IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO EASTERN DIVISION

BASSIL ALLY,)
Plaintiff,)
Vs.)
CITY OF YOUNGSTOWN, ET AL.,) Case No. 4:09CV1144)
Defendant(s).)

DEPOSITION OF JOSEPH MACEJKO Thursday, February 25, 2010

Deposition of JOSEPH MACEJKO, called by the Plaintiff for cross-examination, under the Ohio Rules of Civil Procedure, taken before me, the undersigned, Lorraine A. Litvin, a Notary Public in and for the State of Ohio, at the offices of Haber Polk, LLP, 737 Bolivar Avenue, Suite 4400, Cleveland, Ohio, commencing at 11:11 a.m. the day and date above set forth.

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1	APPEARANC	FS.		1	OR IECTION INDEV
. 2		of the Plaintiff:		1	OBJECTION INDEX
3		Polk, Esq.		2	BY MR. ABBARNO 47
3		Connell, Esq.			BY MR. ABBARNO 51
4		olk, LLP		3	BY MR. ABBARNO 52
1		ivar Avenue			BY MR. ABBARNO 110
5	Suite 44			4	BY MR. ABBARNO 138
3		nd, Ohio 44114			BY MR. ABBARNO 151
6	216-241			5	
7		of the Defendant:		3	BY MR. ABBARNO 156
8		Abbarno, Esq.		_	****
"		er Co., L.P.A.		6	
9		dland Building		7	
		pect Avenue, West		8	
10		d, Ohio 44115		9	
10	216-687			10	
11	210-007	-1311		11	
11	Also Prese	ent.		12	
12	Also II Cst	SIIt.			
12	Bassil A	11v		13	
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- 25				25	
			Page 3		Page 5
1		EXHIBIT INDEX		1	JOSEPH MACEJKO
1			D		
2		Description	Page	2	called by the Plaintiff for cross-examination
3	1 Le	etter of Reprimand	69	3	under the Ohio Rules of Civil Procedure, after
4	2 O	ffice Policies	72	4	having been first duly sworn, as hereinafter
- 3					
5		equests for Admissions		5	certified, was examined and testified as follows:
6	4 M	emo on Leaving Early	91	6	CROSS-EXAMINATION
7	5 Fi	rst Amended Complain	nt 118	7	BY MR. POLK:
8		etter from Dennis Hain		8	Q Late morning to you.
9		emo of Office Policies		9	A Yes.
10	8 R	eview of Office Policie	s 148	10	Q Could you please state and spell your name
11		emo re absence from o		11	for the record?
I				12	
12		eb. 11th, 2008 Note	150		A Joseph R. Macejko. My last name is spelled
13	11 F	eb. 7th, 2008 Memo	151	13	M-A-C-E-J-K-O.
14	12 F	eb. 12th, 2008 Note	153	14	Q We've met a few times leading up today. I'm
		*			
15		eb. 13th, 2008 Memo	153	15	Shannon Polk. I represent Bassil Ally in
16	14 Ji	ane 16th, 2008 from O	CRC 156	16	connection with the claims he has against the
17	15 C	ct. 23rd, 2008 Letter	157	17	city and other folks including yourself. Do you
18		oct. 29th, 2008 Letter	158	18	understand that?
	10 0	. 2711, 2000 Letter	130		
19				19	A I do.
20				20	Q Have you ever been deposed in a civil case
21				21	before?
22		***************************************	_ people	22	A No.
23				23	Q Okay, One of the first things I'll ask you
24		CELLUSIANT CELLUSIANT	THE REAL PROPERTY.	24	to do is we're both lawyers. We both are
		I I	LELL	25	
25				40	reasonably smart people who anticipate where

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1	people will go when talking.	1	seal the deposition, for the
2	I'll ask you to let me finish my question and	2	following reason, Ken, I don't
3	then you can go ahead and answer, all right?	3	believe that I will be able to
4	A All right.	4	actually honor that commitment
5	Q Are you familiar with what a court reporter	5	absent a court order to do so.
6	does?	6	At the same time, if you're
7	A Yes.	7	telling me that you intend to ask
8	Q Okay. You understand then she's trying to	8	the court for a court order to
9	write down everything I'm saying and what you're	9	seal the depositions, I have no
10	saying, and your lawyer will say some things, and	10	problem telling you I won't file
11	she can only do one thing at once.	11	them until that order is
12	If we could just not talk over each other,	12	
13	that would be good.	13	resolved.
14			MR. ABBARNO: I'll file the
1982 10	A I fully understand her role.	14	request.
15	Q I just want you to understand a couple of	15	MR. POLK: At the same time,
16	ground rules. I have no doubt you have properly	16	I'm not disagreeing with you.
17	prepared before today. I would just ask that you	17	Things like addresses, Social
18	tell me if you don't understand my question. Is	18	Security Numbers, and things of
19	that fair?	19	that nature should be kept
20	A Yes.	20	confidential.
21	Q You understand that you have to tell the	21	I'll tell you what I'll do,
22	truth in response to my questions?	22	and assuming you'll give me the
23	A I understand.	23	same commitment, to the extent
24	Q I'll assume if you don't tell me you didn't	24	we're filing something, if it has
25	understand that you went ahead to try to answer	25	that type of information, I can't
	Page 7		Page/9
1	my questions to the best of your ability. Is	1	anticipate ever filing the pages
2	that a fair assumption?	2	which have your address or things
3	A You can make that assumption.	3	about your family or things like
4	Q That's a fair assumption to make?	4	that in it. If I did, I would do
5	A That's a fair assumption.	5	everything possible to redact that
6	Q Give me a thumbnail of how you got to where	6	or take that out, even if we
7	you are today. I don't want too much detail.	7	didn't have an order.
8	Give me a gist. You grew up here, you took	8	MR. ABBARNO: Understand I
9	this job, and who I am today.	9	
10	MR. ABBARNO: One second. As	10	will file a request to have the
11	we go through his depo, plus Iris,	11	depositions sealed, at least the
12	The Mayor, I assume Bassil, I	12	ones I want to have sealed.
13	think it would benefit if we		MR. POLK: Will you give me
20.00		13	the same commitment with respect
14	agreed to seal the depositions.	14	to Bassil?
15	There will be personal information	15	MR. ABBARNO: Sure. I won't
16	that will come out, and if anybody	16	file anything with his personal
17	ever gets their hands on the	17	information.
18	depositions if they're filed, the	18	MR. POLK: All right.
19	last thing we want is people in	19	THE WITNESS: Wait.
1	the community finding out	20	(Conversation between The Witness
20			
21	addresses and about families.	21	and his Counsel)
	addresses and about families. It's a safety issue. I think	22	
21	addresses and about families.	22	MR. ABBARNO: And keep in mind there has been threats made
21 22	addresses and about families. It's a safety issue. I think		MR. ABBARNO: And keep in

Case: 4:09-cv-01144-CAB Doc #: P96 Field: 02/22/12 4 of 42. PageID #: 3862 Page 10 Page 12 1 is off base in terms of being 1 questions about your family, if 2 2 sealed and ever being divulged. you have any. I assume that you 3 3 We, I think, are will give that same courtesy to 4 4 Bassil. communicating correctly that we 5 won't put any personal information 5 MR. ABBARNO: Yes. 6 6 into play in an unsealed fashion. Q Please give me a thumbnail about how you got 7 To the extent we think more 7 to where you are, 30 seconds or less, like we're 8 8 should be sealed, we will file a at a cocktail party. I want to get your 9 motion. You can file whatever you 9 background. 10 need to. 10 A Focusing on professional? 11 MR. POLK: I won't file 11 Q Yes, please. 12 12 A I graduated from Youngstown State University anything that identifies where you 13 live or family or your wife or 13 in '93. I attended the University of Akron Law 14 14 kids. School. I graduated in '98. 15 15 To the extent I ask any 16 questions about it, it's simply to 16 or in the Ashtabula 17 17 get to know who you are, and, 18 18 frankly, given the circumstances 19 and given what you just shared 19 20 with me and your concerns, I don't 20 21 have a strong interest in knowing 21 22 that stuff. I really don't care. 22 23 I mean that genuinely. 23 24 The last thing I want is to 24 25 do anything that would put any 25 Page 11 1 potential out there that you would 1 2 have some hardship. We are all on 2 3 the same page. You have my 3 Q I don't know much about Youngstown politics 4 commitment to that. 4 or the extent of the difference between Mahoning 5 5 County and City of Youngstown, et cetera. THE WITNESS: Thank you. 6 MR. POLK: If I were in your 6 In a nutshell, how is it you went from 7 7 position, I would want the same 8 thing. 8 9 9 Voungetown? Let me do this, Ken. To the 10 extent I need his address for any 10 A After The Mayor had been elected in November 11 reason in this case, will you just 11 of 2005, he solicited applications for all 12 agree that you will give it to me 12 cabinet-level positions. I viewed it as a step 13 off line to the extent I need? 13 up. I applied. I was interviewed and was 14 He's a defendant. If we ever have 14 selected. 15 an issue bringing him to trial, 15 Q All right. Again, this was in mid 2006? 16 you will work with me on that? 16 A January of 2006. 17 17 Q January of '06. I assume The Mayor, to whom MR. ABBARNO: Yes. 18 MR. POLK: I won't ask you. 18 you're referring to, is Mayor Williams? 19 19 A Yes. It's not an issue. 20 20 THE WITNESS: Thank you. Q The current mayor? MR. POLK: I don't care 21 A Yes. 21 about -- I don't mean that. I 22 22 Q Did you have a relationship with Mayor 23 don't care to ask you questions Williams before you were given the position or

appointed to the position?

A No.

24

25

about your children, if you have

any. I don't care to ask you

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1	Q I have a couple questions that are probably	1 forward?
2	obvious. Just to confirm, my understanding is	2 A Yes.
3	correct that when you got to the City of	3 Q Help me please understand the hierarchy that
4	Youngstown when you started working there Bassil	4 is your current position, and to the extent it's
5	already was working with the city?	5 any different, how your position evolved since
6	A Yes.	5 January of 2006 to the current date.
7	Q He was working there as assistant	
8	prosecutor?	Who do you report to, what type of authority do you have, et cetera?
9	A Yes.	
10	Q When you came in, you were Bassil's boss from	J The state of the
11	the start?	, , , , , , , , , , , , , , , , , , ,
12	A Yes.	
13	•	12 answers directly to The Mayor of Youngstown, and
14	Q You were the boss of all assistant	13 the law director is the direct supervisor of the
15	prosecutors in your position as prosecutor? A Yes.	14 city prosecutor.
16		15 Q You're the city prosecutor?
17	Q You had no involvement at all in hiring Bassil?	16 A Yes.
18		17 Q Are you also a cabinet member?
	A No.	18 A No.
19	Q You had no involvement whatsoever in	19 Q I heard you, I thought, tell me when Mayor
20	evaluating Bassil's performance up to January of	20 Williams was elected he solicited resumes for
21	2006?	21 cabinet-level position and you applied?
22	A No.	22 A True.
23	Q Okay. When you started your role as	23 Q At one point in time were you a cabinet
24	prosecutor for the City of Youngstown, what did	24 member?
25	you do to first get to know the folks working for	25 A No.
	Page 15	Page 17
1	you, the assistant prosecutors?	1 Q Cabinet-level position?
2	A We sat down either as a group or	2 A No. I use that term generically to upper
3	individually. There was nothing formal. I	3 level. He does refer to me as a cabinet member
4	basically spoke with them to get to know them	4 or upper level individual. However, by virtue of
5	better.	5 the charter and by definition I am not.
6	Q Okay. Were there files containing	6 Q What charter are you referring to?
7	assessments of past performance, et cetera, that	7 A The charter of the City of Youngstown.
8	you would sit down and review to get yourself	8 Q Who is on Mayor Williams' cabinet? The law
9	acquainted with their performance?	
10		9 director? Start with position first please.
10	A I had no such files.	9 director? Start with position first please. 10 A The law director, the finance director, the
11	A I had no such files. Q Did you have any conversations with your	
11 12	A I had no such files. Q Did you have any conversations with your predecessor about the folks working under him?	10 A The law director, the finance director, the
11 12 13	A I had no such files. Q Did you have any conversations with your	10 A The law director, the finance director, the police chief, fire chief, water commissioner. I
11 12 13 14	A I had no such files. Q Did you have any conversations with your predecessor about the folks working under him?	10 A The law director, the finance director, the 11 police chief, fire chief, water commissioner. I 12 believe the buildings and grounds supervisor.
11 12 13 14 15	A I had no such files. Q Did you have any conversations with your predecessor about the folks working under him? A No. Q In January of 2009 you had no input, no sort of prior basis, for understanding how Bassil's	10 A The law director, the finance director, the 11 police chief, fire chief, water commissioner. I 12 believe the buildings and grounds supervisor. 13 Beyond that, I'm not sure.
11 12 13 14 15	A I had no such files. Q Did you have any conversations with your predecessor about the folks working under him? A No. Q In January of 2009 you had no input, no sort	10 A The law director, the finance director, the 11 police chief, fire chief, water commissioner. I 12 believe the buildings and grounds supervisor. 13 Beyond that, I'm not sure. 14 Q Beyond that you're not sure meaning you can't
11 12 13 14 15	A I had no such files. Q Did you have any conversations with your predecessor about the folks working under him? A No. Q In January of 2009 you had no input, no sort of prior basis, for understanding how Bassil's	10 A The law director, the finance director, the 11 police chief, fire chief, water commissioner. I 12 believe the buildings and grounds supervisor. 13 Beyond that, I'm not sure. 14 Q Beyond that you're not sure meaning you can't 15 recall any other people or you can't think of who
11 12 13 14 15 16 17	A I had no such files. Q Did you have any conversations with your predecessor about the folks working under him? A No. Q In January of 2009 you had no input, no sort of prior basis, for understanding how Bassil's performance matched up against any of the other	10 A The law director, the finance director, the 11 police chief, fire chief, water commissioner. I 12 believe the buildings and grounds supervisor. 13 Beyond that, I'm not sure. 14 Q Beyond that you're not sure meaning you can't 15 recall any other people or you can't think of who 16 else they are?
11 12 13 14 15 16 17 18	A I had no such files. Q Did you have any conversations with your predecessor about the folks working under him? A No. Q In January of 2009 you had no input, no sort of prior basis, for understanding how Bassil's performance matched up against any of the other prosecutors?	10 A The law director, the finance director, the 11 police chief, fire chief, water commissioner. I 12 believe the buildings and grounds supervisor. 13 Beyond that, I'm not sure. 14 Q Beyond that you're not sure meaning you can't 15 recall any other people or you can't think of who 16 else they are? 17 A No. What I mean by that is that I'm not
11 12 13 14 15 16 17	A I had no such files. Q Did you have any conversations with your predecessor about the folks working under him? A No. Q In January of 2009 you had no input, no sort of prior basis, for understanding how Bassil's performance matched up against any of the other prosecutors? A No.	10 A The law director, the finance director, the 11 police chief, fire chief, water commissioner. I 12 believe the buildings and grounds supervisor. 13 Beyond that, I'm not sure. 14 Q Beyond that you're not sure meaning you can't 15 recall any other people or you can't think of who 16 else they are? 17 A No. What I mean by that is that I'm not 18 sure. I mean that there are other individuals
11 12 13 14 15 16 17 18 19 20 21	A I had no such files. Q Did you have any conversations with your predecessor about the folks working under him? A No. Q In January of 2009 you had no input, no sort of prior basis, for understanding how Bassil's performance matched up against any of the other prosecutors? A No. Q You didn't do anything to try to assess how	10 A The law director, the finance director, the 11 police chief, fire chief, water commissioner. I 12 believe the buildings and grounds supervisor. 13 Beyond that, I'm not sure. 14 Q Beyond that you're not sure meaning you can't 15 recall any other people or you can't think of who 16 else they are? 17 A No. What I mean by that is that I'm not 18 sure. I mean that there are other individuals 19 who may straddle that line, as I do. I'm aware
11 12 13 14 15 16 17 18 19 20 21 22	A I had no such files. Q Did you have any conversations with your predecessor about the folks working under him? A No. Q In January of 2009 you had no input, no sort of prior basis, for understanding how Bassil's performance matched up against any of the other prosecutors? A No. Q You didn't do anything to try to assess how they had performed, Bassil, or any of the other assistant prosecutors, before January of 2006? A No.	10 A The law director, the finance director, the 11 police chief, fire chief, water commissioner. I 12 believe the buildings and grounds supervisor. 13 Beyond that, I'm not sure. 14 Q Beyond that you're not sure meaning you can't 15 recall any other people or you can't think of who 16 else they are? 17 A No. What I mean by that is that I'm not 18 sure. I mean that there are other individuals 19 who may straddle that line, as I do. I'm aware 20 he treats them as such, but by definition of the 21 charter, he may not be. 22 O That was my next question, which is using
11 12 13 14 15 16 17 18 19 20 21 22 23	A I had no such files. Q Did you have any conversations with your predecessor about the folks working under him? A No. Q In January of 2009 you had no input, no sort of prior basis, for understanding how Bassil's performance matched up against any of the other prosecutors? A No. Q You didn't do anything to try to assess how they had performed, Bassil, or any of the other assistant prosecutors, before January of 2006? A No. Q You just came into the job and you decided.	10 A The law director, the finance director, the 11 police chief, fire chief, water commissioner. I 12 believe the buildings and grounds supervisor. 13 Beyond that, I'm not sure. 14 Q Beyond that you're not sure meaning you can't 15 recall any other people or you can't think of who 16 else they are? 17 A No. What I mean by that is that I'm not 18 sure. I mean that there are other individuals 19 who may straddle that line, as I do. I'm aware 20 he treats them as such, but by definition of the 21 charter, he may not be. 22 O That was my next question, which is using
11 12 13 14 15 16 17 18 19 20 21 22	A I had no such files. Q Did you have any conversations with your predecessor about the folks working under him? A No. Q In January of 2009 you had no input, no sort of prior basis, for understanding how Bassil's performance matched up against any of the other prosecutors? A No. Q You didn't do anything to try to assess how they had performed, Bassil, or any of the other assistant prosecutors, before January of 2006? A No.	A The law director, the finance director, the police chief, fire chief, water commissioner. I believe the buildings and grounds supervisor. Beyond that, I'm not sure. Q Beyond that you're not sure meaning you can't recall any other people or you can't think of who else they are? A No. What I mean by that is that I'm not sure. I mean that there are other individuals who may straddle that line, as I do. I'm aware he treats them as such, but by definition of the charter, he may not be. The treat was my next question, which is using

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1	besides yourself is regarded as a cabinet-type	1	Q But, certainly, one of those two sources, if
2	position by Mayor Williams?	2	not both, specifically mandate that you don't
3	A Going back to the buildings and grounds	3	report to The Mayor but rather you report in your
4	supervisor, depending on if he is or is not	4	position as chief prosecutor to the law
5	within the definition.	5	director?
6	Q Okay,	6	A I don't know that it necessarily establishes
7	A The health commissioner, the chief of staff,	7	that hierarchy that you're pursuing. It says
8	the civil service commissioner, the street	8	that the city may appoint a city prosecutor, and
9	supervisor, the community development agency or	9	I think it goes from there.
10	CDA director, that's about the extent that I can	10	Q I guess my question is actually trying to be
11	recall.	11	a little more precise. Is there any authority I
12	Q All right. Who does the civil service	12	can look to that demonstrates why it is that of
13	director report to?	13	all the cabinet members or people who are
14	A The Mayor and the Civil Service Commission.	14	regarded as cabinet members you're the only one
15	Q Who does the street supervisor report to	15	who has a direct report in between yourself and
16	directly?	16	The Mayor?
17	A I'm not certain. I'm not certain. It would	17	MR. ABBARNO: That's not what
18	be a guess.	18	
19	Q Who do you think that the street supervisor	19	his statement was. I think he
20	reports to?	20	said the street supervisor may
21	A I think that the street supervisor reports to	21	also report to the buildings and
22	the buildings and grounds commissioner.	21	grounds commissioner as a go
23	Q The CDA director, who do you believe they		between.
24	report directly to?	23	MR. POLK: Is that your way
25	A I believe the CDA director reports to The	24	of saying objection?
		23	MR. ABBARNO: No. I'm saying
1	Page 19		Page 21
1	Mayor.	1	the statement was incorrect. He
2	Q And what about the health commissioner?	2	said street supervisor.
3	A Likewise.	3	MR. POLK: He said he didn't
4	Q The health commissioner directly reports to	4	know three questions ago. If we
5	The Mayor?	5	went back, I said, can you point
6	A Yes.	6	me to anybody else who has a
. 7	Q Who does the chief of staff report directly	7	direct report other than The
8	to?	8	Mayor? We can argue about his
9	A Mayor.	9	testimony.
10	Q Okay. Other than yourself, can you point me	10	MR. ABBARNO: I won't argue.
11	to anyone else who's regarded as a cabinet-level	11	MR. POLK: You can say
12	position by The Mayor who doesn't directly report	12	objection and he can correct it
13	to The Mayor?	13	himself.
14	A No.	14	MR. ABBARNO: I'm simply
15	Q Okay. How long have you been directly	15	pointing out —
16	reporting to the law director?	16	MR. POLK: If we can do that,
17	A Since my appointment January of 2006.	17	we can point out all the evidence,
18	Q Is that spelled out somewhere that says	18	that's what we would do in the
19	within the confines of the City of Youngstown the	19	context of the case. I know what
20	law director is the direct supervisor of the	20	you're doing. I do it too.
21	chief prosecutor?	21	Q Now, with the benefit of your lawyer's
22	A It is.	22	comments and his objection, can you answer my
23	Q Or words to that effect?	23 24 25	question please, which is: Is there anybody
24	A It's either in the City Charter, the Revised	24	else who is regarded as a cabinet member who has
25	Code, or possibly both.	25	a direct supervisor between themselves and The

