25 A. Communications with my lawyer would be

1 part of it, yes.

2 Q. Well, I want to know about the parts
3 that aren't -- don't involve communications with your
4 lawyer?

5 A. I believe I have sent some information
6 to both my attorney and Baylor representatives about
7 the NCAA investigation and compensation of the
8 attorney.

9 Q. All right. Who was the Baylor
10 representatives you sent this to?

11 A. Chris Holmes.

12 Q. And was this by email?

13 A. Yes.

14 Q. Have you retained these emails?

15 A. Yes.

16 Q. And in there you ask for representation
17 with regard to this, this subpoena?

18 A. Ask for representation and discussed
19 the terms of such.

20 Q. Approximately how many emails were
21 there?

22 A. Perhaps three or four.

23 Q. Did you have any discussion with
24 Mr. Holmes, or anybody affiliated with Baylor, about
25 what the nature of your testimony might be?

Page 233

1 A. I'm not allowed to disclose the content
2 of my NCAA investigation.

3 Q. Okay. I guess I wasn't clear. Other
4 than -- set aside NCAA for a minute.

5 A. Okay.

6 Q. Did you discuss with Mr. Holmes, or
7 anyone affiliated with Baylor, what the content of
8 your testimony might be here at deposition in this
9 case or one of the other pending cases?

10 A. No.

11 Q. At any point has anybody asked you, and
12 again, I'm setting aside your conversations with your
13 lawyer; okay?

14 A. Okay.

15 Q. We don't want to talk about those.

16 A. Sure.

17 Q. But has anybody else talked to you
18 about what you remember about certain facts, what may
19 happen at the deposition, what you plan to say, that
20 kind of thing?

21 A. Oh, yeah. I mean, obviously, this has
22 been a hot topic for years now, so I've had multiple
23 conversations with a number of people.

24 Q. Any of them affiliated with Baylor that
25 are there now, you know, or were there when they had

1 this discussion with you?

2 A. Yes.

3 Q. Okay. Who is that?

4 A. It would be a long list of people. So
5 you're asking for anyone I've had any conversation
6 with, who has a connection to Baylor, in like the
7 last several years related to this scandal?

8 Q. No. I understand that would be
9 enormous.

10 Really what I'm getting at is, was
11 there any kind of preparation sessions or FYI, or
12 what are you going to say about this, or, you know,
13 get-ready-for-the-deposition kind of conversations
14 with people at Baylor?

15 A. No.

16 Q. Okay. Now we'll go to this document
17 that's in front of you there, and Ms. Johnson here
18 has given a copy to the witness and Baylor's counsel.

19 The -- you recall seeing this? We've
20 referenced it a few times in today's discussion; is
21 that right?

22 A. Yes.

23 Q. Okay. Did you see this when it came
24 out?

25 A. Yes.

Page 235

1 Q. And I assume, based on your earlier
2 discussion, you disagree with quite a lot of this; is
3 that right?

4 A. Yes.

5 Q. This was filed on behalf of three
6 regents; Mr. Gray, Mr. Murff, and Mr. Harper; is that
7 right?

8 A. Yes.

9 Q. And those are three -- those are three
10 of the regents that you thought, I think, to use your
11 term, were out to get you?

12 A. Bad actors.

13 Q. Bad actors, right.

14 I want to go through just a couple of
15 these things and make sure it's clear. If you'll go
16 with me to the bottom of page 2.

17 A. Uh-huh.

18 Q. It said, the last sentence, This in
19 turn fostered an environment in which football
20 players were shielded from the university
21 disciplinary system, and when combined with Baylor's
22 existing Title IX deficiencies, led to reports of
23 sexual assaults, and other disciplinary problems
24 involving football players, being mishandled or not
25 reported to appropriate Baylor personnel.

1 Do you see that?

2 A. Yes.

3 Q. I'm trying to read slow for our court
4 reporter. Probably still not going slow enough, but
5 I just wanted you to understand why I wasn't reading
6 faster.

7 Is that a statement that you agree
8 with?

9 A. In some cases.

10 Q. And so with regard to some students,
11 reports, but not as a whole?

12 A. There were instances, I believe, where
13 football players were shielded from the university
14 disciplinary system.

15 Q. Did you have knowledge of those in
16 advance in order to do something about it?

17 A. I can think of one case, just think
18 here. I can think of one example of a student
19 athlete who was shielded from the university
20 disciplinary system.

21 Q. Is that student's name public?

22 A. Yes.

23 Q. Who was that?

24

██

25 Q. And how was it that he was shielded?

Page 237

1 A. In 2015, Patty Crawford learned about
2 a -- or accessed a police report from 2013 involving

3 [REDACTED]
4 And rather than that go through the normal process of
5 either Title IX or judicial affairs, Richard Willis,
6 the Chairman of the Board, got involved and directed
7 to me to adjudicate that matter in the summer of
8 2015.

9 Q. How was it ultimately adjudicated?

10 [REDACTED]
11 the first game of the season.

12 Q. But it sounds like but for Ms. Crawford
13 having uncovering that, it would have remained
14 undisciplined?

15 A. Yes.

16 Q. If you will go with me to page 4 of the
17 document, the bottom half of the page, the paragraph
18 beginning, In addition, it says, Shillinglaw did not
19 fully cooperate with the Pepper Hamilton
20 investigators.

21 Do you see that?

22 A. Yes.

23 Q. Do you agree with that statement or do
24 you have an opinion?

25 A. I am not familiar with his testimony or

1 level of cooperation.

2 Q. Okay. Page 4. Are you there, sir?

3 A. Yes, yes.

4 Q. Okay. The very last sentence on the
5 page said, The Board of Regents was largely unaware
6 of the extent of the football program's shortcomings
7 in responding to Title IX and sexual assault
8 complaints.

9 Do you see that there?

10 A. Yes.

11 Q. Do you agree with that or have
12 knowledge one way or the other?

13 A. I disagree with that statement.

14 Q. Based upon what?

15 A. Well, they obviously knew about it.
16 Tevin Elliott was in the media, Sam Ukwuachu was in
17 the media. Both of those preceded August 2015. So,
18 you know, they're aware of, you know, in Elliott's
19 case, five allegations, it's my understanding,
20 against him. So they were aware that there were
21 sexual assault complaints against football players.

22 Q. Go with me --

23 A. And, I'm sorry. I forgot to mention
24 Mr. Stone receiving that report about the volleyball
25 player incident as well.

Page 239

1 Q. None of those are mentioned in the
2 Shillinglaw answer, are they, those incidents you
3 just referenced?

4 A. Not that I recall.

5 Q. If you'll go with me to page 5, the
6 last paragraph, first sentence. Even though Pepper
7 Hamilton did a truly independent and incredibly
8 thorough investigation.

9 What is your opinion of that
10 statement?

11 A. Ridiculous.

12 Q. Why do you believe that to be
13 ridiculous?

14 A. They were not independent, not
15 thorough. They were focused on the football program
16 only. There's, you know, numerous, you know, the
17 vast majority of sexual assaults were outside the
18 football program. They turned a blind eye to that,
19 and they were not independent. They worked for the
20 regents and were directed by the regents to create an
21 outcome that was desired by the regent leadership.

22 Q. Go with me to page 7, then, please,
23 sir. Starting second line down, Patty Crawford,
24 Baylor's first Title IX Coordinator, and her very
25 public (and largely untrue) criticisms. And this

1 is -- I'm not quoting any longer. This is discussing
2 Ms. Crawford's public statements after she left at
3 Baylor.

4 So do you have any information of
5 whether Ms. Crawford's criticisms referenced in this
6 paragraph are, "largely untrue," or do you know one
7 way or the other?

8 A. I'd have to see the specific context
9 and comments to know.

10 Q. In your dealings with Ms. Crawford, did
11 you find her trustworthy?

12 A. That's a good question. I was
13 skeptical of her in a number of ways.

14 Q. Go with me to page 8 at the end of the
15 third paragraph. It says, A botched internal --
16 allegedly botched internal investigation of his

17 [REDACTED]

18 [REDACTED]

19 Do you believe there was a botched

20 [REDACTED]

21 A. No. I think our compliance staff did a
22 very thorough and appropriate investigation of his
23 background, and I know they were deeply offended by
24 the criticism that they've received. I think they
25 did a thorough investigation.

Page 241

1 Q. So was it the case they uncovered

2 [REDACTED]

3 the university said but we don't care?

4 A. No. I think they found out what was
5 available information, and based on that available
6 information, you know, he was admitted to the
7 university.

8 Q. And based on that, you think that was a
9 reasonable decision made at the time with the
10 information available?

11 A. Based on the information available.

12 Q. Go with me now to page 10, first full
13 paragraph, starting middle of the second line. The
14 law firm's charge was to conduct an independent
15 external review of Baylor's response to Title IX and
16 related compliance issues through the lens of
17 specific cases.

18 Did I read that right?

19 A. Yes.

20 Q. Did you ever at any time know or learn
21 of, whether you actually received it or not, a list
22 of the specific cases that Pepper Hamilton
23 reviewed?

24 A. I was told that the cases they
25 presented to the board were six cases that all

1 involved black football players.

2 Q. And that's all, as far as you
3 learned?

4 A. Yes.

5 Q. Okay. And you've mentioned three of
6 those names today.

7 The other -- do you know who the other
8 three are?

9 A. I don't.

10 Q. Next, the next paragraph on that page,
11 it says, The vehicle for Pepper Hamilton's task was a
12 stress test of Baylor's institutional response under
13 Title IX. That next sentence again identifies by
14 reviewing a subset of specific cases.

15 Do you see that?

16 A. Yes.

17 Q. Did you gather what Pepper Hamilton was
18 doing was a stress test of the institutional
19 response?

20 A. Not based on my interaction with them.
21 It was very focused on the football program and not
22 the institution.

23 Q. Did anybody -- and you can go to page
24 12 of the document right before Section C starts, if
25 you want to look at this. I don't know that you need

1 to.

2 Did you ever hear at any point that
3 Pepper Hamilton didn't do a report because the
4 university didn't want to wait the six months it was
5 going to take them to prepare it?

6 A. Yes. I heard they didn't want to wait
7 six months and pay \$1 million to have the report
8 completed.

9 Q. It was not just the waiting of the
10 time, it was the waiting of the time and the
11 expenditure?

12 A. Yes.

13 Q. From whom did you hear that?

14 A. The regents.

15 Q. At the -- at a regents meeting?

16 A. I think it was individual regents
17 mentioned that, and I believe there's also some media
18 coverage about that as well.

19 Q. Okay. Did you find that explanation to
20 be genuine?

21 A. No.

22 Q. Do you have an opinion as to why there
23 wasn't a written report just from Pepper Hamilton?

24 A. I think if they actually prepared a
25 full written report and published it, it would have

1 devastating consequences for the university.

2 Q. Now, attached to these, to the
3 Shillinglaw answer, are the findings of fact which
4 you have in front of you, if you'd like to reference
5 them. They mention in there on a few occasions
6 senior administrators were responsible for failings,
7 I think, was the terminology used.

8 Has anybody ever identified to you who
9 those senior administrators are?

10 A. No.

11 Q. Well, do you have a belief of who those
12 senior administrators are that Pepper Hamilton was
13 referring to?

14 A. I think I could identify some of
15 them.

16 Q. Who are those?

17 A. Mr. Ramsower, Mr. Holmes, Mr. Jackson,
18 and their respective areas, those that worked
19 underneath them. And there was also a major failing
20 in the athletic training academic major, including
21 the director of the program and the dean.

22 Q. What about Bethany McCraw?

23 A. I would include her under -- she's
24 under Mr. Jackson.

25 Q. Are all those people still at the

Page 245

1 school, as far as you know?

2 A. Yes.

3 Q. If you will go back with me to the
4 Shillinglaw answer, to page 21.

5 A. Excuse me. I'm not positive about the
6 dean of the program of the -- who oversaw the
7 academic major, but -- 15?

8 Q. 21, please.

9 A. 21, sorry.

10 Q. You can read it to yourself, if you
11 need to. I won't try to put our court reporter
12 through taking it down. But if you look at that, the
13 second full paragraph that begins, The victim's coach
14 went back to McCaw.

15 A. Uh-huh.

16 Q. Let me know after you've reviewed that.

17 A. I've done it.

18 MR. HENNINGER: If you need to, for
19 context, it starts on the previous page, if you need
20 to know what's being talked about.

21 THE WITNESS: Okay. I'm all right with
22 it.

23 BY MR. DUNN:

24 Q. Is this accurate? I mean, this
25 provision here or these paragraphs are talking about

1 you specifically; you agree?

2 A. Yes.

3 Q. Is this an accurate representation of
4 what happened, from your recollection?

5 A. Everything in that paragraph is false
6 with the exception of I don't know about the last
7 sentence. I don't know if the coach relayed a number
8 to the student athlete or her mother, but everything
9 else is false.

10 Q. And is this the kind of thing that you
11 told Pepper Hamilton in one of your three interviews?

12 A. No.

13 Q. Your version, not -- I understand that
14 you believe this to be false.

15 Did you give Pepper Hamilton your
16 version of what happened in these events, during one
17 of those three interviews?

18 A. Yes.

19 Q. If you will go with me to page 23, the
20 first paragraph, skipping the first sentence talking
21 about gang rapes. It says, During a 2015 Title IX
22 investigation into the 2013 physical assault

23 ██
24 Baylor's newly hired Title IX Coordinator, discovered
25 other reports of gang rape by football players.

1 Is that accurate, or do you know?

2 A. You have to ask her.

3 Q. But --

4 A. She informed us that she was
5 investigating multiple sexual assaults in the 2015
6 Title IX review of football.

7 Q. I've used the term "gang rape" a few
8 times, and you've not wanted to use it.

9 So is it your belief there has not been
10 any gang rapes involving football players, or you
11 just don't know or --

12 A. Well, I don't recall Patty Crawford
13 ever using the term "gang rape," and secondly, I'm
14 not aware of any finding of a gang rape. The first
15 time I really heard the term used in this context was
16 by Richard Willis at that meeting the week of the
17 finding of facts release.

18 Q. If you go with me to page 24, the last
19 full paragraph before Subsection D, it says, In all,
20 at least six football players have been identified as
21 allegedly participating in gang rapes.

