

STATE OF MICHIGAN  
IN THE SUPREME COURT

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LINDA RIVERA,	) Supreme Court No. 159857
	) Court of Appeals No. 341516
	) Case No. 16-031756-NZ-1
Plaintiff / Appellant,	)
v	)
	)
SVRC INDUSTRIES, INC.,	)
	)
Defendant / Appellee.	)

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KEVIN J. KELLY (P74546)  
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**DEFENDANT / APPELLEE'S APPENDIX**  
**VOLUME 1 OF 2**

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**EXHIBIT 1**  
**Plf's Complaint**

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF SAGINAW

LINDA RIVERA,

Plaintiff,

Case No. 16-c 31754-NZ-1  
Hon. PATRICK J. MCGRAW P34430

v.

SVRC INDUSTRIES, Inc.,

Defendant.

THE MASTROMARCO FIRM  
VICTOR J. MASTROMARCO, JR. (P34564)  
KEVIN J. KELLY (P74546)  
AARON M. MAJORANA (P78772)  
Attorneys for Plaintiff  
1024 N. Michigan Avenue  
Saginaw, Michigan 48602  
(989) 752-1414

TRUE COPY  
[Handwritten initials]

There is no other pending or resolved civil action arising out of the same transactions or occurrences alleged in the Complaint.

**PLAINTIFF'S COMPLAINT & DEMAND FOR TRIAL BY JURY**

NOW COMES Plaintiff, LINDA RIVERA, by and through her attorneys, THE MASTROMARCO FIRM, and hereby complains against Defendant, SVRC INDUSTRIES, Inc., stating as follows:

**COMMON ALLEGATIONS**

1. That Plaintiff is a resident of the County of Saginaw, State of Michigan.
2. That Defendant is a domestic non-profit corporation authorized to conduct business within the County of Saginaw, State of Michigan.

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3. That the amount in controversy exceeds the sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00), exclusive of costs, interest, and attorney fees.

4. That on or about October 4, 2015, Defendant hired Plaintiff as Director of Industrial Operations.

5. That during Plaintiff's tenure with Defendant, Plaintiff performed her job duties in a satisfactory and/or an above satisfactory manner.

6. That on or about September 15, 2016, an employee of Defendant, Lyle Sommerfield, was engaged in insubordinate, intimidating and aggressive behavior towards Defendant's Plant Manager, Eve Flynn, who was a subordinate of Plaintiff.

7. That Eve Flynn called Plaintiff to report Lyle Sommerfield's behavior as it was happening.

8. That Plaintiff simultaneously reported Lyle Sommerfield's behavior to Defendant's Chief Executive Officer Dean Emerson.

9. That Dean Emerson then told Plaintiff to go investigate the incident between Lyle Sommerfield and Eve Flynn and that Eve Flynn should discipline Lyle Sommerfield for his behavior.

10. That subsequently, Eve Flynn and Plaintiff met with Lyle Sommerfield on or about September 15, 2016 to issue written discipline for his behavior.

11. That during said meeting between Eve Flynn and Plaintiff, Lyle Sommerfield again became insubordinate, intimidating, and aggressive towards Eve Flynn and Plaintiff.

12. That during said meeting Lyle Sommerfield stated to Plaintiff and Eve

## Plf's Complaint

Flynn that he felt a “revolution coming,” that he “knows how to use a gun,” that he’s “not afraid to pull the trigger” and that he “doesn’t discriminate” or words to that effect.

13. That at the time of the meeting, Lyle Sommerfield indicated he is a military veteran allegedly suffering from Post-Traumatic Stress Disorder.

14. That immediately following the meeting, Plaintiff reported the above statements to Defendant President Deb Snyder.

15. That Deb Snyder indicated she would inform Dean Emerson and contact Defendant’s attorney.

16. That also on or about September 15, 2016, Plaintiff informed Deb Snyder that she wished to file a police report, making it clear she was about to report the incident and conduct of Sommerfield to the police.

17. That upon hearing this statement by the Plaintiff, Deb Snyder told Plaintiff that Defendant’s attorney had advised not to file a police report, as such suggesting that management did not want the police involved, thus attempting to dissuade her from doing so.

18. That at that time, Plaintiff expressed discomfort to Snyder regarding her directive not to file a police report, and thereafter informed the board member Mr. Sylvester, who is President of the Board of Defendant.

19. That Plaintiff informed Deb Snyder that she had spoken with Sylvester.

20. That upon informing Deb Snyder that Plaintiff had spoken with Sylvester, Deb Snyder responded via text message in an abrasive and agitated manner indicating that she was unhappy that Plaintiff had spoken with Sylvester.

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21. That the following week after the incident, Plaintiff met with Deb Snyder in person and witnessed Deb Snyder becoming visibly upset that the Plaintiff had spoken with Sylvester regarding Lyle Sommerfield.

22. That the following week after the incident, Plaintiff was required to meet with Defendant's attorney who was there to interview the Plaintiff over the events involving Sommerfield.

23. That during the meeting with Defendant's attorney, Plaintiff again relayed the statements made by Lyle Somerfield and wanting to report the matter to the police.

24. That in response and among other things, Defendant's attorney asked Plaintiff whether she could still "perform her job" and whether she still wanted to work there, or words to that effect.

25. That Defendant's attorney insisted upon a response from Plaintiff to the above questions.

26. That following her meeting with Defendant's attorney, Plaintiff received no follow-up regarding her reports of Lyle Sommerfield's behavior.

27. That notwithstanding Plaintiff's complaints regarding Lyle Sommerfield's threatening statements, the Defendant took no action, appeared to ignore the physical threatening statements by Sommerfield, and failed to remediate the hostile work environment.

28. That on or about October 4, 2016, Plaintiff was terminated from her employment with Defendant based on their perception that she had reported, and or was about to report the situation regarding Sommerfield, and her refusal to work under those

## Plf's Complaint

threatening conditions that constituted criminal behavior.

29. That Defendant's termination of Plaintiff constitutes an adverse employment action.

30. That Defendant's actions constitute retaliation in violation of the Whistleblowers' Protection Act and violate Public Policy.

31. That as a direct and proximate result of Defendant's unlawful actions, Plaintiff has suffered and continues to suffer from severe economic damages, including, but not limited to lost wages, back pay, front pay, raises, overtime pay, bonuses, vacation pay, health insurance, dental insurance, vision insurance, life insurance, disability benefits, and retirement and/or pension benefits along with any and all other compensation and/or fringe benefits provided as well as an addition amount as an offset for any negative tax consequences suffered as a result of recovery.

32. That as a direct and proximate result of Defendant's unlawful actions, Plaintiff has suffered and continues to suffer from severe non-economic damages, including, but not limited to emotional distress, mental anguish, shock, fright, humiliation, embarrassment, depression, anxiety, nervousness, disruption of lifestyle, and denial of social pleasures.

33. That Plaintiff hereby claims any and all costs of the litigation, including reasonable attorney fees and witness fees, pursuant to MCL §§ 15.364, 37.2801, 37.2802.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in her favor in an amount in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) in addition to costs, interest, and attorney fees along with any

and all legal and/or equitable relief this Court deems just.

**COUNT I – RETALIATION IN VIOLATION OF  
THE WHISTLEBLOWERS’ PROTECTION ACT – ABOUT TO REPORT**

34. That Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1 through 31 of her Common Allegations, word for word and paragraph for paragraph, as if fully restated herein.

35. That the Whistleblowers’ Protection Act provides:

An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee’s compensation, terms, conditions, location, or privileges of employment because of the employee or person acting on behalf of the employee, reports or is about to report, verbally or in writing, a violation or a suspected violation of a law or regulation or rule promulgated pursuant to the law of this state, a political subdivision of this state, or the United States to a public body, unless the employee knows that the report is false, or because an employee is requested by a public body to participate in an investigation, hearing, or inquiry held by that public body.

MCL § 15.362.

36. That at all times material hereto, Defendant was Plaintiff’s “employer” as the term is defined by MCL § 15.361(b).

37. That Plaintiff engaged in activity protected by the Whistleblowers’ Protection Act by informing Defendant President Deb Snyder that she was about to report Lyle Sommerfield’s threatening statements to the police. *See Shallal v. Catholic Social Services of Wayne County*, 566 NW2d 571 (1997).

38. That more specifically, Plaintiff reported to Deb Snyder that Lyle Sommerfield had told her he “knows how to use a gun,” that he’s “not afraid to pull the trigger” and that he “doesn’t discriminate” or words to that effect and that she wanted to

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file a police report regarding those statements.

39. That Defendant through President Deb Snyder told Plaintiff not to file a police report.

40. That after notice of Plaintiff's complaints and a reasonable time, Defendant failed to take prompt and appropriate remedial action regarding a retaliatory, hostile work environment Plaintiff was subjected to.

41. That Defendant took materially adverse action against Plaintiff by terminating her from her employment.

42. That a causal connection exists between Plaintiff's protected activity and the material adverse action taken against Plaintiff by Defendant.

43. That Defendant, through President Deb Snyder, expressed dissatisfaction and anger towards Plaintiff's protected activity.

44. That Defendant failed to articulate a legitimate, non-retaliatory reason for the materially adverse actions taken against Plaintiff.

45. That any reasons offered by Defendant for the materially adverse actions are wholly pretextual in nature.

46. That Defendant's actions constitute retaliation in violation of the "about to report" provision of the Whistleblowers' Protection Act.

47. That as a direct and proximate result of Defendant's unlawful actions, Plaintiff has suffered and continues to suffer from severe economic damages, including, but not limited to lost wages, back pay, front pay, raises, overtime pay, bonuses, vacation pay, health insurance, dental insurance, vision insurance, life insurance, disability

## Plf's Complaint

benefits, and retirement and/or pension benefits along with any and all other compensation and/or fringe benefits provided as well as an addition amount as an offset for any negative tax consequences suffered as a result of recovery.

48. That as a direct and proximate result of Defendant's unlawful actions, Plaintiff has suffered and continues to suffer from severe non-economic damages, including, but not limited to emotional distress, mental anguish, shock, fright, humiliation, embarrassment, depression, anxiety, nervousness, disruption of lifestyle, and denial of social pleasures.

49. That Plaintiff hereby claims any and all costs of the litigation, including reasonable attorney fees and witness fees, pursuant to MCL § 15.364.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in her favor in an amount in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) in addition to costs, interest, and attorney fees along with any and all legal and/or equitable relief this Court deems just.

### COUNT II – RETALIATION IN VIOLATION OF THE WHISTLEBLOWERS' PROTECTION ACT – ACTUAL REPORTING

50. That Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1 through 31 of her Common Allegations and paragraphs 32 through 47 of Count I word for word and paragraph for paragraph, as if fully restated herein.

51. That the Whistleblowers' Protection Act provides:

An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because of the employee or person acting on behalf of the employee, reports or is about to report,

## Plf's Complaint

verbally or in writing, a violation or a suspected violation of a law or regulation or rule promulgated pursuant to the law of this state, a political subdivision of this state, or the United States to a public body, unless the employee knows that the report is false, or because an employee is requested by a public body to participate in an investigation, hearing, or inquiry held by that public body.

MCL § 15.362.

52. That at all times material hereto, Defendant was Plaintiff's "employer" as the term is defined by MCL § 15.361(b).

53. That Plaintiff also engaged in activity protected by the Whistleblowers' Protection Act by informing Defendant's attorney about Lyle Sommerfield's threatening statements to her.

54. That as an attorney, Defendant's attorney qualifies as a member of a "public body." See *McNeil-Marks v. Midmichigan Medical Center-Gratiot*, No. 326606, 2016 WL 3351621 (Mich. Ct. App. June 16, 2016).

55. That after notice of Plaintiff's complaints and a reasonable time, Defendant failed to take prompt and appropriate remedial action regarding a retaliatory, hostile work environment Plaintiff was subjected to.

56. That Defendant took materially adverse action against Plaintiff by terminating her from her employment.

57. That a causal connection exists between Plaintiff's protected activity and the material adverse action taken against Plaintiff by Defendant.

58. That Defendant failed to articulate a legitimate, non-retaliatory reason for the materially adverse actions taken against Plaintiff.

Plf's Complaint

59. That any reasons offered by Defendant for the materially adverse actions are wholly pretextual in nature.

60. That Defendant's actions constitute retaliation in violation of the Whistleblowers' Protection Act.

61. That as a direct and proximate result of Defendant's unlawful actions, Plaintiff has suffered and continues to suffer from severe economic damages, including, but not limited to lost wages, back pay, front pay, raises, overtime pay, bonuses, vacation pay, health insurance, dental insurance, vision insurance, life insurance, disability benefits, and retirement and/or pension benefits along with any and all other compensation and/or fringe benefits provided as well as an addition amount as an offset for any negative tax consequences suffered as a result of recovery.

62. That as a direct and proximate result of Defendant's unlawful actions, Plaintiff has suffered and continues to suffer from severe non-economic damages, including, but not limited to emotional distress, mental anguish, shock, fright, humiliation, embarrassment, depression, anxiety, nervousness, disruption of lifestyle, and denial of social pleasures.

63. That Plaintiff hereby claims any and all costs of the litigation, including reasonable attorney fees and witness fees, pursuant to MCL § 15.364.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in her favor in an amount in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) in addition to costs, interest, and attorney fees along with any and all legal and/or equitable relief this Court deems just.

COUNT III - RETALIATION IN VIOLATION OF MICHIGAN PUBLIC POLICY

64. That Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1 through 31 of her Common Allegations, paragraphs 32 through 47 of Count I, paragraphs 48 through 61 of Count II word for word and paragraph for paragraph, as if fully restated herein.

65. That Michigan courts have held that “some grounds for disciplining an employee are so contrary to public policy as to be actionable.” *Suchodolski v Michigan Consolidated Gas Co*, 412 Mich 692, 695 (1982).

66. That Michigan courts have found a cause of action implied where an employer retaliates against an employee for failing or refusing to violate the law in the course of her employment. *Id.* at 695.

67. That Michigan public policy prohibits an employer from imposing as a condition of employment an agreement, express or implied, by an employee with knowledge of the commission of a crime to compound and/or conceal the commission of a crime. *Pratt v Brown Machine Co, A Division of John Brown, Inc*, 855 F2d 1225, 1236 (CA 6, 1988).

68. That Plaintiff engaged in activity protected by Michigan public policy by attempting to report Lyle Sommerfield’s actions to the police and refusing to conceal and/or compound Lyle Sommerfield’s violations of the Michigan Anti-Terrorism Act. *See* MCL § 750.543m.

69. That the Michigan Anti-Terrorism Act makes it unlawful to “[threaten] to commit an act of terrorism and communicates the threat to any other person.” MCL §

Plf's Complaint

750.543m(a).

70. That Plaintiff suffered an adverse employment action by virtue of Defendant's termination of her employment.

71. That a causal connection exists between Plaintiff's protected activity and the adverse employment action.

72. That Defendant's proffered reasons for terminating Plaintiff's employment are wholly pretextual in nature.

73. That Defendant's actions constitute retaliation in violation of Michigan public policy.

74. That as a direct and proximate result of Defendant's unlawful actions, Plaintiff has suffered and continues to suffer from severe economic damages, including, but not limited to lost wages, back pay, front pay, raises, overtime pay, bonuses, vacation pay, health insurance, dental insurance, vision insurance, life insurance, disability benefits, and retirement and/or pension benefits along with any and all other compensation and/or fringe benefits provided as well as an addition amount as an offset for any negative tax consequences suffered as a result of recovery.

75. That as a direct and proximate result of Defendant's unlawful actions, Plaintiff has suffered and continues to suffer from severe non-economic damages, including, but not limited to emotional distress, mental anguish, shock, fright, humiliation, embarrassment, depression, anxiety, nervousness, disruption of lifestyle, and denial of social pleasures.

76. That Plaintiff hereby claims any and all costs of the litigation, including

Plf's Complaint

reasonable attorney fees and witness fees, pursuant to MCL § 15.364.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in her favor in an amount in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) in addition to costs, interest, and attorney fees along with any and all legal and/or equitable relief this Court deems just.

Respectfully submitted,  
THE MASTROMARCO FIRM

Dated: December 12 2016

By:



VICTOR J. MASTROMARCO, JR. (P34564)

KEVIN J. KELLY (P74546)

AARON M. MAJORANA (P78772)

Attorneys for Plaintiff

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**DEMAND FOR TRIAL BY JURY**

NOW COMES Plaintiff, LINDA RIVERA, by and through her attorneys, THE MASTROMARCO FIRM, and hereby demands a trial by jury on all of the above issues, unless otherwise expressly waived.

Respectfully submitted,  
THE MASTROMARCO FIRM

Dated: December 12, 2016

By: Victor J. Mastromarco, Jr  
VICTOR J. MASTROMARCO, JR. (P34564)  
KEVIN J. KELLY (P74546)  
AARON M. MAJORANA (P78772)  
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EXHIBIT 2  
Plf's Dep Transcript

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STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF SAGINAW  
LINDA RIVERA,  
Plaintiff,  
vs. Case No. 16-031756-NZ-1  
Hon. Patrick J. McGraw  
SVRC INDUSTRIES, INC.,  
Defendant.

---

The Deposition of LINDA RIVERA,  
Taken at 1024 North Michigan Avenue,  
Saginaw, Michigan,  
Commencing at 10:08 a.m.,  
Thursday, March 28, 2017,  
Before Kathy M. Baase, CSR-3285.

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1 APPEARANCES:

2

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9 Appearing on behalf of the Plaintiff.

10

11 DAVID A. WALLACE

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15 Saginaw, Michigan 48638

16 989-790-0960

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18 Appearing on behalf of the Defendant.

19

20 ALSO PRESENT:

21 Dean Emerson

22

23

24

25

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1 Saginaw, Michigan  
2 Thursday, March 28, 2017  
3 10:08 a.m.

4  
5 LINDA RIVERA,  
6 was thereupon called as a witness herein, and after  
7 having first been duly sworn to testify to the truth,  
8 the whole truth and nothing but the truth, was  
9 examined and testified as follows:

10 MR. WALLACE: Please let the record reflect  
11 that this is the deposition of the plaintiff, Linda  
12 Riviera, am I saying that correctly?

13 THE WITNESS: Rivera.

14 MR. WALLACE: Taken pursuant to Michigan  
15 Court Rules for all purposes provided by those rules.

16 EXAMINATION

17 BY MR. WALLACE:

18 Q. Ma'am, would you be so kind as to state your full name  
19 for the court record?

20 A. Linda Kay Rivera.

21 Q. And your current address, please?

22 A. 15 Ruhlig Court. That's Saginaw, here in Michigan,  
23 48602.

24 Q. You're here this morning with your lawyer, we've just  
25 commenced taking your deposition. I'm sure he's

1 explained that process to you so forgive me if I  
2 repeat something that he told you, but the purpose for  
3 being here is to gather information from you. That  
4 means I'm going to ask you questions and hopefully  
5 they are questions you'll be able to answer. If  
6 there's anything about the questions you don't  
7 understand, please ask me to clarify it because my  
8 intent is not in any way to confuse you, we just want  
9 simple questions with your best answers. If you don't  
10 know something, please tell us you don't know rather  
11 than guess. The same goes with regard to your ability  
12 to remember, if you truly can't remember, please tell  
13 us, again, rather than guess. If for any reason you  
14 need to take break, you're uncomfortable, you want to  
15 consult with your lawyer, just say so and we'll stop,  
16 but I would ask that if there's a question on the  
17 table that you answer that question before we go off  
18 the record. And one final thing, the court reporter  
19 takes down everything that's spoken in this room today  
20 and so we need a verbal expression, a yes or no. We  
21 all have a tendency to nod our head or make some other  
22 expression that's not a word so if I remind you, don't  
23 get mad at me.

24 A. Thank you. Yes.

25 Q. What is your date of birth, please?

1 A. May 22nd, 1969.  
2 Q. And that makes you how old today?  
3 A. I'm 47.  
4 Q. Are you a married or single woman?  
5 A. Divorced.  
6 Q. And when were you divorced?  
7 A. Oh, gosh, I can't give you an exact date.  
8 Q. Just approximate.  
9 A. Yeah. It's been about nine years that I've been  
10 divorced.  
11 Q. And who were you divorced from?  
12 A. His first name is Gumaro, it's G-U-M-A-R-O, E. Rivera.  
13 Q. And do you have children?  
14 A. Yes, I do.  
15 Q. Are they minor children?  
16 A. Yes.  
17 Q. How many?  
18 A. Three.  
19 Q. I assume they're dependent on you?  
20 A. Yes.  
21 Q. And they live in the Rule Court Home?  
22 A. Yes, Ruhlig Court.  
23 Q. Anybody else live in that household besides you and  
24 your three children?  
25 A. No.

- 1 Q. And how long have you lived there?
- 2 A. We've lived there approximately five years, six years.
- 3 Q. Are you currently employed?
- 4 A. No.
- 5 Q. Do you have any specific employment prospects at the
- 6 present time?
- 7 A. I am looking. I'm actually trying to start an at-home
- 8 business right now.
- 9 Q. What kind of at-home business?
- 10 A. It is wine tasting. Wine rep position.
- 11 Q. Have you formalized any kind of a business entity for
- 12 that home business?
- 13 A. I don't understand.
- 14 Q. Have you filed an assumed name or a corporation or an
- 15 LLC or anything like that?
- 16 A. No, nothing like that.
- 17 Q. Does the business have a name?
- 18 A. No. It's right now just under my name.
- 19 Q. My understanding is that you were employed by SVRC and
- 20 that employment came to an end on October 4th, 2016?
- 21 A. Correct.
- 22 Q. Since that time, have you formally applied for any
- 23 employment with any other entity?
- 24 A. I've sent resumes in.
- 25 Q. All right. When you sent resumes in, where did you

1           determine or how did you determine where you were  
2           going to send resumes?  
3    A.    Just online, trying to look through different sites.  
4    Q.    Would that be online with your personal computer?  
5    A.    Uh-huh.  
6    Q.    Is that a yes?  
7    A.    Yes.  
8    Q.    Okay. And I presume that that computer then would be  
9           a record of where you sought employment?  
10   A.    Yes.  
11   Q.    And we're going to get to this in more detail, but do  
12           you remember receiving interrogatories and preparing  
13           or helping your lawyer prepare answers to  
14           interrogatories or a series of questions?  
15   A.    Yes.  
16   Q.    All right. And some of those questions were with  
17           regard to your seeking employment after your  
18           employment ended with SVRC, do you recall that?  
19   A.    Yes.  
20   Q.    And your answers to those questions indicated you  
21           could not identify or did not recall where you sought  
22           employment?  
23   A.    Uh-huh. I guess I didn't realize that.  
24   Q.    Can you name any particular business or entity where  
25           you sought employment since your employment with SVRC

1 ended?

2 A. The Coca-Cola Corporation.

3 Q. Where?

4 A. I believe -- it was a generic website so I just sent  
5 in to looking online for that.

6 Q. Okay. Anywhere else?

7 A. UPS.

8 Q. Was that locally or, again, generic?

9 A. It was the generic. Their overall website.

10 Q. All right. Anywhere else?

11 A. I'm drawing a blank. I'm sorry.

12 Q. Okay. Were all your efforts to become re-employed  
13 after SVRC done through your personal computer?

14 A. Not all of them, no.

15 Q. Okay. Can you tell us any other methods you used?

16 A. Some of them were in person.

17 Q. And would that be local?

18 A. It was local, yeah.

19 Q. Any -- can you identify any places you applied  
20 personally?

21 A. I'm trying to think. I had dropped a resume off at  
22 Means.

23 Q. I'm sorry, where?

24 A. Means.

25 Q. I apologize, I thought I just shut that off. I'm

- 1           sorry, what's the name of the place?
- 2    A.    Means, M-E-A-N-S.
- 3    Q.    And that's a manufacturing facility?
- 4    A.    Correct.
- 5    Q.    Here in Saginaw?
- 6    A.    Yes.
- 7    Q.    Anywhere else you can think of?
- 8    A.    No. That was probably my only visit.
- 9    Q.    Okay. So, in response to those interrogatory
- 10           questions, we asked you or you indicated you didn't
- 11           know where you applied for employment, we now know
- 12           that you would be able to get that off your computer
- 13           and provide it to your lawyer?
- 14   A.    I don't know. I don't know enough about computers,
- 15           how you can pull that back.
- 16   Q.    All right. Well, if you wanted to go look today to
- 17           follow-up on someplace you applied for employment,
- 18           would you go to your computer and look at what you had
- 19           sent -- where you had sent it out?
- 20   A.    Or call.
- 21   Q.    Or call, okay. But the information would be on your
- 22           computer?
- 23   A.    Yeah.
- 24   Q.    Okay. So even if you can't print it off, you could
- 25           amend your answers to those interrogatory questions to

1 tell us where you sought employment?

2 A. Again, I could probably. I don't know. I don't know  
3 enough about going back -- once I've applied, I don't  
4 know enough computer-wise.

5 Q. All right. Have you had any job interviews since  
6 October 4th, 2016?

7 A. I had a phone interview.

8 Q. With who?

9 A. With a company out of Lansing.

10 Q. Do you know the name of the company?

11 A. Not -- I can't recall it off the top of my head.

12 Q. Any other interviews?

13 A. No, just that one.

14 Q. If you submitted resumes to businesses seeking  
15 employment, did you make any phone calls or  
16 communicate in any way to follow up to see the status  
17 of your seeking employment?

18 A. Not really. I was waiting to -- I applied and I was  
19 waiting to hear back from them.

20 Q. All right. Now that you're working on this home  
21 business, are you still continuing to apply for jobs,  
22 also?

23 A. Yes.

24 Q. When is the last time you applied for any job?

25 A. I think it's been probably two weeks ago.

1 Q. And where did you apply two weeks ago?  
2 A. Again, I think I sent a second one to Coca-Cola,  
3 another opportunity there.  
4 Q. You filed for and are receiving unemployment benefits?  
5 A. Correct.  
6 Q. And does the unemployment office require that you  
7 report regularly about your --  
8 A. Yes.  
9 Q. -- efforts to get a job?  
10 A. Uh-huh.  
11 Q. Is that a yes?  
12 A. Yes.  
13 Q. And do you do that through their office or their  
14 computer system or how do you report your activities  
15 or your efforts to get a job?  
16 A. I track them on my own and then I fax them over to the  
17 appropriate building or location.  
18 Q. So there would be information in your unemployment  
19 file regarding your efforts to seek employment?  
20 A. Yes.  
21 Q. What's your educational background?  
22 A. I have a degree in production management and a minor  
23 in statistics.  
24 Q. Where did you get your degree?  
25 A. Ferris State.

1 Q. And your minor was in statistics?  
2 A. Uh-huh.  
3 Q. What year did you get your degree from Ferris?  
4 A. '92.  
5 Q. Where did you graduate high school?  
6 A. Nouvel.  
7 Q. What year?  
8 A. '87.  
9 Q. Can you tell us your employment history from the time  
10 you graduated from Ferris?  
11 A. I don't know if I can go back that far. I will go  
12 back starting from SVRC and go back that way.  
13 Q. All right. Whatever works for you, that's fine.  
14 A. Okay. From SVRC, prior to that I worked at Saginaw  
15 Transit.  
16 Q. Let me stop you right there. My understanding is you  
17 worked for SVRC from September 15th, 2016 until  
18 October 4th, 2016?  
19 A. I was signed on on October -- I started on October 4th  
20 of '16. I was not reporting to work on September --  
21 in September. My first day of work was actually  
22 October 3rd or 4th of '16 -- or I'm sorry, of '15.  
23 Q. Yeah, I'm sorry, of '15, my bad. I misspoke. You  
24 started with SVRC in September of 2015?  
25 A. Correct. No, not September, October.

1 Q. October?

2 A. I might have signed but my first day was not until  
3 October.

4 Q. You were formally offered the job on September 15th?

5 A. That's probably accurate.

6 Q. Your last day of work was approximately October 4th,  
7 2016?

8 A. Correct.

9 Q. So you were basically there about two years?

10 A. One year.

11 Q. One year I mean. I'm sorry. Yeah, one year. What  
12 did you do for SVRC?

13 A. I hired in as the director of industrial operations.

14 Q. What did that entail?

15 A. Well, initially it was overseeing the production  
16 floor. They work -- their goal, I should say, is  
17 their rehabilitation center, so there are various jobs  
18 set up on the production floor and I have a manager  
19 underneath me and it was overseeing the production  
20 floor. But they were also, what really prompted -- my  
21 understanding when I hired in was they were getting  
22 ready to launch a recycling venture and so they were  
23 anxious to get someone in to help get that particular  
24 side of the business up and running.

25 Q. Who -- you referenced somebody that worked under you.

1 Who was that?

2 A. Eve Flynn, she was the manager underneath me.

3 Q. As director of industrial operations, what were your  
4 day-to-day duties?

5 A. Because I was just starting out, I was doing a lot of  
6 shadowing, I was following, trying to get up to speed  
7 on a lot of the accounts, a lot of the past jobs. I  
8 was working with my staff, tried to verify shipments  
9 going out, where we were at as far as, you know,  
10 working on, I guess, more or less the day-to-day  
11 things. I was getting involved with Eve to talk about  
12 how many positions we could place people on the floor,  
13 I was working alongside my -- I would say my -- how do  
14 I put it, she was at my level, another director, her  
15 name was Rose Eurich, to understand the side of the  
16 business with the rehab and what has to happen with  
17 the clients that come in SVRC.

18 We were also working on a lot of our ISO  
19 certifications because we had to stay ISO certified  
20 because a lot of our customers -- our capabilities, we  
21 like to present that we were ISO certified so we could  
22 work with a lot of the automotive companies or tried  
23 to work with automotive companies around the area.

24 Q. All right. You talked about customers. Can you  
25 identify some of the major customers of SVRC when you

1 started working?

2 A. There was Amigo, there was TRW, there was another  
3 company called -- I don't know actually the name of  
4 the vet but we did vet meds where we would fill like  
5 vials for pet type medications.

6 Q. All right. How about Nexteer?

7 A. Very little. We did do one big -- a ball job, a ball  
8 sorting job with Nexteer. While I was there we were  
9 in the process -- well, we did actually get a new job  
10 with -- that's different, sorry. That was a new TRW  
11 job that had come in while I was there.

12 Q. How about Dow Corning, were they a customer?

13 A. No, not when I was there.

14 Q. I see. I'm going to be real general here, but in  
15 order for SVRC, the nature of their business to be  
16 viable, they, number one, had to have customers, true?

17 A. True.

18 Q. And they had to have work from those customers?

19 A. True.

20 Q. All right. And was one of the ultimate goals is that  
21 people trained as production workers at SVRC would  
22 ultimately blend into the mainstream, in other words,  
23 they'd get production type jobs directly with  
24 customers of SVRC or other entities?

25 A. Yes. The ultimate goal was to rehabilitate and have

1           them eventually be able to work in the general public,  
2           that was the goal.

3    Q.    That was the goal?

4    A.    Uh-huh.

5    Q.    Did you get involved at all in the economics of the  
6           business, in other words, whether SVRC had a  
7           sufficient number of customers and a sufficient amount  
8           of work from the customers to be viable?

9    A.    Well, the way that it was working ever since I was  
10          there, anything that came in, any reporting,  
11          financials, were always like at least two to three  
12          months late, so meaning if it was -- let's say if it  
13          was April, we were getting financials from March.

14   Q.    When you say we, did you personally get financial  
15          documents?

16   A.    Things were sent in a report form or hard copy, I  
17          would get.

18   Q.    All right. You say late. All businesses, I'm sure  
19          you know, have their own methods of tracking income  
20          and profits and losses and expenses and all that sort  
21          of thing, right?

22   A.    Yes.

23   Q.    And so you use the expression late, do you have any  
24          reason to believe that SVRC didn't feel compelled to  
25          track them in some other time frame?

1 A. Could you reword that because I've got a couple ways I  
2 could answer that.

3 Q. Let me lay it right on the line. Your lawsuit says  
4 that one of your complaints in this case is that you  
5 were told you were laid off for economic reasons --

6 A. Uh-huh.

7 Q. -- but you didn't think that was fair because the data  
8 was late. My question is why would you call it late,  
9 you didn't make those decisions as to what the plan  
10 was for tracking expenses and losses and profits and  
11 income?

12 A. Well, just a few weeks prior to being the episode that  
13 we're talking about here, I had a meeting with Dean  
14 and Deb and they were concerned that information was  
15 being given too late, and they said to better control  
16 my department, they were going to work with the  
17 controller to give me more timely information.

18 Q. Okay.

19 A. So that's how it was conveyed to me.

20 Q. All right. So there was some issue about financially  
21 tracking the performance of your operation, that would  
22 be things that you would be responsible for, is that  
23 what you're telling us?

24 A. I'm telling you that the financials came through the  
25 controller and they wanted me to have a more real time

1 sight on what those costs that were -- we were  
2 incurring and what we were making on jobs and things  
3 so that we could hopefully better tweak the  
4 financials.

5 Q. All right. That was going to be my next question.  
6 Obviously the intent was to improve the financial  
7 performance of whatever part of the SVRC operation you  
8 were in charge of?

9 A. Yes. To get me better information, yes.

10 Q. All right. And the reason you would want better  
11 information is so that you could improve the  
12 performance?

13 A. Correct.

14 Q. And that suggests to me that there was an economic  
15 performance issue connected with the work you were  
16 doing.

17 MR. MAJORANA: Just object to form and  
18 foundation. Go ahead.

19 A. No, this wasn't communicated to me.

20 BY MR. WALLACE:

21 Q. I see.

22 A. It was giving me better information to control my  
23 department.

24 Q. Who were your primary customers as -- during that year  
25 you worked at SVRC?

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1 A. Some of the people I just listed.

2 Q. But just specifically who would be your primary  
3 customers from October of '15 through October of '16?

4 A. Well, Nexteer was one of them, TRW was one of them,  
5 Parts for Carts was one of them.

6 Q. What was the third one?

7 A. Parts for Carts. And Amigo.

8 Q. And you would have contact with those customers?

9 A. Some of them.

10 Q. All right. And did you have direct responsibility for  
11 the work you did for those customers in terms of cost  
12 containment and profitability and gross revenues and  
13 all that sort of thing?

14 A. Actually, a lot of that was still I was being  
15 mentored, I hadn't been there very long and Dean had  
16 been in that position before I had taken it. Well,  
17 not directly, there was someone that they had in that  
18 position for a month but Dean had done that position  
19 for about -- I don't even know but several years he  
20 had been in that position, so a lot of the financials  
21 he had the pulse of what to be looking at, what has --  
22 you know, what was going on with them, so he was  
23 trying to teach me.

24 Q. You say you were being mentored. Was Dean your  
25 mentor?

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1 A. He wasn't available a lot because of his position  
2 change so I was working real closely with Eve Flynn.

3 Q. But she was your subordinate employee but she was  
4 helping you?

5 A. Correct.

6 Q. Okay. She was at SVRC when you started?

7 A. Yes, she was. She probably has been there 11 years or  
8 more. I don't know, but a significant amount of time.

9 Q. How did her job responsibilities in general differ  
10 from yours?

11 A. She did more of the assigning of positions. She  
12 actually was the direct supervisor of the rest of the  
13 staff on the floor. She would give out the directives  
14 who was to go where and work. She monitored like the  
15 levels of the inventory.

16 Q. Did SVRC lose any customers or business from any of  
17 the customers you've referenced during that year you  
18 were there?

19 A. Not to my knowledge, no. Jobs may have changed. Like  
20 some jobs that came in did not come back.

21 Q. Can you give me a specific example?

22 A. I'm trying to think of the name of the company right  
23 now. I can't recall the name of the company. They  
24 went out of business.