	Page 22		Page 24
1	Mayor other than yourself?	1	director position have over your position?
2	A I can't answer that question.	2	
3	Q Okay. Can you identify anyone like that for		A She has final say over most if not all the
4	me?	3	decisions. However, that's rarely the case where
5	A I have done my best to identify who I believe	5	she becomes involved in the day-to-day operations
6	is in that situation. I can't go beyond what I	6	of the prosecutor's office. Q Okay. When you say all decisions, do you
7	told you.	7	mean that literally? For example, with respect
8	Q You can't tell me one way or the other	8	to decisions about plea agreements, decisions
9	whether or not the street supervisor reports	9	about how late to keep the office open, virtually
10	directly to The Mayor or not?	10	every decision the law director has the ultimate
11	A No.	11	say in?
12	Q With that in mind, is there any authority out	12	A Theoretically, yes.
13	there, anything I can look to, that tells me why	13	Q Is that in practice how it works in the
14	it is or that it is that you have a direct	14	prosecutor's office?
15	supervisor between yourself and The Mayor unlike	15	A No.
16	most if not all the other folks regarded as	16	Q Okay. How does it work in the practice of
17	cabinet members?	17	the prosecutor's office? Who runs the
18	A The short answer is no, I can't point you to	18	prosecutor's office?
19	anything beyond what I have identified.	19	A I do.
20	Q What involvement in your hiring did the law	20	Q Okay. Who decides office hours and office
21	director have?	21	policy within the prosecutor's office?
22	A None.	22	A Office hours are set by the City of
23	Q What type of authority over you does the law	23	Youngstown.
24	director have with respect to your compensation?	24	Q All right. Who decides policy within the
25	A I don't know.	25	prosecutor's office?
	Page 23		Page 25
1	Q Evaluation of performance?	1	
2	A None that I know of.	2	A In what type of policy or what respect? Q Day-to-day policies, practices, assignments.
3	Q Assignment of duties and tasks, initiatives?	3	Who runs the prosecutor's office?
4	A She can assign tasks or initiatives.	4	A Well, I'm not playing games. I don't know
5	Q Does she?	5	what you mean. If you're talking about charging
6	A Rarely.	6	versus personnel policy, you would get two
7	Q Okay. Can you tell me a time in the last	7	different answers.
8	several years where she assigned to you a task or	8	
1 .			O Okay. Tell me the difference, please.
9	initiative?	9	,
10	initiative? A Housing court.		A In regard to criminal matters, I run the
	A Housing court.	9	A In regard to criminal matters, I run the daily operations of the prosecutor's office. We
10		9 10	A In regard to criminal matters, I run the
10 11	A Housing court. Q Was that essentially to create housing court?	9 10 11	A In regard to criminal matters, I run the daily operations of the prosecutor's office. We have every-day contact with the police
10 11 12	A Housing court.Q Was that essentially to create housing court?A No. To take over operations of housing	9 10 11 12	A In regard to criminal matters, I run the daily operations of the prosecutor's office. We have every-day contact with the police department.
10 11 12 13	 A Housing court. Q Was that essentially to create housing court? A No. To take over operations of housing court. 	9 10 11 12 13	A In regard to criminal matters, I run the daily operations of the prosecutor's office. We have every-day contact with the police department. I decide how cases are handled, charged, or
10 11 12 13 14	A Housing court. Q Was that essentially to create housing court? A No. To take over operations of housing court. Q I see. Explain for me, please, then what the	9 10 11 12 13 14	A In regard to criminal matters, I run the daily operations of the prosecutor's office. We have every-day contact with the police department. I decide how cases are handled, charged, or disposed of. I assist or assign someone to
10 11 12 13 14 15	A Housing court. Q Was that essentially to create housing court? A No. To take over operations of housing court. Q I see. Explain for me, please, then what the law director's responsibilities over the	9 10 11 12 13 14 15	A In regard to criminal matters, I run the daily operations of the prosecutor's office. We have every-day contact with the police department. I decide how cases are handled, charged, or disposed of. I assist or assign someone to assist in enforcement of investigations, and
10 11 12 13 14 15 16 17 18	A Housing court. Q Was that essentially to create housing court? A No. To take over operations of housing court. Q I see. Explain for me, please, then what the law director's responsibilities over the prosecutor's office are. A In what fashion? Q In general operating sense.	9 10 11 12 13 14 15	A In regard to criminal matters, I run the daily operations of the prosecutor's office. We have every-day contact with the police department. I decide how cases are handled, charged, or disposed of. I assist or assign someone to assist in enforcement of investigations, and otherwise oversee all aspects of the operation of
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10 11 12 13 14 15 16 17 18 19 20 21 22	A Housing court. Q Was that essentially to create housing court? A No. To take over operations of housing court. Q I see. Explain for me, please, then what the law director's responsibilities over the prosecutor's office are. A In what fashion? Q In general operating sense. A She has very little, if no, input into the operation of the prosecutor's office. Q Explain for me, please, what type of involvement she has. We're saying she. We both	9 10 11 12 13 14 15 16 17 18 19 20 21	A In regard to criminal matters, I run the daily operations of the prosecutor's office. We have every-day contact with the police department. I decide how cases are handled, charged, or disposed of. I assist or assign someone to assist in enforcement of investigations, and otherwise oversee all aspects of the operation of the criminal side of it. Q All right. What about personnel matters? A Those are established by the City of Youngstown. Q Who governs them? Who maintains those things on a day-to-day basis? The law director?

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	Page 26	Page
1	Q Okay. Without regard to Bassil now this	1 Q When appear in the blil and in indicate
2	is me trying to get a handle on it have you	2 M 771.
3	since 2006 ever disciplined somebody who worked	3 A The item of the second sec
4	under you?	4
5	A Yes.	5 Q Charles Cope Comments
6	Q Aside from Bassil?	
7	A Yes.	7 Commission of the commission
8	Q Give me an example.	8 Climinate February 000000
9	MR. ABBARNO: This would be	9 A 1
10	one of those areas I would ask,	10 Q With respect to the you verbally
11	just so you know, for matters to	11 reprimanded, who was that?
12	be sealed, okay?	12 A
13	MR. POLK: Consistent with	13 Q Approximately when did you do that?
14	what I told you, I'll respect your	14 A March 15, 2006.
15	request for me to keep that in	15 Q Did you go speak to the law director or seek
16	mind for filing, but I can't keep	16 her approval at all before verbally
17	it under seal if I need to use it	17 Mis. Camp for minimore some just the
18	in evidence, and I don't have an	18
19	order permitting me to file if	19 A No.
20	it's under seal. I'll give you	20 Q You had another that came to mind before. I
21	the opportunity to make your	21 think a prosecutor.
22	request.	22 A Yes.
23	MR. ABBARNO: This is an	23 Q Who was that?
24	example where other prosecutors	24 A (1997)
25	don't want their discipline	25 Q When roughly did you verbally reprimand
	Page 27	Page :
1	bandied about.	1 A There was not one date. There were several
2	Q Could you please give me examples of other	2 occasions where was reprimanded for attitud
3	discipline you have issued?	3 and demeanor. I can't give you a specific date.
4	A With regard to one of my prosecutors, I	4 Q When roughly did attitude or demeanor
5	verbally reprimanded T for amending a felony	5 reach the level that required some type of verbal
6	case without authorization. Actually, two cases	6 reprimand?
7	on the same day without authorization.	7 A 2008.
8	Q Okay.	8 Q When? Early? Middle? Late? First
9	A With regard to another such prosecutor, I	9 quarter? Second quarter?
10	reprimanded for tardiness.	10 A 2008.
11	Q Verbally or in writing?	11 Q Before you gave make a verbal
12	A Both. Tardiness, and was reprimanded for	12 reprimand, did you go talk to Iris?
13	what I would generally classify as whereabouts.	13 A No.
14	I didn't know where was when I needed	14 Q Let me ask you this. When do you believe the
15	Another prosecutor was reprimanded for attitude	
16	and demeanor.	16 A 2006.
17	Q Verbally or in writing?	17 Q For what?
18	A Verbally. That's what comes to mind.	18 A Tardiness.
19	Q Compression of the Compression	19 Q Was that in writing or verbal?
1	14 11	20 A Verbal.
20	WHO THE COURT OF T	
20 21	1	21 Q Give me a gist for what that was about.
20 21 22	and resemble	 Q Give me a gist for what that was about. A Coming in after the time I had established to
20 21 22 23	A Section of the sect	21 Q Give me a gist for what that was about. 22 A Coming in after the time I had established to arrive at work.
20 21 22	and recomples	 Q Give me a gist for what that was about. A Coming in after the time I had established to

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1	A No.	1 compliance with my discovery policy, and
2	Q Okay. How did you verbally reprimand him	2 compliance with the policies I had set regarding
3	then?	3 the disposition of criminal cases.
4	A Whenever I ran into him, I would tell him,	4 Q That was in June of 2007?
5	work starts at 8:30.	5 A Yes.
6	Q I see. Okay. It wasn't a formal meeting.	6 Q Is there some type of documentation somewhere
7	It was more of a work starts at 8:30 suggestion	7 about that sort of discipline?
8	that you have to be here on time?	8 A Yes.
9	A Correct.	9 Q Okay. Would it be in Mr. Ally's personnel
10	Q Did you ever reduce any of your 2006	10 file?
11	discussions with Bassil about what you have said	11 A I don't maintain personnel files.
12	to be tardniness to writing?	12 Q Would that have been something that went to
13	A No.	13 the Ohio Civil Rights Commission?
14	Q Other than talking with Bassil in 2006 about	14 A I don't know.
15	the time he got into work, what you called	15 Q In June of 2007 did you author some type of a
16	tardiness, when is the next time you reprimanded	16 memo to Bassil then regarding these issues?
17	or disciplined Mr. Ally at all?	17 A I did.
18	A I would again use the generic term of	18 Q Any other type of discipline verbally or in
19	whereabouts. I didn't know where he was when I	19 writing in 2007 that you issued to Bassil or that
20	would need to speak with him or if something	20 you knew about that was issued to Bassil?
21	needed done.	21 A Both.
22	Q When was the next time if 2006 was a	22 Q Okay.
23	discussion about tardiness, when was the next	23 A In December of 2007 there was a written memo
24	time you had any type of disciplinary type	24 that I had prepared that I then reviewed with
25	discussion with Bassil?	25 him.
	Page 31	Page 33
1	A 2006.	1 Q Regarding what?
2	Q Okay. Let's do it this way. In 2006 you	2 A A number of fopics. Can I see the document?
3	talked to Bassil about tardniness and	3 Do you have it with you?
4	whereabouts?	4 Q I don't have any discipline from 2007.
5	A Yes.	5 MR. ABBARNO: You got it
6	Q Were any of those discussions in 2006 ever	6 yesterday.
7	reduced to writing by you or anyone else?	7 THE WITNESS: I need to see
8	A By me, no. By anyone else, not that I'm	8 it.
9	aware of.	9 MR. ABBARNO: We can resend
10	Q To your knowledge?	10 it if you didn't get it. It
11	A No.	should have been part of the
12	Q Did you discipline Bassil at all in 2007?	12 e-mail you got yesterday.
13	A Yes.	13 MR. POLK: I'll grab it at a
14	Q How so?	14 break. I don't have it in this
15	A Verbally and in writing.	15 stack of documents here.
16	Q Okay. For what?	16 Your lawyer provided us with
17	A Verbally. For the same things.	17 some things yesterday afternoon
18	Q Tardiness?	18 that apparently I don't have in
19	A Tardiness and whereabouts.	19 front of me right now. At a break
20	Q All right.	20 I will get it for you.
21	A And then in June of 2007 he was issued a	21 THE WITNESS: I would
22	written reprimand.	22 appreciate that.
23	Q Why?	MR. ABBARNO: I thought that
24	A For violating a direct order on how to handle	24 stuff was in the OCRC file. I
25	the disposition of a case and for tardniness,	25 didn't prepare the OCRC file.

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1	MR. POLK: So did I. That's	1	you a question and you're not sure
2	where my head was.	2	whether or not in answering it you
3	Q So, whatever it says, you issued a memo in	3	would be revealing privileged
4	December of 2007 to Bassil talking about various	4	information, I want you to talk to
5	things you have called a form of discipline?	5	him. I don't want you to waive
6	A Yes.	6	any privilege. I would be more
7	Q From your memory, any other discipline other	7	than happy to do that.
8	than the tardiness and verbal discussions, the	8	If it's a factual question,
9	June 2007 written memo, or December 2007 written	9	you can't take a break. If a
10	memo? Any other type of discipline issued to	10	clarification needs to be made,
11	Bassil Ally in 2007?	11	I'll take that too.
12	A Can I have a minute to ask Ken a question?	12	THE WITNESS: I wasn't sure.
13	MR. ABBARNO: You have to	13	MR. POLK: No problem.
14	answer that first before you can	14	Q With respect to this November of 2007 memo,
15	talk to me. Sorry.	15	is it your testimony that the memo was issued to
16	THE WITNESS: That's all	16	all assistant prosecutors, however, it was
17	right.	17	Bassil's conduct specifically that effectuated
18	MR. POLK: I was going to say	18	that memo or lead to the memo?
19	the same thing.	19	A Yes.
20	THE WITNESS: I'm a rookie at	20	Q It was Bassil's conduct and no other
21	this.	21	prosecutor's conduct that lead to the memo?
22	MR. POLK: No. You're not	22	A No. If you recall, I indicated that
23	doing anything wrong. It's just	23	11 1100 II you recall, I mulcated that
24	that Ken couldn't talk to you	24	Q Fine, Fair. In 2008 you issued a memo that
25	while the question is pending. I	25	included discipline to Mr. Ally?
	Page 35		Page 37
1	CONTRACTOR IN THE TOTAL TH	1	
2	wouldn't let you, but at the same time I want to hear what you have	1	A I did.
3		2	Q Okay. We'll get into that in a moment. In
4	to say.	3	2006, any of the discipline that you issued to
5	A As I was sitting here, I recalled that there was a memo issued to all staff about call-off	4	Mr. Ally, did you discuss it and get prior
		5	approval for it from the law director?
6	procedure in November of 2007. Q All right. Would you characterize that as a	6	A No.
8	discipline on Bassil though?	7	Q With respect to anything you did
9	A Not directly.	8	discipline-wise to Bassil Ally in 2007, did you
10			discuss it and get approval for it from the law
11	Q All right. Would you characterize that as discipline to everybody working under you, sort	10	director?
12	of corrective measures?		A No.
13	A I would characterize it as a corrective	12	Q Prior to January of 2008, had you ever
14	measure. That's a fair characterization.	13	terminated anybody who worked under you?
15	However, it was his continued tardiness that lead	14	A At the City of Youngstown?
16	up to the memo that had to be addressed to	16	Q Yes.
17	everyone.	17	A No.
18	MR. POLK: Do you still need	18	Q By that I mean literally, whether it's
19	to talk to your lawyer? Just so		assistant prosecutors or staff or anyone else who
20	you understand how it works, the	19	ultimately reported up to you. Did you have any
21	rule is while a question is	20	role in terminating anybody at the City of
22	pending you can't talk to your	21	Youngstown prior to January of 2008?
23	lawyer.	22	A No.
24	There are certain	23 24 25	Q. Prior to January of 2008, with respect to any
25	exceptions. For example, if I ask	25	of the discipline you issued to anyone working
25	exceptions. For example, if I ask	25	under you, whether it be the tardniness

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1	discussions with the other attorneys or the	1 employees?
2	whereabouts discussions, et cetera, with respect	2 A I wasn't sure.
3	to any of that discipline, did you, with respect	3 Q You didn't know?
4	to any of those instances, talk to and get	4 A No.
5	approval for issuing that discipline from the law	5 Q Okay. January 1, 2008, who were you sure had
6	director?	6 the ability to terminate an employee within the
7	A No.	7 prosecutor's office?
8	Q With respect to each of the instances of	8 A The Mayor.
9	discipline you effectuated in either 2006 or	9 Q Anyone else?
10	2007, why didn't you talk to the law director	10 A Iris.
11	about it first?	11 O As of
12	A I felt there was no need to do that.	12 A Sorry. The law director.
13	Q Did you believe you had the authority to	13 Q Sure. Fair. As of January 1, 2008 you
14	effectuate that discipline?	believed The Mayor had the ability to terminate
15	A Yes.	
16		1
	Q As of January of 2008, what authority did you	16 A Not a belief. That's a fact.
17	believe you had with respect to the prosecutor's	17 Q As of January 1, 2008, was it also a fact
18	office at the City of Youngstown relative to	18 that the law director could terminate an
19	personnel decisions?	19 employee?
20	A By personnel, do you mean hiring and firing?	20 A No. That was a belief.
21	Q Start there. Sure.	21 Q As you sit here today, do you have a better
22	A I had no direct authority to hire, and I was	22 understanding of who has the ability to terminate
23	not sure about my ability to fire.	23 -employees within the prosecutor's office?
24	Q So taking you back to January 1, 2008 not	24 A Yes.
25	today but January 1, 2008, did you believe you	25 Q Tell me about that, please.
	Page 39	Page 41
1	had the ability to unilaterally hire somebody to	1 A It's The Mayor.
2	work under you?	2 Q Does the law director have the ability to
3	A No.	3 terminate employees in the prosecutor's office?
4	Q How did that process work? It had to go	4 A No.
5	through other channels?	5 Q Do you?
6	A Yes.	6 A No.
7	Q What channels?	7 Q How is it you became better educated about
8	A Once interviews were completed, if a	8 that today versus January 1, 2008?
9	candidate for the job was adequate, they met the	9 A As it relates to your client.
10	requirements, the process would go through the	10 Q Okay. Tell me how it is you actually learned
11	Board of Control for approval and certification	11 that though.
12	that the funds were available in that position,	12 A I learned after January 11, 2008 that only
13	and then it would go to The Mayor for the	13 The Mayor has authority to discharge employees.
14	issuance of an appointment letter.	14 Q How did you learn that?
15	Q Did that policy and practice apply for	15 A Because I attempted to discharge him on
16	assistant prosecutors and staff alike?	January 11, 2008. I learned after the fact I
17	A No.	didn't have authority to do so.
18	Q It was just assistant prosecutors?	18 Q How did you learn that?
19	A Yes.	
20		•
21	Q With respect to staff, do you have the	0.1-9.
22	ability to hire staff?	Value of the second of the sec
	A Those are civil service positions.	22 A Yes.
23	Q Thank you. With respect to terminations,	MR. ABBARNO: Well, in this
24	going back to January 1, 2008, did you believe	instance you can tell him who informed you of it.
25	you had the ability to fire or terminate	25 informed you of it.