22 That's news to you?

23 A. I don't know who they are.

24 Q. Okay. If you will go with me to page
25 25, the first full paragraph, third sentence. It

1 also voted, speaking of the board, 26 to 4 to
2 recommend seeking McCaw's resignation.

3 A. I'm sorry, what was the page?

4 MR. HENNINGER: 25.

5 THE WITNESS: Yeah.

6 BY MR. DUNN:

7 Q. And I can repeat that, I'm sorry.

8 A. Sure.

9 Q. Okay. So the third sentence, It also
10 voted 26 to 4 to recommend seeking McCaw's
11 resignation.

12 Do you see that?

13 A. Yes.

14 Q. And if McCaw declined, the board
15 recommended he be fired, it says?

16 A. Yes.

17 Q. Is that true?

18 A. I don't know.

19 Q. But you were told that you were, at
20 least initially it was voted to keep you, is that
21 right, and just put you on suspension?

22 A. No. I was -- probation.

23 Q. Probation; right?

24 A. Yeah.

25 Q. Do you know who the four dissenters

1 were in this vote?

2 A. I could take a guess, but I don't know
3 who they are.

4 Q. I don't need you to guess. I just
5 didn't know if anybody ever called you and told you I
6 voted against it?

7 A. No.

8 Q. Are there any minutes of these Board of
9 Regents meetings?

10 A. I'm not aware of minutes of those
11 meetings. There are minutes of the athletics
12 committee, for example, when we met, we maintained
13 minutes of our meetings.

14 Q. So I mean, but you were there for 13
15 years. All kinds of things must have come up in
16 front of the regents that you had an interest in; am
17 I right?

18 A. Yes.

19 Q. I mean, were there minutes or a report
20 of what happened at regents meetings?

21 A. In the committee meetings, there were
22 minutes. In the general session, it was recorded.

23 Q. Recorded?

24 A. Recorded.

25 Q. Were any of the conversations involving

Page 250

1 Pepper Hamilton, your firing, Briles's, are any of
2 those recorded?

3 A. I don't know.

4 Q. You've not seen them?

5 A. I've not seen them.

6 Q. What do they do here at Liberty? What
7 kind of records do they keep of Liberty trustee
8 meetings?

9 A. We have a confidentiality provision
10 that requires everyone to sign off and keep the
11 information confidential, and they maintain a
12 recording.

13 Q. But that recording is kept
14 confidential?

15 A. Yes.

16 Q. So have you ever worked at a public
17 university?

18 A. Yes.

19 Q. How do they handle their regent
20 meetings or trustees? Is it any different?

21 A. At the schools I worked at, there were,
22 they were public meetings that information was
23 generally available.

24 Q. Would you describe, at least in part,
25 Baylor regent meetings as secretive?

Page 251

1 A. Confidential.

2 Q. Do you think that fostered any of the
3 failings with respect to Title IX?

4 A. I can't say.

5 Q. If you will go with me to page 26, the
6 very next page, the next paragraph says, The board
7 offered both McCaw and Coach Briles an opportunity to
8 address the board.

9 Do you see that?

10 A. Yes.

11 Q. So at least in the authors -- these
12 regents who authored this filing, they say they voted
13 to terminate you and then gave you an opportunity to
14 address the regents.

15 Did you know that?

16 A. No.

17 Q. As far as you understood, when you were
18 addressing the regents, the decision hadn't been
19 made?

20 A. That's correct.

21 Q. All right. So now I want to turn to
22 the documents that you produced to us, and -- so you
23 can set that aside. I'm going to hand you what's
24 been Bates-labeled as Ian 0001.

25 This is one of the records you produced

1 to us; is that true?

2 A. Yes.

3 Q. What -- when was this note made, and in
4 whose hand?

5 A. That's my handwriting, and I believe
6 this meeting, these notes were taken around the time
7 of my Pepper Hamilton interview.

8 Q. And you just stuck them in a file?

9 A. Maintained them in a file, yes.

10 Q. So who -- were you talking to somebody
11 when you -- what gave you this information to write
12 down?

13 A. Well, obviously the first two related
14 to significant failures in the police that were
15 discussed. And then Pepper Hamilton was very curious
16 about why Barnes was terminated, and the next note
17 was related to that. And then I also made a notation
18 about a communication with Dary Stone.

19 Q. Need to get rid of Bethany?

20 A. Uh-huh.

21 Q. What does that mean?

22 A. Dary Stone called me in the spring of
23 2013 and asked me if we need -- if, quote, we need to
24 fire Bethany.

25 Q. What was your opinion?

Page 253

1 A. I said no.

2 Q. Did you come to learn that your opinion
3 was wrong?

4 A. Well, the context of it was I think she
5 enforces the rules that are before her in a
6 black-and-white manner. I think she's got antiquated
7 rules, particularly as it relates to drug testing,
8 which was kind of the context of the discussion.

9 Q. Now, going back to the top section
10 about the police, you've got it underlined.

11 In bold, is that a student name?

12 A. Yes.

13 Q. Is that student name public?

14 A. Yes.

15 Q. And what's the student's name?

16 [REDACTED]

17 Q. In both cases?

18 A. No.

19 Q. Is the second student name public?

20 A. Yes.

21 Q. Who is that one?

22 [REDACTED]

23 Q. And who was relaying this information
24 to you?

25 A. This is, these are my reflections of

Page 254

1 what happened in both those cases.

2 Q. I see.

3 A. That the police were the failure in
4 both incidents.

5 Q. I see. All right.

6 So what was the impetus for you taking
7 this note?

8 A. I can't recall if this was prior to or
9 after the Pepper Hamilton interview, but it was
10 related to that, just to kind of make some notations
11 for myself.

12 Q. Okay. So other than when you produced
13 this in this case, has anybody ever seen it?

14 A. No.

15 Q. All right. I'm going to show you Ian
16 2.

17 So this is another note in your hand?

18 A. Yes.

19 Q. And was this taken at the same time as
20 page 1?

21 A. Most likely, yes.

22 Q. I note one is on graph paper and the
23 one is on lined paper.

24 A. Yeah.

25 Q. You don't recall?

Page 255

1 A. I can't say for certain.

2 Q. Okay. And so again, is page 2 you
3 making notes of your recollections, or are you
4 talking to somebody, or is this after a meeting?

5 A. These are my recollections. This would
6 have been after a meeting with Pepper Hamilton. I
7 was starting to accumulate concerns that either I had
8 or other people were bringing to my attention about
9 Pepper Hamilton.

10 Q. So was this -- do you remember which of
11 your meetings with Pepper Hamilton you took this
12 note?

13 A. I can't say for sure.

14 Q. So you got a numbered list here, and it
15 stops at 5, and 5 is blank.

16 A. Yes.

17 Q. Did you just run out of things, or did
18 you get distracted, or do you recall?

19 A. I can't remember. I was just kind of
20 noting them as they were coming up.

21 Q. Okay. So one is falsely accused, and
22 then what's the next word?

23 A. Wes.

24 Q. Who is that?

25 A. Our sports chaplain.

Page 256

1 Q. I see. What was he accused of?

2 A. He was accused of having an
3 inappropriate relationship with a student athlete, by
4 Pepper Hamilton.

5 Q. And in your view, there was no evidence
6 of that?

7 A. No. And it was investigated by the
8 general counsel's office, and they found no evidence
9 of that.

10 Q. Did you ever -- were you ever told what
11 Pepper Hamilton had as far as evidence of that?

12 A. Yes. They were relying on a text
13 message from the student saying something to the
14 effect of I'm not coming over tonight, after
15 returning from a road trip.

16 Q. Okay. Why did you think that was of
17 note?

18 A. Again, they were -- I was putting
19 together things that I thought were inappropriate
20 that they were --

21 Q. I see.

22 A. -- accusing staff members of and so
23 forth.

24 Q. So Number 2, it says, Football. How
25 many on field? Why so many blacks?

Page 257

1 Those are those comments you related to
2 us earlier?

3 A. Yes. These were comments that Coach
4 Bennett shared with me that he was asked during his
5 interview with Pepper Hamilton. He said they asked
6 him how many players are on the field at one time,
7 and they also asked why there's so many blacks on the
8 team.

9 Q. That was something that you were asked
10 as well, as I recall from your testimony this
11 morning?

12 A. No.

13 Q. No.

14 A. That's -- I'm just relaying what Coach
15 Bennett reported.

16 Q. I see.

17 A. Reported to me.

18 Q. So the discussion about why so many
19 blacks was not to you directly from Pepper Hamilton
20 folks?

21 A. No.

22 Q. Okay. Number 3 is, correct me if I
23 read these things wrong; all right? That's part of
24 the reason I'm doing this, to make sure I know your
25 handwriting.

Page 258

1 Barnes doubled back and asked for OGC
2 number in second meeting (false); is that right?

3 A. Yes.

4 Q. What was that about?

5 A. That was a comment that Gina Smith from
6 Pepper Hamilton made that she said Barnes had a foggy
7 recollection of this but that he claims he doubled
8 back and asked for the phone number from me for the
9 Office of General Counsel. That did not happen.

10 Q. And then Number 4 is profanity.

11 A. Yeah.

12 Q. You say, Shitty day, and then Briles,
13 was it Coach Briles told you that he was -- where did
14 that come from?

15 A. No. That was what Pepper Hamilton said
16 to him.

17 Q. What day were they referring to, if you
18 know?

19 A. It was a day that he was meeting with
20 them. He walked in, and that's how they described
21 the day.

22 Q. I see. And then it's MF'ing liar.
23 That's, you described that earlier --

24 A. Yes.

25 Q. -- today; right? All right.

1 And then, Talks like a sailor.

2 Where did that come from?

3 A. That was my observation relative to
4 Leslie Gomez.

5 Q. Okay. I'm going to go with you now to
6 Ian 3. Are these notes that, again, you're
7 taking -- is 3 also, you know, post Pepper Hamilton
8 meeting notes, or is it something different?

9 A. Yeah. I think these were also on the
10 same time frame relative to Pepper Hamilton notes.

11 Q. These observations about Bethany, I
12 assume that's Bethany McCraw?

13 A. Yes.

14 Q. Are those your observations or someone
15 else's?

16 A. That's what -- that was my testimony
17 about Bethany. I think she's tough. I think she's
18 fair. She's very much black and white by the rule
19 book in terms of how she does things.

20 Q. And on the third bullet point, it says,
21 Surprisingly in -- what's that word, matters?

22 A. Matters of violence.

23 Q. -- they have been overly lenient.

24 A. Yes.

25 Q. You see that?

1 A. Yes, I do.

2 Q. And then it's got 51/49.

3 What are those?

4 A. Preponderance of evidence.

5 Q. Oh, I see. Okay. And then on the
6 right-hand side, they have 95/5.

7 Do you see that?

8 A. Yes.

9 Q. What is that?

10 A. The court standard.

11 Q. Okay. And I assume these five blanks
12 are student names?

13 A. Yes.

14 Q. Okay. And so what is it, without
15 revealing the student names, what is it -- what's the
16 general thought of what you're trying to record
17 there?

18 A. Very rigorous and sometimes harsh in
19 terms of drug and alcohol matters. When it came to
20 matters of interpersonal violence, surprisingly
21 lenient outcomes in some cases.

22 Q. Okay. Did you ever come to know why
23 that was?

24 A. No.

25 Q. I'm going to hand you Ian 4. So you

Page 261

1 say, on this one you got a date December of 2014, At
2 EC, is that executive council?

3 A. Yes.

4 Q. -- meeting, Kevin Jackson was
5 describing how Title IX is, "coming at us fast," and
6 OCR is especially focused on Greek life and
7 athletics.

8 Is that the first sentence?

9 A. Yes.

10 Q. OCR, is that the Office of Civil Rights
11 with the Department of Education?

12 A. Yes, sir.

13 Q. The next sentence is, I said, in light
14 of that, can we have some training for our staff? He
15 responded said, "We're not ready yet."

16 Do you see that?

17 A. Yes.

18 Q. Why did you take down this note?

19 A. First of all, this is not
20 contemporaneous, so this is reflecting back. But I
21 made a notation of it because that, I think, was
22 important context. Despite requesting Title IX
23 training in the summer of 2014, Baylor was not ready
24 to provide it to the athletic department. And, you
25 know, that again, I think, is a microcosm of what

1 we're dealing with, unfortunately.

2 Q. What is a microcosm of what you're
3 dealing with? That's not clear to me.

4 A. Well, a lack of training.

5 Q. I see. Okay.

6 A. They weren't, you know, this is the
7 [REDACTED]
8 we're not prepared to tell our staff they need to
9 report information.

10 Q. Did you ever come to learn of extensive
11 review and editing that Baylor leadership made to
12 Title IX training videos? How they got hung up for
13 long periods of time because of significant editing
14 and removal of things like student drinking or
15 references to homosexuals or things of that nature?

16 A. I'm not aware of that.

17 Q. If you go to Ian 5. Oh, sorry.

18 A. Thanks.

19 Q. It says, A regent called Phil Bennett
20 to discuss how some of the discipline issues have
21 been handled. Chad Jackson was given this
22 information from Coach Bennet, and we agreed that
23 Chad would share it with Doug Welch.

24 Did I read that right?

25 A. Yes, you did.

1 Q. What are you recording here?

2 A. Another note that I took. Chad
3 Jackson, who oversees compliance in the athletic
4 department, came to me after Coach Bennett reported
5 this communication to him, thought it was
6 inappropriate. And so we discussed it and agreed
7 that that needed to be shared with Doug Welch from
8 the general counsel's office.

9 Q. Now, did you this note when the call
10 came in, or was again this reflective, you took it
11 later?

12 A. I took it when Chad brought it to my
13 attention.

14 Q. Okay. Go with me to 6.

15 What is 6?

16 A. I think that was maybe another effort
17 to start a list of things that we're concerned about
18 with Pepper Hamilton. Again, the -- Wes we
19 previously discussed. The second one, the blank is
20 [REDACTED]
21 [REDACTED]
22 tickets.

23 And it was investigated and found out
24 that the compliance staff actually appropriately
25 removed it from his financial aid account, and it was

1 handled in a responsible manner.

