

No. 2013-0274

Original Action for Writ of Quo Warranto

In the Supreme Court of Ohio

STATE OF OHIO ex rel. TIMOTHY A. SWANSON

Relator,

v.

GEORGE T. MAIER

Respondent.

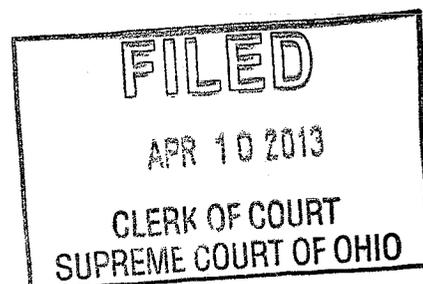
RESPONDENT'S EVIDENCE VOLUME 1 OF 4

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Respondent's Volume 1 of 4 of evidence consists of the testimony of Timothy A. Swanson taken on April 4, 2013.

Respectfully submitted,



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A copy of the foregoing was served on April 10, 2012 pursuant to Civ.R. 5(B)(2)(d) by delivering it to Federal Express for delivery by overnight mail to:

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1 IN THE SUPREME COURT OF OHIO

2 - - -

3 STATE OF OHIO ex rel.
4 TIMOTHY A. SWANSON,

5 Relator,

6 vs.

Case No. 2013-0274

7 GEORGE T. MAIER,

8 Respondent.

9 - - -

10 DEPOSITION OF TIMOTHY A. SWANSON
11 Thursday, April 4, 2013

12 - - -

13 The deposition of TIMOTHY A. SWANSON, the
14 Relator, called for examination by the
15 Respondent under the Ohio Rules of Civil
16 Procedure, taken before me, Diane M. Stevenson,
17 a Registered Merit Reporter, Certified Realtime
18 Reporter, and Notary Public in and for the
19 state of Ohio, pursuant to notice, at the
20 offices of Baker, Dublikar, Beck, Wiley &
21 Mathews, 400 South Main Street, North Canton,
22 Ohio, commencing at 9:53 a.m., the day and date
23 above set forth.

24 *STEVENSON REPORTING SERVICE, INC.*
25 *2197 Macon Court Westlake, Ohio 44145*

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- - -

EXAMINATION OF TIMOTHY A. SWANSON

BY MR. ROSENBERG

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- - -

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1 TIMOTHY A. SWANSON

2 the Relator, called for examination by the
3 Respondent under the Rules, having been first
4 duly sworn, as hereinafter certified, was
5 examined and testified as follows:

6 EXAMINATION

7 BY MR. ROSENBERG:

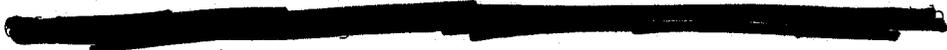
8 Q. State your full name for me, please.

9 A. Timothy A. Swanson.

10 Q. Mr. Swanson, your date of birth?

11 A. 5/24/52.

12 Q. And your current home address?

13 A. 

14 Canton.

15 Q. And the ZIP there?

16 A. 

17 Q. You also have a residence in Florida; is that
18 correct?

19 A. Not a residence, no. I have my motor home.

20 Q. What part of Florida do you primarily stay in?

21 A. Sarasota.

22 Q. Is there an address in Florida associated with
23 your motor home, or no?

24 A. I do have a mailbox there.

25 Q. What is that address?

1 A. I don't know the numbers. It is Fruitville.
2 It is Sun-N-Fun Resort on [REDACTED] Road in
3 Sarasota, Florida. I don't know the exact
4 address on [REDACTED] Road.

5 Q. Approximately how many years has that been the
6 location in Florida for you?

7 A. Three.

8 Q. You have previously served as the sheriff of
9 Stark County; is that correct?

10 A. Yes, sir.

11 Q. From what years to what years were you sheriff
12 of Stark County?

13 A. July 30th, 1999, until February 7th of 2013.

14 Q. July 30, 1999, did you assume sheriff pursuant
15 to an election or an appointment?

16 A. An appointment.

17 Q. What were the circumstances that gave rise to
18 that appointment?

19 A. Sheriff Bruce Umpleby died at the office of an
20 acute aneurysm, and I was appointed that
21 evening by the Stark County Commissioners.

22 Q. Did you then go through the process of also
23 being appointed by the Democratic Party Central
24 Committee?

25 A. Yes, sir.

1 Q. Were you, in fact, appointed by the Democratic
2 Party Central Committee in 1999?

3 A. Yes, sir.

4 Q. When did you first run for sheriff? My
5 assumption would have been the November 2000
6 election you would have had to run.

7 A. I fulfilled the remaining term of the sheriff,
8 which I believe was two years, or a year and a
9 half, whatever was left in that term, and then
10 I had to run.

11 Q. Was that the November 2000 election or the
12 November 2002, if you recall?

13 A. I think I had to run in 2000 to take office in
14 2001.

15 Q. And that sounds right because the election
16 would have been in 2012 that triggered the
17 events that we are here for today, so it would
18 have been 2008, 2004, 2000 would be the
19 election terms.

20 So you ran in 2000, and then you ran in
21 2004 again, correct?

22 A. Yes, every four years after that then.

23 Q. 2008 you also ran, and you were successful in
24 2004 and 2008, correct?

25 A. Yes.

1 Q. Then sometime between 2008 and 2012 you
2 announced your intention to retire, right?

3 A. Yes, sir.

4 Q. Do you recall -- I mean, we will look at some
5 documents later, but do you recall when you
6 announced your intentions to retire?

7 A. Yes, it was just after Thanksgiving of that
8 year of the election. There is a specific date
9 you must do it by in order to notify the Board
10 of Elections. I can't tell you the exact date.

11 Q. So that would have been prior to Thanksgiving
12 of 2011?

13 A. No, just after Thanksgiving, I believe.

14 Q. Of 2011?

15 A. Yes.

16 Q. Because your intention was not to run for
17 reelection in 2012?

18 A. No, I sent a letter to the Board of Elections
19 indicating that I had -- was possibly
20 considering retiring, but running for election
21 in 2012.

22 Q. And then eventually is it accurate that you
23 changed your mind and decided not to run for
24 election in 2012?

25 A. No, wait, now we've got that --

1 MR. MAIER: It is the wrong
2 year.

3 A. Yeah, it is the wrong year. It is '8, 2008.

4 Q. All right.

5 A. So I was retired for four years, my last four
6 years as sheriff, and I decided not to run in
7 2012.

8 Q. Let's go over that again, just so our record is
9 clear. For the 2008 election you ran for
10 office, correct?

11 A. Yes, sir.

12 Q. Had you expressed an intent to retire before
13 that election?

14 A. Yes.

15 Q. So, therefore, your intention was to serve the
16 term that you were elected to in 2008 and not
17 seek reelection in 2012; is that accurate?

18 A. Yes, sir.

19 Q. Let's go back a little bit here. Let's start
20 with your education. How far did you go with
21 your formal education?

22 A. Two years of college, an associate's degree
23 from Electronic Technology Institute.

24 Q. Where is that located?

25 A. Akron, Ohio.

1 Q. What year did you get that associate's degree?

2 A. '72.

3 Q. Approximately how many years were you in law
4 enforcement?

5 A. 29.

6 Q. Would those be the last 29 years of your
7 working career?

8 A. Yes. I began my career like in '72 or early
9 '73 as a reserve deputy, and then got hired
10 full time.

11 Q. If you did that, if you started in 1972 and you
12 were in law enforcement for 29 years, it sounds
13 like there is a break of about oh, nine, ten
14 years when you were not in law enforcement.
15 What did you do then?

16 A. No, I was always with the sheriff's office from
17 '72 until when I retired here in 2013. I am
18 sorry, that is 39.

19 Q. Yes, that is 41 years, so approximately 39
20 years in law enforcement, not 29?

21 A. Right. I am sorry. I don't want to make
22 myself any older than I really am.

23 Q. Were you always with the Sheriff of Stark
24 County or did you serve in other areas?

25 A. Just the Sheriff of Stark County.

1 Q. What positions did you hold prior to being
2 sheriff?

3 A. I started out as a reserve deputy, hired in as
4 a dispatcher. I went from dispatching to the
5 road patrol, from the road patrol to detective
6 bureau, from the detective bureau to a task
7 force or criminal intelligence unit, then to
8 inspector under Sheriff Bruce Umpleby, and then
9 to sheriff.

10 Q. I am going to mark some exhibits as we go
11 through. I am going to mark the notice as the
12 first one.

13 (Defendant's Exhibit A was marked for
14 identification.)

15 Q. Mr. Swanson, Diane, our court reporter, has
16 given you Exhibit A. I want to focus on the
17 last page. I want to ask you about the last
18 page of this.

19 The last page asked you to bring to the
20 deposition any of these documents that you
21 would have in your possession, custody or
22 control. So as we go through them, let me know
23 if you brought anything. And if no, I will
24 follow up.

25 The first one being any letters of

1 resignation that you ever issued to the Stark
2 County Sheriff.

3 A. No, sir, I did not bring it.

4 Q. Are there such letters?

5 A. I am sure at the sheriff's office there are
6 letters in the files of individuals.

7 Q. But you don't have any in your possession?

8 A. No, sir.

9 Q. Copies of all e-mails sent or received by you
10 from September 1, 2012, to March 1, 2013.

11 A. Again, those would be on the system at the
12 sheriff's office. I have none in my
13 possession.

14 Q. Any description of your job duties and
15 responsibilities including any policy,
16 provision, or procedure regarding full-time
17 employment, and the prohibition against working
18 in other jobs while being a full-time employee
19 of Stark County.

20 Do you have any documents responsive to
21 that?

22 A. No, sir, I do not.

23 Q. Now, documents that reflect your residency from
24 September 1, 2012, through March 1, 2013,
25 including temporary residencies and second

1 residencies, did you bring any documents
2 responsive to that?

3 A. No, sir, I have nothing to -- I don't know what
4 I would show you for that.

5 Q. All right. Well, in fairness, I mean, there
6 would be things. I mean, the mail that you get
7 would show a residence, so I understand that.