25 Q. All right. During the year that you were at SVRC, did

1           you become aware that anybody was laid off because of  
2           lack of work or economic reasons?

3       A.    No.

4       Q.    Are you aware of any history with SVRC laying off  
5           people because of economic issues or lack of business  
6           or loss of business?

7       A.    No.

8       Q.    Are you aware that during the course of the operation  
9           of SVRC people who were similarly situated to you, in  
10          other words, their job responsibilities or maybe even  
11          the same job, would be laid off because of lack of  
12          work or loss of work or lack of profit?

13      A.    No, it wouldn't -- I don't know of anyone.

14                            MARKED FOR IDENTIFICATION:  
15                            DEPOSITION EXHIBITS 1 AND 2  
16                            10:39 a.m.

17   BY MR. WALLACE:

18      Q.    Ma'am, I'm going to hand you what's been marked as  
19           Exhibit 1. I've given your lawyer a copy. Would you  
20           take whatever time you need to look at that and tell  
21           us if you can identify what it is.

22      A.    It's the job offer.

23      Q.    So it's a communication directed to you; is that  
24           correct?

25      A.    Yes.

1 Q. It's dated September 11th, 2015?

2 A. Uh-huh.

3 Q. Is that a yes?

4 A. Yes. Sorry.

5 Q. And it's an offer of employment and it sets forth  
6 terms of employment, does it not?

7 A. Yes.

8 Q. And if you go to the third or last page of that  
9 document, it is signed -- appears to be signed by Adam  
10 Engel, vice-president of Human Resources?

11 A. Yes.

12 Q. And it has your signature and your printed name and  
13 beside that is the date of September 12th, 2015; is  
14 that correct?

15 A. Correct.

16 Q. And if you look to the second to the last paragraph,  
17 it reads, "We look forward to you joining us and  
18 expect that the relationship will be mutually  
19 successful." Do you see where I'm reading that?

20 A. Yes.

21 Q. And can you read the next sentence, please?

22 A. "It must be understood, however, that the agency  
23 conforms to an employment-at-will policy."

24 Q. And then what does it say after that?

25 A. "This policy is common to business and means that

1           either you or the agency may terminate the employment  
2           relationship at any time or without cause and with or  
3           without notice."

4    Q.    All right.  And you read that, I'm sure, before you  
5           signed this document?

6    A.    Yes.

7    Q.    And you understood it?

8    A.    Yes.

9    Q.    And you agreed to it?

10   A.    Yes.

11   Q.    I'm going to hand you Exhibit 2.  I'm going to hand  
12           the copy to your lawyer.  And would you look at  
13           Exhibit 2, please?

14   A.    Yes.

15   Q.    Can you tell us what Exhibit 2 is?

16   A.    This was my layoff notice.

17   Q.    All right.

18   A.    The revised one.

19   Q.    Revised as to the last day of work?

20   A.    Well, they gave me paperwork initially that had the  
21           wrong day.

22   Q.    Right.  So when you say it's revised, it -- you asked  
23           them to correct your last day worked, the date; is  
24           that right?

25   A.    Correct.

1 Q. All right. And otherwise this notice is what you  
2 received that formally confirmed the termination of  
3 your employment -- or the layoff, actually?

4 A. Correct.

5 Q. The last sentence of the first paragraph says this  
6 layoff is necessary because of budgetary and economic  
7 reasons, doesn't it?

8 A. Yes, correct.

9 Q. But we know from Exhibit 1 that you were an at-will  
10 employee and you could quit any time you wanted, for  
11 any reason you wanted or no reason, right?

12 A. Correct.

13 Q. And SVRC reserved the right to end your employment for  
14 any reason or no reason, correct?

15 A. Correct.

16 Q. But despite that, they explained to you that your  
17 layoff was as a result of budgetary and economic  
18 reasons, true?

19 A. That's what the document said, however, I was the only  
20 person that was let go.

21 Q. At that time?

22 A. To my knowledge at this point.

23 Q. Right. But you don't know if people were let go  
24 previous to you or previous to your being employed  
25 there for economic reasons, do you?

1 A. No, I have no knowledge of that.

2 Q. All right. It invites you to comment or input or ask  
3 Deb Snyder any questions you might have about this  
4 layoff; is that true?

5 A. That's true.

6 Q. And did you do that?

7 A. I did via a text to Deb and to Dean.

8 Q. Okay. Did you ever have an understanding of any  
9 details that gave rise to budgetary or economic  
10 reasons?

11 A. I was told things were going well. I was told that a  
12 lot of their focus was on their farmers market that  
13 they were starting. I was told there was going to be  
14 some people's -- there was going to be a big move from  
15 the facility at Vets Memorial Parkway and that when  
16 those positions and people were moved over to the  
17 farmers market that there was a strong chance that I  
18 would be the person that would be looking over the  
19 facility at Vets Memorial Parkway.

20 Q. Was that before or after your -- this layoff letter?

21 A. That was before the layoff.

22 Q. All right.

23 A. So I had no indication that there was any -- my job or  
24 anyone's job was in jeopardy.

25 Q. Because you're an at-will employee, we can agree that

1 they didn't require any reason or explanation for you  
2 to be laid off, true?

3 A. According to at will, correct.

4 Q. All right. Would you be so kind as to pass those two  
5 exhibits to the court reporter so she can keep track  
6 of them?

7 A. Both of them?

8 Q. If you would, please. Do you know who Lyle  
9 Sommerfield is?

10 A. Yes, I do.

11 Q. And can you tell us for the court record, was he an  
12 employee of SVRC?

13 A. Yes, he was.

14 Q. And do you have an understanding what his job was?

15 A. Yes, he worked on the production floor.

16 Q. And what were his job responsibilities?

17 A. He had a variety of -- it was basically material  
18 handling type position where he was moving materials,  
19 he did shipping type duties, that sort of thing, like  
20 more general type things on the work floor.

21 Q. Who was his direct supervisor?

22 A. Eve Flynn.

23 Q. My understanding from the Complaint that has been  
24 filed in this case or your lawsuit that there was an  
25 event involving SVRC employee Lyle Sommerfield that

1 started the series of events that's the basis for your  
2 lawsuit; is that a fair statement?

3 A. Yes.

4 Q. Were there -- prior to September 15th, 2016, did you  
5 have any conflict or contact with Lyle Sommerfield  
6 that in any way relates to this lawsuit that brings us  
7 here today?

8 A. You mean -- could you clarify? You mean besides the  
9 exchange that took place in my office?

10 Q. Yes.

11 A. Nothing as far as an aggressive type exchange.

12 Q. All right. My understanding there was a meeting in  
13 your office on September 15th, 2016 where  
14 Mr. Sommerfield's conduct or behavior led to some  
15 issues that you reported to your supervisors or the  
16 management of SVRC?

17 A. I -- yes. I was told to give disciplinary action to  
18 Lyle that morning, that Eve and myself would be giving  
19 disciplinary action, a three day suspension, which  
20 apparently Dean and Deb had decided that was what was  
21 going to be given, and I was told that Eve and I were  
22 going to be giving him that particular disciplinary  
23 action.

24 Q. All right. Let's back up. What's your understanding  
25 of the initial event involving Mr. Sommerfield and

1           then we'll go forward chronologically.  
2       A.    Okay.  Earlier that week we had a recycling collection  
3           event that was taking place at Mid-Michigan Waste  
4           Authority.  We drove one of the SVRC trucks for this  
5           collection where we take back all of the recycling  
6           things and Lyle Sommerfield was very upset because the  
7           speedometer was not working on that truck and he was  
8           very upset when he got to the event in the morning.  
9           And Eve Flynn was there representing management to  
10          oversee the setup and get the collection event going.  
11          Lyle, when he got there -- he was not the driver, he  
12          was the passenger.  When Lyle got there, he was very  
13          irate, he was very -- what's the word -- insubordinate  
14          to Eve, what he was saying.  He was upset.  He said  
15          that SVRC had -- was breaking rules, that he felt that  
16          SVRC put his life in jeopardy because everything on  
17          that truck was not working and he felt like that was a  
18          violation of MDOT rules for a vehicle to be on the  
19          road.

20                           And Eve had tried to settle him down and he  
21          continued to be upset and he said he was calling the  
22          State Police.  And at that point Eve got really  
23          concerned and she had -- I don't remember if she had  
24          called or initially maybe she sent a text and then  
25          called me and said that he was just going on and on

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1 and he was loud and he wasn't listening to her. And  
2 so a little time lapsed and then I know Eve went by  
3 him, because he stepped away, and Eve said to him are  
4 you really on the phone with the State Police or  
5 whatever and I don't know if he said yes or -- but she  
6 got the impression that he was, in fact, right then  
7 and there on the phone with the State Police.

8 In the meantime, she called me and I had  
9 happened to be up in the front office where Dean was  
10 and I had let Dean know what was going on. And we  
11 were concerned that he was going to cause a scene and  
12 there was a possibility that that could have had press  
13 coverage and so Dean had told me to go out there and  
14 observe the situation and see what was going on. So  
15 at that point when I got out there, Lyle was kind of  
16 off to himself. I actually approached him and said hi  
17 to him and asked him how things were going and he was  
18 quiet and short.

19 And so that was kind of -- anything that had  
20 happened while I was there, I stayed for the rest of  
21 the event. I apologized to the Mid-Michigan Waste  
22 Authority, their staff, you know. I had asked what  
23 they might have heard. They said very little. They  
24 tried to walk away because they could tell Lyle was  
25 extremely upset with the situation and he was very

1           demeaning to Eve.

2    Q.   All right. Let me stop you there for a minute,  
3           please. And I don't want to limit what you tell us.  
4           Did you conclude as a management employee of SVRC that  
5           as this evolved at that point in time that he had been  
6           insubordinate, his conduct was improper in your own  
7           mind?

8    A.   Yes. When I was standing in Dean's office, Dean and I  
9           had a conversation. Dean made the comment to me we've  
10          got to document this. This has got to stop. He's  
11          being insubordinate and we've got to get this one  
12          written up. So not only myself but Dean as well said  
13          exactly the same thing.

14   Q.   Well, I appreciate that but I'm interested in -- I'm  
15          not disputing anything that happened, but I want to  
16          make sure that I have your opinion at that time that  
17          he was, in fact -- his conduct was improper and  
18          insubordinate and it required action by SVRC as the  
19          employer against Mr. Sommerfield, if you will,  
20          counseling or whatever it ultimately was because he  
21          was in the wrong, his behavior was improper?

22   A.   True.

23   Q.   All right.

24                                    MARKED FOR IDENTIFICATION:

25                                    DEPOSITION EXHIBIT 3

1 10:58 a.m.

2 BY MR. WALLACE:

3 Q. Ma'am, I'm going to hand you what's been marked  
4 Exhibit 3, I'm going to give a copy to your lawyer and  
5 I will indicate to you that that is a copy of the  
6 lawsuit that's been filed on your behalf. Again, it's  
7 what brings us here today. And if you go to the page  
8 numbered two, it's actually the third page but it's  
9 got the number two on it.

10 A. Okay.

11 Q. And if you look at Paragraph 6, it states that on or  
12 about September 15th, 2016 an employee of defendant,  
13 referring to SVRC, Lyle Sommerfield, was engaged in  
14 insubordinate, intimidating and aggressive behavior  
15 towards defendant's plant manager, Eve Flynn, who was  
16 subordinate of plaintiff, that being you. It says  
17 that, doesn't it?

18 A. Yes.

19 Q. And is that paragraph describing this event at the  
20 recycling?

21 A. Yes, as far as what Eve -- I wasn't there at that time  
22 when he was acting that way, but yes, from what Eve  
23 told me, yes.

24 Q. Okay. And then Paragraph 7 I think confirms what you  
25 just told us, that Eve Flynn called you to report Lyle

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1 Sommerfield's behavior as it was happening?

2 A. Correct.

3 Q. All right. And that's the call you took while you  
4 were in close proximity to Dean Emerson; is that  
5 right?

6 A. Yes.

7 Q. And so Paragraph 8 says that you simultaneously  
8 reported Lyle Sommerfield's behavior to defendant's,  
9 that being SVRC, chief executive officer, Dean  
10 Emerson. That happened?

11 A. Yes.

12 Q. And you just told us it happened and now I'm  
13 confirming that that's the basis for what your  
14 Complaint says.

15 A. Yes.

16 Q. Okay. Then Paragraph 9 says that Dean Emerson then  
17 told the plaintiff, that being you, to go investigate  
18 the incident between Lyle Sommerfield and Eve Flynn  
19 and that Eve Flynn should discipline Lyle Sommerfield  
20 for his behavior?

21 A. Correct.

22 Q. Does that accurately state what happened or confirm  
23 what you've just told us?

24 A. Well, it says that Eve should discipline Lyle  
25 Sommerfield, that's actually I was supposed to be

1 sitting with Eve to give him the disciplinary action.

2 I was told by Deb Snyder that morning.

3 Q. Well, it goes on to say, your Complaint, that Eve  
4 Flynn and yourself met with Lyle Sommerfield on  
5 September 15th, 2016 to issue a written discipline for  
6 his behavior?

7 A. Correct.

8 Q. And that's what happened?

9 A. Uh-huh, yes.

10 Q. Okay. And that meeting was in your office?

11 A. Yes.

12 Q. And in the course of that meeting it's my  
13 understanding that you've alleged by way of your  
14 lawsuit, and if you want to look at it, it's Paragraph  
15 11, that Lyle Sommerfield again became insubordinate,  
16 intimidating and aggressive towards Eve Flynn and  
17 yourself?

18 A. Correct.

19 Q. The things that occurred at that meeting, did you take  
20 any notes or document it or did you just verbally  
21 report that to Deb Snyder as COO of SVRC?

22 A. I had initially -- it was a verbal that I was  
23 concerned with some of the comments that were said but  
24 then there had been a text exchange between me and Deb  
25 after that.

- 1 Q. We're going to look at that in a minute.
- 2 A. Okay.
- 3 Q. But you verbally reported it to her as it says in  
4 Paragraph 14 of your Complaint?
- 5 A. Yes, I initially called her.
- 6 Q. I'm sorry?
- 7 A. I initially, after that meeting, I had called her.
- 8 Q. All right. During that meeting, it says a written  
9 reprimand or discipline was issued. Was there actual  
10 discipline issued at that meeting?
- 11 A. Eve had the actual paperwork that was, yes, it was a  
12 physical written paper.
- 13 Q. Was there -- was he suspended or given time off or  
14 whatever you want to call it or was he just  
15 reprimanded verbally and on paper?
- 16 A. No, we were directed to give him a three day  
17 suspension.
- 18 Q. All right. So at that meeting, he was given a three  
19 day suspension; is that correct?
- 20 A. Correct.
- 21 Q. All right. Now, the specific behavior, for instance,  
22 you've alleged in your Complaint that he's not afraid  
23 to pull the trigger. Did that come before or after  
24 the three day suspension was communicated to him?
- 25 A. I don't recall, to be honest with you.

1 Q. All right. Was the three day suspension directed at  
2 his insubordination at the recycling event and not as  
3 a result of whatever occurred at this meeting?

4 A. Could you rephrase that?

5 Q. Sure. My impression is that it was already determined  
6 that he was going to get a three day suspension for  
7 his behavior at the recycling event before you  
8 initiated this meeting with him.

9 A. That is correct.

10 Q. All right. And Eve Flynn.

11 A. Yes.

12 Q. But the purpose of your meeting with Mr. Sommerfield  
13 on September 15th, 2016 was not an investigation but  
14 rather to review with him his behavior and the fact  
15 that it was not acceptable and the fact that because  
16 of that he was going to be suspended for three days as  
17 a disciplinary measure?

18 A. Yes. It was to give him the disciplinary action.

19 Q. All right. You were already satisfied that the events  
20 warranted that, in other words, his behavior and his  
21 conduct?

22 A. Well, again, that had come down from Dean and Deb.  
23 That was -- I was not part of that decision making.

24 Q. All right. But you verbally reported to Deb Snyder  
25 the fact that he was, again, insubordinate and in your

1 opinion was threatening and intimidating at the  
2 meeting that was held to give him the discipline?

3 A. Yes, I was concerned.

4 Q. All right. And I guess it's still not clear to me  
5 whether that behavior occurred before you informed him  
6 of the three day suspension or after.

7 A. It was after because I recall -- I recall Eve asking  
8 Lyle, well, you probably know why you're here. Do you  
9 know why you're here and Lyle said no, I don't know.  
10 So I believe that that was when I was sitting back and  
11 letting Eve handle the beginning of that meeting. And  
12 Eve had said well, your behavior at the event, I  
13 believe that -- well, that is when Eve had said, you  
14 know, your behavior was insubordinate and you were  
15 being disrespectful and that is when it was explained  
16 to Lyle.

17 Q. So immediately following the meeting you reported this  
18 new insubordination or improper behavior to Deb Snyder  
19 verbally; is that correct?

20 A. On a phone call, yes.

21 Q. And did she respond to you?

22 A. While I was on the phone, she did pick up and I had  
23 explained to her that not only me but Eve, that we  
24 were concerned with the comments that Lyle had made  
25 and she had said to me okay, let me get ahold of Dean

- 1 and I'll get back with you.
- 2 Q. And did she get back with you?
- 3 A. That -- not verbally. I think I initiated another  
4 text because in between that point Jay Page had been  
5 walking outside my office and he walked in to where me  
6 and Eve were and he said he kept walking past the door  
7 because he wanted to -- Lyle is known for having  
8 outbursts and Jay has commented that he does not or on  
9 many occasions is stand-offish with Eve. So at the  
10 time I was the highest level of management in the  
11 building, Dean wasn't there, Deb wasn't there, my  
12 counterpart, which I mentioned, Rose Eurich, who was  
13 at the time also a director of rehab, was also gone,  
14 so it was -- I was the one, I felt my position that I  
15 was the one overseeing what was taking place or how  
16 that should be handled.
- 17 Q. All right. What is Jay's last name?
- 18 A. Page, P-A-G-E.
- 19 Q. And what's his job position?
- 20 A. I don't know the technical term. They call him the  
21 plant assistant. He's underneath Eve but I don't know  
22 if that's truly his title.
- 23 Q. And he commented that he had watched Mr. Sommerfield's  
24 behavior directed to Eve Flynn on prior occasions?
- 25 A. Yes, he had said on prior occasions that he had

1           witnessed that in a different setting. I mean let me  
2           be clear, he didn't say that at this moment while  
3           the -- after the exchange had happened, but he was  
4           walking -- he came in and told me and Eve, I was  
5           walking past your door a couple times, Linda, just to  
6           make sure everything was okay. And he said I heard  
7           him getting -- I don't know if he heard the exact  
8           words or if he said I could hear him getting upset.  
9           And at one point Eve had got up, because she wanted to  
10          go make a copy of the actual piece of paper, the  
11          written disciplinary action, and so I was in there  
12          with Lyle myself, and at that point Lyle had said  
13          something to me about you guys just opened a real bad  
14          can of worms. And I said Lyle, no one is opening a  
15          can of worms. I said I just -- I said I feel strongly  
16          that everyone deserves respect. I said this would not  
17          be any different if Eve had been out of line or  
18          insubordinate, then the same action would be taken  
19          against Eve. So at that point when Eve came back with  
20          his copy, the door didn't get closed again, so my door  
21          was open so I don't know at that point, I don't  
22          remember if Jay was out there hearing some of this at  
23          that time or not.

24        Q.   Well, to the extent Jay Page overheard what was going  
25          on in that room and specifically whatever was

1 demonstrating Lyle Sommerfield's behavior during this  
2 meeting, then he would theoretically be able to  
3 support what you've told us occurred in that room?  
4 A. Yes, I believe in some form or fashion. Again, I  
5 don't know how much he heard.  
6 Q. You refer to Rose Eurich as your counterpart. What do  
7 you mean counterpart?  
8 A. Well, I was the director over the production area and  
9 Rose was the director over the rehab side of the  
10 business.  
11 Q. So you were equal in terms of your management  
12 position?  
13 A. Yes.  
14 Q. Do you know if your job duties after your layoff were  
15 consolidated into her job?  
16 A. I believe that she actually received a promotion.  
17 She's now a VP.  
18 Q. Well, as of October 4th, 2016, your last day of work,  
19 do you have any knowledge that your job duties or job  
20 responsibilities were consolidated into her job?  
21 MR. MAJORANA: I just object to foundation  
22 but you can go ahead.  
23 A. I didn't know. When I was let go, I didn't know what  
24 was taking place. It was not communicated to me what  
25 was taking place, I just knew I was let go.

1 BY MR. WALLACE:

2 Q. All right. You know that nobody was hired to replace  
3 you?

4 A. I didn't know that.

5 Q. Do you know that now?

6 A. Yes.

7 Q. So if no one was hired to replace you, obviously  
8 people that were already there or continued to work  
9 there would have to assume your job duties, correct?

10 A. Or it wasn't getting done, I don't know.

11 Q. Or it wasn't getting done, okay. After you had this  
12 conversation where you initially reported what  
13 happened at this meeting to Deb Snyder, did you have  
14 any further verbal communication with her that day,  
15 being September 15th, 2016?

16 A. No, it was all via text at that point.

17 Q. Okay.

18 MARKED FOR IDENTIFICATION:

19 DEPOSITION EXHIBIT 4

20 11:16 a.m.

21 BY MR. WALLACE:

22 Q. The court reporter has handed you Exhibit 4. I've  
23 handed a copy to your lawyer. Would you take a look  
24 at that and tell us if you can identify it, please?

25 A. Yes, I can.

1 Q. And would you indicate for the record what that is?  
2 A. This was the text conversation between me and Deb.  
3 Q. So this followed your phone call to her?  
4 A. Yes.  
5 Q. And there was no other verbal communication to her  
6 before you initiated this text?  
7 A. No, just the first initial one I mentioned earlier.  
8 Q. All right. The first thing I see on Exhibit 4, was  
9 that Deb Schneider's communication to you?  
10 A. The top two lines are what she -- is what she had  
11 texted to me.  
12 Q. All right. So was that the first text communication  
13 regarding these events?  
14 A. Yeah, I don't know honestly what was before this, you  
15 know, if I had said anything like, you know, have you  
16 heard anything or something or if she just started by  
17 saying -- trying to call the attorney, I don't know.  
18 Q. Let me indicate for the record that this document or  
19 these several pages were supplied to us by your  
20 lawyer. I presume you provided those to your lawyer?  
21 A. Yes. Yes, I did.  
22 Q. All right. So can you specifically tell us whether --  
23 the first line says trying to call attorney?  
24 A. Uh-huh.  
25 Q. Are you telling us that you would have texted Deb

1 Snyder something before she texted that to you or is  
2 that the first communication?

3 A. Well, that's when I'm saying I haven't looked at this  
4 text in a long time so I don't know if she sent this  
5 because she knew I was waiting to hear something back.  
6 It's unclear to me if there was -- if I had said have  
7 you heard anything, I mean something simple or not.

8 Q. Okay. I presume that you intended to supply the  
9 entire exchange to your lawyer so he could, in turn,  
10 supply it to us in answer to our request to produce  
11 documents, right?

12 A. True.

13 Q. So as we sit here today, we would have to conclude  
14 that that was the first non-verbal communication that  
15 occurred?

16 A. True.

17 Q. Okay. And that would be Deb communicating to you in  
18 response to your verbal report to her that she was  
19 trying to call the lawyer. And then she says, "Talked  
20 with Dean. Talked with attorney. Will fill you in  
21 tomorrow. Document. Thanks." Is that what that  
22 says?

23 A. Yes.

24 Q. And what did you interpret that to mean?

25 A. Don't do anything. We'll talk to you tomorrow.

1 Q. "Talked with Dean." I presume we can conclude that  
2 she reported to Dean what you had reported to her?

3 A. Yes.

4 Q. And then she's telling you that one or both of them  
5 talked with SVRC's attorney?

6 A. Yes.

7 Q. And then she goes on to say she will fill you in  
8 tomorrow. I presume that means she was going to tell  
9 you what the lawyer said or what the plan was or --

10 A. Yes.

11 Q. Okay. And then it says document. Should we conclude  
12 that she wanted you to document whatever occurred?

13 MR. MAJORANA: Object to foundation. Go  
14 ahead.

15 A. I don't know.

16 BY MR. WALLACE:

17 Q. Well, at the time you received this, did that fill you  
18 in tomorrow/document, did you put any interpretation  
19 on that or take any action because of that?

20 A. No. The way I read it was don't do anything, we'll  
21 fill you in tomorrow. And I don't know honestly what,  
22 you know -- it didn't -- that last word didn't mean  
23 anything to me because I was looking at the action or  
24 lack of action is what she was trying to tell me.

25 Q. Well, talking to a lawyer isn't a lack of action, is

1           it?

2    A.    Well, meaning I wasn't able to do anything. I just  
3           got -- I heard a threat.

4    Q.    I don't see where it says don't do anything. It tells  
5           you to document.

6                       MR. MAJORANA: I'll just object to the form  
7           and foundation, but go ahead.

8    A.    What I'm seeing this say is don't do anything, fill  
9           you in tomorrow. That's word for word basically what  
10          it's saying.

11   BY MR. WALLACE:

12   Q.    Well, there's no word that says don't do anything.  
13          There's not one of those words on that exchange, is  
14          there?

15   A.    No.

16   Q.    All right. And, by the way, Mr. Sommerfield had been  
17          suspended for three days so he was gone?

18   A.    Out of the building, yes, but none of us could be sure  
19          where he was after giving a threat.

20   Q.    All right. Your Complaint says the threat was a  
21          communication by Sommerfield to Ms. Flynn that he felt  
22          "revolution coming," right?

23   A.    Where are you? I don't know what you're --

24   Q.    I'm on page 3 of your Complaint, Exhibit 4.

25   A.    Uh-huh. Yes, to me and Eve he did say he felt a

1 revolution coming on. I was in the room. That was  
2 taking place in my office.

3 Q. Well, your Complaint says stated to plaintiff, that  
4 being you, and Eve Flynn?

5 A. Yes.

6 Q. And then it goes on to say and it quotes him, "knows  
7 how to use a gun"?

8 A. Uh-huh.

9 Q. And then "not afraid to use the trigger"?

10 A. To pull the trigger, yes.

11 Q. And then it quotes him as saying, "doesn't  
12 discriminate," that's what it says, doesn't it?

13 A. Correct.

14 Q. So, that is intended to allege or state the things  
15 that caused you to be concerned?

16 A. Yes.

17 Q. All right. At any time prior to receiving the text  
18 message from Deb that starts out, "Trying to call  
19 attorney. Talked with Dean. Talked with attorney.  
20 Will fill you in tomorrow. Document. Thanks," any  
21 time prior to receiving that text did you report this  
22 event that concerned you to the police?

23 A. No, I did not.

24 Q. Did you report it to any governmental agency?

25 A. No, I did not.

1 Q. Did you report it to anybody other -- at the time --  
2 up until the time you received that first text from  
3 Deb, did you communicate any of this to anybody or  
4 communicate with anybody about this other than Eve  
5 Flynn, Dean Emerson or Deb?

6 A. Yes, I did.

7 Q. Who?

8 A. I spoke with Sylvester Payne regarding it, I spoke to  
9 a friend of mine who works over at Nexteer and told  
10 him what was happening, and when I was talking to the  
11 guy that works at Nexteer, I said I'm shaking right  
12 now, I'm really upset. I said I don't really know  
13 what to do, I'm waiting to hear something back. And  
14 he was the one that said to me you need to start --  
15 something to the effect of you need to start a paper  
16 trail. You need to make a police report on that.

17 Q. So --

18 A. So when I heard that from him, I still hadn't heard  
19 anything back and I hung up with him and that was when  
20 I then called Sylvester Payne.

21 Q. All right. And was this on September 15th, 2016?

22 A. Yeah, if that -- yes, if that was the day that  
23 we're --

24 Q. The day of the meeting?

25 A. Yes. Yes.

1 Q. So how did you happen to call somebody at Nexteer  
2 about this event?

3 A. They're my friends and I was concerned and I wasn't  
4 getting answers back.

5 Q. Who was this person?

6 A. Jerry Orr.

7 Q. And so he's a friend of yours?

8 A. Yes.

9 Q. Do you know what his position is at Nexteer?

10 A. He doesn't work for Nexteer, he works for an outside  
11 company called Omni and they set up sorts and such at  
12 Nexteer.

13 Q. They set up what?

14 A. I'm sorry, what?

15 Q. They set up what?

16 A. Sorts, part sorts, going through parts. He's a  
17 manager of quality for Omni.

18 Q. So, your motive for calling him is because he was a  
19 friend?

20 A. My motive for calling him was because he works in a  
21 plant environment and I wanted some understanding of  
22 how he felt with a threat like that, what I could do.  
23 Because, again, I wasn't -- I was still kind of in  
24 waiting mode and I was getting more and more -- the  
25 moments were setting in and it was making me more and

1 more concerned.

2 Q. So you were waiting to hear. You had already been  
3 told that you would be informed tomorrow, right?

4 A. Correct.

5 Q. Okay. So why were you waiting to hear any more that  
6 day? You had already been told that you would be  
7 informed tomorrow.

8 A. Because when you have someone tell you that they could  
9 pull the trigger, they might not wait until tomorrow.  
10 I didn't know what his state of mind was. He was  
11 already agitated from the situation that happened at  
12 Mid-Michigan Waste Authority, he was -- and that was  
13 why we're disciplining him so now we are giving him  
14 disciplinary action. It was very common knowledge  
15 when I came in to work at SVRC that -- I didn't know  
16 who Lyle was but there were several people that said  
17 oh, you'll know Lyle when you meet him, he walks  
18 around in camo, he's an ex-Marine, so there was reason  
19 for me to be concerned. I'm not -- I am not -- I did  
20 not want to wait until tomorrow when someone is  
21 threatening with a gun and knowing how to pull the  
22 trigger.

23 Q. All right. Fair enough. So you talked to Jerry Orr.  
24 What time of day was that?

25 A. It was in the afternoon after this meeting, so I can't

1 recall exactly the time.

2 Q. But it was after Deb texted you and said she'd fill  
3 you in tomorrow?

4 A. Correct.

5 Q. But it was the same day?

6 A. It was the same day.

7 Q. All right. And he told you to call the police and  
8 make a paper trail?

9 A. Correct.

10 Q. Or actually you said it the other way around, make a  
11 paper trail, report to the police?

12 A. He said -- I don't know exactly which -- what way it  
13 went but what he had said to me was you need to make a  
14 police report, get a paper trail going.

15 Q. So did you hang up the phone and make a police report?

16 A. No, I did not.

17 Q. Why?

18 A. Because I was still waiting to see if I would hear  
19 something back.

20 Q. You knew you weren't going to hear back until  
21 tomorrow, that's what the text said?

22 A. And that's when I took the time to call Sylvester  
23 Payne.

24 Q. All right. We'll get to that. Did you hang up the  
25 phone with Jerry Orr and call the police?

- 1 A. No, I did not.
- 2 Q. Why?
- 3 A. Because I was looking at what Deb texted to me.
- 4 Q. There's nothing in there that says don't call the  
5 police, is there?
- 6 A. There's nothing saying I should call the police. I'm  
7 going to -- my -- the person that I report to,  
8 thinking the president and COO, would know how to  
9 direct me.
- 10 Q. But you're critical now as we sit here today as of the  
11 time you filed your lawsuit of what they did or didn't  
12 do, right?
- 13 A. I feel that I should have been given a direct answer,  
14 not we'll check it out tomorrow. Someone's  
15 threatening someone, you don't check it out tomorrow.
- 16 Q. You were told to call the police?
- 17 A. No, I was not. By a friend I was. Not by Deb.
- 18 Q. You knew that any person in this community can call  
19 the police any time they want by dialing 911,  
20 reporting whatever event they want, right?
- 21 A. Yes.
- 22 Q. There's nothing stopped you from doing that?
- 23 A. Correct.
- 24 Q. All right. But you didn't do it even though you were  
25 advised to do it by your friend Jerry Orr?

1 A. Correct.

2 Q. All right. And is the next event then you called  
3 Sylvester Payne?

4 A. Correct.

5 Q. And who is Sylvester Payne?

6 A. He is my significant other. I've dated him on and  
7 off.

8 Q. He's not an employee of SVRC, is he?

9 A. He is not.

10 Q. And neither is Jerry Orr?

11 A. No.

12 Q. In your life's experience or through your education or  
13 your employment, are you knowledgeable that  
14 communicating with someone outside of the employment  
15 environment about another employee is improper?

16 A. No, I was communicating about my situation.

17 Q. Well --

18 A. I'm an employee there.

19 Q. But you're communicating about Lyle Sommerfield's  
20 behavior to people who are not connected with SVRC,  
21 true?

22 A. No, I'm communicating about a threat that was made to  
23 me.

24 Q. It involved the person that made the threat, from what  
25 you're telling us, is Lyle Sommerfield?

1 A. It wouldn't matter who it was, I was concerned about  
2 me. It was a threat about me and somebody coming to  
3 SVRC.  
4 Q. You identified him in your conversation with Jerry Orr  
5 and Sylvester Payne and identified what the behavior  
6 was that concerned you, true?  
7 A. Yes.  
8 Q. And did you tell them that he had been suspended for  
9 three days?  
10 A. No, I said I was giving disciplinary action is what I  
11 think I said.  
12 Q. Okay. Do you know that it is totally prohibited to  
13 give negative employment information about an employee  
14 to someone outside of the employer?  
15 A. Again, I'm responding to something that happened to me  
16 as an employee.  
17 Q. But it involves communicating negative employment  
18 information about Lyle Sommerfield, true?  
19 A. Yes.  
20 Q. All right. Now, you've expressed repeatedly your  
21 concern. Neither Sylvester Payne or Jerry Orr are  
22 police officers or governmental representatives, are  
23 they?  
24 A. No, they are not.  
25 Q. Okay. But if you would have called the police right

1           then and there and expressed your concern, it would  
2           have been a law enforcement authority, a governmental  
3           authority, wouldn't it?

4    A.    Yes.

5    Q.    Okay.  But you didn't do that?

6    A.    No.

7    Q.    So, what did you tell Sylvester Payne?

8    A.    I had told him about going through and giving  
9           disciplinary action and I can't -- hold on.  The  
10          call -- let me correct myself.  The call to Sylvester  
11          was after I was told that I could not make a police  
12          report.

13   Q.    Okay.  Who told you you could not make a police  
14          report?

15   A.    It was in the text from Deb.

16   Q.    All right.  So it was not verbal, it was written; is  
17          that correct?

18   A.    Correct.

19   Q.    Did anybody else communicate to you in any manner or  
20          fashion that you could not file a police report, and  
21          those are your words, could not file a police report  
22          other than by way of the text -- chain of text  
23          messages that are Exhibit 4?

24   A.    No, that was the information I was going off of in the  
25          text.

1 Q. So, if we look at Exhibit 4, the text -- the chain of  
2 text messages, the next thing we read is "Deb, I was  
3 advised we should immediately make out a police  
4 report. He is a hostile employee and that was a  
5 threat." Are those your words?

6 A. Yes.

7 Q. All right. Did you then make a police report?

8 A. No, I did not.

9 Q. Did you report to any governmental agency or entity?

10 A. I did not because I went on to read what Deb had  
11 responded to me.

12 Q. Well, just a minute. You, at the point you texted her  
13 that you were advised to immediately make a police  
14 report, you didn't make one?

15 A. Correct.

16 Q. And you hadn't made one when she apparently responded,  
17 right?

18 A. Correct. Because in her response she said no police  
19 report.

20 Q. If we take Exhibit 4 and go to the second page, we  
21 have the complete -- presumably the complete  
22 communication from Deb to you, right?

