

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION : UNION COUNTY
DOCKET NO. UNN-L-3547-2011

RICHMOND LAPOLLA, :
Plaintiff, :
vs. : Deposition of:
UNION COUNTY and GEORGE :
DEVANNEY, : NORMAN ALBERT
Defendants. :

TRANSCRIPT of testimony as taken by and
before BRIAN CUNNINGHAM, a Shorthand Reporter and
Notary Public of the State of New Jersey at the law
offices of LA CORTE, BUNDY, VARADY & KINSELLA, 989
Bonnell Court, Union, New Jersey on Tuesday,
September 16, 2014, commencing at 10:11 a.m.

1
2 A P P E A R A N C E S
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4 1829 Front Street
5 Scotch Plain, New Jersey 07076
6 BY: SUSAN B. FELLMAN, ESQ.,
7 Attorney for the Plaintiff Richmond Lapolla.
8
9 LA CORTE, BUNDY, VARADY & KINSELLA
10 989 Bonnell Court
11 Union, New Jersey 07083
12 BY: ROBERT F. VARADY, ESQ.,
13 Attorney for the Defendant, Union County.
14
15 PALUMBO & RENAUD
16 190 North Avenue
17 East Route 22
18 Cranford, New Jersey 07016
19 BY: ROBERT F. RENAUD, ESQ.,
20 Attorney for the Defendant George W. Devanney.
21
22
23
24
25

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1 4
2 N O R M A N A L B E R T, having a home address
3 of 10 Claremont Place, Cranford, New Jersey, and
4 having been duly sworn, testified as follows:
5 DIRECT EXAMINATION BY MS. FELLMAN:
6 Q. Good morning, sir.
7 A. Good morning.
8 Q. As you know my name is Susan
9 Fellman, and my firm represents Mr. Lapolla in
10 this lawsuit.
11 You've been asked to come here today
12 because we believe you may have some knowledge
13 that's relevant to this case.
14 Have you ever had your deposition
15 taken before?
16 A. I don't think so.
17 Q. You are an attorney though, correct,
18 sir?
19 A. I am.
20 Q. And you've had an opportunity to
21 meet with counsel for the County of Union before
22 beginning here today?
23 A. I have.
24 Q. So you're familiar with and have
25 reviewed transcripts of depositions, I assume?
A. In this case?

5

1 Q. No. In connection with your work as
 2 a lawyer?
 3 **A. Oh, yes, yes. Generally, yes.**
 4 Q. You're familiar with the process of
 5 depositions, correct?
 6 **A. Intimately.**
 7 Q. Let me just go over a couple of the
 8 most important ground rules.
 9 Which is that if there's a question
 10 that I ask you that's not completely clear to
 11 you, that if there's anything you don't
 12 understand, need clarification on, need
 13 explanation about, need repeated, whatever, let
 14 me know, because when you answer a question we'll
 15 assume that you understood it. All right, sir?
 16 **A. Yes.**
 17 Q. So be sure to let me know if there's
 18 anything about my question that needs to be
 19 repeated or restated or clarified. All right?
 20 **A. Again, yes.**
 21 Q. We don't want you to guess, but if
 22 you can estimate, that is appropriate. Just do
 23 so and tell us that's what you're doing.
 24 **A. Okay.**
 25 Q. If you need a break at any time,

7

1 employment?
 2 **A. Yes, yes.**
 3 Q. Did Ms. Genievich, Elizabeth
 4 Genievich, did she ever hold either of those
 5 positions?
 6 **A. Yes.**
 7 Q. What position did she hold and when,
 8 if you know?
 9 **A. I know that she held the director of the**
 10 **-- I'm sorry -- the Director of the Department of**
 11 **Administrative Services' position.**
 12 **I don't know what other positions**
 13 **she may have held. I don't know if she held the**
 14 **other position at any time.**
 15 Q. Did she hold the Director of the
 16 Department of Administrative Services before Mr.
 17 DiRado?
 18 **A. Yes.**
 19 Q. Did she hold that position up until
 20 the time she retired in 2012?
 21 **A. I believe so.**
 22 Q. And then he took over the position,
 23 Mr. DiRado?
 24 **A. I believe so.**
 25 Q. What was Mr. DiRado doing before he

6

1 just let us know. Is there anything else I can
 2 explain to you, or do you feel okay to proceed?
 3 **A. I feel okay to proceed.**
 4 Q. Sir, you've given us your name.
 5 Where do you presently work?
 6 **A. 10 Elizabethtown Plaza, Elizabeth.**
 7 Q. What is your current position with
 8 the County of Union?
 9 **A. Director of Administrative Services.**
 10 **Also, the Director of the Division of Personnel**
 11 **and Labor Management.**
 12 Q. How long have you held those two
 13 positions?
 14 **A. Since November 18th, 2013.**
 15 Q. How did it come to be that you
 16 obtained those two positions?
 17 **A. I applied and I was hired.**
 18 Q. Who held those positions before you?
 19 **A. Matt DiRado.**
 20 Q. Both of them?
 21 **A. Yes.**
 22 Q. And what was the reason Mr. DiRado
 23 no longer held those positions?
 24 **A. He resigned.**
 25 Q. Resigned from the County of Union

8

1 took over that position, if you know?
 2 **A. Yes. He was an Assistant County Counsel.**
 3 **I'm going to -- I believe he might have become**
 4 **the Director of the Division of Personnel and**
 5 **Labor Management while Ms. Genievich was still**
 6 **employed. But I'm not -- I think that's the**
 7 **case.**
 8 Q. Was he also an Assistant County
 9 Counsel?
 10 **A. He was.**
 11 Q. I'm sorry. I don't want to misstate
 12 the question. Did you say he was an Assistant
 13 County Counsel?
 14 **A. He was, prior to becoming, I believe, the**
 15 **Director of the Division of Personnel and Labor**
 16 **Management.**
 17 Q. As far as you know has the position
 18 of Director of Administrative Services changed at
 19 all while Ms. Genievich was the director to the
 20 time now that you're the director?
 21 MR. VARADY: I object to the form of
 22 the question. You can answer.
 23 Q. Has there been any change in that
 24 position from the time that you held it --
 25 **A. There has for the people that are sitting**

1 **in the seat. I have no idea. I have no idea.**
 2 **Q.** Before you became Director of
 3 Administrative Services and Director of Personnel
 4 and Labor Management, what was your position with
 5 the County?
 6 **A. First Deputy County Counsel.**
 7 **Q.** How long did you hold that position?
 8 **A. I'm guessing it was either, I think '05,**
 9 **'06. It might have been January 1, '07, 2007,**
 10 **that I started at that position. It was sometime**
 11 **between '05 and '07, I believe.**
 12 **Q.** Let's just go to the beginning of
 13 your employment with the County of Union.
 14 **A. Fair enough.**
 15 **Q.** Where did that start and when did
 16 that start?
 17 **A. December 23rd, 1997.**
 18 **Q.** And what department were you in?
 19 **A. Part-time Assistant County Counsel.**
 20 **Q.** And at some point you became
 21 full-time in the County Counsel Department?
 22 **A. The day I started as first deputy was the**
 23 **day I became full-time.**
 24 **Q.** Who hired you as a part-time
 25 Assistant County Counsel?

1 position of Director of Administrative Services
 2 or Personnel?
 3 **A. No.**
 4 **Q.** What are your job duties in the
 5 position of Director of Administrative Services?
 6 **A. To oversee and manage the Divisions of**
 7 **Purchasing, Motor Vehicles, and Personnel and**
 8 **Labor Management.**
 9 **To assist and advise the County**
 10 **Manager as needed, and to assist, advise, and**
 11 **respond to inquiries from the Board of Chosen**
 12 **Freeholders.**
 13 **Q.** Was Matt DiRado an attorney?
 14 **A. Yes.**
 15 **Q.** Was Ms. Genievich an attorney?
 16 **A. I don't know.**
 17 **Q.** When you applied for the job, was it
 18 a dual job that you applied to, the job of
 19 Director of Administrative Services and Director
 20 of Personnel and Labor Management, or were they
 21 two separate jobs?
 22 **A. No and yes. I did not apply to both of**
 23 **them. Yes, they were separate jobs, and I just**
 24 **told Matt I wanted his job and out of County**
 25 **Counsel.**

1 **A. Board of Chosen Freeholders.**
 2 **Q.** Who was your direct supervisor?
 3 **A. I believe when I initially started it was**
 4 **Jerry O'Dwyer. Carol Cohen became County Counsel**
 5 **either right before I started or right after or**
 6 **at the same time. Right around then.**
 7 **Q.** And what other County Counsels have
 8 you worked for besides Jerry O'Dwyer and Carol
 9 Cohen?
 10 **A. Robert Barry.**
 11 **Q.** As a First Assistant County Counsel,
 12 generally, what was your job?
 13 **A. The job was to really handle litigation**
 14 **for the most part. At some point I became a**
 15 **hearing officer for disciplinary hearings.**
 16 **Q.** When you were working part-time for
 17 the County, what other positions did you hold?
 18 What other employment did you have?
 19 **A. I was a partner at Goodman and Albert.**
 20 **Q.** A law firm?
 21 **A. Yes. And I've held -- at various times**
 22 **I've been prosecutor in certain towns. At some**
 23 **point that was as an employee. And that's**
 24 **changed over the years.**
 25 **Q.** Did anyone tell you to apply for the

1 **Q.** Why did you want out of County
 2 Counsel?
 3 **A. It was time to move. I wasn't happy there**
 4 **personally.**
 5 **Q.** So Matt DiRado was the Director of
 6 Administrative Services, correct?
 7 **A. Yes.**
 8 **Q.** And that is the job you applied for?
 9 **A. Yes.**
 10 **Q.** How did it come to be that you
 11 became the Director of Personnel and Labor
 12 Management?
 13 **A. That was part of the job.**
 14 **Q.** That's what I'm not understanding.
 15 There was a posting and you applied for the job?
 16 **A. No.**
 17 **Q.** There was no posting?
 18 **A. No. I don't believe there was.**
 19 **Q.** If you don't mind giving me a
 20 narrative, it would probably speed things up.
 21 Could you tell me what happened as
 22 far as your telling Matt DiRado that you wanted
 23 his job and then how it came to be that there
 24 were these two positions that you ended up with?
 25 **A. I believe that Matt held both positions.**

13

1 I believe the decision was made to keep it two
2 positions when they hired me.
3 Q. I see.
4 A. I'm not sure whether every other candidate
5 for the job was deemed qualified to hold both
6 positions or not, or whether the Board of Chosen
7 Freeholders would choose to keep it one position
8 or make it, split it, back into two positions or
9 not.

