

BEFORE THE BOARD OF TRUSTEES OF THE
BARTLETT POLICE PENSION FUND

IN THE MATTER OF THE)
DISABILITY APPLICATION OF:)
)
GZIM SELMANI,)
Appellant.)
VILLAGE OF BARTLETT,)
Intervenor.)

REPORT OF RESUMED PROCEEDINGS had at the
hearing of the above-entitled cause, before the BOARD
OF TRUSTEES OF THE BARTLETT POLICE PENSION FUND, held
on the 8th day of March, 2021, at the hour of
1:00 p.m. at 228 South Main Street, Bartlett,
Illinois, before DINA G. MANCILLAS, CSR, RPR, CRR,
CLR.

BOARD MEMBERS PRESENT:

MR. DAN PALMER, President;
MR. DEREK BANSLEY, Vice President;
MR. GARY MITCHELL, Secretary;
MR. JOHN SIAS, Trustee.
MR. MICHAEL POREMBA, Trustee.

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1 APPEARANCES:

2

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5 Hinsdale, Illinois 60521,
6 630-654-9547), by:
7 MR. RICHARD J. REIMER,
8 rreimer@rdklaborlaw.com,
9 appeared on behalf of the Bartlett
10 Police Pension Board;

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1 APPEARANCES: (Continued)

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8 pdenham@cbslaw.com,
9 appeared on behalf of the Village of
10 Bartlett.

11

12 ALSO PRESENT:
13 Officer Gzim Selmani.
14 Unidentified audience members.

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22 REPORTED BY:
23 DINA G. MANCILLAS, CSR, RPR, CRR, CLR
24 CSR No. 84-3400

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1 APPEARANCES: (Continued)

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16 appeared on behalf of the Applicant;

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I N D E X

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3 OFFICER TRACEY DENDINGER

4 By Mr. Denham 400

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6 By Mr. Reimer 420

7

8 E X H I B I T S

9 NUMBER RECEIVED

10 NO EXHIBITS WERE MOVED FOR ADMISSION.

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1 MR. REIMER: I've got 1:02. Would you

2 like to call the hearing to order?

3 Please do a roll call and

4 establish a quorum.

5 MR. PALMER: Calling the meeting to

6 order. Call the roll.

7 MR. MITCHELL: Dan Palmer.

8 MR. PALMER: Here.

9 MR. MITCHELL: John Sias.

10 MR. SIAS: Here.

11 MR. MITCHELL: Derek Bansley.

12 MR. BANSLEY: Here.

13 MR. MITCHELL: Mike Poremba.

14 MR. POREMBA: Here.

15 MR. MITCHELL: Gary Mitchell, here.

16 MR. PALMER: The board is here.

17 I think we all kind of talked in

18 the same direction that we would be here as

19 long as necessary today.

20 So unless there's any objection

21 with that, let's try to get as much done as

22 we possibly can today so we're not needing

23 any more time.

24 I turn it over to Rick.

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1 MR. REIMER: Thank you. Good

2 afternoon.

3 This is a continued hearing in

4 the matter of the disability application of

5 Officer Selmani. The matter was commenced an

6 continued from February 23rd, 2021, by

7 agreement of the parties.

8 At the February 23rd, 2021

9 hearing, you appointed me the hearing

10 officer. We admitted Board Exhibit Nos. 1

11 through 13 and 18. We did not admit

12 Board Exhibit 14 through 17 due to the

13 hearsay objection.

14 We had admitted Village

15 Exhibit No. 1.

16 Does anybody have a different

17 recollection than I do? If not, I'd ask the

18 parties to identify themselves for the

19 record, please.

20 MR. FIGLIOLI: David Figlioli on behalf

21 of the applicant.

22 MR. RADJA: Thomas Radja also on behalf

23 of the applicant.

24 MR. DENHAM: Good afternoon.

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1 Paul Denham for the Village of

2 Bartlett.

3 MR. REIMER: Thank you.

4 So I was informed before the

5 hearing that you had tendered the witness,

6 correct? So you were done with cross?

7 MR. DENHAM: That is accurate.

8 MR. REIMER: So it's now the board's

9 opportunity to ask Officer Selmani questions.

10 I have some questions. If you want me to go

11 first, I'm happy to do it.

12 Otherwise, this is the time you

13 get to ask any questions of this witness.

14 What's your pleasure?

15 MR. PALMER: Will we have the

16 opportunity later at all, or does it have to

17 happen now?

18 MR. REIMER: Generally, it would happen

19 now. You kind of want to remember,

20 there's -- we're going to give an opportunity

21 to redirect. That might entail recross.

22 So it's possible you would have

23 questions.

24 MR. PALMER: Okay. Because I guess I

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1 kind of want to hear the whole...

2 MR. REIMER: All right. So does

3 anybody have questions? Why don't you go

4 ahead and chime in if you can.

5 MR. MITCHELL: Counsel, why don't you

6 go ahead and start.

7 MR. REIMER: Okay.

8 OFFICER GZIM SELMANI,

9 called as a witness herein, having been previously

10 duly sworn, was examined and testified further as

11 follows:

12 EXAMINATION

13 BY MR. REIMER:

14 Q. Good afternoon, Officer. Keep in mind,

15 I don't vote. I'm going to ask you questions.

16 These are not trick questions.

17 If, at any time, I ask you a question

18 and you don't understand it, tell me. Otherwise,

19 if you answer, I'm going to assume that you

20 understood the question. Fair enough?

21 A. Sure. Yes.

22 Q. Some easy ones. How old are you now?

23 A. I'm 38.

24 Q. And I know you mentioned in your

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1 previous testimony that you're married?

2 A. Correct.

3 Q. What's your bride's name?

4 A. Arziye, A-r-z-i-j-e. Same last name,

5 S-e-l-m-a-n-i.

6 Q. And what was your date of marriage?

7 That's probably the hardest question anybody are

8 ask you all day.

9 A. January 17th, I believe, 2006.

10 Q. I'm sorry. January --

11 A. 17th.

12 Q. 2006?

13 A. Yes.

14 Q. Is that your final answer?

15 A. Or 17th. It's been a long time.

16 Q. You can get back to me.

17 A. Or 2007. Sorry. It's kind of

18 embarrassing.

19 Q. It's all right. It happens to the best

20 of us.

21 Do you have any children that are

22 dependent? By "dependent," I mean under the age

23 of 18 or over the age of 18, dependent because of

24 a physical or mental disability.

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1 A. Not because of a mental or physical

2 illness, but I do have dependents.

3 Q. How old are your dependents?

4 A. They're 11 and 8.

5 Q. So what's the 11-year-old's name?

6 A. His name is Arman, A-r-m-a-n, same last

7 name, and then my youngest boy is Beni, B-e-n-i.

8 Q. And he's how old?

9 A. Eight.

10 Q. I understand you were employed

11 previously by Rock Valley Police Department?

12 A. Correct. Rock Valley College.

13 Q. Rock Valley College?

14 A. Correct.

15 Q. And you were required to undergo the

16 police training there?

17 A. Yeah. I went to PTI down at the Urbana

18 campus.

19 Q. How many hours is that, do you

20 remember?

21 A. It was, like, three months. That's

22 also been a long time.

23 Q. You don't remember if it was the 400

24 hours or --

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1 A. It was the full certification. Then

2 any other municipality would also have their

3 officers go through.

4 Q. So you obviously -- since you graduated

5 from PTI, you did not have to, upon being hired

6 here, go back to PTI again?

7 A. That's correct. I did not.

8 Q. During the academy, is there any

9 training on simulations?

10 A. No.

11 Q. During your experience with Rock Valley

12 PD, did you ever train with Simunitions?

13 A. No. It was more like air-type events,

14 from what I recall. So there weren't actual

15 Simunitation rounds.

16 Q. So in other words, they weren't similar

17 to what you've testified happened to you here?

18 A. That's correct. They were not.

19 Q. How many times did you have that

20 training?

21 A. You know, it's been a long time.

22 Probably on a yearly basis, we would have an

23 active shooter training just because we're on the

24 college campus. We're the college campus police

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1 department.

2 So active shooter training is what we

3 would always do.

4 Q. So for that active shooter training, is

5 there role playing, as you testified to at the

6 last hearing?

7 A. Yeah. It wasn't -- it wasn't like

8 here, but because it's a college, it's kind of

9 like -- kind of dumbed down, I guess. I don't

10 want to be disrespectful to the college police

11 department, but it's not as intense.

12 Q. Okay. So let me make sure I understand

13 it then.

14 So you did the role playing with the

15 active shooter in the context of a college police

16 department; no firing of Simunitions?

17 A. Not that I recall, no.

18 Q. Now, you talked about how you got

19 selected for the SPEAR Team here once you got to

20 Bartlett.

21 What did that actually entail? How did

22 you come to be on the SPEAR Team?

23 A. Well -- so I was -- the prerequisite

24 was that you had to be off of probation, and I

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1 was. I was, I would say, maybe six months, maybe

2 a little bit over, that I was off probation which

3 allowed me to put in my interest for the

4 SPEAR Team.

5 And at that point, they tell you to

6 write a memo explaining why you would be a good

7 fit or why you want to be on the SPEAR Team.

8 Then after they obtain that, they would

9 have an interview with you, and my interview was

10 with Commander Winterstein and Sergeant Naydenoff

11 at the time. He's commander now, and it was those

12 two guys and me with the interview.

13 After the interview, you're, I guess,

14 you know -- they talk amongst each other, and

15 eventually the chief would make the ultimate

16 determination, from my understanding, and he did

17 that.

18 And I was accepted on the team, I

19 believe, on August 8th, 2014.

20 Q. Prior to putting in for the SPEAR Team,

21 did you have any expectations of what type of

22 training you'd have to undergo?

23 A. Just basic stuff. I knew that they

24 served search warrants, and that was primarily

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1 their job, but my reasoning for wanting to be on

2 the team was just to further educate myself in law

3 enforcement, and I always thought that it was

4 going to help me on the street.

5 You know, any -- any training that you

6 have as far as search warrant entries and stuff

7 like that, it's only going to benefit you on the

8 job.

9 So that was my primary goal of being --

10 or, wanting to be on the SPEAR Team.

11 Q. Okay. So let me focus now on the time

12 period after you got hired by Bartlett PD up to

13 and including your date of appointment to the

14 SPEAR Team.

15 Did you ever train in Bartlett with

16 Simunitions?

17 A. I believe -- I believe we did, yes.

18 Q. Do you know how many times?

19 A. I don't recall.

20 Q. Of the training in that time period,

21 the date of appointment by Bartlett PD and your

22 appointment with the SPEAR Team in August of 2014,

23 did any of those training drills with Simunition

24 involve either you shooting at someone or being

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1 hit by someone with Simunition rounds?

2 A. I believe so, yes.

3 Q. And you don't know how many times,

4 right?

5 A. No.

6 Q. Again, this is not while you were on

7 the SPEAR Team, right? That's what I'm trying to

8 understand.

9 A. I don't understand the question.

10 Q. This is -- the training that you just

11 testified to had nothing to do with SPEAR Team --

12 A. Correct.

13 Q. -- because you were not in on it yet,

14 correct?

15 A. Correct. It did not.

16 Q. I was just wanting to make sure.

17 Prior to accepting the appointment to

18 the SPEAR Team, was there any discussion with

19 anyone here at Bartlett PD about the type of

20 physical activity that might be involved?

21 A. Just from my knowledge -- I mean, just

22 from what I knew, I'm not sure if I had any

23 conversations with anybody. I don't recall that.

24 I may have. I may not have.

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1 Q. Prior to accepting the appointment to
2 the SPEAR Team, were you aware that you -- there
3 was a possibility that you may be struck by
4 Simunition rounds during training?
5 A. Yes.
6 Q. Did you have to sign any kind of a
7 waiver form?
8 A. I don't recall. I may have, but I'm
9 not certain.
10 Q. As of August 11, 2014, were you
11 experiencing any type of performance issues here
12 at work?
13 A. Not that I'm aware of. I mean, my
14 evaluations were pretty good.
15 Q. And during that time period or as of
16 August 11, 2014, were you the focus or subject of
17 any type of disciplinary investigation?
18 A. Before or after?
19 Q. As of that date, as of August 11th of
20 2014, prior to that day.
21 A. Nothing -- I'm sure I was, but nothing
22 major. I know -- I recall having a minor accident
23 with my patrol vehicle in the parking lot when I
24 was patrolling the business over at Brewster Creek

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1 Shopping Center, which is 59 and Stearns.
2 Q. So what I'm just trying to figure out
3 here is, as of August 11, 2014, had that
4 discipline been over, or were you being
5 investigated for any reason, to your knowledge, as
6 of August 11th of 2014?
7 A. Not to my knowledge, I was not, no.
8 Q. I know you were asked some questions
9 about this conversion kit.
10 My understanding is that in order to
11 fire Simunition rounds in a rifle, you were either
12 allowed to use your own rifle, or you would use
13 the department equipment rifle, correct?
14 A. Correct.
15 Q. Did you ever buy a conversion kit for
16 your own AR-15?
17 A. No, I did not.
18 Q. And if I understood correctly from last
19 time, the pistols were provided by someone else?
20 A. Correct.
21 Q. They weren't your own duty weapons?
22 A. No.
23 Q. Again, before the August 11, 2014
24 incident -- I know you haven't -- you don't recall

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1 how many times you were involved in Simunition
2 training here at Bartlett.
3 Did you ever serve as one of the role
4 players, the bad guys?
5 A. I may have. I may not have. I don't
6 recall.
7 Q. Did you ever recall being struck,
8 during any kind of training drill prior to
9 August 11, 2014, by a Simunition round?
10 A. I don't recall. I may have. Not like
11 I was when I was hazed.
12 Q. In any type of the training involving
13 Simunition rounds prior to August 11, 2014, did
14 you ever fire at any of the role players or any of
15 the other members of the Bartlett PD?
16 A. Prior?
17 Q. Yeah. Prior to August 11, '14.
18 A. I may have. I don't recall. If I was
19 in the training, I probably did, but I don't know.
20 I may not have either.
21 Q. Look, this isn't a trick question.
22 A. I just want to be completely honest. I
23 just want, you know --
24 Q. Fair enough. And if you don't recall,

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1 that's a fair answer.
2 A. Sure.
3 Q. So I know you talked about the
4 August 11, 2014 training.
5 Do you recall generally for us what
6 were the training scenarios? Was it one? Was it
7 two? And how did that work? So if you can get
8 more specific.
9 A. Again, from my recollection -- you
10 know, that day is hazy for me, just from what I
11 experienced at the end.
12 It's -- from what I recall, you know,
13 we did a lot of room entries, stuff like that.
14 Some of the guys told me to kind of take it easy,
15 kind of just observe, but I also did participate.
16 Q. So let me ask you this to try to -- I'm
17 not trying to put words in your mouth. So I was
18 going to refer to this as the "hazing" part of
19 that.
20 Do you have any objection -- you're not
21 admitting anything. You're not acknowledging, but
22 we've got to come up with some way to identify
23 this for the record. Can we agree that
24 "hazing" -- is that fair?

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1 A. To call it a hazing?
2 Q. Yes.
3 A. Yes. It's definitely hazing.
4 Q. So we'll call it a "hazing incident."
5 Prior to the hazing incident, you -- at
6 that time, on that day, August 11th, 2014, had you
7 been hit with Simunitions rounds?
8 A. I may have. I don't recall.
9 Q. Prior to the hazing incident on
10 August 11, 2014, do you know if you fired any
11 Simunition rounds striking any of the team members
12 or any role players that may or may not have been
13 there?
14 A. I don't recall.
15 Q. So after the hazing incident you
16 testified to last time, as far as the injuries you
17 sustained, were there any visible signs of injury
18 immediately after it?
19 A. Yes.
20 Q. What was visible?
21 A. Well, my forearms were bleeding. I had
22 two embedded Sim rounds in my left arm that were
23 literally embedded, I would say, about maybe a
24 quart-inch deep in my left forearm.

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1 I was bleeding in my right, not as
2 significant as my left forearm. And at the time,
3 I didn't know the extent of it, but my -- my legs
4 were in pain.
5 So when I got home, I took off -- when
6 I took off my BDUs, I had a -- I had a bruise on
7 my left inner thigh and on the back as well, and I
8 saw a protruding vein there that was never there.
9 Q. Did you photograph any of those
10 injuries?
11 A. No.
12 Q. Do you recall the first person, whether
13 a civilian or not, that you told about the hazing
14 incident after August 11th or maybe on August 11th
15 of 2014?
16 A. I didn't tell anybody.
17 Q. Do you remember the first time you did
18 tell somebody?
19 A. I know I've had maybe very basic
20 conversations with some of the SPEAR Team members
21 and my discontentment with it. It wasn't -- we
22 didn't go in depth about it, but just kind of
23 voiced my displeasure.
24 Q. So if I understand you then, after the

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1 August 11, 2014 incident, you were obviously not
2 happy about what had happened, and your testimony
3 is that you discussed it generally with perhaps
4 some of the other SPEAR Team members?
5 A. I would say one or two members, yes.
6 Q. Do you know how soon that was after the
7 August 11, 2014 incident?
8 A. I don't recall.
9 Q. You don't know if it's days, months?
10 A. Yeah. I don't think it was that soon,
11 but...
12 Q. Do you recall who the first supervisor
13 here at the Bartlett Police Department is you
14 informed of the August 11, 2014 incident?
15 A. Well, it was -- within the week
16 roughly, it was -- I actually went to Sergeant
17 Rummell and Commander Naydenoff -- again, a
18 sergeant at the time -- and I asked for treatment
19 on my left forearm.
20 I didn't ask for treatment for my left
21 thigh because I thought that would just disappear
22 on its own, but I knew that this ink wasn't going
23 to disappear because other members in the Bartlett
24 Police Department have actually had it, and they

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1 actually had surgery to remove it.
2 So that's why I asked. I wanted to
3 remove it, and it was -- I was never offered any
4 other treatment after I went in there and
5 requested it.
6 Q. So when you say "other members," you're
7 saying other members of the Bartlett Police
8 Department had Simunition rounds embedded in their
9 body and had to have it surgically removed?
10 A. Correct.
11 Q. Do you know who those officers are?
12 A. It was Sergeant Durbin. He had a -- it
13 was actually almost kind of weird, kind of just
14 the same spot. I believe it was his left forearm
15 and same type of ink on his left forearm, but mine
16 was, again, from the two embedded rounds that were
17 stuck in in the hazing, but from my recollection,
18 he told me that he had filed paperwork with
19 Janelle, the human resources director here at the
20 Village of Bartlett, and he got it removed.
21 Q. Did you ever have those surgically
22 removed?
23 A. Well, when I disclosed my hazing, that
24 was actually the first thing that I wanted to be

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1 done because it was always painful for me to
2 actually look at my injuries because it just
3 reminded me of the hazing.
4 So when I disclosed this to the
5 investigators, the investigators actually gave
6 Janelle Terrance, the human resources director,
7 and the chief of police -- they gave them the
8 go-ahead for me to actually remove -- through --
9 via email, they said that I could remove them, and
10 shortly after, I was told that I cannot.
11 Q. So, again, real simply, you have not
12 removed them, at this point?
13 A. No, I have not.
14 Q. Did you file a Worker's Compensation
15 case as a result of the August 11, 2014 injuries?
16 A. No. It was denied. After I -- I just
17 want to be clear. It was denied after Janelle
18 Terrance and Chief Ullrich gave me the go-ahead.
19 They had me talk to an IRMA representative. She
20 had me disclose the information.
21 And after I disclosed the information,
22 which was difficult in itself, she told me, "Well,
23 the statute of limitations has expired. We can't
24 do anything for you."