23 A. Yes.

24 Q. And was that the same day this occurred?

25 A. Yes.

1 Q. And it says, "Dean talked with the attorney and he  
2 said no police report. The attorney will be at SVRC  
3 at 8:30 Wednesday morning to talk with Lyle." That's  
4 what it says, doesn't it?

5 A. Yes.

6 Q. Okay. So it's not Deb telling you to call the police?

7 A. No.

8 Q. To not call the police, is it?

9 A. In her text she says the attorney and he said no  
10 police report.

11 Q. All right. So I don't see anything there that says  
12 Linda, don't call the police, it doesn't say that,  
13 does it?

14 A. She is communicating -- no, you're right, it does not  
15 say those words.

16 Q. Okay. What it really says is that Dean talked to  
17 SVRC's lawyer and he advised SVRC not to make a police  
18 report, isn't that what that says?

19 A. Yes.

20 Q. Not you, SVRC, they're the ones that got the advice,  
21 the attorney's not talking to you, is he?

22 A. No.

23 Q. And then you go on and respond to that, and it's quite  
24 a long exchange, but if we look at the second, third  
25 and fourth page of that text exchange, it starts

1 with -- I don't know what that is, U-H-H-H Deb, those  
2 are your words, are they not?

3 A. Yes, they are.

4 Q. And they continue for the rest of that page, all of  
5 the next page and it goes into what would be the  
6 fourth page of Exhibit 4?

7 A. Right.

8 Q. And one of the things that you're communicating there  
9 is why the attorney advised no police report?

10 A. Correct.

11 Q. And then you say in there that you called Sylvester, I  
12 assume that's Sylvester Payne, and told him about the  
13 Lyle situation and I asked him why a threat would not  
14 be documented with the police ASAP, and he said he  
15 didn't know why, right?

16 A. Correct.

17 Q. So up until the point you started that text and ended  
18 that text to Deb, you still didn't call the police?

19 A. I did not.

20 Q. And you still didn't report it to any governmental  
21 agency?

22 A. I did not.

23 Q. And, by the way, I don't see anywhere so far in this  
24 text exchange that you advised Deb or anybody else at  
25 SVRC that you were going to make a police report.

1 A. Yes. Well, that was part of the verbal talk --  
2 conversation when I talked before the texting started  
3 was should I make a police report.

4 Q. You didn't tell us that before. You're now telling us  
5 that was part of that conversation when I asked you to  
6 tell us what the exchange was?

7 A. I don't think we went into depth on that.

8 Q. So, are you -- what did you say to Deb and what are  
9 you now claiming she said back to you?

10 A. My recollection of it is that I talked to Deb and I  
11 was concerned about the threat. I think I was -- my  
12 comments were what do I do now? And I say something  
13 to the effect of a police report, and I believe when  
14 we were hanging up, she had said I'll get ahold of  
15 Dean and let you know.

16 Q. Okay. So she didn't tell you not to call the police?

17 A. She did not.

18 Q. Okay. One of the things that your lawsuit alleges is  
19 that somehow Deb was hostile or did something wrong  
20 towards you when she responded to your text about  
21 having reported to Sylvester Payne the "Lyle  
22 situation", and she texted you and said, "Linda,  
23 Sylvester is not an employee of SVRC. He is a board  
24 member. Please be very careful with sharing  
25 confidential information about employees." Okay. And

1 then that's cut off so if we go to the next page, we  
2 got the whole text that you sent her, right?

3 A. Yes.

4 Q. "Please be very careful with sharing confidential  
5 information about employees. If you want to file a  
6 personal protection order, you can do so, which may  
7 mean filing a police report." It says that, doesn't  
8 it?

9 A. Yes.

10 Q. Did you file a police report and file for a personal  
11 protective order?

12 A. I did not based on what her response was to me.

13 Q. Well, we just talked about what her response was and  
14 we'll get to the rest of it. If you want to file a  
15 personal protection order, you can do so which may  
16 mean filing a police report, right?

17 A. It's -- yes, that's what's here.

18 Q. Okay. It doesn't say don't file a police report, does  
19 it?

20 A. No.

21 Q. Okay. "But that is not what was advised by our  
22 attorney." She goes onto say that, right?

23 A. Correct.

24 Q. Okay. So she tells you you can file for a personal  
25 protection order which may mean filing a police

1 report, but that's not what was advised by our  
2 attorney. Let's talk when you get to work in the  
3 morning. That's what it says, doesn't it?

4 A. Yes.

5 Q. What is hostile or intimidating about that  
6 communication from Deb to you in response to your text  
7 to her?

8 A. I took it as I was being scolded for contacting  
9 Sylvester Payne.

10 Q. Well, if you were, there was reason for it, wasn't it?  
11 You were communicating confidential employment  
12 information about another employee to someone who was  
13 not an employee of SVRC, it's confidential, it can't  
14 be communicated, isn't that what she's telling you?

15 MR. MAJORANA: I just object to form and  
16 foundation. Go ahead.

17 A. I disagree. I'm communicating to someone who I went  
18 to for advice after being -- having a threat being  
19 made to me.

20 BY MR. WALLACE:

21 Q. All right. Up to this point in time there was nothing  
22 that would prohibit you from calling the police,  
23 whether SVRC wanted you to or not, right?

24 A. I was waiting to get some sort of direction from my  
25 supervisor.

1 Q. Isn't that what that is is direction from your  
2 supervisor that if you want to file a personal  
3 protection order, you can do so which may mean filing  
4 a police report, wasn't that direction from your  
5 superiors at SVRC?

6 A. My -- what I was thinking, I didn't understand why it  
7 would be a personal protection order when this  
8 situation happened at work on work -- on the work  
9 property, why couldn't I call and have someone be at  
10 SVRC, that's what was in my -- what I was thinking.  
11 Why are they making a police -- or a personal  
12 protection order, it happened at work during work  
13 hours.

14 Q. What did you just say about at work, you mean you  
15 wanted to call the police and have them guard the work  
16 place?

17 A. Guard, no, not guard, but come to the site in case --  
18 people were going to be leaving work, we had no idea  
19 whether Lyle was gone, whether Lyle came back, whether  
20 Lyle -- none of us knew where he was at or what he was  
21 thinking. So to have -- they -- SVRC has in the past,  
22 when there is client that is upset or making --  
23 seeming irate, they have called a police officer to  
24 the site. As a matter of fact, it was probably a few  
25 weeks -- several weeks prior to this situation where

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1           there was a consumer that was acting threatening  
2           towards one of the rehab specialists and we had a  
3           police officer on site, so I'm wondering when this is  
4           taking place and these words of pull the trigger, why  
5           I can't or why am I -- why is my direct supervisor not  
6           directing me to do so for the rest of the people that  
7           were on site at that time.

8    Q.    Well, you are the one that is testifying that you were  
9           fearful, you were threatened?

10   A.    Uh-huh.

11   Q.    All right.  Where was Eve Flynn during all this?  I  
12           don't -- was she asking to report to the police?

13   A.    Her and I had talked about how to handle it and that's  
14           when I said well, I'm communicating with Deb.  And at  
15           some instance in there Jay Page had come up to me and  
16           said Linda, is it okay if I start going to talk to the  
17           employees that are here and just make them aware that  
18           there's some, you know, there's something hostile  
19           going on so that people are keeping their eyes open  
20           walking out to the parking lot.  So even Jay felt like  
21           there was a concern, and I said yes, Jay, please do  
22           that.

23                           MR. WALLACE:  Can we go off the record,  
24           please.

25                           (Recess was taken at 11:50 a.m.)

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1 (Back on the record at 11:58 a.m.)

2 BY MR. WALLACE:

3 Q. As this was all evolving, did you have any further  
4 communication with Eve Flynn?

5 A. Eve was up in my office kind of while a lot of this  
6 was going on because like Eve was still -- we were  
7 discussing about the seriousness of the comments that  
8 Lyle had made and Eve and I had both said oh, that  
9 didn't sound very good, it's a concern, and we both  
10 agreed that it was best if I communicate that to Deb  
11 to know what had happened and the things that were  
12 said, so -- and then at that point, like I said, at  
13 some point in there Jay, as I mentioned, had come up  
14 and had talked to us, too, that that wasn't cool,  
15 that's -- so Eve was kind of around at that time. I  
16 don't -- I don't recall at what point Eve left and I  
17 know she had went somewhere back in the work area to  
18 see if Lyle had exited or what was going on, so I'm  
19 not real -- I can't really speak to that.

20 Q. Let's talk about that. This happened -- this meeting  
21 happened in the afternoon or towards the end of the  
22 workday, correct?

23 A. Correct.

24 Q. And he had left as far as you and everybody knew, Lyle  
25 Sommerfield had left the premises, left the building

1 and was gone?

2 A. That's -- I don't know for sure but that was our -- we  
3 had -- that was our impression that he had to leave --  
4 that he was leaving because we gave him the  
5 disciplinary action to take off. I know at one point  
6 he said something to well, can I get back to work  
7 right now and Eve had made the comment Lyle, you can  
8 just go. And he said if I'm getting disciplined for  
9 the next three days, I want to at least get full pay  
10 or something to that effect, and Eve said you will get  
11 paid for the day, please, Lyle, get your stuff and go.

12 Q. And he did?

13 A. I don't know that.

14 Q. Well, you never saw him there again, did you?

15 A. Correct. Yes.

16 Q. Ever?

17 A. Correct.

18 Q. And you know as part of this exchange the first thing  
19 that Deb, COO of SVRC, did was consult with SVRC's  
20 lawyer as to the appropriate, proper way to deal with  
21 this situation that was causing you concern, right?

22 A. Correct.

23 Q. All right. And is there something wrong with that as  
24 the basis for your lawsuit that they consulted with  
25 their lawyer to be advised how to handle the situation

1 with Mr. Sommerfield?

2 A. My -- for my opinion of being an upper management,  
3 waiting until tomorrow or until as it's stated next  
4 Wednesday is not a comfortable feeling to be -- to  
5 provide a safe working environment.

6 Q. Well, everybody was going home by the time this all  
7 happened and he left, the workday was over with, there  
8 was no threat to anybody, was there?

9 A. Not everyone was home. The day concludes at SVRC at  
10 4:30, this was not after or at 4:30, this was probably  
11 between 3:30 and 4:00, there were still people and  
12 workers in the building, so no, it still posed a  
13 threat.

14 Q. Well, everybody would have been clear of the building,  
15 according to your testimony, within a half hour or so,  
16 okay, right?

17 A. Yes, by probably 4:30, yes.

18 Q. All right. So tomorrow it would be logical, how are  
19 you going to get the decision makers and the lawyer  
20 who they're consulting with and any additional  
21 investigation, how are you going to get that  
22 accomplished until you get to the next business day?

23 A. My concern was for the immediate moment, and I was  
24 concerned -- nobody knows what Lyle may have in his  
25 car, nobody knows -- nobody knows his state of mind.

1 Me, as being upper management, was concerned with not  
2 only me and Eve, because we were the two people in  
3 that room, but everyone else in that building. I was  
4 not willing to blow it off and act like it was not  
5 pertinent.

6 Q. Well, nobody is blowing it off.

7 A. Well, waiting until tomorrow could be -- he could be  
8 waiting there with a gun.

9 Q. He wasn't, was he?

10 A. You wouldn't have known that. You can say that now  
11 sitting here six months later but you don't know that.

12 Q. All right. As all this was resolving, you knew that  
13 SVRC had engaged an attorney and they communicated  
14 with you that that attorney was going to conduct an  
15 investigation, including interviewing you and Eve  
16 Flynn, correct?

17 A. That was going to happen but I didn't feel like it was  
18 immediate enough.

19 Q. I see.

20 A. People get shot all the time. Turn on the news.

21 Q. Nobody got shot, did they?

22 A. We're lucky, aren't we? Otherwise we'd be here  
23 looking into why SVRC didn't act on threats and that  
24 would be a lot more serious. Then they'd really be  
25 concerned how they looked in the community.

1 Q. I appreciate that you want to tell your story, but it  
2 would be much more efficient if you simply answer my  
3 question.

4 A. And I'm doing so.

5 Q. "Revolution coming." That's not person specific to  
6 you, is it?

7 A. No, it's not.

8 Q. All right. "Knows how to use a gun." That's not  
9 person specific to you, is it?

10 A. No.

11 Q. "Not afraid to pull the trigger." That's not person  
12 specific to you, is it?

13 A. No, it's not.

14 Q. "Doesn't discriminate." That's not person specific to  
15 you either, is it?

16 A. It is not.

17 Q. Thank you.

18 A. That was my concern is because we work with people  
19 with disabilities that him saying I don't  
20 discriminate, I don't know from his standpoint does  
21 that mean he doesn't discriminate against people with  
22 disabilities, a lot of our consumers can't even make  
23 it to the break room or a bathroom without needing  
24 assistance, somebody coming in with a gun, the  
25 potential of that and those phrases, I was concerned

1 about people and what if.

2 Q. You've expressed almost continuously since we've  
3 started this deposition your concerns but you never  
4 called the police or reported this to any official  
5 governmental agency, did you?

6 A. I did not.

7 Q. All right. And the only communication you've already  
8 testified to under oath with regard to the discussion  
9 of calling the police -- since when don't we have a  
10 phone that shuts off?

11 (Discussion off the record at 12:06 p.m.)

12 (The requested portion of the record was  
13 read back by the reporter.)

14 (Back on the record at 12:07 p.m.)

15 BY MR. WALLACE:

16 Q. I'll start over. You testified under oath here that  
17 your communications and the communication back to you  
18 from anybody associated with SVRC regarding calling  
19 the police is contained in this series of text  
20 messages, true?

21 A. True.

22 Q. Did you, in fact, get a statement to the attorney who  
23 was investigating this entire situation that's the  
24 subject of your lawsuit, specifically Lyle  
25 Sommerfield's conduct, you gave an interview to that

1 attorney?

2 A. Yes.

3 Q. And as far as you know, Eve Flynn did likewise?

4 A. Yes.

5 Q. And do you know anybody else who gave a statement?

6 A. I believe Jay Page was asked to.

7 Q. All right. Anybody else?

8 A. Not that I'm aware of.

9 Q. Okay. You know that Eve Flynn's employment was not  
10 terminated because she participated in this  
11 investigation, don't you?

12 A. Yes.

13 Q. And you know that Jay Page wasn't terminated because  
14 of his participation in this investigation, was he?

15 A. True.

16 Q. All right.

17 A. I believe there was a -- because of the exchange in  
18 the e-mails, the way Deb had specifically pointed out  
19 me contacting Sylvester, that was a problem that she  
20 had.

21 Q. It is a problem if you disclose confidential  
22 information about an employee.

23 A. I was talking about my situation.

24 Q. Okay. You've said that before.

25 A. And that's the truth.

1 Q. And we see what she said to you about it, it's in  
2 writing, correct?

3 A. Correct.

4 Q. So the allegation of your Complaint that something to  
5 the effect she created a hostile work environment or  
6 retaliated against you because you reported to  
7 Sylvester Payne, whatever she said or did is in that  
8 e-mail, Exhibit 4, isn't it?

9 A. And that's how I interpreted it. That is exactly how  
10 I interpreted it because she never did come out and  
11 tell me why I could not make a police report at SVRC.  
12 I was trying to understand why it had to be a PPO and  
13 not something for -- that was --

14 Q. That's not what we're talking about.

15 A. Well, it is for me.

16 Q. Would you agree with me that a document that's in  
17 writing, it's there, whatever it says, it says, right?

18 A. No, texts can be interpreted different ways.

19 Q. I see. You can interpret it the way you want to and  
20 somebody else could interpret it the way they wanted  
21 to?

22 A. Yeah, being the person that heard a threat and  
23 somebody on the outside who was not face to face with  
24 someone in a threat, yeah, you can interpret things  
25 differently.

1 Q. Ma'am, that was a yes or no question. Are you telling  
2 us that a text message can be interpreted one way by  
3 yourself and another way by another person, yes or no?

4 A. Yes.

5 Q. Please be very careful with sharing confidential  
6 information about employees. What is hostile about  
7 those words?

8 A. Well, I will go back --

9 Q. No. I want to know what's hostile about those words.

10 A. Well, with my time working at SVRC --

11 Q. That's not answering my question. What is in any one  
12 of those, one, two, three, four, five, seven, eight,  
13 nine, ten words that's hostile?

14 A. Well, there's history and if you don't want to hear it  
15 then I can't answer your question.

16 Q. There may be history, ma'am, and if your lawyer feels  
17 it's important, he'll provide you with an opportunity  
18 to talk about it. My question relates to those ten  
19 words.

20 A. I don't know.

21 Q. Okay. In addition to you giving an interview, Eve  
22 Flynn giving an interview and Jay Page giving an  
23 interview, do you have knowledge that the attorney  
24 representing SVRC undertook an investigation and made  
25 a determination and provided a recommendation to SVRC

1           how to deal with Lyle Sommerfield as it related to the  
2           events that you've alleged in your Complaint or that  
3           you've told us about here today?

4    A.    I only knew up to the point that they had launched an  
5           investigation. I was let go before I knew anything  
6           else of any -- all I knew before I was let go is they  
7           were in an investigation.

8    Q.    All right. Well, you knew that Lyle Sommerfield never  
9           came back to work?

10   A.    I didn't know that initially.

11   Q.    Well, if this happened on September 15th and your  
12          employment was terminated on October 4th, '16, I  
13          assume you would have been at work to see whether he  
14          was there or not?

15   A.    Dean had told me it was still under investigation.  
16          That was the last I had heard about it and then I was  
17          terminated.

18   Q.    Well, you knew he was suspended during the entire  
19          investigation, however long it took, right?

20   A.    Right. But I didn't know the outcome of the  
21          investigation.

22   Q.    Do you know now?

23   A.    Yes.

24   Q.    What do you know now?

25   A.    My understanding is he never came back to SVRC.

1 Q. He was discharged, wasn't he?

2 A. I didn't know those terms.

3 Q. All right. Do you know now that he was fired because  
4 of what he did at that meeting that day and anything  
5 that he might have been counseled or reprimanded  
6 before in connection with his employment?

7 A. I didn't know that.

8 Q. You didn't know that?

9 A. No.

10 Q. You don't know that now?

11 A. Well, if you're stating that to me.

12 Q. That never came to you?

13 A. No. I was let go. Nobody told me or followed up with  
14 me whatsoever. Nobody told me anything.

15 Q. Well, if your last day at work was October 4th, 2016,  
16 I take it you assume -- you got notice of your layoff  
17 that the investigation was ongoing?

18 A. Yeah, that's what I knew.

19 Q. Your ultimate goal going back to when this began to  
20 happen was, of course, to control a situation, in  
21 other words, do whatever was necessary and appropriate  
22 to respond to Lyle Sommerfield's what you consider  
23 threatening behavior, right?

24 A. Yes, with direction.

25 Q. I'm sorry?

1 A. With some direction from -- that's why I was referring  
2 everything back to Deb. Her being my supervisor, I  
3 was trying to do everything I could in my power and  
4 keep her, you know, communication with her.

5 Q. Didn't you assume that once SVRC had retained an  
6 attorney to conduct an investigation and you were a  
7 participant in that investigation that they were going  
8 to take the action that was recommended by the  
9 attorney?

10 MR. MAJORANA: I just object to foundation.  
11 You can go ahead and answer.

12 A. Could you rephrase that, please?

13 BY MR. WALLACE:

14 Q. You were aware that there was an investigation  
15 undertaken and ongoing, that was your testimony?

16 A. Yes. Yes.

17 Q. All right. And wouldn't it be a logical next step  
18 that based upon that investigation necessary and  
19 appropriate action would be taken relative to Lyle  
20 Sommerfield and his behavior?

21 MR. MAJORANA: Same objection. Go ahead.

22 A. I would hope so, yes.

23 BY MR. WALLACE:

24 Q. All right. And your ultimate concern was that  
25 something would be done to take Mr. Sommerfield out of

1 the equation so that he was no longer in your mind a  
2 threat?

3 A. My -- when I had -- I guess could you rephrase it? I  
4 want to make sure I'm answering appropriately.

5 Q. All right. As a result of the event involving  
6 yourself and Eve Flynn and we'll call it your mutual  
7 complaint about Mr. Sommerfield's behavior, I want to  
8 tell you that there will be testimony and evidence in  
9 this case that an investigation was conducted and at  
10 the conclusion of that investigation, including the  
11 information you provided from the minute this event  
12 occurred and through the time you were interviewed,  
13 that his employment was terminated because of his  
14 behavior on the afternoon of September 15th, 2016.

15 A. Okay. Again, I wasn't aware of his termination.

16 Q. All right.

17 A. I don't know how you want me to...

18 Q. I want you to say whatever you want to say.

19 A. Okay. My understanding is that an investigation was  
20 going on and hoping to handle it. When I had  
21 interviewed with SVRC's attorney, he had told me -- or  
22 asked me if it was up to me what do I think Lyle  
23 should -- what should happen to Lyle, did I want him  
24 to be fired, did I want him, you know, what would be  
25 the ultimate fix for the situation. And my response

1 to that attorney was it's kind of a tricky situation.  
2 I want him to understand making those kind of  
3 statements is inappropriate. I made the comment that  
4 letting him go could also be concerning because it's  
5 only adding to him being angry so I don't know if that  
6 could evolve in him being more hostile, and that was  
7 my answer to the attorney.

8 Q. Well, he was terminated as a result of this event and  
9 no harm has come to you, has it?

10 A. No.

11 Q. You said something that's interesting, you told the  
12 lawyer that would further disciplinary action make  
13 Lyle Sommerfield more hostile, so that was a new  
14 concern of yours, apparently, at that time?

15 A. It -- yes.

16 Q. That same thought process or that same potential was  
17 just as likely or more likely if SVRC called the  
18 police, wouldn't it have been the same difference?

19 MR. MAJORANA: Object to foundation. Go  
20 ahead.

21 A. I don't -- I guess my feeling was wanting to, again,  
22 have something on record, you know, of the occurrence  
23 so if there were going to be more events or other  
24 violent something else happening that there would have  
25 already been something established.

1 BY MR. WALLACE:

2 Q. You reported your complaints or your concerns, if you  
3 will, about Lyle Sommerfield to Deb Snyder?

4 A. Uh-huh.

5 Q. Correct?

6 A. Yes.

7 Q. Dean Emerson?

8 A. Not on that day, but yes.

9 Q. All right. Lyle Sylvester?

10 A. You mean Sylvester Payne?

11 Q. I'm sorry, Sylvester Payne?

12 A. Yes.

13 Q. Jerry Orr?

14 A. Yes.

15 Q. Anybody else?

16 A. Yes.

17 Q. Who?

18 A. That same day when Jay had suggested and I agreed that  
19 he go and let people know to be careful walking out to  
20 the parking lot and to go out to the parking lot in  
21 groups, I had went back to the production area where  
22 back there there was Virginia Young, Jay Page was in  
23 that office area, Danielle Petre and I believe that  
24 was all that was in the office at that time, and I had  
25 conveyed and I was at that point getting upset, I was

1 physically crying and upset. And I basically had said  
2 I don't know why I'm being told not to fill out a  
3 police report.

4 Q. But you still didn't call the police?

5 A. No, because, again, from my -- the way I interpreted  
6 and understood Deb's response was not to do that. I  
7 even at that point Danielle was -- she wasn't -- she  
8 was like part-time -- spending part-time in the HR  
9 Department, in the Human Resource Department, I  
10 believe her degree is in HR, and I asked her, I said  
11 Danielle, I said do you have any idea why I can't, and  
12 she said to me, Linda, I don't know, I just go by what  
13 they say.

14 Q. All right. So now we're going full circle. You're  
15 claiming that your allegations in your Complaint, your  
16 lawsuit that you were told not to call the police is  
17 whatever was said in the text exchanges, Exhibit 4?

18 A. Uh-huh.

19 Q. Nothing else, right?

20 A. Correct.

21 Q. Okay. You also allege that there was -- that you were  
22 a whistle blower?

23 A. Uh-huh, yes.

24 Q. And that your whistle blowing event, or your protected  
25 activity is what lawyers call it, was reporting Lyle

1 Sommerfield's behavior to Dean Emerson, correct?

2 MR. MAJORANA: Just object to foundation,  
3 calls for a legal conclusion. Go ahead.

4 A. Well, my complaint stemmed from the fact that I did  
5 not return to work the Friday following -- the Friday  
6 following the episode.

7 BY MR. WALLACE:

8 Q. Excuse me. That wasn't my question. My question  
9 wasn't -- if you want to look at the Complaint, we can  
10 put it in front of you -- that the reporting, that is  
11 telling somebody about Lyle Sommerfield's behavior,  
12 that that reporting in part that gives rise to your  
13 whistle blower claim was the report what you told Dean  
14 Emerson and what you told Deb Snyder?

15 MR. MAJORANA: Same objection. Go ahead.

16 BY MR. WALLACE:

17 Q. Right?

18 A. True, because when I did report back to work, Deb  
19 Snyder called me in her office that Monday in the  
20 afternoon and she said to me Linda, all this has  
21 bothered me all weekend. And I said it's bothered me,  
22 too.

23 Q. So this happened on a Friday afternoon?

24 A. No, no. The event happened on a Thursday, I did not  
25 return to work on Friday, I was still frazzled, upset,

1 and so I returned to work on Monday. She was -- and  
2 so when I did get into her office in the afternoon,  
3 she had said to me, Linda, can you imagine how me and  
4 Dean felt that you reported this to Sylvester, do you  
5 know how that made us feel? And all I could say in my  
6 head, I was like I had this guy sitting across the  
7 table from me and threatened me or the people at SVRC  
8 and you're worried about how you and Dean feel about  
9 me going to Sylvester Payne? Like, again, you're  
10 worried about your job versus the safety of people at  
11 SVRC.

12 Q. That's all speculation?

13 A. I'm telling you how it came across.

14 Q. Well, you're the one that's filed this lawsuit, right?

15 A. Right.

16 Q. And it comes across like that because it fuels your  
17 lawsuit, doesn't it?

18 A. No, it's the truth.

19 Q. I see. Exhibit 4, if we look at the fourth page to  
20 the end, it says today, 7:36 a.m., can you find that  
21 page? Go from the last page to the fourth from the  
22 last page.

23 A. 7:36.

24 Q. All right.

25 A. Morning. My Nexteer meeting, is that the area you're

- 1 at?
- 2 Q. Yup. That's your text to Deb Snyder, right?
- 3 A. Uh-huh.
- 4 Q. Is that a yes?
- 5 A. Yes.
- 6 Q. "Morning. My Nexteer meeting was cancelled. I have  
7 decided to take today off. I am trying to sleep and  
8 get rid of this migraine I have." That's you telling  
9 her that you were taking Friday off, right?
- 10 A. Correct. Yes.
- 11 Q. And she responds, does she not?
- 12 A. Yes.
- 13 Q. GM, I don't know --
- 14 A. Good morning.
- 15 Q. Oh, I see, okay. "Hope you feel better. If you are  
16 up to it today, please call Dean to debrief the  
17 situation as Dean is calling the attorney again as he  
18 will be gone all next week and wants to try to have a  
19 plan to deal with this." That's what she told you,  
20 correct?
- 21 A. Yes.
- 22 Q. Is it your testimony or are you claiming that that's  
23 somehow hostile?
- 24 A. No.
- 25 Q. All right. And then you respond, apparently, "Hi,

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1 Deb. I'm just leaving ER, I took Sylvester to ER" and  
2 so on, right?

3 A. Uh-huh.

4 Q. And she responds, "Oh, no, so sorry to hear this.  
5 We'll say many prayers. Please keep me posted. Hope  
6 you are sleeping now. We will talk later." Is there  
7 something hostile about that?

8 A. No.

9 Q. Okay. Then at 11:14 a.m., I presume -- is this Monday  
10 now? Do you know what day it is, how long after the  
11 event?

12 A. I don't recall, to be honest with you.

13 Q. Do you know what day of the week it was you took  
14 Sylvester to the hospital?

15 A. Honestly, I believe it was a Sunday night that I took  
16 him to the hospital, so that must have been a Monday.

17 Q. And then the next text from her is "Hi, Linda. Hope  
18 all is okay. Are you planning on coming to work? I  
19 just heard from the attorney and he needs your  
20 statement as soon as possible. Please let me" -- and  
21 then it quits.

22 A. Uh-huh.

23 Q. Is that hostile?

24 A. No.

25 Q. Okay. Your Answers to Interrogatories, that series of

1 questions we talked about --

2 A. Uh-huh, yes.

3 Q. -- includes questions about your medical care and  
4 treatment?

5 A. Yes.

6 Q. And I'm trying to speed this up a little bit here,  
7 we're just about ready to wind it up.

8 My understanding is that you received both  
9 medical and psychiatric or psychologist or some type  
10 of counseling that you relate to this event?

11 A. Yes. Well, I have a counselor and I have had the  
12 psychologist or psychiatrist care. I have not been  
13 able to go to a counselor or the psychiatrist because  
14 right now the day that they let me go, they cancelled  
15 all of my benefits that same day so I had no warning  
16 to go forward and get any kind of medicine filled or  
17 doctor appointments, they cancelled it the very same  
18 day that they let me go.

19 Q. Do you know what a COBRA letter is?

20 A. Yes.

21 Q. And did they provide you with a COBRA letter?

22 A. Not until later on, about a week or more later.

23 Q. All right. Let's try this, prior to this meeting with  
24 Lyle Sommerfield, had you ever treated with a  
25 psychiatrist?

1 A. Yes.

2 Q. Who?

3 A. Dr. Jafferany, he's listed.

4 Q. And when did you first treat with him?

5 A. About a year prior.

6 Q. And for what?

7 A. I was having difficulty after my dad had passed away.

8 Q. All right. Is that the first time you received any  
9 psychiatric treatment?

10 A. Yes, it is.

11 Q. How about a psychologist, did you ever treat with a  
12 psychologist or counsel with a psychologist prior to  
13 this event with Lyle Sommerfield?

14 A. I've had a counselor. I don't know what exactly she  
15 falls under with her degrees and things, but I did  
16 have a counselor and her name was Kathy Lorenzen.

17 Q. Is J-A-F-F-E-R-A-N-Y Psychiatric Services --

18 A. Yes.

19 Q. That's this psychiatrist you treated with before this  
20 happened?

21 A. Yes.

22 Q. And how about since?

23 A. I haven't been able to afford it.

24 Q. All right. I'm going to ask any reference to  
25 financial circumstances or insurance be stricken, it's

1 not proper on this record.

2 And Kathy Lorenz, did you treat with her  
3 before this event?

4 A. Yes, I did.

5 Q. Okay. How about since?

6 A. No.

7 Q. All right. How about L-I-O-U-D-M-I-L-A, last name  
8 K-I-N-A-C-H-T-C-H-O-U-K?

9 A. Yes, Dr. Lioudmila Kinachtchouk, she's my doctor, my  
10 internal doctor.

11 Q. And you treated with her before this event?

12 A. Regular. She's my regular doctor, yes.

13 Q. And have you treated since with her?

14 A. Yes.

15 Q. All right. Any other medical or psychiatrist,  
16 psychologist or counselors that you treated with since  
17 this happened?

18 A. No.

19 Q. How about before?

20 A. No.

21 Q. Now, you've been applying for jobs. I take it you  
22 aren't disabled from employment because of some mental  
23 or physical condition?

24 A. No.

25 Q. You're physically and mentally able to be gainfully

1 employed?

2 A. Yes.

3 Q. All right. I take it it's your testimony, however,  
4 that you have not been able to get a job?

5 A. Correct.

6 Q. All right. Did you have any periods of unemployment  
7 from the time you got your first job after you  
8 graduated from college? I think we didn't get down  
9 the track on where you worked.

10 A. Right. I did have some periods of unemployment, yes.

11 Q. All right. Let's start with your first job after  
12 Ferris.

13 A. I worked for a company out of Reed City, it was called  
14 Tube Lite.

15 Q. I'm sorry, say that again.

16 A. Tube Lite, T-U-B-E L-I-T-E. They do door and window  
17 extrusions and they're out of Reed City.

18 Q. How long were you there?

19 A. Roughly, I'm going to say, two years.

20 Q. And what did you do there?

21 A. I was -- what was my title there? I did the  
22 scheduling of the presses.

23 Q. Do you remember your immediate supervisor?

24 A. His first name was Marvin -- no. Yeah, Marvin, I  
25 believe, was his first name.

1 Q. Approximately what years were you there?

2 A. I'm going to say part of '92 and '93.

3 Q. And why did you leave that job?

4 A. I was getting married, I was moving out of state.

5 Q. Where did you next work?

6 A. I moved down out of state to Memphis, Tennessee, and I  
7 was doing some temp work and then I was hired full  
8 time at Allenberg Cotton.

9 Q. And that's in Memphis, Tennessee?

10 A. Technically I think their address is Cordova, but yes,  
11 right around there or Germantown, Cordova.

12 Q. And what did you do there?

13 A. I was an export coordinator, I guess. We would ship  
14 cotton in containers and track those that were put on  
15 vessels at different ports and being sent overseas to  
16 like China, Jakarta, various international places for  
17 the cotton to be processed.

18 Q. And you worked there from approximately when to when?

19 A. Again, I don't know how long I was a temp there, I can  
20 just tell you I was probably there about a year and a  
21 half.

22 Q. As a temp --

23 A. No, I said I started as a temp but I don't know my  
24 actual day of hiring in at their company.

25 Q. But it would have been sometime around '93?

1 A. Yeah. It roughly would have been probably '93, '94.

2 Q. And after that?

3 A. After that me and my husband had left the state, he  
4 was a Marine and he got out of the Marine Corps and we  
5 moved back to Michigan.

6 Q. And then what did you do?

7 A. I got a job as a consultant at Ford, the Dearborn  
8 assembly plant. The company was called Rail Van  
9 Multimodal.

10 Q. Rail Van?

11 A. Yup, Multi M-O-D-A-L.

12 Q. Multi, M --

13 A. U-L-T-I Modal, M-O-D-A-L.

14 Q. And that was Dearborn?

15 A. Well, I worked out of the Dearborn assembly plant.  
16 What they basically did -- what Rail Van did is they  
17 got a contract with Ford and they put in process  
18 managers, so my title was a process manager. And Rail  
19 Van Multimodal was actually based out of Worthington,  
20 Ohio but all of us process managers were on site at  
21 the assembly plants for Ford. And we were tracking  
22 inbound and outbound shipments, locating containers  
23 that were coming in with parts that would have to go  
24 to the line, that sort of thing.

25 Q. And approximately from when to when did you have that

1 job?

2 A. I'm trying to think where we were going, what area  
3 we're going into. We're probably talking I'm going to  
4 say '95, '96, maybe beginning of '97.

5 Q. Why did you leave that job?

6 A. There was actually -- I had moved from the Dearborn  
7 assembly plant over to the Wixom assembly plant and  
8 while I was employed there, there was an actual  
9 workplace shooting that occurred at the Wixom assembly  
10 plant and at that point I just felt like I wanted to  
11 look for something else.

12 Q. So you resigned?

13 A. Yes. Well, I found another job and I took other  
14 employment.

15 Q. What was your next job?

16 A. I worked at a company called TTC, Transmission  
17 Technologies Corporation. They're based out of  
18 Farmington Hills.

19 Q. What did you do there?

20 A. I was a pricing analyst.

21 Q. And from when to when were you there?

22 A. I was there probably from, again, I'm going to guess  
23 that it was '97 or '98 until '99, probably July of  
24 '99.

25 Q. And why did you leave that job?

LINDA RIVERA  
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1 A. Because I had gotten married and I had my son and so I  
2 was a stay-at-home mom from that point on.