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1	THE WITNESS: Okay.	1 introduce yourself or meet the assistant
2	A The law director informed me.	2 prosecutors?
3	Q Iris?	3 A Certainly.
4	A Yes.	4 Q Bassil was one of them?
5	Q What's her last name?	5 A He actually came to me first.
6	A Guglucello.	6 Q All right. What were your initial
7	Q Please spell that.	7 impressions of Bassil in 2006 when you were
8	A G-U I froze, G-U-G-L-U-C-E-L-L-O.	8 appointed?
9	Q Can we call her Iris?	9 A It was too soon to form an impression. He
10	A Please.	10 seemed competent. That was about it.
11	Q What did Iris say to you on that subject?	11 Q Had you heard anything about him from any
12	How is it that you learned that information?	12 source as of that point in time whether or not he
13	MR. ABBARNO: You can answer	was good at his job, a good person, anything
14	this question.	14 about him?
15	A Okay. She informed me after meeting with The	15 A Very little. I knew who he was just by being
16	Mayor that only The Mayor has authority to	in the legal circles in our community, but no.
17	discharge executive branch employees,	17 Other than those things, no.
18	Q So Iris told you on or about January 11, 2008	18 Q And being in legal circles, as I am as well,
19	that only The Mayor has the authority to	19 you sometimes have a sense for whether or not
20	terminate executive branch employees?	20 somebody is good, bad, nice, not nice, et
21	A It was after that date.	21 cetera. Sometimes you don't at all. What was it
22	Q Fair enough. How long after?	22 with you? Any sense?
- 23	A The following week.	23 A I didn't have an opinion.
24	Q Following week?	24 Q All right. Did you know going into your
25	A Yes.	25 appointment that Bassil was Muslim?
	Page 43	11
1	Q Back to my question. Sometime within the	Page 45
2	week following January 11, 2008, Iris, the law	
3		Q Did you have any concept at all?A No.
4	director, told you only The Mayor has the authority to terminate executive-level	
5	2 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	4 Q When did it occur to you that what
	employees?	5 religion are you?
6	A Correct.	6 A Catholic.
	Q What does that encompass? What is an	7 Q Okay. When did you learn that Bassil was
8	executive-level employee?	8 Muslim?
9	A I think I said executive branch.	9 A After I started sorry. After I started at
10	Q Executive-branch employees, okay. What is an	10 the City of Youngstown and just during casual
11	executive-branch employee?	11 conversations.
12	A Employees as distinguished from the judicial	12 Q With?
13	branch of the legislative branch that are	13 A Bassil.
14	appointed or hired by The Mayor of the City of	14 Q How did that come up?
15	Youngstown.	A It came up first soon after I was appointed
16	Q Those would be assistant prosecutors?	when he came into my office and asked about
17	A Among them.	17 attendance at Friday services.
18	Q What other positions?	18 Q What did he say?
19	A Firefighters, police officers, water	A He told me that seeing as how I had frozen
20	department, street department. In summary,	20 the courtroom rotation and he would be assigned
21	anyone other than judicial or legislative	21 to Judge Douglas's court for the time being, that
22	employees. Just about anyone.	22 he would like to attend Friday services, as they
23	Q Okay. Taking a step back now, when you were	were important to him. We talked a little bit
24	appointed chief prosecutor and you assumed that	24 about what they were very briefly. 25 I told him that as long as it didn't
25	position, did you take the opportunity to	25 I told him that as long as it didn't

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1	interfere with the operations of the office I was	1	that meeting you had any notion or any concept
2	okay with that.	2	that Bassil had in fact been attending Friday
3	Q At that point in time did you have an	3	prayer services under your predecessors?
4	understanding about what the practice had been in	4	A No. Not
5	the prosecutor's office with respect to	5	MR. ABBARNO: Are you now
6	Mr. Bassil and his attendance at Friday prayer	6	talking prior to the meeting?
7	ceremonies?	7	Q I'm going to go over it again. Prior to the
8	A No.	8	discussion you shared with me about Bassil, you
9	Q Did he communicate to you at that initial	9	had no concept, right?
10	meeting that he had been attending Friday	10	A Not a grain of understanding.
11	services for long periods of time under your	11	Q Now, during the course of your first
12	predecessors?	12	discussion with Bassil on the subject, did you
13	A No.	13	learn from Bassil that Bassil had been attending,
14	Q Did you come to learn that that was the case	14	under your predecessors, Friday prayer services?
15	at some point in time?	15	A I learned he had been attending when he
16	A No.	16	could.
17	Q So right now is the first time you were	17	Q Fair enough. What did Bassil share with you
18	learning he had done that under your	18	about the regularity with which he was attending
19	predecessors?	19	prayer services on Fridays under your
20	A Yes.	20	predecessors?
21	Q Okay. Prior to today, you didn't know that	21	A That the courtroom rotations, as they were
22	Bassil was attending prayer services on Fridays	22	prior to my administration, sometimes caused
23	for years before your appointment as city	23	difficulties, sometimes caused difficulties in
24	prosecutor?	24	attending.
25	A No. What you're saying is contrary in some	25	Q Bassil, in sum and substance, shared with you
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1	respect to what he told me.	,	
2	Q How is it contrary?	2	during the first meeting it was very important
3	A It's contrary in that he indicated to me that	3	for him to try to attend Friday prayer service
4	there were times he could not go based on the	4	under your administration?
5			A Yes.
6	various courtroom rotation. It was something he	5	Q You told him that that wouldn't be a
7	wanted to do. He felt it was important to him.	6	problem?
	Even after that conversation I had no concept	7	A I told him it wouldn't be a problem as long
8	about what he had done in the past.	8	as it didn't interfere with the operations of the
9	Q So today is the first day that somebody is	9	office.
10	sharing with you, at least as you would put it in	10	Q Now, coming into that meeting, did you have
11	an allegation, that Bassil had been attending	11	any type of opinions about folks who are Muslim?
12	Friday prayer services before your appointment	12	A No.
13	under your predecessors?	13	Q Did you have any bias one way or the other in
14	MR. ABBARNO: Objection.	14	favor or against Muslims?
15	You're mischaracterizing his	15	A No.
16	testimony.	16	Q After your first meeting with Bassil in 2006,
17	A No. I don't agree with that statement.	17	did you learn from Bassil or any other source
18	Q Why?	18	anything more about Bassil's attendance at
19	A Could you repeat that or have it read back to	19	Friday's prayer ceremonies under your
20	me, please?	20	predecessors?
21	Q What did I mischaracterize? Here's what I'm	21	A No.
22	trying to understand is whether or not when	22	Q At some point in time did Bassil's attendance
23	Bassil met with you for the first time in 2006	23	at prayer services on Fridays under your
24	and discussed with you his desire to attend	24	supervision become a problem?
25	Friday prayer services, whether or not prior to	25	A No.

1 Q It was never	Page 50		
1 Q It was never	9		Page 52
	a problem?	1	takes a breath are you going to
2 A The only ti	me it posed a problem was on	2	assume he was going to say
3 January 11, 20	-	3	something?
4 Q Okay. So o	n January 11 his desire to attend	4	MR. POLK: No. I don't have
The second secon	ce at his mosque was a problem?	5	it on videotape when he hesitates
6 A No.	*	6	and acts like he will hesitate.
7 Q Okay. I'm n	nisunderstanding.	7	MR. ABBARNO: Objection. We
	sunderstood you.	8	have to keep it a little light.
The state of the s	uestion. From the moment Bassil	9	MR. POLK: Pardon me?
	d like to try to attend Friday	10	MR. ABBARNO: Keep it a
	in 2006, after you were	11	little light. Go ahead,
	ighout the course of his	12	MR. POLK: I don't understand
11	to today has the fact that Bassil	13	what that means.
1 2 1	ttend Friday prayer services ever	14	MR. ABBARNO: I don't
15 presented a prol		15	either. Go ahead.
16 A No.		16	Q Okay. I'll ask you some fundamental
	as Bassil's desire to attend the	17	questions. I want to understand your position.
	ervices ever, in your opinion,	18	So we can get our understanding straight, my
71 7	used a problem with work	19	first question to you is throughout Bassil's
20 responsibilities		20	
	ing the terms generically, the	21	employment up to today, have you ever disciplined
22 answer is yes.	ing the terms genericany, the	22	Bassil for attending or trying to attend Friday
,	any respect, has his	23	prayer ceremonies at his mosque? A No.
	esire to attend Friday prayer	24	
	my type of a work problem?	25	Q Have you ever attempted to discipline Bassil
25 Scivice caused a		23	for either attending or trying to attend Friday
	Page 51		Page 53
	ance itself, no. No. No.	1	prayer ceremonies at his mosque?
	were hesitating. Tell me what you	2	A No.
3 were going to sa		3	Q Your position is everything that has
	BBARNO: Objection. He	4	transpired between yourself and Bassil related to
	the question.	5	discipline, et cetera, is completely separate and
	is: What were you going to say?	6	apart from his desire to attend Friday prayer
	BBARNO: Did you answer	7	ceremonies at his mosque?
8 the questi	The second secon	8	A Yes.
	VITNESS: I did.	9	Q Sitting here today, you have worked with
	ou going to say?	10	Bassil for several years. Tell me your opinions,
11 MR. A	BBARNO: Did you say	11	please, about his performance as assistant
12 what you	were going to say?	12	prosecutor.
13 THE V	VITNESS: I did.	13	A His performance is substandard.
14 MR. P	OLK: Is this your depo,	14	Q Substandard?
15 Ken?	e 586	15	A That's my answer.
16 Q When you lo	oked at me and hesitated, what	16	Q I didn't hear you.
17 were you going	to say?	17	A My answer is substandard.
18 A I wasn't goi	ng to say anything. I hesitated	18	Q As of today, your testimony is that Bassil's
19 because I was t	rying to sort through your	19	performance as assistant prosecutor is
20 questions.		20	substandard?
	s your testimony?	21	A Yes.
22 A Yes.		22	Q All right. Has it always been substandard in
23 Q Great. Fine.	You didn't need Ken to tell	23	your mind since you started working with him in
24 you that.	COURSE OF STREET	24	2006?
	BBARNO: Every time he	25	A Since I started, no. There was a period

	Pages 5	4 (0	1 31
	Page 54		Page 56
1	where I didn't have an opinion.	1	do that have anything to do with the pending
. 2	Q Fair enough. Ever since the moment in time	2	litigation or pending legal issues involving
3	you began to form your own opinions about Bassil	3	Mr. Bassil Ally?
4	and his performance within presumably weeks or	4	A No.
5	months of taking over as city prosecutor, has	5	Q I want to talk to you in a general sense
6	your opinion always been Bassil as assistant	6	first about the lawsuit itself. What are your
7	prosecutor is a substandard performer?	7	feelings about the fact that Bassil has brought a
8	A Yes.	8	lawsuit against yourself and the city, et
9	Q I have seen in some of the documents and some	9	cetera?
970.000		10	
10	of the other things I have looked through		A My main feeling is surprise.
11	references to performance reviews or performance	11	Q Why?
12	review processes.	12	A I had actually felt that things had slightly
13	Let me ask you this. Have you created	13	improved, and then we got served with a lawsuit.
14	performance reviews for Bassil during the course	14	Q Let's take a step back. That was a fair
15	of your employment?	15	answer to my question in a literal sense. Let me
16	A No.	16	ask you a little bit differently. What are your
17	Q Have you created performance reviews for any	17	feelings about the fact that Bassil initiated
18	of the other assistant prosecutors under you	18	legal proceedings against the city?
19	since you have been chief prosecutor?	19	Dating way back to early 2008, what were your
20	A No.	20	feelings when that first came to your attention
21	Q Why not?	21	that he filed a charge of discrimination?
22	A After I issued the initial memo indicating	22	A I was shocked that he had filed charges for
23	that I would perform evaluations, I chose not	23	discrimination.
24	to. I chose not to.	24	Q Why?
25	Q Why?	25	A Because there was no discrimination.
	Page 55		Page 57
1	A The office, first of all, was extremely	1	Q Were you upset?
2	busy. Second of all, I didn't know that they	2	A No.
3	would I didn't know they would satisfy what my	3	Q Have you ever been upset by the fact that
4	initial hope was for them.	4	Bassil had filed a charge of discrimination or
5	Q Did your decision not to follow through on	5	filed this lawsuit?
6	your memo regarding the starting of the	6	A No.
7	performance review process have anything to do	7	Q Have you ever treated Bassil differently than
8	with the pending litigation involving Bassil?	8	other assistant prosecutors as a consequence of
9	A Do you have the dates I issued that, please?	9	the fact that he chose to file a charge of
10	I'm trying to keep things in perspective.	10	discrimination?
11	Q No problem. I may mark this later. I'll	11	A What do you mean by different?
12	just show it to you right now. March 2008.	12	Q Unlike the others.
13	A Okay.	13	
l		14	A Do you mean professionally or personally?
14	Q I'll represent to you it was after the		Q Start professionally.
15	instance on January it was after a charge was	15	A Professionally I treat him no different now
16	filed, et cetera, which was why I asked.	16	than I did since January 2006.
17	A So your question was did my decision - it	17	Q Have you ever treated Bassil Ally different
18	was based directly on	18	in a professional sense than you have any of the
19	Q I'll ask you again.	19	other assistant prosecutors as a consequence of
20	A Please.	20	the fact that he filed a charge of discrimination
21	Q Did your decision not to follow through on	21	or a lawsuit?
22	this memo in March of 2008 that you will be	22	A Absolutely not.
23	conducting individual performance reviews going	23	Q. Have you ever treated Bassil Ally differently
24	forward on a bi-annual basis with respect to all	23	in a personal way than you do the other
25	assistant prosecutors, did your decision not to	25	prosecutors as a consequence of the fact that he

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	Page 58	Page	60
1	filed a charge of discrimination and a lawsuit?	1 A Yes.	
2	A Yes.	2 Q Do you believe Dana Lantz would lie?	
3	Q How so?	3 A Yes.	
4	A I'm very much less trusting of him. I keep	4 Q What's the difference in your mind between	
5	him at arm's length. I measure what I say	5 dishonest and lying?	
6	because he twists and manipulates it. Just as a	6 A Dishonest, in my context, means that you	
7	general guarded feeling on our interactions.	7 would, for example, fix the outcome of a case	or
8	Q Do you believe that that sediment impacts	8 take something in exchange for a certain	
9	your professional working relationship with	9 disposition. To me, there's a difference between	en
10	Bassil?	10 dishonesty and truthfulness.	
11	A No.	11 Q I see. The lie in your mind means not	
12	Q Do you distrust the other assistant	12 telling the truth?	
13	prosecutors with whom you work?	13 A Correct.	
14	A No.	14 Q Whereas dishonest means maybe a bribery or	· —
15	Q Do you keep the other assistant prosecutors	15 A Corruption.	
16	with whom you work at arm's length?	16 (Brief recess)	
17	A It's different. I treat them all in their	17 Q Help me understand, please, just the	
18	own respect.	18 framework of who the other assistant prosecutors	S
19	Q Other than Bassil, is there any other	19 have been since January of 2008.	
20	assistant prosecutor you would tell me today you	20 A Staff-wise?	
21	keep at arm's length, in your guard, or cagey	21 Q Are there a number of them?	
22	about what you say to them?	22 A No. Only a few.	
23	MR. ABBARNO: I don't believe	23 Q Okay. Since January of 2008, who are the	
24	he used the word cagey.	24 people who held assistant prosecutor positions	
25	MR. POLK: I did.	25 working under you?	
	Page 59	Page	61
1	MR. ABBARNO: I don't want it	1 MR. ABBARNO: Did you say	
2	to come back that he said it was	2 '06?	
3	cagey.	3 MR. POLK: I thought I said	
4	A My truthful answer to you is it depends on	4 '08.	
5	what the subject is.	5 MR, ABBARNO: Did you want	
6	Q All right. How so?	6 '06 or '08?	
7	A There are certain prosecutors who are, if it	7 MR. POLK: I want to start in	
8	was a legally sensitive matter, that I would not	8 January of 2008.	
9	take into - that I would not share with others.	9 Q January 1, 2008, who were assistant	
10	There are certain other prosecutors that have	10 prosecutors who worked under you?	
11	other abilities or other areas of knowledge or	11 A Pete Klimis, Brett Hartup.	
12	expertise that I would consult others.	12 Q Spell the last names to the extent it's not	
13	I address each of them according to their	13 something really basic.	
14	talents or inabilities, including your client.	14 A Bassil Ally.	
15	Q Other than Bassil, are there any other	15 Q Pete Klimis.	
16	assistant prosecutors that you would tell me you	A Again the spelling is K-L-I-M-I-S; the secon	
17	believe twists words or manipulates your words?	is Brett Hartup, H-A-R-T-U-P; Bassil Ally; Dan	18
18	A Yes.	18 Lantz, L-A-N-T-Z.	
19	Q All right. Who?	19 Q As of January 1, 2008, those were your four	
20	A Dana Lantz.	20 assistant prosecutors?	
21	Q Do you believe Dana Lantz is dishonest?	21 A Correct.	
22	A No.	22 Q All right. As of today, who are your	
23	Q Do you believe Bassil Ally is dishonest?	23 assistant prosecutors? 24 A Brett Hartup, Bassil Ally, Dana Lantz, and 25 John Marsh, M-A-R-S-H.	
24	A Dishonest, no. Q Do you believe he would lie?	25 John Marsh, M-A-R-S-H.	
25	Q Do you believe he would lie?	20 John Marshayl-A-K-5-II.	