8 But what you have told me is your primary
9 residence is the North Canton address you gave
10 me before, correct?

11 A. Yes, sir.

12 Q. And then what you have in Florida is your motor
13 home that is located in Sarasota or based out
14 of Sarasota?

15 A. Yes, sir.

16 Q. 4500 Atlantic Boulevard, Northeast, Canton,
17 Ohio 44705, that is not your residence,
18 correct?

19 A. No, sir.

20 Q. That's correct, right?

21 A. That's correct, that is not my residence.

22 Q. Now, any and all schedules, calendars or logs
23 showing appointments, meetings and other events
24 attended by you from September 1, 2012, through
25 March 1, 2013.

1 A. No, sir.

2 Q. You don't have any documents?

3 A. Any of those would be at the office, the
4 sheriff's office.

5 Q. Tell me what kind of calendars or logs you
6 personally kept.

7 A. My calendar was in my e-mail on the computer
8 and one on my desk and I left all that stuff at
9 the sheriff's office.

10 Q. And when you say "desk calendar" you are
11 talking about kind of the multi-page one that
12 we write in --

13 A. Right.

14 Q. -- as far as appointments?

15 Did you write your appointments in your
16 desk calendar?

17 A. No, my secretary did.

18 Q. Is the desk calendar, though, the primary
19 calendar that would have all your appointments?

20 A. No, the computer would.

21 Q. Explain why that is.

22 A. Because I entered them in the computer.
23 Sometimes I forgot to tell her I had
24 appointments, so she didn't hear about them all
25 until the day it happened, so it wasn't in

1 there, but they were in my computer. She had
2 access to my computer, too, and my calendar.

3 Q. What is her name?

4 A. Carrie Wareham.

5 Q. Can you spell that last name?

6 A. W A R E H A M.

7 Q. Any and all documents that refer, reflect or
8 otherwise address permission given to you to
9 reside in Florida while acting as sheriff of
10 Stark County. Are there any documents
11 responsive to that request?

12 A. No, sir.

13 Q. Are you aware of any documents?

14 A. No, sir, I am not aware of anything that could
15 even be created.

16 Q. So you are not aware, just so we are clear, you
17 are not aware of any documents that address
18 giving you permission to reside in Florida
19 while acting as sheriff of Stark County,
20 correct?

21 A. No, sir, I am not.

22 Q. Any all documents that refer or reflect, or
23 otherwise address e-mail access being given to
24 you at any time in the year 2013?

25 A. No, sir.

1 Q. After February 7, 2013, did you maintain e-mail
2 access to your e-mail account at the sheriff's
3 office?

4 A. Yes, sir, until it was turned off.

5 Q. And why is it that after February 7, 2013, you
6 still had e-mail access?

7 A. Because it wasn't turned off.

8 Q. Did you use the e-mail?

9 A. Yes, I used -- yes.

10 Q. For what purposes?

11 A. I get notifications from the State regarding
12 weapons that we have purchased. I get
13 notifications on grants that we have. I
14 just -- all I did was forward them back to the
15 office to the secretary to disperse them to the
16 sheriff or to disperse them to an individual
17 who was in charge of those grants or whatever
18 so they knew that that was required.

19 Q. Do you know when the e-mail access was turned
20 off?

21 A. No, I don't know the exact date.

22 Q. Number eight, any and all documents that refer
23 or reflect or otherwise address any and all
24 activities taken by you to remove, suspend, or
25 replace Louis Darrow from a classified civil

1 service position to an unclassified civil
2 service position, either temporarily or
3 permanently. Are you in possession of any
4 documents?

5 A. No, sir.

6 Q. Are you aware of any documents?

7 A. No, sir.

8 Q. Did you undertake any activities to remove,
9 suspend, or replace Louis Darrow from a
10 classified civil service position to an
11 unclassified civil service position?

12 A. No, sir.

13 Q. Did you have any discussions with Mr. Darrow
14 about that issue?

15 A. No, sir.

16 Q. Now, just so our record is clear here, Louis
17 Darrow is obviously somebody you know pretty
18 well, correct?

19 A. Yes, sir.

20 Q. When you were sheriff, was he part of your
21 senior team?

22 A. No, sir.

23 Q. What was his role when you were sheriff for the
24 last, say, two years of your role?

25 A. Well, he was a sergeant on the road patrol

1 under Chief Deputy Rick Perez, and then he was
2 promoted in August of last year to lieutenant
3 when Chief Perez decided to leave and I was
4 made interim. I put him into Chief Perez's
5 position as taking care of the operations
6 division, where I think he remains today.

7 Q. To the extent, and obviously these are more
8 legal issues, but to the extent of your
9 knowledge, as a lieutenant effective
10 August 12, was he still subject to classified
11 civil service or was he unclassified at that
12 time?

13 A. I can't -- I don't know.

14 Q. Any and all attendance documents, number nine,
15 that show or demonstrate the attendance of you
16 in or out of the offices of the Stark County
17 Sheriff during the years of 2012 and 2013.

18 A. I have no attendance records.

19 Q. What documents would exist or do exist showing
20 when you were present in the Sheriff's Office
21 in Stark County and as opposed to, say, being
22 in Florida or Georgia, or wherever?

23 A. I don't know whether there would be any.

24 Q. You had a swipe card to go in and out of your
25 building, correct?

1 A. No, it is a proximity card.

2 Q. Okay. Was that the primary means used of
3 getting in and out of the building?

4 A. Yes, sir.

5 Q. When you left on February 7, 2013, what
6 happened to that proximity card?

7 A. I still have it.

8 Q. You still have it until today?

9 A. Yes.

10 Q. Is there any reason why it hasn't been turned
11 back in or --

12 A. Only because I wasn't here to give it back. I
13 was still sheriff when I went to Florida, and
14 haven't been back to give it to --

15 Q. When was that when you went back to Florida?
16 You just said, "I was still sheriff when I went
17 back to Florida." When was that?

18 A. The interim I left on the -- I arrived at the
19 campground on the 22nd of January, and I stayed
20 there until the 4th of February, at which time
21 I came back for the vote.

22 Then I think George was sworn in as
23 sheriff on the 7th, so at that point I -- I
24 don't know if my card works; they can shut them
25 off. And I have keys to turn in, also.

1 Q. So January 22nd you left for Florida, you said
2 you --

3 A. No, I arrived in Florida.

4 Q. You arrived in Florida, I am sorry. You came
5 back on February 4th and you were talking about
6 the Democratic Central Committee vote?

7 A. Yes, sir.

8 Q. And you attended that, correct?

9 A. Yes, sir.

10 Q. Number ten, any and all agreements in your
11 possession, custody or control that provide for
12 persons other than you to pay for the cost of
13 this litigation including but not limited to
14 legal fees and/or expenses. Do you have any
15 documents responsive to that?

16 A. I don't have anything. No, sir, I have
17 nothing.

18 Q. I assume you are paying for the legal fees
19 incurred, right?

20 A. I don't know how that is being worked.

21 Q. You don't know?

22 MR. MATHEWS: I would object,
23 first of all. But that is an arrangement with
24 counsel, him and counsel.

25 Q. Number 11, any and all documents that refer,

1 reflect or otherwise address notifications of
2 your intent to retire from the Stark County
3 Sheriff's office.

4 A. That would probably be in my personnel jacket
5 at the sheriff's office and filed with the
6 Board of Elections.

7 Q. And then --

8 A. Now, that is the original retirement.

9 Q. Right.

10 A. There was nothing given, just so I am straight
11 on that, there was nothing given when I didn't
12 run again in 2012.

13 Q. Right. And then, lastly, any and all documents
14 that refer, reflect or otherwise disclose that
15 you had previously retired and returned to
16 government service after having retired.

17 A. I have no documents showing that other than my
18 swearing in.

19 Q. Now, you have filed a lawsuit against George
20 Maier in the Ohio Supreme Court, correct?

21 A. Yes, sir.

22 Q. What is your understanding of the claim that
23 you are making against Sheriff Maier?

24 A. My understanding is I requested that Mr. Maier
25 be vetted to show that he qualifies to hold a

1 position as sheriff in Ohio in Stark County,
2 and that has not been demonstrated or shown to
3 me.

4 And I was told at the meeting on the 4th
5 of February, that vote, someone from the
6 Democratic Party, I don't recall his name, but
7 he was there to make sure parliamentary
8 procedures were followed; that after the vote,
9 if there was anyone who wasn't satisfied or
10 wanted to follow up further on that, the only
11 one who could do it would be the sheriff, the
12 prosecutor, or the attorney general.

13 I approached Mr. Ferrero. He felt he may
14 have a conflict because he did an affidavit in
15 regards to Lou Darrow of some nature.

16 I said, "Well, then, I just want someone
17 to show me that George is qualified, and I will
18 go to bed." But no one showed me that yet.
19 And I told George that night at the meeting
20 what I was going to do. It wasn't a secret.
21 It wasn't anything against Mr. Maier, just the
22 law is the law under 311.01. And I just wanted
23 to make sure.

24 Q. Well, in this lawsuit you are claiming that he
25 is not qualified.

1 A. That is what I am being told by seven attorneys
2 that I had look at it.

3 Q. In your own words, why do you contend that
4 Sheriff Maier is not qualified?

5 A. I had a conversation with George and Randy
6 Gonzalez and Tom Bernabei in Mr. Bernabei's
7 office shortly after it was discovered that
8 Mr. McDonald was not going to be able to take
9 the position.

10 I did not know that George was interested
11 in the position of sheriff, and I had contacted
12 two individuals that are presently employed at
13 the sheriff's office, one of them being Lou
14 Darrow, to see if they had any interest. Lou
15 expressed that he did.

16 I was then asked to come to this meeting
17 with Randy Gonzalez, Tom Bernabei, at which
18 time we then got George on the phone and a
19 conversation, and there was a discussion being
20 held that they weren't quite sure if George
21 would qualify, and would I hire him for one day
22 to meet a certain paragraph of the statute
23 under 311.01.

24 I didn't give an affirmative answer or
25 negative answer, I just understood that that is

1 what they were asking.

2 And then George told me on the phone that
3 he was going to also check into his credentials
4 in regards to training and education.

5 I said, "George, here is the deal: You
6 qualify, I support you 100 percent." I told
7 him that on the phone. And I still, to this
8 day, if somebody says you are qualified, I
9 support him 100 percent.

10 I just don't want to circumvent the law.
11 And I worked for 13 years as a sheriff on the
12 board to get the law to where it was, and I
13 don't want to go around it.