10 At this point that decision has been
11 made to keep it one person holding both
12 positions.

13 Q. And to the best of your knowledge
14 that was the case with Matt DiRado? Matt DiRado
15 held both positions, both director positions?

16 A. Yes. Yes.

17 Q. Did anyone else apply for the job as
18 far as you know?

19 A. Yes.

20 Q. Who else applied?

21 A. Alicia Baptista, who was also an Assistant
22 County Counsel at the time.

23 I don't know who else applied for
24 the job. I'm not remembering whether there were
25 any others. I believe there were but I don't

14

1 know.

2 Q. I'm sorry. Did you finish?

3 A. Yes.

4 Q. But this job, if I speak of the job,
5 so that we'll just save a little bit of words,
6 I'm speaking of the two positions together, the
7 Director of Administrative Services and the
8 Director of Personnel and Labor Management. Is
9 that okay with you?

10 A. That's fine.

11 Q. Because that's what it was at the
12 time that Matt DiRado held it, correct?

13 A. Fair enough.

14 Q. So when you applied for the job you
15 went to Matt DiRado and told him you wanted his
16 job or would like to somehow get his job?

17 A. I responded to the knowledge that he was
18 leaving the County by telling him I wanted the
19 job.

20 Q. And then what happened after that?

21 A. What happened after that? At some point I
22 spoke with Al Faella about it, I know that.

23 I'm sure that Matt had spoken with
24 him prior to me speaking to him and expressed my
25 desires to the County Manager.

15

1 Q. So based on what you understood
2 happened, Mr. DiRado told Mr. Faella that you
3 were interested in taking Mr. DiRado's job?

4 A. Well, he told me he was going to, and Al
5 knew, so I believe he did, yes.

6 Q. And Al knew that you wanted the job?

7 A. Yes.

8 Q. But you didn't tell Al you wanted
9 the job, you told --

10 A. I did when I talked to him.

11 Q. Before you talked to him, Matt
12 DiRado must have told him. Then what happened?
13 How did it come to be that you spoke to
14 Mr. Faella about the job?

15 A. I was summoned to Al's office.

16 Q. And what did he say to you when you
17 got there?

18 A. I don't recall.

19 Q. I mean, did he bring up, "The reason
20 I've asked you here is because I understand
21 you're interested in the position"?

22 A. Yes.

23 Q. And then what happened?

24 A. We talked for a little bit. I tried to
25 sell myself, that I would be appropriate for that

16

1 position. And he expressed his appreciation and
2 told me that it would be considered.

3 Q. And then what happened?

4 A. I got hired.

5 Q. You got a phone call, you got an
6 e-mail? How did it come to be?

7 A. I got called up to Al's office again.

8 Q. And what did he say to you?

9 A. He introduced me to Bill Reyes, and he
10 offered me the job.

11 Q. And did anything happen after that?

12 A. I accepted.

13 Q. Was there any paperwork that you had
14 to fill out?

15 A. Not that I recall.

16 Q. Did you ever go before the Board of
17 Freeholders?

18 A. Go before the Board of Freeholders?

19 Q. Right.

20 A. In a formal sense?

21 Q. Yes. Did you ever go before them to
22 make a presentation or anything?

23 A. Not in a formal sense.

24 Q. What happened in an informal sense?

25 A. I went to a Freeholder meeting and I

17

1 **advised each Freeholder in a separate**
 2 **conversation that I was interested in the job.**

3 **Q.** So this was not at the board in an
 4 open session or in a closed session, this was
 5 individual?

6 **A.** **In fact, it might not have been at a**
 7 **Freeholder meeting. If I said that, I may have**
 8 **been wrong.**

9 **I'm sure it was, for the most part,**
 10 **on a Freeholder night when they were coming into**
 11 **the building. I stayed in the building and**
 12 **sought a one-on-one conversation with each**
 13 **Freeholder.**

14 **I may have spoken to one or two of**
 15 **them outside that process. But I expressed my**
 16 **desire to be appointed to the position and wanted**
 17 **them to hear it from me as a courtesy.**

18 **Q.** This one-on-one conversation that
 19 you had with the Freeholders, was this before or
 20 after Mr. Faella called you into his office and
 21 offered you the job?

22 **A.** **Before.**

23 **Q.** Anything else, any other contact or
 24 communication that you had with the Freeholder
 25 Board, or any of the members of the Freeholder

19

1 **departments. Motor vehicle has a phone room and**
 2 **mail room, messengers, under it. So there are**
 3 **other people and employees.**

4 **Q.** On to the part of the job that is
 5 the Director of Personnel and Labor Management.
 6 What does that job consist of?

7 **A.** **Negotiating with the 22 unions that we**
 8 **have collective bargaining agreements with,**
 9 **overseeing things like the health coverage and**
 10 **the benefits, civil service. Employee issues in**
 11 **general.**

12 **Q.** Are all of those things dealt with
 13 within the Department of Personnel and Labor
 14 Management?

15 **A.** **It's not a department, it's a division.**

16 **Q.** Okay.

17 **A.** **Yes.**

18 **Q.** And what department is the Division
 19 of Personnel and Labor Management in?

20 **A.** **Department of Administrative Services.**

21 **Q.** So within the Department of
 22 Administrative Services is the Division of
 23 Personnel and Labor Management and Motor
 24 Vehicles?

25 **A.** **And Purchasing.**

18

1 Board, in connection with this job?

2 **A.** **Prior to getting it?**

3 **Q.** Yes.

4 **A.** **No.**

5 **Q.** Was there any sort of written
 6 statement as to what the job entailed?

7 **A.** **No.**

8 **Q.** How did you find out what it was
 9 that you would be doing?

10 **A.** **I sat with Matt DiRado. I had worked with**
 11 **Matt DiRado for years. I met the staff, the**
 12 **division directors. I talked with Al.**

13 **Q.** Going back to when we talked about
 14 what the duties were of the Director of
 15 Administrative Services part of the job, I didn't
 16 catch everything.

17 You said it was oversee and manage
 18 the Division of Purchasing and Division of
 19 Vehicles?

20 **A.** **Motor vehicles, yes.**

21 **Q.** And what other division?

22 **A.** **Personnel and Labor Management.**

23 **Q.** Any other divisions or departments
 24 that you would oversee?

25 **A.** **There are subsections of those**

20

1 **Q.** And Purchasing. And you're also the
 2 head of that division --

3 **A.** **Yes.**

4 **Q.** -- Department of Labor Management?

5 **A.** **Yes.**

6 **Q.** So you're a division head and
 7 department head?

8 **A.** **Fair enough.**

9 MS. FELLMAN: Off the record.
 10 (A discussion was held off the
 11 record.)

12 (The record was resumed.)

13 **Q.** Within the Division of Personnel and
 14 Labor Management you said you deal with civil
 15 service employee issues?

16 **A.** **Yes.**

17 **Q.** Do you have a staff that deals with
 18 that?

19 **A.** **Yes.**

20 **Q.** What are the titles of the people
 21 that you have, like an assistant?

22 **A.** **I'm not sure. You mean within the**
 23 **Division of Personnel, period, or you just mean**
 24 **civil service?**

25 **Q.** In civil service?

21

- 1 **A. There's one employee.**
 2 **Q.** And who is that?
 3 **A. Melinda Allen. I don't know what her**
 4 **title is.**
 5 **Q.** But Melinda Allen is the person
 6 within the Division of Personnel and Labor
 7 Management who deals with civil service issues?
 8 **A. Yes. She may be in the Department of**
 9 **Administrative Services and not in the division.**
 10 **I really don't know or care. She's just there to**
 11 **help me.**
 12 **Q.** She's the one who helps you with
 13 civil service issues?
 14 **A. Yes. She's one of the ones.**
 15 **Q.** Well, who else helps you with civil
 16 services issues?
 17 **A. Well, I mean, my assistant Terry Pacheco.**
 18 **I don't know that she really helps me with civil**
 19 **service. If I have a civil service issue I go to**
 20 **Melinda.**
 21 **Q.** That's what I want to know.
 22 **A. But Terry Pacheco, Claudia Martins,**
 23 **Stephanie Ganz, Natalie Hernandez. All those.**
 24 **We all work together. And we don't really divide**
 25 **into division/department. It's all a joint**

23

- 1 that.
 2 **A. I think I meant to say I don't believe it**
 3 **was posted. That's what I said.**
 4 **Q.** If it had been a posted position, in
 5 order for you to have been considered for it,
 6 wouldn't you have had to respond to the posting?
 7 **A. I guess.**
 8 **MR. VARADY:** Do you know?
 9 **THE WITNESS:** I don't know.
 10 **Q.** You don't know. A position can be a
 11 posted position, a posting can be made for that
 12 position, but somebody can get the position
 13 without posting for that position?
 14 **MR. VARADY:** Objection. That's not
 15 what he said.
 16 **MR. RENAUD:** I object.
 17 **A. I don't think that --**
 18 **MR. RENAUD:** Hold on. I object to
 19 the form of the question. I don't know what a
 20 posted position is. I don't know if anybody else
 21 does.
 22 **Q.** What is --
 23 **A. Nor do I.**
 24 **Q.** You don't know what a posted
 25 position is?

22

- 1 **effort.**
 2 **Q.** I understand. But you said if you
 3 have a civil service issue Melinda Allen is your
 4 go-to person?
 5 **A. Yes, she is.**
 6 **Q.** And does Melinda Allen have a
 7 background in civil service?
 8 **A. She's got a lot of time in it. I don't**
 9 **know her background.**
 10 **Q.** Mr. DiRado, did he retire?
 11 **A. No.**
 12 **Q.** Where did he go, if you know?
 13 **A. He works for, I think, the New Jersey**
 14 **Education Association as a Personnel Director, or**
 15 **some such thing.**
 16 **Q.** Some of the positions in the County
 17 are posted positions, is that correct?
 18 **MR. VARADY:** I object to the form of
 19 the question. You can answer.
 20 **Q.** Let me restate it.
 21 **A. Yeah. Please do.**
 22 **Q.** I will. You said that when you
 23 applied for your position it was not a posted
 24 position, correct?
 25 **MR. VARADY:** I don't think he said

24

- 1 **A. I don't believe that there is a such a**
 2 **thing as a posted position.**
 3 **Q.** Are there some positions in the
 4 County that are nonunion positions for which, if
 5 you want to apply for the position, if you want
 6 to be considered for the position, you have to
 7 respond to a posting; the position is posted?
 8 **A. There are positions that are posted.**
 9 **Q.** And what positions are posted?
 10 **A. I don't know.**
 11 **Q.** Well, if the department head, or a
 12 county manager, contacted you and said, "I need
 13 to fill this particular position," wouldn't you
 14 have to tell them whether or not the position had
 15 to be posted?
 16 **A. Probably.**
 17 **Q.** But you don't know which ones?
 18 **A. No one has ever done that. Nobody has**
 19 **ever come to me and said that.**
 20 **Q.** Well, what is the method within the
 21 County since you've been the Director of this
 22 Department of Administrative Services?
 23 **What is the procedure in the County**
 24 **for filling vacancies in positions that are in**
 25 **nonunion positions?**

1 **A. Sometimes they're posted. It depends on**
 2 **whether there is a reason to post or if there's**
 3 **some other way that it must be filled.**

4 **Generally we post vacant positions**
 5 **that we are seeking to fill, but not always.**

6 **Q.** That's what I'm trying to
 7 understand.