Page 62 1 Q When did John become assistant prosecutor under you? 3 A The end of March of '08. I would say the 4 31st, but don't hold me exactly to that date. 5 Q Now, help me understand, please, when you 6 came in 2006, who were your assistant prosecutors? 8 A In January 2006, it was Bassil Ally, Dana 11 Lantz — you stumped me for a second. I'm 12 sorry. I'm drawing a blank. There were three. 15 There was one for each courtroom. 16 Q Was it Pete or Brett? 17 A No. Pete didn't come until the end of the 18 year. Brett didn't start until Pebruary of 19 2006. 20 MR. ALLY: Tony Ferris. 21 TIE WITNESS: Thank you. I 22 appreciate that. 23 A I remember now that he covered until the new 24 assistant prosecutors: Bassil Ally, Dana Lantz, Tony 25 Ferris? 3 A Yes. 4 Q In January of 2006 you had three assistant 26 Q In January of 2006 you had three assistant 27 John Marsh? 3 A Tony Ferris was transferred to the law 4 department and Brett Hartup was hired. 3 Q You said a couple months later it changed? 4 A In Poeember of 2006 Fete Klimis was hired. 3 Q You said a couple months later it changed? 4 A In poeember of 2006 Fete Klimis was hired. 5 Q Q How sin prosecutors working under you have 5 been, in some combination of Bassil Ally, Dana 6 Lautz, Tony Ferris, Brett Hartup was hired. 6 Q How did it change? 9 A Tony Ferris was transferred to the law 6 department and Brett Hartup was hired. 10 Q Any other changes? 11 A In A In Rebraury it changed. 12 Q Front January of 2006 through today, the 13 assistant prosecutors working under you have 14 been, in some combination of Bassil Ally, Dana 15 Lautz, Tony Ferris, Brett Hartup, Pete Klimis and 16 Lautz, Tony Ferris, Brett Hartup, Pete Klimis and 17 John Marsh? 18 A 10 of the mean of their 19 prosecutors who have worked under you since 2006 been Muslim in terms of their 19 prosecutors are Muslim in terms of their 20 Q Doy up believe that as of today, given all 21 defined the covered under you since 2006 been Muslim in terms of their 22 prosecutors are Muslim in terms of their 23 A	C	ase: 4:09-cv-01144-CAB Doc #: \$26 Filed	20416	2143 17 01 42. PageID #. 3875
2 under you? 3 A The end of March of '08. I would say the 4 31st, but don't hold me exactly to that date. 5 Q Now, help me understand, please, when you came in 2006, who were your assistant prosecutors? 4 A In January of 2006? 9 Q Is that when you were appointed, January 2006? 10 A That is, but there was a change in February. 11 In January 2006, it was Bassil Ally, Dana 12 Lantz — you stumped me for a second. I'm sorry. I'm drawing a blank. There were three. 15 There was one for each courtroom. Q Was it Pete or Bert? 17 A No. Pete didn't start until February of 2006. 18 year. Brett didn't start until February of 2006. 20 MR. ALLY: Tony Ferris. 21 THE WITNIESS: Thank you. I appreciate that. 22 appreciate that. 23 A I remember now that he covered until the new assistant prosecutor came on board, because he was going to be transferred to the law 25 department. 24 Q In January of 2006 you had three assistant prosecutors: Bassil Ally, Dana Lantz, Tony Perris. 3 A Yes. 3 Q You said a couple months later it changed? 3 A In Rebruary it changed. 4 Q How did it change? 5 A You said a couple months later it changed? 5 A Tony Ferris was transferred to the law department and Brett Hartup was hired. 5 Q How did it change? 5 A Tony Ferris B, Fett Hartup, Pete Klimis and John Marsh? 5 A Yes. 6 Q You said a couple months later it changed? 7 A In Pebruary it Changed. 8 Q How did it change? 9 A Tony Ferris, Brett Hartup, Pete Klimis and John Marsh? 10 John Marsh? 11 John Marsh? 12 A I have no idea sasistant prosecutors working under you did or didn't do certain things. When they are oliue sastistant prosecutor came on board, because he was going to be transferred to the law department and Brett Hartup was hired. 9 Q How did it change? 19 A Tony Ferris B, Tony Ferris, Brett Hartup, Pete Klimis and John Marsh? 10 John Marsh? 11 John Marsh? 12 A I have no deas whether by aspearance or by speaking to them about their background? Your tissimony is you have no clue? 10 Q Mr. ALLY: Tony peris, was transferred to the law department. 21 Q		Page 62		Page 64
3 A The end of March of '08. I would say the 4 31st, but don't hold me exactly to that date. 5 Q Now, help me understand, please, when you 6 came in 2006, who were your assistant 7 prosecutors? 8 A In January of 2006? 9 Q Is that when you were appointed, January 1 2006? 1 A A That is, but there was a change in February. 1 In January 2006, it was Bassil Ally, Dana 1 Lantz — you stumped me for a second. I'm 2 sorry. I'm drawing a blank. There were three. 1 There was one for each courtroom. 1 Q Was it Pete or Brett? 2 MR. ALLY: Tony Ferris. 2 MR. ALLY: Tony Ferris. 2 MR. ALLY: Tony Ferris. 3 A I remember now that he covered until the new assistant prosecutors: Bassil Ally, Dana Lantz, Tony 8 Page 65 9 Q In January of 2006 you had three assistant prosecutors: Bassil Ally, Dana Lantz, Tony 9 Ferris? 9 A Yes. 1 Q Any other changes? 9 A Tony Ferris was transferred to the law department and Brett Hartup was hired. 1 Q Any other changes? 9 A Tony Ferris was transferred to the law department and Brett Hartup was hired. 1 Q Any other changes? 1 A In December of 2006 Pete Klimis was hired. 2 Q Hom January of 2006 ftrough today, the assistant prosecutors working under you have been, in some combination of, Bassil Ally, Dana Lantz, Tony 15 been, in some combination of, Bassil Ally, Dana Lantz, Tony 15 A Yes. 16 Q Other than Bassil Ally, have any of the assistant prosecutors working under you have been, in some combination of, Bassil Ally, Dana Lantz, Tony Perris, Brett Hartup, Pete Klimis and John Marsh? 2 A I Round of the combination of, Bassil Ally, Dana Lantz, Tony Perris, Brett Hartup, Pete Klimis and John Marsh? 2 A John Marsh? 3 A J God Other than Bassil Ally, have any of the assistant prosecutors working under you have been, in some combination of, Bassil Ally, Dana Lantz, Tony Perris, Brett Hartup was hired. 3 Q Other than Bassil Ally, have any of the assistant prosecutors working under you have been, in some combination of, Bassil Ally, Dana Lantz, Tony Perris, Brett Hartup, Pete Klimis and John Marsh? 3 A John't kn	1	Q When did John become assistant prosecutor	1	religion?
4 Jist, but don't hold me exactly to that date. 5 Q Now, help me understand, please, when you came in 2006, who were your assistant prosecutors? 6 A In January of 2006? 9 Q Is that when you were appointed, January 2006, it was Bassil Ally, Dana Lantz — you stumped me for a second. I'm sorry. I'm drawing a blank. There were three. 15 There was one for each courtroom. 16 Q Was it Pete or Bret? 17 A No. Pete didn't come until the end of the year. Brett didn't start until February of 2006. 18 MR. ALLY: Tony Ferris. 19 A I remember now that he covered until the new as going to be transferred to the law 20 assistant prosecutor came on board, because he was going to be transferred to the law 21 department. 22 Q You hand three assistant prosecutors working under you drive no idea. 23 A I remember now that he covered until the new as one for each courtroom. 24 A I nave no idea. 25 A Yes. 26 Q You said a couple months later it changed? 26 A You, as somebody suing, would you like to see Bassil no longer working at the City of Youngstown? 27 A Your question is would I like to see him continue to work? 28 A Yes. 29 Q You said a couple months later it changed? 30 A Tony Ferris was transferred to the law 31 A Tony Ferris was transferred to the law 42 G Poyou have an understanding at all as to whether or not any of the assistant prosecutors when about their background? Your testimony is you have no clue? 4 A I have no idea. 4 A I have no	2	under you?	2	A I have no basis for that belief.
5 Q Now, help me understand, please, when you came in 2006, who were your assistant prosecutors? 8 A In January of 2006? 9 Q Is that when you were appointed, January 2006, it was Bassil Ally, Dana Lantz—you stumped me for a second. I'm sorry. I'm drawing a blank. There were three. There was one for each courtroom. Q Was if Pete or Brett? 10 A No. Pete didn't come until the end of the year. Brett didn't start until February of 2006. 11 A Robert didn't start until February of 2006. 12 A I remember now that he covered until the new assistant prosecutors ame on board, because he was going to be transferred to the law department. 11 Q In January of 2006 you had three assistant prosecutors: Bassil Ally, Dana Lantz, Tony Ferris? 12 A I referrent. Q In January of 2006 you had three assistant prosecutors: Bassil Ally, Dana Lantz, Tony Ferris was transferred to the law department and Brett Hartup was hired. Q Any other changes? 12 A In December of 2006 Pete Klimis was hired. Q Prom January of 2006 through today, the assistant prosecutors working under you have been, in some combination of, Bassil Ally, Dana Lantz, Tony Ferris, Brett Hartup, Pete Klimis and John Marsh? 10 Q Oby ou believe any of the assistant prosecutors working under you since 2006 been muslim in terms of their religion? 11 A That is, but there was a change in February. 12 A That is, but there was a change in February. 13 In January 2006, it was Bassil Ally, Dana Lantz, Tony Ferris, Brett Hartup, Pete Klimis and John Marsh? 14 A That is, but there was a change in February. 15 December of 2006 Pete Klimis was hired. Q Ob there than Bassil Ally, have any of the assistant prosecutors working under you and the city, would you like to see Bassil no longer working under you and for the city? 15 A Yes. 16 Q Obert than Bassil Ally, have any of the assistant prosecutors working under you and for the city? 17 A In December of 2006 Pete Klimis was hired. Q Ob you believe any of the odday, given all and the could get past this. Q Do you believe any	3	A The end of March of '08. I would say the	3	Q You don't have a belief one way or the
6 came in 2006, who were your assistant 7 prosecutors? A In January 2006? 9 Q Is that when you were appointed, January 12 In January 2006, it was Bassil Ally, Dana 13 Lantz – you stumped me for a second. I'm 14 sorry. I'm drawing a blank. There were three. 15 There was one for each courtroom. 16 Q Was it Pete or Brett? 17 A No. Pete didn't come until the end of the 17 year. Brett didn't start until February of 18 year. Brett didn't start until February of 19 2006. 20 MR. ALLY: Tony Ferris. 21 THE WITNESS: Thank you. I 22 appreciate that. 23 A I remember now that he covered until the new assistant prosecutor came on board, because he was going to be transferred to the law 25 A Yes. 26 Q You said a couple months later it changed? 37 A In December of 2006 Pete Klimis was hired. 38 Q How did it change? 39 A Tony Ferris, Brett Hartup was hired. 40 Q Any other changes? 41 A Tony Ferris was transferred to the law 42 department and Brett Hartup was hired. 41 Q Any other changes? 42 A In December of 2006 Pete Klimis was hired. 43 Q Prom January of 2006 through today, the assistant prosecutors working under you have been, in some combination of, Bassil Ally, Dana Lantz, Tony Ferris, Brett Hartup, Pete Klimis and John Marsh? 4 A Yes. 4 Q O Other than Bassil Ally, have any of the assistant trosecutor any of the other were draw there or not any of the assistant prosecutors of any type of national origin, middle eastern in nature? 4 A I have no idea whether by appearance or by speaking to them about their background? Your testification you were lawing with Bassil, rationale behind them, why you did or didn't do certain things. 19 Q Before the break we were talking about a lot of different types of interactions you were having with Bassil, rationale behind them, why you did or didn't do certain things. 19 Youngstown? 20 A I Tremember now that he covered until the new as change in February of 200 you go were a chief law director? 21 A First of all, I'm the prosecutor, not the law director? 22 A First of all, I'm the prosecu	4		4	other?
7 prosecutors? 8 A In January of 2006? 9 Q Is that when you were appointed, January 2006, it was Bassil Ally, Dana 2006? 11 A That is, but there was a change in February. In January 2006, it was Bassil Ally, Dana 2 point of the series of th	5	Q Now, help me understand, please, when you	5	A No.
8 A In January of 2006? 9 Q Is that when you were appointed, January 2006. 11 A That is, but there was a change in February. 12 In January 2006, it was Bassil Ally, Dana I Lantz — you stumped me for a second. I'm sorry. I'm drawing a blank. There were three. 15 There was one for each courtroom. 16 Q Was it Pete or Brett? 17 A No. Pete didn't start until February of 2006. 18 A I'remember now that covered until the new assistant prosecutor came on board, because he was going to be transferred to the law 19 A Yes. 10 A I Poeember of 2006 Pete Klimis was hired. 11 Q Any other changes? 21 A In Pecember of 2006 Pete Klimis was hired. 22 Q Any other changes? 23 A I remember now that he covered until the new assistant prosecutors working under you have department and Brett Hartup was hired. 24 Q Any other changes? 25 A Yes. 26 Q You said a couple months later it changed? 26 A In December of 2006 Pete Klimis was hired. 27 A In December of 2006 Pete Klimis was hired. 28 A Tony Ferris, Brett Hartup, Pete Klimis and John Marsh? 29 A I don't know. 20 Q Other than Bassil Ally, have any of the assistant prosecutors who have worked under you since 2006 been muslim in terms of their religion? 29 A I don't know. 20 Q Do you believe any of the other assistant that the department and Brett Hartup was hired. 30 Q Form January of 2006 through today, the assistant prosecutors working under you have seed that the chief prosecutor in a case where Bassil Ally Dana Lantz, Tony Ferris, Brett Hartup, Pete Klimis and John Marsh? 31 A I don't know. 32 C Do you believe any of the other assistant the could continue to work with the matters were beginning to improve, and I thought that once the air was clearly with the matters were fall with, that all of us could get past this. 33 Q Poy ub believe any of the other assistant prosecutors who have worked under you since 2006 been muslim in terms of their religion? 34 A I don't know. 35 Q Do you believe any of the other assistant prosecutors who have worked under you since 2006 been dustined by the	6		6	Q Do you have an understanding at all as to
9 of national origin, middle eastern in nature? 10 2006? 11 A That is, but there was a change in February. 12 In January 2006, it was Bassil Ally, Dana 13 Lantz – you stumped me for a second. I'm 14 sorry. I'm drawing a blank. There were three. 15 There was one for each courtroom. 16 Q Was it Pete or Brett? 17 A No. Pete didn't come until the end of the 18 year. Brett didn't start until Rebruary of 19 2006. 10 MR. ALLY: Tony Ferris. 11 Q any cher changes? 12 appreciate that. 12 appreciate that. 13 Page 63 14 department. 15 Tills WITNESS: Thank you. I appreciate that. 16 you assomebody suing, would you like to see 17 Bassil no longer working at the City of Youngstown? 18 A Yes. 19 Q You said a couple months later it changed? 20 A In February it changed. 21 A In February it changed. 22 A In February it changed. 23 A I remember and Brett Hartup was hired. 24 A In December of 2006 Pete Klimis was hired. 25 Young fair and Brett Hartup was hired. 26 Q From January of 2006 through today, the 27 a sistant prosecutors working under you have been, in some combination of, Bassil Ally, bare any of the 28 been, in some combination of, Bassil Ally, bare any of the 29 assistant prosecutors working under you ascide 2006 been Muslim in terms of their religion? 20 A I don't know. 21 A I don't know. 22 C Do you believe any of the other assistant religion? 23 A I don't know. 24 A Do you believe any of the other assistant prosecutors working were dealt with, that all of us could get past this. 25 A I don't know. 26 A Tour question is would I like to see him continue to work? 27 A My opinion is that I could continue to work with him. That, as I had indicated earlier to you, I thought the matters were beginning to improve, and I thought that once the air was cleared, as misunderstandings were dealt with, that all of us could get past this. 28 Q Do you believe any of the other assistant. 29 Do you believe that as of today, given all that are assistant the procedure and procedure that the page of the city was cleared, as misunderstandi	7	A. 1995 S. 199	7	whether or not any of the assistant prosecutors
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3 Q Given where things are, do you believe Bassil 3 A Yes.
5 for the indefinite future? 5 A Yes.
6 A Yes. 6 Q Personally?
7 Q Okay. How does that square with your view 7 A I don't recall.
8 that he's a substandard assistant prosecutor? 8 Q Okay. Tell me about that.
9 A Because we all have room for improvement, 9 A If I issued a reprimand, whether it was to
10 Q You believe that you would give Bassil the 10 Bassil or any other prosecutor, there were times
opportunity to improve and continue to work under when I would call them in and speak with them are
12 you with the city? 12 then hand this to them.
12 120
16 of the assistant prosecutors, did you ever 16 There were times when I – no. Those are the
17 consult with and get approval of The Mayor before 17 two situations. I would either call them in and
18 doing that? 18 give it to them and go over it, or I would leave
19 A No.
20 MR. POLK: I'll mark a couple 20 Q Whose writing and handwriting is it on the
21 exhibits. The way this works 21 top right, "spoke personally, 6/21/07"?
22 is we're both lawyers let me 22 A My handwriting.
23 tell you what I'll do is mark some 23 Q. Why did you write this on that document?
24 exhibits for purposes of your 24 A This was the copy that I would keep, and that
deposition. I'll mark them 1 25 was a reminder to me that I went over it with

	rages /		
	Page 70		Page 72
1	him. That was a reminder to me I went over it	1	as I did to the first one. Did you prepare this
2	with him.	2	document in the same way you prepared Exhibit 1?
3	Q How did you prepare this document? Did you	3	A I did.
4	physically sit down and type something?	4	Q Would you also believe that if you went back
5	A I did.	5	to your office today you would be able to pull up
6	Q On your computer?	6	the electronic version of this December 5, 2007
7	A Yes.	7	memo?
8	Q Do you pull up like a memo form that you type	8	A I would believe that.
9	in and go from there, like the header?	9	Q Do you believe you gave this document to
10	A No.	10	Bassil?
11	Q Tell me.	11	A That, I'm not sure about, with regard to this
12	A I just create the document in Word, and then	12	document.
13	we load our pre-printed letterhead. We're not	13	Q Why not?
14	high tech at the city yet.	14	A Because when I reviewed it with him, I went
15	Q All right. You created this on your	15 16	through the list of issues that I had identified,
16	computer? A Yes.	17	and you'll note that with regard to paragraph 7
18	Q The one you still have and use?	18	there's a slash through the number. That means I did not review that issue with him.
19	A That, I don't know.	19	Q You did not?
20	Q Why not?	20	A I did not.
21	A There were some changes to computers go	21	Q All right. Let's take a big step back. Why
22	down, computers are replaced.	22	did you prepare Exhibit 2?
23	Q Did your computer go down since June of	23	A It would have been prompted by the conduct
24	2007?	24	identified and placed into this. I would have
25	A I know there have been numerous times I	25	prepared this because he came in after 8:30.
	Page 71		Page 73
1	called to have it worked on. The answer is yes,	1	I would have prepared this because he was not
2	it has gone down. I don't know if it or part of	2	participating in preparation of charges, so on
3	it was replaced. Q Would you expect to be able to go back to	3	and so forth, for each of the paragraphs contained in that.
4	your office today and pull this document up in	5	
5	its computer format if you needed to?	6	Q All right. Is it your writing on the
7	A I would think so.	7	right-hand top corner that says what does it say?
8	Q Okay. If my client testified he never	8	A "Spoke personally."
9	received Plaintiff's Exhibit 1, is that possible	9	Q Why is it you wrote that on this memo as
10	in your eyes?	10	well?
11	A Anything is possible.	11	A Because this is the copy I would have
12	Q What I'm getting at is you indicated you	12	retained.
13	thought you gave it to him. My point is I expect	13	Q Is that your practice each time you sit with
14	my client will say, I never seen this document	14	somebody and speak to them about a memo you
15	before.	15	record that on the top?
16	What I'm getting at is would you characterize	16	A Yes.
	that as not possible, I know I gave it to him, or	17	Q Now, why is it you went about addressing
17		1 1 0	certain things from this memo with Bassil and not
	alternatively, okay, with respect to this	18	
17		19	others?
17 18	alternatively, okay, with respect to this		
17 18 19	alternatively, okay, with respect to this document it's possible, and here's why?	19	others?
17 18 19 20	alternatively, okay, with respect to this document it's possible, and here's why? A My statement to your question would be I	19 20	others? A The only thing I didn't address was paragraph
17 18 19 20 21	alternatively, okay, with respect to this document it's possible, and here's why? A My statement to your question would be I believe I gave this to him. (Plaintiff's Exhibit 2 was marked for identification.)	19 20 21 22 23	others? A The only thing I didn't address was paragraph 7. Q What about paragraph 6? It looks like it has a strike throughThat's why I ask.
17 18 19 20 21 22	alternatively, okay, with respect to this document it's possible, and here's why? A My statement to your question would be I believe I gave this to him. (Plaintiff's Exhibit 2 was marked	19 20 21 22	others? A The only thing I didn't address was paragraph 7. Q What about paragraph 6? It looks like it has

	Pages 7	4 to	77 3
	Page 74		Page 76
1	Douglas's court at that time, courtroom number	1 re	ecognized or appreciated that Bassil was
2	1. He was the prosecutor assigned to courtroom	2 a	ttending Friday mosque services in the prior two
3	number 1 at this point in time, so I would have	3 у	rears?
4	gone over it with him.	4 A	Did I appreciate that he was attending - I
5	Q Why did you choose not to address paragraph 7		ust never took time to think about the total
6	with Bassil in 2007?		ime it took him out of the office.
7	A That caused me to pause. I wasn't sure how		This request for a vacation time caused you
8	to deal with that issue, and I wanted to seek		o start doing a calculation about how much time
9	further advice.		ne was sitting out of the office versus time he
10	Q From whom?		vas in the office?
11	A I would have gone to the law director.	11 A	Yes. It could have been before this, It
12	Q Did you go to the law director after you		wasn't necessarily prompted directly by the
13	wrote this memo and recorded what you did in		application for vacation time. It just could
14	paragraph 7?		nave been something that dawned on me building up
15	A Yes.		o this.
16	Q What did you talk to her about?	16	I would have to actually see the date of the
17	A I talked to her about the ability to		vacation request. It could have been a
18	compensate for time when he would be attending a		conversation or a comment he made to me about
19	religious service.		vanting the time before he actually applied, but
20	Q What did she tell you?		t would have definitely been around this time
21	A She indicated that was appropriate that I		hat I just sat down and I thought, wait a
22	could account for all time for the employees in		ninute, it's 104 hours out of the office.
23	the office or time out of the office.		When you did that, did you do anything to
24	Q As of December of '07, was the fact that		letermine whether or not Bassil, in his judgment,
25	Bassil Ally had been attending Friday mosque	1000001	and been doing things you suggest here that he
		20 11	
	Page 75		Page 77
1	prayer services becoming some type of an issue		could do to make up for the services such as
2	for you?		arriving to work early, staying late, foregoing
3	A It was not becoming an issue. Well, what do		unch hour?
4	you mean by issue?		A No.
5	Q Well, the fact that you would write in a memo		Q Why not?
6	and address it with him potentially.		A There is no other option. Those are the only
7	A It was just a matter that had now come to my		opportunities he would have to make up the time.
8	attention.		My question is before you sat down to counsel
9	Q What do you mean?		Bassil on these issues, did you do any type of a
10	A It came to my attention because he had		calculation to determine or any investigation to
11	applied for a block of vacation at the end of		letermine whether or not he had in fact been
12	2007 and carrying over into 2008. It would have		offsetting the hours he took on Friday to attend
13	required us to adjust some schedules and make		nis prayer services with lunches, staying later,
14	sure we had sufficient personnel to cover the		erriving early?
15	office and court operations during that time.		A No.
16	As I was reviewing that, I realized that he		Q Why not?
17	was typically out of the office in a normal		A It's just not something I had been thinking
18	situation two hours or so in a week. Quick math		about.
19	tells you that's a potential of 104 hours out of		2 You testified that Bassil is someone you
20	the office in a year, and he was still sitting on		pelieve would lie.
21	a large block of vacation time.		A Yes.
22	Q When did he make this vacation request?	22	Q Would you lie?
23	About December of '07?	E .	1 No.
24	A Yes.	24	After Bassil filed his charge of
25	Q Before December of 2007, you hadn't	25 d	discrimination with the Ohio Civil Rights

Page 78 Page 80 1 Commission, did you have any type of discussions 1 2008 that that's what people do when they get 2 2 fired, but it was a different context than what with Bassil wherein you suggested that Bassil 3 3 should get a new job instead of coming back to he alleges? 4 the city because that's what people do when they 4 A Yes. 5 get fired? 5 Q Okay. As of April of 2008, you didn't want 6 A There was a comment like that made. The 6 Bassil to be working at the City of Youngstown 7 7 comment, as it was presented, is entirely out of any longer? 8 context. 8 A No. That's not what I said. 9 9 Q Help me understand, please. Q Okay. 10 A It would have been in April of 2008 coming up 10 A The April 2008 conversation was a 11 to the courtroom rotations that he came into my 11 conversation about what had happened in the 12 office and he wanted to talk about the 12 past. 13 rotations. 13 Q I see. 14 First of all, let me back up one step. I 14 A It had nothing to do with that moment or the 15 15 want to say we had a staff meeting about the future. 16 upcoming rotations. It was after that meeting 16 Q All right. Bassil said to you, "what was I 17 that he came into my office and said he wanted to 17 supposed to do," and did you understand that to 18 18 talk to me one on one. It was about the be in reference to what was I supposed to do 19 rotations. 19 short of filing some type of legal action? 20 He, generally speaking, asked me if I would 20 A Yes. 21 commit someone to cover Fridays. He generally 21 Q In response, you said something to the effect 22 asked me if I would commit to cover Fridays. He 22 of "get a job with somebody else, that's what 23 asked me how long the rotation would be. He 23 people do when they get fired"? asked a few other things. It was probably about 24 24 A Right. Yes. That's true. That is a good 25 a 20 to 30 minute conversation. 25 portion of the context. Page 79 Page 81 During the course of that conversation, as he 1 1 Q Okay. Now, did you ever, in conversations 2 2 was sitting in my office, I told him that - the with Bassil, tell him that in sum and substance 3 issue of firing or wanting to fire came up. 3 or words to the effect of everything that 4 To put that comment in context, he said, 4 happened over the past few months, meaning 5 "what was I supposed to do, you want to fire me, 5 January, February, March of 2008, had been a huge 6 6 what was I supposed to do, get a new job?" inconvenience for everyone in reference to the 7 7 I said, "yes, that's what people do when they fact that Bassil had filed a charge and been 8 8 get fired." returned to work from administrative leave, the 9 Q All right. When Bassil was saying, "what was 9 issues over termination, et cetera? Did you ever I supposed to do," what is your side of the story 10 10 say those words? 11 about what he was referring to? What was the 11 A I don't recall making that statement. 12 context? 12 Q We're both lawyers. This is your first time 13 13 A The context was that entire conversation in a civil deposition. In fairness to you, I 14 14 will tell you why I will ask you this question, related back to January 11th. Part of the 15 15 conversation was me telling him I did not because a lot of times people don't know the 16 discriminate against him. He rolled his eyes at 16 answer, and sometimes people can tell me they're 17 me. He didn't believe me. He turned away from 17 certain something didn't happen. All I want to 18 me. He didn't really want to hear what I had to 18 know is your position on the issue. 19 19 For example, if my wife, who is also a 20 20 I told him it had nothing to do with his partner, walked in and said, have you ever 21 21 religion. I told him he could go about his cheated on me, I wouldn't say I don't know. I 22 business as long as it didn't interfere with the 22 would say, no, I didn't do that. Okay? 23 23 office. That's how it lead then to that I'm just going to ask you whether or not you 24 24 exchange. are denying you ever did this or whether it ever