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1 And, you know, I didn't -- that was
2 very difficult for me.
3 Q. So after you learned that at least
4 IRMA's position was that the statute had been
5 expired, you didn't go to an attorney?
6 And I don't want to know what you
7 talked about with an attorney. Did you ever file
8 what's known as a petition for adjustment of claim
9 with the Illinois Industrial Commission?
10 A. No.
11 Q. Now, I understand there's a third-party
12 lawsuit going on here. Is that still -- what's
13 the status of that?
14 A. Well, it got past the motion to
15 dismiss. So the judge said that it can move
16 forward.
17 And the Village actually requested that
18 we send them a demand letter. They just recently,
19 last week, I believe, indicated that they wanted
20 to meet with a magistrate to discuss settlement.
21 Q. All right. Now, I'm not trying to get
22 into the theory of the case or any of that. I'm
23 just trying to find out where exactly
24 procedurally.

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1 Has there been any discovery?
2 A. I think we're working on that.
3 Q. Have you been deposed?
4 A. No.
5 Q. So you resigned from the SPEAR Team, as
6 I recall, is it November of '17?
7 A. Correct. I know one of the -- one of
8 the IMEs said 2019, but it was just a mistake. It
9 was definitely 2017.
10 Q. So the '19 reference is a mistake by
11 the examiner?
12 A. Yeah. Human error.
13 Q. So between the August 11th date and
14 November of 2017 when you resigned from SPEAR, how
15 many SPEAR training days did you attend, do you
16 know?
17 A. I believe from what I recall, we had
18 training at least every two months.
19 And then we also -- every September, we
20 also had a week-long training with a gentleman
21 from -- a retired Dallas SWAT member. So that was
22 called Claggett week, and that was a week-long
23 training that we went to.
24 Q. Now, during this, I guess, bimonthly

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1 training or every-other-month training and the
2 week-long, was it Claggett training?
3 A. That's what we called it, Claggett
4 week, Claggett training.
5 Q. Got it. How many of those involved use
6 of Simunition?
7 A. They involved it almost every time
8 unless it was live fire.
9 Q. So other than in the live fires --
10 hopefully you didn't get hit by any of those -- in
11 terms of the Simunition rounds training after
12 August 11th and before November '17 when you
13 resigned, did you get hit with Simunition rounds?
14 A. Yes.
15 Q. Do you know how many times?
16 A. I don't recall.
17 Q. Did you fire Simunition rounds?
18 A. Yes.
19 Q. Do you know how many times?
20 A. No.
21 Q. Now, besides the training you just
22 testified to as a SPEAR team member -- so between
23 August 11th of 2014 and November of '17 -- did you
24 also have to do any training for the police

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1 department just as a general member of the
2 department?
3 A. Yes.
4 Q. And I don't need -- I want to know
5 about classroom-type training that's offered to
6 police.
7 Did any of that involve use of
8 Simunitions?
9 A. From what I remember, yes.
10 Q. So just -- you were on the SPEAR Team.
11 Is it fair to say that you would have gotten a lot
12 more training in terms of firearms and that type
13 of thing than just somebody that's just on patrol
14 and not a member of the SPEAR Team?
15 A. Very much so.
16 Q. Okay. But that didn't mean that if you
17 were -- somebody who was still in patrol would
18 also be exposed to at least some degree or level
19 of Simunitions raining?
20 A. Correct.
21 Q. Now, I know there was some testimony
22 about injuries sustained on August 11, 2014.
23 You're not claiming a disability for
24 the injuries to your shoulder, correct?

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1 A. No, I'm not.
2 Q. And you're not claiming a disability
3 from the knee injury?
4 A. No, I'm not.
5 Q. Did you ever tell any of your fellow
6 officers words to the effect that you were not
7 going to make an issue out of what happened on
8 August 11th, 2014, until you got in trouble?
9 A. No. Trouble? When did I get in
10 trouble?
11 Q. I don't know. I'm just asking you
12 if -- I'm just asking you if you ever made a
13 statement or words to that effect.
14 A. No.
15 Q. Did you receive -- I know I've asked
16 you about Worker's Comp.
17 Did you receive any benefits under a
18 statute known as PEDDA, Public Employee Disability
19 Act?
20 A. Not from my understanding. I may have
21 when I got my shoulder surgery, but I was never
22 informed that I got the Public Employee Disability
23 Act benefit at all.
24 Q. How did you come to be seen by

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1 Dr. Marseilles?
2 A. Because I wanted to seek treatment for
3 my -- so I initially disclosed this information to
4 Commander Naydenoff. And in his memo that's in
5 the pension board exhibit, I explained to him that
6 I was having really bad difficulty kind of
7 behaviorally, attitude-wise just because of all
8 the pent-up, you know, hostility that I had from
9 being hazed.
10 And I told him that I was going to need
11 to seek treatment.
12 Q. So what I'm just trying to find out is,
13 how did you select Dr. Marseilles? Did you pick
14 Dr. Marseilles? How did that come about?
15 A. I don't recall.
16 Q. Nobody from the Village told you to go
17 see Dr. Marseilles?
18 A. No. Deputy Chief Snider gave me
19 information on a psychologist because he initially
20 told me that EAP probably wouldn't be able to help
21 me maybe just due to their level of expertise.
22 Janelle Terrance, when I turned in my
23 FMLA information, she also said the same thing.
24 So...

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1 Q. So I know that there was a -- there was
2 apparently a BAP that you ended up going to,
3 right?
4 A. Right.
5 Q. Is that CNS Counseling which would be
6 Board Exhibit No. 7? Does that sound right?
7 A. That does sound right.
8 Q. How many times did you go there?
9 A. I went there two times initially, and
10 then after the second time, I -- I don't know
11 exactly. I think in February 12th, I asked for
12 paid leave. That was denied. I was told to go to
13 FMLA.
14 I did that. I went there two times
15 initially. And I saw -- during the two interviews
16 there, I felt like she wasn't really paying
17 attention to me. She wasn't writing down any
18 notes or something like that.
19 So I kind of started thinking, maybe
20 Deputy Chief Snider is correct, and maybe she's
21 not capable enough to help me out and just kind of
22 felt disregarded in a way.
23 So I stopped going there. Shortly
24 after that, I told my wife what was going on,

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1 and...

2 Q. Do you recall the qualifications of the

3 person at CNS? Was it a licensed clinical social

4 worker, a counselor, a Ph.D.?

5 A. Yeah. Some -- I don't remember her

6 license or anything like that.

7 Q. Did anybody at CNS do the diagnostic

8 battery of tests that you went through for the

9 board?

10 A. No.

11 Q. And then how about Dr. Marseilles?

12 Now, I understand Dr. Marseilles is an actual MD

13 doctor, correct?

14 A. Correct.

15 Q. Did Dr. Marseilles do or have any

16 battery of diagnostic tests performed on you?

17 A. No.

18 Q. And then you were seen by Dr. Friedman,

19 correct?

20 A. Correct.

21 Q. Now, Dr. Friedman -- my understanding

22 is she's a Ph.D. as opposed to an MD?

23 A. Correct. I believe so.

24 Q. Does that sound right? Did

Page 283

1 Dr. Friedman perform any diagnostic battery of

2 tests on you?

3 A. No.

4 Q. How many times did you see

5 Dr. Friedman?

6 A. It should be in the record. I don't

7 know exactly how many times. I still -- I still

8 see her roughly every month through TeleMed.

9 Q. Have you seen her -- from the first

10 time you saw her, the record will establish that,

11 up to and including today, is it fair to say

12 you've seen her pretty much regularly every month?

13 A. Yes.

14 Q. And then for medicine maintenance, is

15 that back to Dr. Marseilles?

16 A. Correct.

17 Q. And how often have you seen

18 Dr. Marseilles?

19 A. Before my health benefits were taken

20 away from me, I would see him on a regular basis,

21 roughly every month or so. When my benefits

22 stopped, I couldn't afford his services.

23 So I would only see him when I had to

24 re-up my medication.

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1 Q. When's the last time you saw

2 Dr. Marseilles, if you recall?

3 A. I would say October 2012 maybe.

4 Q. 2020?

5 A. 2020, not 2012.

6 Q. That was actually before the incident?

7 A. Yeah. No. No.

8 Q. This is going to be a long day if

9 that's --

10 A. Yeah.

11 Q. What's your current employment status?

12 A. I'm not employed.

13 Q. You're not. So were you fired from the

14 Bartlett Police Department?

15 A. I would say yes. My benefits were

16 taken away from me, my salary and my health

17 benefits. If you don't have salary and benefits,

18 I mean, how -- you know --

19 Q. Look, I'm not trying to quarrel with

20 you about what happened. Here's all I'm trying to

21 find out.

22 Did the police chief at the time ever

23 file charges with the Bartlett Board of Fire and

24 Police Commissioners seeking your removal?

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1 A. Not that I'm aware of.

2 Q. Did you ever resign?

3 A. No.

4 Q. Do you know the last day you actually

5 received any type of pay; in other words, regular

6 pay, any accrued vacation, any type of accrued

7 benefit time?

8 A. Yeah. So I got a letter from Janelle

9 Terrance on May 21st or 22nd indicating that I had

10 a few hours left of vacation, you know, sick time,

11 I believe.

12 And I didn't take that until, I

13 believe, June of -- I'm trying to get my dates

14 right -- June of that year, which is 2019.

15 So about a week or two after my FMLA

16 expired, I -- I was given a check with the

17 remaining time that I had left.

18 Q. So obviously you're here asking the

19 pension board to award you disability.

20 What date are you asking that to be

21 effective if they were to do a disability --

22 A. Well, that's actually up for debate

23 because the lawsuit we have is -- is with the

24 Public Employee Disability Act.

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1 So our stance is that I should be
2 employed -- or, I should have been given the
3 Public Employee Disability Act from the date that
4 my FMLA expired, or you can also argue that in
5 June of 2019 up to a year later because the Public
6 Employee Disability Act benefits are good for up
7 to one year.

8 So with the lawsuit -- well, with the
9 lawsuit going on, it could potentially be if it's
10 retroactive, it could potentially be May or
11 June of 2020.

12 Does that make sense?

13 Q. It does. And I'm just a simple country
14 lawyer, and I'll let people a lot smarter than I
15 am and a federal judge figure all that out.

16 A. Right.

17 Q. Do you currently have a FOIA card?

18 A. I don't know if it's expired. I
19 haven't looked at it.

20 Q. You didn't surrender your FOIA card?

21 A. No.

22 Q. Do you have any firearms? Do you own
23 firearms?

24 A. I own the firearms. They're all here.

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1 Q. At the PD?

2 A. Yeah. Ever since I was told not to
3 come back to the police department without
4 permission from the chief of police or his
5 designee, they were here.

6 They were here in the -- I would hope
7 they're still here.

8 Q. Does that include any personal firearms
9 you own?

10 A. Yeah. They're all personal.

11 Q. Have you been employed in any other
12 capacity since your last day here at the Bartlett
13 Police Department?

14 A. No.

15 Q. Is your bride, your spouse, employed?

16 A. She was initially laid off, but after
17 the pandemic, after the schools reopened, she got
18 her job back as a lunch supervisor.

19 Q. I'm sorry. As a --

20 A. Lunch supervisor at our kids' school,
21 two or three hours a day.

22 Q. So maybe I'm wrong. I'm guessing here
23 that she has never had a job in which she would
24 get paid health insurance that you would be

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1 eligible for?

2 A. No. She doesn't speak English. So --
3 that well. So she -- she can't find a job that
4 would offer that.

5 Q. Understood. So as you sit here today,
6 you have no health insurance?

7 A. Public Aid.

8 Q. Public Aid. Now I want to focus on the
9 doctors that have treated you, all right? Don't
10 worry about independent medical examiners. Just
11 focus on those doctors that treated you so I can
12 make sure that I have them right.

13 It looks like Dr. Waliuddin?

14 A. Waliuddin. I don't know how to
15 pronounce it either. Dr. Waliuddin.

16 Q. So he treated you. Dr. Marseilles
17 treated you. Dr. Marla Friedman treated you.

18 And then I don't know if you want to
19 call that CNS Counseling treated you, but any of
20 those doctors or healthcare providers -- they're
21 not all doctors -- did you follow all treatment
22 recommendations from those doctors that were given
23 to you?

24 A. Well, with Dr. Waliuddin, I just went

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1 there once. So there's nothing to follow there.

2 Q. So we won't count him as a treater.
3 So then all your treaters -- to make
4 sure we got them right. Marseilles and Friedman.
5 Nobody else, then, treaters?

6 A. Correct.

7 Q. Did you follow everything that
8 Dr. Marseilles recommended you do, and did you
9 follow everything that Marla Friedman, the Ph.D.,
10 recommended that you do?

11 A. Yes.

12 MR. REIMER: Give me one second. I'm
13 almost done.

14 [Brief pause.]

15 MR. REIMER: That's all I have. Thank
16 you.

17 I'm going to turn it over to the
18 members of the board now. Do you have any
19 questions?

20 MR. PALMER: You *** might have said
21 this specifically, but I'm only remembering
22 it generically.

23 How did it come that you were
24 placed in the middle of the group again? Who

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1 directed you, or how were you told?
2 THE WITNESS: Sure. So from my
3 recollection, the SPEAR Team training was
4 completed. Everybody was taking off their
5 gear. So basically they say, "Everybody's
6 kiting down."
7 So they would take off their
8 protective gear, and I was following suit
9 because, again, that was my first day. I
10 just kind of followed the lead. So I started
11 doing the same thing.
12 I took off my long sleeve, took
13 off whatever other protection that I had on;
14 cup. And I recall -- I believe it was
15 Commander Winterstein who said, "Yeah. We
16 have one more training to go to."
17 So me and the other officer, we
18 were brand-new on the team. That was our
19 first day of training. Hold on.
20 MR. REIMER: Officer, take your time.
21 If you need a break at any time, just say the
22 word. We'll give you as much time as you
23 need.
24 THE WITNESS: I'm sorry.

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1 MR. REIMER: Don't apologize. Just if
2 you need one, take a break. We have no
3 problem with that.
4 THE WITNESS: So we were -- sorry.
5 Sometimes I do good with this. Sometimes I
6 don't. You know what I mean?
7 We were told to -- we were told
8 to take the lead. Sorry.
9 MR. REIMER: Do you want to take a
10 break?
11 THE WITNESS: No. I hate recalling it
12 because I feel like it just happened. You
13 know what I mean?
14 So we were -- we were told to
15 take the lead, and I didn't know really what
16 I was -- what I should be doing. They were
17 kind of like saying things, and I don't
18 recall verbatim what they were saying, but
19 kind of like, looked for the target or looked
20 for work. It was just kind of same the lingo
21 that they always used throughout my time at
22 SPEAR.
23 And then we were kind of like led
24 into the middle of the room. I don't know if

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1 they said specifically, like, go in the
2 middle of the room, look for work, stuff like
3 that. And then I -- I -- I remember -- I
4 don't remember every single detail just
5 because of the traumatic incident, but once
6 we got into the -- once we got in the room,
7 you know, we were over here looking like
8 idiots looking for work, you know what I
9 mean.
10 And these guys are, like, in
11 semicircle. So they're not in crossfire, and
12 then they just start, like, shooting with
13 their ARs.
14 And all I can remember -- all I
15 can remember is, like, kind of, like,
16 covering my head because that's the first
17 thing you do, is you cover your head and
18 high-knee step and kind of try to dodge the
19 Sim rounds, but it's impossible to dodge.
20 They're, like, ten feet away from you, 15
21 feet away from you.
22 And you just get struck with
23 every single round, you know? What's kind of
24 also disheartening, too, is kind of, like, in

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1 the Daily Herald, they said there was no
2 intent.
3 These guys had over a hundred
4 years of experience. There was absolutely
5 intent to harm somebody. These guys are not
6 idiots, you know. It's just a -- it's just
7 hard.
8 MR. REIMER: Does that answer your
9 question?
10 MR. PALMER: Yeah. You remained a
11 member for some time after that?
12 THE WITNESS: Yeah.
13 MR. PALMER: Was there ever another
14 incident such as that maybe with another new
15 member?
16 THE WITNESS: No.
17 MR. PALMER: To your knowledge, was --
18 THE WITNESS: Not to my knowledge.
19 MR. PALMER: Okay. To your knowledge,
20 was there any other incidents that people
21 talked to you about prior to your joining? I
22 mean --
23 THE WITNESS: Oh, no.
24 MR. PALMER: How was it explained to

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1 you, if it was explained to you?
2 THE WITNESS: I don't understand the
3 question.
4 MR. PALMER: How was the reason for
5 this explained to you?
6 THE WITNESS: No one said anything
7 after that.
8 MR. PALMER: So it just happened, and
9 there was no discussion afterwards or
10 beforehand?
11 THE WITNESS: Absolutely correct. I
12 believe from the REM investigation, from what
13 I can tell -- sorry. Okay.
14 MR. PALMER: I'm good. Anyone else?
15 MR. SIAS: I have -- so just today, you
16 testified that you're aware that you may be
17 struck by the Simunition rounds at SPEAR
18 training.
19 And subsequent to -- after that
20 incident, you were hit with subsequent
21 rounds. Is that accurate?
22 THE WITNESS: After -- after the
23 hazing?
24 MR. SIAS: Correct. Dates further down

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1 the road, you were hit?
2 THE WITNESS: Yeah, but, again, I don't
3 recall. I'm sure I was. I don't recall any
4 specific one that was, like, you know,
5 debilitating me or anything like that. You
6 know what I mean? Like the hazing.
7 MR. SIAS: I'm a civilian. So this is
8 foreign to me.
9 THE WITNESS: I understand.
10 MR. SIAS: I'm interested in your
11 words.
12 If you can try and just tell me
13 what the difference is between the hazing
14 incident and being struck subsequently.
15 THE WITNESS: Sure. So with the hazing
16 incident, you're getting 30 to 50 rounds
17 stuck at you at one time within a 10-,
18 15-second time span. So that's -- that's
19 unheard of.
20 Subsequent trainings, you might
21 get shot once or twice, and then it's over
22 with. You know what I mean? So there's a
23 huge difference.
24 MR. SIAS: And the subsequent being

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1 struck didn't have the same impact -- not
2 physical impact, but mental impact, if that's
3 the right way to phrase it?
4 THE WITNESS: Not at all.
5 MR. SIAS: I believe I heard a number
6 of -- the best word I can think of is
7 "inconsistencies" -- with maybe how you
8 spoke -- how you shared information with
9 maybe your spouse, with the various doctors
10 in some of the reports.
11 How should we reconcile that? Is
12 that pressure from the -- from the incident?
13 I don't know how to interpret --
14 THE WITNESS: What inconsistencies?
15 MR. SIAS: Things you would tell your
16 doctors that -- you mentioned for fear of
17 losing your gun and badge. You mentioned
18 that a few times.
19 THE WITNESS: Oh, sure.
20 MR. SIAS: I'm just wondering if you
21 could expand on some of that -- some of the
22 instances you didn't speak to your wife about
23 it. I understand there's some pressure
24 there.

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1 THE WITNESS: Absolutely. Sure.
2 MR. SIAS: With your doctors, which is
3 supposed to be a relationship, there's some
4 inconsistencies there.
5 THE WITNESS: Okay.
6 MR. SIAS: Do you have anything more to
7 say about --
8 THE WITNESS: Yeah. Well, basically,
9 like I outlined in my report or my letter
10 that I sent to Paula just kind of describing
11 my -- the impact that this had on me, when
12 that happened, I knew that I could have sued
13 this department, but here's the thing,
14 though.
15 I didn't want to ruin these
16 people's lives. I had that -- I had that
17 empathy in me. The code of silence, it's an
18 unbearable thing to have on you. And knowing
19 that these guys could lose their jobs or
20 pensions, affect their families, I didn't
21 want to bring discredit to the police
22 department.
23 So I tried to take the higher
24 ground to actually benefit these guys. Like,

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1 I didn't think about myself. I didn't think
2 about financial gain like the Village tries
3 to insinuate, okay? I had every opportunity
4 to do that from the very get-go. It's plain
5 and simple.

6 You know, as far as my wife? I
7 never told her because even in the interview
8 with Commander Winterstein and Commander
9 Naydenoff, they asked me, "Does your wife
10 support you?" And I told them no because she
11 did not.