14 MR. ROSENBERG: Since this is
15 evidence for use at trial, I am going to move
16 to strike your answer as hearsay.

17 Q. (Continuing.) Now, in your own words, what
18 specific provisions or requirements -- what
19 specific requirements, if you know, does
20 Mr. Maier not meet?

21 A. In reviewing that section of law, it states
22 that you must have been employed full time as a
23 police -- or as a law enforcement officer
24 within the last five years at the rank of
25 corporal or above.

1 George and I served on boards together as
 2 co-chairmen, and I know it is more than five
 3 years since he has been in the position that
 4 made him qualified.

5 The second issue was you could meet the
 6 requirements by having so many hours of
 7 education from an accredited institution of
 8 some nature.

9 Those were my findings. Then I had others
 10 look at it to express their opinions, and they
 11 agreed that they didn't feel so, either.

12 Q. All right. Now, let's just stay with this, we
 13 are getting a little off my outline, but we
 14 will stay with this for a minute.

15 Are you aware that Sheriff Maier served in
 16 the Ohio Department of Public Safety?

17 A. Yes, sir. We were co-chairmen at the time of a
 18 committee.

19 Q. And what is your understanding of what
 20 positions Sheriff Maier held at the Ohio
 21 Department of Public Safety?

22 A. He was Assistant Director of the Ohio
 23 Department of Public Safety under Guzman.

24 Q. Do you know what his responsibilities were as
 25 assistant director?

1 A. Many. But I do know that State Patrol fell
2 under his bailiwick.

3 Q. The Ohio Highway Patrol?

4 A. Yes, sir.

5 Q. Do you know what else fell under his bailiwick?

6 A. I believe -- I can't be inclusive, but I think
7 the Ohio Investigative Unit, which is the old
8 Liquor Control. I think BCI maybe had some
9 play in that or some -- I don't know that he
10 was in charge of anything, but a very close
11 working relationship.

12 And I don't know any others off the top of
13 my head.

14 Q. Do you know whether or not Mr. Maier served at
15 all with the drafting of legislation for the
16 State, was involved at all in the legislative
17 process on behalf of the State Highway Patrol?

18 A. I don't know what his responsibilities were, I
19 just know that the Department of Public Safety
20 is in charge of the State Highway Patrol.

21 Q. Do you know whether or not Mr. Maier served as
22 Director of the Ohio Department of Public
23 Safety?

24 A. I think there was an interim term in there that
25 he did before a female was appointed -- I can't

1 remember her name -- after Guzman left.

2 Q. Cathy Collins?

3 A. Yes, Cathy.

4 Q. Then you mentioned also something about
5 education. What is your understanding, as the
6 entity who has brought this lawsuit, as to what
7 Mr. Maier's educational background is post-high
8 school?

9 A. As of today, because I read the affidavit from
10 Stark State, he doesn't meet whatever the
11 requirements. I can't tell you the
12 requirements, semester hours, or how it is said
13 in the law, that he doesn't meet it.

14 Before then there was a question as to
15 whether he did or not, and I just waited on an
16 answer from someone that said yes or no. I
17 didn't really have an opinion, "Just tell me
18 yes or no."

19 Q. And when you say "doesn't meet it," what do you
20 mean by that?

21 A. I guess -- well, is that Section 7 or 8 of the
22 Ohio Revised Code 311.01 that talks about
23 education in one of those paragraphs? And it
24 outlines in that specific paragraph if you
25 don't meet the qualifications above regarding

1 employment within the last five years, if you
2 then have an educational -- and I am sorry, I
3 didn't memorize it as to what the hours were if
4 they were semester hours or what they were, I
5 didn't.

6 Q. Are you aware of people who have held
7 management positions at the Ohio Department of
8 Public Safety meeting the experience
9 requirement to be a county sheriff?

10 A. No, I am not.

11 Q. Now, you, yourself, when you were sheriff, you
12 were a member of the Buckeye State Sheriffs'
13 Association, correct?

14 A. Yes, sir.

15 Q. In fact, you had leadership roles in the
16 Buckeye State Sheriffs' Association, correct?

17 A. I was president in -- all the way through, and
18 then president in 2008.

19 Q. Have you, yourself -- and you know Bob Cornwell
20 is the Executive Director of the Buckeye State
21 Sheriffs' Association, correct?

22 A. Yes, sir.

23 Q. Have you, yourself, had any conversations with
24 Mr. Cornwell about whether or not service at
25 the Ohio Department of Public Safety in a

1 management role meets the experience
2 requirement?

3 A. I believe I did early on.

4 Q. What does "early on" mean?

5 A. When I first -- probably right after I had that
6 meeting with Bernabei and Gonzalez and I first
7 found out that George was interested in the
8 position. I believe I probably had
9 conversations -- I know I had conversations
10 with Bob Cornwell.

11 Q. All right. What conclusions did you come from
12 -- what conclusions did you reach based on your
13 conversation with Mr. Cornwell? Not what did
14 he say, but what conclusions did you reach?

15 A. I reached the conclusion that his service as
16 assistant director and interim director did not
17 qualify as a law enforcement position, and I
18 had no conclusion on the educational part.

19 Q. And just so I am clear, your sole basis for
20 reaching that conclusion is whatever you
21 learned in that meeting with Cornwell, correct?

22 A. Phone conversation, yes, sir.

23 Q. Now, are there any other requirements that you
24 are aware of that you contend Sheriff Maier
25 does not meet?

- 1 A. No, sir.
- 2 Q. Are you aware, just so we are clear here, are
3 you aware that Sheriff Maier has received the
4 governor's commission to be the sheriff of
5 Stark County?
- 6 A. I am not -- no, I don't. I suspected that
7 would happen, but no, I don't know that.
- 8 Q. Let's go back for a moment when we were talking
9 about these documents, I want to go back to the
10 e-mail for a second.
- 11 A. Sure.
- 12 Q. When you left or leading up to your departure
13 as sheriff of Stark County, did you delete any
14 of your e-mail?
- 15 A. No, sir. Whatever is there is there.
- 16 Q. So no --
- 17 A. I mean, there would be advertisements and
18 people trying to sell you stuff that most of
19 the time I never even opened and deleted, but I
20 didn't erase it from the computer, it just went
21 in the delete file, so it is there somewhere.
- 22 Q. But you didn't go through your e-mail --
- 23 A. Never went through it.
- 24 Q. -- and delete things?
- 25 A. No. I never went through any of my documents

1 that are on the computer that I had saved in
2 there.

3 Q. Now, when it became evident to you that
4 Mr. McDonald would be unable to serve as
5 sheriff, you supported Lou Darrow in his
6 efforts to be the next sheriff, correct?

7 A. Yes, sir.

8 Q. In fact, you actively campaigned for
9 Mr. Darrow, correct?

10 A. Yes, sir.

11 Q. I just want to ask you about a couple of
12 documents we are going to look at.

13 (Defendant's Exhibit B was marked for
14 identification.)

15 Q. Mr. Swanson, I have handed you what has been
16 marked as Exhibit B to your testimony today.
17 This appears to be a copy of a flier that says,
18 "Louis Darrow for Stark County Sheriff."

19 Have you ever seen this before?

20 A. I have not.

21 Q. It says, "Louis Darrow for Stark County
22 Sheriff." And it says, "The vote will be held
23 on Tuesday, February 5th, 5:30 p.m., Mayfield
24 Senior Center."

25 Do you recognize that as the Central

1 Committee election?

2 A. Yes, sir.

3 Q. The one that you attended and you have already
4 said you had a conversation with Sheriff Maier
5 at, correct?

6 A. Yes, sir.

7 Q. And it says, "Supported by those who know local
8 law enforcement," and the first one listed is
9 yourself, correct?

10 A. Yes, sir.

11 Q. Along with Mr. McDonald, Prosecutor Ferrero,
12 the FOP, correct?

13 A. Yes, sir.

14 Q. Were you aware that your name was on
15 endorsements of Mr. Darrow?

16 A. I gave permission for my name to be, but I have
17 never seen this. I don't like the star.

18 (Defendant's Exhibit C was marked for
19 identification.)

20 Q. I am going to give you an opportunity to read
21 Exhibit C, but before you do let me just
22 explain Exhibit C is an e-mail from yourself to
23 Martin Olson dated January 11, 2013.

24 My name appears above the black line at
25 the top because when I printed it out, like

1 happens to most of us when you print it out,
2 your name appears at the top, so my name as
3 having printed it.

4 So just read this to yourself and tell me
5 when you are done, sir.

6 A. Okay, sir.

7 Q. Thank you. You have had an opportunity to read
8 Exhibit C, the e-mail of January 11, 2013, from
9 yourself to Martin Olson. Who is Martin Olson?

10 A. A local blogger.

11 Q. Is he someone you have a social relationship
12 with or business relationship or --

13 A. No. Well, he is -- he used to be a member of
14 the Democratic Party, and I know that he has
15 run for democratic offices, so over the years I
16 had met him and -- but we are not buddies, we
17 are not pals.

18 Q. And here you were responding to Mr. Olson and
19 expressing your support for Mr. Darrow to be
20 the sheriff, correct?

21 A. Yes, sir.

22 Q. These kinds of e-mails, just so I understand,
23 would you send these political e-mails from a
24 personal computer you have or from your office
25 computer?

1 A. No, my office computer.

2 Q. Would that be pretty common that you would
3 engage in partisan politics from your office
4 computer?

5 A. No. This was probably the only time anything
6 like that has occurred that I can recall, but
7 that is --

8 Q. Now, this led to the Central Committee vote on
9 February 5th. And you have already testified
10 you were in attendance, correct?

11 A. Yes.

12 Q. Are you a member of the Central Committee?

13 A. Yes, sir.

14 Q. Are you a member of the Executive Committee of
15 the Democratic Party, if you know?

16 A. I don't -- I am elected to a precinct.

17 Q. And what precinct are you the central
18 committeeman from?

19 A. The number, I don't know. Just the plain
20 township where I live.

21 Q. And you voted, obviously, and your vote was
22 public and it was for Louis Darrow?

23 A. Yes, sir.

24 Q. Are you aware that there was a third candidate
25 considered for appointment to sheriff at the

1 Central Committee meeting?

2 A. Yes, sir.

3 Q. Do you recall his name?

4 A. Larry Dordea.

5 Q. Do you recall that at the Central Committee a
6 motion was made that passed to declare all
7 three candidates qualified? Do you recall
8 that?