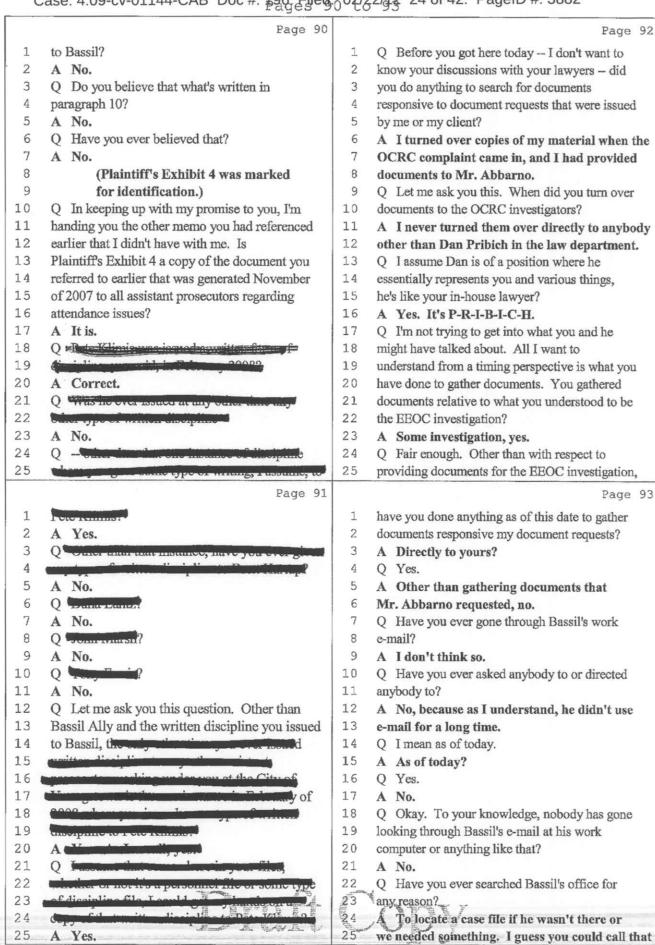
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25

O Your testimony is you told Bassil in April of

Here's my question to you. I wanted you to understand the context. I'm not playing games with you. I want to understand where you will come down in terms of your version of the facts. Do you dery telling Bassil words to the effect of everything that happened over the past few months has been a hunge inconvenience for everyone in reference to the fact that he filed a change of discrimination and issues related to his return to work after you told him he was 1 terminated? A I do not deny that, nor do I admit it. I simply don't recall. Q Didy out ever, shortly after learning about 1 assumely 2008, direct Bassil or tell him it needed 1 to readove itself, it needed to be done? A I made that statement, but not in that context. Q What was the context? Q What was the context? Q What was the context? Q What was the context of this lawsuit or who he consulted with and whatever Page 3 a wenue he pursued is his business. My only concern was the operation of my prosecutor's office. Q Okay. Did you tell him within the context of those discussions in 2008 that his lawsuit, his charge of discrimination, his return to work after you told him he was terminated, was causing a problem in the office or words to that effect? A No. As it relates to those things, no. Q Do you deny telling Bassil that the charge of discrimination, his return to work after you told him he was terminated, was causing a problem in the office or words to that effect? A No. As it relates to those things, no. Q Do you deny telling Bassil that the charge of discrimination, his return to work after you told him he was terminated, was causing a problem in the office or words to that effect? A No. As it relates to those things, no. Q Do you deny telling Bassil that the charge of discrimination, his return to work after you told him he was terminated, was causing problems. Q Words to the effect of or similar to what reflected in the substance of paragraph the substance of paragraph the substance of paragraph the problems. Q W	C	ase: 4:09-cv-01144-CAB Doc #: 196 Filed	2046	32/42 22 01 42. PageID #. 3000
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24 Plaintiff's Exhibit 3. I will direct you to 24 A It was during a cell phone conversation		The state of the s	college.	4
25 specific questions I have shout it Vou con tool 25 between he and I in February of 2009		E 22 E 10 E E	24	The state of the s
25 specific questions i have about it. Tou can teer 25 between he and I in February of 2006.	25	specific questions I have about it. You can feel	25	between he and I in February of 2008.

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1	Q What was the context? Why did you tell him	1 sense.
. 2	you thought he was making a mistake?	2 Q Did you tell Bassil that on a personal level
3	A I told him I thought he was making a mistake	3 you treat him differently because he filed a
4	primarily out of concern that he was again	4 charge of discrimination?
5	drawing attention to himself. He had returned to	5 A I don't recall if I actually said that to
6	work on February 4, 2008, and the month of	6 him, but I certainly felt it.
7	February of 2008 then lead to a series of	7 Q Do you believe it's possible for you to treat
8	absences from work.	8 Bassil fairly in the office in an environment
9	Q Look at paragraph 6 please.	9 that is a law-type environment where people are
10	A Okay.	10 working with one another, there are reporting
11	Q It asks you to admit that you told Bassil	11 obligations, when at the same time you told me
12	that he had been assigned to night court for five	12 you treat him personally you don't trust what
13	consecutive weeks because Bassil had quote	13 he says, you're guarded with what he says, you
14	burdened the prosecutor's office by virtue of his	14 believe he manipulates? Your words.
15	conduct. My question to you is did you say such	15 A I believe it's possible for me to treat him
16	things to Bassil?	16 fairly.
17	A No.	17 Q How is that possible?
18	Q Did you say anything like that to Bassil?	18 A By way of example, I will tell you this.
19	A No. Not with the use of burden. Again,	19 Having been in the courtroom enough to have a
20	going back to our previous conversation a few	20 judge rule against you or overrule your
21	moments ago, I talked him about the atmosphere of	, , , , , , , , , , , , , , , , , , , ,
22	the office and that it was causing problems or	22 I'll sue you or get you. You don't do those
23	that it was tense in the office.	23 things. You continue to act professionally in
24 25	Q Did you ever say anything to the effect of	24 the context of what you're doing, and regardless
25	Bassil, you're being assigned to five weeks of	25 of my personal feelings, that's what I do.
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1	night court because of what you have done in the	1 I file charges for people I don't care for
2	context of filing a charge or returning to work and rocking the boat, if you will?	2 that I have met over the years just as easily as
3	A Absolutely not.	3 I file charges for people I like over the years. 4 My personal feelings about anyone or anything
5	Q Paragraph 7, you're asked to admit whether	4 My personal feelings about anyone or anything 5 have nothing to do with what I do
6	you told Bassil that you were quote not happy one	6 professionally.
7	bit that Bassil filed a charge of	7 Q But you don't have to work with those people
8	discrimination. Regardless of what's set forth	8 every single day and have them do stuff with you
9	in Plaintiff's Exhibit 3, I'll ask you, did you	9 and for you and be in a small office
10	make such a statement to Bassil?	10 environment. That's what I'm trying to
11	A Not that I recall.	11 understand.
12	Q Okay. Are you denying ever making such a	12 A Sure I do. There may be police officers I
13	statement, or are you telling me you don't	don't like or don't like me, but we're forced to
14	remember?	14 interact, so you have my answer.
15	A I'm telling you I don't remember.	15 Q You're forced to interact with a police
16	Q Turn the page please. In referring to	16 officer, but you don't have involvement in
17	paragraph 8, did you ever concede to Bassil that	17 disciplining them or making decisions about their
18	you treat him differently or you decided to start	18 promotions or employment or hiring, firing, or
19	to treat him differently as a consequence of or	19 pay, or anything like that, do you?
20	as a result of his filing the charge of	20 A Not directly, no.
21	discrimination in early 2008?	21 Q Turn your attention to paragraph 10. It asks
22	A No. I never made that statement.	22 you to admit that you conceded to Bassil that he
23	Q Did you say anything to that effect?	was the most talented prosecutor employed by the
24	A Only what we spoke about before, which was	24 City of Youngstown measured by his performance in
25	different in the professional versus personal	25 the courtroom. Did you ever make such statements



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1	a search.	1 Q Did you talk to Iris? Did somebody talk to
2	Q Your testimony is you haven't and you have	2 you? Did you call Bassil? Did he call you?
3	not searched nor had anybody at your direction	3 What happened after you wrote the memo relative
4	search Bassil's office for any reason other than	4 to Bassil Ally?
5	maybe to locate a file?	5 A The next thing I did was at the end of the
6	A Other than to locate a file, that's correct.	6 day I went into his office and I looked for files
7	Q To locate a file would be exclusively for	7 for the following week to make sure we had
8	work-related purposes? Nobody went into his	8 everything. I knew that either I or someone was
9	office under the guise of looking for a file or	9 going to have to cover court.
10	snooped through his drawers or anything like	10 Q Okay. What did you do next?
11	that?	11 A When I was in the office, I noticed his
12	A No.	12 personal belongings were still there, and so I
13	Q Back to January 11, 2008, did you tell Bassil	13 boxed them up.
14	that he was fired?	14 Q Why?
15	A No.	15 A Because I didn't want him back in the
16	Q Did you tell him he was terminated?	16 office.
17	A No.	17 Q What did you do with his personal
18	MR. ABBARNO: What day?	18 belongings?
19	Q January 11, 2008.	19 A Gave them to Tony Ferris.
20	MR. ABBARNO: January 11,	20 Q Did you tell Tony to give them to Bassil?
21	2008.	21 A Tony told me that's what he was looking for.
22	A My answer to the second question was no.	22 Q What happened next?
23	Q Did you tell Bassil words to the effect of	23 A That's about it.
24	you're terminated, you're fired, you're no longer	24 Q What happened next relative to you and Bassil
25	going to be working for the City of Youngstown on	25 Ally?
	Page 95	Page 97
1	January 11, 2008?	1 A I didn't see him until February 4th, if
2	A The phrase I used was, "you're done here."	2 that's what you're asking.
3	Q "You're done here"?	3 Q I'm asking what happened next in your life as
4	A Yes.	4 it relates to Bassil. You told him he's fired.
5	Q What did you mean when you told Bassil on	5 You packed up his personal belongings. You wrote
6	January 11, 2008, "you're done here"?	6 the memo to Iris. What happened next?
7	A That he was terminated.	7 A I didn't tell him he was fired.
8	Q Okay. Your intent was to communicate to him	8 Q You told him he was done here. It meant to
9	on that day he was no longer going to be employed	9 communicate he was terminated?
10	by the City of Youngstown as of that moment?	10 A Yes.
11	A Yes.	11 Q You did those things. What happened after
12	Q What happened next?	12 you wrote the memo to Iris? You packed up his
13	A During that same conversation I asked him to	13 personal belongings?
14	turn in his key, his badge, and his ID, and that	14 A I gave them to Tony. I imagine I went home.
15	was it. He left my office.	15 Q Who did you talk to next about Bassil Ally?
16	Q What was the next thing you did relative to	16 A I would imagine the next person — it may be
17	Bassil Ally?	the first person to bring it up — was Marty
18	A The next thing I did was prepare a memo for	18 Desmond.
19	the law director about the discharge.	19 Q Who is that?
20	Q Why?	20 A Marty is an assistant county prosecutor.
21	A Because I wanted it to be documented to her,	21 Q Assistant county prosecutor?
22	because she wasn't there, and I wanted to do it	22 A Correct.
23	while it was fresh in my memory.	23 Q Okay Somebody you used to work with?
		E SECTION OF THE SECT
24	Q What happened next?	24 A Correct.

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	1	A Correct.	1	choose between going to the mosque or coming to
ŀ	2	Q What's Marty's last name? D-E-S-M-O-N-D?	2	work?
	3	A Yes.	3	A Absolutely not.
	4	Q He brought it up how to you?	4	Q Did you ever confess something like that to
	5	A I was at his son's birthday party the	5	anybody?
	6	following day. He just asked about it.	6	A No.
	7	Q He asked about what?	7	Q Did you ever tell anybody in the Youngstown
	8	A He asked about Bassil's departure.	8	area you had in fact scheduled the meeting on
	9	Q Did he use that word, departure?	9	January 11, 2008 on purpose to force Bassil to
	10	A I don't recall what words he used. I'm	10	pick between attending his mosque or coming to
	11	characterizing it as that.	11	the meeting so you could terminate him for
	12	Q What do you think he said to you?	12	insubordination?
	13	A I don't remember. He asked about Bassil	13	A No.
	14	leaving or Bassil's departure.	14	Q Anybody that said you told them that is
	15	Q He understood at that birthday party the next	15	lying?
	16	day Bassil had been terminated?	16	A Yes.
	17	A Yes.	17	Q Okay. You talked to Marty at this birthday
	18	Q Please continue. You're at the birthday	18	party the next day?
1	19	party. Marty asked you about Bassil's	19	A Yes.
- 0	20	termination. What did you say?	20	Q What happens next relative to your life and
- 1	21	A I told him that he was fired.	21	Bassil Ally and that whole issue?
- 1	22	Q Did you tell him you had in fact fired him?	22	A I went to work Monday, and that morning I
	23	A Yes.	23	sent an e-mail to the judges, to the clerk of
	24	Q What did Marty say?	24	court, and possibly to the court administrator
	25	A He asked why, and I stated, "for	25	indicating that we would be short staffed.
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	1	insubordination."	1	Q Did you tell them by way of your memo why you
	2	Q Did you give any further detail?	2	would be short staffed?
	3	A No. It wasn't much beyond that.	3	A Yes. I don't remember the exact words I used
	4	Q Your testimony is Marty asked you why was	4	though. That was the sum and substance. I told
	5	Bassil terminated, and you said for	5	them Bassil was no longer with the office or
	6	insubordination, and that was the end of the	6	something to that effect.
	7	discussion?	7	Q In sum and substance, you informed the
	8	A That was about the end of the discussion. He	8	judges, the administrators, et cetera, and court,
	9	primarily asked because he was interested in	9	by way of written communication Bassil was
- 1	10	leaving the county prosecutor's office and he	10	terminated from his employment?
- 1	11	thought there might be a position open.	11	A Yes.
- 1	12	Q It was your understanding he was asking	12	Q Forgive me if I have this. I don't recall
- 1	13	because he was interested in maybe taking	13	seeing it. Is that a document you can put your
- 1	14	Bassil's spot?	14	hands on to get to me?
- 1	15	A I don't know why he asked. That was one	15	MR. ABBARNO: I don't think
- 1	16	possibility.	16	you have that.
	17	Q Your understanding, your thought process, is	17	Q It's a document you can put your hands on to
		1 4 4 1 1 1 1 0	4 0	
- 1	18	maybe that's why he was asking?	18	get to me?
	18 19	A Yes.	19	A Yes.
	18 19 20	A Yes. Q Did you ever confess to Marty that you had	19 20	A Yes. Q You advised essentially all the folks who
	18 19 20 21	A Yes. Q Did you ever confess to Marty that you had scheduled the meeting that you did before January	19 20 21	A Yes. Q You advised essentially all the folks who work in the judiciary or executive portion of the
	18 19 20 21 22	A Yes. Q Did you ever confess to Marty that you had scheduled the meeting that you did before January 11, 2008? That was the Friday.	19 20 21 22	A Yes. Q You advised essentially all the folks who work in the judiciary or executive portion of the mayor's world —
	18 19 20 21 22 23	A Yes. Q Did you ever confess to Marty that you had scheduled the meeting that you did before January 11, 2008? That was the Friday. A Correct.	19 20 21 22 23	A Yes. Q You advised essentially all the folks who work in the judiciary or executive portion of the mayor's world — A No.
	18 19 20 21 22	A Yes. Q Did you ever confess to Marty that you had scheduled the meeting that you did before January 11, 2008? That was the Friday.	19 20 21 22	A Yes. Q You advised essentially all the folks who work in the judiciary or executive portion of the mayor's world —

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1	Q Why do you say that?	1	A She told me that Friday afternoon she was
2	A We were not at minimum staff level. Given	2	stepping off the elevator and that Bassil was in
3	the volume of the cases we were dealing with,	3	the lobby just outside the office near the
4	there would likely be delays in processing	4	elevators, and he made a comment to her about
5	charges and getting things to court.	5	either not seeing her or saying goodbye or
6	Q What happened after you sent that memo?	6	something to that effect.
7	A Nothing that day, that I recall.	7	She asked him what he was talking about, and
8	Q What happened next relative to you and Bassil	8	he said, Jay fired me. My understanding is she
9	and that whole situation?	9	said, no, he didn't, just go home.
10	A The next thing I learned would be that Iris,	10	Q I see. That's what Iris told you she had
11	the law director, had countermanded my decision.	11	done with Bassil by way of a conversation on
12	Q How did you learn that?	12	Friday, the 11th, of January?
13	A She told me.	13	A Yes.
14	Q Did she call you or did you go to her?	14	Q Okay.
15	A I don't recall.	15	MR. POLK: Ken, real quick, I
16	Q In sum and substance she told you she what	16	have a couple documents here. I
17	did you say?	17	suspect you will as the same. Can
18	A Countermanded.	18	we get a stipulation between you
19	Q Countermanded your decision. Why did she	19	and me that the documents you
20	tell you she had done that?	20	produced to me and the documents I
21	A I don't know that she stated why. She just	21	produced to you are authentic,
22	told me that she had placed Bassil on	22	reserving the objections to
23	administrative leave on Friday.	23	admissibility, and if you want to
24	Q What does countermanded mean? I mean that	24	have a document you want to attach
25	sincerely. I don't know the way in which	25	to a pleading later so we don't
	Page 103		Page 105
1	you're	1	have to authenticate a bunch of
2	A The opposite of command.	2	documents?
3	Q She had countermanded your decision?	3	MR. ABBARNO: Yes. I don't
4	A Yes.	4	know if any of the documents you
5	Q What day and the week did she do that	5	and I will get may have writing on
6	following January 11, 2008 to the best of your	6	them after the fact. I know there
7	memory?	7	is some OCRC. I will not dispute
8	A To the best of my memory, it was Tuesday,	8	whatever typing is on the page is
9	Tuesday of the following week.	9	the typing, if there is any
10	Q You discussed with Iris the fact that she had	10	writing on it. I won't stipulate
11	countermanded your decision. You don't recall	11	to who did the writing.
12	what she told you as to the reason why?	12	MR. POLK: Fair enough.
13	A No.	13	That's good. Generally speaking,
14	Q She told you this on Tuesday?	14	documents we produced to each
15	A To the best of my recollection, yes.	15	other are authenticated. We can
16	Q Your testimony is that on Tuesday, to the	16	ask questions about the writing.
17	best of your recollection, she told you that she	17	That's a fair deal.
18	had in fact actually placed Bassil on	18	MR. ABBARNO: Fair deal.
19	administrative leave on Friday, January 11?	19	Some of the OCRC have writing that
20	A Yes.	20	are neither mine nor yours.
21	Q Did she tell you she had communicated that to	21	MR. POLK: For example, I
22	Bassil?	22	have some letters regarding
23	A Yes.	23 24	Bassil's employment before you
24	Q Tell me about that. What did she tell you	2.4	were even appointed concerning his
25	she had done specifically?	25	pay grade, when he was appointed,