8 **A. Okay.**

9 **Q.** When is the exception to the general
 10 rule of posting vacancies to fill positions?

11 **A. When we are required to fill them or**
 12 **committed to fill them by other means.**

13 **Q.** And can you explain what that means?

14 **A. For example, we're selling Runnels**
 15 **Hospital. We've sent layoff notices to 395**
 16 **people. We have filed a layoff plan with the**
 17 **State of New Jersey.**

18 **That layoff plan includes a**
 19 **commitment to fill positions that become vacant**
 20 **with people formerly employed at Runnels**
 21 **Hospital, or still employed at Runnels Hospital,**
 22 **but subject to this layoff making it available to**
 23 **them.**

24 **So maybe they were posted there.**
 25 **I'm not really sure. But we've sought resumes**

1 **from people who have got layoff notices.**
 2 **We have sought to place people in**
 3 **the positions if the directors of those**
 4 **departments have deemed it appropriate after**
 5 **vetting those people.**

6 **Q.** Other than that kind of an
 7 exceptional circumstance, is the filling of a
 8 division head always done by way of posting the
 9 vacancy for that position?

10 **A. I don't know.**

11 **Q.** What would you do to find that
 12 answer out?

13 **A. I guess I would have to have an opening in**
 14 **a division head position.**

15 **Q.** So since you've been the Director of
 16 Administrative Services have there been any
 17 division heads filled?

18 **A. That's true. One.**

19 **Q.** One?

20 **A. I believe only one.**

21 **Q.** And what division head position was
 22 that?

23 **A. Division of Facilities.**

24 **Q.** Was a vacancy for that job opening
 25 posted?

1 **A. Yes.**

2 **Q.** And why was that?

3 **A. Because there was an opening.**

4 **Q.** Why was it filled by way of posting
 5 a vacancy?

6 **A. That's the process.**

7 **Q.** That's what I'm trying to ask you.
 8 You said that it's the process, but then on the
 9 other hand you seem to say that you didn't know
 10 if division head positions had to be posted?

11 **A. I know that the one that we've had was**
 12 **posted.**

13 **Q.** That's what I'm trying to
 14 understand. How did that come to be that that
 15 opening for the Division of Facilities was posted
 16 as a job vacancy?

17 **A. A determination was made to post it.**

18 **Q.** Who made that determination?

19 **A. I believe it was me.**

20 **Q.** What did you base that on?

21 **A. Based on the policy set by the policy**
 22 **committee of the Board of Chosen Freeholders.**

23 **Q.** So there's a policy for posting
 24 positions?

25 **A. Well, I don't know that there's -- it**

1 **depends on what you mean by policy.**

2 **Q.** Well, you're the one that used the
 3 word.

4 **A. Well, okay. I think the policy has been**
 5 **set. If we can post a position, if we can offer**
 6 **it to employees, we should do that.**

7 **Q.** So what is the policy of the Board
 8 of Chosen Freeholders with regard to offering
 9 positions?

10 **MR. VARADY:** Object to the form of
 11 the question. You can answer.

12 **A. There is a general policy that's been**
 13 **expressed to me that when we can post positions**
 14 **to make them available, internally and**
 15 **externally, to citizens, we should do that. And**
 16 **we follow that policy. There are reasons not to**
 17 **post.**

18 **Q.** What would be the reasons not to
 19 post?

20 **A. Well, we've previously posted and we have**
 21 **a bunch of candidates that have already been**
 22 **vetted and then a similar vacancy occurs, we**
 23 **don't repost, we fill from that list.**

24 **There are civil service requirements**
 25 **for many positions that, you know, we have to**

29

1 hire from a list, a civil service list, or some
2 certification list, or a reemployment list, a
3 special reemployment list from layoffs. Which is
4 the bulk of what we've been doing for the last
5 few years, I believe.

6 Q. So you said that this policy was
7 expressed to you by someone. I don't want to put
8 any words in your mouth.

9 Where did you get that knowledge
10 about this policy that was expressed that when
11 you can post you should make them available to
12 outside and inside people?

13 A. In the policy committee of the Board of
14 Chosen Freeholders when discussing filling
15 positions.

16 Q. When did you have this meeting with
17 them that you learned this?

18 A. I don't know.

19 Q. Did Mr. DiRado tell you about this?

20 A. Probably.

21 Q. Why did you make a determination
22 that you would post the position of the head of
23 Division of Facilities?

24 A. Well, I think generally that position
25 would have been posted. But I think a number of

31

1 had discussions.

2 Q. Other than people within your own
3 department, did you have a discussion with anyone
4 outside of your own department, such as Mr.
5 Graziano, Mr. Faella you've said you already told
6 me, Mr. Zuber, Mr. Guzzo, anyone else, Mr.
7 Brennan?

8 A. I don't believe I had any conversations
9 with Mr. Guzzo about it, or Mr. Brennan about it,
10 or Mr. Zuber about it.

11 I believe I had conversations -- I'm
12 sure I had conversations with Mr. Graziano,
13 Mr. Faella. I had a conversation with
14 Mr. Lapolla about it as well.

15 Q. Well, let me be sure that my
16 question is clear.

17 Did you have any conversation with
18 anyone about whether or not to post for the
19 position of Division of Facilities?

20 A. I've already answered that.

21 Q. Well, I'm not sure that you did.

22 A. I said I don't know.

23 Q. Did someone ask you or someone tell
24 you that they wanted to have that position
25 posted?

30

1 people had expressed interest in it as well.

2 But I don't really remember why we
3 posted it. I think it was appropriate for
4 posting.

5 Q. So it wasn't required that that
6 position be posted, is that correct?

7 A. I don't know.

8 Q. You don't know?

9 A. I don't think so.

10 Q. You don't think it was required?

11 A. I don't think so.

12 Q. Is that correct, you don't think it
13 was required?

14 MR. VARADY: He said that.

15 A. I don't think it was required.

16 Q. Before I get to that.

17 Did you ever have any discussion
18 with Mr. Faella about whether or not to post the
19 vacancy for the position of the head of the
20 Division of Facilities?

21 A. I don't recall.

22 Q. Did you speak to anyone about that,
23 whether or not you would be posting that
24 position?

25 A. I don't specifically recall. I'm sure I

32

1 A. I don't believe so. Unless a general
2 discussion on posting a position constitutes
3 someone telling me that. Not specifically about
4 this --

5 MR. VARADY: The question is in
6 regard to this position did you have any
7 conversations with anyone in regard to posting
8 it?

9 THE WITNESS: Not that I recall.
10 Prior to posting.

11 Q. Who held that position, the position
12 of Division of Facilities head, prior to it
13 becoming vacant?

14 A. Niel Palmieri.

15 Q. And when did Mr. Palmieri vacate the
16 position?

17 A. I don't know.

18 Q. Does it sound correct to you that
19 that position was vacated sometime in 2013?

20 A. No.

21 Q. You don't have any idea when that
22 position was vacated?

23 A. I have some idea that it would have been
24 in '12 or '13, but I do not know.

25 Q. When did you post for the position?

1 **A. I don't know.**
 2 **Q.** When a department head has a
 3 vacancy, do they come to you as the Director of
 4 Administrative Services and request that a job
 5 vacancy be posted?
 6 **A. No.**
 7 **Q.** I apologize. I think I just asked
 8 you. Do you know when this job was posted?
 9 **MR. VARADY:** Objection. Asked and
 10 answered. He doesn't.
 11 **A. No.**
 12 **Q.** Let me show you what was marked
 13 Faella-4. I'll have you take a look at that.
 14 **A. I've looked at it.**
 15 **Q.** And what is the date that that job
 16 was posted?
 17 **A. I don't know.**
 18 **Q.** What is the closing date for that
 19 posting?
 20 **A. The document says, "Closing date**
 21 **February 20, 2014."**
 22 **Q.** How long is a job posting good for?
 23 **MR. RENAUD:** This is my call.
 24 (Whereupon there was an off the
 25 record discussion.)

1 later? Are there some rules about the time
 2 limits from the time you post to the time you
 3 close?
 4 **A. Don't know.**
 5 **Q.** Who knows the answer to that?
 6 **A. I don't know.**
 7 **Q.** Are you the one who posted this
 8 notice of job vacancy?
 9 **MR. VARADY:** I object to the form of
 10 the question. You can answer.
 11 **Q.** Are you the one who posted this
 12 notice of job vacancy marked Faella-4?
 13 **A. No.**
 14 **Q.** Who did?
 15 **A. I don't know.**
 16 **Q.** Who might have?
 17 **A. Someone working for the County.**
 18 **Q.** Would it have been someone in your
 19 department?
 20 **A. Someone in my department might have posted**
 21 **it.**
 22 **Q.** Well, who else -- I'm sorry. Were
 23 you finished?
 24 **A. Yes.**
 25 **Q.** Who else might have posted it?