2 Q. I see. So is another way of saying
3 that, Mr. Shillinglaw arranged to have the tickets
4 paid, but deducted it from --

5 A. No, no. Mr. Shillinglaw had nothing to
6 do with it whatsoever. He had parking tickets, but
7 the compliance office just reduced the amount from
8 his financial aid account in a manner that was
9 compliant and appropriate. Shillinglaw had nothing
10 to do with it, but it was another example of Pepper
11 Hamilton making an accusation that was not founded.

12 Q. Okay. I'm going to skip this one here.
13 I'm going to skip one here. As I promised, we're not
14 doing all these.

15 Now, just a quick question here about
16 this document, and it may not all be one document, so
17 let me know that. But this is Ian 11 through 14, and
18 maybe this goes with it? Let me know.

19 A. Yeah, they're three separate
20 documents.

21 Q. What are the page numbers for the three
22 different documents?

23 A. 11 through 13, 14 is a stand-alone, and
24 15 is a stand-alone.

25 Q. What are these? And if they don't have

1 any connection, that's fine, just let us know which
2 one you're talking about when you're describing them.

3 A. Okay. 11 through 14, excuse me, 11
4 through 13 is a summary of the program that we
5 offered in terms of student athlete development,
6 helping them.

7 We had a leadership training program
8 with community service. We had back-to-school
9 affairs, just things we did to develop our student
10 athletes academically, in terms of character,
11 leadership, faith. And so that's a summary report
12 that was put together by the student athlete support
13 services office.

14 Q. As of when?

15 A. This would have been done, I'm going to
16 say in approximately -- well, I believe this was
17 actually done in the spring of '16.

18 Q. So then what's the next page? What is
19 it, 14?

20 A. The next page are -- it says Title IX
21 specific initiatives. So this is a summary of
22 various trainings and education that we did for
23 student athletes in the area of Title IX. It's On Us
24 campaign, trainings, different speakers that we had
25 that worked with our student athletes and so forth.

Page 266

1 So this was a narrative about our educational and
2 training efforts in the area of Title IX.

3 Q. Did you prepare this?

4 A. No.

5 Q. Or why was it prepared?

6 A. So these two documents, I think, were
7 just summary reports as to what we were doing. I
8 believe we were going to -- I believe the first two
9 documents were prepared in advance of a regents
10 meeting that we were going to share with the board in
11 terms of what educational efforts we were working
12 on.

13 Q. So 11 through 15 were prepared at or
14 around the same time?

15 A. Well, those two were. On 15, Callie
16 Schrank maintained this document, and basically we
17 asked her just to record all of the Title IX efforts
18 that were going on within the department and put the
19 dates on them and who was involved in it.

20 So it was really a summary document
21 that, again, was added to each time we had some type
22 of a Title IX training, education or a speaker,
23 whatever it may be.

24 Q. Who asked her to do that?

25 A. I did.

1 Q. And why?

2 A. I wanted to have a written record of
3 all of our Title IX initiatives.

4 Q. Well, where in the timeline of the
5 events, as you've described them here in your
6 testimony today, did you prepare these? I mean, did
7 you sort of see the truck coming, so to speak, and
8 you put these documents together or you did it
9 earlier?

10 A. In '15, we were told that it would be
11 wise to document all of the initiatives we were doing
12 in the area of Title IX, so that's when that began.

13 Q. By whom?

14 A. I believe we were told that as part of
15 our Title IX training that happened September of '14,
16 to document everything we did. So that's where that
17 began, and it continued through, again, this goes
18 through the spring of '16. The other documents,
19 again, I believe, were prepared in anticipation of a
20 board meeting.

21 Q. Okay. Now, you have a series of memos
22 here. I'm going to hand you Ian 16 through 20. It
23 looks like there's two memos dated June 14, 2013.
24 Excuse me, the same memo. One has your notes on it
25 and one doesn't.

1 A. Uh-huh.

2 Q. Is that a "yes?"

3 A. Yes, sorry.

4 Q. If you go to page 18, is that your
5 handwriting?

6 A. Yes.

7 Q. And what is it that you're -- what do
8 the notes mean?

9 A. There was an inference in the spring of
10 2016, during the Pepper Hamilton investigation, that
11 Kevin Jackson was involved, and Chris Holmes, who was
12 the delegated the responsibility under Charlie
13 Beckenhauer, had dropped the ball in terms of being
14 timely in Title IX implementation education.

15 And so Mr. Jackson passed this out in a
16 and executive council meeting to provide a timeline
17 for the work that they had been doing in terms of
18 Title IX implementation and sexual violence
19 implementation.

20 Q. Is it fair to describe these documents
21 as kind of the first documents that crossed your desk
22 relating to Title IX?

23 A. And again, they didn't cross my desk.
24 I think he passed them out in a meeting, and I can't
25 really tell you chronologically when I received them,

1 yeah.

2 Q. That's fair. Okay.

3 A. I believe I received that document
4 spring of 2016.

5 Q. So give me a sense of how this looks
6 there in your office? Have you got like a Title IX
7 file and this stuff landed in it, or how did you
8 organize these materials?

9 A. Most of the materials you have I
10 accumulated in the spring of '16 because I was
11 becoming very leery of what was going on with Pepper
12 Hamilton, and I wanted to make sure I had some
13 documentation related to Title IX.

14 Q. All right. If you go then with Ian 23,
15 this appears to be some type of form you fill in if
16 somebody makes a report of assault; am I right?

17 A. Yes. I think this was part of a larger
18 packet that Kevin Jackson passed out.

19 Q. Okay.

20 A. So this was not a stand-alone
21 document.

22 Q. Did you understand, though, that back
23 in November 2013, this was the form faculty staff was
24 to use if somebody came in and reported a sexual
25 assault?

Page 270

1 A. No, I was unaware of it.

2 Q. So is it the case you didn't learn of
3 this form until 2016?

4 A. I received a copy of it when Kevin
5 Jackson passed the material out, which I believe was
6 the spring of 2016.

7 Q. Okay. Ian 24 and 25.

8 This is a Student Life Executive Team
9 agenda; am I right?

10 A. Yes.

11 Q. Or are they minutes? Is it an agenda
12 or minutes?

13 A. I don't know. Again, this is all part
14 of the same packet that --

15 Q. I see.

16 A. -- Jackson passed out.

17 Q. Okay. So we may still be in the
18 packet, but I'm going to give you these three
19 handwritten pages, 26 through 28.

20 Are these pages part of that packet as
21 well?

22 A. Yes, and it's not my writing.

23 Q. Do you know whose it is?

24 A. I do not.

25 Q. Do you have a guess?

Page 271

1 A. I don't, other than I know this was
2 part of the packet that Kevin Jackson passed out.

3 Q. So again, you didn't get this until
4 2016?

5 A. Correct.

6 Q. Now, 29 through 30, we still in the
7 packet?

8 A. Yes, sir.

9 Q. This is laying out some emails, the
10 initial one at the bottom from Mr. Holmes to
11 Mr. Holmes, presumably maybe blind-copied on others.

12 It lists the individuals who were on
13 the Executive Steering Committee for the Baylor
14 University Sexual Assault Task Force; am I right?

15 A. Yes.

16 Q. Did I describe that fairly? Okay. You
17 weren't on this task force; is that right?

18 A. Correct.

19 Q. And the email, anyway, reflects this
20 was taking place in September of 2013, but I assume
21 you knew nothing about it?

22 A. I knew that Nancy Post was on this task
23 force.

24 Q. Does she work for you, or did she?

25 A. She reported to Mr. Patulski, who

Page 272

1 reported to me.

2 Q. Okay. And do you know why these emails
3 were being provided to you in 2016?

4 A. Again, I think this was, Mr. Jackson
5 was being criticized in terms of his area. And so he
6 wanted to try to provide some documentation to
7 support his case that they were not the ones that
8 dropped the ball.

9 Q. I see. Okay. So like if you go to 31,
10 let me just see here. I'll tell you what, do this
11 for me. I'm just going to take the rest of your
12 stack of documents here. Take us to the page number
13 where the packet ends.

14 A. Okay. I'll try to do that.

15 The last page in the packet is 59.

16 Q. All right. And so it fair to say,
17 then, all the way -- the pages from where we began to
18 page 59 is the Kevin Jackson packet you got in 2016;
19 is that right?

20 A. Correct.

21 Q. You didn't make alterations to it?

22 A. Other than a couple of those notes that
23 we discussed earlier.

24 Q. I mean, your best recollection is
25 that's the whole packet? You didn't cull out parts

1 of it, throw it away, misplace it?

2 A. No.

3 Q. You mind handing me the rest of that
4 stack back?

5 A. This, this part?

6 Q. Yes. All right. So the next document
7 I want to ask you about is 60 and 61.

8 A. Uh-huh.

9 Q. And what is this?

10 A. So this was in the fall of 2015.

11 Again, we were under siege following the Ukwuachu
12 verdict, and I asked Paul Bradshaw, who
13 oversaw -- who's our liaison with judicial affairs
14 and oversaw student discipline issues, to see if our
15 processes are similar to other institutions. So he
16 did some research related to that, and these are his
17 findings.

18 Q. Were they sent to you privately?

19 A. I was the recipient of that email, so
20 I'm not aware that he would have blind-copied anyone,
21 although it's possible.

22 Q. Okay. All right. I just want to ask
23 you about pages 62 to 74. This is a statement that
24 was printed, that was printed of an individual who
25 was sexually assaulted and describing her experience.

Page 274

1 And I'm just curious as to why that's
2 in your file?

3 A. Let's see. Again, I was accumulating a
4 lot of information the spring of -- this is during
5 the height of the Pepper Hamilton investigation. So
6 I was accumulating a lot of different information
7 related to the topic of sexual assault.

8 I think one of the reasons I maintained
9 this one was obviously it cited a case that was
10 outside of athletics and, you know, kind of spoke to
11 the institutional nature of the scandal as opposed to
12 it being an athletic or a football problem.

13 Q. All right. But your best recollection,
14 somebody didn't bring this to you or hand it to you?
15 You ran across it somehow?

16 A. Yes.

17 Q. Okay. All right. Go with us now to
18 78.

19 What is this?

20 A. So these are my handwritten notes from
21 the February 4th, 2015 meeting with Patty Crawford,
22 Reagan Ramsower, Chris Holmes, Juan Alejandro and
23 myself, when Patty essentially launched the Title IX
24 investigation into the football program.

25 Q. Okay. So it says, Meeting, and then

1 2/4.

2 I assume that's February 4th?

3 A. Yes.

4 Q. Then it's got two blanks, and then it
5 says Briles something or another. Briles Nichols?

6 A. Yeah, Briles nickname.

7 Q. Nickname?

8 A. Yeah. She referenced an alleged sexual
9 assault involving a football player by nickname.

10 Q. I see. Is that in behind one of these
11 blanks?

12 A. One of the blanks is a nickname.

13 Q. What's behind the other blank? Not the
14 actual name, but is it a person's name, or do you
15 know?

16 A. I assume it's a personal name since
17 it's redacted. I can't tell you offhand.

18 Q. And the next line has got a blank.
19 Do you think that's a name as well?

20 A. It is a name, and that was about a
21 sexual encounter that she referenced in the spring of
22 2012.

23 Q. Was that another football player?

24 A. I suspect so, since the content of that
25 meeting was about football.

1 Q. Then another blank.

2 Again, is that a name?

3 A. Yes.

4 Q. And it says, Nice guy. No immunity.

5 A. Yes.

6 Q. Again, don't tell us.

7 Do you know who that is?

8 A. Yes.

9 Q. Is it a public name?

10 A. We've already talked about it today.

11 Q. Okay. Who is that?

12

13 Q. And why were observing nice guy, no
14 immunity?

15 A. That's how -- well, Patty described him
16 as a nice guy who was a witness who she wanted to
17 interview, and that was the one that I helped arrange
18 the interview for.

19 Q. I see.

20 A. I asked, at that point in time, are you
21 granting him any type of immunity, or is he at risk?
22 Because I wanted -- if in the event I needed to speak
23 to him directly, I wanted to be able to give him some
24 advice about whether he should consider talking to a
25 lawyer or not. So that was where Chris Holmes stated

Page 277

1 that he would not be provided immunity.

2 MS. BROWN: And I need to interject

3 [REDACTED]

4 public name.

5 MR. DUNN: Okay. Well, we'll agree
6 that that portion of the record is confidential and
7 is redacted and won't be disclosed under the
8 protective order.

9 BY MR. DUNN:

10 Q. The next line has a blank, a hash and a
11 blank.

12 Are those names as well?

13 A. Yes.

14 Q. And it says, what looks like a
15 checkmark, '13?

16 A. January '13.

17 Q. I see. Violence. Then you say, No
18 training fall of '14.

19 What does that mean?

20 [REDACTED]

21 domestic violence incident that she learned about,
22 and she was asking whether anybody would have
23 reported it. And I said I doubt it because we didn't
24 have any training until the fall of '14, which would
25 have been some 20 months after this incident.

Page 278

1 Q. Next line says, Timeline blank, depart
2 blank.

3 Again, are those names?

4 A. Yes.

5 Q. And without saying what the names are,
6 what are you recording there?

7 A. She requested a timeline, again, of
8 when at least two student athletes arrived on campus
9 at Baylor and when they departed campus. So she
10 asked us to produce documentation about that.

11 Q. Next line, 2011-12 FB roster.

12 I assume she wants a football roster
13 for those years?

14 A. Correct.

15 Q. Next one is what? What does that
16 say?

17 A. VB, volleyball roster.

18 Q. I see.

19 A. She wanted a volleyball roster for 2012
20 and 2013.

21 Q. And hand-deliver, that's how she wanted
22 it delivered?

23 A. Yes.

24 Q. Is it your belief, here on page 78,
25 these were all of the issues Ms. Crawford was looking

Page 279

1 into as it related to athletics?

2 A. Those were my notes from the meeting.

3 I'm not sure how extensive her investigation was, but
4 those were the notes from that particular meeting.

5 Again, my charge was to collect various
6 documentation, put it in a packet, and have it
7 hand-delivered to her office.

8 Q. Well -- okay.

9 If she had mentioned another event of
10 potential sexual assault, would you have written it
11 down?

12 A. I assume so.

13 Q. I mean, in other words, I'm trying to
14 find out, you know, do you think that there were
15 other students, events, assaults mentioned and
16 discussed that you didn't write down on this piece of
17 paper?