12 First of all, my wife did not
13 want me to be on the SPEAR Team because of
14 just the danger aspect of search warrants.
15 She said that, you know, "Your job is
16 dangerous enough. Don't put yourself in that
17 situation."

18 So that's why she wasn't on board
19 at all. That's why I never told her because
20 I knew she would have made me sue this police
21 department.

22 So that's just another added
23 scenario to not even disclosing it to my
24 wife. That's how -- I couldn't even talk

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1 about it. And on top of that, it's hard for
2 me to talk about to this day.

3 So I didn't want to -- and it's
4 common -- and any doctor will tell you, but
5 it's also commonsense. Any doctor will tell
6 you that people that survive trauma, they
7 often suffer in silence. That's exactly what
8 I did. And this is not, like, a new
9 phenomenon. You know what I mean?

10 So, yeah, I was going to deny
11 everything. You know what I mean? Had I
12 known that I was going to psychologically
13 downfall, I mean, I would have maybe done
14 something sooner.

15 MR. SIAS: You mentioned that weight
16 training really helped you cope with it?

17 THE WITNESS: Yes.

18 MR. SIAS: I believe you have not
19 had -- your shoulder is still injured right
20 now?

21 THE WITNESS: It is.

22 MR. SIAS: Has there been an
23 opportunity to get that fixed?

24 THE WITNESS: Well, I did have surgery.

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1 It still hurts, though. It's still painful.
2 I can't work out like I used to. I used
3 to -- I used to work out hard, like intense.

4 So whenever I had issues dealing
5 with the trauma, I would literally go work
6 out for two hours until I was exhausted, and
7 it helped me cope with my symptoms. It just
8 knocked me out. I worked to the point where
9 I was exhausted so that I can actually get
10 some sleep.

11 It's pretty common that exercise
12 helps mental health. You know what I mean?
13 You don't have to be a doctor to know that,
14 but I did that. I testified last time I was
15 always in the police department gym working
16 out constantly after work, for the most part.
17 You know what I mean? And so that helped me
18 cope with my symptoms.

19 I also -- after the hazing, I
20 also developed, like, weird, like, mental
21 rituals and -- and finger-tapping and stuff
22 like that. I always knew that -- I always
23 thought that I was hit approximately 50
24 times, and I would finger-tap 50 times when I

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1 couldn't do something because that finger-tap
2 50 significied -- signi- -- I don't know what
3 the word is I'm looking for -- significied --
4 that's the word I'm looking for. Sorry --
5 significied about the 50 times of rounds that I
6 was hit.

7 And I knew that from the very
8 beginning, and that kind of helped me
9 relieve -- release, like, this terrible
10 tension that I had.

11 MR. SIAS: I had a note down that I
12 just wrote from the previous, a week and a
13 half or so go.

14 Dr. Marseilles, is he a medical
15 doctor?

16 THE WITNESS: He's a psychiatrist.

17 MR. SIAS: Psychiatrist. I think I
18 wrote this down right.

19 Did he say that you could return
20 to duty? Is that something he told you?

21 THE WITNESS: He never said that. He
22 did not say that, not that I recall. He said
23 that --

24 MR. SIAS: He never said that. Okay.

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1 THE WITNESS: He said that I
2 potentially may be able to return to duty,
3 but, no. He doesn't think it's safe.
4 MR. SIAS: Okay. Thank you. I don't
5 have any other questions.
6 MR. MITCHELL: Hi, Gzim.
7 THE WITNESS: Hey, Gary.
8 MR. MITCHELL: I'm going to go to your
9 letter that you wrote to the Village
10 administrator. It's on Page 62, if you want
11 to go there. It's in Tab 1 of the Village's
12 book that they made.
13 MR. REIMER: Mr. Figlioli, you will
14 have that for your client?
15 MR. FIGLIOLI: I will. I'm pulling it
16 out now.
17 MR. MITCHELL: 662.
18 MR. FIGLIOLI: Yeah. The bottom of
19 662.
20 MR. RADJA: What tab is it?
21 MR. MITCHELL: Tab 11, about four or
22 five pages in.
23 MR. FIGLIOLI: Right here. It starts
24 at 662.

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1 MR. REIMER: So let's -- we have to
2 make sure we have a clear record.
3 You might not be referring to the
4 board exhibit number. Remember the board
5 exhibits, we referred to as tabs -- I'm
6 sorry -- the Village's exhibits were tabs.
7 Are you looking at tabs?
8 MR. MITCHELL: In the Village's
9 exhibits, Tab 1.
10 MR. REIMER: Okay.
11 MR. MITCHELL: And it's the letter to
12 the Village administrator, Page 662.
13 MR. REIMER: Which is also in
14 Board Exhibit No. 8.
15 MR. PALMER: Tab 8 for pension board
16 exhibits?
17 MR. FIGLIOLI: And just for
18 clarification, the letter starts actually at
19 654. So I don't know if you're alluding to a
20 different Page 662.
21 MR. REIMER: If he's asking about a
22 specific page, that's certainly -- he's
23 entitled to do so.
24 I just want to make sure you got

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1 it before the officer answers any questions.
2 THE WITNESS: I got it. I'm ready.
3 MR. MITCHELL: I'm going to read this.
4 You write -- you wrote this -- you turned it
5 in on November 1st, 2019.
6 THE WITNESS: No, not November 1st.
7 April 1st.
8 MR. MITCHELL: I apologize. April 1st,
9 2019.
10 THE WITNESS: Correct.
11 MR. MITCHELL: "Even after everything I
12 endured, I know I did a great job in my
13 police duties. My police-initiated activity
14 has been the highest in the department for
15 two years."
16 So we can all agree it's right or
17 around when you resigned from the SPEAR Team,
18 right? You resigned in 2017. This is 2019,
19 two years later?
20 THE WITNESS: Correct.
21 MR. MITCHELL: So you had the highest
22 numbers in the department. You were always
23 in the top 5 or 10 every other year. "In the
24 most stressful calls, such as suicidal calls,

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1 major accident calls, medical calls" -- you
2 were fortunate to save two lives -- "man with
3 a gun call, etc., I felt like I excelled. I
4 don't question myself if I could do the job
5 as a police officer whatsoever, but I
6 question myself if I could trust these
7 individuals whom many are and will continue
8 to be my supervisors."
9 So you wrote that to the Village
10 administrator. And then if you go to Village
11 Tab 24, that same year, four days later, you
12 apply for your pension with the Village of
13 Bartlett Pension Board, correct?
14 THE WITNESS: Correct.
15 MR. MITCHELL: What happened within
16 those four days from when you said that you
17 had no problem doing the job to going ahead
18 and filing for your pension?
19 THE WITNESS: Sure. So the -- the
20 reason why I felt like I excelled is because
21 I was always on hyperarousal mode. I was in
22 fight-or-flight mode because of my PTSD,
23 okay?
24 So with these major calls, I felt

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1 like it didn't faze me at all because I was
2 always on that fight-or-flight scenario.
3 So usually, in somebody that's
4 kind of normal, if you get an emergency call,
5 a man with a gun call, you kind of hit hard,
6 and sometimes you kind of freeze up. Well, I
7 was always on that hyperarousal,
8 hypervigilant mode because of what -- what
9 I -- what I was subjected to.
10 So that's why I felt like I
11 excelled in these calls, okay? What happened
12 with me, though, I had -- I started having
13 difficulty with my coworkers. I became
14 aggressive, confrontational.
15 If you recall, Gary, I was
16 confrontational with you as well.
17 MR. MITCHELL: Absolutely.
18 THE WITNESS: But here's the thing. Do
19 you know why? I always thought you were part
20 of that. That's why I told the REM
21 investigators in the very beginning that you
22 were a part of it.
23 I apologize for doing that, but
24 I -- I thought that you were always a part of

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1 it. Not only -- not until later did I find
2 out that you had actually left early that day
3 because that was one of my -- I wasn't trying
4 to lie to them, but, again, when you're
5 involved in a traumatic incident like that,
6 you have tunnel vision, and you don't
7 remember every single detail.
8 So did I excel in these calls?
9 Yeah, I did, because I was always on that
10 hyperarousal mode from my PTSD from what I
11 was subjected to. And Dr. Marseilles also
12 indicated in his report that I was always
13 hyperaroused and hypervigilant. That's why I
14 felt like I excelled in those.
15 Where I had my downfall is
16 dealing with you guys, dealing with the
17 public, because in these little incidents
18 where it was kind of, you know, very minor
19 calls, I was always in that heightened state
20 because of what I was subjected to by the
21 SPEAR Team.
22 I was always in that
23 hyperarousal, hypervigilant mode. That's
24 where I had difficulties in my job, and my --

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1 my evaluations would reflect that, okay?
2 As far as, "I don't question
3 myself if I can do the job as a police
4 officer," that's me just basically saying --
5 because I truly still -- to this very day, I
6 still want to be a police officer.
7 It's the only thing that I know,
8 man. I don't want to be a freaking delivery
9 driver. The Village thinks that I'm doing
10 this for financial gain. My intent from the
11 very beginning was to seek treatment.
12 If you read Commander Naydenoff's
13 memo, I told him it affected me every single
14 day. He wrote that it's not every day, but
15 it affected me all the time.
16 I, to this very day, still want
17 to be a police officer, Gary. That's the
18 reason why I didn't resign my position when
19 the Village of Bartlett asked me to, okay?
20 Because in two years, five years, whatever
21 the case is, if I'm able to return, I will
22 return. If I resigned, I wouldn't have that
23 opportunity.
24 So that's me showing you guys,

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1 showing the department, whoever wants to read
2 it, my intent. My intent is always to come
3 back. My intent was never to file
4 disability. I filed disability because I
5 talked to my union representatives, and they
6 said, "Well, if you're the one who sought
7 treatment first, now the Village -- now the
8 Chief Ullrich on the telephone conversation
9 said it's not safe for you to come back.
10 Well, your only option at this point is to
11 file disability."
12 So I had no choice. My intent --
13 and the record shows my intent is always to
14 come back.
15 MR. MITCHELL: So I'm just -- let me
16 just clarify.
17 So on the 1st, you turned in a
18 letter that says you have no doubt that you
19 can do the job. And four days later, you're
20 asking for a disability.
21 I'm just asking, so you're saying
22 it was a union rep that told you to file for
23 it? Is that what you're saying?
24 THE WITNESS: That was the only option

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1 that I had.

2 MR. MITCHELL: And who was the union

3 rep that told you that?

4 MR. REIMER: Hold off on that

5 because --

6 MR. MITCHELL: I'm sorry.

7 MR. REIMER: -- you know why? There's

8 an -- Illinois has a privilege by statute

9 that is a union representative/union member

10 privilege.

11 THE WITNESS: It also might have been

12 the attorney.

13 MR. REIMER: Hold on, hold on. I don't

14 want him -- he can waive it knowingly.

15 So ask the question, but it's

16 going to be up to him if he wants to consult

17 with his lawyer. It's kind of like asking

18 him, "What did your lawyer tell you?" "What

19 did your wife tell you?"

20 MR. MITCHELL: Fair enough.

21 MR. REIMER: We can't get into any of

22 that.

23 MR. MITCHELL: So a union rep told you

24 to file for disability four days after you

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1 turned in the letter?

2 THE WITNESS: A rep or attorney.

3 MR. MITCHELL: All right.

4 MR. REIMER: So let's make this clear,

5 then, too. I was not the union attorney,

6 correct?

7 THE WITNESS: Correct. You were not.

8 MR. MITCHELL: I don't have the notes

9 in front of me, but I just had a question.

10 You said all of your guns are

11 here now, correct?

12 THE WITNESS: Correct.

13 MR. MITCHELL: When did you turn them

14 all in, or how long have they been at the

15 police department?

16 THE WITNESS: Well, my automatic rifle

17 always stayed here in the compartment that we

18 had right outside roll call. That's always

19 been there.

20 My duty weapon always stayed in

21 my duty belt after work. I would never take

22 it home. And my secondary gun, my wife made

23 me take it to the police department and not

24 bring it back after...

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1 MR. MITCHELL: So that was my question.

2 The one from the glove box, you brought it

3 here?

4 THE WITNESS: Yeah. It's here. My

5 wife doesn't trust me with guns at home. You

6 know what I mean?

7 MR. MITCHELL: That's all for now.

8 MR. BANSLEY: Good afternoon, Gzim.

9 THE WITNESS: What's up, Derek?

10 MR. BANSLEY: I have written down that

11 you said during the hazing incident, when all

12 this was going on, you're in the middle of

13 this with another officer and you were in

14 fear for your life?

15 THE WITNESS: Yeah.

16 MR. BANSLEY: Is there -- I guess, can

17 you expound on that at all?

18 THE WITNESS: Well, here's the thing.

19 I didn't -- you're just in shock, Derek. You

20 know what I mean?

21 So when you're getting hit with

22 those, I mean, you're in fear for your life.

23 You don't know what's going on. So it's more

24 of a shock factor that you are in fear for

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1 your life.

2 So it's really something that I

3 can't explain. It may not make sense to

4 maybe a civilian or even if you're a police

5 officer, but maybe doctors would be able to

6 elaborate, but I was just in shock.

7 And I felt like I was going to

8 die, basically. I mean, injuries like this

9 have happened before where people have died

10 because people are not smart, and they do

11 certain things like haze people.

12 When that happened, like I said,

13 everybody was kitting down. A lot of the

14 times, some people may take away their -- or,

15 remove their -- what's it called? The -- the

16 combo slide where you shoot Sim rounds?

17 What's it called?

18 MR. MITCHELL: The bolt?

19 THE WITNESS: The bolt, yeah. And they

20 would get ready for patrol. You know what I

21 mean? Had they done that and they forgot and

22 they said, "Hey" -- somebody says, "Hey, one

23 more scenario," and then they actually put in

24 real ammo, totally forgetting -- I mean, you

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1 can see that.
2 My wife actually -- when I
3 disclosed this to her, she's like, "You could
4 have died." You know what I mean? I just
5 felt, like, basically shock.
6 MR. BANSLEY: I don't know off the top
7 of my head, but I would assume that you had
8 trainings after with Simunition rounds.
9 THE WITNESS: Yeah.
10 MR. BANSLEY: Did you ever get those
11 feelings then?
12 THE WITNESS: Yeah. So what I did was,
13 I kind of prepped myself.
14 So whenever I would put that bolt
15 into there, I would -- that conversion kit --
16 that's the word I was looking for earlier --
17 I would actually shoot a few rounds just to
18 kind of get accustomed to the sound.
19 And I tried to hide from people.
20 I'm sure people may have seen me, but I would
21 put earbuds in my ears so that would deaden
22 the sound so I wouldn't be reminded of that
23 sound.
24 So I tried to -- I tried to avoid

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1 certain scenarios and tried to help myself
2 kind of cope with what I was coming -- coming
3 to, you know, obviously experience.
4 MR. BANSLEY: Did you ever talk
5 one-on-one with the other officer involved
6 about what happened?
7 THE WITNESS: Maybe very briefly. He
8 said he wasn't happy about it, but, again,
9 here's the thing. You guys know this better
10 than I do. Sieckman was there for three
11 years prior to me being there.
12 He had a relationship with all
13 these other guys. I'm sure he hung out with
14 them. I didn't have that relationship. For
15 me, it was more of an acquaintance at work
16 type of scenario. Yeah, I would like talk to
17 people and stuff like that. I was never
18 hanging out. I maybe hung out once with you
19 guys at, you know. You know what I'm talking
20 about?
21 MR. BANSLEY: A shift outing?
22 THE WITNESS: Yeah. That was before,
23 but I didn't want to be around these guys.
24 You know what I mean?

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1 MR. BANSLEY: Okay. Thank you.
2 MR. POREMBA: No questions.
3 MR. REIMER: I have a couple, and then
4 we'll take a break.
5 FURTHER EXAMINATION
6 BY MR. REIMER:
7 Q. So before the August 11th, 2014
8 incident, call it the "hazing incident," am I
9 understanding you correctly that you would hang
10 out off duty and socialize with other fellow
11 members of the department?
12 A. No. I still didn't. You know, I had
13 just gotten off probation. So what I was told --
14 even Officer Bansley would tell me, Derek -- Roger
15 would tell me, "Kind of keep to yourself. Kind of
16 stay low-key because you're on probation. You
17 don't want to get in trouble or anything like
18 that."
19 So I -- I mean, I -- I didn't. I
20 didn't hang out with them even before.
21 Q. All right. And then after, that didn't
22 change because you hadn't hung out with them off
23 duty and socialized with them.
24 A. No. Even when people would ask me,

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1 "Hey, Selmani, are you going to come," I would
2 just say no.
3 Q. Did you end up buying your own AR-15?
4 A. Yeah.
5 Q. When was that, do you know?
6 A. I'm not sure.
7 Q. You don't know if it was before or
8 after August 11, 2014?
9 A. It might have been before. It might
10 have been after. I'm sure they have a record of
11 it maybe. It might have been after.
12 Q. Have you ever, off duty, gone and
13 engaged in paint ball?
14 A. No.
15 Q. As a civilian, you haven't?
16 A. No.
17 Q. Have you ever been involved in any
18 other occupation with where there's been any
19 hazing?
20 A. No.
21 Q. Have you ever been involved in any
22 other occupation where there's any type of
23 initiation?
24 A. No.

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1 MR. REIMER: Did that prompt any
2 questions?
3 Why don't we take a break, and
4 we'll see if you have any redirect.
5 MR. DENHAM: In terms of timing with
6 our witnesses, how much redirect do you think
7 you're going to have, Dave?
8 MR. FIGLIOLI: Maybe a half-hour.
9 MR. DENHAM: Okay. Thank you.
10 (A recess was had from
11 2:02 p.m. until 2:10 p.m.)
12 MR. REIMER: All right. We can resume.
13 Gentlemen, if you're ready, do
14 you have any redirect?
15 MR. RADJA: Yes, we do.
16 REDIRECT EXAMINATION
17 BY MR. RADJA:
18 Q. Officer Selmani, there was some
19 questioning by counsel for the Village. He had
20 asked why you never disclosed to the pension board
21 Dr. Geiss as a treater.
22 What's the reason you never disclosed
23 Dr. Geiss as a treater?
24 MR. DENHAM: Objection; asked and

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1 answered.
2 MR. REIMER: Overruled.
3 BY THE WITNESS:
4 A. What's the question?
5 BY MR. RADJA:
6 Q. What's the reason you never disclosed
7 Dr. Geiss as a treating physician?
8 A. I saw him briefly that first day, and
9 so I figured that when I disclosed Dr. Waliuddin,
10 that information would be there. It was a brief
11 meeting, and so that's why I didn't disclose him.
12 Otherwise, I would have if I thought
13 about it.
14 Q. Was that during your appointment with
15 Dr. Waliuddin?
16 A. Right. Directly right after.
17 Q. Counsel for the pension board asked you
18 about training that you received with Simunition.
19 Did the Bartlett Police Department
20 conduct any training about safety and using
21 Simunition with Bartlett police officers?
22 A. The instructors would.
23 Q. And when did they do that?
24 A. Before a class.

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1 Q. And what did that entail?
2 A. Just basically, they would do a weapons
3 check, and they would make you wear your
4 protective gear because it's required, basic
5 safety things like that.
6 Q. Okay. So they would talk about safety
7 and wearing protective gear?
8 A. Yes.
9 Q. And what type of gear would they
10 discuss making sure you wear?
11 A. Just long sleeves. Again, it was also
12 on a personal basis. Some people wouldn't wear
13 long sleeves, but it was -- it was recommended
14 that you wear long sleeves, either a face mask,
15 helmet, you know, a cup, kneepads, BDUs, or
16 long-sleeve pants -- or, pants, rather.
17 You know, you can wear a vest as well.
18 Q. And would you wear your protective gear
19 when you were aware you were going to be hit with
20 Simunition?
21 A. Yes.
22 Q. Did you wear protective gear for all
23 the training with the SPEAR Team after the hazing
24 incident?