9 A. That is -- yes.

10 Q. Just so we are clear, you are also aware that
11 Sheriff Maier won that election --

12 A. Yes, sir.

13 Q. -- he received more votes than the other two
14 candidates?

15 A. Yes, sir.

16 (Defendant's Exhibit D was marked for
17 identification.)

18 Q. Read Exhibit D to yourself, sir, and just tell
19 me when you are done.

20 A. Okay.

21 Q. Now, Exhibit D is an e-mail from you dated
22 September 28, 2012, to *vop@thebeaconjournal.*
23 *com*. What is *vop@thebeaconjournal.com*?

24 A. I have no idea.

25 Q. You recognize *The Beacon Journal* as being the

1 Akron newspaper, correct?

2 A. Yes, sir.

3 Q. Is it fair to state that you were sending this
4 e-mail to somebody at the Akron newspaper?

5 A. Yes.

6 Q. And what this e-mail is, this is an e-mail that
7 you have created supporting Mike McDonald and
8 urging his election in November 2012 as the
9 Stark County Sheriff, correct?

10 A. Yes, sir.

11 Q. Again, this came from your work computer, not
12 any personal computer, right?

13 A. Yes, sir.

14 Q. So when you testified a few minutes ago that
15 you thought Exhibit C might have been the only
16 time that you used --

17 A. I stand corrected.

18 Q. -- e-mail for partisan political stuff, you
19 also did it in the 2012 election, correct?

20 A. I stand corrected, yes, sir.

21 Q. Do you know if you did it at any other times?

22 A. Not unless you can show me some more.

23 Q. Are you aware that that is an improper use of
24 the computer?

25 A. I didn't believe so.

1 Q. You believe you can use your sheriff's
2 department computer to engage in partisan
3 politics?

4 A. I believe I could use it to express my feelings
5 or answer questions of the public and of the
6 news media in regards to where I stand as the
7 present sheriff, that is what I thought.

8 Q. In connection with who should be elected to be
9 the sheriff?

10 A. Who I would support, yes.

11 Q. Which would be partisan politics, because you
12 knew at the time that there were elections for
13 these offices, correct?

14 A. Yes, sir.

15 Q. Now, are you still today OPOTA certified?

16 A. Yes, sir.

17 Q. O P O T A. Does that expire because of your
18 retirement, or what?

19 A. No, sir. It only expires if you let it expire
20 in regards to not meeting future -- having a
21 commission and meeting future training
22 obligations as OPOTA would require.

23 Q. And as far as OPOTA certification, is there a
24 term where you are certified for a specific
25 length of time and then it expires and you have

1 to be recertified?

2 A. I think it is tied to your commission to an
3 office.

4 Q. And do you currently hold any commission?

5 A. No, sir.

6 Q. Let's go back and talk a little bit for a
7 moment or two about Mr. Maier's experience. Do
8 you have any knowledge or understanding as to
9 what Sheriff Maier's experience is with the
10 Harrison County Sheriff's Department?

11 A. I know that he got sworn in and got a
12 commission from Joe Meyers. That is all I
13 know.

14 Q. Do you know what he did?

15 A. No, sir, I have no idea.

16 Q. Joe Meyers being the then sheriff of Harrison
17 County?

18 A. Yes, sir.

19 Q. Have you done anything to ascertain what he did
20 in Harrison County?

21 A. No, sir.

22 Q. Do you have any knowledge of what Sheriff Maier
23 did in Ross County?

24 A. No, sir.

25 Q. Have you done anything to ascertain what he did

1 in Ross County?

2 A. No, sir.

3 Q. Have you seen Sheriff Maier's filing for
4 eligibility to run for sheriff that he
5 submitted to the Stark County Common Pleas
6 Court?

7 A. No, sir.

8 Q. You are aware, are you not, that when you seek
9 to run for sheriff you have to file for
10 eligibility with the Stark County Common Pleas
11 Court, correct?

12 A. Yes, sir.

13 Q. Part of that process is the Court obtains
14 background information on the candidate,
15 correct?

16 A. And orders a background check, yes.

17 Q. They get stuff from like BCI to make sure that
18 the candidate doesn't have a criminal record,
19 they fingerprint and obtain the educational
20 background information, correct?

21 A. Yes, sir.

22 Q. I am sure you went through that process, right?

23 A. Yes, sir, every time I ran.

24 Q. Are you aware that Judge Forchione of Stark
25 County approved Sheriff Maier running as

1 sheriff?

2 A. Yes, sir.

3 Q. Are you aware that he found him qualified to
4 run as sheriff?

5 MR. MATHEWS: Objection.

6 You can answer.

7 A. I had questions in regards to that, and I was
8 told that he doesn't find qualification, he
9 just orders the background check. Because I
10 was searching for some way to show that George
11 was qualified.

12 MR. ROSENBERG: I am going
13 to, again, since this is evidence, I am going
14 to move to strike your answer because it is
15 hearsay.

16 Q. (Continuing.) My question to you is: Are you
17 aware that Judge Forchione found him qualified?
18 Yes or no?

19 MR. MATHEWS: Objection.

20 You can answer.

21 A. No, I did not know that he found him qualified.

22 Q. Now, do you know whether Sheriff Maier has
23 served in a law enforcement role in any other
24 counties in Ohio besides Ross and Harrison?

25 A. He was a special deputy for me.

1 Q. Okay. Do you know anything about his
2 experiences in Pickaway County?

3 A. No -- I am sorry, yes, I knew Dwight had sworn
4 him in as, I believe -- I don't know if it was
5 a special or reserve, I have no idea which it
6 was, but when George came to me for a
7 commission, I was told by George that he did
8 have something from Dwight Radcliff, who was
9 the sheriff in Pickaway, and then I gave him
10 commission here in Stark County.

11 Q. Do you know if that commission was as a special
12 deputy or --

13 A. I don't know the status of what it was.

14 Q. What is the commission that you gave George
15 Maier?

16 A. I gave him a special deputy's commission.

17 Q. And as far as your understanding of it, what
18 does it mean to have a special deputy's
19 commission?

20 A. It can be both ways. You can be certified
21 through OPOTA and have arrest powers, and so on
22 and so forth, or you can just be a special
23 deputy that can be called upon by myself in the
24 case of an emergency to assist the sheriff's
25 office.

1 Q. Which one was it for Sheriff Maier?

2 A. To be called upon by an emergency. I didn't
3 even -- well, I am sure it will be in the files
4 at the sheriff's office, because when I do give
5 special deputy commissions we fill out the
6 paperwork and send it to OPOTA to see if there
7 are any requirements that they must have in
8 order to have all the powers. So that should
9 be in a file. It would be in Mr. Maier's file.
10 That would answer that question completely.

11 (Defendant's Exhibit E was marked for
12 identification.)

13 Q. Would you read Exhibit E to yourself, and just
14 tell me when you are done.

15 A. Okay, this is the same as the one sent to the
16 *Akron Beacon Journal*, I sent a copy to my
17 wife's e-mail at *timsam34@gmail.com*.

18 Q. Okay. Exhibit E, just so we are clear for our
19 record, it is an e-mail --

20 A. I am sorry, that is my personal e-mail;
21 *timsam34*, that is my personal e-mail.

22 Q. Okay. So Exhibit E, just so we are clear, is
23 an e-mail dated September 28, 2012, from your
24 office e-mail to your personal e-mail just
25 sending the same text as what we have in

1 Exhibit D?

2 A. Yes.

3 (Defendant's Exhibit F was marked for
4 identification.)

5 Q. Again, read Exhibit F to yourself, and just
6 tell me when you are done.

7 A. Okay.

8 Q. Exhibit F is a copy of a letter dated
9 January 19, 2007, from yourself to then
10 Governor Strickland in the state of Ohio,
11 correct?

12 A. Yes, sir.

13 Q. And the letter is pretty short. What it says
14 is: "Dear Governor Strickland: Please
15 consider this letter my recommendation that
16 George Maier be appointed to the post of
17 colonel for the Ohio State Patrol. I have
18 known Mr. Maier for many years, and is a very
19 reliable, trustworthy, and honest individual
20 who is always a professional.

21 "Thank you for your consideration.
22 Respectfully, Timothy A. Swanson, Stark County
23 Sheriff."

24 I read that correct, right?

25 A. Yes, sir.

1 Q. The copy I put in front of you is not signed,
2 but did you, in fact, sign this letter and send
3 it?

4 A. I did on my letterhead.

5 Q. Why did you send it?

6 A. Because I supported George to become the
7 colonel of the State Highway Patrol.

8 Q. Do you know if he obtained that position?

9 A. No, he didn't.

10 Q. Why did you support him?

11 A. Because I thought he would do a great job.

12 Q. Has that opinion changed at all?

13 A. No, sir.

14 (Defendant's Exhibit G was marked for
15 identification.)

16 A. Okay, sir.

17 Q. This is an e-mail. It says, "On Tuesday..."
18 in part, I am not going to read the whole thing
19 yet. It says, "On Tuesday, January 8, 2013,
20 Tim Swanson wrote:" and then it says,
21 "Randy..." And then at the end it says,
22 "Thanks, I await your reply. Sheriff." This
23 is the way it was produced to me.

24 This is an e-mail that you wrote to Randy
25 Gonzalez, the Stark County Democratic Chairman,

1 correct?

2 A. Yes, sir.

3 Q. At the beginning it says, "In conversing with
4 Deb Dawson, Vivianne and others, I understand
5 George Maier doesn't qualify as a candidate for
6 sheriff."

7 Now, Deb Dawson, that is somebody in the
8 Stark County Prosecutor's Office, correct?

9 A. Yes, sir.

10 Q. Is she a lawyer in the office, or what? Do you
11 know?

12 A. Yes, sir, prosecutor.

13 Q. Vivianne, what is Vivianne's full name?

14 A. Vivianne Duffrin.

15 Q. Vivianne Duffrin is a lawyer that is employed
16 by the Stark County Sheriff, correct?

17 A. Yes, sir.

18 Q. Then it says, "In conversing with Ms. Dawson,
19 Vivianne and others..." Who are the "others"
20 that you were referring to in this e-mail?