18 A. I don't think so.

19 Q. Okay. All right. Here's Ian 79.
20 Actually, it goes with -- it goes to 84, I think.
21 Oh, yeah, 81. She's right.

22 This appears to be a web page of some
23 Title IX experts; do you agree?

24 A. Yes.

25 Q. Why was this in your file?

Page 280

1 A. This was part of the packet that we
2 provided to Patty Crawford. She had -- we had had
3 this gentleman -- let me see if I can find his name.
4 Scott Lewis had been recommended to us as a Title IX
5 speaker by, I believe, the University of Oklahoma and
6 Texas Tech University.

7 And so I wanted to provide her with
8 that recommendation to see if she was in agreement
9 that that would be an appropriate Title IX speaker
10 for us to bring to campus.

11 Q. And did y'all do so?

12 A. She did not favor bringing in this
13 particular speaker, so we ended up bringing in
14 someone else.

15 Q. Did she express to you why?

16 A. Yeah. She said this is someone who
17 more sets up Title IX offices as opposed to is in the
18 trenches dealing with Title IX issues. So she
19 advised not to bring him to campus.

20 Q. Did you pick -- did you ever talk to
21 this fellow or just --

22 A. I never spoke to him.

23 Q. Okay. Was he referred to you by
24 somebody?

25 A. Yes.

Page 281

1 Q. Who?

2 A. Texas Tech and Oklahoma referred them
3 to one of our staff members, who recommended him to
4 me, and then I passed the information on to Patty
5 Crawford.

6 Q. Who did you end up calling in?

7 A. Oh, we had a number of speakers that
8 are on that grid that we looked at a while back.
9 Katie Koestner was one we brought in. It may have
10 been, she may have been the one we brought in in lieu
11 of this individual.

12 Q. Is it fair to say that Ms. Crawford
13 influenced who you called in?

14 A. Yes.

15 Q. I mean, did she pick them?

16 A. She influenced them. We -- I recall
17 her being very enthusiastic about Katie Koestner
18 coming to campus. She was excited about her and not
19 excited about this gentleman, so that's why we went
20 in that direction.

21 Q. All right. Go with me to 91 and 92.
22 The first of those two pages go
23 together?

24 MR. HENNINGER: That was a question.

25 THE WITNESS: Oh, do they go, I'm

1 sorry?

2 BY MR. DUNN:

3 Q. Do those two pages go together, or are
4 they independent documents?

5 A. They go together, yes.

6 Q. Okay.

7 A. I'm sorry, I missed your question.

8 Q. So what are these?

9 A. These are just handwritten notes that I
10 made. After Patty initiated the Title IX
11 investigation into the football program, I wanted to
12 check with some colleagues about, you know, their
13 experience with Title IX and their campus to kind of
14 learn about best practices and where they were in
15 terms of Title IX implication. So those are
16 notations that I made, and the second page is
17 conclusions that I arrived at.

18 Q. The conclusions that you arrived at
19 were, Late in Title IX training, late in Clery
20 training; is that right?

21 A. Yes.

22 Q. In other words, in your discussions
23 with other Big 12 schools, they'd been doing this for
24 some period of time before Baylor got to it?

25 A. Yes.

Page 283

1 Q. Now, these, 93 through 95, appear to be
2 some emails from Juan Alejandro to you; is that
3 right? Well, and Patty Crawford to you, copying
4 Mr. Alejandro.

5 A. Yeah. The -- so the first one was from
6 Mr. Alejandro to myself, Reagan Ramsower, and Kevin
7 Jackson regarding the Title IX review related to the
8 football program.

9 Q. And is there a reason that you, you
10 know, printed these out? I mean, presumably you get
11 hundreds of mails a day, so you made the decision to
12 hit print on these. Why?

13 A. Well, I think the sentence that says
14 there are no current reports have been received to
15 indicate a cultural issue or safety concerns.

16 Q. And so you thought -- did you print
17 these later or like that day, February 25th, you read
18 this and hit print?

19 A. No. I went back in the spring of 2016
20 and gathered these, these emails.

21 Q. Okay. Did you delete any?

22 A. No.

23 Q. So what was the import of printing the
24 second mail, page 94?

25 A. Number 94, the second one. Again, the

Page 284

1 same thing. The -- no current cultural or safety
2 issues, because there was certainly a suggestion that
3 there was a cultural problem in football.

4 And the fact that our Title IX expert
5 Patty Crawford had done an investigation and
6 concluded that there was no cultural or safety
7 concerns in the football program was certainly
8 contrary to what was being alleged and ultimately
9 what was eventually reported by the regents.

10 Q. Okay. Then and page 95.

11 Why did you retain that one or print
12 it?

13 A. Again, that was also just the meeting
14 that she scheduled me that ended up being held on
15 April 8th. Again, this is where she said she has
16 some relatively good news and had completed her
17 review and wanted to talk about some fun and
18 proactive ideas that we could do in terms of Title IX
19 training for our student athletes.

20 Q. Okay. Did you ever hand those emails
21 to any of the regents to sort of justify your
22 position?

23 A. No. And I don't recall having an
24 opportunity to do that.

25 Q. Okay. Go with me to 96 here.

1 Are these again handwritten notes by
2 you?

3 A. Yes.

4 Q. April 8th, dated what year?

5 A. That would be April 8th, it would have
6 been 2015. This was the wrap-up meeting with Patty
7 Crawford.

8 Q. And you said that, the first bullet
9 says, Patty said we have really good news regarding
10 the case. Next bullet. None of the women want to
11 file complaints. As a result, nothing needs to be
12 reported to OCR; is that right?

13 A. Yes.

14 Q. I mean, is it good news that a woman
15 who believes she was sexually assaulted doesn't want
16 to pursue a report?

17 A. Apparently it was to her.

18 Q. So that was her observation?

19 A. Those are her statements.

20 Q. Okay. Did you view it as good news?

21 A. I don't really know how anything
22 related to sexual assault can be good news.

23 Q. All right. So is it your testimony
24 that each of these things are pretty much direct
25 quotes of what Ms. Crawford said?

1 A. Yes.

2 Q. Again, there's two blanks.

3 Are those student names?

4 A. Yes.

5 Q. Are those student names the same ones

6 that were on that earlier note you took, where you

7 took down each of the issues Ms. Crawford wanted you

8 to give her information on?

9 A. Yes.

10 Q. All right. In other words, these

11 aren't new cases that weren't already on the radar

12 screen?

13 A. No.

14 Q. Okay. All right. 97. All right.

15 Are these Mr. Patulski's notes?

16 A. Yes.

17 Q. And how did they end up in your file?

18 A. He provided me a copy.

19 Q. Why?

20 A. He had spoken with Coach Kazadi and Wes

21 Yeary, this is related to the volleyball situation,

22 and he told me he was going to write up a summary of

23 those two conversations and provide it to me, and he

24 did.

25 Q. Did he express to you why he was going

Page 287

1 to do a summary of those?

2 A. He didn't.

3 Q. Page 98. This is undated; is that
4 true?

5 A. Beyond saying the fall of 2015.

6 Q. Is this your handwriting?

7 A. Yes.

8 Q. It says, In the fall of 2015, there's a
9 clause include during an EC/sexual task force
10 meeting, Patty Crawford mentioned that redaction was
11 with redaction during the April 2013 alleged sexual
12 assault that redaction was being investigated for.
13 Chris Holmes then said.

14 Is there a name identified there?

15 A. I mean, that's a pretty big chunk of
16 redaction.

17 Q. It sure is.

18 A. So I'm not entirely sure what's in
19 there.

20 Q. Well, without mentioning names, do you
21 remember what she told you Chris Holmes said?

22 MS. BROWN: And objection. It's
23 calling for privileged information. It's been
24 redacted because of the conversation with the Deputy
25 General Counsel Chris Holmes.

1 BY MR. DUNN:

2 Q. It's been redacted because it's
3 incredibly embarrassing for the university.

4 Do you know, do you recall what
5 Ms. Crawford stated to you?

6 MR. HENNINGER: I instruct the witness
7 not to answer the question based upon the assertion
8 of attorney-client privilege by Baylor University.

9 BY MR. DUNN:

10 Q. Do you recall Mr. Holmes saying
11 something to the effect of, we didn't see that or we
12 got to destroy that record?

13 MR. HENNINGER: The same instruction.

14 MR. DUNN: Is it the case you won't
15 allow the witness to testify as to the contents of
16 what has been redacted from this document, even if we
17 don't mention names?

18 MR. HENNINGER: I'm instructing the
19 witness not to answer the -- not to provide what was
20 stated by Chris Holmes in this meeting, based upon
21 the assertion of attorney-client privilege by Baylor
22 University.

23 BY MR. DUNN:

24 Q. Without getting into what Mr. Holmes
25 said, did you understand that what Mr. Holmes was

Page 289

1 giving in that comment to be legal advice?

2 A. I didn't take it to be legal advice,
3 no.

4 Q. Did you gather that Ms. Crawford was
5 reaching out to Mr. Holmes for legal advice?

6 A. I don't believe in that sense it was,
7 no.

8 Q. Now, the long blank in the middle of
9 the page that's sort of three boxes; one big, one
10 medium and one small box, that is, the best you can
11 recall, the statement that Mr. Holmes made; is that
12 right?

13 A. Yes.

14 Q. Does it include a student name?

15 A. I believe so, but I'm not 100 percent
16 certain.

17 Q. And the last, the third line from the
18 bottom, there's two more redaction boxes.

19 Do you know those? Do you believe
20 those to be student names or something else?

21 A. One is a student name and one is a
22 university.

23 Q. Okay. All right. I'm going to hand
24 you 99.

25 So why -- why -- do 99 and 100 go

Page 290

1 together?

2 A. It seems like it, yes.

3 Q. Why did you decide to print this
4 email?

5 A. Yeah. I believe this is just evidence
6 that Colin Shillinglaw was helping to coordinate the
7 interviews requested by the Title IX office.

8 Q. Okay. And I guess I go back to, you
9 know, you probably get a couple hundred emails day.
10 Why did this one get printed?

11 A. Again, I would have printed this in the
12 spring of 2016 because I believe there was, again, an
13 assertion that Colin Shillinglaw was not being
14 cooperative, which I didn't find to be the case. And
15 my understanding was he was working with Gabby on
16 trying to get these interviews arranged.

17 Q. Okay. 101.

18 Are the two blanks on 101 -- well,
19 first, this is a handwritten note by you on Big 12
20 stationery; is that right?

21 A. Yes.

22 Q. The two blanks, or the two redactions,
23 is that student names?

24 A. The first one is a reference to a
25 student, but not a name.

Page 291

1 Q. Okay.

2 A. Because it's an alleged victim.

3 Q. And what's the second one?

4 A. It would have been a reference to the
5 individual involved in the sexual assault.

6 Q. All right. So it says, Baylor paid for
7 blank school bills to compensate her as a result of
8 blank sexual assault.

9 Did I read that correctly?

10 A. Yes.

11 Q. Where did you get this information?

12 A. That is something I would have learned
13 in an executive council or sexual task force, Sexual
14 Assault Task Force meeting.

15 Q. This alleged assailant, was it a
16 student athlete?

17 A. Yes.

18 Q. Was the alleged victim a student
19 athlete?

20 A. No.

21 Q. Did you have any knowledge of somebody
22 being compensated?

23 A. That's what I found out at that time
24 and made a notation of it.

25 Q. Do you know who was involved in that

1 incident, in terms of the decision at Baylor to pay
2 some money to a victim?

3 A. I know who was involved.

4 Q. Who was that?

5 A. Chris Holmes.

6 Q. Anybody else?

7 A. Ramsower.

8 Q. Anybody else?

9 A. That's all I know.

10 Q. So an allegation was made that a
11 student athlete sexually assaulted a student, and
12 Mr. Holmes and Ramsower and potentially others
13 authorized a payment to the alleged victim, or
14 compensation in some form.

15 And you were made aware of none of
16 those events until well after it had happened?

17 A. I was notified after the arrangement
18 had been made.

19 Q. And were any of these students still at
20 the school by the time you learned of it?

21 A. The alleged victim was not, and the
22 alleged perpetrator was.

23 Q. Did you understand the alleged
24 perpetrator suffered any discipline?

25 A. Yes.

Page 293

1 Q. What was that?

2 A. Dismissal from the football team and
3 eventual expulsion from the university.

4 Q. So you must have known about the
5 discipline, or no?

6 A. Yes.

7 Q. You just didn't know that there was
8 compensation paid?

9 A. I found out about that at a later
10 time.

11 Q. I see. Okay. All right.
12 102; another handwritten note by you;
13 true?

14 A. Yes.

15 Q. October 20th, this is dated, I assume
16 that's 2016?

17 A. There's an email that goes with it that
18 would verify, I think, the next document perhaps.

19 Q. Is that 103?

20 A. Yes.

21 Q. All right. What is the context of
22 these notes in this email?

23 A. The context is that Patty Crawford was
24 in a graduate school class and began to talk about
25 the cases that she was working on, including with the

Page 294

1 track program, the tennis program, football, and the
2 guys from the rugby club.

3 Q. And why did you take this note?

4 A. It was brought to my attention by
5 our -- by the redacted name, through his boss, the
6 head tennis coach. And he was alarmed about, you
7 know, the lack of confidentiality and professionalism
8 exhibited by Patty Crawford by sharing what he
9 believed to be sensitive and confidential information
10 with a group of students.

11 Q. So page 102, the redaction there, is
12 that a student name?

13 A. It is a student name, yes.

14 Q. And was that student a student
15 athlete?

16 A. No.

17 Q. And was --

18 A. Well, not a student athlete at
19 Baylor.

20 Q. Was that person, the redaction there,
21 is that the alleged victim or the alleged --

22 A. That was the --

23 Q. -- assailant?

24 A. That was the graduate student who was
25 in the class who brought this to our attention.

Page 295

1 Q. I see. Okay. All right.

2 104; again, a personal note from you?

3 A. Yes.

4 Q. Dated November 13, 2015. Kevin
5 Jackson, EC meeting.

6 Did you take this note around that
7 date, or is this again something you did later?

8 A. Yeah. I believe this was
9 contemporaneous.

10 Q. You have a quote here. "We went from
11 zero to 60 in Title IX over 12 months." He was
12 speaking in reference to the lack of progress on
13 diversity initiatives.