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1 A. Yes.
2 Q. At any time you were -- you may have
3 been hit after the hazing incident, were you
4 wearing protective gear?
5 A. Yes.
6 Q. On the date of the hazing incident when
7 you were struck 30 to 50 times, were you wearing
8 protective gear at that time?
9 A. No.
10 Q. Were you expecting to be hit by
11 Simunition at that time?
12 A. No.
13 Q. Did you consent to being shot at close
14 range with Simunition during that exercise?
15 A. No.
16 Q. You were asked by counsel for the
17 Village whether or not you thought the action were
18 criminal, and you didn't file a criminal charges.
19 Do you want to tell the members of the
20 board why you didn't seek criminal charges against
21 fellow officers?
22 MR. DENHAM: Objection; asked and
23 answered.
24 MR. REIMER: Overruled.

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1 BY THE WITNESS:
2 A. The reason why I didn't seek criminal
3 charges is because I knew that it was going to
4 affect their families. I knew that they would
5 have lost their jobs, their pensions, and, in
6 turn, it would have affected their families.
7 Again, I don't want to bring discredit
8 to the police department. There's many reasons.
9 I thought about National Night Out, how it was
10 such a big thing that Bartlett did.
11 And so, you know, I wouldn't say
12 concerned, but, you know, they liked their awards
13 and stuff like that here. So I didn't want to
14 bring discredit to the Bartlett Police Department
15 the community members kind of saying, like, "Well,
16 what kind of jokers are these guys doing this?"
17 I also thought about the DARE officers
18 that would go to schools that would talk about
19 bullying. They would talk about harassment, how,
20 you know, embarrassed they would be to actually do
21 such a thing if this got out.
22 Here's the thing. I thought about this
23 police department before I thought about myself,
24 and they want to attack my integrity. The only

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1 people that they should attack, as far as
2 integrity is concerned, is the SPEAR Team, besides
3 Gary Mitchell. That's it.
4 So I put myself -- I put them ahead of
5 myself.
6 BY MR. RADJA:
7 Q. Were you embarrassed after this
8 incident?
9 A. Yeah. Shameful. I mean, anybody would
10 be.
11 Q. Counsel for the Village asked you about
12 rules and regulations for reporting incidents in
13 the Bartlett Police Department. He cited to
14 Rule 49 and 50.
15 Were ever disciplined for not following
16 a reporting rule for the Bartlett Police
17 Department?
18 A. No.
19 Q. And did any other officer report this
20 hazing incident?
21 A. No. They -- not from my recollection.
22 If they did, it was never disclosed. They might
23 have just been kind of been like hush-hush.
24 So from my knowledge, no.

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1 Q. And, in fact, you were the only one to
2 report the hazing incident, is that right?
3 A. Correct.
4 Q. Is there ever a time where the member
5 of the SPEAR Team asked you not to report the
6 hazing incident?
7 A. Yes.
8 Q. Can you tell the members of the board
9 about that?
10 A. Well, I -- when I resigned from the
11 SPEAR Team, it was in November of 2017. I
12 remember recalling having a conversation with
13 Officer Bubis, and he didn't ask me why I resigned
14 because he knew that I was not happy with them,
15 with the SPEAR Team.
16 What he basically said is, "Please
17 don't disclose the hazing because we would all be
18 fired," and I said I wasn't, and I didn't until
19 two years later until I needed -- that I knew I
20 needed treatment.
21 And that came about from the
22 December 13th training session where -- I mean, he
23 just got triggered by Commander Winterstein and
24 scared for -- for his safety.

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1 Q. Since reporting the hazing incident,
2 have you received any benefits from the police
3 department?
4 A. Up until my FMLA expired, no. I
5 believe my -- after I was -- like I told
6 Mr. Reimer, I was given my vacation, my sick time
7 hours, I believe, two weeks after my FMLA expired.
8 And that was the last time I actually
9 received payment, but my health benefits weren't
10 expired until maybe a couple months after that.
11 Q. So receipt of FMLA benefits, that
12 simply allowed you to take time off without pay,
13 right?
14 A. Yeah. I would have to use my own
15 accrued sick time, vacation time. So that's
16 correct.
17 Q. And after reporting the hazing
18 incident, did you receive PEDA benefits for the
19 hazing incident from that January 2019 to the
20 present?
21 A. No.
22 Q. Did the Village ask you to resign after
23 you reported the hazing incident?
24 MR. DENHAM: Objection. I believe --

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1 actually, lack of foundation.
2 And just so you know, I think
3 this is touching upon settlement discussions.
4 MR. REIMER: What's your response?
5 MR. RADJA: They opened the door by
6 asking about the civil lawsuit and asking him
7 about -- they actually asked him about
8 resignation, I believe, during their cross
9 examination.
10 MR. DENHAM: I don't think I asked him
11 a question about resignation.
12 MR. REIMER: No. I think I asked that,
13 and I think your client volunteered that
14 there was potentially a settlement discussion
15 in front of the magistrate, but don't -- I'm
16 not going to allow questions involving
17 settlement discussions.
18 I mean, it's out there. What the
19 specifics are, I'm not going to allow that.
20 So can you rephrase your
21 question?
22 MR. RADJA: Yeah. I will.
23 BY MR. RADJA:
24 **Q. Prior to any civil lawsuit that you**

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1 **filed, after you asked for benefits from the**
2 **Village, did anyone ask you to resign?**
3 MR. DENHAM: Objection; lack of
4 foundation. And, again --
5 MR. RADJA: How could that be an offer
6 of settlement? That was before any lawsuit.
7 MR. DENHAM: Can they at least
8 establish some sort of foundation on when
9 this actually occurred? And I would assume
10 it will be a reference to settlement
11 discussions.
12 MR. REIMER: Right. Lay a foundation.
13 For now, I'm going to sustain it. Lay a
14 foundation.
15 BY MR. RADJA:
16 **Q. Do you know when you filed your civil**
17 **lawsuit?**
18 A. I believe April of 2020, I believe.
19 **Q. And prior to April of 2020, had you**
20 **asked for benefits from the Village or the police**
21 **department?**
22 A. Yes.
23 **Q. And who did you ask for benefits from?**
24 A. I initially asked for paid leave, and I

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1 sent an email to Deputy Chief Snider. I would say
2 about a day or two later, I had a meeting with
3 Deputy Chief Snider and Janelle Terrance, the
4 human resources director for the Village of
5 Bartlett, and Chief of Police Patrick Ullrich in
6 Chief Ullrich's office.
7 I asked for paid leave. Chief Ullrich
8 told me that they had nothing in place for paid
9 leave, but he recommended that I can take FMLA
10 leave, and I subsequently had to do that.
11 **Q. When your FMLA leave expired, do you**
12 **know when that was?**
13 A. I believe May 21st, 22nd, around that
14 time.
15 **Q. Of 2020 or 2019?**
16 A. 2019.
17 **Q. And did you subsequently ask for any**
18 **paid leave after your FMLA leave had expired in**
19 **May 21st, 22nd, 2019?**
20 A. Yes. I filed a grievance, I think, the
21 next day after I was told that my FMLA expired for
22 that.
23 **Q. And with regard to the grievance, did**
24 **anyone from the Village ask you to resign after**

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1 **filing your grievance?**
2 MR. DENHAM: Objection. Again, there's
3 no foundation.
4 MR. REIMER: Overruled.
5 BY THE WITNESS:
6 A. Can you repeat the question?
7 BY MR. RADJA:
8 **Q. After you filed your grievance when**
9 **your FMLA expired, had anyone from the Village**
10 **asked you to resign?**
11 A. Yes.
12 **Q. Who was that?**
13 A. Well, through communication, the
14 Village administrator, Paula Schumacher, sent
15 me --
16 MR. DENHAM: Objection. Again, her
17 communication is not --
18 MR. REIMER: Hold on. Time out.
19 You've got to listen to the question --
20 THE WITNESS: Okay.
21 MR. REIMER: -- and answer only the
22 question.
23 THE WITNESS: Okay.
24 MR. REIMER: We'll get through this a

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1 lot earlier, a lot easier.
2 THE WITNESS: Yeah.
3 MR. REIMER: So this is not you telling
4 me -- as an offer of proof, this is not in
5 the context of a settlement discussion,
6 correct?
7 MR. RADJA: None that I'm familiar with
8 dealing with the lawsuit, correct.
9 MR. REIMER: So this is a question that
10 relates to when and if.
11 Was there any request by any
12 Village official for a resignation?
13 MR. DENHAM: Objection. He just said
14 that he filed a grievance. His response was
15 not in the context of the federal lawsuit. I
16 don't know if a federal lawsuit was even
17 filed at that point.
18 MR. REIMER: Okay.
19 MR. DENHAM: There was communication,
20 though. He just testified there was some
21 sort of communication.
22 My guess is, he's going to say
23 that it was the union attorney who
24 communicated through him.

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1 MR. REIMER: Well, let's see what he
2 says.
3 So the question is, go back to
4 whether -- it sounds to me like it's fair
5 game whether or not there's a resignation, if
6 anybody ever asked him, not in the context of
7 settlement discussions.
8 So I think you can ask that
9 question, and he can answer it, but, Officer,
10 help us out here.
11 THE WITNESS: Yeah.
12 MR. REIMER: Just, if you can, "yes" or
13 "no" or, "I don't recall." If you can answer
14 it.
15 BY MR. RADJA:
16 Q. I don't want you to tell me what was
17 said --
18 A. Okay.
19 Q. -- with respect to this question.
20 A. Sure.
21 Q. Did anyone from the Village ask you to
22 resign after you filed your grievance?
23 A. Yes.
24 Q. And who was that?

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1 A. My attorney told me I had to resign, my
2 MAP union attorney.
3 Q. Other than your MAP union attorney, did
4 anyone from the Village tell you that they wanted
5 you to resign?
6 A. Through my attorney, they told me that
7 I had to resign if I wanted the benefits.
8 Q. You chose not to resign?
9 A. Correct.
10 Q. And did you ever receive benefits after
11 you chose not to resign?
12 A. No.
13 Q. Was it after this conversation where
14 you were asked to resign that you contemplated
15 filing a civil lawsuit?
16 A. Yeah. That was my only option, after
17 they denied my benefits.
18 Q. Simunition is very different than a
19 paint ball used in -- by civilians in
20 entertainment games, isn't it?
21 A. Yes.
22 Q. And from your police officer
23 perspective, what's the difference?
24 MR. DENHAM: Objection. Is there any

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1 foundation here about how he's an expert on
2 Simunition versus regular paint ball?
3 MR. REIMER: Yeah. I think that's a
4 fair question. I think I asked him if he
5 ever engaged in paint ball, and he said he
6 didn't.
7 So if you want to lay -- I'm
8 going to sustain it unless you can lay a
9 foundation.
10 BY MR. RADJA:
11 Q. Are you familiar with paint balls that
12 are used in paint ball guns for entertainment
13 purposes?
14 A. Somewhat. I mean, I have never used
15 them, but I am familiar somewhat.
16 Q. Have you seen them?
17 A. Yes.
18 Q. And have you also seen Simunition that
19 utilized during training?
20 A. Yes.
21 Q. And in your experience, is there a
22 difference between the two?
23 MR. DENHAM: Objection. I don't think
24 he has any firsthand experience with the

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1 former.
2 MR. REIMER: Yeah. I'm going to
3 sustain that one.
4 BY MR. RADJA:
5 Q. The role players or civilians that
6 participated in the SPEAR training, were they
7 wearing protective gear?
8 A. Yes. They were required.
9 Q. To your knowledge, were they aware that
10 they were going to get hit with Simunition during
11 their participation?
12 A. Yes.
13 Q. And they volunteered to do that?
14 A. Yes.
15 Q. During that SPEAR training, were police
16 officers instructed where to aim for civilian
17 volunteers, to your knowledge?
18 A. Usually, they would say kind of the
19 body, but I'm not sure because they're not the
20 ones telling me. They were telling them.
21 So I'm not sure.
22 Q. Well, when you participated in the
23 training, would supervisors or training officers
24 instruct you where to aim when you're shooting

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1 civilian participants?
2 A. Usually, it's center mass, but any hit
3 is a good hit when you're training.
4 Q. Were the civilian role players provided
5 protection?
6 A. They were told to bring their own, and
7 then if they didn't have a particular piece of
8 protection, that would be provided.
9 Q. The first time you reported the
10 psychological difficulties you were having with
11 coping with the hazing incident was when?
12 A. With Commander Naydenoff.
13 Q. Was that in January of 2019?
14 A. Yes.
15 Q. And the member of the board asked you
16 about -- he referred to it as "inconsistencies"
17 and not telling people certain things after the
18 hazing incident.
19 Why didn't you tell physicians that you
20 had treated with up until January of 2019 about
21 the hazing incident?
22 A. I was afraid for -- to lose my gun and
23 badge. I was trying to just internalize
24 everything.

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1 Q. Well, if there was -- if you were
2 talking to a treating physician, there was a
3 privilege there.
4 Why would you think you would lose your
5 gun and badge?
6 A. There would just be scenarios where I
7 would think that they would tell the police
8 department. It was just that I was
9 psychologically unfit.
10 I had these obsessive thoughts, and I
11 was just afraid that it would come out, and it
12 would be disclosed, and that's the last thing I
13 wanted.
14 Also, I wanted to be a police officer,
15 even to this very day.
16 Q. You were asked about whether or not any
17 new SPEAR Team members had undergone the same
18 hazing that you did.
19 Were there other members appointed to
20 the SPEAR Team after you were already on that
21 team?
22 A. Yes.
23 Q. And did you ever see any hazing
24 incidents with any of those new members?

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1 A. Well, I believe I had resigned at that
2 point, but I had asked, and they said no.
3 Q. Any of the training you participated in
4 after the hazing, you always wore protective
5 equipment?
6 A. Yes.
7 Q. How many civilians in your estimation
8 were hit with Simunition during the training
9 exercises?
10 A. I mean, I -- I can't really say. I
11 mean, they were hit. I don't know if every single
12 one was hit during the training session or two of
13 them were hit or five of them were hit, but they
14 were hit.
15 Q. Do you recall if they were ever hit --
16 MR. DENHAM: Objection; calls for
17 speculation.
18 MR. RADJA: I didn't finish my
19 question.
20 MR. REIMER: Yeah. Let him finish.
21 MR. DENHAM: Sorry.
22 BY MR. RADJA:
23 Q. Do you recall if civilians were hit
24 with 30 to 50 rounds?

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1 A. No.

2 MR. DENHAM: Objection; calls for

3 speculation.

4 MR. REIMER: Overruled. If you know.

5 BY THE WITNESS:

6 A. Not that I was there.

7 MR. REIMER: You can cross him on that.

8 BY MR. RADJA:

9 Q. The member of the board asked you about

10 the letter you submitted on April 1st, and then

11 you applied for a pension on April 5th.

12 Do you recall that line of questioning?

13 A. Yes.

14 Q. Did you receive a memorandum from the

15 chief of police between those two dates, between

16 your memorandum and the date that you applied for

17 pension?

18 A. Yeah. I believe April 3rd.

19 Q. If I could direct your attention to

20 Page 665 of Board Exhibit 8A.

21 MR. DENHAM: I'm sorry. What was that

22 number?

23 MR. RADJA: 665.

24

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1 BY MR. RADJA:

2 Q. Officer, it's pulled up on the screen

3 here.

4 A. Sure.

5 Q. Is that the memorandum you received

6 from the chief of police on or about April 3rd of

7 2019?

8 A. Yes.

9 Q. And at that time, he indicated that he

10 was going to send you for a fitness-for-duty

11 examination and put you on administrative leave,

12 right?

13 A. Right.

14 Q. And in this memorandum, it says, "With

15 pay."

16 Were you put on administrative leave

17 with pay at that time?

18 A. No.

19 Q. And it was after this memorandum and

20 after you spoke with a union official and/or

21 attorney that you filed your disability

22 application?

23 A. Correct.

24 Q. Had any doctor, at that point in time,

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1 indicated to you that -- strike that.

2 Had you treated with a psychiatrist at

3 that point in time?

4 A. No.

5 Q. On the date of the hazing incident, did

6 you have any reason to believe that you were going

7 to be shot 30 to 50 times by fellow officers?

8 A. No.

9 Q. I want to direct your attention to

10 Page 187 of the board exhibits. I think it's

11 Board Exhibit 5.

12 You were asked by counsel for the

13 Village about this document wherein you reported

14 to Alliance Clinical Associates that you had a

15 knee injury, patella strain, during training. You

16 were concerned about, quote-unquote, "faking

17 injuries."

18 Did you report that to your treating

19 physician at that time?

20 A. I said that the Village seemed like

21 they were concerned that I was faking injuries.

22 Q. That's what you recall telling them?

23 A. Correct.

24 Q. After you sustained the knee injury

Page 341

1 during a training exercise, you sent a picture to

2 your supervisor, right?

3 A. Immediately after, correct.

4 Q. Why did you do that?

5 A. Because when I told Sergeant Sweeney in

6 the training about my swollen knee, he said that,

7 "I'm not a doctor. I don't know what your knee

8 looks like."

9 And so just to show proof, I sent him

10 the photo. As soon as I got out to my car,

11 grabbed my cell phone, sent it to him, and I typed

12 him right after the photo of my clearly swollen

13 knee.

14 I said, "Just for evidence," because it

15 was apparent that they did not believe me, which

16 at that time during training, really upset me.

17 Q. From the time that the injury first

18 occurred during the training until when you sent

19 that photo, the condition of your knee changed?

20 A. Not really. I mean, it was swollen.

21 It got worse later in the day.

22 Q. And you never filed a Worker's

23 Compensation claim with respect to the knee

24 injury, did you?

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1 A. No.

2 MR. RADJA: That's all the questions I

3 have at this time.

4 MR. REIMER: Thank you. Counsel,

5 recross?

6 MR. DENHAM: Yes.

7 RECROSS EXAMINATION

8 BY MR. DENHAM:

9 Q. You mentioned some sort of incident in

10 and around 2017 later to Officer Bubis, is that

11 correct?

12 A. Correct.

13 Q. At no point have you ever complained in

14 writing about that alleged conversation with

15 Officer Bubis, have you?

16 A. Not in writing, no.

17 Q. So when you were writing the Village

18 administrator in April, you didn't mention that

19 conversation you had with Officer Bubis?

20 A. No.

21 Q. Did you mention that conversation

22 during the internal investigation that the Village

23 conducted through REM?

24 A. No.

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1 Q. Prior to this hearing today, did your

2 attorneys tell you that the Village was intending

3 to call Officer Bubis today?

4 A. I believe so, yes.

5 Q. So you're claiming now that you were

6 hit 50 times during this alleged hazing incident?

7 A. I've always have. 30 to 50 times, yes.

8 Q. Well, actually, you've always claimed

9 that you believe the number of rounds shot was

10 between 30 and 50, is that right?

11 A. Correct. It was an estimate.

12 Q. And all of these rounds were not shot

13 towards you, were they?

14 A. I believe they were.

15 Q. So the other officer who was in the

16 middle with you was not shot during this incident?

17 A. You'd have to ask him. I mean, I -- I

18 had a lot more pain on me than he did.

19 Q. Earlier in your testimony, you talked

20 about three specific marks following this

21 incident, is that correct?

22 A. I mean, I mentioned two, and then I had

23 small ones, yes.

24 Q. Well, you mentioned the two that were

Page 344

1 embedded in your arm, is that right?

2 A. Two Sim rounds, yes.

3 Q. And you mentioned one that was in your

4 leg, right?

5 A. Not just one. It was -- I don't know

6 how many times I was hit in the legs.

7 Q. But you're now saying that it was

8 approximately 47 more times?

9 A. I don't understand the question.

10 MR. RADJA: Objection; mischaracterizes

11 prior testimony.

12 BY MR. DENHAM:

13 Q. Are you saying you were shot 47 more

14 times in your legs?

15 A. I don't know how many more times I was

16 shot. It's just an estimate.

17 Q. You didn't notice how many times you

18 were shot by the marks?