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1	all that kind of stuff. Those are	1 here, he's fired, and four days later?
2	the kinds of things I don't want	2 A No.
3	to waste your time with.	3 Q After that initial discussion with Iris four
4	MR. ABBARNO: Let's take two	4 days after you told Bassil on the 11th that he
5	seconds to run to the bathroom.	5 was done here, who did you talk to next about
6	(Brief recess)	6 Bassil Ally?
7	Q Are you okay to continue?	7 A Did you say after?
8	A I'm ready.	8 Q After your discussion with Iris where she
9	Q I think your best estimate was Tuesday, the	9 told you she had recommanded your decision, who
10	week after January 11, 2008, you talked to Iris,	10 did you talk to next?
11	and she tells you she has the reverse of	11 A My main conversations after learning that
12	commanded your decision to terminate Bassil Ally,	12 Iris had overruled my decision, if you would,
13	and she didn't tell you why she told you that,	main conversations would have been with Iris,
14	right?	14 with The Mayor, and with representatives from a
15	A That's fair, yes.	15 firm named Clemans Nelson.
16	Q And so it wasn't until four days after you	16 Q You said your main conversations were with
17	had fired Bassil or told Bassil effectively he	17 Clemans Nelson, Iris, and Mayor Williams?
18	was fired that you learned that Iris disagreed	18 A Yes.
19	with your decision?	19 Q My question was a little broader than that,
20	A Yes.	20 meaning what happened next? Quite literally,
21	Q It wasn't until four days after the decision	21 what was your next conversation after discussing
22	that you were told by somebody else that you	22 with Iris that she had apparently overruled your
23	apparently didn't have the ability to actually	23 decision with anyone about Bassil Ally?
24	fire Bassil?	24 A My next conversations would have been with
25	A It would have been after my initial	25 those individuals and leading up to any issues
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1	conversation with Iris, but yes.	1 surrounding it or how to handle it or what the
2	Q Your initial conversation with Iris was	2 outcome would be.
3	roughly four days after you told Bassil on the	3 Q Did you talk to anybody outside of Iris, The
4	11th he was terminated?	4 Mayor, Clemans Nelson, about Bassil Ally after
5	A Yes.	5 you terminated Bassil?
6	Q Let's take a step back now for a minute.	6 A Not that I recall, aside from Marty, who we
7	Prior to January 11, 2008, had you discussed with	7 mentioned.
8	The Mayor your thoughts on whether or not to	8 Q Fair enough.
9	terminate Bassil Ally?	9 A No. Not that I recall.
10	A No.	10 Q Going forward, that was the case even into
11	Q Had you ever raised the issue at all in any	the weeks that followed January 11th? You
12	respect of terminating Bassil with The Mayor, Jay	12 weren't talking to other people about Bassil and
13	Williams, prior to January 11, 2008 when you told	13 his termination?
14	Bassil he was done here?	14 A No. There were periodic questions here and
15	A No.	 there from people, but nothing of substance. Q Did you begin to text message other attorneys
16	Q Between the moment when you told Bassil	
17 18	"you're done here" and communicated to him that he was fired on January 11, 2008, through your	in town after you told Bassil he was fired on January 11, 2008 about Bassil Ally?
19	initial meeting with Iris four days later, did	19 A Not that I recall.
20	you talk at all with The Mayor about Bassil Ally	20 Q Do you have any idea why Bassil might have
21	in any respect?	21 received calls from area lawyers shortly after
22	A I don't think I did in that initial three or	22 you terminated him?
23	four or five day period, nd	
. 24	Q You didn't talk to Iris at all in the interim	23 A. I have no idea. 24 Q Your testimony is you didn't communicate to
25	between the moment you told Bassil he's done	25 anybody else that you had fired Bassil other than
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	Page 110	Page 112
1	Iris and Marty?	1 providing The Mayor with some type of legal
2	A My testimony is I don't recall communicating	2 advice?
3	with anyone else outside of those individuals.	3 A In some respects.
4	Q When you first spoke to Mayor Williams about	4 Q How were you doing that?
5	Bassil Ally, when was that?	5 A We were talking about facts that were giving
6	A It would have been that following week.	6 rise to either resisting our potential matters, I
7	Q Okay. Obviously, my question related to	7 believe legal officer, for the municipality.
8	matters concerning the 11th termination, et	8 Q Was Mayor Williams, in your opinion, seeking
9	cetera. I'm not concerned with whether or not	9 your legal advice?
10	you talked to The Mayor about Bassil in 2007 for	10 A Yes.
11	any reason, okay. It would have been roughly	11 Q You were providing legal advice?
12	seven days after?	12 A Yes. To the extent I could.
13	A Sometime that following week.	13 Q Mayor Williams is not a lawyer, right?
14	Q What were your first discussions with The	14 A No.
15	Mayor on the topic of Bassil Ally?	15 MR. POLK: Ken, is it your
16	MR. ABBARNO: Objection. At	16 position I think I understand
17	this point I'll instruct him not	17 it after January 15, 2008
18	to answer relative to substantive	18 you're not going to permit your
19	discussions that took place	19 witnesses to testify about their
20	between The Mayor and Jay and any	20 discussions related to Bassil
21	other counsel that were present	21 Ally?
22	after January 15th, which is when	22 MR. ABBARNO: To the extent
23	I think that conversation took	23 that there's non-privileged
24	place. Legal proceedings, I	24 information, it can be discussed.
25	believe, had already been	25 He can talk about that. I don't
-	Page 111	
1	initiated. What the staff is	1 know the full gamut of what
2	doing is privileged.	discussions all took place. There
3	Q When you talked to Mayor Williams on January	may be certain discussions that
4	15th or whenever it was for the first time about	4 may or may not fall within the
5	Bassil Ally, who was there?	5 confines of that.
6	A It would have been a conversation between	6 Q Can you tell me anything about your
7	Mayor Williams and I.	7 discussions with Mayor Williams following Bassil
8	Q Nobody else was present?	8 Ally's termination by you on January 11, 2008
9	A Not that I recall, no.	9 that aren't privileged?
10	Q Were you providing Mayor Williams some type	10 A No.
11	of legal advice?	11 Q Sorry?
12	MR. ABBARNO: To the extent	12 A No.
13	your conversations includes legal	13 Q Can you tell me anything about your
14	advice or legal consultation,	14 discussions with Iris following your termination
15	those are the ones I don't want	of Bassil on January 11, 2008 that aren't
16	you to answer.	16 privileged?
17	MR. POLK: I want to know	17 A No.
18	MR. ABBARNO: I'm trying to	18 MR. ABBARNO: Other than what
19	open up the scope of what you can	19 you already talked about.
20	talk about, at least in our	20 A Other than what we already talked about.
21	opinion, at this point.	21 Q What we talked about is before January 15,
22	MR. POLK: I may agree with	22 2008. After January 11.
23	you.	MR. ABBARNO: We talked about
24	Q Is your testimony that when you went and	actually on, January 15th, and we
25	talked to Mayor Williams on the 15th, you were	25 talked about after.

Page 114		Case: 4:09-cv-01144-CAB Doc #:196 Filed	: ₄ 02/22/12 ₇ 30 of 42. PageID #: 3888
Discussion between The Witness and In Close that Jay and I have had a brief discussion about what may or tender that Jay and I have had a brief discussion about what may or 2 may not constitute the City of Youngstown and saking him to think about it in the broadest sense that would not be privileged. Page 115			
2 Q Can you tell me about your conversations with a myone at all within the City of Youngstown. 2 A I recognize how broad that was. My answer would be not that I can recall at this moment. I contreal privileged communications at this time. 3 Why and the words have tree exchanged? 4 Poungstown. 5 MR. ABBARNO: You want to say presumably no, but there are other people within the broad definition of the City of Youngstown. 5 MR. ABBARNO: Let the record in time the contreal privileged communications at this time. 6 (Discussion between The Witness and his Counsel) 7 MR. ABBARNO: Let the record in the contreal privileged communications at this time. 8 MR. ABBARNO: Let the record in this Counsel) 9 reflect that Jay and I have had a privileged. 9 brief discussion about what may or 2 masking him to think about it in the broadest sense that would not be privileged. 9 Page 115 1 Shannon, if you want him to elaborate at least in one particular instance, he will. I don't want you to think I'm coaching. I'm trying to make sure were getting everything out. 9 MR. POLK: Sure. 9 Q Did you have something you would like to add after talking with Ken? 10 A Having thought about it in the broadest sense, yes. 11 Q (Okay, So whan? What happened? 12 A My understanding was to either harvate were seed to ease me concerning Bassil's return of the take ase me concerning Bassil's return of the take ase me concerning Bassil's return of the the ase ase me concerning Bassil's return of the the ase as the definition of the carbon itself. 10 Q What alked about at the nature of the carbon seal. I'm and the mature of the carbon seal. I'm and the mature of the carbon seal of the carbon seal. I'm and it was a feeral lawsuit. 11 A few alked into my offers with a paper. I was a feeral lawsuit. 12 Q What did he say in response? 13 A I would have been sometime in very early february of 2008. 14 A Because that's where I thought was one actual—Q when the feeral lawsuit. 15 A february of 2008. 16 Q Clay, So whan? What happened? 17 A Pessumably right around			
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1	not going to ask you about the contents of the	1	than what you have described for me on the
2	document. Turn to page 8. There's a cartoon	2	subject of Bassil Ally of January 11, 2008?
3	featured on page 8, yes?	3	A That's what I said. I'm saying I don't
4	A Yes.	4	recall. If something jars my memory, there's a
5	Q Is that the cartoon that you were describing	5	subsequent conversation that comes to mind, I
6	earlier that the police officer brought in to	6	would be able to give you such testimony.
7	harass you and tease you?	7	Q Do you need to talk to Mr. Abbarno again?
8	A Yes.	8	A I don't think so.
9	Q Did you have an understanding about who else	9	MR. ABBARNO: To the extent
10	was given a copy of the cartoon identified at	10	that we make the collective
11	page 8 of the first amended complaint?	11	decision to waive any of those
12	A No.	12	privileges, we will let you know,
13	Q Did you ever do any type of investigation to	13	and you will be entitled to
14	figure out how far or broadly that cartoon had	14	inquire as to Jay or any of the
15	been disseminated?	15	other witness.
16	A No.	16	MR. POLK: Well, as I
17	Q Why not?	17	understood your objection based on
18		18	your position right now, you're
19	A I thought it was done. I gave no thought to	19	not willing to waive those
20	it after I threw him out of my office.	20	
	Q Did you wonder whether or not that police		privileges. You made the decision
21	officer had actually distributed it amongst the	21	you will instruct him not to
22	prosecutor's office?	22	answer?
23	A No.	23	MR. ABBARNO: At this point
24	Q Did you care?	24	in time, I have. We are coming
25	A I would have cared had I seen it. I took no	25	back for Jay's deposition. So
	Page 119		Page 12
1	steps to investigate it. And, in fact, there was	1	there won't be any prejudice or
2	nothing around the office I saw.	2	you won't have to do anything
3	Q Obviously, there was something, because my	3	special to otherwise prepare, and
4	client got a copy as well.	4	to the extent we make a different
5	A Well, obviously, but I have no idea how it	5	decision, we will let you know.
6	got there or who put it there.	6	MR. POLK: You will tell me
7	Q Did you think you had an obligation to	7	that before his next deposition so
8	investigate that instance or look into it at	8	I can have follow-up and ask those
9	all?	9	questions?
10	A No.	10	MR. ABBARNO: Yes. You might
11	Q Are you able to tell me about any	11	want to ask that question in the
12	conversations you had with anyone employed by or	12	depo in case I forget. I will do
13	affiliated with the City of Youngstown without	13	my best to remember.
14	revealing privileged communications other than	14	Q As I understand things now, you told me all
15	the instance we just discussed as well as the few	15	the conversations you can following Bassil's
16	communications you described with Iris following	16	termination on January 11th that you recall and
17	the instance where you terminated Bassil's	17	that do not have some type of protection in you
18	employment on January 11th?	18	mind by the attorney-client or work product
19	A No, not at this moment.	19	privilege?
20	Q Everything else you believe would be covered	20	A Yes.
21	by attorney/client or work product privilege?	21	
Z	A Either work product or attorney client. I	22	Q I can't ask you anything else because your attorney told you you can't answer that, is that
		. //	AUTHOR AND AND AND COLUMN SUSPENIES IN THE STATE OF THE S
22	doubt recall at this mamone		
	don't recall at this moment. Q You won't be able to give me any testimony at	23	correct?

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him that we were going to have a meeting.	issues started going back to 2006. We were only
2 Q What did he do?	2 11 days into 2008. 3 O When you told me you terminated him on
3 A He told me, "I won't be there." It wasn't	 Q When you told me you terminated him on January 11, 2008 for issues involving
4 simply the words. It was the tone.	5 insubordination as well as everything that lead
5 Q The tone? Okay.6 A Yes.	6 up to that, you actually mean to reference
6 A Yes. 7 Q Other than the tone in which he said, "I	7 everything that lead up to it starting in 2006
8 won't be there," in reference to the meeting of	8 continuing through 2007, and as you pointed out,
9 January 11, 2008, anything else that Bassil did	9 a few days into 2008?
10 in your mind that constituted the insubordination	10 A Yes.
11 that lead to his termination?	11 Q When was the first time you thought to
12 A Insubordination, no. We spent a great deal	12 yourself, I might terminate Bassil?
13 of this deposition going over the disciplinary	13 A January 11, 2008.
matters and other issues that presented itself.	14 Q You never thought about that at all in 2006,
15 This was simply a culmination.	15 2007, or in the first 10 days of January 2008?
16 Q When I asked you, why did you terminate	16 A No. I felt I could bring him around.
17 Bassil, you told me insubordination. I want to	17 Q The first time it occurred to you in any
18 understand what your testimony is going to be to	18 respect was on January 11, 2008 to terminated
19 the reasons you terminated him.	19 Bassil?
20 I said, what is insubordination? I want to	20 A Yes.
21 know what it is. If your answer is it's a	21 Q Why was it all of a sudden on January 11,
22 culmination of all things from day to this day —	22 2008 termination popped into your mind and you
23 if it was when he said this	23 thought to yourself you need to fire him right
24 I want to understand when you said to Bassil	24 now?
on January 11, 2008, "you're done here," and as	25 A Because in that moment of insubordination I
Page 127	Page 129
1 you said, you meant to communicate to him he's	1 realized he had no respect for me, that he would
2 fired, why did you make that decision? Why did	2 not subject himself to my authority, and that he
3 you do that?	3 would not commit to complying with what I needed
4 A I did that because of everything that had	4 this office to do.
5 built up with regard to him. It was finally this	5 Q What should he have done on January 11, 2008
6 moment of insubordination that was the end of	6 to succumb to your authority?
7 it. That was it. I hit my limit.	7 A He should have come to the meeting.
8 Q So it was when he said to you and the tone	8 Q Instead of going to the mosque to pray?
9 when he said, I'm not going to be there on the	9 A If that's where he goes, yes.
10 11th?	10 Q You knew that's where he was going that day.
11 A Yes.	11 That's what he told you.
12 Q But it also was the things that lead up to	12 A No. He never told me that.
13 that?	13 Q Before the meeting Bassil Ally missed on
14 A Things don't happen in a vacuum. Yes.	14 January 11, 2008, he never told you he was going
15 Q What else was it that lead to your decision	15 to miss it because he needed to go to the
16 to terminate Bassil Ally?	16 mosque?
17 A It was the constant tardiness, the issue of	17 A He never told me that. If you use "told" in
18 whereabouts. It was the disregarding of my	18 the sense of speaking, no. It wasn't until he
19 direct orders on how to handle cases. It was the	19 provided me with a letter later that morning
20 culmination of all those things, and that moment	20 indicating that's where he was going.
21 of insubordination provided the tipping point.	21 Q Your testimony is that when you talked to
22 Q When you say it was all the issues about	22 Bassil on January 11, 2008 and he said to you, I
23 tardiness and whereabouts, do you mean to	23 will not be there, he did not tell you he
24 reference issues that you experienced in 2008?	24 wouldn't be there because he had to go to his
25 A I mean, it was a build-up ever since these	25 mosque?

Page 130 Page 132 1 1 Q Let me ask you, did you have reason to A That's correct. 2 Q Notwithstanding the words he might have said 2 suspect that Bassil wasn't being truthful with 3 at that moment in time, did you know when he 3 you when he was telling you he was going to the 4 said, I'm not going to be there, that he was 4 mosque? 5 5 intending to communicate to you, I will be going A No. 6 to the mosque to pray? 6 Q You're simply saying you didn't personally 7 7 track him there? You don't have first-hand A No. 8 Q You had no idea? 8 knowledge that's actually what he did by going to 9 9 A No. the mosque? 10 Q I'm correct? You had no idea, yes? 10 A That's exactly what I'm saying. 11 11 A That is correct. Q Let's assume for purposes of my question when 12 12 Q Why was the meeting so important that when he told you he was going to the mosque he 13 Bassil told you he wasn't going to be there on 13 actually went to the mosque. Fair enough? January 11th you made the decision to fire him 14 14 A Yes. 15 for insubordination? 15 O As of January 10, 2008, did you have an 16 A Mainly because the dynamics of the office had 16 understanding based upon what Bassil told you 17 drastically changed within a couple days leading 17 that Bassil would go to the mosque to pray on 18 18 up to January 11th. Fridays? 19 Q` What does that mean? 19 A I had an understanding, yes. 20 A Chattanean data Dana Lantzwas pregnant, and 20 Q Did you have an understanding of roughly when 21 distribution and a summer of the summer of t 21 it was he had his prayer services on Fridays? 22 with the second second second 22 A Yes. 23 23 Q When was that? 24 24 A Approximately 1 to 3 or thereabouts. Q You understood it took about an hour to an 25 That left me with two assistants and my sein 25 Page 133 Page 131 1 1 hour and a half and then it went into him going Dassi was not continue to work but out and 2 10th, a Thursday, from his vacation. There were 2 and coming from the mosque? A He was gone for a block of approximately two 3 dockets that day. It had just - I didn't think 3 4 it was going to work. Plus, frankly, I had not 4 hours. That's what I understood. 5 collected my thoughts. 5 Q My question to you is that you had 6 6 So, January 11th was the first moment I information in your mind -- you knew the morning 7 7 believed we could get together and have a meeting of January 11th of 2008 --8 8 A I had an understanding. I don't know it was that we needed to have. 9 9 Q On January 10th of 2008, the day before the 10 meeting, did you know that Bassil had been 10 Q Did you have an understanding -- if I asked 11 11 attending prayer service on Fridays at the you this same question on January 11th, you would 12 12 mosque? say, yeah, I know or he tells me he goes to the 13 mosque for a couple hours on Fridays? 13 A Did I know? 14 14 O Yeah. A That's the best I can do, yes. 15 15 A No. Q When did you decide to make the January 16 Q You had put it -- in fairness to you, it's 16 meeting on January 11th? 17 Exhibit 2 or something. You put it in a memo 17 A That morning. that you didn't raise with him that he had been 18 Q That morning. Why did you decide to schedule 18 19 19 attending things and you wanted to talk to him it when you did during the day? 20 20 about making time. You knew Bassil attends the A Because that was the time that seemed 21 21 mosque on Friday? everybody was available. 22 22 Q What time was it? A No. I knew that's what he told me he did. 23 Q I see. Okay. All right. Maybe I should ask 23 A 2:00. 東4 Q Right in between 1 and 3 when, at least 24 it differently then.