1 (Record resumed.)
 2 **MR. VARADY:** Well, I'm going to
 3 object to the form because we're back into
 4 posting. This is a notice of job vacancy. Do
 5 you want to call it that?
 6 **Q.** Would you agree that this is what is
 7 posted? This is the posting when there's a job
 8 opening, is that correct?
 9 **A. Well, I think it's a notice of job**
 10 **vacancy. I think posting is actually placing it**
 11 **wherever it's placed at the County or even on the**
 12 **website. I don't really know.**
 13 **Q.** But what is placed, what is posted,
 14 is the notice of job vacancy, correct?
 15 **A. I believe that's correct.**
 16 **Q.** So you have a closing date on there,
 17 correct?
 18 **A. I see that.**
 19 **Q.** How do you determine what the
 20 closing date for a position opening is?
 21 **A. I don't know.**
 22 **Q.** You don't know?
 23 **A. No.**
 24 **Q.** Can you post a job and leave it on
 25 for six months, have a closing date six months

1 **A. The Director of the Department of Public**
 2 **Works might have posted it. Someone in**
 3 **Facilities might have posted it. It might have**
 4 **been posted in every department in the County for**
 5 **all I know.**
 6 **Q.** So would they have to coordinate
 7 with the Department of Administrative Services
 8 before they would post that notice of job
 9 vacancy?
 10 **MR. VARADY:** I object to the form of
 11 the question. You can answer.
 12 **A. I believe so.**
 13 **Q.** I mean, you agree that someone in a
 14 department couldn't just throw a notice of job
 15 vacancy onto the website?
 16 **MR. VARADY:** I object to the form of
 17 the question.
 18 **Q.** Or put it up on a board, correct?
 19 **MR. VARADY:** I object to the form of
 20 the second question, but you can answer.
 21 **A. I don't know that I can answer that**
 22 **question.**
 23 **Q.** Is there or is there not a minimum
 24 amount of time that a job vacancy has to be
 25 posted?

37

1 **A. I do not know.**

2 **Q.** Are there any rules or procedures
3 within your department as to these issues of how
4 long a job posting has to be out there before you
5 close the job --

6 **MR. VARADY:** I object to the form of
7 the question. You can answer.

8 **Q.** -- before you close the job posting?

9 **MR. VARADY:** I still object to the
10 second part of the question. You can answer it.

11 **A. I don't think so. I don't know.**

12 **Q.** Do you have any recollection in this
13 specific case as to who posted that notice of job
14 vacancy?

15 **MR. VARADY:** Indicating Faella-4?

16 **MS. FELLMAN:** Indicating Faella-4.

17 **A. I recognize the document. I believe it
18 was posted. I believe that in my department
19 Melinda Allen would have posted it.**

20 **Q.** And why do you believe it was
21 Melinda Allen?

22 **A. Because I remember talking to her about
23 the form.**

24 **Q.** You talked to her about the form of
25 that document Faella-4?

39

1 your questions as best as he can. And I think if
2 you ask him, "Do you know why this was posted,"
3 that might be the appropriate form of question.

4 **MS. FELLMAN:** Well, I think what I
5 asked was --

6 **MR. VARADY:** And I also want to put
7 on the record, I object to you characterizing the
8 witness as not being cooperative.

9 **MS. FELLMAN:** That's fine.

10 **MR. VARADY:** I don't think he's
11 refused to answer any questions.

12 **MS. FELLMAN:** No. I don't think --

13 **MR. VARADY:** May I finish? If you
14 don't like the answer, that's fine, you can
15 pursue the line of questioning. I mean, that's
16 -- your argument is there.

17 **MS. FELLMAN:** And so is yours. So,
18 let's go on.

19 **MR. VARADY:** Can I finish?

20 **MS. FELLMAN:** No, you can't finish.

21 You already put your objection in and your
22 concern about my criticism of the witness on the
23 record.

24 **MR. VARADY:** You agree?

25 **MS. FELLMAN:** I was sarcastic, yes.

38

1 **A. Uh-huh.**

2 **Q.** Yes?

3 **A. Yes.**

4 **Q.** What do you recall talking to her
5 about?

6 **A. Salary range.**

7 **Q.** Did you instruct Melinda Allen to
8 post the notice of vacancy?

9 **A. No.**

10 **Q.** Well, what would have caused Melinda
11 Allen to post or prepare this notice of job
12 vacancy?

13 **MR. VARADY:** I object to the form of
14 the question. You can answer it.

15 **Q.** Did it just magically happen or did
16 somebody tell her --

17 **MR. VARADY:** I'm going to object.
18 You're being a little argumentative.

19 **MS. FELLMAN:** No, no. It's not
20 argumentative. It is sarcastic. It's sarcastic
21 because the answer makes no sense.

22 If you could instruct the witness to
23 be a little bit more cooperative, we could get
24 through this.

25 **MR. VARADY:** I think he's answering

40

1 I agree that I was sarcastic. I think you can
2 read what I said and know I was being sarcastic.

3 **MR. VARADY:** Well, I don't think
4 that's appropriate.

5 **MS. FELLMAN:** Well, I don't think
6 evading answering the question is appropriate.
7 And that's what I'm asking you, to ask the
8 witness to answer the question without being
9 evasive.

10 So we've both put our positions on,
11 and let's move forward.

12 **A. If I understood your question I wouldn't
13 evade.**

14 **Q.** Let me restate the question. If you
15 don't understand my question, sir, I've already
16 said to you please ask me to restate it or
17 rephrase it. Okay?

18 **A. Yes.**

19 **Q.** How did it come to be that Melinda
20 Allen would have come to you about creating this
21 form that is marked as Faella-4?

22 **MR. VARADY:** Object to the form of
23 the question. That's not what he testified to.

24 **MS. FELLMAN:** I just asked him a new
25 question.

41

1 MR. VARADY: Again, you didn't
 2 properly characterize what he's testified to.
 3 Q. Did Melinda Allen come to you about
 4 the salary that was to be included in this form?
 5 A. **We discussed it. I don't know if she came**
 6 **to me.**
 7 Q. You believe that Melinda Allen is
 8 the one who posted this notice of vacancy that's
 9 marked Faella-4, is that correct?
 10 MR. VARADY: Objection. Asked and
 11 answered.
 12 A. **In my department, yes.**
 13 Q. My question is, how did it come to
 14 be that Melinda Allen posted this job, this
 15 notice of job vacancy?
 16 A. **I don't understand the question.**
 17 Q. Did you instruct her that we need to
 18 post a notice of vacancy for the opening in the
 19 Division of Facilities?
 20 A. **We discussed it. I did not instruct her.**
 21 Q. What did you discuss with Melinda
 22 Allen?
 23 A. **That we were posting the position.**
 24 Q. So you made the decision. You've
 25 already told us that you made the decision to

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1 A. **I don't think I can answer that. I don't**
 2 **know.**
 3 Q. Have you discussed this notice of
 4 job vacancy with anyone, other than counsel,
 5 since it was posted?
 6 A. **Yes.**
 7 Q. And who did you discuss it with?
 8 A. **Bill Reyes, Joe Graziano, and every**
 9 **interviewee.**
 10 Q. Other than that, did you discuss the
 11 actual posting itself, or when it would open,
 12 when it would close, with anyone since it was
 13 posted?
 14 A. **Your client.**
 15 Q. Tell me what you discussed with
 16 Mr. Lapolla?
 17 A. **Ricky called me and asked me about getting**
 18 **his resumé together and if he could get it in**
 19 **the next week. That's what I recall.**
 20 Q. Had the job been posted at the time
 21 Mr. Lapolla called you?
 22 A. **I believe so.**
 23 Q. Do you know where this notice of job
 24 vacancy, Faella-4, was actually posted?
 25 MR. VARADY: Objection. Asked and

42

1 post the position for the head of the Division of
 2 Facilities, correct?
 3 A. **Yes.**
 4 Q. And then you had a discussion with
 5 Melinda Allen about the posting, is that correct?
 6 A. **Yes.**
 7 Q. And did you tell her when to post it
 8 or did you leave that up to her?
 9 A. **I did not tell her when to post it.**
 10 Q. Are there some rules or procedures
 11 that she would follow in order to know when to
 12 post it?
 13 A. **I don't know.**
 14 Q. Was there some time frame that you
 15 discussed with her? In other words, if you post
 16 it on this date, you have to do the closing date
 17 on this date? Or if you post it on another date
 18 you have to do the closing date on another date?
 19 Did you discuss that with her?
 20 A. **No.**
 21 Q. Do you know how Melinda Allen would
 22 have determined when to do the closing date, when
 23 to make the closing date?
 24 MR. VARADY: Object to the form of
 25 the question. You can answer.

44

1 answered. But you can answer it one more time.
 2 MS. FELLMAN: I don't believe it has
 3 been.
 4 A. **No.**
 5 Q. I mean, was it on the internet?
 6 A. **I've already answered that and I said I**
 7 **didn't know.**
 8 Q. Do you know whether it was posted
 9 for people outside of the County to have access
 10 to it?
 11 A. **I don't know.**
 12 Q. Who would know the answer to that?
 13 A. **I believe it was but I don't have any**
 14 **specific knowledge.**
 15 Q. Who would actually know where this
 16 was posted?
 17 A. **I think Melinda Allen would know.**
 18 Q. Now, Mr. Palmieri left the position
 19 sometime in 2012 or 2013. What was the impetus
 20 to filling, posting, this position in order to
 21 fill the job that he had vacated a year or two
 22 before?
 23 MR. VARADY: I'll object to the form
 24 of the question. You may answer it.
 25 A. **I believe it was being temporarily filled.**

45

1 **I'm not really sure how long or not. I believe**
 2 **Mike Brennan had it, was temporarily performing**
 3 **the duties.**

4 **And a decision was made to fill the**
 5 **position on a permanent basis.**

6 **Q.** And how do you know that?

7 **A.** **Because we posted it.**

8 **Q.** Well, you say a decision was made.
 9 Who made that decision?

10 **A.** **I don't recall. I mean, I'd be guessing.**

11 **Q.** Well, was it your decision to make
 12 to fill that position that was temporarily
 13 filled?

14 **A.** **No. To fill it permanently, you mean?**

15 **Q.** Yes.

16 **A.** **No.**

17 **Q.** Do you know whether it was
 18 Mr. Graziano's decision?

19 **MR. VARADY:** I believe he's answered
 20 he doesn't know.

21 **MS. FELLMAN:** I'm trying to see if
 22 perhaps I can refresh his recollection by giving
 23 him some suggestions.

24 **A.** **I believe the ultimate decision would be**
 25 **made by the County Manager.**

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1 **A.** **I don't believe so.**

2 **MR. VARADY:** Can we take a quick
 3 break?

4 **MS. FELLMAN:** Sure.

5 (A break was taken.)

6 (The record was resumed.)

7 (Whereupon an e-mail was received
 8 and marked for identification as Exhibit
 9 Albert-1.)

10 **Q.** Let me show you what's been marked
 11 Albert-1.