19 A. Do you want me to count out 50 marks?

20 No. I was shot 30 to 50 times, is what

21 I estimated, and that's it.

22 Q. And you were asked earlier by one of

23 the board members if you took any photos. You

24 admit you didn't take any photographs of the

Page 345

1 marks, right?

2 A. Correct.

3 Q. You were asked by one of the board

4 members something about your shoulder injury in

5 2016.

6 Do you recall that?

7 A. I don't know if I mentioned 2016, but I

8 do recall him mentioning -- I think it was John

9 that mentioned something about a shoulder injury,

10 yes.

11 Q. Well, you had a shoulder injury in

12 2016, is that right?

13 A. Correct.

14 Q. And somewhere in 2016-2017, you were at

15 maximum medical improvement with that shoulder

16 injury, is that right?

17 A. Repeat the question. I couldn't really

18 hear.

19 Q. Were you at maximum medical improvement

20 with your shoulder injury sometime in 2016-2017?

21 A. In 2017, when I was returned to full

22 duty, I was told by my physical therapist that,

23 yes, I was.

24 Q. So you're -- following that date, you

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1 no longer have any short of therapy -- treatment
2 for that shoulder, is that right?

3 A. No. I wear -- I wear a shoulder brace
4 because Officer Solesky battered me from it a
5 year -- I believe a year later.

6 Q. And you sought treatment through your
7 personal physician following that alleged battery,
8 is that right?

9 A. Because I was directed by Deputy Chief
10 Snider to do so, yes.

11 Q. And since that date, have you sought
12 any treatment for your shoulder?

13 A. No.

14 Q. You testified earlier that you still
15 have issues with that shoulder, is that right?

16 A. Correct. I'll just have to live with
17 it.

18 Q. And you attribute those issues with the
19 reason for why you're no longer able to work out
20 as vigorously, is that right?

21 MR. RADJA: Objection; asked and
22 answered, goes beyond the scope of redirect.

23 MR. DENHAM: I'm just trying to set up
24 the question.

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1 MR. REIMER: Overruled.
2 BY THE WITNESS:
3 A. What was the question?
4 BY MR. DENHAM:
5 Q. Yeah. You allege those issues with
6 your shoulder were the reason why you were no
7 longer able to work out as rigorously, is that
8 right?

9 A. Correct. Because of my shoulder,
10 correct.

11 Q. During our first hearing, though,
12 didn't you say that the thing that really helped
13 you prior to the shoulder injury was
14 high-intensity sprint training?

15 A. High-intensity strength training.

16 Q. Okay. So --

17 A. Not sprint training. Strength. That's
18 resistance training.

19 Q. And you haven't tried any sort of other
20 exercises related to your limitations with your
21 shoulder since -- since being MMI?

22 A. I mean, I still work out. It's just
23 not the -- not to the intensity. I do bands.
24 I'll try to do yoga. It helps me with kind of

Page 348

1 keeping myself grounded, but nowhere to the
2 intensity that I used to have prior to my shoulder
3 injury.

4 Q. One of the board members asked you
5 about who told you to get in the middle during the
6 initiation incident.

7 Do you recall that?

8 A. Yes.

9 Q. I believe today that you testified that
10 you thought it was Winterstein who told you that,
11 is that right?

12 A. Yeah. Again, I believe it was him,
13 yes.

14 Q. During our first hearing, didn't you
15 say that you thought it was Winterstein, but
16 you're not really not sure?

17 A. That's correct.

18 Q. And today, you also testified that you
19 don't have a very good memory of that incident to
20 start with?

21 A. There's certain things I don't recall
22 because of the traumatic incident that I was
23 subjected to.

24 Q. Is who told you to get in the middle of

Page 349

1 the circle one of those things you don't recall?

2 A. Yeah. Again, I wasn't definitive in
3 saying, yeah, who definitely did it. I've always
4 been -- I've always said that.

5 Q. Today you testified that you followed
6 all of your treatment recommendations, is that
7 right?

8 A. Yes.

9 Q. Didn't Dr. Waliuddin recommend that you
10 seek therapy?

11 A. Yeah, he did, and I did. I believe
12 Mr. Reimer said from Marseilles on because I did
13 mention that I only went there once, and I don't
14 really consider him a treating doctor because I
15 started thinking that he knew about my hazing
16 because of my obsessive thinking.

17 And so I thought he was going to
18 disclose this information to the police
19 department. So I never went back, and the record
20 reflects that. I went there once and never again
21 to return.

22 Q. And so do you think that you followed
23 Dr. Waliuddin's treatment recommendations to
24 attorney attend therapy?

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1 A. I didn't follow him at all. I didn't
2 consider him a treating physician.

3 Q. But you did seek treatment from him
4 related to psychological issues, is that right?

5 A. Correct. Something that was false.

6 Q. You testified earlier that there was
7 another member of the department who was able to
8 have some sort of marks removed by filing
9 paperwork, is that right?

10 A. Correct. From what I was told, yes.

11 Q. And you mentioned that that sergeant
12 filed paperwork with Janelle Terrance in the HR
13 department, is that right?

14 A. Correct.

15 Q. After this incident, did you ever
16 follow up with Janelle Terrance to request similar
17 treatment?

18 A. I asked Sergeant Rummell, trying to
19 abide by the chain -- chain of command. Excuse
20 me.

21 And he didn't provide that information.
22 And so, no, I did not. I didn't want to break the
23 chain of command.

24 Q. And after he never followed up, you

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1 never followed up with Janelle Terrance, did you?

2 A. He never gave me the okay to do it.
3 So, no, I did not.

4 Q. So it was your understanding that you
5 had to have a request to seek treatment approved
6 by that sergeant?

7 A. Well, you follow the chain of command
8 in law enforcement. So, yes, I did.

9 Q. Is Janelle Terrance in your chain of
10 command?

11 A. Not -- not from my understanding, no.

12 Q. You can report workplace injuries to
13 the director of HR, can't you?

14 A. Yes, I can.

15 MR. DENHAM: Bear with me just one
16 second.

17 Mr. Reimer, the exhibits that I
18 sent to you on Friday, did you disseminate
19 those to the board members?

20 MR. REIMER: I did not.

21 MR. DENHAM: Okay. I thought you may
22 say that. I'm going to show you what has
23 been previously marked.

24 MR. FIGLIOLI: At this time, I'm going

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1 to make an objection. Objection; no
2 foundation, no authentication to whatever --
3 I looked at the exhibits.

4 And looking at Village Exhibits
5 No. 2 -- well, all of 2, 2.1, 3, and 4, my
6 objection is lack of foundation, lack of
7 authentication.

8 MR. DENHAM: All of these exhibits are
9 found on the internet, and we can search the
10 internet right now.

11 MR. REIMER: It must be true, then, if
12 it's on the internet.

13 Why don't you approach --

14 MR. DENHAM: Well, I'd like to then ask
15 about the applicant questions --

16 MR. REIMER: Let me -- let me --

17 MR. DENHAM: -- based on what I found.

18 MR. REIMER: They're marked. Do you
19 have copies?

20 MR. DENHAM: I have copies.

21 MR. REIMER: For all board members.

22 MR. DENHAM: I do.

23 MR. REIMER: Why don't you distribute
24 those. Those have been marked. They have

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1 not been admitted.

2 So right now, all you're doing is
3 asking questions, correct?

4 MR. DENHAM: Yes.

5 (Documents tendered.)

6 MR. REIMER: So let's take it a step at
7 a time.

8 MR. FIGLIOLI: At this time,
9 Mr. Reimer, again, I'm going to make an
10 objection.

11 I don't believe that they should
12 be disseminated for the board to review since
13 a ruling hasn't been made on whether they'll
14 be admitted or not.

15 MR. REIMER: And if they're not
16 admitted, they won't be considered, and the
17 board will be instructed accordingly, but I
18 say that you're going to have to lay a
19 foundation.

20 MR. DENHAM: Sure.

21 MR. SIAS: By the way, are we supposed
22 to be reading this?

23 MR. REIMER: Just have it in front of
24 you if you want. Let's see how it goes. You

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1 handed me Village Exhibit No. 3?
2 MR. DENHAM: Yes.
3 BY MR. DENHAM:
4 Q. Mr. Selmani, in terms of the actual
5 Simunition product that you used during this
6 training incident, is it consistent with the
7 Simunition FX training system non-lethal,
8 reduced-energy product that I just sent you a
9 handout of?
10 MR. FIGLIOLI: At this time, I will
11 make an objection. The applicant is not
12 qualified to lay a foundation for specificity
13 of rounds that the Village is suggesting at
14 this particular system or rounds. [Sic].
15 He's not qualified to lay the
16 proper foundation for this document.
17 MR. DENHAM: I believe during direct --
18 during direct questioning, I believe he
19 testified, based on a leading question, about
20 the miles per second that this product moved.
21 So I think he did --
22 MR. REIMER: I'm going to overrule it.
23 Let him answer the question.
24 I would agree he's not qualified

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1 as an expert witness. I assume you're asking
2 him questions based upon his experience,
3 education, and training as a police officer?
4 MR. DENHAM: Yes.
5 MR. REIMER: Okay. So you can ask the
6 question. That doesn't mean it's coming into
7 evidence.
8 BY THE WITNESS:
9 A. Repeat, please.
10 BY MR. DENHAM:
11 Q. Sure. The product that you used during
12 these trainings, was it this FX training system
13 non-lethal, reduced-energy?
14 A. They look like it on paper, but I don't
15 have a live round in front of me to -- to really
16 tell you.
17 MR. REIMER: All right. So let's speed
18 this up. You don't know?
19 THE WITNESS: No.
20 MR. REIMER: Have you ever seen this
21 document?
22 THE WITNESS: No.
23 MR. DENHAM: Well, can I just ask one
24 follow-up on that?

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1 BY MR. DENHAM:
2 Q. You said it looks like it on paper.
3 Are you referring to the photographs at
4 the top of this page? Is that consistent with the
5 product that you used?
6 A. Yeah. It looks like it on paper, yes.
7 Q. And you -- this appears to be a web
8 printout from the Simunition web page.
9 You are saying that you used the
10 products that was by a company called Simunition,
11 is that right?
12 A. From what I recall, yes.
13 MR. DENHAM: Okay. I'll move on.
14 MR. REIMER: I assume you could
15 authenticate this with another witness.
16 MR. DENHAM: Yeah. I'll have to call
17 the chief for that. That's fine.
18 MR. REIMER: So Village Exhibit No. 3,
19 you can have for now, but it's not formally
20 admitted into evidence.
21 BY MR. DENHAM:
22 Q. Officer Selmani, under Rule 52 of the
23 department's code of conduct, officers are
24 prohibited from making a false report or

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1 statement, whether written or oral, is that right?
2 A. Waiting for -- what tab number?
3 Q. I don't think it's in a tab. I think I
4 gave you Village Exhibit 1 previously which is a
5 copy of the --
6 A. Yeah. I don't have it.
7 Q. -- department's code of conduct?
8 MR. FIGLIOLI: Which number, Paul?
9 MR. DENHAM: Again, it's Village
10 Exhibit 1. I think I handed it out
11 separately.
12 MR. FIGLIOLI: Yeah. Which rule?
13 MR. DENHAM: Oh, I'm sorry. Rule 52.
14 MR. REIMER: It should be Page 16 of
15 18.
16 BY THE WITNESS:
17 A. Yes. That's what it says.
18 BY MR. DENHAM:
19 Q. Well, is that consistent with your
20 understanding as a police officer, that you were
21 prohibited from making a false report or statement
22 whether written oral?
23 A. Yes.
24 Q. Have you ever heard the phrase "if you

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1 lie, you die"?

2 A. No.

3 Q. You are familiar with the fact that all

4 police officers are always supposed to tell the

5 truth, right?

6 A. Sure. Allegedly.

7 Q. What do you mean by "allegedly"?

8 A. Everybody is supposed to be honest.

9 Are they? I mean, I don't know how to answer

10 that.

11 Q. Well, police officers actually have a

12 responsibility to testify honestly and truthfully

13 in court, is that right?

14 A. That's correct.

15 Q. And any sort of dishonesty could impair

16 the department's mission with respect to

17 prosecuting wrongdoers, is that right?

18 A. Yes.

19 Q. And any sort of instance where an

20 officer has been untruthful in the past might be a

21 situation where it's problematic for the officer

22 to testify in court.

23 Do you agree?

24 A. Sure.

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1 Q. Is that a yes?

2 A. Yes.

3 MR. DENHAM: Can I just have a moment,

4 please?

5 MR. REIMER: Sure.

6 [Brief pause.]

7 BY MR. DENHAM:

8 Q. Officer Selmani, you were asked some

9 questions about the department requesting that you

10 resign, is that right?

11 A. Yes.

12 Q. That communication you're talking about

13 was in the context of settlement discussions, is

14 that right?

15 A. I was never made aware there was going

16 to be -- I was -- I was told that through the

17 Village administrator for me to contact my union

18 attorney to discuss employment.

19 Q. I'm just asking you whether it was in

20 the context of settlement discussions.

21 A. I only found out afterwards, yes.

22 MR. DENHAM: I ask for the previous

23 testimony to be stricken from the record.

24 MR. REIMER: Let me ask you this.

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1 So if I understand you correctly,

2 there was a grievance filed, correct?

3 THE WITNESS: Correct.

4 MR. REIMER: After the grievance was

5 filed, then -- is that when you subsequently

6 learned there was an offer of settlement to

7 get you to resign if you dropped the

8 grievance?

9 THE WITNESS: Yeah, but I want to

10 clarify, though. I was never --

11 MR. DENHAM: I object to any sort of

12 clarification unless I have the ability to

13 show the union settlement offer which the

14 Village responded to.

15 MR. REIMER: Any objection to showing

16 the Village settlement offer? If not, I'm

17 inclined to strike the testimony.

18 MR. RADJA: I have no objection?

19 MR. REIMER: You have no objection?

20 All right.

21 So I'm going to overrule it. You

22 can answer the question. And if you would

23 like to introduce that --

24 MR. DENHAM: Well, I'll just ask

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1 questions, and if he doesn't agree to it,

2 then maybe I'll produce the document.

3 MR. REIMER: Okay. Fair enough. Go

4 ahead.

5 BY MR. DENHAM:

6 Q. Officer Selmani, do you recall the

7 union making an offer through Gary Deutschle, who

8 I believe is a MAP attorney?

9 A. Yes.

10 Q. And as part of that settlement offer,

11 the union said that, "Officer Selmani will waive

12 reinstatement with the Bartlett Police

13 Department," is that right?

14 A. Will waive reinstatement?

15 Q. Yes.

16 A. I'm not sure I understand that. I

17 never agreed to resign, if that's what you're

18 asking.

19 Q. I'm just asking you whether the union

20 offered, as a term of a settlement, that

21 Officer Selmani waive reinstatement with the

22 Bartlett Police Department.

23 A. I am really not sure what the question

24 is. I mean --

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1 MR. REIMER: Did you ever authorize
2 Gary Deutschle, as a union attorney, to enter
3 into settlement discussions on your behalf?
4 THE WITNESS: Not initially, no.
5 MR. REIMER: All right. Subsequent
6 then, did you ever authorize the MAP attorney
7 to offer to waive reinstatement?
8 THE WITNESS: I never agreed to
9 resigning, if that's what you're asking. I
10 don't understand.
11 MR. REIMER: Yeah. That's --
12 THE WITNESS: I'm bilingual. So, I
13 mean --
14 MR. REIMER: That's what I'm asking
15 you.
16 THE WITNESS: So I never agreed to
17 resign.
18 MR. REIMER: The question there -- I
19 think the question that counsel is asking you
20 is, did you authorize MAP, as the MAP
21 attorney, to authorize him to -- as part of
22 the settlement discussion, that you were
23 going to resign?
24 THE WITNESS: I never -- I still don't

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1 understand. I'm sorry.
2 MR. DENHAM: Actually, I think the
3 wording was that, "Officer Selmani will waive
4 reinstatement with the Bartlett Police
5 Department."
6 And I'm quoting verbatim of the
7 email that I'm looking at from August 15th of
8 2019.
9 MR. REIMER: So why don't you ask him
10 if he ever authorized MAP or Gary Deutschle,
11 as an attorney, to make that offer in
12 writing.
13 BY MR. DENHAM:
14 **Q. Did you ever authorize MAP to make that**
15 **offer?**
16 A. I believe what he said is, "As long as
17 you receive a pension, you can go ahead and
18 resign," is what he said.
19 **Q. And part of that offer included the**
20 **fact that the Village of Bartlett would not**
21 **intervene in your pension application, is that**
22 **right?**
23 A. Correct.
24 **Q. And so if the Village of Bartlett**

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1 **agreed that it would not intervene in your pension**
2 **application, you agree that you would waive**
3 **reinstatement with the Bartlett Police Department,**
4 **is that right?**
5 A. If I was receiving a salary, right,
6 through his recommendation.
7 **Q. Do you know if Mr. Deutschle's email**
8 **offer communicated that last part?**
9 A. What was the last part again?
10 **Q. What you just said.**
11 A. Repeat it, please.
12 **Q. You're the one who said it. You said**
13 **that there was some sort of condition about you**
14 **getting a pension. Did --**
15 A. Yes.
16 **Q. -- Mr. Deutschle's offer actually**
17 **communicate that to the Village?**
18 A. He did. Correct.
19 MR. DENHAM: I'm going to have to take
20 some time to print this out to kind of move
21 things along.
22 Would I be able to do that
23 towards the end of the proceedings today?
24 MR. REIMER: You can.

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1 MR. DENHAM: Okay.
2 MR. REIMER: By the way, let me be real
3 clear here. It sounds like there's
4 potentially two settlement discussions, and
5 we're --
6 THE WITNESS: Yeah. That's a different
7 one. Sorry.
8 MR. REIMER: Let me finish. And listen
9 to your attorneys because they got your back.
10 THE WITNESS: Sorry.
11 MR. REIMER: I'm trying to make sure
12 we've got a good record here.
13 What we just heard about, which
14 was the grievance settlement, and then it
15 sounds like you said earlier that in the
16 context of the federal litigation, there's
17 possibly a discussion in front of a
18 magistrate.
19 We're not going -- we're not
20 touching that, right?
21 THE WITNESS: Okay.
22 MR. REIMER: Counsel, when did this
23 email or communication by Deutschle get sent?
24 MR. DENHAM: August 15th, 2019.

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1 MR. REIMER: And that was before or
2 after the federal lawsuit was filed?
3 MR. RADJA: It was --
4 MR. DENHAM: I believe it was before.
5 MR. REIMER: Look, I just don't want to
6 get into settlement conversations. I don't
7 think it's relevant to --
8 MR. DENHAM: And I was overruled, and
9 now I have to. So I'm happy to put this on
10 the record.
11 MR. REIMER: Okay. Fair enough.
12 MR. RADJA: I can put on record that
13 it's -- any of this testimony has nothing to
14 do with an offer of settlement in the federal
15 litigation.
16 MR. REIMER: Okay. Understood.
17 MR. DENHAM: But you chose to put some
18 sort of deal with resignation on the table
19 about how he was forced to resign or asked to
20 resign, and it was all in the context of
21 these settlement negotiations where he
22 initially offered that he would waive
23 reinstatement with the police department.
24 MR. REIMER: Okay. All right. Well, I

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1 think the applicant's attorneys consented to
2 discussion about this. So the testimony is
3 in.
4 I think you can argue that you've
5 impeached him. You can argue that later.
6 What do you want to do with this
7 document? You're going to wait for that?
8 MR. DENHAM: Yeah, I'll wait for that.
9 BY MR. DENHAM:
10 Q. Just one follow-up question, though.
11 You previously insinuated that the
12 Village administrator actually asked you to
13 resign. That's not accurate, is it?
14 A. Through my attorney, they -- they asked
15 me to resign.
16 Q. I'm asking you whether you had a
17 conversation with the Village administrator.
18 A. Oh, she didn't directly, no, but I had
19 my communications with her. So that's -- maybe I
20 misconstrued that.
21 Q. All of your communications about
22 allegedly being asked to resign was through the
23 union attorney, is that right?
24 A. Correct.