3 Q. When did you go back to work?

4 A. I'm trying to recall the year. I'm going to -- again,  
5 not completely accurate or sure of the dates but I'm  
6 going to say it was around 2005 or 2006, I went to  
7 work for a staffing agency called HCI out of Brighton.

8 Q. What is it, HVI?

9 A. No, HC as in Charlie, Health Care Innovations is what  
10 it stands for.

11 Q. And they're out of where?

12 A. Brighton.

13 Q. And how long were you there?

14 A. I don't recall, to be honest with you.

15 Q. Why did you leave that job?

16 A. I was laid off at that job.

17 Q. Did you sue them for getting laid off?

18 MR. MAJORANA: Object to form and  
19 foundation.

20 A. No.

21 BY MR. WALLACE:

22 Q. Have you ever had any other lawsuit besides the one  
23 that brings us here today?

24 A. No, I have not.

25 Q. Where did you go to work after being laid off at HCI?

1 A. I went to work for Borders corporate headquarters in  
2 Ann Arbor.

3 Q. And how long were you there?

4 A. I was there probably about a year, I think.

5 Q. And why did you leave that job?

6 A. They were going out of business.

7 Q. Okay. Where did you go after that?

8 A. At that point I had made the decision to move back to  
9 Saginaw.

10 Q. All right. Were you unemployed after you left  
11 Borders?

12 A. Yeah, I came back here without a job.

13 Q. All right. And how long did it take you to get a job?

14 A. I'm going to say six or seven months, I guess.

15 Q. Okay. So in your interrogatory answers -- I'll ask  
16 the court reporter to mark those, please.

17 MARKED FOR IDENTIFICATION:

18 DEPOSITION EXHIBIT 5

19 12:45 p.m.

20 BY MR. WALLACE:

21 Q. I'm going to show you what's in Exhibit 5.

22 A. Okay.

23 Q. Looking at page 8 of Exhibit 5 -- I'm sorry. I'm  
24 sorry, page 12 of Exhibit 5, question number 27, it  
25 asks for the identity of your employers for a period

1 of 15 years past through the current date, does it  
2 not?

3 A. Uh-huh, yes.

4 Q. And you remember providing that information?

5 A. Yes, I do.

6 Q. And most recently it shows at SVRC?

7 A. Yes.

8 Q. All right. And then it says Saginaw Transit  
9 Authority?

10 A. Yes.

11 Q. What did you do at Saginaw Transit Authority?

12 A. I was manager of planning.

13 Q. Who was your supervisor there?

14 A. Sylvester Payne.

15 Q. And why did that job come to an end?

16 A. That was about the time when I was having difficulty  
17 with my dad passing away and I had took some time off,  
18 I took FMLA and that's when I started my -- I started  
19 more heavily my counseling and my psychiatric help.  
20 And so at that point my psychologist had told me that  
21 I could go back to work but he wanted me to start back  
22 slowly and get readjusted back into work and at that  
23 point when I had presented that to Stars, it was  
24 determined -- they told me that they cannot work with  
25 a part-time person coming in for that position because

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1 they were restructuring all of the routes in Saginaw  
2 so they weren't going to be working -- they would not  
3 be able to work with me on a part-time basis. And so  
4 then I was put on like a -- I don't know if they  
5 called it a layoff or a termination at that point.

6 Q. What was Sylvester Payne's position?

7 A. He was the general manager.

8 Q. And his employment with the transit authority came to  
9 an end, too, right?

10 A. He retired most recently. He had been there 26 years.

11 Q. As the general manager?

12 A. Yes.

13 Q. And then we got -- that gets us down through HCI,  
14 correct, according to interrogatory answers?

15 A. Well, you skipped Borders.

16 Q. Yeah, I did. So, other than Borders and HCI, all the  
17 other employers you told me about came prior to the  
18 ones listed in our interrogatory answer number 27?

19 A. Yeah. Basically these were the ones that came after I  
20 was a stay-at-home mom and anything I worked after  
21 being home with my kids.

22 MR. WALLACE: Give me just a minute.

23 (Recess was taken at 12:50 p.m.)

24 (Back on the record at 12:54 p.m.)

25 MR. WALLACE: Thank you. I don't have any

1 other questions.

2 MR. MAJORANA: Okay. We want to extend our  
3 break because I want to talk to you for a minute. I  
4 have a couple of questions.

5 (Recess was taken at 12:54 p.m.)

6 (Back on the record at 1:04 p.m.)

7 EXAMINATION

8 BY MR. MAJORANA:

9 Q. All right. Ms. Rivera, I have just a couple  
10 questions. Going back to the beginning of your  
11 deposition, were you ever told that your department  
12 was in financial trouble while you were working at  
13 SVRC?

14 A. No, I was not.

15 Q. Were you ever told that SVRC itself was in any kind of  
16 financial trouble?

17 A. No.

18 Q. Okay. And before your termination, were you ever told  
19 that your position was in jeopardy for any economic,  
20 budgetary reasons or anything else?

21 A. No.

22 Q. And you recall you testified about a conversation  
23 about you handling operations of the farmers market in  
24 some capacity. When did that conversation take place?

25 A. That took place probably, I'm going to say, about five

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1 or six months in. Deb had mentioned to me about the  
2 changes that were taking place with the farmers market  
3 and she said that they would be needing someone to  
4 oversee the building there at Vets Memorial Parkway  
5 and she had made the comment that I was the one being  
6 looked at rather than Rose Eurich. They had gotten me  
7 involved in overseeing with Brian Taylor more of the  
8 business -- or I'm sorry, the building aspects of  
9 safety program. I was put on the safety committee. I  
10 was told also by Brian Taylor the same thing, that  
11 they needed somebody to oversee because Brian's office  
12 was moving over, I believe, to the farmers market as  
13 well, and so he said there was a real good chance that  
14 I could be the person that would be overseeing that  
15 building.

16 Q. Okay. So is it fair to say they're talking about  
17 expanding your responsibilities, then?

18 A. That's how it -- yes, I would say yes, that was  
19 definitely the gist of the conversation. There was a  
20 promotion possible.

21 Q. And in addition to the responsibilities that you have  
22 already testified to at your position as SVRC, did you  
23 have any other responsibilities?

24 A. Yes. As I mentioned, not only overseeing the  
25 production side of the floor and helping get the

1 recycling business started, it was communicated to me  
2 on multiple occasions about having to get out and  
3 bring businesses in. It was part of my job  
4 description was to get out and continue to bring jobs  
5 in for the floor, so, again, that was kind of that  
6 dual responsibility of what I had to do in the  
7 building and what I was expected to do out of the  
8 building.

9 Q. And did you, in fact, bring any jobs into the  
10 building?

11 A. Yes, I did. I worked with Eve mostly on the  
12 production side so that I had, again, some knowledge  
13 and background of what work they had done because  
14 there were times Eve and I would talk and she's like  
15 oh, we did a job similar to this, but I was bringing  
16 in a lot of opportunities for that recycling side of  
17 the business, which was very important.

18 I was the direct contact for setting up a  
19 quarterly collection event with Mid-Michigan Waste  
20 Authority. I set up a Gladwin collection. I was in  
21 contact with not only the county but the city to get  
22 some of their old things, computers and phones and  
23 phone lines and such. I was in the process of working  
24 with people at Central Michigan University to start  
25 trying to get some of their recycling things. I also

1 had made contact with someone that was in the process  
2 of making a meeting for me to meet the tribal leaders  
3 over at the casino because they had a lot of  
4 recycling, obviously electronics period, I don't even  
5 have to explain, I think you all know, so I definitely  
6 was working and working and bringing business in.

7 Q. Okay. So it's fair to say you were generating  
8 business for SVRC?

9 A. Yes. It might not have been, you know, as much on the  
10 production side but I was doing what I was asked to do  
11 and bringing business in.

12 Q. Okay. Now, let's talk about Sylvester Payne. Just to  
13 make it clear, does he have any relationship at all  
14 with SVRC?

15 A. Yes, he is the president or at that time he was  
16 president of their board of directors.

17 Q. Okay. Now, going to Eve Flynn and Jay Page, are you  
18 aware whether or not they ever told anyone at SVRC  
19 that they wanted to contact the police regarding Lyle  
20 Sommerfield's behavior?

21 A. I'm not aware of it. I had basically told Eve that I  
22 would handle it with Deb because I was the direct --  
23 directly reporting to Deb so I basically said because  
24 I was that level that I would be handling it with Deb.

25 Q. Okay. After the Lyle Sommerfield incident where, as

1 we talked about throughout this deposition, did you at  
2 all make any suggestions to any managers or management  
3 at SVRC about changing procedures or protocols or  
4 anything like that?

5 A. Well, prior to this event, actually probably I'm going  
6 to say six weeks prior, there was an incident that  
7 happened at SVRC with one of our rehab specialists and  
8 her name is Michelle, and one of her consumers was  
9 noted for having erratic behavior. Again, we don't  
10 know, we can't ask because of HIPAA laws if they're on  
11 meds, if they're not on meds, if they're taking their  
12 meds, but she felt like there was one of her clients  
13 that was getting agitated and aggressive with her in  
14 her office and that day she did, in fact, she was --  
15 she -- I believe she got the approval from Rose Eurich  
16 that it was okay to call the police.

17 Q. Okay.

18 A. Because of his behavior.

19 Q. Okay. Well, I'm asking did you tell -- did you talk  
20 to Dean or Deb or anybody about increasing security or  
21 anything like that?

22 A. I did after that episode with what was happening with  
23 Michelle, I had had a conversation with Dean talking  
24 about putting in the detectors -- metal detectors and  
25 he kind of scoffed at me and said to me, Linda, you

1 don't really understand the segment of the population  
2 or something like that, that we work with. We work  
3 with disabled people. And I said well, we don't know,  
4 again, about their meds and he said and we are on lock  
5 down, so he's pointing out to me that the building is  
6 on lock down but I also pointed out that people bring  
7 in duffel bags, people bring in coats and there is no  
8 detection put in place that if somebody comes in they  
9 very well could have a knife or a gun, there's nothing  
10 in place, and I said that's a concern. It's better to  
11 be proactive and look at that situation than wait  
12 until it's too late. And, again, Dean just kind of  
13 dismissed my comments.

14 Q. So were these suggestions, were they borne out of the  
15 incident with Lyle Sommerfield?

16 A. No, it was prior to that.

17 Q. It was prior to that?

18 A. Yes.

19 MR. MAJORANA: Oh, okay. All right. I  
20 think that's all the questions I have.

21 MR. WALLACE: No questions. Thank you.

22 (The deposition was concluded at 1:13 p.m.  
23 Signature of the witness was not requested by  
24 counsel for the respective parties hereto.)  
25

1 CERTIFICATE OF REPORTER

2

3 STATE OF MICHIGAN )

4 ) SS

5 COUNTY OF SAGINAW )

6

7 I, KATHY M. BAASE, certify that this  
8 deposition was taken before me on the date  
9 hereinbefore set forth; that the foregoing questions  
10 and answers were recorded by me stenographically and  
11 reduced to computer transcription; that this is a  
12 true, full and correct transcript of my stenographic  
13 notes so taken; and that I am not related to, nor of  
14 counsel to, either party nor interested in the event  
15 of this cause.

16

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25

*Kathy M. Baase*



KATHY M. BAASE, CSR-3285  
Notary Public,  
Saginaw County, Michigan

My Commission expires: January 10, 2018

EXHIBIT 3  
Director of Industries  
Operations Job Description

---

**POSITION:**                      **DIRECTOR OF INDUSTRIAL OPERATIONS**

**RESPONSIBLE TO:**            **President/CEO**

**RESPONSIBLE FOR:**        **Work Floor Employees**

---

**PRIMARY RESPONSIBILITY:**

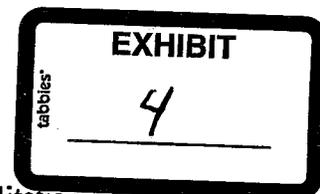
- Direct and coordinate the industrial operations to obtain optimal efficiency, economy of operations and to maximize profits.
- Plan, develop, lead, organize, control and administer all phases of the Industrial Contracts Division of the agency; i.e. budgeting, sales, marketing and operations.
- Ensure that all applicable standards are met in all areas of the work floor operations.
- Seek out and obtain industrial contracts for the agency.
- Development of contract bids and following up on contract implementation in a prompt and efficient manner with customers.

**ESSENTIAL JOB FUNCTIONS:**

- Administer the Industrial Operations Division in accordance with agency policy and procedure and in compliance with all applicable standards (CARF, ISO, DOL, MIOSHA). Carries out delegated administrative assignments within prescribed time frames.
- Assist in developing and monitoring applicable facets of the Strategic Plan of the agency. Annually develop a budget that meets the Industrial Operations Division strategic planning goals and objectives.
- As needed/required, develops and implements updated production methods, equipment and techniques within industrial contracts.
- Responsible for the upkeep and maintenance of department equipment.
- Ensure that appropriate safety standards and procedures are adhered to in all contract areas.
- As needed/required implement and maintain staff training in conjunction with other departments of the agency, to ensure that production staff develop and maintain appropriate skills in the performance of jobs.
- Coordinate and/or conduct an annual Commensurate Wage Survey within an area representative of the agency's type and levels of operations.
- Responsible for physical safety and security (e.g. alarm procedure; fire drills; accessibility, etc.) of the facility in absence of the Director of Operations.

**QUALIFICATIONS:**

- A Bachelor's degree, preferably in Marketing, Business Administration, Rehabilitation or Industrial Engineering is required.



Director of Industrial Operations Job Description

RECEIVED by MSC 5/27/2020 11:15:43 AM

- An additional five (5) years of diversified experience in general industrial work in an administrative capacity is preferred.

ACKNOWLEDGEMENTS:

I have read this job description and understand that these are the criteria against which I will be evaluated.

I also understand that this job description is a broad overview of my responsibilities and that I may be asked to perform other reasonable duties as assigned by my supervisor.

Lesly R      3-3-2016  
Employee      Date

Dean Emerson      3-3-20  
President      Date

Annual Review of this Position:      November

# EXHIBIT 4

## Dean Emerson Dep Transcript

**In the Matter Of:**

RIVERA vs SVRC INDUSTRIES, INC

16-031756-NZ-1

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**DEAN EMERSON**

*April 13, 2017*

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STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF SAGINAW

LINDA RIVERA,

Plaintiff,

-vs-

Case No. 16-031756-NZ-1  
Hon. Patrick J. McGraw

SVRC INDUSTRIES, INC.,

Defendant.

\_\_\_\_\_ /

DEPOSITION OF DEAN EMERSON

Taken by the Plaintiff on Thursday, the 13th day of  
April, 2017 at the office of O'Neill Wallace & Doyle, PC,  
300 St. Andrews Road, Suite 302, Saginaw, Michigan at  
11:10 a.m.

APPEARANCES:

For the Plaintiff:           AARON M. MAJORANA (P78772)  
The Mastromarco Firm  
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(989) 790-0960

Reported By:                Heidi A. Cook, CSR 4827

Also Present:               Linda Rivera

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EXAMINATION INDEX

ATTORNEY'S NAME	EXAMINATION	RE-EXAMINATION
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BY MR. MEYER:	30	
	*	*

EXHIBIT INDEX

EXHIBIT	MARKED	IDENTIFIED
Deposition <u>Exhibit 1</u>	27	27
(Layoff Notification)		
	*	*

1 Thursday, April 13, 2017  
2 Saginaw, Michigan  
3 11:10 a.m.

4 \* \* \*

5 DEAN EMERSON,  
6 having been first duly sworn, testified as follows:

7 EXAMINATION

8 BY MR. MAJORANA:

9 Q Good morning.

10 A Good morning.

11 Q We met before; my name is Aaron Majorana.

12 A Yep.

13 Q I represent Ms. Rivera. Can you state and spell your name  
14 for the record?

15 A Yep. Dean Kenneth Emerson, D-e-a-n, K-e-n-n-e-t-h,  
16 E-m-e-r-s-o-n.

17 Q Okay. And where is an address where you could be reached?

18 A 15 Shelley Court, Saginaw, Michigan 48602.

19 Q Have you ever had your deposition taken before?

20 A No.

21 Q All right. Then I'll -- you've been sitting through these,  
22 so I assume you know how it works, but just for the record,  
23 I'll explain. Everything is being taken down, so every  
24 answer has to be a verbal one; no uh-uhs, uh-huhs, shrugs,  
25 that sort of thing.



1           If you don't understand a question, you can always ask  
2           me to rephrase. And, again, if you need a break for any  
3           reason, just answer my question and you can take your break.

4   A    Okay.

5   Q    All right. So other than your attorney, did you talk to  
6           anyone about your deposition testimony today?

7   A    Deb Snyder.

8   Q    And --

9                   MR. MEYER: Well, let me just caution you, before  
10           we go any further. To the extent that I was involved in any  
11           of those conversations, they're all privileged.

12                   THE WITNESS: Oh, yes, the attorney was present for  
13           that conversation.

14                   MR. MEYER: He can't ask you about anything that  
15           was said, any of the contents of those conversations.

16                   THE WITNESS: Okay.

17   Q    (BY MR. MAJORANA) Just a quick follow-up, then. Did you  
18           have any conversations with anyone about your deposition  
19           testimony where an attorney was not present?

20   A    No.

21   Q    Okay. Did you review any documents for your deposition  
22           today?

23   A    No.

24   Q    Are you employed?

25   A    Yes.

1 Q Where are you employed?

2 A SVRC Industries.

3 Q And what is your position there?

4 A CEO.

5 Q How long have you been CEO?

6 A Since 2014.

7 Q Did you work for SVRC prior to that point?

8 A Yes.

9 Q And what was your position prior to that point?

10 A Vice-President of Operations.

11 Q How long did you have that position for?

12 A Two years.

13 Q Okay. Were you working for SVRC prior to that?

14 A Yes.

15 Q What was your position before that?

16 A Vice-President of Industrial Operations.

17 Q How long did you have that position for?

18 A Two, maybe three years.

19 Q Okay. How long have you been, total, with SVRC?

20 A Sixteen years.

21 Q Okay. What did you do before you came to SVRC?

22 A I worked at Access Alliance of Michigan, Division of

23 Bay-Arenac Mental Health as their Performance Improvement

24 Specialist.

25 Q Okay. Did you go to college?

1 A Yes.

2 Q Where did you go?

3 A Saginaw Valley State University and Central Michigan  
4 University.

5 Q Okay. When did you graduate from SVSU?

6 A 1995.

7 Q Okay. What did you study when you were at SVSU?

8 A Psychology.

9 Q A Bachelor's?

10 A Yes.

11 Q Okay. And did you graduate from CMU, as well?

12 A Yes.

13 Q And when did that happen?

14 A '98.

15 Q And what were you studying at CMU?

16 A Science of administration, with concentration in health care  
17 administration.

18 Q Was that a Master's degree?

19 A Yes.

20 Q What is your responsibilities as CEO at SVRC?

21 A Governance, community relations, strategic planning,  
22 financial review.

23 Q Do you oversee any employees?

24 A Yes.

25 Q What kind of employees do you oversee?

- 1 A I oversee the President and COO, Deb Snyder.
- 2 Q Anyone else you oversee?
- 3 A No.
- 4 Q Okay. And do you know the Plaintiff, Linda Rivera?
- 5 A Yes.
- 6 Q How do you know her?
- 7 A Through her employment at SVRC.
- 8 Q How long do you know her for?
- 9 A I've known Linda probably, maybe a year and a half.
- 10 Q And what was Ms. Rivera's position at SVRC?
- 11 A Director of Industrial Operations.
- 12 Q When did she assume that position?
- 13 A October of 2015.
- 14 Q Okay. Did you oversee Ms. Rivera at all?
- 15 A When she first started I did, three months, and then
- 16 supervision switched to Deb Snyder.
- 17 Q Are you aware of any performance issues Ms. Rivera had at
- 18 work at SVRC?
- 19 A No.
- 20 Q Are you aware of any disciplinary issues Ms. Rivera had at
- 21 SVRC?
- 22 A No.
- 23 Q Okay. Are you aware whether or not Ms. Rivera brought any
- 24 new business to SVRC while she was there?
- 25 A Yes.

1 Q And how -- what are you aware of?

2 A Linda was working on electronic recycling, and she was  
3 coordinating with different, say, waste stream vendors to  
4 bring in electronic recycling.

5 Q Any other new business she was working on?

6 A Not that I'm aware of.

7 Q Okay. Did she, in fact, bring any new vendors with account  
8 to recycling?

9 A Mid Michigan Waste Management, and the Recycling Division of  
10 Gladwin, I believe, the Gladwin municipality.

11 Q Do you know how much, in terms of dollars, that business  
12 generated?

13 A No.

14 Q At the present time, are you aware of any financial  
15 difficulties SVRC is having?

16 A Yes.

17 Q And what are you aware of?

18 A Year end last year the agency lost \$150,000. There are  
19 departments in the division within SVRC that still have  
20 losses at any given point in time.

21 Q You said that loss was last year?

22 A 2016.

23 Q Is that loss SVRC, as a whole, or one department?

24 A That was SVRC's loss as a whole.

25 Q Do you have any -- do you know what the cause of that loss

1 was?

2 A Declining sales, and a loss of a contract with the Bureau for  
3 Service of the Blind People for the State of Michigan.

4 Q That contract with the Bureau for the Services of the Blind,  
5 was that serviced by a specific department at SVRC?

6 A It was its own cost center. No.

7 Q At the present time are you aware of any financial problems  
8 with the manufacturing program at SVRC?

9 A Yes.

10 Q And what are you aware of?

11 A Continued monthly losses of the department.

12 Q Is there a dollar amount associated with those losses?

13 A It varies from month-to-month. I don't think I could tell  
14 you specifically what they are month-to-month right now.

15 Q Okay.

16 MR. MEYER: And just so we're clear, and maybe I  
17 should have objected again, because we're doing the same  
18 thing over.

19 You're asking him, at the present time, whether he's  
20 aware of financial problems or difficulties. You could read  
21 that as, or understand that as whether, as he sits here  
22 today, he's aware of financial difficulties at some other  
23 time, or whether SVRC, as an entity right now, is having  
24 financial difficulties.

25 So I would just repeat my request so we don't have to

1 keep doing this. Can you please be specific with regard to  
2 the time period you are referencing, because it is not going  
3 to make sense when we go back and look at the transcript.  
4 And if you want to ask him to clarify, by all means.

5 Q (BY MR. MAJORANA) At the present time, are there any  
6 discussions currently with SVRC, about layoffs?

7 MR. MEYER: I'm going to object to the form. If  
8 you understood that question, you can answer it.

9 THE WITNESS: Can you rephrase the question?

10 Q (BY MR. MAJORANA) Sure. Today, is SVRC contemplating  
11 layoffs?

12 MR. MEYER: Thank you.

13 THE WITNESS: Yes.

14 Q (BY MR. MAJORANA) What kind of layoffs?

15 A Employees in departments and divisions that are not  
16 profitable, or where there's been reductions in contracts.

17 Q What departments?

18 A Rehabilitation, the Industrial Operations.

19 Q To date, has anybody been laid off?

20 MR. MEYER: Since when, ever?

21 Q (BY MR. MAJORANA) Today. As of today, has anybody been laid  
22 off?

23 MR. MEYER: Has anybody been laid off --

24 THE WITNESS: As in --

25 MR. MEYER: Let me finish, please.

1 Has anyone been laid off, specifically, on April 13, or  
2 has anyone been laid off ever in the history of SVRC? Can we  
3 please put a time period on this.

4 Q (BY MR. MAJORANA) As of 2017, has anybody been laid off at  
5 SVRC?

6 MR. MEYER: In the year 2017?

7 MR. MAJORANA: Yes.

8 MR. MEYER: You can answer that question.

9 MR. MAJORANA: I thought that was pretty clear.

10 THE WITNESS: In the year 2017 has anybody been  
11 laid off? Yes.

12 Q (BY MR. MAJORANA) How many have been laid off?

13 A I want to say 14, 15 people have been given Notice.

14 Q Okay. Are those Permanent Layoff Notices?

15 A Yes.

16 Q What departments are those Permanent Layoff Notices been  
17 given in?

18 A Juvenile Detention Center.

19 Q Any other departments?

20 A Yes, Industrial Operations.

21 Q How many in Industrial Operations?

22 A Two laborers.

23 Q Anybody else?

24 A I don't believe so.

25 Q Okay. Now let's talk about 2016. Was SVRC having any

1 financial problems in 2016?

2 A Yes.

3 Q And what were those financial problems?

4 A Lack of revenue.

5 Q And is that the 150,000 loss that you spoke of before?

6 A Yes.

7 Q Okay. Was anybody laid off in 2016?

8 A Yes.

9 Q How many were laid off?

10 A Two, that I know of for sure; there may have possibly been

11 more.

12 Q Were those permanent layoffs?

13 A Yes.

14 Q Who were those two individuals?

15 A Our Vice-President of Human Resources, Adam Engel, and our

16 receptionist at the front of the building, Deb Hetherington.

17 Q When was Adam Engel laid off?

18 A April of 2016.

19 Q And what about Deb?

20 A February of 2016.

21 Q Anybody else?

22 A I can't -- I can't remember, at this point, if there was

23 anybody else.

24 Q Okay. Do you know Lyle Summerfield?

25 A Yes.

1 Q How do you know him?  
2 A Through his employment at SVRC.  
3 Q How long have you known him for?  
4 A Approximately three years, possibly four.  
5 Q How long was he employed at SVRC, if you know?  
6 A I can't, specifically, say.  
7 Q Is he still employed at SVRC?  
8 A No.  
9 Q When did he leave SVRC?  
10 A October of 2016.  
11 Q Okay. What was his position?  
12 A Job coach supervisor, slash, truck driver.  
13 MR. MAJORANA: Can we take a break for a minute?  
14 (Whereupon, a short break was taken.)  
15 Q (BY MR. MAJORANA) Okay. So earlier you testified that Lyle  
16 Summerfield was a job coach supervisor and part-time truck  
17 driver. What department was Lyle Summerfield a job coach in?  
18 A The Industrial Operations Shop.  
19 Q Okay. Prior to that point was he ever a job coach supervisor  
20 with any other department at SVRC?  
21 A Yes, he worked for the My Choice Department.  
22 Q What is the My Choice Department?  
23 A It is a skill building program under contract with Saginaw  
24 County Mental Health.  
25 Q Okay. Is it sort of like a rehabilitation Department?

1 A Yeah.

2 Q Okay. When did he switch, or I guess, did he switch from the  
3 My Choice Department to the Industrial Operation at some  
4 point?

5 A I'm not -- I don't know that.

6 Q Okay. Do you know when he started with the Industrial  
7 Operations portion of it?

8 A No, I don't -- I couldn't give you the exact date and month.

9 Q Okay. Do you know if, or I should say, did Lyle have any  
10 difficulties when he was working with the My Choice  
11 Department?

12 A Can you define what you mean by difficulties?

13 Q Insubordination, or any other kind of disciplinary issues?

14 A Yes, I'm aware.

15 Q And what kind of issues were those?

16 A He had an issue with a consumer on site at Hemlock  
17 Semiconductor at some point; I couldn't tell you the specific  
18 date.

19 Q What was that issue?

20 A A developmentally disabled consumer was giving Lyle a hard  
21 time; Lyle was not able to handle the situation, began to  
22 yell at the consumer. Lyle left the room, called back to  
23 SVRC and asked for assistance, and other staff were sent to  
24 the facility to assist Lyle.

25 Q Was he disciplined in any way for that incident at Hemlock?

1 A He was written up for that.

2 Q Did that incident at Hemlock cause him to be transferred out  
3 of the My Choice Department?

4 A Yes.

5 Q Is Lyle Summerfield a military veteran?

6 A Yes. Our records at SVRC indicate he is; he's indicated that  
7 in his vet's reporting.

8 Q Is Lyle Summerfield suffering from PTSD, if you know?

9 A I could only say that in the transcripts from the incident  
10 reports that happened around the discipline, that Lyle told  
11 Linda and Eve that he had PTSD.

12 MR. MEYER: And let me just go ahead and place an  
13 objection to the question. He's not a doctor and, you know,  
14 he shouldn't be expected to diagnose whether somebody has  
15 PTSD or not.

16 Q (BY MR. MAJORANA) Have you ever heard that Lyle Summerfield  
17 owned firearms?

18 A Again, just through the incident reports and the  
19 documentation revolving his discipline, what happened at Mid  
20 Michigan Waste Management Authority, the statements that he  
21 made that day.

22 Q Okay. And we've already talked about an incident with  
23 Hemlock Semiconductor. Did Lyle Summerfield have any prior  
24 insubordination or disciplinary issues before the incident  
25 with Mid Michigan Waste Collection?

1 A One other one that I'm aware of.

2 Q And what was that incident?

3 A He had a verbal altercation with another job coach on the  
4 work floor over a process flow on a job, so how the job was  
5 being run.

6 Q Do you know what that altercation was about?

7 A About the way the process should be done with the consumers,  
8 so the work flow.

9 Q Okay. Was he disciplined for that?

10 A Written up, yes.

11 Q Do you know when that happened?

12 A I don't know if I could tell you -- I can't give you a  
13 specific date on that.

14 Q Okay.

15 A It was prior to the Hemlock Semiconductor, though.

16 Q Okay. And prior to the incident with the Mid Michigan Waste  
17 Collection, did Lyle Summerfield ever threaten violence in  
18 any way, if you know?

19 A No.

20 Q Okay. Now I'll turn to that incident with Mid Michigan Waste  
21 Collection. Do you recall that incident?

22 A Yes.

23 Q When did that incident take place, if you know?

24 A I want to say on or around September 15th.

25 Q 2016?

1 A Yes.

2 Q Okay. And what do you recall about that incident?

3 A I remember that morning meeting in my office with Linda. I  
4 don't know what we were discussing, but Linda received a  
5 phone call from Eve, telling her that there were problems  
6 with Lyle about the speedometer on the truck, and concerns of  
7 safety, and was being belligerent, insubordinate, loud,  
8 disruptive at the event.

9 So I asked, or directed Ms. Rivera to go out to Mid  
10 Michigan Waste Management, look into the situation, find out  
11 what was going on, and contact back, I think, make contact  
12 back with myself.

13 Q Okay. And so did Ms. Rivera go out to the site, then?

14 A Yes.

15 Q And did she report back what she found?

16 A I can't -- I can't say as to whether or not -- I can't  
17 remember as to whether or not Linda and I spoke about that  
18 afterwards, or if I was there and she spoke to another  
19 supervisor about it.

20 Q Okay. Well, what did you learn -- strike that.

21 Did you learn anything at all about what Ms. Rivera  
22 observed when she went to the work site?

23 A Yes, that Linda and Eve filed an agency incident report, and  
24 provided documentation about what happened out at the event  
25 with Lyle, and his insubordination and boisterous behavior in

1 front of the general public, not following directives.

2 Q So based on that report, what was it that Lyle was accused of  
3 doing?

4 A Insubordination.

5 Q Okay. Do you know of his exact words, what he used or  
6 anything?

7 A No.

8 Q So following that incident with Mid Michigan Waste  
9 Collection, was there any discussions at all with anybody at  
10 SVRC about disciplining Lyle?

11 A Yes. I don't know exactly who took part in the discussions,  
12 but I know that for a fact Deb Snyder and I reviewed Lyle's  
13 personnel record, previous issues and incidents.

14 Linda may or may not have been involved in those  
15 discussions. And we talked about providing a disciplinary  
16 action for the issue out at Mid Michigan Waste Management,  
17 write-up and then three days off.

18 Q Did you personally issue that discipline?

19 A I did not personally issue that discipline.

20 Q Did you direct someone else to?

21 A Yes.

22 Q Who did you direct to issue discipline?

23 A Deb Snyder.

24 Q Do you know if Deb Snyder issued that discipline?

25 A Deb Snyder did not issue that discipline.

1 Q Who did issue the discipline?

2 A Linda and Eve.

3 Q When was that discipline issued, if you know?

4 A I think on September 16, 2016.

5 Q Did you learn anything about what happened with Lyle when he  
6 was presented with that discipline on September 16, 2016?

7 MR. MEYER: Form.

8 THE WITNESS: Yes.

9 Q (BY MR. MAJORANA) What did you learn?

10 A I was contacted by Deb Snyder, and she let me know that Lyle  
11 had made other statements during his disciplinary action;  
12 there was concern at the office about what he had said.

13 I believe at that time I told Deb to look into it  
14 further. There was another phone call discussing the  
15 situation, and what Lyle had said, and I had told Deb that I  
16 was going to contact our agency attorney.

17 Q Okay. What did Deb Snyder tell you were the statements that  
18 Lyle made?

19 A About, there was a coming of revolution, that he had a gun,  
20 he wasn't afraid to discriminate, or not afraid to pull the  
21 trigger, and he wouldn't discriminate, things along those  
22 lines.

23 Q Did Deb Snyder tell you that she thought it was a threat?

24 A No.

25 Q Okay. Did Deb Snyder tell you that Ms. Rivera thought it was

1 a threat?

2 MR. MEYER: Form, foundation.

3 THE WITNESS: I can't actually remember that.

4 Q (BY MR. MAJORANA) Okay. Did you interpret those statements  
5 as a threat?

6 A Yes.

7 Q Why did you interpret it as a threat?

8 A Lyle was talking about, you know, having a gun, not afraid to  
9 use it, revolution. The statements were definitely  
10 inappropriate.

11 Q Okay. Did Deb Snyder ever tell you that Ms. Rivera wanted to  
12 file a Police Report?

13 A Yes.

14 Q What did she tell you in regards to that?

15 A Linda felt that a Police Report needed to be filed, and  
16 during that conversation was when I said I wanted to contact  
17 the agency attorney to talk with him first about it.

18 Q And did you contact that attorney?

19 A Yes.

20 Q What was that attorney's name?

21 A Greg Mair.

22 Q Did you discuss the Police Report at all?

23 A Yes, with Greg. With Greg?

24 Q Yes, with Greg.

25 A Yes.

1 Q Were you instructed to file a Police Report?

2 MR. MEYER: I'm going to go ahead and object.  
3 Conversations that he had, and even the last response,  
4 conversations that he had regarding legal advice with an  
5 attorney are absolutely privileged. You cannot ask him about  
6 those conversations, what the contents were, you know that.  
7 I'm going to instruct you not to answer the question.

8 THE WITNESS: All right.

9 MR. MEYER: Don't answer the question.

10 Q (BY MR. MAJORANA) Were you ever told by anybody not to file  
11 a Police Report?

12 MR. MEYER: To the extent that a conversation, or  
13 your answer to the question would involve, or relate to any  
14 sort of conversation with you and the attorney, don't provide  
15 that information.

16 So a better question would be, and I'll object on that  
17 basis, as well, were you ever told by anyone other than an  
18 attorney?

19 MR. MAJORANA: Fine.

20 Q (BY MR. MAJORANA) Were you ever told by anybody other than  
21 an attorney not to file a Police Report?

22 A No.

23 Q Did you instruct anybody at SVRC not to file a Police Report?

24 A Yes, I believe I told Deb Snyder that the Police Report  
25 should not be filed on the agency's behalf.

1 Q Why is that?

2 A Again, that was on advice of counsel.

3 Q Okay. Did Ms. Rivera ever tell you personally that she  
4 wanted to file a Police Report?

5 A No.

6 Q After you told Deb Snyder that there wasn't going to be a  
7 Police Report filed on SVRC's behalf what, if anything,  
8 happened next?

9 A Can you repeat that again.

10 Q Sure. So after you told Deb Snyder that there wasn't going  
11 to be a Police Report filed on SVRC's behalf, did Deb Snyder  
12 come back to you with any new information, or a response from  
13 Linda Rivera or anybody else?