14 Do you see that?

15 A. Yes.

16 Q. What does diversity initiatives have to
17 do with the quote?

18 A. That was just the context of Kevin
19 Jackson making that statement.

20 Q. Then you see, and it looks like it's
21 kind of maybe a finer point pen or --

22 A. Yeah.

23 Q. -- the writer is not writing hard, but
24 the line below, it says, It feels more like we have
25 from zero to 120!

Page 296

1 Do you see that?

2 A. Yeah.

3 Q. Is that your writing?

4 A. Yes.

5 Q. What is the IM dash to the left?

6 A. My initials.

7 Q. Okay. Go to 108. Thank you.

8 Again, a handwritten note by you dated
9 February 3rd; is that right?

10 A. February 3rd, 2016.

11 Q. All right. Now, this one's got,
12 "off-campus," and then it's boxed with a line; is
13 that right?

14 A. Yes.

15 Q. And it says, judicial affairs doesn't
16 consider, "off-campus," --

17 A. Incidents.

18 Q. -- incidents to fall under Title IX -
19 Bethany to Patty.

20 Is that what you wrote?

21 A. Yes.

22 Q. And where did you get this
23 information?

24 A. In a meeting with Patty. The context
25 of it was she said when she arrived at Baylor in

Page 297

1 November of 2014, she met with Bethany McCraw, and
2 Bethany's understanding at that point in time was
3 that Title IX issues only involved incidents that
4 occurred on campus.

5 And Patty said, I corrected her and
6 told her it was on campus, off-campus, and even
7 international students, if they were studying abroad.
8 So she went on to basically criticize Bethany's lack
9 of understanding of Title IX at the time when Patty
10 arrived.

11 Q. So did you and Patty have the same
12 belief, that Title IX covered these other students in
13 other areas, like you just described?

14 A. I didn't have a concept back at that
15 point in time. But Patty, Patty was essentially
16 making the point that A, Bethany didn't understand
17 what she was doing back at that point in time; and,
18 then, B, Title IX applies to any student, whether
19 they're on campus, off-campus or abroad.

20 Q. So as you sit here at Liberty
21 University today in 2018, what is your belief, based
22 on the training you've received, as to what students
23 are covered by Title IX?

24 A. Any student.

25 Q. No matter where the assault occurs?

Page 298

1 A. Yes.

2 Q. If you go to page 109.

3 Was this a contemporaneous note that
4 you took?

5 A. Yes.

6 Q. Dated February 9th. You say, Reagan
7 Ramsower called to provide me with an update on
8 blank.

9 Is that a student name?

10 A. Yes.

11 Q. Title IX case. He said the adjudicator
12 cannot make up her mind. She was recommended to
13 Baylor by Pepper Hamilton.

14 Do you know who the "she" was? Again,
15 I'm referring to the adjudicator, not the student?

16 A. I don't know the name of the
17 adjudicator, no.

18 Q. You go on to say, She is learning --
19 leaning towards finding him responsible and giving
20 him probation. Patty asked her if she saw the
21 "Outside the Lines" show. Reagan and I discussed
22 that a responsible probation finding would be
23 problematic in the current environment. He said that
24 the adjudicator needs to just make the decision, and
25 we will come up with the sanction.

Page 299

1 Did you see that?

2 A. Yes.

3 Q. Is this student name public?

4 A. I don't believe so, no.

5 Q. All right. Was it common that the
6 adjudicators would make a decision as to whether or
7 not there was a, you know, a violation or an assault
8 and then somebody like Ramsower would decide what the
9 punishment was?

10 A. I wasn't involved in the operations of
11 Title IX. Obviously, he oversaw the Title IX at that
12 point in time, so he was just giving me a briefing.
13 I thought several things were peculiar.

14 I thought it was odd that Patty would
15 essentially try to influence the adjudicator by
16 talking about the Outside the Lines show, and, you
17 know, the pressure we would have to find athletes
18 responsible. I also thought it was problematic if
19 someone was found responsible for sexual assault and
20 we allowed them to remain on campus or on a team. I
21 thought that would be a problem.

22 And I was a little bit puzzled by his
23 comment that the adjudicator should make the decision
24 and that we, "we" being the university, or "we," I
25 guess, being him and Patty, would come up with the

1 sanction.

2 Q. Okay. You didn't view you as part of
3 the we that would come up with the sanction?

4 A. No.

5 Q. 110. This is a typed note.

6 Do you know who made this typed note?

7 A. I would have made that.

8 Q. And this is dated February 12th, 2016.

9 Reference Mark McCollum's comments at
10 the regent meeting; is that right?

11 A. Yes.

12 Q. Who is Mr. McCollum?

13 A. A member of the regents.

14 Q. And why did you take this note or
15 record this?

16 A. Again, I thought it was an unusual
17 statement to make. That, again, his position was
18 that there was considerable discussion at the regent
19 level about adding more counseling services at the
20 university. And he was -- didn't think building a
21 bigger Band Aid would be a positive way to deal with
22 sexual assault.

23 He thought it was a spiritual problem
24 and really challenged Kevin Jackson to improve the
25 spiritual climate overall on campus. And then he

Page 301

1 also mentioned that we should also have the best FCA
2 program in the country as well, and that, you know,
3 would more fall in my realm.

4 Q. And you say these comments were met by
5 applause from the Board of Regents.

6 A. Yeah.

7 Q. So what was noteworthy about this, in
8 your mind?

9 A. They were, they felt that the answer to
10 solving sexual assault at Baylor was spiritual
11 emphasis as opposed to providing counseling and
12 health services and support functions.

13 Q. Did you agree with that opinion?

14 A. Not entirely, no.

15 Q. Was there any dissenting voice made to
16 Mr. McCallan's comments? Mr. McCollum's, excuse me.

17 A. I don't recall a dissent.

18 Q. All right. Then there's 111. This is
19 also dated February 16, 20-- well, not also. This
20 is dated February 16, 2016. Patty Crawford
21 presentation. You say, Patty presented at our
22 monthly coaches forum. She -- I'm skipping parts,
23 paraphrasing. But she referenced the ESPN Outside
24 the Lines, and she took exception to the comment
25 about half of the SANE exams resulting from student

1 athletes.

2 Why did you take this note?

3 A. Again, just a summary of her comments
4 to our coaching staff and administrators. You know,
5 things that I thought were more noteworthy within
6 this are the number of cases that she had since
7 arriving at Baylor, 247 cases. Again, I thought that
8 was a significant number.

9 And, of course, the other piece being
10 that student athletes make up a very small percentage
11 of her cases. She said there's no pattern involving
12 student athletes that she has detected. So, again, I
13 think that goes to speak to the fact that this was
14 not a football problem. It was a campus-wide
15 problem, in her opinion.

16 Q. And earlier you mentioned a number, 300
17 cases, so I suppose later there was an addition to
18 this 247?

19 A. I didn't recall the exact number. It
20 was an approximation; so --

21 Q. I see. So this presentation
22 Ms. Crawford made on February 16 of 2016 was around,
23 let's call it around a year-and-a-half from when she
24 arrived in November of 2014, and she had had 247
25 cases in that time period.

Page 303

1 That's what you recall her telling your
2 coaches at that meeting?

3 A. Yes.

4 Q. Did she express an opinion as to
5 whether that was a small, large, reasonable number?

6 A. She certainly cited the fact that their
7 office was very, very busy.

8 Q. All right. 112.

9 This is dated March 29, is that in 2016
10 as well?

11 A. Yes.

12 Q. It says, Notes - Ramsower.

13 Without providing any student names,
14 what were you recording here and why?

15 A. So in one of my meetings with Pepper
16 Hamilton, they disclosed that Chief Doak had sent an
17 email to several senior administrators, not including
18 me, on that date about risky sexual activity
19 involving football players and asked if I knew about
20 it. I told him I didn't.

21 I assumed Ramsower must have received
22 that since he was Doak's supervisor, and so I was
23 asking him why I wasn't notified. Because we could
24 have put in place some sex education and tried to
25 address, you know, risky behavior if that was, in

1 fact, going on at the point in time.

2 Q. He says, you've got a note here, No
3 personnel, what is that, recommendations?

4 A. Yes.

5 Q. What was meant there?

6 A. We discussed the fact that Pepper
7 Hamilton was not going to be making any personnel
8 recommendations --

9 Q. Personnel.

10 A. -- to the Board of Regents in the
11 presentation.

12 Q. Then it says, Highly confidential and
13 has a blank.

14 Are those student names?

15 A. I can't say for sure. No, I don't
16 know.

17 Q. And then you report to the board in
18 May?

19 A. Yeah, that Pepper Hamilton would report
20 to the Board of Regents in May.

21 Q. Do you not have available your actual
22 originals here today?

23 MR. HENNINGER: I don't.

24 THE WITNESS: I don't have them.

25 BY MR. DUNN:

1 Q. You didn't bring them?

2 A. I don't have them.

3 Q. The last bulletpoint was two blanks,
4 and it says what? I can't read that.

5 A. Centerpiece went to approximately 30
6 people.

7 Q. What does that refer to?

8 A. That's the incident involving the

9 [REDACTED]
10 approximately, it was actually 27 people to try to
11 get help after she was sexually assaulted. And she
12 had various problems getting help from anybody, ended
13 up getting a work study job working for the women's

14 [REDACTED]
15 Q. On your documents here that you
16 produced to your lawyer, did they -- is it your
17 understanding that Baylor's counsel has reviewed all
18 of them, including the ones you're withholding from
19 us?

20 A. I don't know that.

21 Q. All right. I want to go now to 122.
22 And this is the email that's in the file before that.
23 I don't think it's related, but if it is you can let
24 me know. I just handed you 121.

25 A. Unrelated.

1 Q. Unrelated. Okay.

2 So what is 122?

3 A. So this is, each year the Faculty
4 Athletic Council, which reports to Baylor's Faculty
5 Senate, would conduct a student athlete survey that
6 they constructed and sent out through the Office of
7 Institutional Research to all student athletes to get
8 survey results to various questions that they posed.

9 And each year, the Office of
10 Institutional Research would produce a document that
11 they would distribute to members of the Faculty
12 Athletic Council. I would be copied, and typically
13 Paul Bradshaw and Nancy Post in the athletics
14 department were also copied.

15 Q. So there's a comment here, sport
16 volleyball, and then the comment is men raping women
17 and getting away with it, football especially.

18 Is that a comment a respondent to the
19 survey made?

20 A. That's my understanding.

21 Q. And why did you include this in your
22 file?

23 A. Because I believed this related to the
24 volleyball student athlete issue.

25 Q. All right. Now, we got 130 to 133.

Page 307

1 These appear to be, are they slides
2 from a PowerPoint?

3 A. Yes.

4 Q. When was this presentation prepared and
5 made?

6 A. This would have been something that was
7 developed within the football program and provided to
8 football student athletes. My assumption is that
9 this would have been in 2015 or possibly 2016 since
10 it has Patty Crawford. There was essentially an
11 educational effort on the part of the football
12 coaching staff to inform their student athletes and
13 train them.

14 Q. So just so our timeline is clear, is it
15 your belief this presentation here was given while
16 Briles was still the head coach?

17 A. Yes.

18 Q. Right before or many months before he
19 was terminated?

20 A. I can't say for certain. But this is,
21 this work product would have been done and presented
22 when he was the football coach.

23 Q. Okay. Now, in your file, the end of
24 your file is 134 to 137.

25 What are those pages?

Page 308

1 A. Oh, those are just a couple of letters
2 that were sent. Let's see, there was a letter sent
3 from a former Chair of the Board of Regents, Gale
4 Galloway, to President Falwell. And he sent me a
5 copy of it as well, so I just put that in my file.

6 And then after the Rusty Hardin finding
7 of facts was disseminated, Liberty was asked for a
8 comment in response to that, and the university sent
9 out a couple of email responses, along with some
10 other information, that included comments from Baylor
11 regents and others about -- about me.

12 Q. Going back to the Pepper Hamilton
13 investigation and report, did you ever have any
14 regents express to you that they disagreed with the
15 report?

16 A. With -- and when you say "the report,"
17 the May 2016 presentation or the process or --

18 Q. Any of the above?

19 A. Yes.

20 Q. Which regents didn't have confidence in
21 Pepper Hamilton's work?

22 A. I know Jay Allison was one. Mark Hurd.
23 Some of the ones we previously mentioned, yes.

24 Q. And did they express why?

25 A. There were a variety of comments. I

Page 309

1 mean, Jay Allison nicknamed Smith and Gomez wood and
2 shed and said that some of the -- his colleagues on
3 the regents thought they were brought in to destroy
4 the football program.

5 Q. Now, I mean, a devil's advocate could
6 argue these people just didn't want to hear the bad
7 news.

8 You don't think that's the case?

9 A. I don't think that's the case.

10 MR. DUNN: All right. I'm going to
11 take one last break here. I'm almost finished, and
12 I've got a few more documents that you didn't produce
13 that I want to ask you about, and then I'll hand you
14 off to Ms. Brown, or whoever else wants to ask you
15 questions; all right?

16 THE WITNESS: Okay.

17 MR. DUNN: All right. Thank you.

18 THE VIDEOGRAPHER: Going off the record
19 at 4:31 p.m.

20 (Recess.)

21 THE VIDEOGRAPHER: We are going back on
22 the record at 4:42 p.m. This is the start of Disc
23 Number 5 in the deposition of Ian McCaw.

24 THE WITNESS: Could I just make a quick
25 comment? You'd asked me about legal counsel earlier,

Page 310

1 and I did retain Tom Brandt, who is Steve's
2 colleague, to help me with my separation agreement in
3 November of 2016, and I did pay him. I just wanted
4 to clarify that.

5 BY MR. DUNN:

6 Q. Okay.

7 A. That slipped my mind in the earlier
8 questioning.

9 Q. Mr. Brandt is a partner of your lawyer
10 here today?

11 A. Yes.

12 Q. I see. Okay.

13 Have you used that firm for any other
14 reason?

15 A. No.

16 Q. All right. I've got a few more
17 documents, but you'll be pleased to know I culled it
18 down quite a bit. We'll all be pleased to know,
19 actually.