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1 MR. DENHAM: I have no further
2 questions at this point.
3 MR. REIMER: All right. Done. Does
4 that prompt any more questions by the board?
5 MR. PALMER: No.
6 MR. POREMBA: Officer, in 2020, the
7 board asked you to meet with three doctors
8 and specifically to find out if you were
9 disabled.
10 In any of those meetings, did you
11 have any times where you might have lied or
12 not told the truth?
13 THE WITNESS: No.
14 MR. POREMBA: That's it.
15 MR. REIMER: All right. Does the
16 applicant rest?
17 MR. RADJA: I have some brief follow-up
18 questions.
19 MR. REIMER: All right. Go ahead.
20 FURTHER REDIRECT EXAMINATION
21 BY MR. RADJA:
22 Q. You've reviewed the redacted REM
23 report, the investigation done by the Village,
24 right?

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1 A. Yes.
2 Q. Is there any dispute that officers
3 admitted to shooting you multiple times?
4 A. No.
5 Q. After treating with Dr. Waliuddin, did
6 you attend therapy with any other treating
7 physicians?
8 A. Not at that time, no.
9 Q. At any time after treating with him?
10 A. No.
11 Q. Did you see a psychiatrist after that?
12 A. No.
13 Q. Did you see a psychologist after that?
14 A. No.
15 Q. Do you still have the blue dye on your
16 forearm?
17 A. Yes.
18 MR. RADJA: If the board members would
19 like to see it, we're more than happy to show
20 you the blue dye on his forearm.
21 MR. REIMER: Sure. Let the record
22 reflect that counsel's offered to have the
23 board review the blue dye on the officer's
24 forearm.

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1 Officer, which arm is it going to
2 be on?
3 THE WITNESS: The left.
4 MR. REIMER: So the record should
5 reflect that the witness is going to show his
6 left forearm.
7 (WHEREUPON, Officer Selmani
8 approached all board members
9 displaying his left arm.)
10 THE WITNESS: You can tell it's
11 discolored where the Sim round went in.
12 MR. REIMER: So the record should
13 reflect that there is what appears to be a --
14 THE WITNESS: It's like a hole.
15 MR. REIMER: It appears to be an
16 approximately a quarter-of-an-inch-round
17 hole, almost like a stippling mark from a
18 shot on the applicant's left forearm,
19 approximately seven inches up from his wrist.
20 MR. DENHAM: Can I see it?
21 THE WITNESS: Yes.
22 (WHEREUPON, Officer Selmani
23 approached Mr. Denham
24 displaying his left arm.)

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1 MR. DENHAM: Thank you.
2 BY MR. RADJA:
3 Q. Officer, you were asked about Rule 52,
4 making a false report or statement?
5 A. Yes.
6 Q. With respect to your disability, any of
7 the reports you've made, have you reported
8 anything falsely to doctors or members of the
9 police department?
10 A. No.
11 Q. Has the department ever initiated
12 disciplinary charges for you allegedly making any
13 type of false statement?
14 A. No.
15 Q. With respect to this August 15th, 2019
16 email discussion between your union representative
17 and the Village, was your recollection as part of
18 this settlement, that you would receive PED
19 benefits?
20 A. Yes.
21 MR. RADJA: I have no further
22 questions.
23 MR. REIMER: No questions?
24 MR. DENHAM: No further questions.

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1 MR. REIMER: All right. Last shot, but
2 because we're getting towards the end of the
3 day here and we want to get to your case in
4 chief, it's going to be limited to questions
5 related to what you just heard testimony on.
6 So, sur-direct.
7 MR. DENHAM: I'm done.
8 MR. REIMER: Done? Okay. Does the
9 applicant rest?
10 MR. FIGLIOLI: Subject to rebuttal from
11 the Village's case in chief, we rest.
12 MR. REIMER: Fair enough. So the
13 applicant has rested. Do you want to take a
14 quick break, or do you want to move into --
15 MR. DENHAM: I think my witnesses are
16 waiting around. So unless --
17 MR. REIMER: Do you want to keep going?
18 MR. PALMER: Yes.
19 MR. REIMER: All right. I will remind
20 you -- you probably remember that you
21 reserved your opening. Did you want to make
22 an opening, or do you want to just go right
23 into the witnesses?
24 MR. DENHAM: Let's go right in.

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1 MR. REIMER: Fair enough. The board
2 appreciates it.
3 (WHEREUPON, Sergeant Michael
4 Tavolacci entered the hearing
5 proceedings.)
6 MR. REIMER: Sir, would you raise your
7 right hand? This lady is going to swear you
8 in.
9 (The witness was duly sworn.)
10 MR. REIMER: Your witness.
11 SERGEANT MICHAEL TAVOLACCI,
12 called as a witness herein, having been first duly
13 sworn, was examined and testified as follows:
14 DIRECT EXAMINATION
15 BY MR. DENHAM:
16 Q. Can you please state your name for the
17 record?
18 A. Michael Tavolacci.
19 THE COURT REPORTER: Could you spell
20 that for me, please?
21 THE WITNESS: Sure. T-a-b-o-l-a-c-c-i.
22 THE COURT REPORTER: Thank you.
23 BY MR. DENHAM:
24 Q. Are you currently employed by the

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1 **Bartlett Police Department?**
2 A. Yes.
3 **Q. In what capacity?**
4 A. A police patrol sergeant.
5 **Q. How long have you served as a sergeant?**
6 A. Two years.
7 **Q. When were you first hired by the**
8 **Village as a patrol officer?**
9 A. September 17th, 2001.
10 **Q. In December of 2018, what was your**
11 **position within the department?**
12 A. I was a patrolman.
13 **Q. And did you have any sort of**
14 **involvement in training activities on**
15 **December 13th, 2018?**
16 A. Yes.
17 **Q. What was your role in the training?**
18 A. I was a role player and instructor.
19 **Q. What type of training was it, if you**
20 **can recall?**
21 A. Defensive tactics, physical skills
22 training.
23 **Q. And what did you do as an instructor?**
24 A. Taught techniques, helped officers

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1 practice the techniques, acted as a role player in
2 the scenario-based training.
3 **Q. What sort of expertise do you have to**
4 **have to do that sort of instructor work?**
5 A. I've been an instructor for going on 13
6 years now and trained by different facets of
7 defensive tactics and certified through the State
8 through classes.
9 **Q. Was the applicant Gzim Selmani involved**
10 **in the training?**
11 A. Yes.
12 **Q. How so?**
13 A. He was a participant, one of the
14 officers participating.
15 **Q. Do you recall anything about**
16 **Officer Selmani at the training?**
17 A. Some of the comments he made were
18 unusual to me.
19 **Q. Backing up a little bit, how did the**
20 **training begin?**
21 A. It begins with a classroom portion in
22 the morning.
23 **Q. And after the classroom portion, what**
24 **happened?**

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1 A. I would go down to the mat room, what
2 we call the mat room, physical skills room.
3 **Q. And was Officer Selmani in attendance**
4 **of that part of the training?**
5 A. Yes.
6 **Q. And then what happened, to your**
7 **recollection?**
8 A. When I got down to the mat room, it's a
9 smallish room, and we were all warming up, getting
10 ready to start the physical aspects.
11 And I recall Officer Selmani saying
12 that -- something to the effect that he was about
13 to go out on Worker's Comp and repeated that more
14 than once.
15 **Q. What did you think when you heard that?**
16 A. I took that to mean that he was
17 intending on getting hurt or expected to get hurt
18 in the training and that he would be claiming
19 Worker's Compensation for the injury.
20 **Q. At that point in the training, had**
21 **Officer Selmani performed any sort of physical**
22 **exercise or --**
23 A. No. We hadn't even started the
24 physical aspects.

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1 **Q. Then what happened, to your**
2 **recollection?**
3 A. We started the physical aspects of the
4 day. At some point, I became aware that he had
5 been allegedly injured into -- in one of the
6 scenarios, the beginning scenarios, which I
7 participated in with him.
8 **Q. So what do you mean by you participated**
9 **with him in that scenario?**
10 A. I acted as the offender, the bad guy in
11 the scenario, the opening scenario. And he was
12 expected to take me into custody and subdue me.
13 **Q. And have you done that sort**
14 **role-playing before?**
15 A. Yes.
16 **Q. And in your experiences with that**
17 **role-playing, did you notice anything irregular**
18 **about Officer Selmani's participation?**
19 A. No.
20 **Q. Based on your experience in that**
21 **role-playing situation, did you believe that**
22 **Officer Selmani injured himself?**
23 A. No.
24 **Q. Was there anything that you did during**

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1 that that would lead to you a conclusion that he
2 might have been injured?
3 A. No.
4 Q. Following -- actually, strike that.
5 When did you find out that he had
6 reported and injured his knee?
7 A. At some point after that initial
8 scenario, I went through several scenarios with
9 other officers, the same scenario.
10 At some point afterward, I remember him
11 taking himself out of the physical aspects of the
12 training and sitting off to the side.
13 Q. Do you recall anything else about
14 Officer Selmani for the rest of the training?
15 A. I remember him getting in some sort of
16 verbal back-and-forth with one of the supervisors
17 that was in the room and doing -- at the training
18 as well.
19 Q. At any point, did you memorialize your
20 experiences in this training in writing?
21 A. I did.
22 MR. DENHAM: For the board, I'm looking
23 at Tab 36. This is Bates-labeled 1484.
24

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1 BY MR. DENHAM:
2 Q. I'm going to show you this document.
3 (Document tendered.)
4 BY MR. DENHAM:
5 Q. Is that the memorandum?
6 MR. FIGLIOLI: What number?
7 MR. DENHAM: It's Tab 36.
8 MR. REIMER: Counsel, tender that to
9 counsel first. Just show him first.
10 MR. DENHAM: Sure. It's Tab 36,
11 Bates-labeled 1484.
12 MR. FIGLIOLI: 1484.
13 BY MR. DENHAM:
14 Q. Is this the memorandum that you wrote?
15 A. Yes.
16 Q. Do you recall how the memorandum came
17 about?
18 A. I'm sorry. I couldn't hear you.
19 Q. I'm sorry. Do you recall how the
20 writing of that memorandum came about?
21 A. Not specifically, but I remember
22 Sergeant Jessica Crowley asking me to author the
23 memo because it had come up that he had been
24 injured and was possibly going to be out for a

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1 while.
2 So it started -- part of normal
3 practice is to document when -- when anybody is
4 injured, to document, you know, the situation.
5 Q. And in that memorandum, you expressed
6 concerns about the comments Officer Selmani made
7 at the beginning of the training, is that right?
8 A. I did.
9 Q. Officer, at any point, were you a
10 member of the SPEAR Team?
11 A. Yes.
12 Q. When were you a member of the
13 SPEAR Team?
14 A. At its inception for about, I don't
15 know, maybe three months. I don't recall the
16 specific time frame.
17 Q. This proceeding involves what has been
18 called a hazing or initiation incident involving
19 the SPEAR Team.
20 Are you familiar with that allegation?
21 A. I've heard some things about it, yes.
22 Q. This alleged incident occurred in or
23 around August of 2014.
24 In August of 2014, were you a member of

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1 the SPEAR Team?
2 A. No.
3 Q. When the physical skills training
4 occurred in December of 2018, did you have any
5 knowledge or did you hear anything about
6 allegations related to hazing or an initiation
7 incident involving the SPEAR Team?
8 A. No.
9 Q. When did you first learn about that
10 rumor or allegation?
11 A. Probably just before Officer Selmani
12 was rumored to have left the department.
13 MR. DENHAM: I have no further
14 questions at this point.
15 MR. REIMER: Cross?
16 CROSS EXAMINATION
17 BY MR. FIGLIOLI:
18 Q. Officer Tavolacci -- again, I'm saying
19 "officer," but you're not an officer anymore,
20 right? You're a sergeant?
21 A. No offense taken.
22 Q. You're a sergeant now?
23 A. Yes.
24 Q. At the time that you wrote this memo,

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1 you were a patrolman.
2 Where were you on the promotion list?
3 MR. DENHAM: Objection; relevance.
4 MR. REIMER: Overruled.
5 BY THE WITNESS:
6 A. I couldn't tell you.
7 BY MR. FIGLIOLI:
8 Q. Were you No. 1 on the promotion list to
9 become sergeant?
10 A. It's possible, yeah.
11 Q. So you don't recall what number you
12 were on a promotion list --
13 A. I don't know what --
14 Q. -- from officer to a sergeant?
15 A. -- officers were on at that time, sir.
16 MR. REIMER: Sergeant, let him finish
17 the question.
18 BY MR. FIGLIOLI:
19 Q. What number were you on the promotion
20 list when you were promoted to sergeant?
21 A. No. 1.
22 Q. Now, you said that you listened or
23 overheard this conversation; it wasn't that
24 Officer Selmani directed it to you, is that

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1 correct?
2 A. Correct.
3 Q. And this instance of overhearing this
4 alleged conversation that occurred, did it occur
5 in the classroom or in the mat room?
6 A. In the mat room.
7 Q. In the mat room. Now, you completed
8 this memorandum to Commander Winterstein on
9 December 14th of 2018, correct?
10 A. Correct.
11 Q. And that's the day after the incident,
12 correct?
13 A. As far as I know, yes.
14 Q. And you accurately reported and
15 completed this memo, correct?
16 A. Yes.
17 Q. And like every officer, you're familiar
18 with the rules of conduct, that you have to be
19 truthful in any kind of oral or written memo or
20 document to the department, is that correct?
21 A. Yes.
22 Q. And you identified individuals who were
23 also in that particular room at the time
24 Officer Selmani made these statements, correct?

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1 A. Correct.
2 Q. And you identified a number of officers
3 that were in the room, an Officer Patrick Carey,
4 is that correct?
5 A. Yes.
6 Q. An Officer Maertzig, is that correct?
7 A. Correct.
8 Q. And are you aware of the fact that they
9 each completed memos as well regarding this
10 incident?
11 A. I've heard that, yes.
12 Q. I'm sorry?
13 A. I've heard that, yes.
14 Q. Have you seen those memos?
15 A. No, I have not.
16 Q. So you're not aware of the fact that --
17 and, again, strike that.
18 I would presume that now that you're a
19 sergeant, you would expect any officer to follow
20 the rules of conduct by the department, correct?
21 A. Yes.
22 Q. So when Officer Carey and Officer
23 Maertzig completed memo, they would have to abide
24 by that as well, is that correct; be truthful?

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1 A. Yes.
2 Q. Are you aware that Officer Carey -- and
3 this is a memo he completed on Page 1485 -- that
4 he did not hear anything regarding Officer Selmani
5 mentioning anything about Worker's Comp?
6 MR. DENHAM: Objection; lack of
7 foundation, calls for speculation.
8 BY MR. FIGLIOLI:
9 Q. Are you aware of that? Are you aware
10 of him completing a memo stating --
11 MR. REIMER: Overruled. He can ask if
12 he's aware of it.
13 BY THE WITNESS:
14 A. No.
15 BY MR. FIGLIOLI:
16 Q. And you would expect Officer Carey to
17 be truthful when he completed this memorandum;
18 isn't that correct?
19 A. Yes.
20 Q. So then if he completed this memo,
21 Officer Carey did not hear this statement?
22 A. I don't know if he did or not.
23 MR. DENHAM: Objection; speculation.
24

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1 BY MR. FIGLIOLI:

2 Q. Now, Officer --

3 MR. REIMER: So let's -- hold on. What

4 was the question?

5 MR. FIGLIOLI: Can you repeat the

6 question?

7 THE COURT REPORTER: Sure.

8 (Said record was read by the

9 reporter.)

10 MR. REIMER: Sustained. He's never

11 seen the memo.

12 MR. DENHAM: He said he doesn't even

13 know for certain who wrote it.

14 MR. REIMER: Okay. Sustained.

15 BY MR. FIGLIOLI:

16 Q. Your memo also identifies another

17 officer, Officer Tate, is that correct?

18 A. Yes.

19 Q. As being in the area or in the room

20 when apparently Officer Selmani made the statement

21 that you allegedly overheard, is that correct?

22 A. That's correct.

23 Q. Are you aware that Officer Tate

24 authored a report to Commander McGuigan

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1 approximately one week later regarding what he

2 heard Officer Selmani said?

3 A. No.

4 Q. And, again, you would presume that

5 Officer Tate would be truthful and accurate when

6 he completes a memo to a commander?

7 A. Yes.

8 Q. Are you aware that Officer Tate, in his

9 memo, stated, "I did not hear Officer Selmani

10 (Star 59) state his knee was injured before

11 training started, nor did I hear Officer Selmani

12 (Star 59) state he planned on injuring himself in

13 order to get out of working to file a Worker's

14 Comp claim."

15 You're not aware of him --

16 MR. DENHAM: Objection; calls for

17 speculation.

18 BY MR. FIGLIOLI:

19 Q. -- making that statement in the memo?

20 Are aware of that?

21 MR. DENHAM: Objection; calls for

22 speculation. Objection; hearsay.

23 MR. REIMER: I'm going to sustain it

24 because I don't believe he's seen that memo

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1 either.

2 MR. FIGLIOLI: I don't think I asked

3 him that question.

4 BY MR. FIGLIOLI:

5 Q. Did you see -- have you seen this memo?

6 MR. DENHAM: Objection as to hearsay,

7 too.

8 MR. REIMER: I'm going to overrule the

9 hearsay. Have you seen -- let's lay a

10 foundation to see if he has any knowledge.

11 Have you seen Officer Tate's

12 memo?

13 THE WITNESS: No.

14 MR. REIMER: Okay.

15 BY MR. FIGLIOLI:

16 Q. And have you been advised at all about

17 Officer Tate's memo?

18 A. No.

19 Q. And you don't know any of the contents

20 of that memo?

21 A. No.

22 Q. But you would expect Officer Tate, in

23 following the rules of the department, to

24 accurately complete a memo to his superior

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1 officer; isn't that correct?

2 A. Yes.

3 Q. And you identified Officer Maertzig as

4 another officer that was in the location when

5 Officer Selmani allegedly made the statement, is

6 that correct?

7 A. Yes.

8 Q. Do you have any knowledge about a memo,

9 a memorandum that Officer Maertzig completed to

10 Commander McGuigan?

11 A. No.

12 Q. But you would expect him to be truthful

13 and accurate when he completes a memo to a

14 commanding officer; isn't that correct?

15 A. Yes.

16 Q. So you're not aware of whether or not

17 Officer Maertzig made the statement, "At no time

18 did I participate with Officer Selmani in the

19 scenario, nor did I hear him make any comments

20 about intentionally getting hurt prior to or after

21 the scenario"?

22 MR. DENHAM: Objection; calls for

23 speculation. Objection; hearsay.

24 MR. REIMER: Overruled.

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1 You can answer the question if
2 you know.
3 BY THE WITNESS:
4 A. No.
5 BY MR. FIGLIOLI:
6 Q. Now, you were one of the instructors on
7 this training exercise, is that correct?
8 A. Yes.
9 Q. And you were actually involved with
10 Officer Selmani doing hands-on scenario, correct?
11 A. Yes.
12 Q. I would presume that you tried to
13 simulate, mimic rea-life activity, correct?
14 A. Yes.
15 Q. And this training was what, attempting
16 to arrest someone who didn't want to be arrested,
17 is that correct?
18 A. Yes.
19 Q. So you were resisting, is that correct?
20 A. Correct.
21 Q. And I'm presuming -- again, the
22 realistic training, you're resisting like an
23 individual that is resisting a police officer
24 being arrested, correct?