14 MR. MEYER: Let me go ahead and object to the  
15 question, in that it mischaracterizes his testimony and  
16 assumes facts not in evidence.

17 I don't think his testimony was that a Police Report was  
18 never going to be filed, or would never be considered by  
19 SVRC, although you can correct me if I'm wrong. I think his  
20 testimony was that, pending an investigation, a Police Report  
21 was not going to be filed. You can answer the question.

22 THE WITNESS: Could you restate the question,  
23 please.

24 Q (BY MR. MAJORANA) Sure. So after you told Deb Snyder that  
25 there was not going to be a Police Report filed, at that time

1 or whenever, on SVRC's behalf, was there any response at all  
2 from Deb Snyder?

3 MR. MEYER: Same objection.

4 THE WITNESS: I don't believe so.

5 Q (BY MR. MAJORANA) Okay. Was a Police Report ever filed?

6 A Not on SVRC's behalf.

7 Q Why not?

8 A Well, based on advice from counsel.

9 MR. MEYER: Let me just move to strike the  
10 response; it's privileged.

11 Q (BY MR. MAJORANA) Did you ever tell Ms. Rivera, personally,  
12 that a Police Report was not going to be filed on SVRC's  
13 behalf?

14 A I do not remember that.

15 Q Okay. Do you know Sylvester Payne?

16 A Yes.

17 Q How do you know him?

18 A Through SVRC as a Board Member, and through STARS as the  
19 General Manager; a STARS Board Member.

20 Q How long had Sylvester Payne been a Board Member of SVRC, if  
21 you know?

22 A Many years. I can't give you an exact date.

23 Q Okay. Do you know what position on the Board he had?

24 A At the time he was the Chairperson.

25 Q Do you know how long he'd been the Chairperson for?

1 A One year.

2 Q Is he still the Chairperson today?

3 A No, he's Vice Chair.

4 Q Okay. When did he change to Vice Chair, do you know?

5 A December 10, 2016.

6 Q Did you ever learn that Ms. Rivera contacted Sylvester Payne  
7 regarding the Lyle Summerfield incident?

8 A Yes, through Deb Snyder.

9 Q What did Deb Snyder tell you about Ms. Rivera's contact with  
10 Sylvester Payne?

11 A Just that she had been in contact with Sylvester to talk to  
12 him about the incident.

13 Q Did you ever talk to Sylvester Payne about either  
14 Ms. Rivera's call to him, or the Lyle Summerfield incident?

15 A No, I did not.

16 Q Did you have any problem with Ms. Rivera talking to Sylvester  
17 Payne about that Lyle Summerfield incident?

18 MR. MEYER: Form, foundation.

19 THE WITNESS: Any problem talking with Sylvester,  
20 yes.

21 Q (BY MR. MAJORANA) What problem did you have with it?

22 A I did not want Ms. Rivera providing personnel information to  
23 a Board Member of SVRC.

24 Q Do you know whether or not Ms. Rivera actually did provide  
25 any personnel information?

1 A No.

2 Q Did you ever communicate that concern to Ms. Rivera, or  
3 anybody else at SVRC?

4 MR. MEYER: Form, foundation.

5 THE WITNESS: Do you want me to answer?

6 MR. MAJORANA: If you know.

7 MR. MEYER: You can answer the question if you  
8 understood it. I would instruct you not to divulge any  
9 conversations that you had with an attorney.

10 THE WITNESS: Could you repeat the question again.

11 Q (BY MR. MAJORANA) Sure. Did you communicate, to anybody,  
12 and we're excluding attorneys here, about your concern  
13 regarding Ms. Rivera talking to Sylvester Payne about the  
14 Lyle Summerfield incident?

15 A No.

16 Q Was there any kind of investigation into Lyle Summerfield's  
17 comments when he was given that written warning and three-day  
18 suspension?

19 A Yes.

20 Q What was the investigation?

21 A We asked our counsel to come in and do an investigation,  
22 interview all the parties involved, and provide us that  
23 documentation.

24 Q Okay. When did that investigation happen, if you know?

25 A I think they took over the course of two days, maybe

1 September 22nd and 23rd.

2 Q Who all participated in that investigation?

3 A Our counsel, Deb Snyder, Linda Rivera and Eve Flynn.

4 Q When was that investigation completed, if you know?

5 A I want to say September 28th; maybe the day before.

6 Q As a result of that investigation, was Lyle Summerfield  
7 disciplined in any way?

8 A Yes.

9 Q What was that discipline?

10 A He was released from employment, terminated.

11 Q Was he put on any kind of FMLA leave?

12 A No.

13 MR. MEYER: Foundation, form.

14 Q (BY MR. MAJORANA) When was he terminated?

15 A October 3rd.

16 Q Did you provide a reason for his termination?

17 A Yes.

18 Q What was that reason?

19 A His behavior during the disciplinary action that occurred.

20 Q Was Ms. Rivera eventually terminated from her employment with  
21 SVRC?

22 MR. MEYER: Form, foundation.

23 THE WITNESS: Laid off.

24 Q (BY MR. MAJORANA) Okay. When was she laid off?

25 A October 4th.

1 MR. MAJORANA: I'll have you mark this.

2 MR. MEYER: This is already marked?

3 MR. MAJORANA: This is from Linda's deposition; I  
4 just copied it.

5 MR. MEYER: You don't just want to call it Exhibit  
6 2 from Plaintiff's dep? Well, you can do what you want, it's  
7 your dep.

8 MR. MAJORANA: I just want it attached. That's  
9 fine.

10 MR. MEYER: Okay.

11 (Deposition Exhibit No. 1

12 marked for identification.)

13 Q (BY MR. MAJORANA) Okay. So I just handed you what's marked  
14 as Exhibit 1, and just for clarification sake, this was also  
15 Exhibit 2 of the Plaintiff's deposition. Have you seen this  
16 document before?

17 A Yes.

18 Q Okay. Did you, in any way, prepare it?

19 A No.

20 Q Who did?

21 A I would say that our HR person completed it.

22 Q Okay. All right. And I'm just reading from that first  
23 paragraph. It says, You are hereby notified that SVRC  
24 Industries, Incorporated is placing you on a permanent layoff  
25 from your position in the Manufacturing Program. That the

1 last day of employment was on October 4, 2016, and this  
2 layoff is necessary because of budgetary and economic  
3 reasons. Do you see that?

4 A Yes.

5 Q What do you mean by budgetary and economic reasons?

6 MR. MEYER: Foundation.

7 THE WITNESS: Lack of revenue and loss of an  
8 industrial contract.

9 Q (BY MR. MAJORANA) What industrial contract?

10 A Hemlock Semiconductor.

11 Q When was that contract lost?

12 A 10/3, 2016.

13 Q Was anybody else laid off as a result of that loss of a  
14 contract on 10/3, 2016?

15 A No.

16 Q Were there any other budgetary or economic reasons, other  
17 than that loss of the Hemlock Semiconductor contract?

18 MR. MEYER: Well, that wasn't his testimony. His  
19 testimony was the Hemlock -- excuse me. His testimony was  
20 the Hemlock Semiconductor contract and loss of revenue.

21 MR. MAJORANA: Right, but I --

22 MR. MEYER: So I don't want you to mischaracterize  
23 his testimony.

24 Q (BY MR. MAJORANA) And I want to know what else there is?

25 A Besides the loss of revenue and --

1 Q Besides the Hemlock -- well, let's back up, then.

2 What other loss of revenue are you referring to?

3 A Declining sales with other industrial customers.

4 Q What other customers?

5 A TRW Automotive, that's probably the biggest one.

6 Q Okay.

7 A There may have been others.

8 Q And is there a dollar amount associated with that decline in  
9 sales?

10 A In June of that year we were \$120 off the previous year's  
11 revenue.

12 MR. MEYER: You mean \$120,000?

13 THE WITNESS: Yes, I'm sorry.

14 MR. MEYER: You said \$120.

15 THE WITNESS: \$120,000, I'm sorry, off revenue. At  
16 the end of the year in December, we ended up at around  
17 \$200,000 off revenue from the previous year.

18 Q (BY MR. MAJORANA) So in June of 2016 you had \$120,000 loss,  
19 is what you're saying?

20 A Yes.

21 MR. MEYER: No --

22 THE WITNESS: No, it's not a loss, it's a decline  
23 in revenue.

24 Q (BY MR. MAJORANA) Okay. And then in December of 2016 you  
25 had a decline in revenue of 200,000?

1 A Yes.

2 Q Any other declining sales that you're aware of?

3 A Not that I can remember.

4 Q Okay. Any other budgetary or economic reasons, besides the  
5 loss of revenue, and the loss of the Hemlock Semiconductor  
6 contract?

7 A No.

8 MR. MAJORANA: That's all the questions I have.

9 MR. MEYER: I'm going to have some follow-ups.

10 EXAMINATION

11 BY MR. MEYER:

12 Q Thanks for coming in today, Dean.

13 A (Witness nodding head.)

14 Q Is SVRC a governmental entity?

15 A No.

16 Q So if I reported something to SVRC, I would not be reporting  
17 it to a governmental entity, would I?

18 A Correct.

19 Q You're not an elected official, right?

20 A No.

21 Q And neither is Deb Snyder?

22 A No.

23 Q And neither is Sylvester Payne?

24 A No.

25 Q Now, the Plaintiff, Ms. Rivera, was the Director of

1 Industrial Operations?

2 A Yes.

3 Q For about a year?

4 A Yes.

5 Q Okay. One of her job responsibilities was sales?

6 A Yes.

7 Q Was that a primary responsibility that she had?

8 A One of them, yes.

9 Q Okay. How did sales fair while she was the Director of  
10 Industrial Operations?

11 A There was continued declines in our revenue, and work that  
12 was coming from industrial customers.

13 Q So when you're talking, at the end of your testimony on  
14 direct examination, when you were asked some questions and  
15 testified about disparities or differences in revenue,  
16 declining revenue for certain months, does that mean that a  
17 revenue disparity or decline in December of 2016 of \$200,000  
18 demonstrates that your revenue in December of 2016 was  
19 \$200,000 less than December of 2015?

20 A Yes.

21 Q Okay. Ms. Rivera started with SVRC roughly in October of  
22 2015?

23 A Yes.

24 Q By June of 2016 there was a, or in June of 2016 there was  
25 \$120,000 revenue differential?

1 A Yes.

2 Q Okay. By September of 2016, and these are rough numbers,  
3 there was a \$211,000 revenue differential, correct?

4 MR. MAJORANA: I'll object to foundation.

5 THE WITNESS: Yes.

6 Q (BY MR. MEYER) Now, there was some reference, during the  
7 direct examination to new vendors that Ms. Rivera brought  
8 in. Do you recall your testimony about that?

9 A Yes, I do.

10 Q Did those new vendors increase revenue at all?

11 A No, they did not.

12 Q What department or division of SVRC was the Plaintiff  
13 employed in as the Director of Industrial Operations?

14 A The Manufacturing Division.

15 Q Okay. You had testified earlier that there was \$150,000 loss  
16 for SVRC in 2016; do you recall that?

17 A Yes.

18 Q How much of that loss came out of Ms. Rivera's division?

19 A I'd say approximately \$110,000.

20 Q These were all factors that were considered, right, when the  
21 decision was made to lay off Ms. Rivera, these economic  
22 factors that we've just referenced?

23 A The ones that were pertinent before, yes, September, yes.

24 Q Okay. Are you aware of Deb Snyder ever telling the Plaintiff  
25 not to file a Police Report relating to the Lyle Summerfield

1 incident?

2 A No.

3 Q If the Plaintiff's Complaint alleged that, that would not be  
4 true, to your knowledge, would it?

5 MR. MAJORANA: Object to foundation; he said he  
6 wasn't aware.

7 THE WITNESS: That would be correct.

8 MR. MEYER: One second. I'm going to look over my  
9 notes.

10 (Off the record discussion.)

11 Q (BY MR. MEYER) What day did you say the Hemlock  
12 Semiconductor contract was lost?

13 A October 3rd.

14 Q There were multiple employees of SVRC that participated in  
15 the investigation relating to Lyle Summerfield, correct?

16 A Yes.

17 MR. MEYER: I don't have anymore questions. Thank  
18 you very much.

19 RE-EXAMINATION

20 BY MR. MAJORANA:

21 Q I have a couple follow-ups. So you stated there was a  
22 continued decline in revenue. When did that decline begin?

23 MR. MEYER: Foundation.

24 THE WITNESS: We track those things on a yearly  
25 basis. The first month that was a decline off sales was

1 January, I believe.

2 Q (BY MR. MAJORANA) Of what year?

3 A Of 2016.

4 Q Okay. So the decline began -- okay. So the decline began in  
5 January of 2016?

6 A Yeah.

7 Q Okay. How frequently do you receive financial reports in  
8 regards to revenue losses and so forth of SVRC?

9 A Daily basis.

10 Q And those reports, how far back do they look, or maybe I  
11 should say -- no, I'll stick with that question.

12 MR. MEYER: Let me just object to the form, because  
13 the question is vague and nonspecific, but you can answer the  
14 question if you understood it.

15 THE WITNESS: I guess I would say that we receive  
16 lots of financial data depending on the time frames; I mean,  
17 we can look back months, we can look back weeks, we can look  
18 back days.

19 Q (BY MR. MAJORANA) Okay. Is there any kind of, I guess I'll  
20 use the term lag time, between when you receive financial  
21 data as opposed to what's actually happening on that  
22 particular day at the company?

23 A No, I --

24 MR. MEYER: Let me go ahead and -- let me place an  
25 objection real quick.

1 I'll go ahead object to the form and foundation of the  
2 question, again, which is nonspecific, but to the extent you  
3 understood it, you can answer the question.

4 THE WITNESS: Absolutely. On a daily basis you  
5 know what the sales is going out the door, so you know what  
6 that is. And we know what our expenses are based on a  
7 budget, so you divide out the budget and know whether or not  
8 you're making cash that day.

9 Q (BY MR. MAJORANA) Okay. In regards to the loss of this  
10 contract to Hemlock Semiconductor, what was the value of that  
11 contract?

12 A I want to say the value of that contract is between about 45  
13 and \$55,000 a year.

14 Q On 10/3 at 2016 did you have any kind of financial projection  
15 as to how that would affect finances of SVRC?

16 MR. MEYER: Form, foundation. As to how what would  
17 affect --

18 MR. MAJORANA: The loss of the Hemlock  
19 Semiconductor contract.

20 THE WITNESS: Can you repeat the question.

21 Q (BY MR. MAJORANA) Sure. On 10/3, 2016 you testified that  
22 you lost the Hemlock Semiconductor contract.

23 A Uh-huh.

24 Q On that day, on 10/3, did you have any financial information  
25 as far as a projection as to how that would affect the

1 finances of SVRC going forward?

2 A Yes.

3 Q What was that information?

4 A We have a spreadsheet that tracks the daily production of the  
5 consumers and the revenue stream coming in from Saginaw  
6 County Mental Health for the support services. So, yes, I  
7 knew what that loss meant that day.

8 Q So what would that loss be, if you know?

9 A Annually, I mean, I would say 55,000; between 45 and 55,000.

10 Q Okay. Are you aware whether any other employees of SVRC ever  
11 stated that they wanted to file a Police Report in regards to  
12 Lyle Summerfield's statements when he gave, when he was given  
13 that written warning and three-day suspension?

14 A Can you repeat that. I'm sorry.

15 Q Sure. Were there any other employees, if you know, were  
16 there any other employees at SVRC who stated that they wanted  
17 a Police Report to be filed in regards to that incident with  
18 Lyle Summerfield when he was given a three-day suspension and  
19 written warning?

20 MR. MEYER: Number one, I'll object to the  
21 foundation; number two, I will object on the basis that it  
22 well exceeds my cross-examination, or the scope of my  
23 cross-examination, but you can answer the question if you  
24 understood it.

25 THE WITNESS: Not aware.

1 Q (BY MR. MAJORANA) Okay. Are you aware of whether or not  
2 Linda Rivera stated she wanted to file a Police Report as  
3 part of the investigation?

4 MR. MEYER: Same objection.

5 THE WITNESS: No, I'm not aware of that.

6 MR. MAJORANA: Anything?

7 MR. MEYER: You guys can use the office if you  
8 want.

9 MR. MAJORANA: No, it's all right.

10 Q (BY MR. MAJORANA) Does SVRC have any kind of policy stating  
11 it's going to provide a safe environment for its employees,  
12 or anything of that nature?

13 MR. MEYER: Form, foundation.

14 THE WITNESS: Yeah.

15 Q (BY MR. MAJORANA) What does that policy state?

16 A I think we have a Workplace Violence Procedure or Policy, and  
17 we have a Safety Handbook for supervisors that deals with  
18 threatening situations, intruders, civil arrests, things like  
19 that.

20 Q What does that policy say to do in a threatening situation?

21 MR. MEYER: Let me --

22 THE WITNESS: Call 911.

23 MR. MEYER: Let me go ahead and object. To the  
24 extent that you're aware of the policy or what it says, you  
25 can answer the question. Obviously, I'm going to -- counsel

1 hasn't provided you with a copy of the Policy; if he wanted  
2 to ask questions about it and lay a foundation and ask you to  
3 refer to a policy, it should be provided and marked as an  
4 exhibit.

5 MR. MAJORANA: I'm asking if whether he's aware.

6 MR. MEYER: Let me finish, please, and then you can  
7 finish. To the extent you're aware of what the policy says  
8 verbatim, you can answer the question.

9 THE WITNESS: No, I'm not aware of the language of  
10 the Policy, specifically.

11 Q (BY MR. MAJORANA) What is just your understanding of what  
12 the Policy says?

13 MR. MEYER: Again, the same objection. If you want  
14 him to refer to a document, it should be provided and marked  
15 as an exhibit.

16 MR. MAJORANA: I'm just asking what his general  
17 understanding is.

18 MR. MEYER: I understand, and the question is still  
19 improper. So my objection is, you should have provided the  
20 document and marked it as an exhibit if you wanted him to  
21 refer to it. Subject to that objection, you can answer the  
22 question.

23 THE WITNESS: Yeah, I cannot really comment on the  
24 verbiage in the Policy; I just know we have things in place  
25 for that. I'd have to look at it and review it.

1 Q (BY MR. MAJORANA) Do you know, does it state that an  
2 employee should call 911 in a threatening situation?

3 MR. MEYER: Again, same objection.

4 THE WITNESS: I don't know that the Policy says  
5 that; we may have a procedure that says that, dealing with  
6 certain situations.

7 Q (BY MR. MAJORANA) And what certain situations does that  
8 entail, if you know?

9 MR. MEYER: Same objection.

10 THE WITNESS: One would be an intruder in the  
11 building, with a weapon; the other would be for civil  
12 arrests, or a threat outside the building, I'm sorry.

13 Q (BY MR. MAJORANA) If Lyle Summerfield had been suspended and  
14 he had previously stated that he had a gun and he knew how to  
15 use it, would that be a threat outside the building?

16 MR. MEYER: Okay. Number one, I'm going to object,  
17 because the statement that he made was inside the building.

18 MR. MAJORANA: He said outside the building.

19 MR. MEYER: Counsel, if you want to interrupt me,  
20 we can go outside and talk. Let me make my objection, and  
21 then you can finish your question. Okay?

22 He said the procedure, as I understand it, subject to my  
23 objection, related to a threat outside the building. He did  
24 not say that Mr. Summerfield's statement was made outside the  
25 building, in fact, I don't know that you asked him that

1 question. There is no foundation. This well exceeds the  
2 scope of my cross-examination.

3 To the extent that you understood the question, you can  
4 answer it, but I'm going to object because there's no  
5 foundation laid, the form is grossly improper and, frankly,  
6 it makes no sense. So if you understood it, though, I  
7 certainly did not, please feel free to answer the question.

8 MR. MAJORANA: Now that you fed him his answer. Go  
9 ahead, sir.

10 THE WITNESS: Can you repeat the question, please.

11 MR. MAJORANA: Sure. Actually, can you repeat what  
12 his answer was, to the last question?

13 (Requested portion of the record  
14 was read by the reporter.)

15 Q (BY MR. MAJORANA) So, again, my question to you was, that  
16 Lyle Summerfield, if Lyle Summerfield was suspended he was  
17 outside of the building, correct, he would be outside of the  
18 building?

19 MR. MEYER: Let me object to the form and the  
20 foundation.

21 THE WITNESS: I don't understand the question.

22 MR. MEYER: At the time he's suspended; after he's  
23 suspended and leaves?

24 Q (BY MR. MAJORANA) After Lyle Summerfield is suspended he  
25 would be leaving the building, is that true?

1 MR. MEYER: Again, form, foundation. You can  
2 answer the question if you understand it.

3 THE WITNESS: After work that day he would have  
4 left the building, yes, correct.

5 Q (BY MR. MAJORANA) Okay. And before that, before he was  
6 suspended he stated that he had a gun, and he knew how to use  
7 it, is that true?

8 A Yes.

9 MR. MEYER: Same objection.

10 Q (BY MR. MAJORANA) So if he had a gun and he knew how to use  
11 it, and he had left the building because he had left work and  
12 he was suspended, would that constitute a threat to SVRC?

13 MR. MEYER: To SVRC? Let me go ahead and object  
14 again to the form and the foundation of the question. You're  
15 asking him to refer to a policy which you haven't provided.  
16 You're referring to documents that aren't in front of anybody  
17 at this point; they should be marked as an exhibit to be  
18 referred to.

19 The form is improper, there is no foundation; it calls  
20 for a legal conclusion. To the extent you understood the  
21 question, you can go ahead and answer.

22 THE WITNESS: Could you repeat the question again,  
23 please.

24 MR. MAJORANA: Sure. Actually, could you just read  
25 it back.

1 (Requested portion of the record  
2 was read by the reporter.)

3 THE WITNESS: No.

4 Q (BY MR. MAJORANA) Why not?

5 A Just because someone knows --

6 MR. MEYER: Same objection.

7 THE WITNESS: -- how to use a gun, that doesn't  
8 mean it's threatening.

9 Q (BY MR. MAJORANA) Okay. But he -- I'll just move on from  
10 that.

11 Okay. Did Linda Rivera ever talk to you about any  
12 safety concerns she had about the building?

13 A Yes.

14 Q When did that take place?

15 A I couldn't give you a time and date on that.

16 Q What were those discussions, if you know?

17 A She had wanted to put a metal detector in her building for  
18 people to come in and be screened through.

19 Q Okay. And what was your response to that request?

20 A I didn't feel that it was appropriate. Our organization had  
21 recently gone to a push-button entry, trying to make sure,  
22 insure that all the exterior doors were locked so there was  
23 one point of entry into the building.

24 MR. MAJORANA: Okay. That's all the questions I  
25 have.

1 MR. MEYER: Thanks. You're all done.  
2 (Whereupon, Deposition concluded at 12:36 p.m.)  
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1 STATE OF MICHIGAN )  
 )SS  
2 COUNTY OF CLINTON )

3 CERTIFICATE OF NOTARY PUBLIC

4 I certify that this transcript is a complete, true  
5 and correct record of the testimony of the witness held in  
6 this case.

7 I also certify that prior to taking this  
8 deposition, the witness was duly sworn or affirmed to tell  
9 the truth.

10 I further certify that I am not a relative or an  
11 employee of or an attorney for a party; and that I am not  
12 financially interested, directly or indirectly, in the  
13 matter.

14 I hereby set my hand this day, Tuesday, April 25,  
15 2017.

16 *Heidi A. Cook*  
17

18 Heidi A. Cook, RPR/CSR-4827  
19 Certified Shorthand Reporter,  
20 Registered Professional Reporter, and  
Notary Public, County of Clinton,  
State of Michigan.

21 My Commission Expires: 06-02-2020  
22  
23  
24  
25

DEAN EMERSON  
RIVERA vs SVRC INDUSTRIES, INC

April 13, 2017  
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DEAN EMERSON  
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EXHIBIT 5  
Debra Snyder Dep Transcript

**In the Matter Of:**

**RIVERA vs SVRC INDUSTRIES, INC**

16-031756-NZ-1

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**DEBRA SNYDER**

*April 13, 2017*

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STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF SAGINAW

LINDA RIVERA,

Plaintiff,

-vs-

Case No. 16-031756-NZ-1

Hon. Patrick J. McGraw

SVRC INDUSTRIES, INC.,

Defendant.

\_\_\_\_\_ /

DEPOSITION OF DEBRA SNYDER

Taken by the Plaintiff on Thursday, the 13th day of  
April, 2017 at the office of O'Neill Wallace & Doyle, PC,  
300 St. Andrews Road, Suite 302, Saginaw, Michigan at  
2:36 p.m.

APPEARANCES:

For the Plaintiff:           AARON M. MAJORANA (P78772)  
The Mastromarco Firm  
1024 North Michigan Avenue  
Saginaw, Michigan 48602  
(989) 752-1414

For the Defendant:        BRETT MEYER (P75711)  
O'Neill Wallace & Doyle, PC  
300 St. Andrews Road, Suite 302  
Saginaw, Michigan 48638  
(989) 790-0960

Reported By:               Heidi A. Cook, CSR 4827

Also Present:              Linda Rivera  
Dean Emerson

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	*	*

1 Thursday, April 13, 2017  
2 Saginaw, Michigan  
3 2:36 p.m.

4 \* \* \*

5 DEBRA SNYDER,  
6 having been first duly sworn, testified as follows:

7 EXAMINATION

8 BY MR. MAJORANA:

9 Q Good afternoon.

10 A Good afternoon.

11 Q We met a few minutes ago; my name is Aaron Majorana, I  
12 represent Ms. Rivera in this lawsuit. Can you state and  
13 spell your name for the record.

14 A Debra Dianne Snyder. D-e-b-r-a, D-i-a-n-n-e; Snyder,  
15 S-n-y-d-e-r.

16 Q And what's an address where you can be reached?

17 A 4551 Spurwood Drive, Saginaw, 48603.

18 MR. MEYER: Obviously, you're not going to try to  
19 reach her at that address, correct?

20 MR. MAJORANA: No.

21 MR. MEYER: You can reach her through me.

22 MR. MAJORANA: It's just in case --

23 MR. MEYER: I understand.

24 Q (BY MR. MAJORANA) All right. Have you ever had your  
25 deposition taken before?

1 A No.

2 Q Then I'll just go over a few ground rules. She's taking down  
3 everything that we say, so every answer has to be a verbal  
4 answer; it can't be an uh-huh, an uh-uh, a nod or a shrug, or  
5 anything like that. If for any reason you don't understand  
6 my question, you can just say so and I'll be happy to  
7 rephrase it for you.

8 Also, if you need a break, for any reason, I would just  
9 ask that you answer the question, if there's one on the  
10 table, and then you can take a break. Okay?

11 A Okay.

12 Q Okay. Let's get started. Did you talk to anyone besides  
13 your attorney about your deposition today?

14 MR. MEYER: To the extent -- let me just caution  
15 you. To the extent that you talked to anyone who's an SVRC  
16 employee in my presence, those communications are privileged.

17 THE WITNESS: Then, no.

18 Q (BY MR. MAJORANA) Okay. Did you review any documents for  
19 your deposition today?

20 A Yes.

21 Q What did you review?

22 A The Interrogatories that you presented, text messages, and  
23 the deposition report from Linda.

24 Q Okay. Are you employed?

25 A Yes.

1 Q And where are you employed?

2 A SVRC Industries.

3 Q What's your position there?

4 A President, COO.

5 Q How long have you held that position?

6 A April 1, 2016.

7 Q How long have you been with SVRC total?

8 A Thirty years January 5th, so --

9 Q All right. What was your position before you were President,  
10 slash, COO?

11 A Senior Vice-President.

12 Q Was that over a specific department, or SVRC as a whole?

13 A As a whole.

14 Q Okay. How long were you Senior Vice-President?

15 A Boy, a couple years.

16 Q Okay. What was your position before you were a senior  
17 Vice-President?

18 A Vice-President of Consumer Services.

19 Q Consumer Services, what does that entail?

20 A Pretty much that I oversaw programs dealing with people.

21 Q Okay. Is that, like, rehabilitation?

22 A Yes.

23 Q Okay. Before you became the President and COO were you ever  
24 involved in industrial operations or manufacturing, or  
25 anything like that?

1 A No.

2 Q Did you go to college?

3 A Yes.

4 Q Where did you go? Where did you go?

5 A Undergraduate was Oakland University; Master's, Central  
6 Michigan University.

7 Q Okay. When did you graduate from Oakland?

8 A 1982.

9 Q What did you study there?

10 A Human resource development and criminal justice.

11 Q And where did you get your Master's from?

12 A Central Michigan.

13 Q When did you graduate from there?

14 A 1998.

15 Q And what did you study at CMU?

16 A I have a Master's in administration, health services  
17 administration.

18 Q Okay. What is your responsibilities as President, slash,  
19 COO?

20 A To oversee the day-to-day operations of the agency.

21 Q Do you oversee other employees?

22 A Yes.

23 Q What kind of -- or how many employees do you oversee?

24 A They're the Directors and VPs, so I have Rose, I have Devon,  
25 I have Gerard, I have Heidi, I have Aaron. I have, let me

1 see, Danielle.

2 Q Well --

3 A Six, seven.

4 Q Okay. That's fine. All right. And so do you know the  
5 Plaintiff, Linda Rivera?

6 A I do.

7 Q And how do you know her?

8 A She worked for us.

9 Q Okay. And how long did you know her for?

10 A I actually met her when I was at STARS on the Transit  
11 Advisory Board.

12 Q And when Ms. Rivera was at SVRC, did you oversee her?

13 A I did.

14 Q When you were overseeing Ms. Rivera, were there any  
15 performance issues related to her work?

16 A No.

17 Q Were there any discipline issues related to Ms. Rivera?

18 A No.

19 Q Did Ms. Rivera bring any new business to SVRC when she was  
20 working there?

21 A She brought in some cycle point jobs, which is electronic  
22 recycling.

23 Q Do you know how many vendors or companies that entailed?

24 A That she brought in?

25 Q Yes.

1 A Mid Michigan Waste. I think she got one in Gladwin,  
2 Mt. Pleasant; maybe three or four different companies.

3 Q Okay. And do you know if there was a dollar figure  
4 associated with any, bringing in any of that new business?

5 MR. MEYER: Let me just object to the form and the  
6 foundation, specifically as to the form. What do you mean by  
7 dollar figure; as it relates to revenue, as it relates to --  
8 I mean --

9 Q (BY MR. MAJORANA) Revenue, sales, what was it worth to the  
10 company, if you know?

11 MR. MEYER: Same objection, it's a vague question.  
12 If you understand and have a foundation for answering it, you  
13 can answer the question.

14 THE WITNESS: For what you asked that Linda brought  
15 in, cycle point, zero; nothing was ever billed out.

16 Q (BY MR. MAJORANA) When you say nothing was ever billed out,  
17 what do you mean by that?

18 A No invoices were sent, no money was generated.

19 Q Why is that?

20 A You'd have to ask Linda.

21 Q Okay. In 2016, or I'm sorry, 2017 is SVRC experiencing any  
22 financial difficulties?

23 A I would say so.

24 Q And what are those difficulties?

25 A We just lost a big contract, or not a contract, but an

1 agreement with the Intermediate School District, and I had to  
2 lay off employees yesterday.

3 Q How many employees did you lay off?

4 A There were, yesterday there were seven.

5 Q Were those employees part of a specific department?

6 A Education.

7 Q In 2016 -- excuse me. In 2017 was there any, or are there  
8 any financial problems in the manufacturing program at SVRC?

9 A I believe there was a slight loss in January.

10 Q Do you know how much it was?

11 A I'm not for sure, but I want to say around -- I'm not sure.

12 Q Okay.

13 A I'm not sure.

14 Q Okay. And were there any layoffs in 2016 in the  
15 manufacturing program, or 2017?

16 A 2017, no. I take -- wait a second. There were two people on  
17 the production floor, laborers, yes, in '17.

18 Q When were they laid off?

19 A I want to say January or February, maybe end of February.

20 I'm not sure.

21 Q Okay. Now, how about 2016, was SVRC having any financial  
22 difficulties?

23 A Yes.

24 Q And what were those problems?

25 A Again, there was -- sales were down.

1 Q Do you know by how much?

2 A I do. June it was approximately 120,000; end of the year  
3 was, ended at 201,800.

4 Q Were there any layoffs in 2016?

5 A There were.

6 Q How many?

7 A Three. We laid off our receptionist in February; we laid off  
8 our Vice-President of Human Resources in April, and Linda in  
9 October.

10 Q Anyone else?

11 A Not to my knowledge.

12 Q Okay. Do you know Lyle Summerfield?

13 A I do.

14 Q How do you know him?

15 A He was employed as a job coach.

16 Q Was he a job coach in a specific department?

17 A Job coaches usually float between rehabilitation and  
18 production, driving.

19 Q Okay. So was he in rehabilitation, production, or both  
20 during this time with SVRC?

21 A I believe so, yes.

22 Q Both?

23 A I believe so.

24 Q Okay. Is he still employed with SVRC today?

25 A No, he is not.

1 Q Okay. When did he leave?

2 A He was terminated October 3rd, I believe.

3 Q Do you know how long he'd been with SVRC?

4 A That, I do not.

5 Q Okay.

6 A Several years.

7 Q Is Lyle Summerfield a military veteran, if you know?

8 A Yes.

9 Q Have you ever heard whether or not Lyle Summerfield was  
10 suffering from PTSD?

11 A That diagnosis --

12 MR. MEYER: Let me just make an objection, and it  
13 will be the same objection I've already made; she's not a  
14 doctor. To the extent you're aware, you can answer the  
15 question, but you're not expected to diagnose someone.

16 Q (BY MR. MAJORANA) I'm just asking if you ever heard.

17 A That diagnosis, specifically, I had heard it, and I read it  
18 in the deposition.

19 Q Okay. Have you ever heard that Lyle Summerfield owned any  
20 firearms?

21 A No.

22 Q Prior to fall of 2016 were you aware, or let me say, did Lyle  
23 Summerfield have any disciplinary problems?

24 A Yes.

25 Q What were those problems?

1 A I believe he was disciplined for getting into an argument  
2 with another job coach. That's the one that I remember, and  
3 then the one that happened in September.

4 Q Okay. When did the argument with the job coach happen?

5 A '15. 2015, maybe.

6 Q Okay. Was he disciplined for that?

7 A Yes.

8 Q Did he receive a write-up?

9 A Yes.

10 Q Did he have any kind of discipline occurring from an argument  
11 or an incident with Hemlock Semiconductor?

12 A That was the other one. Thank you.

13 Q Do you know when that happened?

14 A I think they were both in 2015.

15 Q Okay. Do you know the -- what were the specifics, if you  
16 recall, of the argument with the job coach in 2015?

17 A It was -- I really -- it was something about the way the  
18 process flow worked on the job type of thing.

19 Q Okay. And the same question for the incident at Hemlock  
20 Semiconductor; do you know the specifics of that?

21 A He became upset with one of the clients, consumers working  
22 there. I believe he called him a name or something, and he  
23 became upset.

24 Q And was he written up for that incident, Hemlock  
25 Semiconductor, as well?

1 A Yes.

2 Q And before fall of 2016, did Lyle Summerfield ever threaten  
3 violence of any kind?

4 A Not to my knowledge.

5 Q Okay. All right. Now, let's -- I want to go to the fall of  
6 2016. Was there a disciplinary incident that occurred with  
7 Lyle Summerfield in the fall of 2016?