12 **A.** **Yes. I've seen it.**

13 **Q.** Do you recall this e-mail?

14 **A.** **I do not.**

15 **Q.** It indicates here that it's an
 16 e-mail from you to Mr. Lapolla? Correct?

17 **A.** **Yes.**

18 **Q.** And it's regarding the application
 19 for this job posting, correct?

20 **A.** **Yes.**

21 **Q.** And it indicates in here that, "The
 22 vacancy is being posted tomorrow, February 13th"?

23 **A.** **That's what it says.**

24 **Q.** Does that refresh your recollection
 25 as to when this job was posted?

46

1 **Q.** Mr. Faella?

2 **A.** **Yes.**

3 **Q.** Do you recall any communication with
 4 you from Mr. Faella about, "Okay, this position
 5 has been temporarily filled by Mr. Brennan and
 6 now I want to permanently fill it"?

7 **A.** **I don't specifically recall any**
 8 **discussions but I know that we decided to post**
 9 **the position.**

10 **MR. VARADY:** The question is did you
 11 have any discussions with Mr. Faella about
 12 posting the position for a permanent person. Is
 13 that correct?

14 **MS. FELLMAN:** That's fair enough.

15 **A.** **I don't recall.**

16 **Q.** But you must have gotten some
 17 communication from Mr. Faella that he wanted to
 18 fill the position permanently?

19 **MR. VARADY:** Object to the form of
 20 the question.

21 **A.** **I'm sure I did.**

22 **Q.** But you don't recall it?

23 **A.** **I do not.**

24 **Q.** But it couldn't have come about any
 25 other way, is that correct?

48

1 **A.** **No.**

2 **Q.** Following the posting of the
 3 position, what happened next with regard to
 4 filling the position of the Division Head of
 5 Facilities?

6 **A.** **You know, we discussed -- when I say we,**
 7 **Al Faella and I, perhaps with Joe Graziano,**
 8 **perhaps with Bill Reyes, but perhaps not -- we**
 9 **discussed how we were going to fill the position.**

10 **Q.** I asked you after the position was
 11 posted. But my question is, in your answer were
 12 you responding to the discussion you had with
 13 Mr. Faella after the position was posted?

14 **A.** **Yes. I believe it was after.**

15 **Q.** So you and Mr. Faella and perhaps
 16 Mr. Graziano and perhaps Mr. Reyes discussed how
 17 you were going to go about filling the position
 18 of the Division Head for Facilities?

19 **A.** **Yes.**

20 **Q.** And what was it that you discussed?

21 **A.** **There would be a committee of three that**
 22 **was comprised of Bill Reyes, Norman Albert, and**
 23 **Joe Graziano. That we would interview the**
 24 **applicants and make a recommendation to the**
 25 **County Manager on who would be -- who would get**

1 **the position of the Director of the Division of**
 2 **Facilities Management.**

3 **Q.** This is something you had not done
 4 before, is that correct? In your position of
 5 Director of Administrative Services you had not
 6 engaged in a committee to fill a position before,
 7 correct?

8 **A. I don't know.**

9 **Q.** You don't know?

10 **A. This was probably the first time that I**
 11 **did that as the Director of Administrative**
 12 **Services. That's true.**

13 **Q.** Had you ever been involved prior to
 14 this in any committee to interview applicants for
 15 a position?

16 **A. Yes.**

17 **Q.** When was that?

18 **A. Numerous times over my career.**

19 **Q.** But in what capacity, as an
 20 Assistant County Counsel?

21 **A. As First Deputy County Counsel I certainly**
 22 **interviewed applicants.**

23 **Q.** So that would be to fill positions
 24 in the County Counsel?

25 **A. Yes.**

1 **A. There have been a variety of positions**
 2 **filled that are exclusionary. I don't**
 3 **specifically -- I can't specifically recite any**
 4 **of them, I believe.**

5 **I mean, this position was filled.**

6 **There are positions filled in every department.**
 7 **And I don't really focus on whether they are in a**
 8 **union or not in a union.**

9 **Sometimes people may get a job**
 10 **internally, from exclusionary into a union job,**
 11 **or vice versa.**

12 **Q.** Since you've become the Director of
 13 Administrative Services, other than this filling
 14 of this one position of the Head of Facilities,
 15 have you had any other committees engaged in
 16 interviewing exclusionary employees for positions
 17 within the County?

18 **A. I've interviewed -- I've conducted many**
 19 **interviews for positions. And I have had members**
 20 **of my department included.**

21 **I believe I have had members of**
 22 **other departments included. But I can't**
 23 **specifically recall a discreet time that that**
 24 **occurred.**

25 **Q.** What positions have you conducted

1 **Q.** Are County Counsel positions filled
 2 by the County Manager or by the main County
 3 Counsel?

4 **A. I believe neither. I believe it's by the**
 5 **Board of Chosen Freeholders.**

6 **Q.** But the --

7 **A. The ultimate hiring authority, I believe**
 8 **-- it varies sometimes, but I think with County**
 9 **Counsel I believe it's the Board of Chosen**
 10 **Freeholders.**

11 **I know they voted when they hired**
 12 **me. There was a vote initially when I got the**
 13 **job in '97.**

14 **Q.** Since you've been the Director of
 15 Administrative Services have there been any
 16 hirings in the County?

17 **A. Yes.**

18 **Q.** Have they been union employees or
 19 have they been --

20 **A. Exclusionary.**

21 **Q.** -- exclusionary employees, or both?

22 **A. Both.**

23 **Q.** What exclusionary employees have
 24 been hired by the County since you became
 25 Director of Administrative Services?

1 interviews for?

2 **A. Vacant positions in every department. You**
 3 **know, I don't really know.**

4 **It's up to the departments what they**
 5 **specifically do. And the specific followup**
 6 **interview, or what have you, is not done by me,**
 7 **so I don't know.**

8 **Q.** What do you mean it's up to the
 9 department, it's not done by you? What do you
 10 mean?

11 **A. Well, what I mean is that the initial**
 12 **interview -- somebody applies for something.**
 13 **There's some requirements. There's County**
 14 **residency requirements, etcetera.**

15 **They are generally streamed through**
 16 **my department. I think they all come through my**
 17 **department. I don't really know that. I'm not**
 18 **involved in other departments other than to be of**
 19 **service to those departments.**

20 **So interviewees come in. We vet**
 21 **them, we see them. We might send a letter out,**
 22 **"Thank you for your interest in a position with**
 23 **the County but you don't live in the County." I**
 24 **mean, the letters are a little nicer than that.**
 25 **I'm just paraphrasing.**

1 **There are a variety. Some of it's**
 2 **handled by staff. Some of it comes to me. Some**
 3 **of it -- we deal with it. We deal it with.**
 4 **Q.** But then how does the department get
 5 involved in their decision of who to hire?
 6 **A. Well, ultimately departments determine**
 7 **whether -- for instance, my department**
 8 **interviewed and sought resumes from everyone at**
 9 **Runnells that was seeking a position, an**
 10 **alternate County position, that's not going**
 11 **elsewhere or working for the people buying the**
 12 **hospital.**
 13 **We sent them, we brought them in, we**
 14 **gathered them, we sorted them out, and we**
 15 **forwarded them to the departments that had**
 16 **vacancies.**
 17 **I had nothing to do with the**
 18 **specific interview and what they might be doing**
 19 **in their departments or what they were qualified**
 20 **for.**
 21 **Q.** Well, that's what I'm trying to
 22 understand. If there is a vacancy in a
 23 department and the department head wants to fill
 24 that vacancy, does the department head come to
 25 you, or does the department head make that

1 since you've been the Director of Administrative
 2 Services, has any department head come to you to
 3 say that "I want to fill a division head position
 4 and I want to have a committee of people to
 5 interview and make a recommendation"?
 6 **A. I don't think there's been any other**
 7 **division heads filled.**
 8 **Q.** What about a bureau head position?
 9 Since you've been the Director of Administrative
 10 Services has anybody come to you to say, to
 11 discuss, how to fill that position of bureau
 12 head?
 13 **A. I don't believe so.**
 14 **Q.** Do you know why it was that
 15 Mr. Faella came to you in that conversation to
 16 discuss with you how you were going to proceed to
 17 fill the position of the Division Head of
 18 Facilities?
 19 **A. Because I'm the Director of Administrative**
 20 **Services.**
 21 **Q.** So that's why he came to you. But
 22 do you know the reason that he wanted to discuss
 23 with you, why he wanted to discuss with you, how
 24 to proceed to fill the position of Division Head
 25 of Facilities?

1 decision on his or her own?
 2 When do you get involved in the
 3 filling of a position, an exclusionary position,
 4 in a department that's not your own department?
 5 **MR. VARADY:** Object to the form of
 6 the question. You can answer.
 7 **A. I get involved at the time when it comes**
 8 **to my attention. All positions have to go**
 9 **through my department.**
 10 **All position controls are signed by**
 11 **my department prior to them being signed by the**
 12 **County Manager, so they have to come before me at**
 13 **some point. Do all come the same way in the same**
 14 **manner? I doubt it.**
 15 **Q.** Since you've become the Director of
 16 Administrative Services has the County Manager
 17 ever come to you to form a committee to interview
 18 someone to fill a division within the County?
 19 **A. A division director?**
 20 **Q.** Yes. Other than Mr. Lapolla.
 21 **A. I believe that this is the only one that's**
 22 **occurred. This is certainly the only time we've**
 23 **had a committee such as this to hire a director**
 24 **of a division.**
 25 **Q.** Has any department head come to you

1 **A. I believe so.**
 2 **Q.** What was the reason?
 3 **A. I believe because he needed to convey to**
 4 **me the manner we were going to fill the position.**
 5 **The mechanics of filling the**
 6 **position was going to involve me and my**
 7 **organization to recommend to him someone to hire.**
 8 **Q.** But this has not happened before or
 9 since, correct?
 10 **A. I don't know that.**
 11 **Q.** Well, you haven't been asked to get
 12 involved in having an interview process before or
 13 after Mr. Lapolla, correct?
 14 **MR. VARADY:** Since he's been --
 15 **Q.** Since you've been Director of
 16 Administrative Services, correct?
 17 **A. Yes.**
 18 **Q.** Okay. That's correct. So my
 19 question is do you know why it was that
 20 Mr. Faella in this instance with regard to
 21 Mr. Lapolla wanted to get you involved in this
 22 interview process?
 23 **A. I believe because that was my job, my new**
 24 **job.**
 25 **MR. VARADY:** The question is do you

1 know why Mr. Faella asked you.
 2 **Q.** Do you know what his reason was?
 3 **MR. VARADY:** That's a yes or no
 4 question.
 5 **A. I think, yes. I think I do.**
 6 **Q.** What was the reason?
 7 **A. Because he needed me to do it.**
 8 **Q.** Why did he need you to do it this
 9 way? That's what I'm trying to understand.
 10 **A. I don't know why he needed me to do it**
 11 **this way.**
 12 **Q.** So you don't know why, is that
 13 right?
 14 **A. Okay. If that's what you're asking me, I**
 15 **don't know.**
 16 **Q.** Because he could have just posted
 17 the position. I'm just giving you a suggestion.
 18 He could have posted the position, he could have
 19 done the interview process himself, correct?
 20 **MR. VARADY:** Object to the form of
 21 the question.
 22 **Q.** Or have somebody in his department
 23 do it, correct?
 24 **MR. VARADY:** You had Mr. Faella here
 25 for a whole day yesterday.