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1 A. Not at a hundred percent, no.
2 Q. What would you say? 50 percent?
3 A. I couldn't put a percentage on it, but
4 it's not a hundred percent.
5 Q. Now, isn't it true that after one of
6 these -- on that particular day, that the level of
7 intensity of these training sessions was such that
8 a particular sergeant had to go to the hospital
9 with complaints of heart issues?
10 Do you remember that?
11 A. I don't know what caused his heart
12 issues, but he did have to go to the hospital,
13 yes.
14 Q. And, again, he participated in this
15 training exercise as well, correct?
16 A. Yes.
17 Q. Now, were you aware of the fact that
18 Officer Selmani actually had to go to court later
19 in the day; so he was only there half a day?
20 A. No.
21 Q. Now, you testified that you had been on
22 the SPEAR Team.
23 You were one of the original officers
24 that had been assigned to the SPEAR Team, is that

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1 correct?
2 A. Correct.
3 Q. And maybe I miswrote this or something.
4 You were on it only for a period of
5 three months, is that correct?
6 A. Approximately, yes.
7 Q. During that period of time, did you go
8 through an initial training session with all of
9 the SPEAR Team members?
10 A. No.
11 Q. What kind of training at all did you
12 have when you were on the SPEAR Team in those
13 three months?
14 A. The training had not been formalized
15 yet.
16 Q. Did you, on any occasions, go through
17 any kind of training with the SPEAR Team during
18 your three months?
19 A. No.
20 Q. Well, what were you doing at those
21 three months on the SPEAR Team?
22 A. I was a patrol officer.
23 Q. No. I mean with the SPEAR Team. You
24 were -- there wasn't anything you were doing?

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1 A. We would serve search warrants.
2 There's only two that I participated in.
3 Q. So there was no training at that
4 particular time?
5 A. Not at that point, no. It was just
6 utilizing the experience of the officers on duty.
7 Q. Why did you leave the SPEAR Team?
8 A. It was too much demand on my schedule.
9 MR. FIGLIOLI: That's all I have.
10 Thank you.
11 MR. REIMER: I just have a few, and
12 I'll turn it over to you.
13 EXAMINATION
14 BY MR. REIMER:
15 Q. Sergeant, you've asked a bunch of
16 questions here today about what you were or were
17 not aware of.
18 Have any of the questions that have
19 been asked of you today caused you to change your
20 testimony on direct exam?
21 A. No.
22 Q. And looking at your document, which is
23 Page 1484, the memorandum you wrote to Commander
24 Winterstein on December 14th, 2018, is everything

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1 in that true and accurate in light of the
2 questions you've been asked today?
3 A. Yes.
4 MR. REIMER: That's all I have.
5 Anybody?
6 (WHEREUPON, all board members
7 nodded in the negative.)
8 MR. REIMER: Redirect?
9 MR. DENHAM: Hold on a second. Sorry.
10 [Brief pause.]
11 REDIRECT EXAMINATION
12 BY MR. DENHAM:
13 Q. Sergeant, you were asked some questions
14 about the level of resistance that you were giving
15 Officer Selmani during the training?
16 A. Yes.
17 Q. Was this the first -- the incident
18 where Officer Selmani complained, was that the
19 first incident involving Officer Selmani that day?
20 A. Yes.
21 Q. In terms of the amount of resistance
22 that you give officers during that initial
23 exercise, how do you characterize that?
24 A. I've always characterized it and I was

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1 taught to characterize it as force equal to what
2 they're giving you so that it's realistic
3 resistance, but not a hundred percent force.
4 So be a good training partner.
5 Q. And what's the purpose of "equal
6 force"?
7 A. So they can demonstrate their
8 techniques, demonstrate the skills that they've
9 learned or should know without being overwhelmed
10 by a person going a hundred percent when they're
11 not expecting it.
12 Q. How frequently do officers go through
13 these types of trainings?
14 A. Multiple times a year.
15 Q. At the beginning of training, do you
16 have any concerns about the amount of training
17 that the officer has retained?
18 A. That's why we do the initial scenarios,
19 to see what they retained from previous trainings,
20 so they can demonstrate it and work from there.
21 Q. As the day progresses, does the amount
22 of force change at all in terms of --
23 A. Generally, no.
24 MR. DENHAM: I have no further

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1 questions.
2 MR. REIMER: Recross?
3 RECCROSS EXAMINATION
4 BY MR. FIGLIOLI:
5 Q. Sergeant, you just testified -- and
6 correct me if I'm wrong -- you exhibit equal force
7 to the individual that you're simulating with,
8 right?
9 A. I try, yes.
10 Q. So if Officer Selmani is going a
11 hundred percent, you're going to try to go a
12 hundred percent; isn't that correct?
13 A. Well, I don't know what my hundred
14 percent compared to his hundred percent is. It's
15 going to be different.
16 Q. Now, you didn't, on your own, prepare
17 this memorandum, did you?
18 A. I'm not sure what you mean.
19 Q. Did you unilaterally, on your own,
20 decide, "You know, I don't like what I allegedly
21 heard from Officer Selmani. So I'm going to go
22 and complete a memorandum to Commander
23 Winterstein," without any request from anyone
24 else? Is that what you're saying?

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1 A. No. It says right in the first line,
2 "At the request of Sergeant Crowley."
3 Q. So you didn't report this incident
4 until -- or, this alleged incident until Sergeant
5 Crowley advised you to do that?
6 A. She didn't advise me. She asked me to.
7 Q. Do you see where it says that she asked
8 you to?
9 A. "At the request." "Request" means
10 asked, as far as I understand.
11 Q. And just after discussing the
12 circumstances regarding Officer Selmani becoming
13 injured, who approached you?
14 Was it Sergeant Crowley that approached
15 you and asked you questions? Is that what
16 prompted you then to complete this memo?
17 A. I don't think she prompted me to
18 complete it because he was injured -- or, to
19 document what had happened specifically in that
20 regard, but as a matter of course, because someone
21 had been injured in the training.
22 Q. So Sergeant Crowley then -- she
23 questioned whether or not he was injured and asked
24 you if you had any information about it?

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1 A. No. She asked me to document the day,
2 the interaction I had with him, because someone
3 had been injured.

4 Q. Because -- I'm sorry. Because what?
5 A. Because someone had been injured.
6 MR. FIGLIOLI: That's all I have.
7 MR. REIMER: Any questions by members
8 of the board?
9 All right.
10 FURTHER REDIRECT EXAMINATION
11 BY MR. DENHAM:
12 Q. This document was the first time you
13 documented it in writing, is that correct?
14 A. Correct.
15 Q. Prior to that, did you orally
16 communicate what happened with anyone?
17 A. I believe later in the day, at the end
18 of the day, I did, yes. I don't recall
19 specifically with whom, but the supervisors that
20 were there that were running the training.
21 MR. DENHAM: No further questions.
22 MR. REIMER: Gentlemen, anything?
23
24

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1 FURTHER RECROSS EXAMINATION
2 BY MR. FIGLIOLI:
3 Q. Who was that individual that you spoke
4 with later on that day that had occurred?
5 A. As I said, I don't recall whom.
6 Q. Would it have been Commander
7 Winterstein?
8 A. It may have been. I'm not sure.
9 Q. And Commander Winterstein at that
10 time -- I mean, ultimately, he was the commander
11 of the SPEAR Team?
12 A. Yes.
13 MR. FIGLIOLI: That's all I have.
14 MR. REIMER: All right. Thank you,
15 Sergeant. Appreciate your testimony.
16 THE WITNESS: Thank you.
17 (WHEREUPON, Sergeant Michael
18 Tavalacci exited the hearing
19 proceedings.)
20 MR. REIMER: Why don't we take a quick
21 break.
22 MR. DENHAM: Yeah. Thank you.
23 (A recess was had from
24 3:28 p.m. until 3:38 p.m.)

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1 MR. REIMER: Are you ready for your
2 next witness? Does the Village wish to call
3 their next witness?
4 (WHEREUPON, Officer Tracey
5 Dendinger entered the hearing
6 proceedings.)
7 MR. REIMER: Officer, come up here, and
8 this young lady is going to swear you in.
9 (The witness was duly sworn.)
10 MR. REIMER: Your witness, Counsel.
11 OFFICER TRACEY DENDINGER,
12 called as a witness herein, having been first duly
13 sworn, was examined and testified as follows:
14 DIRECT EXAMINATION
15 BY MR. DENHAM:
16 Q. Officer, can you please state and spell
17 your name for the record?
18 A. Sure. Officer Tracey Dendinger,
19 D-e-n-d-i-n-g-e-r.
20 Q. Officer, are you currently employed by
21 the Bartlett Police Department?
22 A. I am.
23 Q. In what capacity?
24 A. I am a police officer.

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1 Q. When were you hired by the Village as a
2 patrol officer?
3 A. July of 2011.
4 Q. In December of 2018, what was your
5 position in the department?
6 A. 2018, I was in the crime prevention
7 unit as a police officer, and I had several
8 different specialties assigned to me, one being --
9 I was a defensive tactics instructor.
10 Q. And you mentioned being a defensive
11 tactics instructor.
12 Did you have any responsibility related
13 to training activities at a December 13th, 2018
14 training?
15 A. I did. It was my first time as
16 basically an assistant instructor.
17 Q. And what was your role as the
18 instructor?
19 A. To help facilitate the officers that
20 were in class, go over different maneuvers and
21 practicals that we were doing.
22 I was just basically watching for
23 safety issues and helping with the instruction.
24 Q. Do you recall whether Officer Gzim

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1 Selmani participated in that training?
2 A. He did.
3 Q. And do you recall anything about
4 Officer Selmani towards the beginning of the
5 training?
6 A. When we were all stretching, he was
7 making comments about Worker's Comp in a joking
8 manner.
9 Q. What kind of comments was he making, do
10 you recall?
11 A. Honestly, I don't remember the context.
12 I just remember him shouting "Worker's Comp" a
13 couple times.
14 Q. What did you think about him making
15 those comments at that time?
16 A. I just thought it was in poor taste.
17 Q. Why?
18 A. I believe he had been on an injury
19 previously to that as well, as we just had several
20 officers in and out of Worker's Comp at the time,
21 years around that.
22 So it's kind of a sensitive issue.
23 Q. Do you recall writing a memorandum
24 following this incident?

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1 A. I do.
2 Q. I'm going to show you what has been
3 previously marked as Bates No. 1488. It's at
4 Tab 37 of the Village's binder.
5 (Document tendered.)
6 BY MR. DENHAM:
7 Q. Is that the memorandum that you
8 drafted?
9 A. It is.
10 Q. And that memorandum states that you
11 were surprised by Officer Selmani making that
12 comment, is that right?
13 A. Yes.
14 Q. So after Officer Selmani made this
15 comment, what do you recall?
16 A. We just continued class.
17 Q. With respect to Officer Selmani, what
18 do you recall during the training? Do you recall
19 anything happening to him?
20 A. So we did our -- completed our
21 stretching, and then we started out the training
22 with the initial practical exercise. Everybody
23 completed that.
24 And then we were doing, I believe,

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1 partner work. And at some point, he decided he
2 wanted to step out from doing that because he had
3 an injury. His knee was sore.
4 Q. Did you witness him complaining about
5 his knee?
6 A. I didn't see it injured, but, yes, I
7 have witnessed him complaining about it.
8 Q. Prior to the training, did you notice
9 anything about Officer Selmani injuring his knee?
10 A. No.
11 Q. So after he reported his knee injury,
12 then what happened?
13 A. So he was at the front of the class,
14 like towards the door, and Sergeant -- well,
15 Commander now. It was Sergeant Sweeney at the
16 time -- was speaking with him about it, but they
17 were both pretty loud.
18 So, I mean, everybody could overhear
19 what they were saying. He rolled up his pant leg,
20 both of them, and was showing them to Sergeant
21 Sweeney and saying that one was more swollen than
22 the other.
23 Q. And what did Sergeant Sweeney say?
24 A. He basically told him, "If you're

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1 injured, that's fine, you know. We'll fill out
2 the form and you go get it checked out."
3 MR. FIGLIOLI: Objection; hearsay.
4 MR. REIMER: Overruled.
5 MR. FIGLIOLI: She's describing what
6 Sweeney, somebody --
7 MR. REIMER: Right. And is Sergeant
8 Sweeney an officer or agent of the Village
9 who's a party?
10 Overruled. Go ahead, Officer.
11 You can answer the question subject to the
12 objection.
13 BY MR. DENHAM:
14 Q. I'm sorry. What was Officer Sweeney
15 saying?
16 A. That he could get it checked out, and
17 they would do the paperwork, but he couldn't
18 visually see anything wrong.
19 And Officer Selmani was insisting that
20 it was swollen and that it hurt and was agitated
21 that Sergeant Sweeney wouldn't agree with him.
22 Q. Do you recall anything else with
23 respect to Sergeant -- I'm sorry -- with respect
24 to Officer Selmani's behavior at that time?

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1 A. In the training?

2 Q. Yes.

3 A. No. Just he was agitated with Sergeant

4 Sweeney for not agreeing with him.

5 Q. Why do you say he was agitated?

6 A. Because he started yelling and just

7 repeating himself, that, "It's -- you know, it's

8 swollen, it's swollen. It hurts."

9 And then he was saying, "Well, maybe

10 it's hurt deeper inside."

11 He just continued to be upset that

12 Sergeant Sweeney wouldn't agree with him.

13 Q. Was Officer Selmani allowed to stay on

14 the side of the training at that point?

15 A. I think he left the room. He didn't

16 choose to stay.

17 Q. At any point, did he return to the room

18 to complete the training?

19 A. Not that I recall.

20 Q. Do you recall talking to anyone after

21 the training about the comment that

22 Officer Selmani made prior to the training or the

23 beginning of the training?

24 A. Not specifically.

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1 Q. But at some point, you were asked to --

2 A. Yeah. Deputy Chief Snider, at the

3 time, like a week later, asked me to write a memo

4 regarding the incident.

5 MR. DENHAM: I have no further

6 questions.

7 Actually, hold on before I say

8 that.

9 BY MR. DENHAM:

10 Q. Have you ever been a member of the

11 SPEAR Team?

12 A. No.

13 Q. Are you aware of allegations related to

14 an alleged hazing or initiation incident involving

15 the SPEAR Team in August of 2014?

16 A. Yes.

17 Q. At the time of this training exercise,

18 were you aware of those allegations?

19 A. No.

20 MR. DENHAM: I have no further

21 questions.

22 MR. REIMER: Cross?

23

24

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CROSS EXAMINATION

1 BY MR. FIGLIOLI:

2 Q. Officer Dendinger, my name is Dave

3 Figlioli. I represent Officer Selmani in this

4 case.

5 I'm going to ask you some questions.

6 If you don't understand them or don't hear them,

7 let me know. I'll try to rephrase them or repeat

8 them.

9 Do you understand that?

10 A. Sure. Yes.

11 Q. I guess, first of all, prior to today,

12 how many times have you had a conversation with

13 the Village attorney, Mr. Denham?

14 A. Once.

15 Q. Was that conversation regarding this

16 memo?

17 A. It was regarding just coming here to

18 just testify here today, but, yes.

19 Q. Other than Mr. Denham prior to this

20 hearing over the last several months, have you had

21 any conversations with any other superior officers

22 regarding your memo?

23 A. Just once. The chief told me that I

24

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1 was going to be called to testify on behalf of the

2 Village, and that's it.

3 Q. Did he relate to you what you were

4 going to be testifying about?

5 A. I believe, yes, that he said it was

6 going to be about this memo.

7 Q. So you discussed the contents of this

8 memo with the chief?

9 A. No. He just told me it was about the

10 memo, and I went back in my records and printed it

11 off.

12 Q. Now, you had testified -- and correct

13 me if I'm wrong -- that you were one of the

14 instructors at this particular training exercise,

15 is that correct?

16 A. Yes.

17 Q. And you had been an instructor before

18 for similar type of training exercises?

19 A. Not for defensive tactics. For medical

20 and CPR instruction.

21 Q. Now, were you trained to be an

22 instructor?

23 A. Yes.

24 Q. Part of that training was that if

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1 someone were to be injured during the exercise,
2 you were to report that -- and relayed that to
3 you, you were to report that immediately, is that
4 correct?
5 A. Yes.
6 Q. You overheard Officer Selmani claim he
7 injured himself in this training exercise.
8 You admit to that, correct?
9 A. Yes.
10 Q. Where is your incident report that you
11 completed?
12 A. I was not the lead instructor that day.
13 So that was not --
14 Q. So now you're telling me just not
15 the -- only the lead instructor is required to
16 fill out the report, no other instructor?
17 A. I wasn't required to, no.
18 Q. Do you know whether the lead instructor
19 filled out an incident report?
20 A. I do not know.
21 Q. But you never filled one out?
22 A. No.
23 Q. Even though Officer Selmani said he
24 injured his knee?

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1 A. Yes.
2 Q. And you were aware of that?
3 A. Yes.
4 Q. As a matter of fact -- correct me if
5 I'm wrong -- it wasn't until a week later that you
6 completed this memo to Deputy Chief Snider; isn't
7 that correct?
8 A. Correct.
9 Q. And what prompted you to complete this
10 memo a week later?
11 A. He asked me to write it.
12 Q. And what was his reason for having you
13 write this memo?
14 A. I -- I don't know.
15 Q. Now, you are familiar -- as an officer
16 with this department, you're familiar with the
17 rules and regulations of the department, is that
18 correct?
19 A. Yes.
20 Q. And one of the rules that Mr. Denham
21 has certainly pointed out to all of us in this
22 room today is that, you know, officers have the
23 requirement to complete memos and to be truthful
24 in everything they do, whether it be oral or in

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1 written communications, is that correct?
2 A. Yes.
3 Q. And you abide by that, correct?
4 A. Yes.
5 Q. And you abided by that rule when you
6 completed this particular memorandum; isn't that
7 correct?
8 A. Yes.
9 Q. And you completed this memorandum, to
10 the best of your recollection, at that time; isn't
11 that correct?
12 A. Correct.
13 Q. And if I'm reading this memorandum --
14 I'll read it verbatim.
15 "I observed Officer Selmani shout
16 the" -- "shout the phrase 'Worker's Comp' several
17 times."
18 You wrote that, correct?
19 A. Yes.
20 Q. Can you describe for the board members
21 and everyone here, how loud did he shout that out?
22 A. It was loud enough that it was
23 throughout the entire room that everybody heard
24 it.

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1 Q. Everybody heard it. Okay. How many
2 people were in that room?
3 A. I don't have an exact number for you.
4 Usually, we have no more than ten students in
5 class, but the instructors -- but I don't know the
6 exact number.
7 Q. And was this during the -- I guess the
8 initial meeting in the classroom that this went
9 on, or is it in the mat room?
10 A. Down in the mat room.
11 Q. To the best of your recollection, then,
12 if you're saying everybody was there, was Officer
13 Carey in the room at the time?
14 A. It's not in my memo. I don't recall.
15 Q. But presuming he was, is it your
16 testimony that Officer Selmani shouted "Worker's
17 Comp" several times to the level that if he were
18 in the room, he would have heard it?
19 A. I can't testify to what he heard, but I
20 would assume so. It was loud.
21 Q. Where were you with respect to
22 Mr. Selmani -- Officer Selmani? How far away were
23 you?
24 A. It -- within the room. I -- I didn't

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1 measure it out.

2 Q. And what's the size of the room?

3 A. Probably from here to the end of the

4 wall.

5 Q. So if he shouted it out, would it be

6 your belief that everybody in that room would have

7 heard it?

8 A. I would assume so.

9 Q. Are you aware of officer -- first of

10 all, Officer Carey completing a memorandum to a

11 superior officer as well?

12 A. No.

13 Q. So you're not aware of the fact that

14 Officer Carey said he didn't hear anything

15 regarding Officer Selmani stating "Worker's Comp"?

16 A. No.

17 Q. Are you aware that Officer Tate

18 completed a memorandum?

19 A. No.

20 Q. Are you aware of the fact that Officer

21 Tate, who was in the same room at the same time,

22 completed a memo to a superior officer that he did

23 not hear Officer Selmani state anything about

24 Worker's Comp?

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1 A. No.

2 MR. DENHAM: Objection; calls for

3 speculation.

4 BY MR. FIGLIOLI:

5 Q. Do you know? Do you have any knowledge

6 of that memo?