20 Anyway, so I want to show you what has
21 been marked PH, which means it's from the Pepper
22 Hamilton files, 543198 and 199. And you'll note that
23 there's an appointment that includes you, and there's
24 an email from Mark Dunn to a number of folks, and
25 you're included.

Page 311

1 Do you see that?

2 A. Yes.

3 Q. This is dated back February 22nd, 2012.

4 A. Yes.

5 Q. Do you agree?

6 A. Yes.

7 Q. Yeah. All right. So if you go down to
8 number paragraph 5 in Mark Dunn's email of February
9 22nd, it says, The athletic department has conducted
10 several external assessments over the last couple of
11 years, including a Title IX evaluation, Big 12
12 compliance audit and others.

13 Do you see that?

14 A. Yes.

15 Q. Do you know what they mean by the Title
16 IX evaluation?

17 A. Yes. We had a Title IX consultant --
18 and this is the Title IX related to athletics
19 proportionality and scholarships and so forth -- by
20 the name of Helen Grant. And so she was a consultant
21 that worked with us on, again, participation numbers,
22 the other side of Title IX.

23 Q. Okay. She had nothing to do with
24 sexual assault on campus Title IX issues?

25 A. No.

Page 312

1 Q. Okay. All right. That's that. Now,
2 we're going to go to Pepper Hamilton 544805, and
3 actually, I don't even need to show it to you. This
4 is an email that references a woman named Amanda
5 Norman and identifies her as a university archivist.

6 Do you know who that person is?

7 A. Amanda Norman. It doesn't come to
8 mind.

9 Q. Are you familiar with an office called
10 the university archivist?

11 A. I know they keep archives. I'm trying
12 to remember. I believe it's over in the Mayborn
13 Museum that they an archive of university records and
14 documents, historical information and so forth.

15 Q. Who decides what goes in this
16 archive?

17 A. I don't know.

18 Q. So I mean, is it, and I'm not being
19 critical. I'm just, but, you know, you're the
20 director of athletics; right?

21 A. Yeah.

22 Q. You go win a conference championship --

23 A. Yeah.

24 Q. -- presumably you want some of that in
25 the archives?

Page 313

1 A. Sure.

2 Q. You don't know how that happens?

3 A. Well, we have our -- we had our own
4 hall of fame where we, you know, celebrated our own
5 accomplishments. But I do also know that there was,
6 within the context of the Mayborn Museum, there was
7 somebody who archived various university records and
8 certainly would have commemorated athletic
9 accomplishments, as well as other university
10 events.

11 Q. Okay. I'll give this to you. You can
12 review it. We're getting copies for the lawyers.
13 All right. This is dated August 22nd, 2015, and at
14 least at the top heading it says it's from you to
15 Jeremy Counseller.

16 Do you see that?

17 A. Yes.

18 Q. Going to the beginning of the
19 communication, at 11:57 a.m. on August 22nd, Ian
20 McCaw wrote, and it's blank.

21 Do you see that?

22 A. Yes.

23 Q. And something before that, it says,
24 sent from Phil Bennett to Colin Shillinglaw.

25 Do you see that?

Page 314

1 A. Yes.

2 Q. And somehow or another there's an email
3 address above this, William Counseller at Baylor.edu
4 wrote: Ian, this screenshot is from Coach Bennett to
5 Colin Shillinglaw; right? Do we have a screenshot of
6 the text Coach Bennett received from T. Heath?

7 Do you see that?

8 A. Yes.

9 Q. Do you know what they're talking about
10 here?

11 A. I do.

12 Q. Okay. What is the context of this?

13 A. The context is this came from Sam
14 Ukwuachu's high school coach, and I believe it was
15 something along the lines of, you know, we had no
16 problems with Sam, high character guy. It was a
17 supportive text from the high school coach to Coach
18 Bennett about Sam.

19 Q. I see. And then Bennett sent it to
20 Shillinglaw?

21 A. Yes.

22 Q. And somehow or another, then it got to
23 Counseller, and Counseller sends it to you.

24 Do I have the sort of custody chain
25 right?

Page 315

1 A. I would think that it would have been
2 us sending it to Counsellor, because that was when he
3 was doing the investigation on behalf of Starr into
4 the Ukwuachu case. So I think actually we were
5 relaying it from Bennett to Shillinglaw to me to
6 Counsellor, I believe, is how the chain of custody
7 worked.

8 Q. And at 12:13 you said, Right. We asked
9 Phil not to delete text. We can get it.

10 A. Yes.

11 Q. Counsellor responds at 12:13 and says,
12 I'd like to see it.

13 A. Yeah.

14 Q. And you respond at 12:14, Working on
15 it.

16 A. Yeah.

17 Q. Is that right?

18 A. Yeah.

19 Q. So did you ultimately get it to him?

20 A. Yes. And my recollection is we just
21 wanted Coach Bennett to preserve that message so that
22 we had the record.

23 Q. Okay. Now we need 2834549. All right.
24 This, you'll see, is copied on some of the Pepper
25 Hamilton folks and Mr. Holmes, and it doesn't appear

Page 316

1 that it was sent to you.

2 Do you agree?

3 A. Yes. I don't recall, and I don't see
4 my name on the email.

5 Q. Do you get the sense, though, from
6 having sort of lived through this, is this like one
7 of the initial meetings setting up the Pepper
8 Hamilton review, or do you know?

9 A. I know we had an introductory meeting
10 with Pepper Hamilton.

11 Q. Okay. And do you think this was it,
12 around this date?

13 A. Yes.

14 Q. Okay. I got one last document, which
15 is that one, yeah, the whole thing. So we're going
16 to look at -- well, this one isn't marked.

17 MR. DUNN: So we'll mark this as
18 Exhibit 1 to your deposition.

19 (Exhibit 1 marked.)

20 BY MR. DUNN:

21 Q. All right, sir. I'm handing you what's
22 been marked as Exhibit 1 to your deposition, which is
23 nine pages, and I've hand-numbered the pages at the
24 bottom.

25 And I'm presuming you've never seen

Page 317

1 this before, or have you?

2 A. I'm trying to figure out what exactly
3 this is. This is like text message records? Is that
4 what this is?

5 Q. Yes. I'll tell you what it is.

6 A. Okay.

7 Q. I just wanted to know first, does it
8 look like something you've seen before, in this
9 format anyway?

10 A. No.

11 Q. So this has been produced to us as part
12 of Pepper Hamilton's collection of your text messages
13 off of your -- off of your phone. And so even though
14 you may not have seen it in this format, I know you
15 obviously saw it on your phone when you used it.

16 But have you seen it after you, you
17 know, were contemporaneously sending and receiving
18 these on your phone?

19 A. I don't recall seeing these presented
20 in this form, no.

21 Q. Okay. Well, and that's what I -- I'm
22 not trying to get into semantics with you --

23 A. Yeah.

24 Q. -- but have you reviewed, whether they
25 were in this format or not --

Page 318

1 A. Right.

2 Q. -- have you reviewed just the texts
3 that Pepper Hamilton collected for you, at any
4 point?

5 A. No.

6 Q. Okay. So is it fair, then, to say
7 you're seeing these texts right here the first time
8 since you had them on your phone and was carrying
9 your phone around?

10 A. I think so, yes.

11 Q. Okay. I'm not going to go through and
12 ask you these texts, but I would like you to just
13 look at the date range here, and I believe they're
14 kind of in reverse order. So if you go to page 6 --

15 A. Page 6, okay.

16 Q. -- they have some weird dates there.

17 A. So these are from 2015?

18 Q. It's hard for me to know. Like one of
19 them has a date 2030, 2042, you know, 2057, on page
20 6.

21 A. Yes.

22 Q. But, generally, and you can thumb
23 through the pages and confirm this, I think all these
24 text messages are between, say, February of 2015 and
25 Septemberish of 2015, with the exception of the ones

Page 319

1 that seem to have the weird, far-off dates.

2 Does that sound about right to you,
3 give or take one or two? I mean, there might be some
4 different ones.

5 A. That appears to be the case.

6 Q. You would note they're not in order,
7 right, in date order?

8 A. No. They're like, it says 1945, 2005,
9 1935, 2062, so it's -- yeah, it's confusing.

10 Q. Well, yeah, I guess that's a good
11 point. But go with me to page 3.

12 A. Okay.

13 Q. So, for example, on page 3, you got
14 dates. It's all June 7, 2015.

15 A. Uh-huh.

16 Q. You go to page 2, they sort of jump
17 around on dates.

18 Do you see that?

19 A. Uh-huh.

20 Q. Okay. My question to you is, was there
21 something going on in June to September of 2015 that
22 made those text messages the ones that Pepper
23 Hamilton captured for you?

24 A. You said June to September of 2015?

25 Q. Yes.

Page 320

1 A. Yeah. That would have been, you know,
2 the summer of the Sam Ukwuachu case.

3 Q. Did they collect any texts from you for
4 other times, or do you know?

5 A. I had to turn my phone in to them on
6 two separate occasions. And my understanding was
7 they were collecting all of my electronic
8 communication; email, text messages, phone calls,
9 everything.

10 Q. Do you know why you had to do that
11 twice?

12 A. Obviously, the first time was they
13 collected everyone's device as part of the
14 investigation. And then the second time, we were
15 just told to turn our phones in. I believe that was
16 done roughly in the fall of -- I was in the
17 nonexecutive position, so I'm going to say it was
18 roughly in the fall of 2016.

19 Q. All right. So it sounds like you're
20 not able to provide us any testimony on why these
21 three months were the ones that were collected and
22 produced?

23 A. I don't know why they're produced.

24 Q. I mean, would you have had other texts
25 during different time periods? For example,

Page 321

1 confirming that you were doing a Title IX training or
2 confirming or dealing with a Title IX report?

3 A. I would have had a full array of text
4 messages and emails, so forth, from my entire time at
5 the university.

6 Q. Do you think that -- do you think that
7 the text messages that were provided for you were
8 only for those three months because they fit the
9 narrative, or do you know?

10 A. I suspect initially they were looking
11 into the Ukwuachu case to find out if there was
12 anything inappropriate that took place.

13 Q. Okay. All right. Mr. McCaw, I believe
14 Ms. Brown may have some questions for you. If she
15 does, I may have some follow-up questions for you,
16 but I appreciate your patience with me today.

17 And have you understood my questions
18 except where you've asked them to be rephrased?

19 A. Yes.

20 MR. DUNN: And then so I'll state on
21 the record that there's a number of issues, obviously
22 redactions and points in time where the witness was
23 instructed not to answer. We'll take those issues up
24 with the Court, and so we're reserving, pending court
25 ruling, reconvening this deposition on the issues

Page 322

1 that the witness has been instructed not to answer.

2 So but for this moment, we'll pass the witness.

3 MS. BROWN: If we could take just a
4 few-minute break.

5 MR. DUNN: Sure.

6 THE VIDEOGRAPHER: Going off the record
7 at 4:56 p.m.

8 (Recess.)

9 THE VIDEOGRAPHER: We are going back on
10 the record at 5:05 p.m.

11 E X A M I N A T I O N

12 BY MS. BROWN:

13 Q. Good afternoon, Mr. McCaw. I have some
14 follow-up questions with respect to Mr. Dunn's
15 questions to you, and I would like to begin with the
16 PowerPoint slides that you discussed just a few
17 moments ago.

18 A. Uh-huh.

19 Q. I believe you testified that that slide
20 show would have been presented around 2015 or '16?

21 A. Yes.

22 Q. What is your recollection?

23 A. Yes.

24 Q. Do you recall if that slide show was
25 presented at other times or earlier times?

Page 323

1 A. I don't. That specific, you're asking
2 about that specific slide presentation or similar
3 ones?

4 Q. Well, are you familiar with the
5 presentation called The Baylor Way?

6 A. Yes.

7 Q. What is The Baylor Way?

8 A. Those were kind of the ways of doing
9 things that the football coaching staff put in
10 place.

11 Q. And is that a presentation given to
12 football athletes?

13 A. Yes.

14 Q. And how long has that presentation been
15 given or shown to the athletes?

16 A. I don't know.

17 Q. Do you know who put it together?

18 A. I believe Coach Kazadi was involved in
19 preparing it.

20 Q. I'm going to hand you a document that
21 has a number that begins PH 0822041.

22 A. Okay.

23 Q. And I have tagged PH 0822061, which is
24 one of the slides.

25 A. Okay.

Page 324

1 Q. Just to make it easier to find, and
2 PH 0822091, that I was going to ask you about. So
3 let me hand this to you.

4 A. Okay.

5 Q. And if we --

6 MS. BROWN: Actually, I would like to
7 go ahead and have that marked.

8 (Exhibit 2 marked.)

9 MR. HENNINGER: That's 2; is that
10 right?

11 BY MS. BROWN:

12 Q. Do you recognize Exhibit 2?

13 A. Is it the same document that we saw
14 earlier, or is it a different document?

15 Q. I'm happy to have you compare it.

16 A. I mean, I've seen a similar form. I've
17 seen a similar document, if not the same one.

18 Q. Did you ever see the presentation
19 made?

20 A. No.

21 Q. Did you ever discuss it with the
22 football coaches on how it would be used?

23 A. I know that they did this presentation,
24 and I'm familiar with them doing this again
25 approximately 2015, 2016.

Page 325

1 Q. Could you turn to the first green
2 sticky?

3 A. Okay.

4 Q. And at the top of the page there, it's
5 0822060. The one on top, Mr. McCaw. There's -- it's
6 titled, How to Treat a Female.

7 A. Yes, yeah.

8 Q. And then if you could just take a quick
9 look at these two pages?

10 A. Yes. You want me to read both pages?

11 Q. Well, just to be familiar with them.

12 A. Okay. Okay.

13 Mr. DUNN: I'm sorry, what page?

14 MS. BROWN: It's 0822060 to 61.

15 MR. DUNN: Thank you.

16 THE WITNESS: Yes.

17 BY MS. BROWN:

18 Q. Do you know when this content was first
19 presented to the athletes?

20 A. I don't.

21 Q. Or when this was added to The Baylor
22 Way?

23 A. No.

24 Q. And if you could turn to the next
25 sticky?

1 A. Okay.

2 Q. There's a reference there, and can you
3 read the page number in the bottom right corner for
4 Mr. Dunn?

5 A. Is this 91 or 90?

6 Q. 91.

7 A. 91. Okay, yeah.

8 Q. There's a slide that refers to Chief
9 Jim Doak as being the chief of the police department
10 at Baylor.

11 Do you see that?

12 A. Yes.

13 Q. And I believe you testified earlier
14 that Chief Doak left Baylor in 2014?

15 A. Yes.

16 Q. Do you have any reason to -- let me
17 rephrase that.

18 Is it possible that this was shown to
19 the athletes while Chief Doak was still at Baylor?
20 Do you have any reason to dispute that?