8 A Yes.

9 Q Did that occur about September 15, 2016, if you recall?

10 A Yes.

11 Q Okay. What do you recall about that incident?

12 A I recall that he had an incident at Mid Michigan Waste  
13 Authority recycling event, where he was insubordinate to his  
14 immediate supervisor. And Linda was supervising Lyle's  
15 immediate supervisor, Eve Flynn; they disciplined Lyle that  
16 afternoon, and was giving him a three-day suspension.

17 Q Okay.

18 A As it was his third write-up.

19 Q Okay. Do you know what, why he was considered insubordinate  
20 on that September 15, 2016 date?

21 A He was angry about the speedometer in the truck not working,  
22 and he raised his voice; we received a complaint from Mid  
23 Michigan Authority on it, as well --

24 Q Okay.

25 A -- in public.

1 Q How did you come to learn about that incident at Mid Michigan  
2 Waste?

3 A I believe Eve and Linda were talking with Dean, and then  
4 somehow I came in after the fact.

5 Q Okay. Were there any discussions -- I think you already said  
6 this, but were there any discussions about disciplining Lyle  
7 because of that incident at Mid Michigan Waste?

8 A Yes, we directed them to discipline.

9 Q Okay. What was that discipline?

10 A Three-day suspension, without pay.

11 Q All right. Who made the decision to give Lyle Summerfield a  
12 three-day suspension?

13 A Dean.

14 Q Who was the person, or people, rather, who actually gave that  
15 three-day suspension to Lyle Summerfield?

16 A Linda and Eve Flynn.

17 Q Were you present at all for that meeting when that discipline  
18 was given?

19 A No, not during the meeting.

20 Q Okay. Did you learn anything about an incident that occurred  
21 during that meeting with Lyle Summerfield when that  
22 discipline was given?

23 A Say that one more time, please.

24 Q Sure. Did you learn about anything that happened with Lyle  
25 Summerfield during that meeting when he was disciplined?

1 A Immediately thereafter I went and asked Linda and Eve how it  
2 went, and if they were okay, and they both said they were  
3 okay. And then I left the building, and then Linda and I  
4 exchanged text messages.

5 Q Okay. So the first time you found out that there was any  
6 kind of a problem with that meeting was through a text  
7 message, is that --

8 A That's what I recall.

9 Q Okay. Then I'm going to look over the text messages, then.

10 MR. MAJORANA: I'll have you mark that for me.

11 (Deposition Exhibit No. 1

12 marked for identification.)

13 Q (BY MR. MAJORANA) Okay. So I have just handed you what's  
14 been marked as Exhibit 1, and can you just tell me what this  
15 is?

16 MR. MEYER: Can we go off the record for a second  
17 before we get started?

18 MR. MAJORANA: Sure.

19 (Off the record discussion.)

20 Q (BY MR. MAJORANA) Okay. So I just handed you what's been  
21 marked as Exhibit 1. Can you tell me what those are?

22 A The text message conversation between Linda and myself.

23 Q Okay. So just looking at the very first one at the top  
24 there. That's you, Deb Snyder, Trying to call attorney.  
25 What prompted that text?

1 A To be honest, I read in the deposition that Linda and I  
2 spoke, which I honestly cannot remember talking on the phone  
3 prior to the text messages, but that would make sense why I  
4 would then say, Trying to call attorney.

5 Q Okay.

6 A But I don't remember that, so --

7 Q Do you remember anything about that conversation before this  
8 text message?

9 A No.

10 Q Okay. All right. So then we'll go on here, and your next  
11 text it says, Talked with Dean. Talked with attorney. Will  
12 fill you in tomorrow, tomorrow/document.

13 What was that discussion with Dean?

14 A That was telling Dean that Linda was upset over Lyle's  
15 behavior that had occurred during the disciplinary action,  
16 and what to do.

17 Q Okay. You, yourself, didn't speak with the attorney, is that  
18 true?

19 A That's true, I did not.

20 Q Okay. At that point was there, with this second text  
21 message, at that point was there any discussion about a  
22 Police Report being filed?

23 A At that point, no.

24 Q Okay. And then the next text is Ms. Rivera, and she says, I  
25 was advised to immediately make out a Police Report. And

1 then, again, she says, He is a hostile employee and that was  
2 a threat.

3 Did you relay that message at all to Dean or anybody  
4 else at SVRC?

5 A During this time period?

6 Q Right. When this was happening, yes.

7 A Well --

8 MR. MEYER: Go to the next page, because for some  
9 reason the word Police Report is blacked out on the bottom of  
10 the first page, but it's an identical text at the top of page  
11 two, I believe.

12 Q (BY MR. MAJORANA) Well, I'm talking about on the first  
13 page. It says, I was immediately advised to make out a  
14 Police Report. That's what I'm talking about, but either  
15 way --

16 A That's Linda saying that.

17 Q Right, right.

18 A And the question to me is, did Dean and I talk that that was  
19 said?

20 Q Yeah.

21 MR. MEYER: Don't pose a question to yourself.

22 Q (BY MR. MAJORANA) I'm asking, did you relay that at all to  
23 Dean or anybody else at SVRC?

24 A I don't remember that.

25 Q Okay. Did you ever talk to Dean at all about filing a Police

1 Report?

2 A I said -- I don't remember that. We talked about what  
3 happened; he was calling the attorney, we were following our  
4 attorney's advice.

5 Q Okay. So that's what the, essentially, what the next text,  
6 if you flip to the next page, essentially, what that says?

7 A Right.

8 Q Okay. Was a Police Report ever filed?

9 A Not to my knowledge.

10 Q Okay. Why not?

11 A You'd have to ask --

12 MR. MEYER: Form, foundation.

13 Q (BY MR. MAJORANA) I'm sorry. Can you repeat your answer  
14 again?

15 A We did not file a Police Report.

16 Q Okay. And I asked why not?

17 A Because our attorney said not to.

18 Q Okay. That's fine. Did any other employees at SVRC say they  
19 wanted to file a Police Report, or a Police Report should be  
20 filed?

21 A Regarding this incident?

22 Q Yes.

23 A Not to my knowledge.

24 MR. MEYER: And let me just object to the, I guess,  
25 the form of the question going back. You're implying that

1 the Plaintiff said she specifically wanted to file a Police  
2 Report. She did not say that, she wanted SVRC to file a  
3 Police Report. There is a distinction there, and I don't  
4 want those words being put in Ms. Snyder's mouth, but subject  
5 to the objection, your answer stands.

6 Q (BY MR. MAJORANA) Okay. All right. And I'm going to go  
7 back to the text messages here. Looking at the second page  
8 there, the middle text is from Linda Rivera. She says,  
9 Uhhhh, Deb, I don't feel comfortable not filing a Police  
10 Report. I prefer the authorities having a record of this  
11 incident. Wednesday is a long time away to look over my  
12 shoulder wondering if he is lurking in the parking lot. He  
13 is an ex-Marine. Do you see that there?

14 A I do.

15 Q Okay. And did you relay that text message to anybody at  
16 SVRC?

17 A That day, I couldn't tell you.

18 Q At any other point did you relay that message to anyone?

19 A I'm sure Dean and I talked about it the next morning.

20 Q All right. What were those discussions about, or what  
21 happened in those discussions?

22 A I probably maybe showed it to him, and this is what she said,  
23 and what I said. That was it, there really wasn't a  
24 discussion about it.

25 Q Okay. Do you know a Sylvester Payne?

1 A I do.

2 Q And how do you know him?

3 A I knew him from STARS when I was on the Transit Advisory  
4 Board, and he's also on our Board of Directors.

5 Q What's his position with the Board at this time?

6 A He's Vice Chair; I believe he stepped down from being Chair.

7 Q Okay. Do you know when he stepped down?

8 A First of the year. I believe he had one year left.

9 Q Okay. And so at the time of this incident in September of  
10 2016, what was his position with the Board?

11 A Chairman of the Board.

12 Q So looking at these text messages at the top of the third  
13 page there, Linda asks, Can I ask why the attorney said no  
14 Police Report? I called Sylvester and I told him about the  
15 Lyle situation, and I asked him why a threat would not be  
16 documented with the police ASAP. He said he didn't know why  
17 either.

18 And then your response just below that, it says, Linda,  
19 Sylvester is not an employee of SVRC, he is a Board Member.  
20 Please be very careful with sharing confidential information  
21 about employees. You say, If you want to file a Personal  
22 Protection Order you can do so, which may mean filing a  
23 Police Report, but that is not what was advised by our  
24 attorney. Let's talk when you get to work in the morning.  
25 Do you see that?

1 A I do.

2 Q Okay. Do you know whether or not Ms. Rivera relayed any  
3 confidential information about employees to Mr. Payne?

4 MR. MEYER: Foundation. Subject to my objection,  
5 you can answer the question.

6 THE WITNESS: One more time, please.

7 Q (BY MR. MAJORANA) Sure. Do you know whether or not  
8 Ms. Rivera actually shared any confidential information with  
9 Mr. Payne?

10 A Just based on her text message.

11 MR. MEYER: Form, as well.

12 THE WITNESS: I told her about the Lyle situation.

13 Q (BY MR. MAJORANA) Did you talk to Mr. Payne at all about --

14 A Never.

15 Q -- Ms. Rivera calling him or not?

16 A No.

17 Q Okay. Why did you -- well, other than what you stated here,  
18 did you have any other problems with Ms. Rivera contacting  
19 Mr. Payne?

20 A No.

21 MR. MEYER: Form.

22 Q (BY MR. MAJORANA) Okay. Why did you tell Ms. Rivera to file  
23 a Personal Protection Order?

24 A It's her right.

25 Q Do you think that was the appropriate response in regards to

1 what Lyle Summerfield said in his disciplinary meeting?

2 MR. MEYER: Let me just object to the form, the  
3 foundation; it's taking this message out of context. She  
4 told the Plaintiff, and I don't want words put in her mouth,  
5 that she could file a Personal Protection Order, including  
6 filing a Police Report. Subject to my objection, you can  
7 answer the question.

8 THE WITNESS: I did not understand the question.

9 Q (BY MR. MAJORANA) Sure. I'll rephrase it. My question is,  
10 do you think that filing a personal protection order in  
11 response to what Lyle Summerfield said at his disciplinary  
12 meeting was the appropriate response to take?

13 MR. MEYER: Let me go ahead and, again, object to  
14 the form and foundation. You can answer the question.

15 THE WITNESS: If she felt that she needed to, then  
16 as a supervisor, I'm giving her options to deal with things.

17 Q (BY MR. MAJORANA) So did she have to come to you first to --

18 A No.

19 Q -- file a Personal Protection Order?

20 A No, absolutely not.

21 Q Okay. Okay. I want you to flip to the next page of those  
22 texts there. And the next text is from Linda Rivera, if you  
23 see that at the top. It says, Sylvester is my significant  
24 other. I'm upset because an ex-Marine just threatened me. I  
25 am an employee, too. I am discussing my personal

1 experience. Lyle looked right at me and said those things.  
2 So SVRC doesn't care about threats coming from an  
3 disgruntled, angry employee that are directed at his  
4 supervisor and the Director that told him about, his  
5 three-day suspension. It happened at work, but you're saying  
6 I should file a PPO personally, and nothing with SVRC, even  
7 though it took place at work. Wow, that's all I can say. Do  
8 you see that?

9 A I do.

10 MR. MEYER: Let me just object; it speaks for  
11 itself. You can ask her to read it to herself, or we can sit  
12 here and read through each and every one of these text  
13 messages.

14 Q (BY MR. MAJORANA) Anyway, so based upon Ms. Rivera's text  
15 there, simply looking at, you know, it happened at work, do  
16 you think that a PPO is the right way to protect a threat  
17 that happened at work?

18 MR. MEYER: Form, foundation, asked and answered.  
19 The question is vague. Subject to all of that, if you  
20 understand what he meant by the right way, you can answer the  
21 question, I guess. It's a ridiculous question.

22 MR. MAJORANA: Maybe Your objections are  
23 ridiculous.

24 MR. MEYER: That's fine.

25 MR. MAJORANA: They're ridiculous, that's all.

1 Sorry.

2 MR. MEYER: Okay.

3 Q (BY MR. MAJORANA) If you can answer the question, go ahead.

4 A I think I forgot the question.

5 Q I'm asking -- and I'll rephrase it. Again, I'm referencing  
6 Ms. Rivera's text there, which I read to you.

7 A Correct.

8 Q And, specifically, the statement that she says, it happened  
9 at work. Do you think that filing a Personal Protection  
10 Order is the appropriate response for, again, what she  
11 perceived as a threat at work?

12 MR. MEYER: Same objection.

13 THE WITNESS: I feel that we followed our  
14 attorney's advice, and were dealing with it in the best way  
15 that we could.

16 Q (BY MR. MAJORANA) Okay. Was there any kind of investigation  
17 that took place in regards to that incident with Lyle  
18 Summerfield when he was disciplined?

19 A Yes.

20 Q What was the investigation?

21 A Our attorney.

22 Q So the attorney came and asked questions of people?

23 A Yes.

24 Q Okay. When did that happen, if you know?

25 A The next week.

1 Q Who participated in that investigation, if you know?

2 A I was present, but I did not ask or answer any questions.

3 Q Okay. Do you know of anyone else who was questioned?

4 A Linda, Eve Flynn, and Lyle.

5 Q Anyone else?

6 A No.

7 Q Okay. Do you know when that investigation was completed?

8 A I want to say we got the final letter, like, September 28th  
9 or something like that.

10 Q Okay. Was Lyle disciplined in any way based upon his conduct  
11 at that discipline meeting?

12 A He never came back to work; he was on a three-day suspension,  
13 was put on administrative leave.

14 Q So he was put on administrative leave --

15 A Correct.

16 Q -- following his three-day suspension?

17 A Yes, paid.

18 Q Okay. Was he ever put on any kind of FMLA leave?

19 A I believe we gave him papers; I don't know that it was ever  
20 completed.

21 Q Okay.

22 A I don't know that.

23 Q Okay. Was he ever terminated?

24 A He was.

25 Q When was he terminated, if you know?

1 A I think the letter was October 3rd.

2 Q Were there reasons given for his termination, if you know?

3 A It was based on the progressive discipline that he had had,  
4 and the incidents that had occurred.

5 Q Okay. And was Ms. Rivera's employment eventually terminated  
6 with SVRC?

7 A She was not terminated, she was laid off.

8 Q Okay. When did that happen?

9 A I believe we were going to do it on October 3rd, Monday, and  
10 she was not there, so we did it the next day, on the 4th; it  
11 was a Tuesday.

12 Q Okay. All right.

13 MR. MAJORANA: I'll have you mark that as  
14 **Exhibit 2**.

15 (Deposition **Exhibit No. 2**  
16 marked for identification.)

17 Q (BY MR. MAJORANA) Okay. I'm showing you what's been marked  
18 as **Exhibit 2**. Have you seen that before?

19 A I have.

20 Q Did you prepare this?

21 A I did not prepare it, but I signed it.

22 Q Okay. So this says Permanent Layoff Notice, and I want you  
23 to look at that last sentence of the first paragraph there.  
24 It says, This layoff is necessary because of budgetary and  
25 economic reasons. Do you see that?

1 A Correct.

2 Q What were the budgetary and economic reasons, if you know?

3 MR. MEYER: Foundation. You can answer the

4 question.

5 THE WITNESS: Oh, okay. It was the sales, and the

6 lack of sales, the deficit; end of September was \$211,721.

7 Q (BY MR. MAJORANA) You said the end of the September 2016?

8 A Correct. And that same day, on October 3rd we lost a

9 contract with Hemlock Semiconductor.

10 Q How much was the Hemlock Semiconductor contract worth, if you

11 know?

12 A I want to say maybe we lost around 50,000.

13 Q Okay. And you said that there was a deficit of \$211,000,

14 roughly --

15 A Right.

16 Q -- in sales?

17 A (Witness nodding head.)

18 Q Were those with specific companies or customers?

19 A That was the total manufacturing division.

20 Q That was the manufacturing division deficit?

21 A Correct.

22 Q How frequently do you -- or do you receive a monthly, weekly,

23 daily financial report of SVRC's business?

24 A I receive a daily sales report that we get. There's

25 production reports, monthly production reports that are on

1 the network. And then the financial reports, the overall  
2 monthly, it goes, you know, profit and loss, not daily, but  
3 yes. The daily sales report and the production reports are  
4 there; you can see our billing reports, Community Mental  
5 Health daily, yes.

6 Q Okay. You mentioned something about overall financial  
7 report; is that -- how often does that come out?

8 A The monthly profit and loss statements.

9 Q Okay. That's a monthly. Okay. So that monthly report, is  
10 that for the prior month, or how does it come out?

11 A Yes.

12 Q Prior month?

13 A (Witness nodding head.)

14 Q Okay. Was there a deficit on October 3, 2016, if you know?

15 A Yes.

16 Q What was that deficit?

17 A For the agency, I do not know, but I can tell you at the end  
18 of the year we finished with \$150,000 deficit, of which 113  
19 was manufacturing.

20 Q Okay. But what about October 3rd, was there a deficit on  
21 that day?

22 MR. MEYER: Asked and answered.

23 THE WITNESS: In that division, yes.

24 Q (BY MR. MAJORANA) Okay. And that was 150,000 is what you're  
25 saying?

1 MR. MEYER: No, that's not what she said.

2 THE WITNESS: No, no, no.

3 MR. MAJORANA: I'm sorry. I misunderstood.

4 THE WITNESS: In October it was 211,000 for the  
5 manufacturing; the end of the year the agency lost 150,000,  
6 approximately.

7 Q (BY MR. MAJORANA) Okay. All right. Was anyone else laid  
8 off at the same time as Linda Rivera?

9 A No.

10 Q Was anybody else laid off because of the lack of sales or the  
11 loss of that Hemlock Semiconductor contract?

12 A Well, we had 16 consumers who lost their job which, in my  
13 mind, they're people who are earning a paycheck, as well, and  
14 the job coach that supervised them had to be assigned to  
15 another location, but 16 of the consumers lost their job.

16 Q So, okay, you said the consumers lost their job; do they get  
17 a paycheck?

18 A Yes, they do.

19 Q Okay. Who are these consumers, are they -- I guess, who are  
20 they?

21 A They're referred from Community Mental Health, so I can't --  
22 I'm not going to give you names or anything.

23 Q Okay. That's fine.

24 A Okay.

25 Q And you said a job coach was reassigned; who was that job

1 coach?

2 A I honestly don't know who the job coach was at the time.

3 Q Okay.

4 A The job coaches are trained, as was Lyle, to work in all the  
5 different areas, so --

6 Q Okay. What department were those consumers working in?

7 A It was combined: Production, manufacturing and  
8 rehabilitation. We receive Medicaid dollars from Community  
9 Mental Health for those individuals, to provide supervision,  
10 as they all have disabilities.

11 The actual contract work of what they do there, Hemlock  
12 Semiconductor pays us, and that is revenue for the production  
13 for manufacturing, so it's two different revenue sources.

14 Q Okay. At the time that you learned that the Hemlock  
15 Semiconductor contract had been lost, was there some kind of  
16 a financial projection as to what the loss would be in the  
17 future?

18 MR. MEYER: Let me just object. I think she  
19 already testified to that.

20 THE WITNESS: 50,000.

21 Q (BY MR. MAJORANA) Okay. All right. Was there anybody --  
22 well, let me ask you this: You may have testified to this  
23 before, but are there -- are those two different departments,  
24 essentially a rehabilitation and a manufacturing side, is  
25 that true?

1 A Well, we have a lot of different cost centers, because we  
2 have schools, behavioral health and janitorial, and advocacy  
3 division, so there's many. So to say two, I'm not sure what  
4 you mean.

5 Q Okay. That's fine. Was there anybody that was not in the  
6 manufacturing side that was laid off or lost their job as a  
7 result of lack of sales or the loss of the Hemlock  
8 Semiconductor contract?

9 A No, not after --

10 Q Okay.

11 A Well, Deb prior to that, but not after Linda.

12 Q Deb, is that the receptionist?

13 A Yes.

14 MR. MAJORANA: Okay. I don't have any other  
15 questions.

16 MR. MEYER: I have some questions.

17 EXAMINATION

18 BY MR. MEYER:

19 Q Deb, did you ever tell the Plaintiff not to file a Police  
20 Report?

21 A No, I did not.

22 Q You told her that the attorney had advised SVRC not to file a  
23 Police Report?

24 A Correct.

25 Q Did she ever indicate to you that she personally wanted to

1 file a Police Report?

2 A No.

3 Q She wanted SVRC to file a Police Report?

4 A Correct.

5 MR. MEYER: Okay. I'm going to mark this as  
6 **Exhibit 3**. I apologize. It's a copy of your Complaint; I  
7 had my assistant make a copy, and I don't have one for you.

8 MR. MAJORANA: I'm sure I can find one.

9 MR. MEYER: But I'm sure you probably have one  
10 somewhere.

11 (Deposition **Exhibit No. 3**  
12 marked for identification.)

13 Q (BY MR. MEYER) So I want you to take a look at **Exhibit 3**  
14 there. That is the Summons and Complaint, or the Complaint,  
15 rather; I don't think the Summons is attached, that was filed  
16 and instituted this lawsuit. That is what I will represent  
17 to you. I would like you to look at page three.

18 A What page three?

19 Q Page three, and the paragraphs are numbered there.

20 MR. MAJORANA: I don't think she --

21 THE WITNESS: I don't have the same that you have.

22 MR. MEYER: Oh, you don't? Oh, I apologize. Can  
23 we go off the record for a second.

24 (Off the record discussion.)

25 Q (BY MR. MEYER) So go to page three, please, and look at

1 Paragraph 16, if you have a chance, and you can read that to  
2 yourself. Done?

3 A Uh-huh.

4 Q Yes?

5 A Yes.

6 Q Did the Plaintiff ever inform you, as is stated there in  
7 Paragraph 16, that she wished, she personally wished to file  
8 a Police Report?

9 A No, she did not.

10 Q So that's not true, is it?

11 A Not to my knowledge, no.

12 Q Okay. Let's go to Paragraph 38. Actually, let's start with  
13 37. Okay?

14 A Okay.

15 Q Read 37 to yourself, and let me know when you're done.

16 A I'm done.

17 Q It says, in Paragraph 37, that the Plaintiff informed you  
18 that she was about to report Mr. Summerfield's threatening  
19 statements to the police. Did that ever happen?

20 A No.

21 Q So that's not true, is it?

22 A Not to my knowledge.

23 Q Okay. Let's go to Paragraph 39 on the next page, page seven,  
24 and that one is real short, so I'll just read it to you. For  
25 the record it says, Paragraph 39, That Defendant, through

1 President Deb Snyder, told Plaintiff not to file a Police  
2 Report.

3 Did you ever tell Ms. Rivera not to file a Police  
4 Report?

5 A No, I did not.

6 Q That most certainly is not true, is it?

7 A No, it's not true.

8 Q Now, in fact, on these text messages -- can we have the  
9 exhibit, please.

10 The third page, and I'm referring to a text that was  
11 sent at 4:33 p.m. from Deb Snyder to Linda Rivera, the bottom  
12 text on that page. You indicated, If you want to file a  
13 Personal Protection Order you can do so, which may mean  
14 filing a Police Report, correct?

15 A Correct.

16 Q So you expressly told her she could file a Police Report?

17 A I did.

18 Q At this point on September 15, 2016, had SVRC had any  
19 opportunity to conduct any sort of formal investigation  
20 relating to the incident involving Mr. Summerfield?

21 A The date it happened, no, it was at the end of the day.

22 Q Did Mr. Summerfield ever work another day at SVRC after  
23 September 15, 2016?

24 A No. No.

25 Q So he was never in the workplace with the Plaintiff after

1 September 15, 2016, the date of this incident?

2 A Correct, except for when he was interviewed by our attorney.

3 Q Now, in her capacity as, I think it's Director of Industrial  
4 Operations, is that the job title that the Plaintiff held?

5 A Correct.

6 Q She was responsible for sales?

7 A Correct.

8 Q Was that a primary part of her employment duties and  
9 responsibilities?

10 A Yes.

11 Q And how were SVRC's sales while Ms. Rivera was the Director  
12 of Industrial Operations?

13 A In a deficit.

14 Q In fact, significantly reduced from the prior year?

15 A Correct.

16 Q So when you were talking about, and correct me if I'm wrong,  
17 I think you said \$211,000, thereabouts, in September of 2016?

18 A Yes.

19 Q The last month that the Plaintiff worked. That means that in  
20 September of 2015, the month before the Plaintiff started at  
21 SVRC, sales were \$211,000 higher than in September of 2016,  
22 the last month the Plaintiff worked at SVRC?

23 A Correct, '15 to '16.

24 Q There was a significant financial problem at the time that  
25 the Plaintiff was given her Notice of Layoff, wasn't there?

1 A Yes, there was.

2 Q Was the Plaintiff responsible for, and I hope I'm getting the  
3 phraseology right here, reviewing contract files?

4 A Yes.

5 Q To your knowledge, did she do that?

6 A She was assigned with making sure they were updated and kept  
7 current, and they were not.

8 Q And that was an important job responsibility that she had?

9 A Yes.

10 Q Did the fact that you had a text message exchange with the  
11 Plaintiff over the course of a few hours on September 15,  
12 2016 have anything to do, to your knowledge, with the  
13 decision that was made to lay the Plaintiff off?

14 A It had absolutely nothing to do with the decision to lay  
15 Linda off.

16 Q It was a financial decision, right?

17 A It was.

18 MR. MEYER: All right. I'm almost done. We're  
19 going to take a quick break.

20 MR. MAJORANA: Sure.

21 (Whereupon, a short break was taken.)

22 MR. MEYER: I have nothing further.

23 RE-EXAMINATION

24 BY MR. MAJORANA:

25 Q Okay. I have a couple follow-up questions. So at the

1 beginning of this deposition I asked you whether Linda Rivera  
2 had any performance issues. Do you recall that?

3 A I do.

4 Q And you said no?

5 A Correct.

6 Q Okay. So did you ever talk to Linda Rivera about allegedly  
7 not reviewing contract files?

8 A We tried to meet weekly; with schedules, it didn't always  
9 happen, but it was a topic of conversation. I know her and  
10 Dean had met regarding them, but to see that they weren't  
11 done wasn't until after she was gone.

12 Q Okay. But she was never written up --

13 A No.

14 Q -- or disciplined for it, or anything like that?

15 A No.

16 Q Okay. Did you ever talk to Linda Rivera about sales deficits  
17 or anything like that?

18 A We talked about sales and the production manufacturing doing  
19 poorly, I mean, all the time.

20 Q Okay. Did you ever talk to Linda Rivera about getting her  
21 more up to date financial information for her department?

22 A I believe I stated there's daily sales reports and production  
23 reports on the server.

24 Q Okay. You never talked to her about information being  
25 outdated and getting her more up to date information or

1 anything like that?

2 A The financial reports, profit and loss that go to the Board  
3 on a regular basis were not always the month prior. You know  
4 what I mean?

5 Q Okay. All right.

6 A But that's the overall agency.

7 Q Okay. Now, I want you to go back, and I want you to look at  
8 what was marked as **Exhibit 3**, the Complaint there, and I want  
9 you to look at paragraph 38. Do you see that there?

10 A Uh-huh. Yes.

11 Q And you see there it says that Plaintiff reported to you that  
12 Lyle Summerfield had told her that he, quote, knows how to  
13 use a gun, that he's, quote, not afraid to pull the trigger  
14 and, quote, he doesn't discriminate, or words to that  
15 effect. Do you recall any of those words?

16 A I do.

17 Q Do you consider any of those words to be a threat?

18 MR. MEYER: Form, foundation.

19 THE WITNESS: Does that mean I still answer?

20 MR. MEYER: You can answer the question.

21 THE WITNESS: Okay.

22 MR. MEYER: Relevancy, if you want to throw that in  
23 there, but you can answer.

24 THE WITNESS: It is not directed to me or anyone,  
25 so, no, they're just statements.

1 Q (BY MR. MAJORANA) How do you know who it was directed to?

2 A Well, quote, knows how to use a gun; I could say I know how  
3 to use a gun. Not afraid to pull the trigger; I would not be  
4 afraid to pull the trigger. And doesn't discriminate; I  
5 don't discriminate either. But does that mean against people  
6 or -- I don't know.

7 Q Well, were you there --

8 A You know, whether it's a person with a disability is  
9 discrimination, I --

10 Q But you weren't there for that meeting when these words were  
11 allegedly said --

12 A No.

13 Q -- is that true?

14 A True.

15 Q So you don't know, really, who they were directed to, right?

16 A Right.

17 Q Okay. Now, I want you to look at the text messages; I  
18 believe that was number one. And right there in the middle  
19 of the page, number three down. It's Linda Rivera, and she  
20 says, Deb, I was advised we should immediately make out a  
21 Police Report. What does that mean to you?

22 A When she says we, I take it as SVRC.

23 Q Okay. But when it says, Immediately make out a Police  
24 Report, doesn't that -- does that sound like she wants to  
25 immediately make a Police Report to you?

1 A It's --

2 MR. MEYER: Hold on. You're asking a question  
3 whether the words immediately make out a Police Report sound  
4 like the words immediately make out a Police Report? I guess  
5 I'll object to the form of the question. You can -- I mean,  
6 answer, to the extent you understood it.

7 THE WITNESS: I read that text message that she was  
8 telling me that she was advised that SVRC should immediately  
9 make out a Police Report.

10 Q (BY MR. MAJORANA) Okay. Are there metal detectors or  
11 anything of that nature at SVRC property?

12 A No.

13 Q So is there any way to prevent somebody from sneaking a gun  
14 onto the property?

15 A We do not search our staff or clients.

16 Q Okay. So is it possible that Lyle Summerfield could have  
17 returned to the property with a gun?

18 MR. MEYER: Let me just object to the question; it  
19 calls for speculation. I mean, anything is possible; I could  
20 win the Lottery tomorrow. Subject to that, you can answer.

21 THE WITNESS: SVRC, you need a key fob to enter the  
22 building, which means you're buzzed in; his key fob was  
23 immediately turned off.

24 Q (BY MR. MAJORANA) When was it turned off?

25 A That day. Maybe the next morning, but it was immediate

1 that -- I think it actually was on Thursday, the 15th that it  
2 was, we contacted, and had it turned off.

3 Q Okay. But to go back to my question, it is possible that  
4 Lyle Summerfield could have returned to SVRC with a gun,  
5 true?

6 MR. MEYER: Speculation.

7 MR. MAJORANA: You can still answer.

8 MR. MEYER: Anything is possible.

9 THE WITNESS: As I said, we don't search; I don't  
10 know what anybody brings onto the property.

11 Q (BY MR. MAJORANA) I'm asking, yes or no, is it possible that  
12 Lyle Summerfield could have returned to SVRC with a gun?

13 MR. MEYER: Well, number one, she doesn't have to  
14 answer your question in a yes or no form. You can answer it,  
15 you know, to the extent you understand it.

16 THE WITNESS: It would have been possible, but he  
17 would have had to get --

18 MR. MEYER: Let me finish, please. You can answer  
19 to the extent you understand it. Again, it calls for  
20 speculation. Go ahead.

21 THE WITNESS: It's possible, but he would have had  
22 to been buzzed in to get in, and people were made aware not  
23 to let him in.

24 MR. MAJORANA: Okay. That's all the questions I  
25 have.

1 MR. MEYER: One minute, I may have a follow-up.

2 Never mind. You're all set.

3 (Whereupon, Deposition concluded at 3:53 p.m.)

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1 STATE OF MICHIGAN )  
 )SS  
2 COUNTY OF CLINTON )

3 CERTIFICATE OF NOTARY PUBLIC

4 I certify that this transcript is a complete, true  
5 and correct record of the testimony of the witness held in  
6 this case.

7 I also certify that prior to taking this  
8 deposition, the witness was duly sworn or affirmed to tell  
9 the truth.

10 I further certify that I am not a relative or an  
11 employee of or an attorney for a party; and that I am not  
12 financially interested, directly or indirectly, in the  
13 matter.

14 I hereby set my hand this day, Tuesday, April 25,  
15 2017.

16 *Heidi A. Cook*  
17

18 Heidi A. Cook, RPR/CSR-4827  
19 Certified Shorthand Reporter,  
20 Registered Professional Reporter, and  
Notary Public, County of Clinton,  
State of Michigan.

21 My Commission Expires: 06-02-2020  
22  
23  
24  
25

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**Y**

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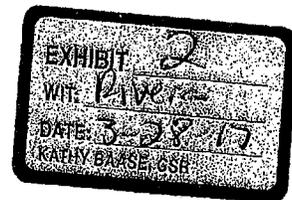
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**yesterday**

**EXHIBIT 6**  
**Notice of Permanent Lay-Off**

Notice of Permanent Layoff



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Permanent Lay-Off Notice

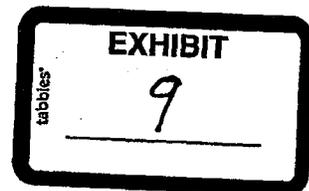
9 Veterans  
Memorial Parkway  
Lansing, MI  
8601-1497  
89-752-6176  
fax: 989-752-3111  
www.svrcindustries.com

Employee Name: Linda Rivera  
Date: 10-06-2016  
Last Day Worked: 10-04-2016

You are hereby notified that SVRC Industries, Inc. is placing you on permanent lay-off from your position in the Manufacturing program. The last day of employment was on October 4<sup>th</sup>, 2016. This lay-off is necessary because of budgetary and economic reasons.

Enclosed with your exit paperwork will be an *Exit Interview*, and *Unemployment Compensation Notice to Employee*. Please complete the Exit Interview and return it in the enclosed envelope.

If you have any questions, please do not hesitate to contact Debra Snyder, President/COO at (989) 752-6176 ext. 2148 or through email at dsnyder@svrcindustries.com.



STATE OF MICHIGAN  
IN THE SUPREME COURT

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LINDA RIVERA,	) Supreme Court No. 159857
	) Court of Appeals No. 341516
	) Case No. 16-031756-NZ-1
Plaintiff / Appellant,	)
v	)
	)
SVRC INDUSTRIES, INC.,	)
	)
Defendant / Appellee.	)

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VICTOR J. MASTROMARCO, JR. (P34564)  
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# EXHIBIT 7

## Sylvester Payne Dep Transcript

**In the Matter Of:**

**RIVERA vs SVRC INDUSTRIES**

16-031756-NZ-I

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**SYLVESTER PAYNE**

*July 14, 2017*

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF SAGINAW

LINDA RIVERA,

Plaintiff,

-vs-

Case No. 16-031756-NZ-I  
Hon. Patrick J. McGraw

SVRC INDUSTRIES, INC.,

Defendant.

\_\_\_\_\_ /

The deposition of SYLVESTER PAYNE,  
taken before me, KELLY BONHEIM, CSR-8167, a Notary  
Public acting within the County of Saginaw, State  
of Michigan, at 1024 N. Michigan Avenue, Saginaw,  
Michigan, on Friday, July 14, 2017.

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Also present: Linda Rivera

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1 nods, that sort of thing. If for some reason you  
2 don't understand my question, or either of our  
3 questions, just ask us to rephrase and we'll be  
4 happy to do that.

5 A. Okay.

6 Q. If you need to take a break for any reason, just  
7 let us know. I'm happy to accommodate you. Sound  
8 good?

9 A. Very good.

10 Q. All right. Are you currently employed?

11 A. No.

12 Q. Okay.

13 A. I'm retired.

14 Q. Where are you retired from?

15 A. Saginaw Transit Authority.

16 Q. When did you retire?

17 A. In August of last year.

18 Q. What was your position with Saginaw Transit  
19 Authority?

20 A. I was the general manager there.

21 Q. Have you ever been CEO or anything at any company?

22 A. At any company, yes, I have.

23 Q. What companies?

24 A. There was a nonprofit organization that I worked  
25 -- or two actually, that I worked with. I was

1 deputy director at one and CEO at the other.