25

A Please.

according to Bassil, he was going to the mosque

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1	to pray?	1	A Yes.
2	A Yes.	2	Q Do you know whether or not he was scheduled
3	Q Now, why did you not schedule it for 8:30 in	3	to be in court that afternoon?
4	the morning?	4	A I do.
5	A Again, I don't recall exactly when I	5	Q What happened?
6	collected my thoughts. I think it was late	6	A There were two sentencings set on that
7	Thursday. In the morning we have in-takes, new	7	docket, one for 1:30, one for 1:45. I told him
8	cases coming in. People are getting ready for	8	to get there as soon as possible, and we had the
9	their dockets. There's just business of the	9	meeting.
10	office going on. Mornings are a very busy time	10	Q So I understand correctly, had Bassil Ally
11	for us.	11	not gone to the mosque on Friday, January 11th
12	Q Why didn't you schedule it for late	12	but instead attended the meeting at 2 that you
13	afternoon?	13	had scheduled that morning, he would not at least
14	A Late afternoon meaning?	14	have been told by you that he was fired?
15	Q After 3:00 sometime.	15	MR. ABBARNO: All other facts
16	A I didn't know how long the meeting was going	16	being the same, the way he acted.
17	to take. I didn't want to keep people after 4.	17	MR. POLK: Objection is
18	Q Did you think the meeting would last more	18	sufficient.
19	than an hour?	19	Q That means remember to talk about the tone
20	A I had no idea. There were a number of topics	20	and attitude.
21	that had to be addressed.	21	A I knew exactly what he meant.
22	Q How long did the meeting take?	22	Q I know you did. That's why you're not
23	A Approximately half an hour.	23	supposed to talk.
24	Q In retrospect, had you had it at 3, everybody	24	A Him being told "you're done here,"
25	would be able to finish it and get out by 4?	25	terminated, fired, however you want to cast it,
	Page 135		Page 137
1	A Not necessarily, because there was also a	1	had nothing to do with his attendance at the
2	matter at 3:45 in Judge Milich's court that day.	2	mosque that day. It all related back to the way
3	Q A matter?	3	in which he spoke to me that morning.
4	A A case.	4	Q Okay. So let me understand this. Had Bassil
5	Q Okay. Why does that mean that it wouldn't	5	Ally, on January 11, 2008, said to you, I'm not
6	have been able to get resolved at 3:45? Because	6	going to be there, but spoke those words in a
7	somebody would have to go to attend to that	7	very respectful, nice, kind way, he would not
8	matter?	8	have been terminated by you?
9	A Yes.	9	A I'm saying it would have been a very
10	Q Did everybody in the prosecutor's office	10	different conversation had he spoken to me in a
11	other than Bassil attend your meeting on January	11	kind, respectful way.
12	11, 2008 at 2?	12	Q What would you have done? Would you have
13	A My two assistant prosecutors did, yes. By	13	excused him from the meeting so he could attend
14	"everyone" I assume you're not referring to the	14	his prayer ceremony?
15	secretary?	15	A I would have asked him why he couldn't be
16	Q Well	16	there, and that would have lead to a greater
17	A It was my two assistant prosecutors that	17	conversation.
18	attended the meeting.	18	Q Is it your testimony, sir, when he told you
19	Q Did all assistant prosecutors other than	19	he wasn't going to be there on Friday, January
20	Bassil attend your meeting on January 11, 2008 at	20	11, you had no concept that he was telling you he
21	2?	21	wasn't going to be there to attend the mosque?
22	A Yes.	22	A He told me he won't be there. He never
23	Q What about Pete Klimis?	23	stated a reason.
24	A Pete was there.	24	That wasn't my question. When he told you
25	Q He was there?	25	that, wordsmithing aside, are you testifying

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1	under oath you didn't understand, I'm not going	1 was disrespectful, insubordinate?				
2	to be there at 2 on Friday, that you didn't know	2 A It was entirely the tone, and all he said is,				
3	exactly why he was telling you that, because he	3 "I won't be there."				
4	had to go to prayer services on Friday?	4 Q When did you first learn that Bassil filed a				
5	Is that your testimony?	5 charge of discrimination?				
6	MR. ABBARNO: Objection to	6 A Within about two weeks of January 11th.				
7	your characterization of	7 Sometime in that time period.				
8	wordsmithing. Now answer the	8 Q I have a copy of the charges. Your belief is				
9	question.	9 you learned within two weeks of January 11, 2008				
10	A That's what I'm telling you.	10 that Bassil actually filed a charge?				
11	Q What did you think Bassil Ally was trying to	11 A Yes.				
12	communicate to you on Friday, January 11, 2008	12 Q And who was the first person you spoke to				
13	when he told you he wasn't going to be there?	about the fact that Bassil filed a charge? I'm				
14	A He was communicating to me he wouldn't be at	14 not going to ask you details.				
15	the meeting.	15 A Attorney Dan Pribich, P-R-I-B-I-C-H,				
16	Q What did you think he had to do other than	16 Q Did you learn about the fact that Bassil				
17	come to the meeting?	17 filed a charge of discrimination before or after				
18	A I didn't speculate why he was saying that.	18 Bassil actually returned to work on February 4,				
19	Q No concept at all?	19 2008?				
20	A No. He told me he won't be there. Quite	20 A Before.				
21	literally, I took it he won't be there.	21 Q So when Bassil came into work from the leave,				
22	Q Ken wanted you to talk about tone and	you knew at that point in time Bassil had already				
23	attitude. Tell me how that came into play and	23 initiated legal proceedings?				
24	how he could have done things differently so he	24 A By way of filing the charge of				
25	wouldn't be terminated.	25 discrimination. I knew he filed this, whatever				
	Page 139	1				
1	MR. ABBARNO: He already	Page 141 1 it is, legal or administrative.				
2	answered that.	2 (Plaintiff's Exhibit 6 was marked				
3	MR. POLK: We'll do it	3 for identification.)				
4	again.	4 Q You knew he filed the charge of				
5	MR. ABBARNO: Answer again.					
6	Q Here is what I want to understand. Is there	5 discrimination which is Exhibit 6? 6 A Yes.				
7	something different in terms of the tone or in					
8	terms of the attitude that you claim Bassil Ally	7 (Plaintiff's Exhibit 7 was marked 8 for identification.)				
9	communicated or expressed to you on that day that	9 Q Bassil returns to work February 4, 2008. I'm				
10	he could have done differently that would not	going to hand you a memo that you created and I				
11	have lead to your telling him he's terminated?	think distributed February 6, 2008, am I				
12	A Yes.	12 correct?				
13	Q What is that?					
14	A Could have approached – sorry. He could	y - , - , - , - , - , - , - , - , - , -				
15	have approached my initial request to come to the	have distributed it on or within a day or so of that date.				
16	meeting in a more respectful manner that would					
17	have lead to a greater conversation between he	16 Q All right. There's a little handwriting 17 above 2007. I don't know whose that is. Do				
18	and I. That could have possibly lead to some	18 you?				
19	resolution of the attendance.					
20	Q All right. You have told me already, in					
21	fairness to you, he said to you, "I'm not going	, , , , , , , , , , , , , , , , , , , ,				
22	to be there." He said it in a disrespectful	21 when it was being sent out? 22 A Yes.				
23	tone					
24	Is there anything else about what he said to	23 Q. Did you do that before you distributed this 24 or after the fact?				
25	you prior to the meeting that also in your mind	25 A I don't remember when I did that.				
20	you prior to the meeting that also in your filling	20 A 1 non exemember when I aid that.				

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1	Q It's obviously 2008.	1 under your supervision who ever wished to observe
2	A Yes.	2 a religious holiday on a day not officially
3	Q If you would, please, explain for me why you	3 recognized by the city?
4	decided to roll out a memo on office policies on	4 A Possibly Attorney Pete Klimis, but I'm
5	February 6, 2008.	5 leaning more towards the answer being no.
6	MR. ABBARNO: Let me talk to	6 Q All right. One of the ground rules I didn't
7	Jay real quickly about this, okay?	7 talk about I assume your lawyer did that I
8	MR. POLK: Sure.	8 agree with which is don't guess or speculate.
9	(Brief recess)	9 Why is it you think Pete Klimis might have
10	Q Before we took a break, I asked you a	10 wanted to take time off for a religious holiday
11	question, and as you're allowed to do, you wanted	11 not officially recognized by the city?
12	to talk to your lawyer about presumably matters	12 A There's something in my mind about having a
13	relating to potential privileges.	conversation with him, but I'm not sure.
14	Let me pose the question to you again. You	14 Q Do you know what religion Pete is?
15	tell me whatever you need to tell me in response	15 A No.
16	to my question to you.	16 Q Do you have a guess? Do you have any
17	Why is it you chose to roll out a memo	17 speculation about what type of religion he is?
18	regarding office policies on February 6, 2008?	18 Do you go to similar churches, Ash Wednesday?
19	A This document was generated on advice of	19 MR. ABBARNO: You asked him
20	counsel.	20 not to guess.
21	Q So as a consequence I assume it's your	21 A You asked me not to guess. We don't go to
22	position you can't share with me the answer to my	22 the same church. To the remainder of your
23	question without revealing privileged	23 compound question, I can't answer it.
24	information?	24 Q All right. Under oath today can you identify
25	A That is correct.	25 for me anybody else that you know with certainty
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1	Q Notwithstanding, let me ask you couple	1 that ever asked to take some time off for a
2	questions about the document itself. Turn to the	2 religious holiday on a day that wasn't officially
3	second page, paragraph 14.	3 recognized by the city?
4	A Okay.	4 A With certainty, no.
5	Q Other than Bassil Ally, can you identify for	5 Q Now, I asked you both the questions about
6	me any other assistant prosecutor under your	6 paragraph 14 and 15 with respect to any other
7	supervision who would have to leave the office	7 assistant prosecutors. I would like to broaden
8	during normal business hours, 8 to 4 p.m., for	8 my question to understand a little further.
9		
	recognized religious obligations or religious	
10	recognized religious obligations or religious beliefs?	9 Can you identify for me anybody under your
10		Can you identify for me anybody under your supervision whether assistant prosecutors, staff,
11	beliefs? A No.	Can you identify for me anybody under your supervision whether assistant prosecutors, staff, et cetera, other than Bassil Ally, who has ever
	beliefs? A No. Q Was paragraph 14 placed into the memo that is	Can you identify for me anybody under your supervision whether assistant prosecutors, staff, et cetera, other than Bassil Ally, who has ever needed to take time away from normal business
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11 12 13 14 15 16 17 18 19 20 21 22 23	beliefs? A No. Q Was paragraph 14 placed into the memo that is Exhibit 7 specifically to address Bassil Ally? MR. ABBARNO: The document was generated on the advice of counsel. Q If in response you need to say, I can't answer because he told me not to, that's fine. I need to be able to ask the question to see where you're drawing the line. A The document was generated on the advice of counsel. Q Please turn to the following page that	Can you identify for me anybody under your supervision whether assistant prosecutors, staff, et cetera, other than Bassil Ally, who has ever needed to take time away from normal business hours or needed to take time off for a religious belief or religious obligation that wasn't recognized by the city? A With certainty, I cannot answer that question. Use paragraph 15 inserted into Plaintiff's Exhibit 7 specifically to address Bassil Ally? A This document was generated on advice of counsel, yes.
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Page 146 1 Ally? 2 A Yes. Either by handing it to him or leaving it to n his chair. 4 Q When do you believe you did that, February 5th or sometime thereafter? 6 A Sometime thereafter. 9 Q Do you believe it was the next day, the same day, two days later, a week later? 9 A I don't recall specifically. He noted he received it 2/8. 11 Q Do you have any reason to dispute he received it it on 2/8? 13 A No. 14 Q Consistent with that, I'm going to hand you plaintiff's exhibit a gain. I can tell you with certainty he did not receive it until 2/8. 9 Q Until 2/8? 20 A Yes. 10 Q I think I agree with you. The reason being is I have been given a memo where at least it appears from the memo that the office policies an February 7th, Priday was February 8th. 16 A That is correct. 17 memorandum. 18 received it 2/8. 19 Q Until 2/8? 20 A Yes. 21 Q I think I agree with you. The reason being is I have been given a memo where at least it appears from the memo that the office policies an February 7th, Priday was February 8th. 19 A That is correct. 20 Taking Plaintiff's Exhibit 7 pefore to February 8th of 2008r. 21 Q Taking Plaintiff's Exhibit 7 pefore of February 8th. 22 Q Tou think be got Plaintiff's Exhibit 7 before to February 8th? 23 A Trac. No. 24 Q You think be got Plaintiff's Exhibit 7 before to February 8th? 25 A Some of them are policies on the policies on February 8th. 26 A I think he got Plaintiff's Exhibit 7 before to February 8th? 27 A Soudos that are delivered to Your, and the seven you and Bassil over the next several days, yes? 28 A That was generated as a result of my February 8th. 29 A Dougos that are delivered to Your, and the seven you and Bassil over the next several days, yes? 20 A This was generated as a result of my February 8th. 21 Q You roll out with new policies on February 8th. 22 A Soudos that are delivered to Your, and the policies on February 8th. 29 A February 8th? 20 A That is correct. 30 (Plaintiff's Exhibit 7) prior to February 8th. 31 Q Okay. He likewise chidrit get the policies on February 8th. 32	C	case: 4:09-cv-01144-CAB Doc #: 196 Filed	602/	22/12 ₉ 38 of 42. PageID #: 3896
2 A Yes. Either by handing it to him or leaving 3 it on his chair. Q When do you believe you did that, February 5 6th or sometime thereafter? A Sometime thereafter. Q Do you believe it was the next day, the same day, two days later, a week later? A I don't recall specifically. He noted he received it 2/8. Q Do you have any reason to dispute he received it it on 2/8? A No. A Yes. Q Dittil 2/8? A Yes. Q Until 2/8? A Yes. Q I faink lagree with you. The reason being a peera from the memo that the office policies on February of th, and it was actually distributed to your subordinates Pebruary of th, and it was actually distributed February of th, and it was actually distributed to your rolled out this memo that talked about office policies on February of th, and it was actually distributed to your oled out this memo that talked about office policies on February of th, and it was actually distributed to your subled out this memo and talked about office policies on February of th, and it was actually distributed to your subled out this memo that talked about		Page 146		Page 148
2 A Yes. Either by handing it to him or leaving 3 it on his chair. Q When do you believe you did that, February 5 6th or sometime thereafter? A Sometime thereafter. Q Do you believe it was the next day, the same day, two days later, a week later? A I don't recall specifically. He noted he received it 2/8. Q Do you have any reason to dispute he received it it on 2/8? A No. A No. A No. A No. Consistent with that, I'm going to hand you plaintiff's exhibit — A Can I hack up? I just want to clarify that again. I can tell you with certainty he did not receive it until 2/8. Q Until 2/8? A Yes. Q Until 2/8? A Yes. Q I think I agree with you. The reason being is I have been given a memo where at least it appears from the memo that the office policies were at least reviewed with Bassil on 2/8 and the memo appears to reference the attached Page 147 memorandum. A That is correct. Q Taking Plaintiff's Exhibit 7 together with Plaintiff's Exhibit 8 was marked for identification.) Q Taking Plaintiff's Exhibit 7 together with Plaintiff's Exhibit 1 together with Plaintiff's Exhibit 1 together with Plaintiff's Exhibit 1 together with Plaintiff's Exhibit 7 before Pebruary 8tn? A I think he got certain portions of Pebruary 8tn? A I think he got certain portions of Plaintiff's Exhibit 7 prior to February 8th. Q Ney, the likewise didn't get the policies contained in Plaintiff's Exhibit 7 together with A True. No. Q You think he got Plaintiff's Exhibit 7 before February 8tn? A I think he got certain portions of Plaintiff's Exhibit 7 prior to February 8th. Q You foll out with new policies on Rebruary Q You roll out with new policies on Rebruary Q You roll out with new policies on Rebruary Q You roll out with new policies on Rebruary Q You roll out with new policies on Rebruary Q You roll out with new policies on Rebruary Q You roll out with new policies on Rebruary Q You roll out with new policies on Rebruary Q You roll out with new policies on Rebruary Q You roll out with new policies on Rebruary Q You roll out with new policies on	1	Ally?	1	O Okay. Let me rephrase my question. You
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22 Q You roll out with new policies on February 23 6th of 2008 that are delivered to your 24 subordinates on February 8, 2008? 22 Bassil's treatment after a particular sentencing 23 issue or DUI amendment, correct? Do you remember 24 that? Thave the memo in front of me. Generally			21	
23 6th of 2008 that are delivered to your 23 issue or DUI amendment, correct? Do you remember 24 subordinates on February 8, 2008? 24 that? Thave the memo in front of me. Generally	22		1.000	Bassil's treatment after a particular sentencing
24 subordinates on February 8, 2008? 24 that? Thave the memo in front of me. Generally	23			issue or DUI amendment, correct? Do you remember
25 A Some of these are not new policies. 25 do you recall what I'm talking about?	24			
	25	A Some of these are not new policies.	25	do you recall what I'm talking about?