21 A. Other prosecutors at the Prosecutor's Office.
22 I don't know all their names.

23 Q. Give me the ones whose names you know.

24 A. Well, John Ferrero.

25 Q. Okay.

1 A. I would be remiss in telling you any others, I
2 can't even remember their names, but others
3 that worked for him.

4 Q. So your testimony here today approximately
5 three months after you wrote this e-mail is the
6 people you are able to identify are Deb Dawson,
7 Vivianne Duffrin and John Ferrero?

8 A. Yes, sir.

9 Q. And Ferrero is the prosecutor himself?

10 A. Yes, sir.

11 Q. Did you have any discussions with Ferraro about
12 filing this lawsuit against Sheriff Maier?

13 A. Yes, sir.

14 Q. Did Mr. Ferraro encourage you to do so?

15 A. No, sir.

16 Q. Was Mr. Ferrero aware that you were going to do
17 it before you did so?

18 A. Yes, sir, at the vote.

19 Q. In other words, at the vote you told Ferraro,
20 "I am going to challenge Sheriff Maier's
21 qualifications"?

22 A. Yes, sir.

23 Q. Did Ferraro encourage or discourage you from
24 doing that?

25 A. Neither. He said he didn't think he could

1 because he filed an affidavit was his reply to
2 me, it would be a conflict of interest.

3 Q. Are you aware that Mr. Ferrero has publicly
4 stated that he does not have, quote, a dog in
5 this show and is not interested in determining
6 whether Mr. Maier is qualified or not?

7 A. No, I am not aware of that.

8 Q. Approximately how many times have you talked to
9 Mr. Ferraro about this -- either this lawsuit
10 or challenging Mr. Maier's qualifications?

11 A. I believe the only time I talked to him was the
12 night of the vote when I learned that it had to
13 be one of three people to file. And I went
14 over to him to ask if he was going to.

15 He said, "I can't, I think there is a
16 conflict."

17 I said, "Then I am going to."

18 Then I went to Mr. Beck and I went to
19 George and I told them.

20 Q. Now, you attended Mr. McDonald's funeral in
21 late February, correct?

22 A. Yes, sir.

23 Q. Do you recall having a short conversation with
24 Sheriff Maier at that funeral?

25 A. Absolutely.

1 Q. Do you recall what you said in regards to this
2 lawsuit?

3 A. If I can paraphrase?

4 Q. Sure.

5 A. I said, "George, this isn't about you and me,
6 this is just about the sheriff's office. I
7 have no problem with you as sheriff as long as
8 you are qualified.

9 "If you qualify, I support you 100
10 percent. I hope you are not pissed off, but
11 that is where I stand. I just want to make
12 sure we are following the law."

13 Q. And do you recall also saying something to the
14 effect of you, yourself, are not pushing this,
15 you are not the one driving the bus?

16 A. I am the one driving the bus.

17 Q. Do you recall making that statement?

18 A. No. If I did, I rescind it now and tell you I
19 am driving the bus.

20 (Defendant's Exhibit H was marked for
21 identification.)

22 Q. I have handed you what has been marked as
23 Exhibit H to your testimony today, and it is a
24 letter dated February 7, 2013, to Prosecutor
25 Ferraro and it says, "Dear Prosecutor Ferrero",

1 I am requesting that your office take whatever
2 steps are necessary to begin legal action to
3 determine if George Maier is qualified to
4 assume the position of Stark County Sheriff.

5 "Thank you for your attention to this
6 matter. Should you have any questions, please
7 feel free to contact me. Sincerely," and it
8 has your signature below that.

9 Have you ever seen this document before?

10 A. I believe I got an e-mail copy of it because it
11 was done while I was in Florida and I approved
12 it to be sent to John. That was the last day
13 of, I believe, my interim position.

14 Q. So, in other words, this isn't your -- somebody
15 has signed your name to this letter; it is not
16 your signature, correct?

17 A. I believe it is my stamp. I gave authority to
18 use my stamp.

19 Q. Now, why is it on February 7th you are sending
20 this letter to Ferrero when you told us on
21 February 5th you had this conversation where he
22 said he had a conflict and he couldn't be
23 involved in it?

24 A. I wanted him to publicly be able to say why he
25 wasn't doing anything. How do I want to say

1 this?

2 I don't have a lot of faith in
3 Mr. Ferrero. I am not a big John Ferrero fan.
4 I felt this was necessary for me to do.

5 Q. Necessary why?

6 A. To put him on the spot of either do your job or
7 bow out.

8 Q. Did you draft this letter or did somebody draft
9 it for you?

10 A. I think I did. I just told Carrie what to
11 write.

12 Q. "Carrie," being your assistant?

13 A. My secretary.

14 Q. Did Mr. Ferraro respond to you?

15 A. Not that I can recall or remember.

16 Q. In your comment that you said you are not a
17 Ferraro fan, you would agree with me that there
18 are factions within the Democratic Party of
19 Stark County, correct?

20 A. I learned that at the vote, yes.

21 Q. And there were those who, for example, within
22 the Democratic Party support Mr. Ferraro and
23 those who do not support Mr. Ferraro, correct?

24 A. Yes, sir.

25 Q. And you knew that before the vote?

1 A. I knew there was dissension with some with
2 Ferraro, yes.

3 Q. Right, right. And just like that, there are
4 also factions within the Democratic Party in
5 Stark County that support the Maier family and
6 those who do not support the Maier family,
7 correct?

8 A. I learned that during the vote. I thought they
9 were pretty well supported, but I found that
10 different.

11 Q. To a large degree, that's not George Maier,
12 that's Johnny Maier, his brother, who is --

13 A. Exactly. Nothing to do with George.

14 Q. And Johnny Maier, so the record is clear, has
15 held several elected offices from Stark County,
16 correct?

17 A. And the chairman's position as the Democratic
18 Stark County Chairman.

19 Q. He has been the state legislator. He has been
20 the clerk of the Municipal Court, and he has
21 also been the Stark County Democratic Chairman,
22 correct?

23 A. Yes.

24 Q. So he has more of a -- you would agree with me
25 he has more of a political personality where

1 people have opinions about Johnny Maier as
2 compared to George Maier, correct?

3 A. Yes, sir.

4 Q. Because would you agree with me that there are
5 some people in Stark County who are viewing
6 this issue about whether or not George Maier is
7 qualified as sheriff as a partisan political
8 issue because there are those who don't like
9 Johnny Maier; do you agree with that?

10 A. I think some people could think that, yes, sir.

11 Q. Now, we have talked about Mr. Ferraro and we
12 have touched a little bit on Randy Gonzalez
13 and, once again, Randy Gonzalez is the Stark
14 County Democratic Chairman, correct?

15 A. Yes, sir.

16 Q. Are you aware of representations made by
17 Mr. Ferraro to Mr. Gonzalez that you do not
18 want to pursue this case against Mr. Maier?
19 Are you aware of Mr. Ferraro making those
20 representations?

21 A. No, sir. May I add, I have never talked to
22 Mr. Ferraro about this after that vote.

23 Q. Going back to Exhibit H for a second,
24 February 7, 2013, where physically were you the
25 day that letter was issued?

1 A. Florida, Sarasota.

2 (Defendant's Exhibit I was marked for
3 identification.)

4 Q. Feel free to read Exhibit I to yourself, and
5 tell me when you are done.

6 A. Okay.

7 Q. Exhibit I consists of, I believe, just two
8 e-mails dated December 18, 2012. The first one
9 is from somebody named Bill to yourself. Do
10 you recognize who Bill is?

11 A. Yes. Bill is a friend of mine in California
12 who attended the FBI Academy with me, was my
13 suite mate.

14 Q. And I assume Sandy is your spouse, correct?

15 A. Yes, sir.

16 Q. And what Bill is saying is simply he is wishing
17 you a healthy and a long retirement, et cetera,
18 Merry Christmas, your buddy for life, correct?

19 A. Right.

20 Q. And you respond back to him and you say,
21 "Thanks. Getting ready to leave for Florida in
22 the morning for the Christmas, then north to
23 Georgia for New Year's. Will leave..." it says
24 it twice, but it is "...will leave for Florida
25 with RV 21 of January and stay in Florida until

1 May. Merry Christmas and Happy New Year to you
2 and yours. Friend to the end. Tim and Sandy."

3 I read that correct, right?

4 A. Yes, sir.

5 Q. It indicates I think you sent this from your
6 phone. Were you in Canton on December 18th or
7 were you in Florida; do you recall?

8 A. Oh, I was -- I believe I was here on
9 December 18th.

10 Q. I think you were, too, because that was right
11 around when the retirement party was. In fact,
12 he is telling you, "Have fun at the party," and
13 you are saying you are going to leave the next
14 day.

15 A. Well, no, the retirement party was the 20th of
16 January.

17 Q. Okay. All right. But it was your intent on
18 December 18th, and granted I know things
19 changed because of Mr. McDonald, but it was
20 your intent on December 18th that you were
21 going to leave for Florida January 21 and not
22 come back until May, correct?

23 A. Yes, sir, right.

24 Q. And that is because you considered yourself
25 retired, correct?

1 A. Yes, sir.

2 Q. Now that Sheriff Maier has received his
3 commission from the governor and has been the
4 sheriff since February 8th, you are retired,
5 correct?

6 A. Yes, sir.

7 Q. And it is your plan to stay retired, correct?

8 A. Yes, sir.

9 Q. In fact, you received e-mails from what I am
10 assuming were a number of friends wishing you
11 good luck in retirement, and your message back
12 to them was very similar to Exhibit I, being we
13 are going to Florida with the RV and basically
14 will be there until the spring, correct?

15 A. Yes, sir.

16 (Defendant's Exhibit J was marked for
17 identification.)

18 Q. Exhibit J, obviously it is a copy of a card,
19 and it says, "Stark County Employment
20 Termination Form." At the top it references
21 your name as sheriff, and it says, "Last day
22 paid for: January 6, 2013," and it says,
23 "OPERS termination," and it says, "Retired,"
24 and then it has your signature, correct?