2 Q. And what were the one that you were CEO of?

3 A. It would have been the Community Action Committee  
4 here in -- in town.

5 Q. Okay. And when you were the deputy director what  
6 was that one?

7 A. That would have been First Ward Community Center.

8 Q. How long were you with the Community Action  
9 Committee?

10 A. Two years.

11 Q. Do you know about when that was?

12 A. It would have been from 2003 -- no, 2002 to 2004.

13 Q. Okay. What about the First Ward Committee?

14 A. Would have been before that. So it would have  
15 been 2002 I think it was.

16 Q. How long were you with them?

17 A. About six months. And then I was hired into the  
18 Community Action Committee.

19 Q. Okay. All right. Now do you have any  
20 relationship at all with SVRC?

21 A. I am the vice chairman of the board of directors  
22 there.

23 Q. Okay. Now when did you become the vice chairman?

24 A. Just this past year. I was chairman of the board  
25 prior to that.

1 Q. How long were you chairman for?

2 A. It would have been one year.

3 Q. So basically all of 2016 or is that incorrect?

4 A. Yeah, that would be fair to say.

5 Q. Okay. Have you ever been employed by SVRC?

6 A. No, I've been on the board of directors there  
7 probably for just about 20 years though.

8 Q. Okay. Now do you know Linda Rivera?

9 A. Yes, I do.

10 Q. How do you know her?

11 A. She is my girlfriend.

12 Q. How long have you known her for?

13 A. Eight or nine years. Maybe a little bit longer  
14 than that. She was employed with me over at  
15 Saginaw Transit and that's where we first met.

16 Q. Now I want to turn your attention to fall of last  
17 year, specifically around September or so,  
18 September 2016. Did you ever learn of any kind of  
19 incident involving Linda Rivera and allegedly a  
20 threat of any kind?

21 A. Yes, the day that that occurred Linda called me at  
22 home upset because of the incident that had  
23 occurred.

24 Q. What did she tell you?

25 A. Pretty much she had talked to -- and I think this

1 employee that we're talking about was a direct  
2 report of hers. And in talking with them, I guess  
3 they had had an exchange of words, and in doing  
4 so, she felt that he had kind of threatened her.  
5 And pretty much what she was calling me for was to  
6 find out if there should have been a police report  
7 made on it because of what he had said.

8 Q. Okay. Did she ever give you that employee's name?

9 A. If she did I couldn't remember who it was.

10 Q. Did she tell you what the threat was?

11 A. Yes.

12 Q. What did she say in that regard?

13 A. If I -- if I recall right, it was just the fact  
14 that they were -- they were talking about and his  
15 remarks were to her he had -- he had been in the  
16 service. He has guns and -- and he knows pretty  
17 much how to get back into, I guess, the facility  
18 if needed to be to straighten the -- straighten  
19 the mess out, whatever was being created at that  
20 time.

21 Q. Okay. But is that her exact words or as best you  
22 can --

23 A. No, that's -- that's to my memory.

24 Q. Okay.

25 A. And mind you, let me preference that with my

1 memory is a little bit shaky because I am -- I am  
2 going through cancer and was going through cancer  
3 treatments at that time. And so I was not as  
4 alert as to what was going on. I was just  
5 listening to her when she called me.

6 Q. Okay. Do you recall her exact words at all?

7 A. No, I don't.

8 Q. Okay. What did you say in response to her, if  
9 anything?

10 A. I mentioned to her, you know, with me sitting on  
11 the board, that I was not aware of what the policy  
12 and practices were for incidents that occur in  
13 there. But she asked me, "Well, should there be a  
14 police report made?" And I think she was asking  
15 basically because of my experience in -- in  
16 working down at the Transit Authority and -- and I  
17 told her that I felt, yes, that a police report  
18 should have been filed.

19 Q. Why did you think a police report should have been  
20 filed?

21 A. I've had similar -- you know, I've been in the CEO  
22 position there at STARS for over 26 years and I've  
23 had positions -- or situations come up like that  
24 where if the threat is made, especially if you're  
25 talking about using a gun or something like that,

1           then yes, I felt that it should be reported right  
2           away to the -- to the police department.

3       Q.    Now after that conversation did you contact  
4           anybody at SVRC regarding this incident at all?

5       A.    No.

6       Q.    Did anybody ever from SVRC ever contact you about  
7           the incident?

8       A.    No.

9       Q.    Are you aware of whether or not Ms. Rivera was  
10           eventually terminated from SVRC?

11      A.    I was informed by Ms. Rivera that she was laid  
12           off. I'm not aware of her being terminated, no.

13      Q.    Okay. Now, but prior to that point when you  
14           learned that she was laid off, did you have any  
15           other conversation with Ms. Rivera about this  
16           threat situation?

17      A.    No.

18      Q.    Did you have any conversations with anybody else  
19           about it?

20      A.    No.

21      Q.    How about after you learned that Ms. Rivera had  
22           been laid off, did you have any conversation with  
23           her about this threat situation?

24      A.    No, no more than her just talking with me about  
25           the fact that she had been laid off and -- and

1 what -- what actually was supposed to be the next  
2 steps that they do as far as being laid off is  
3 concerned.

4 Q. Now did you have any communication after -- strike  
5 that.

6 After you learned Linda Rivera was laid  
7 off, did you have any communication at all with  
8 SVRC as to why she was laid off or anything like  
9 that?

10 A. No, SVRC and I have not had any communication  
11 about Ms. Rivera at all, no.

12 Q. Okay. Did you have any communication with SVRC  
13 after you learned that Ms. Rivera had been laid  
14 off about this -- again, this alleged threat that  
15 took place?

16 A. No.

17 MR. MEYER: Form.

18 BY MR. MAJORANA:

19 Q. Okay. Now I just want to ask your opinion. If  
20 the evidence in this case were to show that the  
21 language of this threat actually was, "If a  
22 revolution is coming in this country, I'm going to  
23 be the first to pull the trigger and I don't  
24 discriminate." In your opinion, if someone had  
25 communicated that to you, or an employee of yours

1 while you were a CEO of a company, would that be  
2 considered a threat to you?

3 MR. MEYER: Form. Foundation. Calls for  
4 speculation.

5 BY MR. MAJORANA:

6 Q. You can go ahead and answer.

7 A. Yes.

8 Q. Why would that be a threat?

9 MR. MEYER: Same objection.

10 THE WITNESS: Again, any time we talk  
11 about the -- the safety of the employees of any  
12 establishment and you get someone that what I  
13 would consider rambling but seriously take those  
14 ramblings. And in public transportation I've had  
15 some of those instances come up there, as  
16 something that, yes, I would take very seriously  
17 that it should at least be checked out if nothing  
18 else.

19 BY MR. MAJORANA:

20 Q. Would you have instructed a police report to be  
21 filed?

22 A. Yes.

23 Q. Why is that?

24 A. Again, just for the safety of the organization  
25 itself. And it's in a broad sense where they're

1 not talking about one person in particular but it  
2 could be the entire operation that you have there  
3 that they may be referring to. And my  
4 responsibility as CEO is the protection and safety  
5 of the employees that I've got working with me.

6 Q. Okay.

7 MR. MAJORANA: I don't have any other  
8 questions for you, Mr. Payne. He might have some.

9 MR. MEYER: I have some questions, yes.

10 EXAMINATION

11 BY MR. MEYER:

12 Q. Just for background information, Mr. Payne -- and  
13 let me strike that.

14 Before we begin, my name is Brett Meyer.  
15 I'm an attorney. I apologize, I should introduce  
16 myself. I represent SVRC in this case. I know  
17 you've been deposed before. Same ground rules  
18 apply.

19 A. Yes.

20 Q. If I ask you a question and you don't hear it or  
21 don't understand it, please let me know. I will  
22 be happy to restate or rephrase it. If I ask you  
23 a -- is that fair?

24 A. Very good.

25 Q. Okay. If I ask you a question and you give me a

1 response that's not asking me to restate or  
2 rephrase the question, I'm going to assume because  
3 you're under oath that you heard my question, that  
4 you understood my question, and that you're giving  
5 me a truthful response, okay?

6 A. Okay.

7 Q. I don't anticipate I will have a lengthy  
8 examination for you but if you need a break at any  
9 time, please let me know. My one request will be  
10 that we don't leave a question pending on the  
11 table, all right?

12 A. Very good.

13 Q. When did you start at STARS?

14 A. I've been at STARS since 1986.

15 Q. And that's the Saginaw Transit Authority?

16 A. Yes.

17 Q. I'm just going to call it STARS, that's the  
18 acronym that --

19 A. Very good.

20 Q. -- it goes by, right?

21 A. Yes.

22 Q. Okay. When did Ms. Rivera start at STARS?

23 A. I am not sure right offhand when that was.

24 Q. What was her position there?

25 A. She was planning director/marketing director for

1 the operation.

2 Q. At some point she left STARS and then she took a  
3 job with SVRC, right?

4 A. Yes.

5 Q. Why did she leave STARS, if you know?

6 A. She was laid off from STARS. We were going  
7 through financial troubles and I had to make the  
8 decision to cut that position.

9 Q. Sure. And so, you know, sometimes when you're  
10 responsible for operating a business or an entity,  
11 you've got to make tough financial choices, right?

12 A. Yes.

13 Q. After Ms. Rivera was laid off at SVRC, do you know  
14 if she applied for or received unemployment?

15 A. Yes.

16 Q. Okay. She did receive unemployment, --

17 A. Yes.

18 Q. -- correct? Did you help her with that at all?

19 A. No.

20 Q. Did she ever talk to you about that?

21 A. Talking that she had applied for it and all, yes.

22 Q. Are you aware that she told the unemployment  
23 insurance agency that the reason she was laid off  
24 was economic in nature?

25 A. I don't know what the specific was, no.

1 Q. Do you have a Facebook profile, Mr. Payne?

2 A. Yes.

3 Q. Okay. Are you Facebook friends with the  
4 Plaintiff, Ms. Rivera?

5 A. No.

6 Q. Do you ever look at her Facebook page?

7 A. No.

8 Q. Okay. Now just take me through I guess -- you've  
9 been on the board at SVRC for about 20 years you  
10 said?

11 A. Yes.

12 Q. Okay. How did you end up on the board?

13 A. SVRC and -- and STARS have been partners for a  
14 very long time, especially when we began to seek  
15 local tax dollars to operate the system. They  
16 played a very big part in helping us to get the  
17 votes and get the voters out to -- to make that  
18 happen.

19 Q. What were your responsibilities as a member of the  
20 board?

21 A. As a member of the board?

22 Q. Yes.

23 A. To set policy. Most -- as most board members do,  
24 set policy and to make sure that the CEO is -- is  
25 complying with those issues.

1 Q. So you were basically responsible for oversight or  
2 supervising -- at least one of your  
3 responsibilities was oversight of the CEO?

4 A. Yes.

5 Q. Which at present would be Dean Emerson?

6 A. That's correct.

7 Q. Okay. And I'm not trying to be redundant but I  
8 think you testified you're not an SVRC employee,  
9 correct?

10 A. No, I'm not.

11 Q. And in your capacity as a board member or even as  
12 chairman or vice chairman, you're not a government  
13 employee are you?

14 A. No.

15 Q. Did you talk about your testimony here today with  
16 anyone?

17 A. No.

18 Q. Have you ever spoken with Mr. Majorana about this  
19 case?

20 A. No.

21 Q. Have you ever spoken with Ms. Rivera about this  
22 case?

23 A. Ms. Rivera and I have discussed her case, yes.

24 Q. What have you discussed about it?

25 A. Just in general the terms of, again, why she was

1 let go, the fact that she was moving forward  
2 with -- because she felt that she hadn't been  
3 treated fairly. And that's it.

4 Q. What is your understanding of why -- well, strike  
5 that.

6 Do you have some understanding of what  
7 the claims are in this case?

8 A. I have some understanding of it. I try to  
9 distance myself from it with me still sitting on  
10 the board.

11 Q. Well, what is your understanding of what the  
12 claims are?

13 A. It's just the fact that she feels that, number  
14 one, she was not laid off but the -- what the  
15 actions I guess in some of the meetings that she's  
16 had with the CEO as well as the vice -- vice  
17 president of the organization there. And so she  
18 felt that she needed to move forward with taking  
19 legal action because she -- she feels that she was  
20 unfairly let go.

21 Q. Has she ever told you why she feels that she was  
22 unfairly let go?

23 A. No.

24 Q. So your entire understanding of this case is that  
25 she just feels she was unfairly let go but she's

1 never told you why that was?

2 A. Yes.

3 Q. As a board member do you have access to employees'  
4 personnel files at SVRC?

5 A. No.

6 Q. Do you know if Linda ever filed a police report or  
7 notified the authorities about this incident with  
8 an employee that you were testifying regarding  
9 earlier?

10 A. I'm not aware of, no.

11 Q. Do you know why she never did that?

12 A. I never questioned her on it.

13 Q. Now you were talking earlier about how you would  
14 make a police report or direct someone to make a  
15 police report if a threat was kind of broad and  
16 toward the whole organization, right?

17 A. Yes.

18 Q. Did Linda tell you that she thought the threat was  
19 -- that this employee made was toward SVRC or did  
20 she tell you that she thought the threat was  
21 directed at her?

22 A. She felt that the threat was directed at her.

23 Q. Okay.

24 A. When I received the phone call that evening from  
25 her she felt that it was personally at her.

1 Q. Do you have any idea why she never went to the  
2 police either before or after she was laid off at  
3 SVRC?

4 A. Before she was laid off I -- I still would have to  
5 imagine, and just talking with her, that she was  
6 waiting for some direction from the CEO at -- or  
7 her immediate supervisor as to if she should or if  
8 she could.

9 Q. Okay. Have you ever seen any of the text messages  
10 that were exchanged relating to this issue between  
11 Linda Rivera and Debra Snyder who was the COO of  
12 SVRC?

13 A. No.

14 Q. You do know Deb Snyder, the COO though, right?

15 A. Yes, I do.

16 Q. Okay. Is there anything you're aware of that  
17 would have -- well, strike that.

18 Do you know what day of the week this  
19 threat or incident occurred on?

20 A. No, I don't.

21 Q. Okay. Were you and Ms. Rivera living together at  
22 the time?

23 A. No.

24 Q. Do you know if she went to work the next day?

25 A. I can't recall exactly what happened on the --

1 after that.

2 Q. Now if someone at SVRC told Ms. Rivera that SVRC  
3 was not going to make a police report but that Ms.  
4 Rivera was free to contact the authorities if she  
5 wished, you would expect that she would contact  
6 the authorities, correct?

7 MR. MAJORANA: Object to foundation.  
8 Speculation.

9 BY MR. MEYER:

10 Q. Based on what she told you.

11 A. Based on what she said, yes.

12 Q. Okay. So is there any reason that you're aware of  
13 that Ms. Rivera would not have contacted the  
14 authorities if that is in fact what she was told?

15 A. If that's what she was told, no, I'm not aware of  
16 any reason.

17 Q. And just so I'm clear, you never discussed this  
18 incident, the statement that was made by the  
19 employee to Ms. Rivera or her being laid off with  
20 Dean Emerson, Deb Snyder, or anyone at SVRC?

21 A. No, no one has approached me. At the time last  
22 year when this occurred, I was president of the  
23 board of directors and no one approached me about  
24 any incident at all.

25 Q. Now have you and Ms. Rivera been romantically

1 involved continuously since the date of this  
2 incident?

3 A. Yes.

4 Q. Okay. Is she currently working?

5 A. Not to my knowledge.

6 Q. Does she currently have any sources of income that  
7 you're aware of?

8 A. Not to my knowledge, no.

9 Q. You're not aware as to whether she's got some sort  
10 of, you know, at home wine distributorship or  
11 something like that?

12 A. No.

13 Q. You're not aware or she doesn't?

14 A. I'm not aware.

15 Q. How often do you see Ms. Rivera?

16 A. Oh, we talk generally on a -- on a day-to-day  
17 basis, yes.

18 Q. Okay. Did she talk to you about going back to  
19 SVRC after she was laid off to collect her  
20 personal belongings?

21 A. No.

22 Q. So you weren't aware as to when she did that or if  
23 she did that?

24 A. Obviously I'm aware that she had to go back and  
25 get personal belongings but I'm not sure when it

1 was. All of those things, and -- and Ms. Rivera  
2 is an employee of SVRC, with me being a board  
3 member, I made sure that the day-to-day operations  
4 and what they had to do on a day-to-day basis I  
5 was not involved with.

6 Q. And I understand that. I'm just trying to find  
7 out what you know. Did Ms. Rivera ever talk to  
8 you about deleting items from her work computer or  
9 her email profile when she left her employment  
10 with SVRC?

11 A. No.

12 Q. Now when an employee is laid off, being someone  
13 who has supervised and had authority over  
14 employees for many years, you would consider it to  
15 be improper, wouldn't you, for that employee to go  
16 back and effectively wipe a work computer without  
17 having prior approval?

18 A. Oh, yes.

19 Q. Do you know who Eve Flynn is?

20 A. No.

21 Q. Do you know who Lyle Summerfield is?

22 A. No.

23 Q. Who's the controller at SVRC right now?

24 A. The controller would be Angela Gowanaski (ph) or  
25 something. I'm not familiar with her last name.

1 Q. Do you know if she was the controller in 2016?

2 A. Yes.

3 Q. Do you receive financial statements or financial  
4 data relating to SVRC?

5 A. Yes.

6 Q. Do you have -- or strike that.

7 Are you aware of how SVRC was doing  
8 financially in September or October of 2016 as  
9 compared to how it was doing financially at the  
10 same point in 2015?

11 A. Yes.

12 Q. Okay. And what is your understanding of that?

13 A. We were being informed by Mr. Emerson that -- and  
14 I believe it's the manufacturing component of the  
15 operations was still struggling some but they were  
16 working to -- to build it back up and bring  
17 business back in to make it profitable again.

18 Q. Do you know what the numbers were, whether there  
19 was a decline from 2015 to 2016?

20 A. It had been in decline, yes.

21 Q. Okay. When you say the manufacturing component or  
22 area that was declining, are you talking about the  
23 industrial operations --

24 A. Yes.

25 Q. -- division?

1 A. Yes.

2 Q. And that was Ms. Rivera's position, director of  
3 industrial operations?

4 A. Would be correct, yes.

5 Q. All right. And the financials for that division  
6 had been declining, correct?

7 A. That's correct.

8 Q. Thank you very much, sir.

9 MR. MEYER: I don't have any other  
10 questions right now.

11 MR. MAJORANA: I just got one follow-up.

12 RE-EXAMINATION

13 BY MR. MAJORANA:

14 Q. Did you ever -- when you were just testifying  
15 about finances of SVRC, did Mr. Emerson ever tell  
16 you that he was laying employees off or going to  
17 lay employees off?

18 A. No.

19 Q. Okay. Did anybody at SVRC ever tell you that they  
20 were intending to lay employees off?

21 A. No.

22 Q. Okay.

23 A. No, the board was -- the board as a whole was  
24 never informed of that.

25 Q. Is that something that the board would normally be

1 informed of?

2 A. If they are going to begin to reorganize and --  
3 and lay employees off, yes, they are -- they're  
4 always informed of that.

5 Q. Okay. When did the finances begin to decline for  
6 the industrial division?

7 A. I can't recall. If -- if I'm not mistaken, and  
8 again, I was absent a lot of the time because of  
9 my -- my receiving treatments and being down with  
10 cancer. But from the minutes that I was receiving  
11 copies of the minutes at my home, it was even  
12 prior to Ms. Rivera coming in that -- that  
13 operations was having trouble.

14 Q. Okay.

15 MR. MAJORANA: That's all the questions I  
16 have. Thank you.

17 MR. MEYER: Thank you very much, sir.  
18 You're all done.

19 THE WITNESS: Thank you.

20 (Deposition concluded at 12:45 p.m.)

21 \* \* \*

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25

1 STATE OF MICHIGAN )  
 ) ss  
2 COUNTY OF OAKLAND )

3 I, Kelly Bonheim, a CSR and Notary  
4 Public acting for the County of Oakland, State of  
5 Michigan, do hereby certify that this transcript,  
6 consisting of 26 pages was taken before me in the  
7 above-entitled matter, was by me duly sworn at the  
8 aforementioned time and place; that the testimony  
9 given by said witness was stenographically taken  
10 in the presence of said witness and that the said  
11 deposition is a full, true, and correct transcript  
12 of the testimony given by the witness. I further  
13 certify that I am not connected by blood or  
14 marriage with any of the parties or their  
15 attorneys, and that I am not an employee of either  
16 of them, nor financially interested in the action.

17  
18 Kelly Bonheim, CSR-8167  
19 Notary Public: Oakland County, Michigan  
20 My commission expires: 11/1/2020  
21  
22  
23  
24  
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SYLVESTER PAYNE  
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**EXHIBIT 8**  
**Unemployment Benefits Claim**  
**Form**



To:	Danielle Petre	From:	Jenise Murray
Agency:	SVRC Industries	Direct Fax:	877-896-7892
Fax:	989-752-3111	Phone:	800-968-9675, ext. 2522
Phone:	6176 x2151	Date:	10/24/16
UIA #:	0859433	RE:	Unemployment Claim
In-House #:	X702FV	No. of Pages:	4

A former or current employee has filed a claim with the Unemployment Insurance Agency (UIA) to collect unemployment benefits. Listed below is the separation reason provided by the claimant to the UIA.

***\*If this is not the separation reason, please contact us for the correct form.***

Separation Reason:	LACK OF WORK*
Claimant:	Linda Rivera
Social Security #:	xxx-xx-9318

If you cannot verify employment of the claimant by name, please use their Social Security Number and check your Quarterly Wage Detail Report for the last 18 months. If you believe this person was not employed by your agency, please check the box below and return this form.

- ( ) Claimant was not employed by our agency and was not listed on our Quarterly Wage Detail Reports for the last 18 months prior to the Benefit Year Beginning Date on page 3.
- ( ) The claimant was an independent contractor. Send the contract and method of payment.

The information requested must be faxed back by the due date listed below.

Due Date:	10/25/16	by 3:00 p.m.	Fax to: 877-896-7892
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If the information is received past the UIA due date, any benefits paid will be charged to your account until the date the information is received. The UIA will not consider any protest information after 30 days.

First date worked:	09/28/2015
Last date physically at work:	10/04/2016
If still working, last day worked prior to Benefit Year Beginning date on page 4:	
Job Title: <u>Director of Industrial Operations</u> Send job description with signature page.	<input checked="" type="checkbox"/> Full Time, since hire <input type="checkbox"/> Part Time, since hire <input type="checkbox"/> Other, explain with dates <input type="checkbox"/> On-Call <input type="checkbox"/> Temporary



<b>Separation Reason:</b>	<b>LACK OF WORK</b>
<b>Claimant:</b>	<b>Linda Rivera</b>
<b>Social Security #:</b>	<b>xxx-xx-9318</b>

Please answer the following questions or provide the requested information.

- Is the claimant still working? If yes, do not answer question 5.  
 Yes, the claimant is working:  Part-time  On-call  
 Yes, there was a reduction in hours from \_\_\_\_\_ hours to \_\_\_\_\_ hours, effective \_\_\_\_\_  
 No
- Did the claimant request to have their hours reduced?  
 Yes, please provide details and documentation of the claimant's request.  
 No
- Is the claimant refusing any hours?  
 Yes, please send documentation of the hours offered, rate of pay and why they refused.  
 No
- Has the claimant's availability changed?  
 Yes, please send an explanation and/or documentation of the claimant's availability.  
 No
- What was the reason for the lack of work?  
 Permanently laid off  
 Lack of funding  
 Program closed  
 Temporarily laid off, please indicate return to work date: \_\_\_\_\_  
 Holiday layoff, please indicate the period of the holiday layoff: \_\_\_\_\_ to \_\_\_\_\_  
*Please record any Holiday Pay paid given on page 3.*  
 Other Linda was placed on permanent lay off due to budgetary and economic reasons.
- Did the claimant refuse a job offer?  Yes  No, skip to the bottom of the page  
 If yes, was the claimant unemployed when the job offer was made?  Yes  No  
 If yes, please answer the following and send documentation. A job offer can only be protested if the claimant was unemployed at the time the offer was made.

Date job offered: \_\_\_\_\_ Offer made by: \_\_\_\_\_  
 How offer was made, i.e. cert. letter, phone: \_\_\_\_\_  
 Date new job would begin: \_\_\_\_\_  
 Duration of work: Permanent \_\_\_\_\_ Temporary \_\_\_\_\_ How long? \_\_\_\_\_  
 Position offered: \_\_\_\_\_ Prior work performed: \_\_\_\_\_  
 Days & shift offered: \_\_\_\_\_ Prior days & shift worked: \_\_\_\_\_  
 Rate of pay offered: \_\_\_\_\_ Prior rate of pay: \_\_\_\_\_  
 Location: \_\_\_\_\_ Prior location: \_\_\_\_\_  
 Distance/time to work: \_\_\_\_\_ Prior distance/time to work: \_\_\_\_\_  
 Reason for refusing: \_\_\_\_\_

- I have attached all of the documentation requested or have indicated we do not have it.  
 I will send additional documents that were requested. This will include the following:  
 \_\_\_\_\_

Unemployment Benefits Claim Form

Completed by: Danielle Petre BSW, MSA

Title Corporate Quality and Human Resource Specialist Date 10/24/2016

Print name: Danielle Petre

RECEIVED by MSC 5/27/2020 11:15:43 AM

Unemployments Benefits Claim Form

RECEIVED by MSC 5/27/2020 11:15:43 AM

<b>Separation Reason:</b>	<b>LACK OF WORK</b>
<b>Claimant:</b>	<b>Linda Rivera</b>
<b>Social Security Number:</b>	<b>xxx-xx-9318</b>

**Client Workers**

1. Was the claimant a worker in a rehabilitation program?  
 Yes, they are not eligible for benefits per Section 43(o) (iv) of the MES Act  
 No
2. Was the claimant a part of an unemployment work-training program?  
 Yes, they are not eligible for benefits per Section 43(o) (v) of the MES Act  
 No
3. Was the claimant a part of an unemployment work-relief program, such as the Title V, Senior Community Services Employment Program?  
 Yes, they are not eligible for benefits per Section 43(o) (v) of the MES Act  
Name of program: \_\_\_\_\_  
 No

<b>Separation Reason:</b>	<b>LACK OF WORK</b>
<b>Claimant:</b>	<b>Linda Rivera</b>
<b>Social Security Number:</b>	<b>xxx-xx-9318</b>

**Wage Information:**

<b>Benefit Year Beginning:</b>	<b>10/09/16</b>
--------------------------------	-----------------

1. Were any special payments **made after** the Benefit Year Beginning Date above?  
 No, please skip to the bottom of the form to sign and date.  
 Yes, please fill in the appropriate tables below. Call if you have questions.

1a. These types of payments **will reduce** unemployment benefits if allocated to a time period and a letter was given to the claimant on or before their last day worked.

Vacation Pay	\$	Paid on	Allocated from	to
PTO	\$1,988.27	Paid on 10/14/2016	Allocated from	to

- Please check here if pay was allocated and send the letter given to the claimant.  
 Please check here if PTO or vacation time was accrued, paid out and not allocated. Do not fill in the allocated dates above. This type of pay will reduce benefits for the week it is paid.

1b. These types of payment **will reduce** unemployment benefits.

Wages in Lieu of Notice*	\$	Paid on	Allocated from	to
Wage Continuation	\$	Paid on	Allocated from	to
Severance Pay	\$	Paid on	Allocated from	to
Severance Pay	\$	Paid on	Lump sum payment	

- \* Yes, Wages in Lieu of Notice is in our policies. Please send us a copy of the policy.  
 \* No, Wages in Lieu is not in our policies but it is an unwritten practice.

1c. Holiday pay **will reduce** unemployment benefits for the date of the holiday, not the date paid.

Date of Holiday:	\$	Paid on
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1d. List any other type of payments such as sick pay, back pay and bonuses:

Type:	\$	Paid on	Period covered:
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1e. Retirement Benefits: If your agency is providing a pension please complete this information or request a list of questions about retirement benefits.

Monthly Amt:	Effective Date:	Date Paid:
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Please place an "X" by the type of contribution that the claimant made toward their retirement.

Did not contribute:	Less than 1/2 the cost:	1/2 or more of cost:
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**Financial information on this page...**

Completed by: Danielle Petre BBU, MSA Date: 10/24/2016  
 Print name: Danielle Petre

EXHIBIT 9  
“L.S.” Dep. Transcript

L.S. Dep Transcript

RECEIVED by MSC 5/27/2020 11:15:43 AM

**In the Matter Of:**

**RIVERA vs SVRC INDUSTRIES**

16-031756-NZ-1

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**LYLE SUMMERFIELD**

*July 14, 2017*

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF SAGINAW

LINDA RIVERA,

Plaintiff,

-vs-

Case No. 16-031756-NZ-1

Hon. Patrick J. McGraw

SVRC INDUSTRIES, INC.,

Defendant.

\_\_\_\_\_ /

The deposition of LYLE SUMMERFIELD,  
taken before me, KELLY BONHEIM, CSR-8167, a Notary  
Public acting within the County of Saginaw, State  
of Michigan, at 1024 N. Michigan Avenue, Saginaw,  
Michigan, on Friday, July 14, 2017.

APPEARANCES:

THE MASTROMARCO FIRM PLC  
By: Aaron M. Majorana (P78772)  
1024 N Michigan Avenue  
Saginaw, Michigan 48602  
(989) 752-1414  
Majoranaatlaw@gmail.com  
Appearing on behalf of Plaintiff

O'NEILL WALLACE & DOYLE PC  
By: Brett T. Meyer (P75711)  
300 Saint Andrews Rd  
Suite 302  
Saginaw, Michigan 48638  
(989) 790-0960  
Bmeyer@owdpc.com  
Appearing on behalf of Defendant

Also present: Linda Rivera

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T A B L E O F C O N T E N T S

Witness	Page
LYLE SUMMERFIELD	
Examination by Mr. Majorana	3
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Re-Examination by Mr. Majorana	30

E X H I B I T I N D E X

Exhibit	Description	Page
1	Written statement	
2	Letter	

\*\*\*Exhibits 1 & 2 marked at conclusion of deposition



1 A. No, I have not.

2 Q. Okay. And I'll just briefly explain. So  
3 obviously the court reporter here is taking down  
4 everything we say.

5 A. Um-hum.

6 Q. So every answer you give has to be a verbal  
7 answer.

8 A. Um-hum.

9 Q. It can't be an um-hum, shrug, nod, that sort of  
10 the thing.

11 A. Sure.

12 Q. So just a verbal answer. And if anybody asks you  
13 is that a yes or anything like that, we're not  
14 picking on you. We just want to make sure we get  
15 your answer.

16 A. All right.

17 Q. Other than that, if you don't understand something  
18 either of us asks, just ask us to rephrase and we  
19 -- I will happy to do that. Keep that out for  
20 now.

21 A. Oh. Okay.

22 Q. And I'll be happy to do that. If you need to take  
23 a break for any reason, just let us know and we  
24 can accommodate you. All right. So let's get  
25 started. So were you employed with SVRC at any

1 point?

2 A. Yes.

3 Q. When were you employed?

4 A. I believe it was September -- September of 2011.

5 Q. Okay. And what was your position there?

6 A. Very hard to say. They started me out as

7 part-time. It was part-time to start with.

8 Taking and picking up personnel to go out to

9 Hemlock Semiconductor to do a job that Hemlock --

10 that SVRC got a contract with putting one bag

11 inside of another bag. We had our clients doing

12 that.

13 Q. Okay. Were you ever full-time or anything like

14 that?

15 A. Towards the end I was offered close to full-time,

16 what they considered 38 hours and no more. You

17 could not go 40.

18 Q. Okay. Who was your supervisor in 2016 if you

19 remember?

20 A. Which one? I had very many of them.

21 Q. Okay. Let's narrow it down. Do you know an Eve

22 Flynn?

23 A. Yes, I do.

24 Q. How do you her?

25 A. From work. She was one of my bosses along with

1 Linda.

2 Q. Linda Rivera?

3 A. Yes.

4 Q. Okay. Eve Flynn, do you know what her position  
5 was?

6 A. Let's see, something about -- I'm trying to think.  
7 She was an industrial boss out back, something  
8 like that.

9 Q. Okay. And you said that she was one of -- Eve was  
10 one of your supervisors, correct?

11 A. Yes, she was the main one.

12 Q. Okay. Now you also mentioned Linda Rivera was --  
13 do you know what Linda Rivera's position was?

14 A. Hers was -- would appear to be to oversee what Eve  
15 was doing as far as going into -- let's see, how  
16 do I put it, we were doing work recycling  
17 computers, TVs, and things like that. What I  
18 gathered, she coordinated to make sure things were  
19 online, that people would come and go as far as we  
20 get set up out to -- where is that place? It's on  
21 Miller Road. It's a waste street -- it's a --  
22 wherever that is there, waste -- waste  
23 management's area. We go there and set up and get  
24 our -- she'd have everything ready to go, people  
25 to be there as far as their side and we'd have our

1 people there on our side.

2 Q. Okay. Now before we get any further, I wanted to  
3 ask you, are you a military veteran?

4 A. Yes, I am.

5 Q. Where did you serve?

6 A. Where?

7 Q. What branch I should say.

8 A. Oh, branch, United States Marine Corps.

9 Q. Do you know when you were discharged?

10 A. Oh, yeah. It was August 15th, 1979.

11 Q. Was that an honorable discharge?

12 A. Yes, it is.

13 Q. Okay. Thank you for your service.

14 A. You're welcome.

15 Q. Now as part of that military service, or following  
16 it, were you ever diagnosed with post traumatic  
17 stress disorder?

18 A. I ended up with post traumatic stress disorder  
19 because I was hit by a semi, broad-sided my side  
20 December 17th, 1984. It took ten years for it to  
21 rear its ugly head. And if you're ever familiar  
22 with PTSD, out of the 11 warning signs, I think I  
23 had seven of them.

24 Q. Okay.

25 A. So, and I am on medication and I do see a shrink

1 through the VA.

2 Q. Okay. What is the name of -- is it a psychologist  
3 or a psychiatrist?

4 A. Yeah, she's a psychiatrist from Traverse City. We  
5 do via tele -- tele -- whatever those are,  
6 conferences through the TV. Her name is Dr.  
7 Phelps.

8 Q. Is that P-h-e-l-p-s?

9 A. Yeah, I believe so, yes.

10 Q. All right.

11 A. I think it's Kathleen is her first name I believe.  
12 I'm not sure.

13 Q. Okay. Now while you were working at SVRC did you  
14 ever talk to anybody about whether you had PTSD  
15 or --

16 A. Oh, yes, when I first got hired in, I was -- I  
17 told them that I have PTSD and you probably don't  
18 want me.

19 Q. Do you know who it was you told?

20 A. Yes, I can't think of her name now. God, I can  
21 see her face. She used to be my one boss for the  
22 part-time there and I can't remember her name. I  
23 know her -- I can see her face right now but I  
24 can't remember her name.

25 Q. Okay. Would it have been Rose Jurek?

1 A. No.

2 Q. Okay.

3 A. It was a lady who was in charge of all the people  
4 that went out and picked up people, picked up our  
5 clients.

6 Q. Okay.

7 A. Yeah, I can't remember her name. I can see her  
8 face but I just can't remember her name right now.  
9 It'll probably come to me later.