21 A. It could have been.

22 Q. Do you know what time of year the slide
23 show would typically be presented to the athletes?

24 A. My sense, it was typically done in the
25 fall when they arrived on campus.

Page 327

1 Q. And so if Chief Doak left in the summer
2 of 2014, I think you said it was July, and he's
3 listed here on the slide, wouldn't you agree that
4 this was probably in use in the 2013-14 school year,
5 at a minimum?

6 A. It could have been. Again, his
7 retirement was, I think, publicly announced in
8 September of 2014. So it could have been for '14, it
9 could have been earlier.

10 Q. Do you recall ever having any
11 discussions with Coach Kazadi about any presentations
12 he was making to the athletes?

13 A. No. He reported to Mr. Patulski, who
14 you'll be with tomorrow.

15 Q. I believe you testified earlier that
16 you heard of media reports by Patty Crawford
17 regarding her allegation that you requested immunity
18 for football players accused of sexual assault?

19 A. Yes.

20 Q. Did you ever request immunity for
21 football players accused of sexual assault?

22 A. No.

23 Q. Are you familiar with the athletic
24 handbook that was distributed to the athletes?

25 A. The Student-Athlete Handbook?

1 Q. Yes?

2 A. Yes.

3 Q. And when was that distributed?

4 A. It was typically distributed at the
5 beginning of the academic year.

6 Q. So every year, a handbook was
7 distributed?

8 A. Yes.

9 Q. And that would be all athletes, not
10 just football players; is that correct?

11 A. Yes.

12 Q. And do you recall that the handbook
13 outlined certain types of misconduct that could get
14 an athlete in trouble?

15 A. It covered a wide range of topics. I'm
16 sure misconduct was covered within it, yes.

17 (Exhibit 3 marked.)

18 BY MS. BROWN:

19 Q. I've handed you a document marked
20 Exhibit 3.

21 Does this look familiar to you at
22 all?

23 A. Yes.

24 Q. The title on the front says,
25 Student-Athlete Handbook 2011-2012?

Page 329

1 A. Correct.

2 Q. Would you mind turning to page 570 and
3 571. It's the Bates-stamp number, not the internal
4 document number.

5 A. Okay. Yes.

6 Q. Do you see on the top where it says,
7 Student misconduct?

8 A. Yes.

9 Q. And if you could look at Items 3, 4 and
10 20?

11 A. 3, 4 and 20. Okay. Yes.

12 Q. Is it fair to say that with this
13 handbook that the department of athletics was telling
14 all athletes that it is student misconduct to engage
15 in threats, harassment, drunkenness and sexual
16 misconduct?

17 A. Yes.

18 Q. And is it also fair to say that you
19 were telling the athletes that they could be disciplined
20 whether or not that conduct occurred on or
21 off-campus?

22 A. I don't think it specified on or
23 off-campus being a requirement of that.

24 Q. But isn't it the case that the
25 athletics department did discipline athletes for

1 things they did off-campus?

2 A. Yes.

3 Q. And that that, in fact, was the
4 practice of your department long before the training
5 that you talked about from September 2014?

6 A. Yes.

7 Q. At the time of this handbook, in
8 2011-2012, if it came to the attention of a coach
9 that an athlete had engaged in sexual misconduct off
10 school grounds, what would your expectation have been
11 for that coach?

12 A. You're asking prior to -- prior to the
13 Title IX training that took place in September 2014?

14 Q. Yes. And the question being, if a
15 coach became aware of student misconduct, or excuse
16 me, sexual misconduct, and the handbook says that is
17 something that can result in discipline, what would a
18 coach have done when this particular code of conduct
19 was in effect?

20 A. I think it's unclear what they would
21 have done. Because we had team rules that varied by
22 team, and we had department rules, and there were
23 university code of conduct rules. So there's three
24 different levels of rules that could potentially play
25 into an incident like that.

Page 331

1 Q. But you don't disagree, do you, that
2 the handbook was telling athletes they could be
3 disciplined if they engaged in sexual misconduct?

4 A. Yes.

5 Q. And it didn't state in this handbook
6 that it mattered where it occurred?

7 A. That's correct.

8 Q. As the athletic director in 2011-2012,
9 and I'm picking that year just because it's the
10 handbook we have before us --

11 A. Yes.

12 Q. -- did it matter to you, as the
13 athletic director, whether the misconduct of a sexual
14 nature was on campus or off-campus?

15 A. No.

16 (Exhibit 4 marked.)

17 THE WITNESS: Okay.

18 BY MS. BROWN:

19 Q. Do you recognize Exhibit 4?

20 A. I can't say that I recognize it. I may
21 have seen it.

22 Q. Well, it's one of the documents that
23 you produced to us.

24 A. Okay.

25 Q. Ian 113.

Page 332

1 A. Okay.

2 Q. And just for the record, this is an
3 email from David Murdock --

4 A. Oh, yes.

5 Q. -- November 8th, 2011, to Bethany
6 McCraw, with a cc to Paul Bradshaw.

7 A. Uh-huh.

8 MR. HENNINGER: Is that a "yes?"

9 BY MS. BROWN:

10 Q. Is that correct?

11 A. Yes.

12 Q. Do you know who David Murdock is?

13 A. Yes.

14 Q. And who is he?

15 A. He worked for, worked in judicial
16 affairs under Bethany McCraw.

17 Q. And Paul Bradshaw, you discussed
18 earlier, was the liaison between the athletic
19 department and judicial affairs?

20 A. Yes.

21 Q. And this appears to be a communication
22 to a student athlete about an allegation of assault,
23 and it's being transmitted to Paul Bradshaw;
24 correct?

25 A. Yes.

Page 333

1 Q. What was your expectation, in 2011,
2 when Paul Bradshaw would receive a notice like this?
3 What would Paul Bradshaw do with this kind of
4 notice?

5 A. What he should have done would have
6 been notify the sport administrator and the coaching
7 staff involved in that particular sport. And if it
8 rose to a significant level of seriousness, notify me
9 as well.

10 MS. BROWN: And, Counsel, I have
11 another exhibit, but I don't have a copy. It's Ian
12 115 and 116.

13 MR. DUNN: I should have it, thank
14 you.

15 MS. BROWN: And I'll let you look at my
16 copy if you would like.

17 MR. DUNN: I have one here.

18 MR. HENNINGER: I got it.

19 MS. BROWN: Oh, you have one too.

20 MR. HENNINGER: Yeah.

21 MS. BROWN: I'm going to go ahead and
22 give you my copy.

23 (Exhibit 6 marked.)

24 BY MS. BROWN:

25 Q. And this is something you produced in

1 your discovery response.

2 Do you recognize it?

3 A. Yes.

4 Q. And it's a cover email, Paul Bradshaw
5 receiving a police report?

6 A. Yes.

7 Q. And would you mind looking at the
8 police report and see if you recognize it?

9 A. Yes.

10 Q. And it's the other side of the document
11 that contains a narrative.

12 A. Got it, yes. I see it.

13 Q. And this is an allegation against an
14 athlete accused of allegedly being sexually
15 aggressive with a broomstick on a female person?

16 A. Yes.

17 Q. And this went to Paul Bradshaw on
18 November 18th, 2011 as -- according to the email.

19 Do you see?

20 A. Yeah, yes.

21 Q. And the same question as before.

22 If Paul Bradshaw received this
23 particular report on an athlete involving this type
24 of allegation of sexual conduct, your expectation
25 would be that he would?

Page 335

1 A. Notify the sports supervisor, the
2 coaching staff, and if it rose to a significant level
3 of seriousness, notify me as well.

4 Q. And once again, it didn't matter that
5 this was off-campus, completely off-campus?

6 A. Correct.

7 Q. And so earlier, when you were relating
8 that Patty Crawford had told you that Bethany and her
9 department did not consider something occurring
10 off-campus as involving the jurisdiction of the
11 university -- go ahead.

12 A. No. She didn't think it fell under
13 Title IX. She didn't say it didn't involve the
14 jurisdiction of the university. She didn't believe
15 that sexual assault matters that occurred off-campus
16 applied to Title IX. And Patty corrected her and
17 said, no, they do fall under Title IX whether they're
18 on campus, off-campus or international.

19 Q. And so the conversation, as you
20 understand it, is Patty Crawford telling you that
21 when she first got to Baylor that this is a
22 conversation she had with Bethany McCraw, and she's
23 now telling you about that conversation?

24 A. Yes.

25 Q. But you weren't there during the

Page 336

1 conversation she said she had with Bethany?

2 A. That's correct.

3 Q. And is it the case that before Patty
4 Crawford came, in November 2014, that judicial
5 affairs, in fact, was looking at student misconduct
6 of a sexual nature even if it occurred off-campus?

7 A. That's my understanding.

8 Q. Is Exhibit 4 an example of that?

9 A. Yes.

10 Q. You also produced in your materials an
11 investigation report prepared by Bethany McCraw
12 regarding a football player in the fall of 2013?

13 A. Yes.

14 Q. You recall talking about that
15 earlier?

16 A. Yes.

17 Q. And do you recall that the allegation
18 against that athlete also was completely
19 off-campus?

20 A. Yes.

21 Q. And that Bethany performed an
22 investigation of that?

23 A. Yes.

24 Q. So is there any question in your mind
25 that, even before the hiring of Patty Crawford, that

Page 337

1 judicial affairs looked into incidents of sexual
2 assault occurring off-campus?

3 A. I believe they looked into student
4 conduct matters, including sexual assault, yes.

5 Q. And that some of those cases, in fact,
6 occurred off-campus?

7 A. Yes.

8 MR. HENNINGER: And, I'm sorry,
9 Counsel, but I think we may have skipped -- is there
10 an Exhibit 5? It looks like it went from 4 to 6.

11 MS. BROWN: I'll have another one.
12 We'll make it Number 5.

13 MR. HENNINGER: Okay.

14 BY MS. BROWN:

15 Q. You testified earlier about some
16 materials that Dr. Kevin Jackson gave to you in the
17 spring of 2016 --

18 A. Yes.

19 Q. -- related to sexual harassment, sexual
20 assault initiatives?

21 A. Yes.

22 Q. And one of the items in the packet was
23 a memorandum from 2013 signed by President Starr.

24 Do you recall that?

25 A. Yes.

Page 338

1 Q. And that was the appointment of a
2 Sexual Assault Task Force?

3 A. Yes.

4 Q. And do you recall in 2013 when that
5 task force was created?

6 A. The date it was created?

7 Q. Or do you recall generally that
8 President Starr announced this initiative in 2013?

9 A. Yeah, I recall there being a task
10 force, yes.

11 Q. And do you recall someone from
12 athletics actually being assigned to participate on
13 the task force?

14 A. Yes.

15 Q. And that was Nancy Post?

16 A. Yes.

17 Q. And she reported to you?

18 A. She reported to Mr. Patulski.

19 Q. Who reported to you?

20 A. Yes.

21 Q. Did Nancy Post keep you and Todd
22 Patulski informed of the activities of that task
23 force?

24 A. Not in my case. I can't speak for
25 Mr. Patulski, but I didn't have a high level of

Page 339

1 awareness of what was going on other than she
2 periodically attended meetings.

3 Q. Do you know if she reported back to
4 Todd Patulski about what the committee was doing and
5 how it might affect athletics?

6 A. I'm not aware of that.

7 Q. Do you recall having conversations with
8 Nancy Post, in writing or orally, regarding
9 initiatives that athletics could take in order to
10 communicate about sexual assault prevention?

11 A. Most of those that I recall were after
12 the September 2014 training, and she certainly had
13 involvement as to many of her staff in those
14 initiatives.

15 (Exhibit 5 marked.)

16 BY MS. BROWN:

17 Q. This appears to be an email from you to
18 Nancy Post February 7, 2014?

19 A. Uh-huh.

20 Q. Do you recall this conversation with
21 her?

22 A. I don't.

23 Q. And this is an email in which you're
24 telling her about a sexual assault awareness video
25 that Baylor might be able to show students, fans and

1 students?

2 A. Yes.

3 Q. You were actually recommending to her
4 that the task force consider it?

5 A. Yes.

6 Q. How did you become aware of -- did you
7 ever see the video?

8 A. I don't recall it. It appears that one
9 of our student athletes recommended it, and I was
10 passing on the information to Ms. Post.

11 Q. Do you recall any conversations with
12 her about that?

13 A. I don't.

14 Q. In your testimony this morning, you
15 testified that other departments at Baylor were far
16 behind on Title IX training as compared to the
17 Athletics Department beginning in 2014.

18 Do you recall that testimony?

19 A. Yes.

20 Q. Do you have personal knowledge of what
21 other departments were doing or not doing?

22 A. Just conversations with colleagues and
23 faculty and so forth in terms of the training
24 happening for athletics at an accelerated level
25 compared to their departments.

1 Q. Have you seen any agendas or programs
2 for the other departments?

3 A. No.

4 Q. Have you attended any of the other
5 trainings?

6 A. No.

7 Q. Have you seen any of the material that
8 may have been used?

9 A. Only to the extent that Patty Crawford
10 might have shared that with the executive leadership
11 of the university.

12 Q. Do you have a specific memory of any
13 particular material that was used for Title IX
14 training in other departments of the university?

15 A. I know she produced, you know, volumes
16 of brochures and materials after her arrival, but I
17 don't have a specific recollection.

18 Q. Well, you don't have personal knowledge
19 of what other departments were actually doing or not
20 doing, do you?

21 A. Not beyond conversations with
22 colleagues.

23 Q. You testified this morning about a
24 sexual assault involving an equestrian student in
25 2009.

Page 342

1 My question, I was unclear whether you
2 were saying that you learned about that in 2009 or
3 whether you learned about it at another time?

4 A. Yes. This woman sent an email to a
5 large number of people, including me, about being
6 sexually assaulted in 2009, but the email was sent in
7 approximately 2015, as I recall.