25 A. Yes, sir.

1 Q. Now, is this your actual signature or your
2 stamp?

3 A. That is my actual signature.

4 Q. And it indicates retired as of January 6, 2013?

5 A. Yes, sir.

6 Q. Now, we do know, in all fairness, that when
7 Mr. McDonald indicated that he was unable to
8 assume the role of sheriff you did agree to
9 come back and serve an interim appointment,
10 correct?

11 A. Yes, sir.

12 Q. And it was your intent, it was always your
13 intent, that once that interim appointment
14 ended, you would go back into being retired,
15 correct?

16 A. Absolutely.

17 Q. And nothing has changed since then?

18 A. No, sir.

19 Q. That's correct, right?

20 A. Yes, sir.

21 (Defendant's Exhibit K was marked for
22 identification.)

23 Q. Exhibit K is an interoffice communication from
24 you to all personnel dated January 15, 2013.
25 By "all personnel," I assume you meant all

1 personnel within the sheriff's office, correct?

2 A. Yes, sir.

3 Q. It is talking about your absence from office,
4 and it is saying, "On Monday, January 21, 2013,
5 I will be leaving for Florida." And then you
6 indicate that Brian Arnold will be in charge of
7 the jail division, and Lou Darrow will be in
8 charge of the operation division until the
9 appointment of the next sheriff, correct?

10 A. Yes, sir.

11 Q. And so then would you agree with me, then, that
12 this is further evidence that as of January 21,
13 2013, it was your intent to leave for Florida
14 and be retired?

15 A. Absolutely, sir.

16 Q. And nothing has changed?

17 A. Nothing has changed.

18 (Defendant's Exhibit L was marked for
19 identification.)

20 Q. Now, Exhibit L, it is on attorney general
21 letterhead. It is a form, and it says, "Notice
22 of Peace Officer Termination," and it is for
23 you, it references you at the top, it has your
24 birth date, your address, et cetera.

25 It says under "Reason for termination,

1 retired," and then, "Attestation of Law
2 Enforcement Agency Administrator, Theresa M.
3 Wilson," dated February 21, 2013," correct?

4 A. Yes, sir.

5 Q. This was, if you go to the second page, do you
6 agree with me that this was faxed by Theresa
7 Wilson of your staff to -- well, it was faxed
8 from Theresa Wilson of your staff on
9 February 21, 2013, to reference your
10 retirement?

11 A. Yes, sir.

12 Q. In fact, this is the normal process, correct?

13 A. Yes, sir.

14 Q. When you retire as a law enforcement officer,
15 you have to give notice of your peace officer
16 termination, correct?

17 A. Yes, sir.

18 Q. So your peace officer status has been
19 terminated, correct?

20 A. Yes, sir.

21 Q. Did you and Mr. Darrow have any discussions
22 about Mr. Darrow filing this lawsuit as opposed
23 to you?

24 A. No, sir.

25 Q. At the Central Committee vote on February 5th,

1 you had one discussion with Sheriff Maier or
2 more than one? Do you recall?

3 A. I think a couple times we talked.

4 Q. You have told me about one conversation. What
5 do you recall about the others?

6 A. I don't, or I would have told you about them.
7 I don't know, to be honest.

8 (Defendant's Exhibit M was marked for
9 identification.)

10 Q. Sir, I have handed you what has been marked as
11 Exhibit M, and this has been represented to me
12 as a copy of your appointment calendar from, it
13 says, September 2nd at the top. I think it
14 actually may be, the way the calendar was set
15 up, I think it starts with August 30th of 2012.
16 And the last page is January 23, 2012.

17 Take a second and just tell me if I am
18 right that this is, in fact, your appointment
19 calendar.

20 A. It looks like it, sir.

21 Q. You have indicated previously that your
22 secretary, I believe you said, fills things in,
23 correct?

24 A. Yes, sir.

25 Q. So the majority of the handwriting, I mean, if

1 we looked at it, we may find an item of yours,
2 but the majority of the handwriting is your
3 secretary's, correct?

4 A. Yes, sir.

5 Q. Now, on the weekdays, I don't care about the
6 weekends, but the weekdays where there is
7 nothing listed, does that mean you were in
8 Florida?

9 A. No, sir, it does not.

10 Q. But we do know that over the winter of 2012 you
11 were in Florida a lot, correct?

12 A. Over the winter of 2012, I believe I was down
13 in Florida over Christmas.

14 Q. And then effective January 21st, obviously of
15 2013?

16 A. Yes.

17 Q. I think you said before, I don't want to trick
18 you here, I mean, you did say before that you
19 kept another calendar which was on the e-mail,
20 correct?

21 A. Yes.

22 Q. So to the extent, and I know a lot of people
23 don't write every appointment down, so to the
24 extent that appointments are written down, if
25 we wanted to have the complete set, we would

1 need the e-mail calendar and this calendar, and
2 then that would give us the complete set of
3 everything you wrote down?

4 A. Yes, sir.

5 Q. And I assume, as a sheriff, there are a lot of
6 appointments that come up during the day that
7 you don't write down in the calendar?

8 A. Absolutely.

9 (Defendant's Exhibit N was marked for
10 identification.)

11 Q. Mr. Swanson, I have handed you what we have
12 marked as Exhibit N to your testimony here
13 today, and it is obviously a voluminous book
14 here of documents. It is captioned, "George T.
15 Maier, Stark County Sheriff Candidate."

16 And if we open it up to the first page,
17 you do recognize that as Sheriff Maier,
18 correct?

19 A. I do.

20 Q. Now, I assume you have never seen this book
21 before, correct?

22 A. No, sir, I have not.

23 Q. In part, because you have said before you
24 haven't taken the time to look at what was
25 filed with the Stark County Common Pleas Court

1 for eligibility?

2 A. Right. Yes, sir.

3 Q. Have you seen what Mr. Darrow filed with the
4 Stark County Common Pleas Court?

5 A. No, sir.

6 Q. The third guy, Dorora, did you ever see what he
7 filed?

8 A. Dordea?

9 Q. Dordea.

10 A. No, sir.

11 Q. I want to walk you through a couple of items in
12 here. If you go to the resume, go past the
13 cover letter. There is a cover letter dated
14 January 16, 2013, and then we have got a resume
15 of George Maier that goes on for about four
16 pages.

17 It starts off and it says, "Veteran law
18 enforcement executive with numerous awards and
19 commendations including *State Trooper of the*
20 *Year.*" Do you know anything about that *State*
21 *Trooper of the Year* award?

22 A. No, I don't.

23 Q. Then under "Selected Awards and
24 Accomplishments," it says, "*District Trooper of*
25 *the Year, Post Trooper of the Year.*"

1 Do you know anything about those awards?

2 A. No.

3 Q. Have you ever seen this resume of Sheriff Maier
4 before?

5 A. No, sir, I have not.

6 Q. Go to the last page of the resume, which has
7 "Education and Specialized Training."

8 Were you aware that Sheriff Maier had
9 spent time with the Southern Police Institute
10 at the University of Louisville?

11 A. I would have to say I think that I saw those
12 paperworks when I was given a copy of the stuff
13 from Stark State.

14 Q. And then what about this, it says, "Selected
15 continuing education and training," and it
16 lists things like Hocking College, Ohio
17 University, Homeland Security, Lakeland
18 Community College?

19 A. I believe those were all in there, too, sir.

20 Q. And when is it that you saw those documents
21 that you are referring to from Stark State?
22 Has it been the within if last couple of days?

23 A. Yeah, I think it was within the last week.

24 Q. Has that -- all right. Got you.

25 I want to go, and I will direct you if you

1 need to, there is a yellow page and it says,
 2 "George T. Maier, Stark County Sheriff
 3 Candidate, Peace Officer's Training
 4 Certificate," and it is about 20, 25 pages in.
 5 It is past the birth certificate, driver's
 6 license.

7 A. Yes, sir.

8 Q. Now, obviously, if we flip past the title page,
 9 we start getting a series of certificates from
 10 various peace officer and law enforcement
 11 agencies, and they go on for four pages.

12 Have you ever seen these before?

13 A. They were in that packet sent to me, also, by
 14 e-mail.

15 Q. From Stark State?

16 A. Yes.

17 Q. Have you, yourself, talked to anyone at Stark
 18 State about Sheriff Maier?

19 A. No, sir. They weren't sent to me by Stark
 20 State, they were sent to me by Mr. Beck.

21 Q. I want you to go, then, once we get past those
 22 four, we get to "Post-Secondary Education," and
 23 we have a letter from a Brenda Vogley to
 24 Sheriff Maier dated January 14, 2013. Do you
 25 see that?

1 A. Yes, sir.

2 Q. Was this in the package that you received?

3 A. I don't know, sir. I can't recall that.

4 Q. Now, Ms. Vogley is saying on behalf of Stark
5 State College that they have determined an
6 equivalency of 67 college level semester hours
7 based on a review of his materials and
8 transcripts, correct?

9 A. Yes, sir.

10 Q. She goes on and she says, "According to the
11 Ohio Board of Regent's *Operating Manual For*
12 *Two-Year Campus Programs*, each associate of
13 arts and/or of science degree requires
14 successful completion of a minimum of ninety
15 quarter or sixty semester credit hours."
16 Correct?

17 A. Yes, sir.

18 Q. And she says that his equivalency hours will be
19 documented as transfer credits, correct?

20 A. Yes, sir.

21 Q. So were you aware before me just showing you
22 this that Stark State has determined that he
23 had 67 college level semester hours, of which
24 an associate of arts or associate of science
25 degree requires successful completion of 60

1 semester credit hours? Were you aware of that?

2 MR. MATHEWS: I will object to
3 that.

4 You can go ahead.

5 A. No, I was not, sir.

6 Q. Now let's go to the "Peace Officer
7 Appointments" section of this book. It goes
8 all the way back to 1981 with a letter actually
9 receiving his resignation from the Lawrence
10 Township Police Department, correct?

11 A. Yes, sir.

12 Q. Have you ever seen this document before?

13 A. No, sir.

14 Q. The Lawrence Township Police Department is in
15 Stark County, correct?

16 A. Yes, sir.

17 Q. And were you aware that Mr. Maier had served as
18 a member of the Lawrence Township Police
19 Department?

20 A. I believe I knew him then, yes, sir.

21 Q. Do you know what he did for the Lawrence
22 Township Police Department?

23 A. I believe he was a patrolman.

24 Q. We go to the next page for Hartville. He was
25 also a patrolman, correct?

1 A. Yes, sir.

2 Q. If we get past the Hartville documents, we then
3 have the Ohio State Highway Patrol commission.
4 Were you aware that he had received a
5 commission from the Ohio State Highway Patrol
6 in March of 1983?