10 Q. All right. Well, if you do remember it just let  
11 us know.

12 A. Um-hum.

13 Q. Okay. Now do you own any firearms?

14 A. I sure do.

15 Q. Rifles, handguns?

16 A. Rifles only.

17 Q. All right. Now let's go more directly to your  
18 work at SVRC. Do you recall there being an  
19 incident between you and Eve Flynn some time in  
20 September of 2016?

21 A. Oh, yeah.

22 Q. What do you recall about that incident?

23 A. Well, we were taking a semi out to waste  
24 management. The other driver drove, his name was  
25 Kevin, because he has a class A, I only have a

1 class B license. And the truck just came back  
2 supposedly from getting an MDOT inspection.

3 While we were chugging out there, I says,  
4 "So Kevin, is the speedometer working?" He says,  
5 "Are you kidding?" Okay. So I guess that's a no.  
6 When I got out there I was a little hot under the  
7 collar and I told Eve, I said, "Wait a minute  
8 here, why does this thing does not have a  
9 speedometer that works? That's a safety issue."

10 So I walked away from her saying I'm  
11 going to call the State Police and find out what's  
12 going on here, if it's a safety violation or not.  
13 So I walked away from her, not standing next to  
14 her, walked away from her and went by a dumpster,  
15 called the State Police. The state policeman told  
16 me, he says, "It's not a safety issue but it  
17 should have been written on the MDOT inspection,"  
18 which it never was, or if it was, it was just  
19 blown off. And Kevin said he's never seen that  
20 thing work in five years, so. . . And that's when  
21 she told me somewhere along the line that I walked  
22 away from the job. I just got away from her is  
23 all I did.

24 Q. Eve Flynn said that to you?

25 A. Yeah.

1 Q. Did Eve Flynn say anything else to you?

2 A. No. No, I just went to work, did what I was  
3 supposed to do, get up in the trailer, grab stuff,  
4 pile it and . . .

5 Q. Okay. At any point during that discussion you had  
6 with Eve did she ever say you were being  
7 insubordinate or anything like that?

8 A. Oh, yeah. Yeah, she told me that too.

9 Q. Did she explain why or anything like that?

10 A. No, she was saying, "Oh, my God, are we ever going  
11 to get the semi back or not?" She was more  
12 worried about the truck than about us, you know.

13 Q. Okay.

14 A. I mean, a good boss would make sure that  
15 everything's up to snuff.

16 Q. Okay. What happened after that, if anything?

17 A. I just went to work. Then when I came back, they  
18 were ready to call me in and instructed me that I  
19 had three days off with no pay.

20 Q. Now hold on a second. You said they called you  
21 in. Who are they?

22 A. That would be Linda Rivera and Eve Flynn.

23 Q. Was anybody else the room for --

24 A. No, just the three of us.

25 Q. Okay. All right. And then you said they gave you

1 three days off. What else was said?

2 A. With no pay. Come back in on Monday.

3 Q. Did they explain why they were giving you three  
4 days off?

5 A. Yeah.

6 Q. What did they say in that regard?

7 A. Because I went and -- oh, what it is here, I got  
8 it here on the form that they gave me here. Okay.  
9 I was counseled three different times regarding  
10 inappropriate behavior within a year roughly. And  
11 the context -- conduct exhibited by you on the  
12 afternoon of the 15th of September, by your own  
13 admission, with your supervisor, is feeling they  
14 were being threatened. Well, that's got to do  
15 with the -- the letter.

16 Q. All right. So I see you're reading from something  
17 there that's a letter?

18 A. From SVRC itself.

19 Q. Okay. And did Linda Rivera and Eve Flynn give  
20 that to you or --

21 A. No, this was sent out by Dean Emerson, the CEO at  
22 that time, Monday, October 3rd, the day that I was  
23 considered no longer employed there.

24 Q. Okay. All right. Do you mind if we make a copy  
25 of that and we'll add that as part of the record?

1 A. If you have to, you go for it.

2 MR. MAJORANA: Any objection to that,  
3 counsel.

4 MR. MEYER: No.

5 MR. MAJORANA: Okay. We'll make a copy  
6 of that.

7 THE WITNESS: Okay.

8 BY MR. MAJORANA:

9 Q. Okay. But I want to go back to that actual  
10 conversation you had with Linda and Eve.

11 A. Um-hum.

12 Q. During that conversation did Linda say anything to  
13 you?

14 A. I would -- I'm trying to remember but I believe  
15 Linda was mostly just keeping an eye on what was  
16 going on because Eve was doing most of the  
17 talking.

18 Q. Okay.

19 A. She, I believe, was doing most of the talking.

20 Q. All right. Now did you say anything in response  
21 to what you were told by either Eve or Linda in  
22 that conversation?

23 A. No, I says whatever, whatever that piece of paper  
24 says there that I admitted to, which I did.

25 Q. Okay. Well, did you ever say anything about a

1 revolution or anything like that?

2 A. Um-hum. Yep.

3 Q. What did you say?

4 A. This was as I was leaving the door.

5 Q. Okay.

6 A. I said, "If and when" -- "If and when there's a  
7 revolution in this country ever comes, I'm going  
8 to be the first one pulling the trigger and I  
9 don't discriminate."

10 Q. Did you say anything else?

11 A. Nope, that's it. I'm out of here.

12 Q. And you left the room after that?

13 A. Yes, I did.

14 Q. Okay. Now after that did you have any contact  
15 with anybody at SVRC?

16 A. No.

17 Q. Okay. Now you read from this letter of October  
18 3rd, and now I'm just looking at it here.

19 A. Um-hum. They sent like three of them to me.

20 Q. They sent you more than one?

21 A. The same thing three times.

22 Q. Okay. So this letter does state that they're  
23 exercising their right to discharge you. Do you  
24 recall that?

25 A. Oh, yeah. Yeah.

1 Q. Okay. So --

2 A. I mean, no one told me anything. They just sent  
3 the letter and that was it.

4 Q. Okay. Did anything else happen before you  
5 received this letter?

6 A. Oh, yes. Yes.

7 Q. What else happened?

8 A. When I went back to work that Monday, I put my  
9 things on the floor and Eve Flynn told me, "Follow  
10 me." "Okay." Follow her to -- I don't know what  
11 -- a conference room. And Debbie Snyder was there  
12 and the quote, "fact finder," another lawyer was  
13 there.

14 Q. Do you remember that lawyer's name?

15 A. Nope. Nope, they should have a record of it at  
16 SVRC.

17 Q. Okay.

18 A. If they keep their books correctly.

19 Q. Okay.

20 A. So I sit down and he just told me, "I'm a fact  
21 finder here." I says "What?" I had no time to  
22 get ready like I have right now, write out stuff.  
23 It was like you come in, you sit down, start  
24 answering questions. It's like, "What? What?" I  
25 says, "What is this? An inquisition? You already

1 know what's going on." And then towards the end,  
2 of our conversation I said, "I'm just crazy, I  
3 can't help it. I have PTSD."

4 And that's when they says, "Oh, here.  
5 Here's some papers for you to sign, some FMLA." I  
6 said "What? What's that mean?"

7 "Well, family medical leave. Okay. And  
8 then you'll probably have that for a couple  
9 weeks."

10 I says, "Okay." And I always thought  
11 that FMLA was to secure your job after you've --  
12 you've left for a little while and then you come  
13 back. But then I received that letter on the 3rd  
14 of October. So I kind of thought, "Hmm, oh,  
15 well."

16 Q. Okay. Anything else happen with SVRC other than  
17 what you just talked about?

18 A. No, I had to go back and get my crowbar. I had to  
19 go back and get my load bar and I had to call  
20 ahead of time because I was not allowed on the  
21 premises unless I called and I had to talk to  
22 Dean. So I did. And he says come on over. I  
23 said, "Okay." Picked my stuff up. He says, Good  
24 luck, man." I said, "Okay, see ya."

25 Q. Okay.

1 A. I was not derelict or anything to him or, you  
2 know, saying anything bad. I just did my thing,  
3 got my stuff, and away I went.

4 Q. All right. Now when you go into work at SVRC is  
5 there any kind of metal detectors or anything like  
6 that when you go in?

7 A. No, it's very unsecure at times.

8 Q. Okay.

9 A. Very unsecure. We had two guys I think come  
10 running through and they had cops behind them and  
11 they had pistols. And I heard three guys shooting  
12 a pistol once. Because the big doors, the  
13 overhead doors, they don't have those gates on  
14 them, you know when it's hot out, locked up. So,  
15 you know, but the front gate is -- the front door  
16 is really secure and some of the side doors are  
17 okay but your overheads have no protection at all.

18 Q. All right. Now you wrote a statement in  
19 preparation for your testimony today.

20 A. Um-hum.

21 Q. Is this your handwriting?

22 A. Yes, it is.

23 Q. Okay. I'm just going to also attach this copy as  
24 Exhibit 1. You can keep --

25 A. Sure.

1 Q. -- the original unless counsel has an objection to  
2 that.

3 MR. MEYER: No.

4 MR. MAJORANA: Okay. Hold on.

5 BY MR. MAJORANA:

6 Q. One other question. That person you told that you  
7 had PTSD when you were first hired, would that  
8 person be named Joyce?

9 A. That might be her, yeah. A big heavysset woman  
10 kind of like, yeah.

11 Q. Do you know her last name?

12 A. No, but SVRC should have her record.

13 MR. MAJORANA: I don't have any other  
14 questions for you. He might have some for you.

15 MR. MEYER: I have some questions, yes.

16 EXAMINATION

17 BY MR. MEYER:

18 Q. Mr. Summerfield, my name is Brett Meyer. I'm an  
19 attorney. I represent SVRC in this lawsuit. I  
20 have a couple questions for you. Same ground  
21 rules apply. If you don't hear or don't  
22 understand one of my questions, please let me  
23 know. I'll be happy to restate it or rephrase it.

24 A. Right.

25 Q. Okay?

1 A. Right.

2 Q. If I ask you a question and you give me a response  
3 that's not asking me to restate or rephrase the  
4 question, I'm going to assume then that you heard  
5 it, that you understood it, and that you're giving  
6 me a truthful response, okay?

7 A. Sure.

8 Q. What did you mean when you made the comment about  
9 if and when there's a revolution in this country?

10 A. It was an off-the-wall statement. I mean, how  
11 would you like it if you were there and you're  
12 irritated from not having vehicles up to snuff  
13 when it just come back from getting an MDOT  
14 inspection? Which is pretty serious if you bend  
15 the rules and it's not fixed, it's hot. And you  
16 call the state police and they tell you it's not a  
17 safety violation but it's supposed to be written  
18 on the inspection form.

19 It's like, hmm, I figured, well, when --  
20 Eve's going to be really mad at me now. It's like  
21 whatever. But she kept -- she was more worried  
22 about the semi, getting the stuff back, then it  
23 was about the rest of us.

24 Q. Sure. I'm just driving at, you know, what did you  
25 -- and I understand it --

1 A. Right, off-the-wall.

2 Q. -- was an off-the-cuff comment or off-the-wall --

3 A. Right.

4 Q. -- but what did you mean by it?

5 A. Nothing. Just it's off-the-wall.

6 Q. Were you directing it at Linda?

7 A. No.

8 Q. Or Eve?

9 A. No, no, just like I told the fact finder, I says,  
10 "No." And he said, "Would you apologize to them?"  
11 I said, "Yes, I will."

12 Q. Were you trying to threaten or intimidate them  
13 or --

14 A. No, no, I was just making a statement because you  
15 don't know what's going to happen in this country.  
16 If you get online and look up FEMA, look up all  
17 this other stuff on YouTube, you'll see what's  
18 going on. It possibly could happen. Who knows?

19 Q. Have you seen the complaint that was filed in this  
20 lawsuit, the document that institutes this  
21 lawsuit?

22 A. No.

23 Q. Do you know what this lawsuit is about?

24 A. Nope. Probably me.

25 Q. Okay. Are you aware that you've been accused in

1 this lawsuit of violating Michigan's  
2 Anti-Terrorism Act?

3 A. Sorry, the word "if" is in there. "If" is a big  
4 word.

5 Q. Okay.

6 A. To me that means nothing. If I look cross-eyed at  
7 a cop, I'm supposed to get stomped in the head I  
8 suppose.

9 Q. Are you currently working?

10 A. I'm retired.

11 Q. Okay. Did you work at all after you were  
12 discharged from SVRC?

13 A. Nobody would hire me.

14 Q. Did you apply anywhere?

15 A. Oh, God, yes. You can check with the unemployment  
16 agency. SVRC denied me my unemployment for the  
17 first six, eight weeks. I had to appeal. And I  
18 told them in my appeal towards the end, I said,  
19 "Well, so much for the First Amendment, free  
20 speech. Thank you." And I got granted my  
21 unemployment. Then November 14th SVRC wanted to  
22 have a telephone conversation with a judge and you  
23 guys' lawyer and me and whatever, next day you  
24 cancelled it. Seemed kind of odd.

25 Q. Do you receive Social Security Disability

1 benefits?

2 A. No.

3 Q. Okay.

4 A. Nope.

5 Q. Did, to your knowledge, Linda Rivera or Eve Flynn  
6 ever complain about you prior to this incident  
7 with the comment about the revolution that they  
8 may have felt unsafe around you or that you scared  
9 or threatened them?

10 A. No. No.

11 Q. Did anyone at SVRC ever make any complaints about  
12 you that you're aware of as far as threatening or  
13 intimidating other employees?

14 A. No, not that I'm aware of.

15 Q. Or anyone in the workplace?

16 A. No.

17 Q. Did you ever bring a weapon to work with you?

18 A. No, no more than what anybody else does. They  
19 bring knives and I bring a knife, which is one of  
20 those that has -- I don't know what you call it, a  
21 Swiss Army knife.

22 Q. Okay. Like a jackknife in your pocket?

23 A. Yeah, just a -- just a Swiss Army knife. Like  
24 other people have long bigger knives. Not much  
25 bigger but . . .

1 Q. Now you indicated that the front door at this --  
2 at SVRC is very secure, I think you said, right?

3 A. Yes, that one is pretty secure, yes.

4 Q. And I think you said the side doors are okay?

5 A. Yeah, they're pretty good, they're pretty well.

6 Q. You mentioned overheads. What were you talking  
7 about?

8 A. Overhead doors where you press a button, the door  
9 goes up, like a garage door and out goes the  
10 forklift.

11 Q. Okay. You can't open those from the outside can  
12 you?

13 A. No, but when they're open, there's nothing to stop  
14 anybody from walking in.

15 Q. Are you telling me -- and I just want to be clear  
16 so that I understand your testimony. Did you  
17 testify earlier that there was an incident at SVRC  
18 where someone was shooting a gun inside the  
19 premises?

20 A. Oh, God, there was -- the first one was when I got  
21 back from driving, oh, geez, about a year or two  
22 ago, I saw three guys walking towards the railroad  
23 yard there. The next thing I heard, BAM, BAM,  
24 BAM, BAM, BAM, BAM, whoa. Then I heard seven more  
25 shots and I thought, "Well, there's a groundhog

1 over there." I went in and told Eve about it.  
2 She says, "Don't worry about it." I said, "What?  
3 There could be somebody laying dead over there."

4 "Well, then you go call it in." So I  
5 did. The cops come over and I told them, I says,  
6 you know, it's a young kid. I saw where they  
7 went. They went down there, he hopped the fence,  
8 he went down here and this is what he wore.  
9 They're probably shooting at the groundhog over  
10 there.

11 Q. Okay. So these people shooting weren't inside the  
12 building at SVRC --

13 A. No.

14 Q. -- though? They were --

15 A. Right adjacent to --

16 Q. -- like across the street?

17 A. No, they were adjacent to the property.

18 Q. Okay. Were they on the property?

19 A. I don't think so. They took a -- like a small  
20 little road that the railroad uses for their own  
21 vehicles, but they were right somewhere back there  
22 because you couldn't see nothing because all the  
23 trees and all the garbage there. And they tore  
24 all that down.

25 Q. Okay. So they were in the neighborhood?

1 A. Right.

2 Q. And you told Eve about this and she told you that  
3 you could call the police if you wanted to?

4 A. She didn't want to.

5 Q. But she told you that you could?

6 A. Yeah.

7 Q. And you called the police?

8 A. Yes.

9 Q. Did anything happen to you at SVRC because you  
10 called the police?

11 A. No, just it seemed kind of odd, a boss wouldn't  
12 bother calling.

13 Q. You weren't disciplined or anything like for  
14 calling --

15 A. No.

16 Q. -- the police were you?

17 A. No.

18 Q. Did anybody ever reprimand you or say, "No, you  
19 shouldn't have done that?"

20 A. No. No, I mean, it's like anything else, if  
21 you're walking and see something happen, you're  
22 going to call, you know. And then the second time  
23 they had something happen they had a complete  
24 lock-down. They saw two Saginaw police officers  
25 run through the outer perimeter of SVRC's property

1 and they were chasing some guy. That's all we  
2 knew. So we locked everything down. Everything.  
3 Everybody got locked down. All doors were closed.  
4 Nobody went in or out.

5 Q. Do you know why that was other than you --

6 A. Safety protocol.

7 Q. So SVRC followed their safety protocol?

8 A. Yeah, when there's a gunman in the area, yeah.

9 Q. And that's something that you would have expected  
10 them to do, right?

11 A. Well, yeah, they should.

12 Q. Okay. Did you ever tell anybody at SVRC that you  
13 brought a pocket knife with you to work?

14 A. A lot of people see it.

15 Q. Okay.

16 A. Even my other boss, he had them. He had one with  
17 him and it was bigger than mine.

18 Q. Do you know if Linda Rivera ever saw it?

19 A. I don't know. All I know is when you got to cut  
20 the -- the shrink wrap on boxes, what are you  
21 going to cut it with? Your finger? I don't think  
22 so.

23 Q. So it was a work tool?

24 A. Yeah, that's all it is, a work tool.

25 Q. That's why you had it?

1 A. Oh, yeah. I don't want to carry no bowie knife,  
2 that'd really scare everybody. That's crazy.

3 Q. Did you talk to anybody about your deposition  
4 testimony here today?

5 A. No.

6 Q. Have you talked to Linda Rivera since you left  
7 SVRC?

8 A. Nope.

9 Q. After the date when you made the -- or the --  
10 strike that.

11 After the meeting where you made the  
12 comments about the revolution --

13 A. Right, on my way out.

14 Q. I understand. After that meeting did you ever see  
15 or talk to Linda Rivera again?

16 A. No. No, I never did. Not that I'm aware of. All  
17 I know is I washed my hands of the place because  
18 they wanted to get rid of me and they did. Okay.  
19 I'll just file for unemployment.

20 Q. Do you know if anyone ever filed a police report  
21 against you or a personal protection order against  
22 you?

23 A. Not -- not to my knowledge, no.

24 Q. And what I meant specifically was relating to that  
25 incident about the -- where you made the

1 revolution comment.

2 A. I have no idea if anybody did or not. It would be  
3 foolish, if you ask me.

4 Q. Why is that?

5 A. Because, where's freedom of speech at in this  
6 country? Do you want to keep putting the gag over  
7 my mouth? It's going to say, "United States of  
8 America freedom of speech is now illegal."

9 Q. Do you remember, were you looking at Eve or Linda  
10 when you made the comment about the revolution?

11 A. Well, I got to look at somebody.

12 Q. Well, I --

13 A. Should I look at the wall? Come on now.

14 Q. I just wondered if you made it as you were walking  
15 out the door or if you turned around and looked at  
16 somebody?

17 A. Yeah, I was walking out the door and told them, I  
18 says, "If and when" -- "If and when there's a  
19 revolution in this country, I'm going to be one of  
20 the first ones pulling the trigger." That means  
21 I'm one of the first ones ready to do anything  
22 that needs to be done for this country and I don't  
23 discriminate. It could be man, woman, child. It  
24 makes no difference.

25 If you're against the country in a

1 revolution, if it's even the government, they're  
2 done. They are done. Because if this country  
3 goes the way I think it's going to go, you're not  
4 going to stand a snowball's chance in Hades  
5 because your economy's going to crash, sultan  
6 injustice, you name it, it'll happen. And once  
7 that happens, you're going to have martial law.  
8 And if you've ever been in a country with martial  
9 law like I have, like in Korea, if you weren't off  
10 the streets by midnight, they had the legal right  
11 to shoot you dead. So martial law can happen in  
12 this country. It doesn't take much. One  
13 disaster.

14 Q. Why did you prepare this statement on July 17,  
15 2017? That's the date you wrote it, correct?

16 A. Yeah.

17 Q. Why did you prepare that?

18 A. So I don't forget nothing. When you take the meds  
19 I do, you start to forget things.

20 Q. What medications do you take?

21 A. Oh, that's on a need to know basis. That's  
22 privacy. That's a medical thing, which I do not  
23 have to answer. You have to get a warrant for  
24 that, if you would. I'm not going to disclose  
25 that. That is my right.

1 Q. Other than the date that you had the meeting --  
2 well, strike that.

3 When you came back to SVRC and you met  
4 with Deb Snyder --

5 A. Yep.

6 Q. -- and the lawyer, did you do anything else after  
7 that meeting or did you leave?

8 A. I just grabbed my trash and packed it up and away  
9 I went. That's when I forgot about my crowbar and  
10 my load bar. So I had to call back to talk to  
11 Dean and he says, "Can you come in?" Okay. "Yep,  
12 I'll be right in."

13 Q. You were asked to leave afterwards?

14 A. Oh, yeah, once the first -- you mean when I picked  
15 up my load bar and all that?

16 Q. Yeah.

17 A. Out the door he says, "Good luck." I said,  
18 "Okay." Packed my stuff, threw it in the truck  
19 and away I went.

20 MR. MEYER: I don't have any more  
21 questions.

22 MR. MAJORANA: I just have one more  
23 follow-up for you.

24 RE-EXAMINATION

25 BY MR. MAJORANA:

1 Q. Why did you make that statement about the  
2 revolution?

3 A. Because I was watching a lot of stuff on YouTube  
4 about FEMA, all this stuff that's going on in this  
5 country, and it could happen.

6 Q. But why did you make it right when you did?

7 A. I don't know. I just did. I mean, if I saw the  
8 stuff on -- you know, on YouTube and all this, and  
9 I've been watching it now and it's like they were  
10 against Obama, now they're against Trump. It's  
11 the same old crap. So I don't know if they're all  
12 threatening to freak people out or what, I don't  
13 know. But, you know, when you see something and  
14 it gets on your mind and if it's in there and you  
15 go, "hmm," it's just a thought, you know. Just --  
16 I mean, if you want, you can get ahold of  
17 unemployment. They have that -- they should have  
18 that in their files on me when I made my appeal.

19 MR. MAJORANA: Okay. I don't have any  
20 other questions for you.

21 MR. MEYER: You're all set.

22 MR. MAJORANA: Thank you for coming.

23 (Deposition concluded at 12:10 p.m.)

24 \* \* \*

25

1 STATE OF MICHIGAN )  
 ) ss  
2 COUNTY OF OAKLAND )

3 I, Kelly Bonheim, a CSR and Notary  
4 Public acting for the County of Oakland, State of  
5 Michigan, do hereby certify that this transcript,  
6 consisting of 32 pages was taken before me in the  
7 above-entitled matter, was by me duly sworn at the  
8 aforementioned time and place; that the testimony  
9 given by said witness was stenographically taken  
10 in the presence of said witness and that the said  
11 deposition is a full, true, and correct transcript  
12 of the testimony given by the witness. I further  
13 certify that I am not connected by blood or  
14 marriage with any of the parties or their  
15 attorneys, and that I am not an employee of either  
16 of them, nor financially interested in the action.



17 \_\_\_\_\_  
18 Kelly Bonheim, CSR-8167  
19 Notary Public: Oakland County, Michigan  
20 My commission expires: 11/1/2020  
21  
22  
23  
24  
25

LYLE SUMMERFIELD  
RIVERA vs SVRC INDUSTRIES

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EXHIBIT 10  
Pasquale v Allied Waste  
Services, Inc.,

2004 WL 2533672

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK  
COURT RULES BEFORE CITING.

Court of Appeals of Michigan.

William M. PASQUALE, Plaintiff-Appellant,

v.

ALLIED WASTE SERVICES, INC, d/b/a Great  
Lakes Waste Services, Defendant-Appellee.

No. 249110.

|

Nov. 9, 2004.

Before: MURRAY, P.J., and SAWYER and SMOLENSKI,  
JJ.

[UNPUBLISHED]

PER CURIAM.

\*1 Plaintiff appeals as of right the order granting defendant's motion for summary disposition in this action alleging age discrimination and retaliatory discharge. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint. In evaluating the motion, the trial court considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties in a light most favorable to the party opposing the motion. Where the proffered evidence fails to establish a genuine issue of material fact, the moving party is entitled to judgment as a matter of law. *Maiden v. Rozwood*, 461 Mich. 109, 120; 597 NW2d 817 (1999).

To establish a prima facie case of discrimination, plaintiff must prove by a preponderance of the evidence that (1) he was a member of the protected class; (2) he suffered an adverse employment action; (3) he was qualified for the position; and (4) he was discharged under circumstances that give rise to an inference of unlawful discrimination. *Lytle v. Malady (On Rehearing)*, 458 Mich. 153, 172-173; 579 NW2d 906 (1998). If a plaintiff establishes a prima facie case,

the burden shifts to the defendant to articulate a legitimate, nondiscriminatory reason for the plaintiff's termination. Once the defendant produces such evidence, the burden of proof shifts back to the plaintiff to show that the proffered reasons were a mere pretext for discrimination. *Id.* at 173-174. Disproof of an employer's articulated reason for an adverse employment decision defeats summary disposition only if the disproof raises a triable issue that discriminatory animus was a motivating factor underlying the adverse employment action. *Id.* at 175.

Plaintiff's sole direct evidence of discriminatory animus is that his district manager asked him his age during lunch and the same manager attempted to convince another individual who was forty-seven years old to remain in defendant's employment because of the limited opportunities for employment outside the company. Isolated or vague remarks made outside the context of the termination are not probative of an employer's discriminatory motive. *Krohn v Sedgwick James of Michigan, Inc*, 244 Mich.App 289, 300; 624 NW2d 212 (2001). Here, the remarks do not show any animus. Awareness of an employee's age does not show that age was a factor in a dismissal. Similarly, an observation about difficulties of an older employee finding work is not probative of the speaker's animus.

Plaintiff's poor performance on the job can preclude him from making a prima facie case or rebutting an inference of discrimination. *Lytle, supra*. While plaintiff argues that evidence against him was manufactured because he had not seen it before, plaintiff also concedes that there were areas where his performance was deficient. Plaintiff failed to rebut the reasons given for his termination, and he did not present any evidence that would show that his termination was motivated by discriminatory animus.

\*2 A cause of action for retaliatory discharge is based on the principle that some grounds for discharge are so contrary to public policy as to be actionable. *Suchodolski v Michigan Consolidated Gas Co*, 412 Mich. 692, 694-695; 316 NW2d 710 (1982). A public policy claim is sustainable only where there is not an applicable statutory prohibition against discharge in retaliation for the conduct at issue. *Dudewicz v Norris-Schmid, Inc*, 443 Mich. 68, 80; 503 NW2d 645 (1993). A public policy claim can be found where an employee is discharged because he or she refused to violate the law, or where an employee is discharged for exercising a right conferred by a well-established legislative enactment. *Vagts v.*

*Perry Drug Stores, Inc.*, 204 Mich.App 481, 484; 516 NW2d 102 (1994).

Plaintiff's retaliatory discharge claim is based only on his internal complaints about violations, and thus are not covered by the Whistleblower's Protection Act, [MCL 15.361](#), *et seq.* *Dolan v Continental Airlines/Continental Express*, 454 Mich. 373; 563 NW2d 23 (1997). Plaintiff never reported the violations to anyone outside the company. He presented no evidence that could show that his internal complaints were

protected by public policy or that he was discharged due to those complaints. The trial court properly granted summary disposition to defendant.

Affirmed.

**All Citations**

Not Reported in N.W.2d, 2004 WL 2533672

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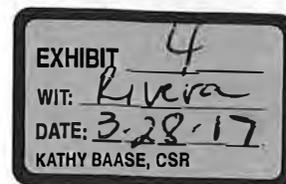
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**EXHIBIT 11**  
**TEXT MESSAGES**

Trying to call attorney

Talked w dean/talked w attorney/will fill u in tomorrow/document.  
Thx

Deb- I was advised we should immediately make out a police report!



He is a hostile employee and that was a threat!

Dean talked w the attorney and he said no police report. The attorney will be at SVRC at 830 Wednesday

Dean talked w the attorney and he said no police report. The attorney will be at SVRC at 830 Wednesday morn to talk w lyle

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Uhhhh Deb...  
I dont feel comfortable not file police report. I prefer he authorities having a record of this incident. WEDNESDAY is a long time away to look over my shoulder wondering if he is lurking in the parking lot. He is an ex-marine.  
Eve confirmed Lyle has

I dont feel comfortable not file police report. I prefer he authorities having a record of this incident. WEDNESDAY is a long time away to look over my shoulder wondering if he is lurking in the parking lot. He is an ex-marine.

Eve confirmed Lyle has a key. All job coaches have a key to the building.

Can I ask why the attorney said no police report?? I called

attorney said no police report?? I called Sylvester and told him about the Lyle situation and i asked him why a threat would not be documented with the police ASAP. He said he didn't know why either??

Linda, Sylvester is not an employee of SVRC, he is a board member. Please be very careful with sharing confidential information about employees. If you want to file a personal

Linda, Sylvester is not an employee of SVRC, he is a board member. Please be very careful with sharing confidential information about employees. If you want to file a personal protection order you can do so, which may mean filing a police report, but that is not what was advised by our attorney. Lets talk when you get to work in the morning.

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Sylvester is my significant other. I am

significant other. I am upset bcuz an ex-marine just threatened me. I am an employee too!! I am discussing my personal experience. Lyle looked right at me and said those things. So SVRC doesn't care about threats coming from a disgruntled angry employee that are directed at his supervisor and the director that told him about his 3 day suspension. It happened at work, but you are saying I should file a

supervisor and the director that told him about his 3 day suspension. It happen at work, but you are saying I should file a PPO personally, and nothing with SVRC even though it took place at work.... Wow. That's all I can say.

Today 7:36 AM

Morning,  
My Nexteer meeting was canceled. I have decided to take today

can say.

Today 7:36 AM

Morning,  
My Nexteer meeting  
was canceled. I have  
decided to take today  
off. I'm trying to sleep  
and get rid of this  
migraine I have



Send



Q W E R T Y U I O P

A S D F G H J K L

GM! Hope you feel better. If you are up to it today, please call Dean to debrief the situation as Dean is calling the attorney again as he will be gone all next week and wants to try to have a plan to deal with this



Send

Q W E R T Y U I O P

A S D F G H J K L

hi deb- I'm just leaving ER. I took Sylvester to ER at 8pm bcuz he was having severe stomach and back pain and running a fever. They have done tests and blood work and have just decided to admit him to St. Mary's downtown. I'm going to sleep a few hours and then go directly to my 10 am meeting at Nexteer. Sorry, it's been a long night for me. Thx

Today 5:47 AM

Text Messages

Today 5:47 AM

Oh no! So sorry to hear this! Will say many prayers....please keep me posted. Hope you are sleeping now. We will talk later.

Today 11:14 AM

Hi Linda...hope all is OK. Are you planning on coming to work? I just heard from the attorney and he needs your statement as soon as possible. Please let me

## EXHIBIT 12

*Fogwell v Klein*, Dkt. No.  
223761, unpublished (Mich  
App, Sept. 25, 2001)

2001 WL 1134883

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK  
COURT RULES BEFORE CITING.

Court of Appeals of Michigan.

Mary T. FOGWELL, Plaintiff-Appellant,

v.

Daniel KLEIN, Defendant-Appellee.

No. 223761.

|  
Sept. 25, 2001.

Before: CAVANAGH, P.J. and MARKEY and COOPER, JJ.

**Opinion**

PER CURIAM.

\*1 Plaintiff appeals as of right the trial court's order granting defendant's motion for summary disposition. We reverse. This appeal is being decided without oral argument pursuant to [MCR 7.214\(E\)](#).

Plaintiff worked as a hygienist for defendant, a dentist. In the summer of 1997, plaintiff became concerned about the legality of some of defendant's billing practices. She copied various records and sought legal advice concerning her own potential liability for the practices. She placed two calls to an insurance hotline, but terminated both calls without speaking to another person or leaving any information. Plaintiff also contacted the Department of Consumer and Industry Services and requested a complaint form, but did not complete or file the form.

In January 1999, plaintiff and defendant met to discuss various matters. Plaintiff informed defendant of her concerns about the billing practices and told him that she had consulted an attorney and had attempted to contact the insurance hotline. On February 2, 1999, defendant terminated plaintiff's employment when plaintiff declined to indicate whether she intended to stop pursuing the matter. In a letter dated February 2, 1999, defendant informed plaintiff that she was not discharged because she had indicated that she was about to report her suspicions to any public body.

Plaintiff filed suit, alleging that her discharge for protected activity violated the Whistleblowers' Protection Act (WPA), [M.C.L. § 15.361 et seq.](#) Defendant moved for summary disposition pursuant to [MCR 2.116\(C\)\(10\)](#), arguing that no issue of fact existed as to whether plaintiff had reported or was about to report a suspected violation of the law. The trial court agreed with defendant and granted his motion.

We review a trial court's decision on a motion for summary disposition de novo. *Silver Creek Twp v. Corso*, 246 Mich.App 94, 97; 631 NW2d 346 (2001). This Court views the evidence submitted in a light most favorable to the non-moving party. *Chop v. Zielinski*, 244 Mich.App 677, 679; 624 NW2d 539 (2001).

Under the WPA, an employer may not discharge, threaten, or otherwise discriminate against an employee because the employee reports or is about to report a violation or suspected violation of a law, regulation, or rule to a public body. [MCL 15.362](#). To establish a prima facie claim under the WPA, a plaintiff must show that: (1) he was engaged in protected activity; (2) the defendant discharged him; and (3) a causal connection existed between the activity and the discharge. *Chandler v. Dowell Schlumberger, Inc.*, 456 Mich. 395, 399; 572 NW2d 210 (1998). Protected activity consists of: (1) reporting to a public body a violation or a suspected violation of a law, regulation, or rule; (2) being about to report such a violation; or (3) being asked by a public body to participate in an investigation. [MCL 15.362](#). An employee who is about to report a violation or a suspected violation is on the verge of doing so. *Shallal v. Catholic Social Services*, 455 Mich. 604, 612; 566 NW2d 571 (1997). A nonreporting employee must establish being about to report a violation or a suspected violation by clear and convincing evidence. [MCL 15.363\(4\)](#).

\*2 Plaintiff argues that the trial court erred by granting defendant's motion for summary disposition. We agree. Plaintiff alleged that defendant discharged her because she engaged in an activity protected under the WPA. The evidence indicated that while plaintiff never actually reported a suspected violation of the law to any public body, she engaged in several activities that indicated she was about to report. These activities included copying of records, attempts to contact the insurance hotline, and obtaining a complaint form. Plaintiff informed defendant of these activities and her concerns with his billing practices only one week prior to her termination even though many of these activities occurred over a year before. In fact, plaintiff was terminated by defendant shortly after she refused to answer a direct

question concerning her intentions to stop pursuing the matter. Plaintiff's proof "need not consist of a concrete action to satisfy the 'about to' report element" of the WPA. *Shallal, supra* at 615. A reasonable person could conclude that plaintiff's actions, coupled with her refusal to answer defendant's question about not reporting him, provided clear and convincing evidence to satisfy the "about to report" language of the WPA. See *Shallal, supra* at 615.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

**All Citations**

Not Reported in N.W.2d, 2001 WL 1134883

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