1 **MR. VARADY:** Wait. Can I just say
 2 this. Would you please listen to the question
 3 and answer it? If it's yes or no, just answer
 4 it. I guarantee you, I guarantee you,
 5 Ms. Fellman will follow up.
 6 **THE WITNESS:** I think that's
 7 probably a good guarantee.
 8 **MR. VARADY:** No. But just answer
 9 the question asked, okay?
 10 **THE WITNESS:** Okay.
 11 **Q.** I understand this job was posted.
 12 The question is, following a posting of a job
 13 vacancy, which we already know is in Faella-4, it
 14 was the job that was posted, was there some
 15 requirement that in order to fill that position
 16 there had to be an interview process by a
 17 committee of three, or a committee of two, or
 18 whatever, in order for Mr. Faella or Mr. Graziano
 19 to fill that position?
 20 **MR. VARADY:** I object to the form of
 21 the question. You may answer it.
 22 **A. No.**
 23 **Q.** So my question to you is, do you
 24 know why it was that Mr. Faella wanted to do it
 25 this way, why he wanted to have a committee of

1 **A. No, no, no.**
 2 **Q.** If Mr. Faella --
 3 **MR. VARADY:** He answered and he said
 4 no.
 5 **MS. FELLMAN:** I need to explore
 6 that.
 7 **Q.** It was not a requirement simply
 8 because the job was posted for there to be a
 9 committee of three people to interview and make a
 10 recommendation to Mr. Faella, isn't that correct?
 11 **A. Okay.**
 12 **MR. VARADY:** Is that yes or no?
 13 **THE WITNESS:** I don't know if it's
 14 yes or no. I don't know.
 15 **Q.** You don't know? You don't know
 16 whether or not --
 17 **A. Is it a requirement?**
 18 **Q.** Yes.
 19 **A. Well, it's a requirement if he makes it**
 20 **one.**
 21 **MR. VARADY:** Can we take a time out
 22 here.
 23 **A. You've got to be kidding me.**
 24 **Q.** Let's just relax. Let's start over.
 25 Here is my question.

1 three people to interview and make a
 2 recommendation?
 3 **MR. VARADY:** I object to the form of
 4 the question. You can answer.
 5 **A. No.**
 6 **Q.** Did you suggest that to him?
 7 **A. No.**
 8 **Q.** Do you know if anybody suggested
 9 that to him?
 10 **A. No.**
 11 **Q.** Did you fill the position of the
 12 Director of the Division of Juvenile?
 13 **MR. VARADY:** Director of Juvenile?
 14 I object to the form.
 15 **Q.** Juvenile Detention?
 16 **A. No.**
 17 **Q.** Was that position a vacancy, the
 18 Division of Juvenile Detention?
 19 **A. I believe it is now.**
 20 **Q.** It is now a vacancy? Yes? You said
 21 it is?
 22 **A. Yes.**
 23 **MR. VARADY:** I think he said he
 24 believed it was.
 25 **Q.** That position has not been filled

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1 yet?

2 **A. No.**

3 **Q.** Was there any interview process that
4 was conducted in order to fill that position?

5 **A. Yes.**

6 **MR. VARADY:** Objection. The
7 position hasn't been filled.

8 **MS. FELLMAN:** Well, in order to fill
9 it. That's the process.

10 **MR. VARADY:** That's the more
11 appropriate question.

12 **MS. FELLMAN:** I said in order to
13 fill it. You need to listen to the question.

14 **MR. VARADY:** Okay. Believe me, I'm
15 listening, Ms. Fellman. I'm listening.

16 **MS. FELLMAN:** Do you want the court
17 reporter to read it back?

18 **MR. VARADY:** No. Go ahead. I've
19 stated my objection.

20 **Q.** Was there an interview process in
21 connection with filling the position of the
22 Director of the Division of Juvenile Detention?

23 **MR. VARADY:** Object to the form.
24 You can answer.

25 **A. Yes.**

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1 **Q.** What was that interview process?

2 **A. I don't know.**

3 **Q.** How do you know there was an
4 interview process?

5 **A. I was told.**

6 **Q.** Who told and what were you told?

7 **A. Frank Guzzo told me there was an interview
8 process.**

9 **Q.** And how did it come to be that he
10 told you that? I mean, in what connection, were
11 you having a casual conversation, you asked him?

12 **A. I don't recall.**

13 **Q.** Do you know who it was that
14 interviewed, who conducted the interview?

15 **A. No. No. I know that Frank Guzzo was
16 involved.**

17 **Q.** And Frank Guzzo was a director of
18 what department?

19 **A. Human Services.**

20 **Q.** Do you know if that job for Director
21 of the Division of Juvenile Detention was posted,
22 that job vacancy was posted?

23 **A. I don't know.**

24 **Q.** If that job was posted would that
25 posting have been done through your department?

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1 **A. I don't know. I believe that Melinda
2 Allen would be involved.**

3 **Q.** Did Mr. Faella come to you to
4 discuss with you how, what, the process would be
5 to fill the position of the Director of the
6 Division of Juvenile Detention?

7 **A. No.**

8 **Q.** Did Mr. Guzzo come to you to discuss
9 with you the process to use in order to fill the
10 position of Director of the Division of Juvenile
11 Detention?

12 **A. No.**

13 **Q.** Did anyone to come you --

14 **A. No.**

15 **Q.** -- to discuss the process to use in
16 order to fill the position of Director of
17 Juvenile Detention?

18 **A. No.**

19 **Q.** After a position is filled is a
20 position control form completed?

21 **A. After a position is filled?**

22 **Q.** After it is filled?

23 **A. After it is filled -- a position control
24 form is completed for every position that is
25 filled.**

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1 **Q.** So if there was a vacancy and it was
2 filled, a new position control form would be
3 created that indicated who was filling that
4 position, is that correct?

5 **A. There would be a position control form.
6 When the position gets filled and the position
7 control form gets filled is the confusion.**

8 **But, yes, there's definitely a
9 position control form for every position that is
10 filled.**

11 **Q.** Is the position of the Division of
12 Juvenile Detention within the Department of Human
13 Services, is that a division head position?

14 **A. I believe so.**

15 **Q.** Is it any higher or lower than the
16 Division Head of Facilities that was filled
17 pursuant to Faella-4?

18 **A. I don't know.**

19 **Q.** They're both division heads,
20 correct?

21 **A. I believe so.**

22 **Q.** And they both report directly to
23 department heads, correct?

24 **A. I believe so.**

25 **Q.** Are there any other division head

1 positions that have been filled, or are in the
2 process of being filled at the present time,
3 within the County of Union that you're aware of?

4 MR. VARADY: Object to the form of
5 the question. Do you mean as of --

6 MS. FELLMAN: I'm sorry.

7 Q. Since you have become the Director
8 of Administrative Services?

9 A. **Only my position as County Counsel. I**
10 **believe that's the only one.**

11 MR. VARADY: Ms. Fellman, I'm going
12 to tell you right now we're not going to continue
13 -- we had this objection yesterday. Mr. Lapolla
14 can do all the Goggle searches he wants, but I'm
15 not going to sit here and answer that question.

16 If you want to prepare for the
17 deposition, prepare for the deposition before you
18 come here. So anything that's going on now --
19 you can shake your head and laugh. He's not
20 going to answer the questions.

21 MS. FELLMAN: He's not going to
22 answer what questions?

23 MR. VARADY: The questions that --
24 you look at articles and you search the Web
25 during the deposition. I'm not going to do that.

1 that say that my client can't have his cell phone
2 on.

3 MR. VARADY: I think there are.

4 MS. FELLMAN: Oh, really. Let's
5 hear the rule.

6 MR. VARADY: I'm not going to argue
7 with you.

8 MS. FELLMAN: I'd like to hear that
9 rule. I've never heard that rule. And if there
10 is a rule, tell Mr. Renaud to get off his
11 computer.

12 MR. VARADY: He's not asking my
13 client any questions.

14 MS. FELLMAN: I can do anything I
15 want. I could sit here with my own computer and
16 I could do anything I want on my computer to ask
17 any questions I want.

18 MR. VARADY: Go ahead and ask a
19 question. I'll object appropriately.

20 MS. FELLMAN: I'm sure you will.

21 MR. VARADY: You'll learn the rules
22 on the motion.

23 MS. FELLMAN: No. I'd like to hear
24 the rule. Cite the rule.

25 MR. VARADY: I'm not here to teach

1 We objected to it yesterday with Mr. Faella.

2 MS. FELLMAN: No. What you objected
3 to yesterday was my --

4 MR. VARADY: I said my position.
5 Ask a question. Or if you're done --

6 MS. FELLMAN: I can communicate
7 anything I want with my client.

8 MR. VARADY: We're not going to sit
9 here and listen to it.

10 MS. FELLMAN: I'm not asking you to
11 listen to it. I can communicate with my client.

12 MR. VARADY: Move on with the
13 deposition. Or if you're done with Mr. Albert,
14 I'll call Mr. Graziano.

15 MS. FELLMAN: I can talk to my
16 client about anything I want to. And he can tell
17 me anything he wants to tell me, okay.

18 And then if I ask your witness a
19 question and you don't want him to answer, you
20 can feel free to object or you'll instruct him
21 not to. But I can talk about anything I want
22 with my client.

23 MR. VARADY: Go ahead. Ask a
24 question.

25 MS. FELLMAN: And there are no rules

1 you. I'm here to represent Mr. Albert.

2 MS. FELLMAN: If you're making an
3 objection and you think I'm doing something
4 that's not pursuant to the rules, tell me what
5 the rule is. You have a duty and an obligation
6 to raise it to my attention.