7 A. I didn't know when, but yes, I was.

8 Q. You knew he was a highway patrolman?

9 A. Yes, sir.

10 Q. And we have seen from the resume, many of the
11 commendations he received was as a highway
12 patrolman, correct?

13 A. Yes, sir.

14 Q. And he gravitated to the role of at least
15 captain in the highway patrol. You are aware
16 of that, correct?

17 A. Yes, sir.

18 Q. In fact, within the documents I put in front of
19 you, Exhibit N, we show his commission as a
20 captain, correct?

21 A. Yes, sir.

22 Q. Do you recognize the next document as an
23 appointment as peace officer effective July 24,
24 2008?

25 A. Yes.

1 Q. This is signed by Cathy Collins-Taylor, who was
2 the Director of the Ohio Department of Public
3 Safety at the time, correct?

4 A. Yes, sir.

5 Q. And this would be -- this is on "Jim Petro,
6 Attorney General," letterhead, correct?

7 A. It is, sir.

8 Q. If we go past that, we have another appointment
9 of Mr. Maier continuing under Attorney General
10 Cordray, correct? I am sorry, this is the
11 termination, this is the termination by Cordray
12 January 7, 2011, correct?

13 A. I don't know where you are at.

14 Q. Wait a minute. Hold on, hold on, I may have --
15 hold on, let me get this in front of me.

16 Oh, I am sorry. Go to the November 5,
17 2009, letter from Jill Gregory from Attorney
18 General Cordray's office. Do you see that?

19 A. Yes.

20 Q. It is captioned, "Update Training Evaluation
21 for Officer George Maier," correct?

22 A. Yes.

23 Q. And it is written to Executive Director Glenn
24 Taylor, Sr., Ohio Department of Public Service,
25 correct?

1 A. Yes, sir.

2 Q. Do you know Mr. Taylor?

3 A. No, sir, I don't.

4 Q. It indicates that there is no update training
5 required for Mr. Maier to maintain his peace
6 officer status, correct?

7 A. Yes, sir, that is what it says.

8 Q. And if we go to the next page, this is what I
9 was looking for, here we have the appointment
10 as peace officer under Attorney General
11 Cordray, correct?

12 A. Yes, sir.

13 Q. Signed by Dwight Radcliff, who you testified
14 before was the sheriff of Pickaway County,
15 correct?

16 A. Yes, sir.

17 Q. Effective November 18, 2009. At least that is
18 when Sheriff Radcliff signed it?

19 A. Yes, sir.

20 Q. And we also have, once we get past the peace
21 officer document, we have Sheriff Radcliff's
22 appointment of Mr. Maier as the deputy sheriff,
23 correct?

24 A. Yes, sir.

25 Q. Effective November 18, 2009?

1 A. Yes, sir.

2 Q. Then we have this special deputy sheriff
3 appointment signed by you of Mr. Maier
4 effective July 20, 2011, correct?

5 A. That is correct.

6 Q. And if we get past these, about three pages
7 later we have another one that you signed as
8 the interim sheriff on January 20th, I don't
9 see what your date is. Well, it is notarized
10 as of January 20, 2013, correct?

11 A. I thought it was the 7th of January.

12 Q. Yes, it says, "Your term of office, January --"

13 A. "Sworn to me before the said 7th and subscribed
14 in my presence the 7th day of January, 2013."

15 Q. Got it. Thank you. You are right. You are
16 correct.

17 And this is an appointment as special
18 deputy, correct?

19 A. Yes, sir.

20 Q. I want to go to I think it may be not the next
21 yellow tab but the next one, it says "Public
22 Administration Appointments."

23 A. Yes, sir.

24 Q. "Ohio Department of Public Safety, Interim
25 Director." The first thing we have is

1 governor -- former Governor Strickland's
2 appointment of George Maier as the Interim
3 Director of the Department of Public Safety
4 commencing January 1, 2011, correct?

5 A. Yes.

6 Q. Then when we get past the oath of office, we
7 have the job description as Director of Public
8 Safety, correct?

9 A. Yes, sir.

10 Q. Have you ever seen this before, this job
11 description?

12 A. No, sir.

13 Q. Then I won't ask you more about it. We can put
14 that away for a second.

15 Why don't we take a five-minute break.

16 (Brief recess.)

17 Q. I want to go back over a couple things, and
18 then hit a few other areas here.

19 A. Sure.

20 Q. The Florida presence that you have with your
21 motor home in Sarasota, do you own property
22 down there that you place it on, do you lease
23 property?

24 A. It is a rental, it is a camping spot.

25 Q. It is a camping spot, and you have a lease for

1 the camping spot. Okay, got you.

2 Then after the Central Committee vote,
3 which I think was February 5th, did you go back
4 to Florida the next day, or what?

5 A. Within a day or so. I think I went back the
6 6th or 7th.

7 Q. Other than, you know, arriving for this
8 testimony today, have you been back to Stark
9 County?

10 A. Yes, for the funeral.

11 Q. Okay. I apologize, that's right, for the
12 funeral. And then except for the funeral, any
13 other time?

14 A. No, sir.

15 Q. Did you arrive just yesterday for this?

16 A. Last night.

17 Q. Now, we have looked at some of the campaign
18 literature, Exhibit B, as an example of the
19 flier.

20 Did you contribute to the cost of this
21 campaign literature?

22 A. No money of mine was involved in anything, sir.

23 Q. In other words, you haven't -- you didn't
24 contribute to any of the campaign literature
25 that was used on Mr. Darrow's part; is that

1 correct?

2 A. No, sir.

3 Q. Is that correct or incorrect?

4 A. I have not contributed whatsoever.

5 Q. Got you. Sometimes when you say "no," when we
6 read this later --

7 A. I know.

8 Q. -- we don't know if you are agreeing or
9 disagreeing, so that was the reason for my
10 follow up.

11 A. I understand.

12 Q. You also indicated, as best I recall your
13 testimony, that when you left office roughly
14 February 6th/7th, that you left your files in
15 the office, and that is why you don't have any
16 of the documents that I asked you about at the
17 beginning of the questioning, correct?

18 A. Yes, I took nothing with me.

19 Q. The documents that were in your files, I mean,
20 I assume there are a lot of just traditional
21 law enforcement documents and documents that
22 you create. I mean, what would you kind of
23 categorize the types of documents that would be
24 in your files?

25 A. Letters of commendation, letters to the general

1 public who maybe have done something for the
 2 sheriff's office, letters thanking people who
 3 have written in whether in a positive or in a
 4 manner in which they have asked us to look into
 5 something, responding back to them.

6 That letter perhaps like you saw I may
 7 have put out a bulletin to all of them. Most
 8 of the time my secretary did that. But a lot
 9 of times I sat and would write my own just so I
 10 could get the words straight in my head, and
 11 then I would save that document in my computer
 12 and then e-mail it to her to put it on
 13 letterhead everything and dress it up because I
 14 am not the best writer.

15 Q. So, therefore, oftentimes some of the documents
 16 your secretary would create them, I assume you
 17 would review them before they went out?

18 A. Yes, I always reviewed them before they went
 19 out.

20 Q. Would others create some of these documents for
 21 you, or would the rest all be --

22 A. Oh, there would be times when perhaps Theresa
 23 Wilson, personnel; Vivian; Linda Steiner in
 24 fiscal; Vivianne Duffrin, an attorney; perhaps
 25 a chief deputy, and they would run it past me,

1 they may publish something.

2 Q. But all of those you would review before they
3 went out?

4 A. In most cases.

5 Q. I mean, let's be fair. I apologize, let's be
6 fair. There are times when you might have
7 approved like an FOJ expenditure for a meal,
8 you wouldn't necessarily review that before it
9 went out, but more substantive stuff you would
10 have reviewed before it went out?

11 A. No. All FOJ stuff, that would go through me,
12 and I would have to approve it. They will
13 spend their money first before I reimburse
14 them.

15 Q. Okay.

16 A. But let's say that Chief Perez or Chief
17 McDonald had put out a directive in the jail
18 just concerning an incident, I would get a copy
19 of it, but I didn't need to review that before
20 it went out. It was just making people aware
21 of an inmate that we had to be special
22 precautions with, or something.

23 I didn't micromanage. They knew their
24 responsibilities and what they were responsible
25 to do.

1 Q. Why don't you go back into Exhibit N, which is
 2 the large notebook "George Maier, Stark County
 3 Sheriff Candidate," and I put a Post-it note on
 4 the document so we can find it quickly.

5 It is the notice of peace officer
 6 appointment from Attorney General -- on
 7 Attorney General Petro letterhead, signed by
 8 Cathy Collins-Taylor, September 24, 2008.

9 You see that, correct?

10 A. It says January 24th -- or July 24th.

11 Q. July 24th, I apologize. You are right, July
 12 24th.

13 A. Yes.

14 Q. It indicates at the top, I mean, this is for
 15 George with his personal information at the
 16 top, then the agency information, the Ohio
 17 Investigative Unit. You recognize that as part
 18 of Public Safety, correct?

19 A. Yes, sir.

20 Q. And we have said before you recognize that
 21 Cathy Collins-Taylor was the former Director of
 22 Public Safety, right?

23 A. Yes, sir.

24 Q. And as Director of Public Safety, she also held
 25 a position as Executive Director of the Peace

1 Officer Training Commission, right?

2 A. I don't know that.

3 Q. Now, it says, "Appointment Information.
4 Appointment date: July 24, 2008." It says,
5 "agent" for rank and position. It references
6 the Ohio Revised Code Section 5502.14.

7 Do you see that?

8 A. I do, sir.

9 Q. Then under "Appointment Status" it says "Full
10 time," correct?

11 A. Yes, sir.

12 Q. So you recognize that as a full-time
13 appointment of Mr. Maier as a peace officer,
14 correct?

15 A. I do.

16 Q. And that would be effective July 24, 2008,
17 correct?

18 A. Yes, sir.

19 Q. Then we go on, and the next page here has the
20 sections about "To be completed by appointee
21 and appointing authority," and it also shows
22 that Cathy Collins-Taylor has signed this with
23 a notarized date of July 25, 2009, correct?