8 Q. So just to clarify, you did not learn
9 of that incident in 2009?

10 A. Until approximately 2015, when the
11 email was circulated.

12 Q. So many years after the fact?

13 A. Yes.

14 Q. This morning you testified that Coach
15 Kazadi said that when he interviewed with Pepper
16 Hamilton that they told him words to the effect, you
17 are the black coach that we've been hearing about?

18 A. Coach Briles told me that that's what
19 they told Coach Kazadi.

20 Q. So it was from Briles reporting what
21 Kazadi allegedly told Briles?

22 A. Yes.

23 Q. So you don't have personal knowledge of
24 whether that statement was made?

25 A. Correct.

Page 343

1 Q. And the same question about Phil
2 Bennett.

3 I believe you testified that he said
4 during his interview he was asked about black
5 football players, and you heard that from Coach
6 Bennett?

7 A. Coach Bennet reported that to me in the
8 spring of 2016, that he was asked by Pepper Hamilton
9 why there's so many blacks on the team.

10 Q. And you don't have personal knowledge
11 of any conversation where that was said? It's
12 something you heard from him?

13 A. Correct.

14 Q. Do you have knowledge of what Liberty
15 University's Title IX processes were from 2009 to
16 2015?

17 A. 2009 to 2015. So I didn't arrive until
18 November of 2016, so I don't have knowledge of what
19 they were at that point in time at Liberty.

20 Q. And I'm trying to just clarify and
21 understand a statement that you made this morning. I
22 believe you testified that you felt there was no
23 interest in Title IX before the scandal broke.

24 Do you recall that testimony? It's
25 many hours ago.

1 A. I think relative -- the question was
2 asked in the context of were the regents concerned
3 about Title IX. And I said, certainly after the
4 scandal broke, they were extremely concerned and
5 engaged.

6 Q. Well, is it your testimony that before
7 the scandal that there was not interest at the board
8 level regarding Title IX compliance?

9 A. I don't recall saying that.

10 Q. And when you say "when the scandal
11 broke," are you speaking about the athlete that was
12 convicted of sexual assault that August?

13 A. The Ukwuachu conviction, and that's
14 what really ignited the scandal from a media
15 standpoint, yes.

16 Q. You testified earlier that you met with
17 Patty Crawford at a wrap-up meeting on April 8th,
18 2015?

19 A. Yes.

20 Q. What was her demeanor at that
21 meeting?

22 A. I recall her being very pleasant and
23 again, reporting out the items that I noted on
24 the -- on my notes, and then being very eager to jump
25 into a bunch of games and different initiatives that

Page 345

1 she had in mind to help with Title IX education and
2 training.

3 Q. And the conclusions and opinions that
4 she was sharing with you regarding the investigation
5 that had been performed, did she convey to you that
6 those were her conclusions and opinions as the Title
7 IX Coordinator?

8 A. That was my impression, is that they
9 were her conclusions.

10 Q. Did she express any concern, worry or
11 angst about how the investigation concluded?

12 A. No. Again, she was very complimentary
13 of the student athlete that we arranged for her to
14 [REDACTED]
15 involved and no complaints were going to be filed by
16 the women.

17 So she again, I think it was in light
18 of the gravity and seriousness of the circumstances,
19 she seemed in a positive frame of mind. And then
20 again, was eager to begin working on initiatives
21 to -- with student athletes.

22 Q. Did she convey to you any worry about
23 how the investigation unfolded or how it was
24 managed?

25 A. No.

Page 346

1 Q. Did she convey to you any -- I'll
2 withdraw that.

3 MS. BROWN: Take a break.

4 MR. DUNN: Sure.

5 THE VIDEOGRAPHER: Going off the record
6 at 5:40 p.m.

7 (Recess.)

8 THE VIDEOGRAPHER: We are going back on
9 the record at 5:49 p.m.

10 BY MS. BROWN:

11 Q. Mr. McCaw, you testified earlier about
12 an employee whose name is LaPrise Harris-Williams.

13 Do you recall?

14 A. That I testified about her?

15 Q. I believe there was brief discussion
16 about her earlier this morning.

17 A. I don't recall that.

18 Q. Do you know LaPrise Harris-Williams?

19 A. Yes.

20 Q. And is she a current employee?

21 A. No.

22 Q. Do you know when she left?

23 A. She left when we hired Felecia Mulkey,
24 the current acrobatics and tumbling coach. I can't
25 give you an exact date, but I believe she was at

1 Baylor maybe two years.

2 Q. Do you know -- well, do you know why
3 she stopped working at Baylor?

4 A. She resigned.

5 Q. Do you know about the facts or
6 circumstances leading to her resignation?

7 A. Yeah. The team was having a lot of
8 problems on -- competitively. There were a number of
9 injuries, including concussions, and a lot of
10 dissatisfaction among the student athletes and the
11 parents of the student athletes.

12 And she resigned when I was out town,
13 but my understanding was she met with Todd Patulski,
14 and they worked out her resignation.

15 Q. Did her resignation have anything to do
16 with Title IX?

17 A. No.

18 Q. Are you aware of any employee who
19 worked in the athletics department who obtained
20 knowledge of a sexual assault and did not respond
21 appropriately or report it?

22 A. Not that I'm aware of.

23 Q. And are you aware, in any particular
24 sexual assault investigation involving an athlete, of
25 an employee not cooperating in an investigation?

Page 348

1 A. No.

2 Q. And same question with respect to
3 students.

4 Are you aware of students who were not
5 wanting to cooperate with an investigation that might
6 involve sexual assault issues?

7 A. Only what I mentioned previously this
8 morning about the football players being reluctant to
9 go to the Title IX office.

10 Q. Well, if they were reluctant, does that
11 mean they were refusing?

12 A. No.

13 MS. BROWN: We're going to pass the
14 witness back to Mr. Dunn, who may have some
15 follow-ups. But before we do, I just wanted to state
16 that we are clawing back any statements related to
17 Chris Holmes and the Pepper Hamilton attorneys
18 regarding the assessment of Tom Hill as a witness.
19 And I know you disagree, but just letting you know
20 for the record that we're clawing that back.

21 MR. DUNN: We do disagree, but we've
22 heard your clawback request. So are you -- I didn't
23 want to step on you. Are you finished?

24 MS. BROWN: Yes. We passed the witness.

25 MR. DUNN: Okay. I do have just a

Page 349

1 couple areas to fill in, but it shouldn't take very
2 long. But let me know if you get lost because I'm
3 going to jump around here a little bit.

4 But before I do that, I just want
5 address the lawyers and these 137 pages, the Ian 001
6 through 00137, can we have the agreement that we
7 don't have an authenticity issue with it, people
8 preserve their admissibility for other basis but
9 authenticity is resolved? They're part of his file,
10 they're produced as part of his file?

11 MS. BROWN: Yes.

12 MR. DUNN: Okay.

13 MR. HENNINGER: Yes. Well, you don't
14 need my agreement to that. I'm not a party.

15 E X A M I N A T I O N

16 BY MR. DUNN:

17 Q. On the handbook that Ms. Brown asked
18 you about, do you know if there were any records
19 kept, whether just in the athletic department or the
20 university as a whole, as to who received that
21 handbook, read it, reviewed it, kept it?

22 A. It was the compliance office was the
23 group that put that handbook together and
24 disseminated it, so any records of distribution
25 methods and so forth would reside in that area.

Page 350

1 Q. So does that mean you don't know
2 whether students actually received the handbook, had
3 to sign one out, had to certify they read any of
4 it?

5 A. I can't say specifically.

6 Q. You were asked some about the
7 equestrian team.

8 Ellen White was the equestrian coach;
9 is that right?

10 A. Yes.

11 Q. Do you know why she's not at Baylor any
12 longer?

13 A. I know she was asked to resign
14 subsequent to my departure from the university.

15 Q. What's your understanding about those
16 circumstances?

17 A. My understanding is that she was told
18 that there were complaints from student athletes, and
19 that's why she was removed as the equestrian coach.
20 But she also felt it may have been a result of her
21 reporting a sexual assault allegation involving one
22 of her student athletes.

23 Q. Did you ever talk to her about this?

24 A. No.

25 Q. But about how long, when you were

Page 351

1 athletic director, were you her supervisor? How long
2 was she there while you were there?

3 A. Since the program started. She was the
4 inaugural coach, through the time I left in 2016, so
5 I believe we started the program, I'm going to say
6 perhaps 2006 maybe, so maybe close to 10 years. I
7 may be off a little bit.

8 Q. Did you perform performance evaluations
9 of her?

10 A. They were done by her supervisor, which
11 was Nancy Post, but I saw them and signed them.

12 Q. And were you happy with her performance
13 in the time you were there?

14 A. Yes.

15 Q. Did it seem like the students were
16 happy with her?

17 A. There were some complaints, as I
18 mentioned, the large roster and not everyone had a
19 chance to compete. That was -- there were certainly
20 periodic complaints from student athletes about her.
21 But that's not uncommon, and overall, we were pleased
22 with the direction of the program.

23 Q. Do you know anything about the
24 circumstances of the assault that she reported?

25 A. I know secondhand from Mr. Patulski

1 some of the information.

2 Q. So does -- is this something that
3 happened that we should ask Mr. Patulski about? Was
4 he involved?

5 A. He was at Baylor when that happened,
6 yes.

7 Q. I see. Okay. And I meant to ask you
8 this earlier.

9 So you're here at Liberty and
10 Mr. Patulski is now here at Liberty; is that right?

11 A. Yes.

12 Q. And Mr. McCrary is here at Liberty as
13 well; is that true?

14 A. Yes.

15 Q. Are there any other former athletic
16 folk from Baylor here at Liberty?

17 A. Yes. Trevor Johnson, our volleyball
18 coach, was an assistant at Baylor for one year.

19 Q. Okay.

20 A. I believe that's the only -- that's the
21 only other person.

22 Q. So what -- I mean, you came first.
23 Forget about the coach that was a coach for a year --

24 A. Yeah.

25 Q. -- but between you and McCrary and

Page 353

1 Patulski, you came first, right, to Liberty?

2 A. McCrary was here first.

3 Q. Oh, excuse me. Okay.

4 A. Yes.

5 Q. Do you think his connection to here is
6 part of what got you in the conversation to be
7 hired?

8 A. I don't know that. It's possible.

9 Q. Did you have anything to do with
10 bringing Patulski here?

11 A. Yes.

12 Q. I mean, was that something you decided
13 that you wanted to do?

14 A. Yes. I offered him a position.

15 Q. Okay. Ultimately, what you have to say
16 in this case is important and what your testimony is,
17 as I told you at the beginning of this process, is
18 going to be compared with the other evidence and
19 submitted to the judge and the jury to decide what
20 happened.

21 And you understand that; right?

22 A. Yes.

23 Q. I think that the jury would benefit
24 from having your testimony in person.

25 Is that something you would agree to

1 do?

2 A. I'd want to consult with my attorney.

3 Q. Sure.

4 A. But I would entertain that.

5 Q. All right, sir.

6 Well, have I been courteous to you
7 today?

8 A. Everyone has been courteous. I
9 appreciate it.

10 MR. DUNN: Well, I appreciate your
11 time. As I told you, it would take all day, but we
12 did our best. Thank you, sir.

13 THE WITNESS: Very good. Thank you.

14 MS. BROWN: No further questions.

15 THE VIDEOGRAPHER: We are going off the
16 record at 5:57 p.m.

17 (Reading and signature reserved.)

18 (Deposition concluded at 5:57 p.m.)

19 *****

20

21

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Page 355

1 COMMONWEALTH OF VIRGINIA AT LARGE, to wit:

2 I, KIMBERLY A. HENDERSON, a Registered
3 Professional Reporter and Notary Public in and for
4 the Commonwealth of Virginia at Large, Notary
5 Registration Number 359658, whose commission expires
6 November 30, 2021, do certify that the aforementioned
7 appeared before me, was sworn by me, and was
8 thereupon examined by counsel; and that the foregoing
9 is a true, correct, and full transcript of the
10 testimony adduced.

11 I further certify that I am neither
12 related to nor associated with any counsel or party
13 to this proceeding, nor otherwise interested in the
14 event thereof.

15 Given under my hand and Notarial seal
16 at Evington, Virginia, this 26th day of June, 2018.

17

18

19

20

21 _____
Kimberly A. Henderson, RPR, Notary Public
22 Commonwealth of Virginia at Large

23

24 Associated Court Reporters
Firm Reg. No. 29
425 Austin Avenue, Suite 2102
Waco, Texas 76701

25

Ian McCaw

June 19, 2018

Page 354

1 do?

2 A. I'd want to consult with my attorney.

3 Q. Sure.

4 A. But I would entertain that.

5 Q. All right, sir.

6 Well, have I been courteous to you

7 today?

8 A. Everyone has been courteous. I

9 appreciate it.

10 MR. DUNN: Well, I appreciate your

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Page 355

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12 related to nor associated with any counsel or party

13 to this proceeding, nor otherwise interested in the

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15 Given under my hand and Notarial seal

16 at Evington, Virginia, this 26th day of June, 2018.

17

18

19

20

21 Kimberly A. Henderson, RPR, Notary Public

22 Commonwealth of Virginia at Large

23 Associated Court Reporters

24 Firm Reg. No. 29

25 425 Austin Avenue, Suite 2102

Waco, Texas 76701

Page 356

CHANGES REQUESTED TO THE DEPOSITION OF:

IAN MCCAWE

TAKEN ON: June 19, 2018

5 Page/Line: From: To: Reason:

6 81/24 "he was the author" to "he was

7 involved in authoring" - clarification

8 85/24 "they're coming after you" to

9 "they're not coming after you" -

10 can't report misheard

11 127/11 "racial" to "racially" - misheard

12 127/19 "me" eliminate word - misheard

13 159/20 "Don't" to "To" - reporter misheard

14 248/22 - to "told" - reporter misheard

15

16

17

18

19

20 IAN MCCAWE

21

22 COMMONWEALTH OF VIRGINIA to wit:

23 Subscribed to and sworn before me

24 this 11th day of July, 2018

25 My commission expires

October 31, 2021

Notary Public (NOTARY SEAL)

Kimberly A. Henderson

90 (Pages 354 to 356)