7 MR. VARADY: Go ahead, Ms. Fellman.
8 Do you want to ask a question? Or if you're
9 finished with Mr. Albert, we'll let him go.

10 MS. FELLMAN: I am not finished with
11 Mr. Albert.

12 MR. VARADY: Okay. Then move on.

13 MS. FELLMAN: Okay. I'm going to
14 put it on the record again that if you think that
15 there is some rule that I'm not complying with,
16 you have a duty to tell me what it is. You can't
17 just sit there and say, "Well, I'm not going to
18 tell you now."

19 MR. VARADY: Go ahead. Ask a
20 question.

21 MS. FELLMAN: Because there is no
22 rule.

23 MR. VARADY: Go ahead and ask a
24 question.

25 MS. FELLMAN: What was the last

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1 question, please?
 2 (The last question was read back as
 3 follows:
 4 **Q.** Are there any other division head
 5 positions that have been filled, or are in the
 6 process of being filled at the present time,
 7 within the County of Union that you're aware of?)
 8 (The record was resumed.)
 9 **Q.** That's the question, sir.
 10 **A.** **I answered.**
 11 **Q.** And what is the answer?
 12 **A.** **My former position.**
 13 **Q.** We had trouble because of the
 14 colloquy between counsel.
 15 You're a department head, though,
 16 not a division head. Well, you're both, you're a
 17 department head and a division head?
 18 **A.** **I would say a division head. As First**
 19 **Deputy County Counsel I was considered a division**
 20 **head. That position was filled.**
 21 **Q.** Okay, I see. You're saying that
 22 since you've become Director of Administrative
 23 Services your old position was filled?
 24 **A.** **Yes.**
 25 **Q.** Oh, I'm sorry. When you said your

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1 Mr. Faella or by Mr. Barry to discuss the process
 2 that was going to be used in order to fill the
 3 position of First Assistant County Counsel?
 4 **A.** **No.**
 5 **Q.** So when you had this meeting with
 6 Mr. Faella, and you believe perhaps Mr. Graziano
 7 and perhaps Mr. Reyes, do you remember the
 8 meeting that you mentioned to us earlier?
 9 **A.** **The discussions.**
 10 **Q.** Discussions. You told us about that
 11 discussion, and that you had a discussion about
 12 how you were going to fill the position of the
 13 Division Head for Facilities, correct?
 14 **A.** **That's your characterization. We had**
 15 **discussion about the process.**
 16 **Q.** About the process of filling the
 17 position of Division Head of Facilities, correct?
 18 **A.** **About the process of interviewing the**
 19 **candidates and recommending to the County Manager**
 20 **a person to fill that position.**
 21 **Q.** Did you ever have a discussion with
 22 Mr. Faella, or anyone else, about the fact that
 23 there was going to be a committee of three people
 24 to interview the candidates for the position of
 25 Division Head of Facilities?

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1 position I thought you meant the new position.
 2 So you're saying your old position as Assistant
 3 County Counsel --
 4 **MR. VARADY:** Objection. Asked and
 5 answered. He said yes. Let's move on.
 6 **MS. FELLMAN:** All right.
 7 **Q.** Tell me about the filling of that
 8 position?
 9 **MR. VARADY:** Which position?
 10 **Q.** The filling of your old position of
 11 Assistant County Counsel.
 12 **A.** **The director of that department chose an**
 13 **individual to fill that position, chose to**
 14 **recommend to the County Manager an individual to**
 15 **fill that position, to which the County Manager**
 16 **agreed.**
 17 **Q.** And the director of that department
 18 would have been County Counsel Mr. Barry?
 19 **A.** **That's correct.**
 20 **Q.** Do you know whether or not there was
 21 any interview process that was engaged in with
 22 regard to filling that position of First
 23 Assistant County Counsel?
 24 **A.** **I do not.**
 25 **Q.** Were you ever requested by either

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1 **A.** **Yes.**
 2 **Q.** When was that discussion?
 3 **A.** **Maybe I don't understand the question. I**
 4 **think you asked it before. I've already told**
 5 **you, yes, he told me that that's what we were**
 6 **going to do and we did it.**
 7 **Q.** So if I have the sequence of events,
 8 Mr. Faella told you he wanted to have a committee
 9 of three people to interview candidates and make
 10 a recommendation to fill the position of the
 11 Division Head of Facilities, is that correct?
 12 **A.** **No. No.**
 13 **Q.** What did he tell you?
 14 **A.** **"You, Bill, and Joe are going to interview**
 15 **the candidates. Make a recommendation."**
 16 **Q.** And then after he told you that at
 17 some later point you had a meeting together with
 18 Mr. Faella and perhaps Mr. Graziano and -- no. So
 19 there was one meeting?
 20 **A.** **One discussion.**
 21 **Q.** So there was one discussion in which
 22 Mr. Faella told you that you, Mr. Reyes, and
 23 Mr. Graziano were going to interview the
 24 candidates for the position of Division Head of
 25 Facilities and make a recommendation, correct?

1 MR. VARADY: Objection. Asked and
 2 answered. He just said yes.
 3 **A. I've said it. I've said it a number of**
 4 **times. And, yes.**
 5 **Q.** And then during that same meeting
 6 you discussed how you were going to do this, the
 7 process, is that correct?
 8 **A. No. That is the process. That's it.**
 9 **That was the entire discussion.**
 10 **Q.** All right. So tell me about how did
 11 you gather the people, the names of the people,
 12 to interview?
 13 **A. I was given a list. I was not involved in**
 14 **gathering the names. I was given a list. I**
 15 **don't even know if I was given a list.**
 16 **We coordinated dates, calendars, and**
 17 **we scheduled interviews. I believe they were**
 18 **scheduled through the department.**
 19 **And we went to the department and**
 20 **had the interviews, except for one. We had one**
 21 **at the administration building, a later one.**
 22 **Q.** You don't know where that list of
 23 names, how that list of names, was compiled, is
 24 that correct?
 25 **A. I believe Barbara in Joe Graziano's**

1 **Q.** Tell me about that.
 2 **A. "We're interviewing people. I'll see you**
 3 **at the date and time and be there." You know,**
 4 **"we'll interview the candidates."**
 5 **Q.** How long did these interviews take?
 6 How long were the interviews?
 7 **A. I'm going to say between 15 and 30 minutes**
 8 **a piece.**
 9 **Q.** Did you have any documentation
 10 related to the candidates when you did the
 11 interviews?
 12 **A. Whatever they submitted. Probably a**
 13 **resumé from each of them.**
 14 **Q.** Did you have a form of questions?
 15 **A. I did not.**
 16 **Q.** Did anyone have a form of questions?
 17 **A. I think Joe had an outline. That's my**
 18 **recollection.**
 19 **Q.** So did Joe lead the interview?
 20 **A. I believe so, to my recollection.**
 21 **Q.** Mr. Graziano?
 22 **A. Yes.**
 23 **Q.** So he would ask the questions of the
 24 interviewees, of the person being interviewed?
 25 **A. Essentially, yes.**

1 **department.**
 2 **Q.** Barbara in Graziano's department?
 3 **A. Yes, in Joe's department, scheduled them.**
 4 **How she did it, I don't know.**
 5 **Q.** You don't know where she got the
 6 names or how the names were compiled?
 7 **A. I believe the names were compiled through**
 8 **Melinda, but they might have come through Barbara**
 9 **as well. I'm not sure.**
 10 **Q.** As a matter of course if someone
 11 sees a job vacancy posting and wants to apply for
 12 the job, that would go to your department, the
 13 request, or not necessarily?
 14 **A. I don't know.**
 15 **Q.** So you were given a list of names
 16 and then dates were set, and you believe that
 17 that was the time the interviews were set by this
 18 Barbara in Mr. Graziano's department?
 19 **A. It was coordinated. I believe she**
 20 **coordinated it.**
 21 **Q.** Did you do anything prior to
 22 interviewing the candidates in preparation of
 23 interviewing the candidates?
 24 **A. Only preliminary discussion with Bill and**
 25 **Joe.**

1 **Q.** Did the person who was being
 2 interviewed have an opportunity to make any sort
 3 of presentation?
 4 **A. It was free-flowing. There was no --**
 5 **nobody stopped anybody.**
 6 **Q.** Can you estimate how many interviews
 7 you engaged in?
 8 **A. Ten to 12.**
 9 **Q.** And over what course of time?
 10 **A. It's an estimate.**
 11 **Q.** I know. I understand. Over what
 12 period of time were these interviews conducted?
 13 **A. It was either one day, and then we had**
 14 **lunch and went back. It might have been two days**
 15 **at the department.**
 16 **And then there was one interview**
 17 **later that we had at the administration building**
 18 **from a late -- somebody applied late and we gave**
 19 **them the courtesy of an interview.**
 20 **Q.** Mr. Lapolla was also interviewed,
 21 correct?
 22 **A. Yes.**
 23 **Q.** And he was interviewed over the
 24 course of the one or two days?
 25 **A. Yes, yes. In the department, yes.**

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- 1 Q. Did you take any notes as you were
2 interviewing the candidates?
- 3 A. **I don't believe so.**
- 4 Q. Do you know whether anybody else
5 did?
- 6 A. **I'm not sure. Joe might have.**
- 7 Q. When you said there was one later
8 because the resumé came in late, or the
9 application came in late, do you remember
10 approximately how long after the one to two days?
- 11 A. **No, I don't. A week, maybe even two. I'm
12 not really sure.**
- 13 Q. Not more than a week or two, is that
14 right?
- 15 A. **I don't believe it was.**
- 16 Q. So according to Faella-4 the closing
17 date of the application was what, February --
- 18 A. **The closing date of the notice of job
19 vacancy says February 20, 2014.**
- 20 Q. So is it correct that the interviews
21 were conducted after that?
- 22 A. **I'm sure.**
- 23 Q. How long after you completed all the
24 interviews did you discuss with Mr. Faella your
25 recommendation?

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- 1 discussions about who you wanted to recommend to
2 Mr. Faella?
- 3 A. **Yes.**
- 4 Q. And when did you have those
5 discussions?
- 6 A. **Contemporaneously, right after the
7 meetings.**
- 8 Q. Did there come a point in time when
9 the three of you reached a consensus as to who
10 you were going to recommend?
- 11 A. **Yes.**
- 12 Q. And when was that in connection to
13 the interviews?
- 14 A. **Contemporaneous.**
- 15 Q. And then you said that you yourself,
16 one-on-one, had a conversation with Mr. Faella?
- 17 A. **Yes, I did.**
- 18 Q. Do you know whether he had a
19 conversation with any of the other committee
20 members?
- 21 A. **I don't specifically have any knowledge of
22 it, but I assume that it happened.**
- 23 Q. My question is, I guess, were you
24 the one who was designated to go to speak to Mr.
25 Faella about the recommendation?