7 MR. REIMER: All right. Hold on. Do

8 you want to withdraw your objection until the

9 question is asked?

10 MR. DENHAM: [Nonverbal response.]

11 MR. REIMER: Fair enough. Why don't

12 you ask your question and see if there's an

13 objection.

14 BY MR. FIGLIOLI:

15 Q. Are you aware of a memo completed by

16 Officer Tate to Commander McGuigan on

17 December 19th, 2018, where he states that he did

18 not hear Officer Selmani state his knee was

19 injured before training started, nor did he hear

20 Officer Selmani state he planned on injuring

21 himself in order to get out of working to file a

22 Worker's Comp claim?

23 A. No.

24 Q. Are you aware that Officer Maertzig

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1 completed a memo to Commander McGuigan regarding

2 what he heard on that particular day, that

3 training day as well?

4 A. No.

5 Q. Are you familiar with that memo?

6 A. No.

7 Q. And do you have any knowledge that

8 Officer Maertzig, in this memo to Commander

9 McGuigan -- again, dated December 19th -- stated,

10 "At no time did I participate with Officer Selmani

11 in a scenario, nor did I hear him make any

12 comments about intentionally getting hurt prior to

13 or after the scenario"?

14 So you're unaware of him completing

15 this memo?

16 A. Correct.

17 Q. So I guess the question is now, now

18 that you're aware of these memos with these other

19 officers, do you need to report them because they

20 made a false memo, or should they report you for

21 making a false memo? Which one would it be?

22 MR. DENHAM: Objection. The

23 question --

24 MR. REIMER: What's the basis of the

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1 objection?

2 MR. DENHAM: Mischaracterizes the

3 testimony and the evidence.

4 MR. REIMER: What's your response?

5 MR. FIGLIOLI: I'm not

6 mischaracterizing any evidence. These

7 officers have apparently completed memos

8 stating certain things that are contrary to

9 her memo, and now she's aware of it.

10 BY MR. FIGLIOLI:

11 Q. Are you going to report this? Is it

12 your duty to report this to the chief of police?

13 MR. DENHAM: She testified she was

14 unaware about whether the other officers in

15 the room knew anything or heard anything.

16 MR. REIMER: How can she possibly know

17 who heard what?

18 MR. FIGLIOLI: She's in the room at the

19 time.

20 MR. REIMER: But she doesn't know who

21 heard what.

22 MR. FIGLIOLI: She testified that, "He

23 shouted it out in the" --

24 MR. REIMER: I'll sustain it.

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1 MR. FIGLIOLI: -- "room, and I presume
2 everybody heard it."
3 MR. REIMER: I'll sustain it.
4 BY MR. FIGLIOLI:
5 Q. Officer, do you know these other
6 officers? Officer Maertzig? Are you familiar
7 with Officer Maertzig?
8 A. Yes.
9 Q. And you believe him to be a truthful
10 officer and would complete accurate memos, is that
11 correct?
12 A. I do.
13 Q. And Officer Tate, do you know Officer
14 Tate?
15 A. I do.
16 Q. Do you believe Officer Tate would be
17 truthful in completing memorandums to their
18 commanding officers?
19 A. I do.
20 Q. And Officer Carey? Do you know Officer
21 Carey?
22 A. I do.
23 Q. Do you believe Officer Carey would be
24 truthful and accurate in completing memorandums to

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1 his superior officers?
2 A. I do.
3 Q. Now, I know you weren't involved with
4 the SPEAR Team when this incident occurred, but do
5 you have knowledge as to who are some of the
6 members of the SPEAR Team at that time, in 2018?
7 A. Yes.
8 Q. Commander Winterstein, was he involved
9 in the SPEAR Team at that time?
10 A. Yes.
11 Q. And do you know whether -- in 2014, was
12 Commander Winterstein part of the SPEAR Team?
13 A. I would assume. I don't know.
14 Q. And Sergeant Sweeney, was he a member
15 of the SPEAR Team?
16 A. Yes.
17 Q. Would he have been, do you know, a
18 member of the SPEAR Team in 2014?
19 A. I don't know.
20 Q. Would it surprise you if both Commander
21 Winterstein and Commander Sweeney were members of
22 the SPEAR Team that was involved in a hazing
23 incident relating to Officer Selmani?
24 A. I know they were involved in an

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1 incident, yes.
2 MR. FIGLIOLI: That's all I have.
3 MR. REIMER: All right.
4 EXAMINATION
5 BY MR. REIMER:
6 Q. Officer, just a couple of real quick
7 questions.
8 You were asked a bunch of questions
9 today about some memos that you apparently had --
10 were not aware of and had not seen?
11 A. Correct.
12 Q. Do the questions that were asked of you
13 in any way change your testimony here today?
14 A. No.
15 Q. And the memo, which is in front of you
16 on Page 1488 that you wrote on December 20th,
17 2018, is that still true and accurate?
18 A. Yes.
19 MR. REIMER: That's all I have.
20 Anyone?
21 (WHEREUPON, all board members
22 nodded in the negative.)
23 MR. REIMER: Okay. Any further
24 questions?

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1 MR. DENHAM: No further questions.
2 MR. REIMER: Any questions?
3 MR. FIGLIOLI: No.
4 MR. REIMER: Okay. Thank you, Officer.
5 THE WITNESS: Thank you.
6 (WHEREUPON, Officer Tracey
7 Dendinger exited the hearing
8 proceedings.)
9 MR. REIMER: Do you want to call your
10 next witness? I'll call Andrew Bubis.
11 MR. FIGLIOLI: Objection to Officer
12 Bubis being called to testify, and the reason
13 for that is, the Village refuses to provide
14 us with a complete unredacted copy of the REM
15 investigation report.
16 In order for us to complete
17 proper cross examination of this witness, we
18 would require the complete, unredacted REM
19 investigation report. If they refuse to
20 provide it, we object to this witness
21 testifying because we cannot cross-examine
22 him fully, and it would be a violation of due
23 process and fairness to do so.
24 MR. REIMER: Response?

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1 MR. DENHAM: The section -- to the
2 extent that the REM report redacts
3 information related to Officer Bubis, it is
4 attorney-client privileged information.
5 The REM report was an
6 investigation that was prepared at the
7 request of the Village's counsel. The
8 Village did waive privilege over the
9 non-finished product. It has effectively
10 redacted certain parts based upon the
11 Village's right to conduct an investigation
12 about an incident that occurred four and a
13 half years later.
14 MR. REIMER: All right. Well, if
15 memory serves me correctly, Officer Bubis was
16 subject to an interrogation under the Uniform
17 Peace Officers Disciplinary Act.
18 Have you been provided with a
19 copy of the transcript of Officer Bubis'
20 testimony?
21 MR. FIGLIOLI: No.
22 MR. DENHAM: They never asked for one.
23 MR. REIMER: Well --
24 MR. FIGLIOLI: In response to him, I

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1 don't believe this is work product, that
2 there's still privilege. I believe that this
3 REM report was provided to a number of other
4 Village employees.
5 So it's not a work product that
6 was supplied for the purpose solely for
7 review by the Village attorney. By supplying
8 it to other individuals other than the
9 Village attorney, they've waived that
10 privilege. It's no longer work product.
11 MR. REIMER: All right. So let me --
12 make an offer of proof if you can.
13 What other employees that would
14 have been distributed with a copy -- I think
15 there's a couple of things we're talking
16 about here. The -- the report at the
17 conclusion of the REM investigation, is that
18 what you're referring to that was sent to
19 other members outside of the chain of
20 attorney-client privilege?
21 MR. FIGLIOLI: That is correct.
22 MR. REIMER: Okay. So make an offer of
23 proof.
24 MR. FIGLIOLI: Well, in order for us to

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1 make an offer of proof, we would have to call
2 various witnesses. I'm sure one would be the
3 chief at the time that this was completed.
4 MR. REIMER: Okay.
5 MR. FIGLIOLI: There's a Deputy Chief
6 Charles Snider.
7 MR. REIMER: Wouldn't that be
8 attorney-client as it relates to the -- the
9 conclusion of the investigation in which the
10 REM investigators would have said, "These
11 charges are unfounded. These charges are
12 sustained. These charges are -- the officers
13 are exonerated" -- wouldn't that be -- if
14 there's discipline, I think the case law is,
15 that's subject to disclosure, but I think
16 what we're talking about here is, if you want
17 to call Officer Bubis, I think it's only fair
18 that if you're going to call Officer Bubis,
19 you've got to disclose, at the bare minimum,
20 any sworn testimony that he gave.
21 MR. DENHAM: The Village made an offer
22 to disclose this subject to a protective
23 order. As you know, there's a federal
24 lawsuit now that's going on.

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1 And I don't think this has
2 anything to do with this proceeding today. I
3 think this has to -- something to do with
4 free discovery in a federal lawsuit, and I
5 think the case law is quite clear that if an
6 entity hires an attorney to conduct an
7 independent investigation, those statements
8 that were made during that investigation
9 should not be turned over and used against
10 the entity as a matter of attorney-client
11 privilege and attorney work product.
12 Now, we have offered in the past
13 to make that unredacted report available as
14 part of a protective order, and they made the
15 strategic decision to move forward with the
16 redacted report.
17 And a protective order would
18 merely allow them to utilize that report for
19 the purposes of this proceeding here today,
20 but then not use it down the road as part of
21 the federal litigation.
22 Now, if want to request it as
23 part of the federal litigation, by all means,
24 but I don't know why they are now saying that

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1 they need this unredacted report when they
2 communicated to the pension board in writing
3 that they were going to move forward with the
4 unredacted report.
5 MR. REIMER: All right. Let me ask you
6 this. I just want to focus on not the big
7 picture, unredacted.
8 Tell me about, what do you
9 believe is in there that relates to Officer
10 Bubis?
11 MR. FIGLIOLI: Well, again, we
12 certainly, at this point in time, don't know
13 what Officer Bubis will testify to, but
14 clearly the purpose of his testimony is to
15 attempt to impugn the credibility of our
16 client.
17 So his degree of credibility is
18 called into question, and I believe his
19 behavior and his responses during the REM
20 investigation would certainly at least
21 provide insight as to his degree of
22 credibility on any issue he testifies to.
23 MR. DENHAM: I'm not going to ask him
24 any questions --

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1 MR. FIGLIOLI: Let me finish.
2 MR. DENHAM: Sorry, sorry. I
3 apologize. I thought you were done.
4 MR. FIGLIOLI: And I would also say
5 that you can't use this as a shield to allow
6 a witness to testify without letting us do a
7 complete comprehensive cross examination.
8 And their failure to provide this
9 gives them a shield where we cannot then
10 cross-examine this Officer Bubis
11 appropriately.
12 MR. REIMER: All right. So if you are
13 provided with a copy of the transcript of
14 Officer Bubis' Internal Affairs
15 investigation, is that not sufficient?
16 Because all the REM documents, it's a summary
17 of their positions and conclusions.
18 MR. FIGLIOLI: I would say yes.
19 MR. REIMER: So, quite frankly, I don't
20 know, Mr. Denham, that you can have it both
21 ways.
22 I think if you want -- and I'm
23 not talking about the entire report. I don't
24 know -- as I recall, Officer Bubis was

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1 disciplined, wasn't he?
2 MR. DENHAM: He was disciplined. I'm
3 not even asking him questions about the
4 discipline here today.
5 MR. REIMER: Understood, but to the
6 extent that he made statements about this
7 incident -- I remember because I was there,
8 but it wasn't an attorney-client privilege.
9 It was a Uniform Peace Officers Disciplinary
10 Act interrogation.
11 So if he's provided with a copy
12 of just the transcript of his interrogation
13 and any attachments, how does that violate
14 attorney-client privilege? I'm not seeing
15 it.
16 MR. DENHAM: If that's the way that the
17 board is going to rule, that's the way the
18 board is going to rule.
19 I can talk to my client about it.
20 I will note that I disclosed this witness
21 last week, and the applicant actually asked
22 for an unredacted report. You're the one who
23 interjected with the interrogation, but if
24 it's -- the interrogation transcript, I have

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1 it on my computer. I'll have to figure out a
2 way with the chief to get it printed, and
3 I'll have to ask my client how we move
4 forward.
5 MR. REIMER: Here's my belief on
6 that -- well, it will be my ruling, I guess.
7 I mean, I understand you want to
8 protect attorney-client privilege, and I
9 certainly can appreciate that you don't want
10 the -- you don't want an end run around the
11 discovery process.
12 And I also recall there was
13 discussions about a protective order. They
14 didn't agree to it, but you now want to call
15 the witness, and I'm inclined to let you call
16 the witness, but the flip side to that is, I
17 don't think it's fair to allow them -- to
18 force them to prepare for cross examination
19 at the very least without a copy of that
20 transcript because my guess is, you're going
21 to ask him -- you're going to ask him
22 questions about statements he made at the
23 interrogation.
24 MR. DENHAM: I don't know. I'm going

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1 to ask some questions about a separate
2 conversation than what happened during the
3 SPEAR Team. It might be in the
4 interrogation. I can't remember exactly what
5 was in there.
6 MR. REIMER: Okay. So if it's -- I
7 will tell you if it's a conversation with
8 Officer Bubis that was outside the context of
9 the Internal Affairs investigation, then --
10 MR. DENHAM: You asked whether he was
11 asked about this. I don't recall exactly. I
12 think it did come up in the transcript, but I
13 can't recall what was asked, and I don't know
14 how it came up.
15 MR. REIMER: Let's take five because my
16 inclination is, if you want to call him as a
17 witness, I think you're going to have to -- I
18 think you're going to have to produce, at the
19 very least, any written statements or a
20 transcript of whatever he said.
21 MR. FIGLIOLI: And, again, for the
22 record, I believe that you, as the hearing
23 officer, just as in a circuit court, if a
24 party is claiming work product or privilege,

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1 that you should be entitled to see the
2 unredacted report and make a determination in
3 camera of whether or not it really is work
4 product or whether it should be disclosed.
5 MR. REIMER: Yeah. You know, I've
6 thought about that on many occasions and
7 whether or not the pension board has the
8 authority to enter into a similar protective
9 order as in a court, state and federal court.
10 I don't think we have the
11 authority to do that, but all I'm saying is,
12 if the Village wants to call Officer Bubis, I
13 think they've got to make his transcript
14 available. I think you're going to have to
15 have a meaningful opportunity to review it.
16 I don't know that you're going to
17 do that today. I was hoping we can finish
18 today. I guess you can call him as a
19 rebuttal witness or out of order.
20 MR. DENHAM: Again, I don't understand
21 why we're discussing this now today when we
22 could have discussed it on Friday when we
23 disclosed him as a witness.
24 I would like to finish up. Let

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1 me just talk to my client and see if we can
2 print it out and if they'll agree to it.
3 MR. REIMER: Why don't you do that.
4 We'll go off the record and give
5 you an opportunity to talk to the chief.
6 MR. DENHAM: All right.
7 (A recess was had from
8 4:08 p.m. until 4:33 p.m.)
9 MR. REIMER: We had an off-the-record
10 conversation concerning the testimony of one
11 of the Village's witnesses, Officer Bubis.
12 Officer Bubis will be allowed to
13 testify, and counsel for the Village has just
14 tendered a copy of the transcript of Internal
15 Affairs' Uniform Peace Officers Disciplinary
16 Act statement to counsels for the applicant.
17 They're telling me that they need
18 a full, fair opportunity to review that
19 transcript before proceeding to cross
20 examination.
21 So I think rather than spin our
22 wheels, my recommendation to the board anyway
23 would be that we conclude for the day.
24 Now, we have an option here. I'm

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1 going to leave it up to the board because I
2 know your time is very valuable, all of you.
3 We can try to get a date before
4 we schedule the doctors' deps, or we can go
5 out of order, and I'll start scheduling the
6 doctors' deps tomorrow. I don't know how
7 soon the doctors are available. My staff
8 will have to coordinate with the doctors.
9 We'll have to coordinate with three attorneys
10 and then report back to you. That could take
11 a while.
12 So that's one way to do it. And
13 then we would wait until after the evidence
14 deps are done, the transcripts are given to
15 you. Then we can allow -- because the
16 Village hasn't rested yet. Then we can hear
17 from the chief, and we can hear from Officer
18 Bubis.
19 So whatever is going to happen,
20 I'm going to ask counsel for the Village to
21 prepare a memo. It doesn't have to be long.
22 Prepare a memo with any authority that you
23 have that would allow or support that the
24 chief can authenticate a Google search. I'm

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1 not aware of any, but I haven't looked into
2 it too much.

3 And then seven business days --
4 seven working days, tender a copy to me, and
5 then submit a copy to -- either to Mr. Radja
6 or Mr. Figlioli, and then they will have
7 seven days within which to file a response
8 citing any court authority that they have on
9 that issue. And then we'll decide.

10 So what's your pleasure? This is
11 to the board. I know this is all confusing.
12 This is what happens when you get three
13 lawyers together. I apologize.

14 MR. PALMER: We need to schedule a date
15 outside of the doctor interviews?

16 MR. REIMER: Before or after.

17 MR. PALMER: Before or after. I think
18 I would like to get a date on the calendar
19 just so we're not playing this phone-email
20 tag game. I would like something on the
21 calendar where everybody is here and can
22 agree to it.

23 MR. REIMER: Let's go off the record
24 now. Everybody is here. We've got our

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1 calendars.

2 (Discussion was had off the
3 record.)

4 MR. REIMER: So we're back on the
5 record.

6 The pension board has -- we met
7 briefly off the record. We've discussed
8 potential dates. It's my understanding that
9 the board wishes to commence and continue
10 this matter to June 29th at 9:00 a.m.

11 At that time, it is our sincere
12 hope that we can have the depositions of all
13 the four doctors' evidence depositions
14 completed. Those transcripts will be
15 available, we hope.

16 And then we would reconvene for
17 purposes of whatever witnesses that the City
18 has -- that the Village has, rather, and
19 closing arguments. Is that accurate?

20 MR. DENHAM: Yes.

21 MR. REIMER: Okay. And in the
22 meantime, if you can work out a stipulation
23 of which documents -- I don't think you need
24 to go into that on the record.

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1 If you can work it out as far as
2 what can be stipulated to, we would still
3 like to see the memos within the seven days,
4 and we'll make a decision once we get back.

5 And then my office will be in
6 touch with you to check out all your
7 availability. Try to get it done. We may
8 have to do two on one day and try to get two
9 on the next day if possible, if that works
10 for everybody.

11 MR. DENHAM: And I'm fine with Zoom
12 depositions if that's --

13 MR. REIMER: I'm assuming we'll still
14 have the authority to do that, but that will
15 be --

16 MR. DENHAM: Presumably we can all
17 stipulate to Zoom as well, right?

18 MR. REIMER: I don't know. We're going
19 to try. We're going to try to get it done.

20 All right. Is there anything --
21 before we do a motion to adjourn, any public
22 comment, anybody that hasn't got up and
23 walked out? Then no public comment.

24 You wish to do a motion to

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1 adjourn at 4:47?

2 MR. PALMER: So moved.

3 MR. SIAS: Second.

4 MR. REIMER: Motion and a second.

5 MR. PALMER: All in favor.

6 In favor: All.

7 Opposed: None.

8 MR. REIMER: Okay. We're adjourned.

9 (WHEREUPON, the application for
10 disability benefits hearing
11 proceedings was adjourned at
12 4:47 p.m. and scheduled to
13 resume on June 29th, 2021, at
14 9:00 a.m.)

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CERTIFICATE
OF
CERTIFIED SHORTHAND REPORTER

I, DINA G. MANCILLAS, CSR, RPR, CRR, CLR,
a Certified Shorthand Reporter of the State of
Illinois, CSR License No. 084-003400, do hereby
certify that I stenographically reported the
proceedings had at the hearing, as aforesaid, and
that the foregoing transcript is a true and accurate
record of the proceedings had therein.

IN WITNESS WHEREOF, I do set my hand at
Chicago, Illinois, this 26th day of March, 2021.



DINA G. MANCILLAS, CSR, RPR, CRR, CLR
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