Page 150 A No. I would like to see it. (Plaintiff's Exhibit 11 was marked for identification.) Q Okay. I'll show you. I think I would characterize this as another letter of discipline that week when he returned from his leave, Plaintiff's Exhibit 11. Tell me if you would agree with me Plaintiff's Exhibit 11 is some type of disciplinary memo. A I would agree. Q So, before you wrote him the memo on February 8th for making aure that he accounted for city time and confirmed he attended his mosque, the day before you had written a disciplinary memo related to a long-standing policy in this office that no DUI offense may be amended without your approval, right? A If you're simply talking temporal or time-wise, your question is correct. However, in a very broad sense, your question is no broader sense? A Because, as I mentioned, February 6th or 7th or 8th is simply the day or days those policies were reduced to writing and distributed. It had been my policy since day one of my tenure or very nearly thereafter that DUI's were not amended without my authorization. Q Pow, moving on — MR. ABBARNO: Objection. A Yes. Q Now, moving on — MR. ABBARNO: How long will your next topic be? MR. ABBARNO: How long will your next topic be? MR. POIK: I'm keeping that in mind. I'm trying to move forward. I may go a couple minutes over. It won't be more than a few. I'll get you out of here at 3. I'm trying to finish up some things. You and I will have to meet at 3. I'm trying to finish up some things. You and I will have to meet at 3. I'm trying to finish up some things. You and I will have to meet at 3. I'm trying to finish up some things. You and I will have to meet at 3. I'm trying to finish up some things.		ase: 4:09-cv-01144-CAB DOC #P196 Filed	o to	153 of 42. Page D #. 3091
Claintiff's Exhibit 11 was marked for identification.		Page 150		Page 152
for identification.) Q Okay, I'll show you. I think I would characterize this as another letter of discipline that week when he returned from his leave, Plaintiff's Exhibit 11. Tell me if you would agree with me Plaintiff's Exhibit 11 is some type of disciplinary memo. A I would agree. Q So, before you wrote him the memo on February 8th for making sure that he accounted for city time and confirmed he attended his mosque, the day before you had written a disciplinary memo. The day before you had written a disciplinary memo related to a long-standing policy in this office that no DUI offense may be amended without your approval, right? A I you're simply talking temporal or time-wise, your question is correct. However, in a very broad sense, your question is a broader sense? A Because, as I mentioned, February 6th or 7th or 8th is simply the day or days those policies were reduced to writing and distributed. It had without my authorization. Q Pair enough. As it relates to that policy, it in ever had been memorialized until February 6, 2008? MR. ABBARNO: Objection. A Yes. Q Now, moving on— MR. ABBARNO: How long will your next topic be? MR. ABBARNO: How long will your next topic be? MR. ABBARNO: How long will your next topic be? MR. ABBARNO: How long will your next topic be? MR. POLK: I'm keeping that in mind. I'm trying to move forward. I may go a couple minutes over. It won't be more than a few. I'll get you out of here at 3. I'm trying to finish up some things. You and I will have to meet A Yes. You and I will have to meet	1	A No. I would like to see it.	1	(Plaintiff's Exhibit 12 was marked
4 Q Okay. I'll show you. I think I would 5 characterize this as another letter of discipline that week when he returned from his leave, 7 Plaintiff's Exhibit 11. Tell me if you would 8 agree with me Plaintiff's Exhibit 11 is some type of disciplinary memo. 10 A I would agree. 11 Q So, before you wrote him the memo on February 8 th for making sure that he accounted for city 13 time and confirmed he attended his mosque, the day before you had written a disciplinary memo related to a long-standing policy in this office that no DUI offense may be amended without your approval, right? 18 A If you're simply talking temporal or time-wise, your question is correct. However, in 20 a very broad sense, your question in a 22 broader sense? 21 A Because, as I mentioned, February 6th or 7th 24 or 8th is simply the day or days those policies 25 were reduced to writing and distributed. It had 26 been my policy since day one of my tenure or very nearly thereafter that DUI's were not amended without my authorization. 2 Q Now, moving on — 3 MR. ABBARNO: Objection. 3 A Yes. 4 I said I never made those comments as they were quoted there. 5 MR. ABBARNO: Objection. 6 A Yes. 6 Q Now, moving on — 6 MR. ABBARNO: How long will 7 your lawyer. This is all part of the back and forth that ensued from the memo you gave to 8 Harsia on February 7, 2008 regading his violation of your long-standing policy that was reduced to writing on February 6, 2008. A I written reprimand any other assistant prosecutor a written reprimand any other assistant prosecutor the same issues, which is marked as Plaintiff's Exhibit 13, yes? A Yes. Q Fast forward for a moment. You told me earlier you never took any action or said anything negative about the fact that Bassil had a	2	(Plaintiff's Exhibit 11 was marked	2	for identification.)
characterize this as another letter of discipline that week when he returned from his leave, Plaintiffs Exhibit II. Tell me if you would agree with me Plaintiffs Exhibit II is some type of disciplinary memo. A I would agree. Q So, before you wrote him the memo on February 12 8th for making sure that he accounted for city time and confirmed he attended his mosque, the day before you had written a disciplinary memo related to a long-standing policy in this office that no DUI offense may be amended without your approval, right? A I you're simply talking temporal or time-wise, your question is incorrect. Q Why am I incorrect about my question in a broader sense? A Because, as I mentioned, February 6th or 7th or 8th is simply the day or days those policies were reduced to writing and distributed. It had to February thereafter that DUI's were not amended without my authorization. Page 151 been my policy since day one of my tenure or very nearly thereafter that DUI's were not amended without my authorization. Q Fair enough. As it relates to that policy, it inever had been memorialized until February 6, 2008? MR. ABBARNO: Objection. A I you are simply talking temporal or time-wise, your question is incorrect. 22 word of the same issues, which is marked as Plaintiff's Exhibit 13, yes? A Because, as I mentioned, February 6th or 7th or 8th is simply the day or days those policies were reduced to writing and distributed. It had been my policy since day one of my tenure or very nearly thereafter that DUI's were not amended without my authorization. Q Fair enough. As it relates to that policy, it inever had been memorialized until February 6, 2008? MR. A Yes. Q Now, moving on — MR. ABBARNO: How long will your next topic be? MR. POLK: I'm keeping that in mind. I'm trying to move forward. I may go a couple minutes over. It won't be more than a few. I'll get you out of few ratios. The provided in the form of a written reprimand any other assistant prosecutor for amending a DUI charges without your assistant prose	3	for identification.)	3	Q 12. Take one, please pass the other one to
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Plaintiff's Exhibit 11. Tell me if you would agree with me Plaintiff's Exhibit 11 is some type of disciplinary memo. 10 A I would agree. 11 Q So, before you wrote him the memo on February 3 time and confirmed he attended his mosque, the day before you had written a disciplinary memo related to a long-standing policy in this office that no DUI offense may be amended without your approval, right? 11 A If you're simply talking temporal or time-wise, your question is correct. However, in a very broad sense, your question is nearest a very broad sense, your question in a broader sense? 12 A Because, as I mentioned, February 6th or 7th or 8th is simply the day or days those policies were reduced to writing and distributed. It had write you never took any action or said anything negative about the fact that Bassil had written reprinand any other assistant prosecutor for identification.) Q Why am I incorrect about my question in a broader sense? 23 A Because, as I mentioned, February 6th or 7th or 8th is simply the day or days those policies were reduced to writing and distributed. It had been my policy since day one of my tenure or very nearly thereafter that DUI's were not amended without my authorization. Q Fair enough. As it relates to that policy, it in ever had been memorialized until February 6, 2008? MR. ABBARNO: Objection. A Yes. Q Now, moving on — MR. ABBARNO: How long will your next topic be? MR. POLK: I'm keeping that in mind. I'm trying to move forward. I may go a couple minutes over. It won't be more than a few. I'll get you out of here at 3. I'm trying to finish up some things. You and I will have to meet A Yes.	5	characterize this as another letter of discipline	5	forth that ensued from the memo you gave to
agree with me Plaintiff's Exhibit 11 is some type of disciplinary memo. A I would agree. 10 Q So, before you wrote him the memo on February 11 8th for making sure that he accounted for city 11 time and confirmed he attended his mosque, the 12 day before you had written a disciplinary memo 13 related to a long-standing policy in this office 14 that no DUI offense may be amended without your 15 related to a long-standing policy in this office 16 that no DUI offense may be amended without your 17 approval, right? 18 A If you're simply talking temporal or 19 time-wise, your question is correct. 10 Q Why am I incorrect about my question in a 10 proader sense? 11 A I writing, no. 12 (Paintiff's Exhibit 13 was marked 15 for identification.) 16 Q You obviously issued another memo related to 17 the same issues, which is marked as Plaintiff's 18 Exhibit 13, yes? 19 A Yes. 20 Q Fast forward for a moment. You told me 21 earlier you never took any action or said 22 anything negative about the fact that Bassil had 23 anything negative about the fact that Bassil had 24 anything negative about the fact that Bassil had 25 were reduced to writing and distributed. It had 26 been my policy since day one of my tenure or very 27 nearly thereafter that DUI's were not amended 28 without my authorization. 29 Page 151 2008? 2008? 30 A Beause, as I mentioned, February 6, 2008? 31 Deen my policy since day one of my tenure or very 32 nearly thereafter that DUI's were not amended 33 without my authorization. 4 Q Fair enough. As it relates to that policy, 34 in rever had been memorialized until February 6, 35 Page 151 36 A Page 152 37 Beause, as I mentioned, February 6, 38 A This was his response, yes. 4 In writing, no. 4 (Plaintiff's Exhibit 13 was marked 55 for identification.) 4 Q You obviously issued another memo related to 57 the same issues, which is marked as Plaintiff's 58 Exhibit 13, yes? 59 A Yes. 50 Past forward for a moment. You told me 50 earlier you never took any action or said 51 anything negative about the fact that Bassil h	6	that week when he returned from his leave,	6	Bassil on February 7, 2008 regarding his
9 of disciplinary memo. 10 A I would agree. 11 Q So, before you wrote him the memo on February 8th for making sure that he accounted for city 11 time and confirmed he attended his mosque, the 12 day before you had written a disciplinary memo 15 related to a long-standing policy in this office 16 that no DUI offense may be amended without your approval, right? 18 A If you're simply talking temporal or 17 approval, right? 19 A If you're simply talking temporal or 19 time-wise, your question is correct. However, in a very broad sense, your question is norrect. 21 Q Why am I incorrect about my question in a 22 broader sense? 23 A Because, as I mentioned, February 6th or 7th or 8th is simply the day or days those policies were reduced to writing and distributed. It had 25 were reduced to writing and distributed. It had 26 without my authorization. 22 Q Fair enough. As it relates to that policy, 26 it never had been memorialized until February 6, 2008? 23 MR. ABBARNO: Objection. 24 A Yes. 25 Q Now, moving on — 26 A Yes. 27 MR. ABBARNO: Objection. 28 A Yes. 29 Q Now, moving on — 20 MR. POLK: I'm keeping that in mind. I'm trying to move for a minutes over. It won't be more than a few. I'll get you out of here at 3. I'm trying to move final a few. I'll get you out of here at 3. I'm trying to finish up some things. 29 You and I will have to meet	7	Plaintiff's Exhibit 11. Tell me if you would	7	violation of your long-standing policy that was
10 A I would agree. 11 Q So, before you wrote him the memo on February 12 8th for making sure that he accounted for city 13 time and confirmed he attended his mosque, the 14 day before you had written a disciplinary memo 15 related to a long-standing policy in this office 16 that no DUI offense may be amended without your 17 approval, right? 18 A If you're simply talking temporal or 19 time-wise, your question is neorrect. 20 Q Why am I incorrect about my question in a 20 broader sense? 21 A Because, as I mentioned, February 6th or 7th 24 or 8th is simply the day or days those policies 25 were reduced to writing and distributed. It had 26 pear been my policy since day one of my tenure or very 27 nearly thereafter that DUI's were not amended 38 without my authorization. 4 Q Fair enough. As it relates to that policy, 39 it never had been memorialized until February 6, 4 Q Pair enough. As it relates to that policy, 30 it never had been memorialized until February 6, 4 Q Now, moving on - 4 A Yes. 4 A Yes. 5 Q Now, moving on - 5 MR. ABBARNO: Objection. 5 A Yes. 6 Q Now, moving on - 6 MR. POLK: I'm keeping that 6 in mind. I'm trying to move 7 forward. I may go a couple 7 minutes over. It won't be more 8 than a few. I'll get you out of 8 than a few. I'll get you out of 8 than a few. I'll get you out of 8 than a few. I'll get you out of 8 than a few. I'll get you out of 8 than a few. I'll get you out of 9 the same interprimand any other assistant prosecutor for amending a DUI charge without your approval? 10 A II myrifig no. (Plaintiff's Exhibit 13 was marked 10 For identification.) Q You obviously issued another memo related to the same issues, which is marked as Plaintiff's 12 Exhibit 13, yes? A Yes. 20 Q Fast forward for a moment. You told me earlier you never took any action or said anything negative about the fact that Bassil had 10 in February of 2008. Do you recall that we were going through my requests for admissions? 10 A Yes. 11 A Which one are you talking about? 12 A Yes. 13 A Yes. 14 A Yes. 15 Th	8	agree with me Plaintiff's Exhibit 11 is some type	8	reduced to writing on February 6, 2008.
2 So, before you wrote him the memo on February 8th for making sure that he accounted for city 1 time and confirmed he attended his mosque, the 14 day before you had written a disciplinary memo related to a long-standing policy in this office 16 that no DUI offense may be amended without your approval, right? 18 A If you're simply talking temporal or 19 time-wise, your question is correct. However, in 20 a very broad sense, your question is incorrect. Q Why am I incorrect about my question in a 22 broader sense? 23 A Because, as I mentioned, February 6th or 7th or 8th is simply the day or days those policies were reduced to writing and distributed. It had 25 without my authorization. Q Fair enough. As it relates to that policy, it never had been memorialized until February 6, 2008? 7 MR. ABBARNO: Objection. A Yes. 9 Q Now, moving on — 20 MR. ABBARNO: How long will your next topic be? 21 MR. POLK: I'm keeping that in mind. I'm trying to move 16 than a few. I'll get you out of 17 here at 3. I'm trying to finish up 50 more than a few. I'll get you out of 18 february in a few in minds. Sure point in prevail in the policy in the provided in the policy in the provided in minutes over. It won't be more 15 than 0 mind. I'm trying to move 16 than a few. I'll get you out of 17 here at 3. I'm trying to finish up 50 more 17 here at 3. I'm trying to finish up 50 more 18 than 19 you and I will have to meet 19 you and	9	of disciplinary memo.	9	A This was his response, yes.
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A If you're simply talking temporal or time-wise, your question is correct. However, in a very broad sense, your question is incorrect. Q Why am I incorrect about my question in a broader sense? A Because, as I mentioned, February 6th or 7th or 8th is simply the day or days those policies were reduced to writing and distributed. It had Page 151 been my policy since day one of my tenure or very nearly thereafter that DUI's were not amended without my authorization. Q Fair enough. As it relates to that policy, it never had been memorialized until February 6, 2008? MR. ABBARNO: Objection. A Yes. Q Now, moving on MR. ABBARNO: How long will your next topic be? MR. POLK: I'm keeping that in mind. I'm trying to move forward. I may go a couple minutes over. It won't be more than a few. I'll get you out of here at 3. I'm trying to finish up some things. You and I will have to meet 18 Exhibit 13, yes? A Yes. Q Fast forward for a moment. You told me earlier you never took any action or said anything negative about the fact that Bassil had 19 Exhibit 13, yes? A Yes. Q Fast forward for a moment. You told me earlier you never took any action or said anything negative about the fact that Bassil had 10 Exhibit 13, yes? A Yes. Q Fast forward for a moment. You told me earlier you never took any action or said anything negative about the fact that Bassil had 10 Exhibit 13, yes? A Yes. Page 151 A Which one are you talking about? Q Work and I never made those comments as they were quoted there. Q You can go there if you want. I'm not going to ask you the same questions. At some point in February of 2008 gas 11 A Yes. That's what he told me. Q All right. A Yes.	16	that no DUI offense may be amended without your	16	Q You obviously issued another memo related to
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8 A Yes. 9 Q Now, moving on 10 MR. ABBARNO: How long will 11 your next topic be? 12 MR. POLK: I'm keeping that 13 in mind. I'm trying to move 14 forward. I may go a couple 15 minutes over. It won't be more 16 than a few. I'll get you out of 17 here at 3. I'm trying to finish up 18 some things. 19 You and I will have to meet 8 to ask you the same questions. At some point in 9 February of 2008 year. 10 A Yes. That's what he told me. 11 A Yes. That's what he told me. 12 Q All right. A H H H H H H H H H H H H H H H H H H	6		6	
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18 some things. 19 You and I will have to meet 18 A Yes.				A Yes.
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21 circumstances. It will allow me 21ear time relative to taking time on in			100000000000000000000000000000000000000	Control of Grant To taking the control of the contr
22 to have the benefit of whatever 22			1	
				A_No.
23 information your lawyer is looking 23 A No. 24 for in response to my questions 24 Q You know there's obviously back and forth	200.000		24	
25 A Looking forward to it. 25 about documentation. Why is it that you took the	25			

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1	position you did in requiring himself and the	1	Q When you previously saw it, did you think to
2	Diopolitical and the state of t	2	yourself anything contained in that document was
3	with off for medical testing.	3	in any way incorrect or wrong?
4	A To bring his request into compliance with the	4	A I have no reason to believe anything is
5	city ordinance.	5	wrong.
6	Q Your position is his initial request wasn't	6	(Plaintiff's Exhibit 15 was marked
7	in compliance with the city ordinance?	7	for identification.)
8	A Correct.	8	Q Have you ever seen Plaintiff's Exhibit 15
9	Q What was deficient about his initial	9	before?
10	request?	10	A In the OCRC file.
11	A COURSE CALLISE:	11	Q Okay. You understand that Bassil Ally's
12	Q was mere a doctor's excuse provided.	12	charge of discrimination that was filed in early
13	A rectany, no.	13	2008 was ruled probable cause that the City of
14	Q Was there at some point in time?	14	Youngstown engaged in discriminatory activity
15	A Later, yes.	15	towards Bassil in 2008?
16	Q Was it satisfactory to you?	16	MR. ABBARNO: Continuing
17	A Eventually.	17	objection relative to the findings
18	Q Was he credited for the time off?	18	of the investigation. Go ahead.
19	A Ver	19	A I understand they found probable cause for
20	Q Yes. A I don't know.	21	that issue. Q How did you feel when you learned that they
22		22	had found probable cause to support Bassil Ally's
23	Q Does somebody know? A Somebody that handles payroll.	23	charge of discrimination?
24	Q I mean, should he have been credited for that	24	A Confused.
25	time off?	25	Q Why?
	Page 155		Page 157
1	A Yes.	1	A Because the facts are not accurate.
2	Q If he hadn't, that obviously—	2	Q The facts contained in the OCRC findings?
3	A That's not my area.	3	A Correct.
4	Q What type of training have you received	4	(Plaintiff's Exhibit 16 was marked
5	during the course of your career managing people	5	for identification.)
6	in complying with employment laws?	6	Q What facts are not accurate about that
7	A No formal training.	7	finding?
8	Q Sort of informal training. Did you ever get	8	A Beginning the fourth paragraph, third line
9	training by the city on how to make sure you	9	flowing over to the fifth line where it starts:
10	comply with various employment laws?	10	Charging party informed Mr. Macejko he would not
11	A There were certain mandatory sessions that we	11	be able to attend the meeting at that time due to
12	had to attend, but other than that, no. No	12	his religious obligations and so on. That is not
13	formal training.	13	accurate.
14	(Plaintiff's Exhibit 14 was marked	14	Q He didn't tell you that?
15	for identification.)	15	A No.
16	Q Handing you real quick Plaintiff's Exhibit	1.6	Q Your testimony you said it 16 times is
17	14, I believe that's the position statement filed	17	when he told you that, you had no understanding
18	in response to Bassil Ally's charge of	18	that he was actually telling you he wasn't going
19	discrimination.	19	to attend the meeting on January 11, 2008 so he
20	A That is what it purports to be.	20	could attend his prayer service.
21	Q Have you seen that before?	21	A My testimony was he told me, "I won't be
22	A I have seen it before.	22	there."
23	Q Okay. Everything in the document is true and accurate to the best of your belief?	23	Q. And my point is not withstanding what he told you, your testimony was in your mind at that
114	ACCURAGE TO THE DESI OF VOUE DELICE FOR A SECOND	6 4	was nour testimony was in your million at that
25	A It appears to be.	25	moment in time you didn't believe he was going to

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	Page 158		Page 160
1	the prayer service on Friday instead of attending	1	stop?
. 2	the meeting.	2	MR. POLK: I have a couple
3	A I didn't know why.	3	other quick questions.
4	Q You had no belief at all?	4	MR. ABBARNO: My only concern
5	A No.	5	is I know with a couple quick
6	Q 16. Same question. The statement of	6	questions it will take us to 10 or
7	position, which is did you see this request for	7	15 minutes.
8	reconsideration when it was sent out?	8	Q After you told Bassil he was fired on January
9	A No.	9	11, 2008, did you ever talk to Paul Gains about
10	Q Did you see it at some point thereafter?	10	Bassil Ally?
11	A Yes.	11	A Yes.
12	Q Is everything contained in the request for	12	Q Tell me about that.
13	reconsideration true and accurate?	13	A I talked to Paul after I learned that Bassil
14	A It appears to be.	14	had interviewed for a position at the Mahoning
15	Q When I was talking to you about January 11,	15	County Prosecutor's Office.
16	2008, I was talking to you about discussions you	16	Q Tell me about those discussions.
17	had with The Mayor surrounding that point in	17	A I told him, hire him.
18	time.	18	Q You told Paul, hire Bassil?
19		19	A Yes.
	I want to make sure that I understand any	20	
20	communications you had with The Mayor around that		Q What did he say?
21	time, okay.	21	A As I recall - the court reporter will get
22	Here's my question to you. There was a	22	mad at me. He made a noise like ahhhh. He said
23	moment in time on January 11, 2008 where you said	23	that I would have to guess at the rest. It
24	to Bassil, "you're done here," right?	24	was either the interview didn't go well or it
25	A Yes.	25	just wouldn't work, something to that effect. I
	Page 159		Page 161
1	Q Prior to that moment in time, did you have	1	Page 161 can't tell you the exact words.
1 2	Q Prior to that moment in time, did you have any discussions at all with Mayor Williams about	1 2	Page 161 can't tell you the exact words. Q Did you, in any respect, communicate with
	Q Prior to that moment in time, did you have any discussions at all with Mayor Williams about Bassil Ally or potentially terminating Bassil or		Page 161 can't tell you the exact words. Q Did you, in any respect, communicate with Paul Gains about the issues that you had had with
2 3 4	Q Prior to that moment in time, did you have any discussions at all with Mayor Williams about Bassil Ally or potentially terminating Bassil or potentially disciplining Bassil Ally?	2 3 4	Page 161 can't tell you the exact words. Q Did you, in any respect, communicate with
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	Page 162	Page 1	164
1	you made reference earlier to the courtroom	1 why.	
2	rotation being frozen you said.	2 Q What is Clemans Nelson?	
3	A That the words I used, yes.	3 A Clemans Nelson, I believe, is a law and	
4	Q How long was it frozen? From January of '06	4 management firm.	
5	to when?	5 Q Okay. Without getting into the particulars,	
6	A May 5, 2008.	6 did you have some understanding Clemans Nels	son
7	Q When you say it's frozen, does that mean the	7 was brought in specifically to deal with Bassil	
8	prosecutor assigned to certain courtrooms will	8 Ally?	
9	stay in those courtrooms?	9 A No.	
10	A Yes.	10 Q Just generally?	
11	Q On May 5, 2008, why did the rotation become	11 A Yes.	
12	unfrozen or thawed out?	12 Q Did you consult with folks at Clemans Nelse	on
13	A The reasons I had frozen it initially had	13 on a legal basis about how to handle Bassil	OII
14	dissipated. It was just time for a rotation.	14 Ally's situation?	
15	Q What were those reasons?	15 A Yes.	
16	A The reasons were that the court - well, the	16 MR. POLK: All right, We	
17	prosecutor's office previously operated on a	17 agreed we would be done at 3:00.	
18	three-month rotation.	18 I want you to be done. We will	
19	What I knew from my experience there and what	19 arrange for your continued	
20	I knew continued thereafter was that if a	20 deposition later. That's it.	
21	prosecutor encountered a certain case they didn't	21	
22	want to deal with they would blow it off until	22 (Deposition adjourned for the day at 3:00 p.m.)	
23	after the rotation.	22 (Deposition adjourned for the day at 5.00 p.m.)	
24	As a result, dockets were clogging up.	24	
25	People were not taking interest or ownership in	25	
	Page 163		165
1	their dockets. Frankly, I think some of it	1 The State of Ohio,)	
2	bordered on abuse.) SS: CERTIFICATE 2 County of Cuyahoga.)	
3	By freezing rotations, it thrust ownership	3	
4	and responsibility onto that for the dockets and	I, Lorraine A. Litvin, Notary Public within and for the State of Ohio, duly commissioned and	
5	their operations.	qualified, do hereby certify that the within-named, JOSEPH MACEJKO, was by me first	
6	Q Prior to May 5, 2008	duly swom to testify the truth, the whole truth,	
7	A Correct.	6 and nothing but the truth in the cause aforesaid; that the testimony then given by him/her was by	
8-	Q — Bassil Ally was assigned to a courtroom	7 me reduced to stenotypy in the presence of said witness, afterwards transcribed on a computer,	
9	that did not require him to be in the courtroom	8 and that the foregoing is a true and correct	
10	on Fridays between 1 and 3, true?	transcript of the testimony so given by him/her 9 as aforesaid.	
11	A I don't know.	10 I do further certify that this deposition was taken at the time and place in the foregoing	
12	Q Do you have any reason to dispute that	11 caption specified and was completed without	
13	contention?	adjournment.	
14	A If you're making it a blanket statement, my	I do further certify that I am not a relative, employee of, or attorney for any of the	
15	answer is I don't know. If you're saying	parties in the above-captioned action; I am not a	
16	generally do they not have court on Fridays, my	14 relative or employee of an attorney for any of the parties in the above-captioned action; I am	
17	answer would be yes.	15 not financially interested in the action; I am not, nor is the court reporting firm with which I	
18	Q Thank you. You understood that at least up	16 am affiliated, under a contract as defined in	
19	until May 5, 2008 Bassil's assignment to a	Civil Rule 28(D); nor am I otherwise interested in the event of this action.	
20	courtroom generally didn't require him to be in	18 IN WITNESS WHEREOF I have hereunto set my hand and affixed my seal of office at Cleveland,	
21	the courtroom on Fridays between 1 and 3?	19 Ohio, on this 5th day of March, 2010.	
22	A Yes.	20 21	
23	Q Why were you discussing matters with Clomans	22	
		I CITY	
24	Nelson?	24 Infrainc A. latvin, Notary Public in and for the State of Ohio.	
25	MR. ABBARNO: If you know	25 Mycommission expires July 30, 2011.	-