24 A. Yes, sir.

25 Q. Do you have any knowledge as to how far after

1 July 25, 2009, Mr. Maier maintained this full-
2 time appointment as a peace officer?

3 A. No, sir, I don't.

4 Q. But if he had it as of July 25, 2009, four
5 years subsequent to that date would be a date
6 we haven't even gotten to yet, correct? Four
7 years later would be July 25, 2013, and here we
8 are today April 4, 2013, correct?

9 A. Yes.

10 Q. So, therefore, if, in fact -- I mean, doesn't
11 this document demonstrate to you that Mr. Maier
12 was a full-time peace officer within the last
13 four years from, let's say, today, correct?

14 MR. MATHEWS: Objection.

15 You can go ahead.

16 A. That is what it looks like to me, yes, sir.

17 Q. And that is one of the requirements to be a
18 sheriff, correct?

19 A. Yes.

20 Q. That you have to have obtained within the
21 four-year period ending immediately prior to
22 the qualification date a valid peace officer
23 certificate issued by the Ohio Peace Officer
24 Training Commission, correct?

25 A. Yes.

1 Q. Now, in addition, though, are you aware of what
2 duties Mr. Maier performed as either Assistant
3 Director or Director of Public Safety related
4 to the enforcement of statutes, ordinances or
5 codes?

6 A. No, sir, I am not.

7 Q. Are you aware that the Director of Public
8 Safety has responsibility regarding the
9 enforcement of law enforcement statutes,
10 ordinances or codes?

11 A. I don't know that. I don't know.

12 Q. Even though the Director of Public Safety
13 oversees the Ohio State Highway Patrol?

14 A. Yes. I mean -- I mean, maybe I don't quite
15 understand your question.

16 Q. You would agree with me that people in the Ohio
17 State Highway Patrol perform duties related to
18 the enforcement of, let's say, criminal
19 statutes, ordinances and codes, correct?

20 A. Yes, sir.

21 Q. And, therefore, let's say the Superintendent of
22 Public Safety -- of Highway Patrol would have
23 that responsibility, too, correct?

24 A. Yes, sir.

25 Q. And then the superintendent's boss in the

1 system is the Director of Public Safety,
2 correct?

3 A. Yes, sir.

4 Q. So the Director of Public Safety would have the
5 same responsibilities, correct?

6 A. I would think so.

7 Q. Now, in Public Safety within the -- well, let's
8 say within the State Highway Patrol, are you
9 familiar with the way the State Highway Patrol
10 is organized as far as the ranks and things of
11 that sort?

12 A. Well, I know the colonel was in charge of them
13 all, who reports to the assistant director and
14 director. And then of course it is the regular
15 chain of command below that.

16 Q. And the colonel, which we oftentimes refer to
17 as the Superintendent of the Highway Patrol,
18 correct?

19 A. I refer to him as colonel.

20 Q. Okay, that is fine. The colonel reports to the
21 Director of Public Safety, correct?

22 A. Yes, sir.

23 Q. In the ranking system, is the colonel above or
24 below a corporal?

25 A. Colonel would be above the rank of corporal.

1 Q. Would be above the rank of corporal.

2 Have you, yourself, analyzed whether or
3 not the role of Director or Assistant Director
4 of Public Safety constitutes supervisory
5 experience as a peace officer at the rank of
6 corporal or above?

7 A. I have asked that question, and I have been
8 told no.

9 Q. I don't want to know who has told you. But
10 you, yourself, have not, correct?

11 A. No.

12 Q. If, in fact, the answer is yes, that it does,
13 then you would acknowledge that Mr. Maier meets
14 the Section 9 requirements of the statute to be
15 a sheriff, correct?

16 A. Yes.

17 MR. MATHEWS: I would object to
18 the form.

19 Q. Your answer was yes, correct?

20 A. Yes.

21 Q. I apologize if you answered this before, I just
22 don't recall. I am not trying to trick you or
23 anything.

24 Have you talked to Bob Cornwell regarding
25 the qualifications of Mr. Maier to be sheriff

1 of Stark County?

2 A. Yes.

3 Q. When is the last time you talked to
4 Mr. Cornwell?

5 A. Probably before the February 5th vote. I have
6 talked to him, but not about this. Of course
7 he was at the funeral.

8 Q. Right. All right. But in regards to this
9 issue, being the qualifications, it was prior
10 to the Central Committee vote on February 5th?

11 A. Yes, sir.

12 Q. Have you ever been asked in your role as
13 sheriff as to whether or not members of the
14 classified civil service can run for sheriff?

15 A. I have never been asked, but I have been
16 confronted with it.

17 Q. Tell me about when were you confronted with it?

18 A. Well, I had Mark Mackin run against me as
19 sheriff, and I felt he was in the classified
20 position. He was the chief of Perry Township.
21 And I had Larry Dordea run against me, who was
22 the chief of Hartville, and I felt that he was,
23 but I made no objections to them.

24 Q. But you felt that members of the classified
25 civil service cannot run for sheriff?

1 A. That is what I had been told, yes.

2 Q. Wasn't Mr. Darrow in the classified civil
3 service?

4 A. Until you brought this up, I never thought
5 about that, but I would think he was.

6 Q. At all times he has been in the classified
7 civil service?

8 A. I would think so, yes.

9 Q. And you indicated previously that you never
10 signed any documents regarding Darrow running,
11 I think is what you said. Did you have any
12 discussions with the unions about Mr. Darrow
13 running for office?

14 A. No, I can't think of any that I had with any of
15 the unions. They may have had had them, but I
16 didn't.

17 (Defendant's Exhibit O was marked for
18 identification.)

19 Q. Read Exhibit O to yourself, and then when you
20 are done let me know.

21 A. Okay.

22 Q. Handing you what has been marked as Exhibit O,
23 it is captioned "Side Letter," and it has two
24 signatures on it both dated January 7, 2013,
25 one being yours and one being somebody from the

1 Fraternal Order of Police.

2 Do you recognize that signature from the
3 Fraternal Order of Police?

4 A. Wow.

5 Q. It almost looks like an Otto Holman to me.

6 A. No such person that I know of. I do not.

7 Q. Have you ever seen this document before?

8 A. No, I believe my stamp may be used on that. I
9 am not sure. I knew that this was being
10 prepared, though. And there was some talk with
11 Vivianne and the unions regarding this. I
12 never met with the unions, but I believe she
13 had some discussion with it.

14 Q. Well, let me make sure I understand. I mean,
15 this is an agreement between you, because it
16 says the sheriff, you and it says the union --

17 A. Right.

18 Q. -- that it says that "...members of the
19 bargaining unit, captains and lieutenants only,
20 shall be permitted to solicit the support of
21 and apply with the Stark County Democratic
22 Precinct Committee to seek the office of
23 sheriff for the term that was scheduled to
24 begin January 7, 2013. This side letter shall
25 supersede Revised Code Section 124.57 or any

1 similar state or federal law as well as any
2 policies of the sheriff that are inconsistent
3 with this side letter."

4 Did you sign this or did somebody sign it
5 for you?

6 A. I think it is my stamp, I think. I don't
7 remember signing it, but I remember it being
8 created for the union.

9 Q. Why was this created for the union?

10 A. Because I believe there is a new section of
11 Code that allows you to run even though you
12 were in classified service, and this was to
13 cover that portion of it, making them aware of
14 it.

15 Q. But it says this side letter shall supersede
16 the statutes or federal laws as well as any
17 policies of your office that are inconsistent.

18 A. Yeah, I didn't know if there was any. That was
19 probably just as a safety measure, that is why
20 it was drawn up.

21 Q. Did you review this letter before --

22 A. I would have to say I had to because I don't
23 allow my signature or to sign anything until I
24 look at it so I would have had to -- I don't
25 recall this letter, but it is definitely

1 produced by me.

2 Q. Were you in Ohio or Florida on January 7th?

3 A. I was in Florida. That date doesn't look like

4 my writing, so that could be my stamp.

5 Q. Did you -- who else -- who do you think created

6 the document?

7 A. I believe Vivianne.

8 Q. And Vivianne is --

9 A. Duffrin, the attorney.

10 Q. -- Duffrin, the attorney within the sheriff's

11 office?

12 A. Yes.

13 Q. Was Mr. Ferraro aware of this letter?

14 A. I have no idea, sir.

15 Q. Were the Commissioners aware of this letter?

16 A. I don't have any idea about that, either.

17 Q. Did you, yourself, make any other public

18 officials aware of the execution of this

19 letter?

20 A. No, sir. Myself, no.

21 Q. Do you know whether Ms. Duffrin or anyone else

22 in your office made anyone else aware of this

23 letter?

24 A. I am not aware, sir.

25 Q. Is it accurate that the primary purpose of this

1 letter was to allow Mr. Darrow to seek the
2 Central Committee endorsement?

3 A. I would say yes.

4 Q. Where it says the union --

5 A. That is the FOP, sir.

6 Q. Did you, yourself, have any discussions with
7 the FOP about this issue?

8 A. No, I never talked to any union members about
9 this.

10 Q. So this was all done by Ms. Duffrin on your
11 behalf?

12 A. Yes.

13 Q. Did she have your authority to do this?

14 A. Yes.

15 MR. ROSENBERG: Hold on one
16 second.

17 (Discussion held off the record.)

18 Q. I just need a second with my notes here.

19 A. No problem.

20 Q. As part of your retirement, when you retired
21 you also did what most people did, I mean, you
22 cashed in any accrued vacation and sick time,
23 right?

24 A. No, sir, you don't get any accrued vacation --
25 as sheriff, you do not earn any accrued

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vacation or sick time.

Q. Has your pension started?

A. Pension, I had to forfeit 60 days, and then it started, yes.

Q. So it has started as of now?

A. Oh, I have been collecting it for three years and nine -- or three years and ten months.

MR. ROSENBERG: That is all I have. Thank you very much.

THE WITNESS: Thank you, sir.

MR. MATHEWS: Because we need to quickly submit evidence to the Court, I would recommend that you indicate you will waive signature for the record.

THE WITNESS: I will waive signature for the record.

- - -

(Deposition concluded at 12:12 p.m.)

(SIGNATURE WAIVED.)

- - -

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