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- 1 A. **It's a good question. I'm not really sure
2 how long it was. It was pretty contemporaneous,
3 whatever that means.**
- 4 Q. You didn't wait two months?
- 5 A. **No, I didn't wait two months.**
- 6 Q. So, close in time to when you
7 completed the interviews you made a
8 recommendation to Mr. Faella, correct?
- 9 A. **Relatively close. Either before or after
10 that last interview at the administration
11 building, yes.**
- 12 Q. Did you and the other committee
13 members, Mr. Graziano and Mr. Reyes, have any
14 discussion prior to meeting with Mr. Faella to
15 make a recommendation?
- 16 A. **We didn't meet as a committee. I met with
17 Mr. Faella one-on-one.**
- 18 Q. I see.
- 19 A. **Okay. So I didn't say that I had a
20 committee meeting with them.**
- 21 Q. I apologize. So time-wise you
22 completed the interviews, all three of you
23 completed the interviews?
- 24 A. **Yes.**
- 25 Q. Did the three of you have any

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- 1 A. **No. But it's part of my job.**
- 2 Q. I see. So what did you tell
3 Mr. Faella?
- 4 A. **I told him who my recommendation was, and
5 I told him what my impressions of the interview
6 with Mr. Lapolla were.**
- 7 Q. Was this in person, the conversation
8 that you had with Mr. Faella?
- 9 A. **Yes.**
- 10 Q. Where was it held?
- 11 A. **County Manager's office.**
- 12 Q. Was anyone else present?
- 13 A. **No.**
- 14 Q. Did you take any notes or were there
15 any notes taken of this meeting?
- 16 A. **I didn't take any notes. I doubt that the
17 County Manager did as well.**
- 18 Q. How did it come about that you had
19 this meeting with Mr. Faella?
- 20 A. **I meet with Mr. Faella on a daily basis,
21 numerous times during the day. It's part of my
22 job. On a variety of subjects.**
- 23 Q. So this was not a specific meeting
24 for this specific purpose of reporting back about
25 the interviews?

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1 **A. It may or may not have been. I couldn't**
2 **tell you.**

3 **Q.** When you told him your
4 recommendation, did you relate to him that this
5 was the recommendation of the three of you, or
6 your own individual recommendation?

7 **A. I believe I told him that we all agreed on**
8 **the general listing of how we ranked the**
9 **candidates.**

10 **Q.** And what was the listing of the
11 candidates? Who was the first one, highest on
12 the list of recommendation?

13 **A. Mike Brennan.**

14 **Q.** And that was agreed --

15 **A. It was kind of one and one-A, to be**
16 **honest. I mean, Mike Brennan was number one,**
17 **judged to be the number one candidate that we**
18 **interviewed, internally.**

19 **Q.** And who was next, you said one and
20 one-A?

21 **A. I don't remember the guy's name. He was**
22 **an external. He was from, I think, NJIT. I**
23 **think his name was Ken something.**

24 **He was very impressive and we**
25 **thought he was qualified and would be -- if we**

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1 Head of Facilities?

2 **A. I think he was doing the job.**

3 **Q.** He had been assigned doing the job
4 temporarily by Mr. Graziano, correct?

5 **A. Yes.**

6 **Q.** Do you know whether or not he was
7 qualified to hold that job on a permanent basis?

8 **A. I sure thought so, for whatever that's**
9 **worth.**

10 **Q.** What did you base that on?

11 **A. The director of the department thought he**
12 **was. That's good enough for me. That's the way**
13 **it works.**

14 **Q.** So during the interview you found
15 out from Mr. Brennan that Mr. Graziano had made
16 him apply?

17 **A. I'm not sure when I found that out, but I**
18 **certainly found that out. I think I might have**
19 **known it already.**

20 **Q.** And the reason that he was qualified
21 was because the director of the department,
22 Mr. Graziano, said he was?

23 **A. And through the interview process it**
24 **clearly came through that he knew what he was**
25 **doing. That's how it seemed to me.**

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1 **went outside the County -- it would be, like I**
2 **said, it was kind of one and one-A.**

3 **Q.** And you all agreed that Mr. Brennan,
4 as far as people within the County who were
5 interested and applied for the job and you
6 interviewed, Mr. Brennan was the best candidate
7 and the one that you recommended, the three of
8 you recommended?

9 **A. We didn't recommended him.**

10 **Q.** You didn't recommend him?

11 **A. He didn't want the job.**

12 **Q.** Well, I thought he applied for it?

13 **A. The way he described it, Joe Graziano made**
14 **him apply, so he applied.**

15 **He said he would do it if that was**
16 **what everybody wanted to do, but he really was**
17 **happier in -- I think he's a Division Head of**
18 **Parks and --**

19 **Q.** Park Maintenance?

20 **A. Park Maintenance, yeah. That's it. I**
21 **think he was happier there.**

22 **Q.** Was Mr. Brennan qualified for the
23 job?

24 **A. Qualified for what job?**

25 **Q.** Qualified for the job of Division

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1 **Q.** So you go to Mr. Faella. You're
2 supposed to make a recommendation, you make the
3 recommendation. You tell him that the most
4 qualified one was Mr. Brennan?

5 **A. I didn't say that.**

6 **Q.** Well, I thought you said -- I
7 apologize.

8 **A. I told you we ranked the people. Do you**
9 **want it to go quicker?**

10 **Q.** I'm sorry. I'm trying to back off.

11 **MR. VARADY:** You asked what the
12 rankings were.

13 **Q.** I apologize. I didn't mean to say
14 something that you didn't say. I wasn't trying
15 to put words in your mouth. I'm going back,
16 that's why I stopped you, because I misstated it.

17 **You went to Mr. Faella and you made**
18 **your recommendation ranking people who you**
19 **believed were the ones you recommended for the**
20 **job in ranked order, correct?**

21 **A. No.**

22 **Q.** No?

23 **A. No. And I didn't say that.**

24 **Q.** What did you say?

25 **A. Again, I went to Mr. Faella. I told him**

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1 **who I recommended, and I discussed the interview**
 2 **process that occurred with Ricky Lapolla. That's**
 3 **what I talked about with Al Faella.**

4 **Q.** When you said you discussed who you
 5 recommended, it was the ranking of the three of
 6 you, of the three committee members, as to who
 7 you recommended first, who you recommended
 8 second, and who you recommended third, so forth,
 9 correct?

10 **A.** **That was the basis of my conversation.**
 11 **That was part of the basis of my conversation**
 12 **with Mr. Faella.**

13 **Q.** So when you told Mr. Faella that the
 14 person that the three of you ranked the highest
 15 was Mr. Brennan, did you tell him that Mr.
 16 Brennan didn't want the job?

17 **A.** **I don't recall if we discussed that or**
 18 **not.**

19 **Q.** Well, wouldn't that be something
 20 that Mr. Faella would have needed to know when
 21 you ranked Mr. Brennan the highest?

22 **A.** **I think he knew it, probably. I think he**
 23 **knew it. I just don't know that was part of the**
 24 **discussion we had.**

25 **Q.** Somehow Mr. Faella knew Mr. Brennan

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1 didn't want to move his position, is that what
 2 you're saying?

3 **A.** **I'm assuming he knew it. I think that we**
 4 **told him who -- I think we discussed who we were**
 5 **going to offer the job to, who he would offer the**
 6 **job to based on the discussions we had, and Joe**
 7 **Graziano, the department head, is the one that**
 8 **would have to work with this person, and so Joe's**
 9 **opinion and what he wanted was very important to**
 10 **us.**

11 **And given the rankings, we all**
 12 **discussed it and decided who to recommend.**

13 **Q.** To offer the job to?

14 **A.** **Who to recommend to the County Manager.**
 15 **The County Manager then directs. Maybe the**
 16 **department heads go offer the job to somebody.**
 17 **That's how I think it works.**

18 **Q.** So the person that's ranked highest
 19 on your recommendation was Mr. Brennan?

20 **A.** **Again, yes.**

21 **Q.** And then the second one was the
 22 gentleman from outside, from NJIT?

23 **A.** **Again, yes.**

24 **Q.** Who was the third?

25 **A.** **Charlie Chirafesi. I think that's how you**

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1 **say it.**

2 **Q.** Did you give him a fourth in
 3 ranking?

4 **A.** **Did we give who a fourth in ranking?**

5 **Q.** Mr. Faella?

6 **A.** **No. I don't believe we gave rankings. We**
 7 **ranked. The three of us ranked, and then we**
 8 **talked to Faella about it.**

9 **Q.** You didn't tell Faella about the
 10 order of ranking?

11 **A.** **I'm not sure that we specifically**
 12 **discussed the order of ranking. I think I**
 13 **discussed the ranking of Ricky Lapolla with**
 14 **Mr. Faella. I don't think I discussed the**
 15 **ranking of anyone else.**

16 **Q.** Well, you're confusing me.

17 **A.** **I'm not trying to.**

18 **Q.** I thought you said that -- and I
 19 thought Mr. Varady understood the same thing,
 20 which is when he corrected me -- that you gave
 21 Mr. Faella your recommendation based on the
 22 ranking?

23 **A.** **Yeah.**

24 **Q.** So did you just sort of tell him
 25 that these two gentlemen were the two that we

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1 ranked the highest, Mr. Brennan and Mr. NJIT
 2 person and then Mr. Chirafesi, or did you tell
 3 him this is the order: Mr. Brennan, Mr. NJIT,
 4 and then Mr. Chirafesi?

5 **A.** **I don't know exactly how it was conveyed.**
 6 **But the interview process was conveyed to**
 7 **Mr. Faella and our determination on who to**
 8 **recommend was made to Mr. Faella.**

9 **Q.** Specifically what did you tell
 10 Mr. Faella with regard to your determination as
 11 to who recommend? What specifically did you tell
 12 him?

13 **A.** **I described the interview process. I**
 14 **described Ricky's interview to him. And I told**
 15 **him who we were recommending.**

16 **Q.** And when you told him who you were
 17 recommending what did you say, "We're
 18 recommending" --

19 **A.** **I said Ricky came in fourth or fifth, and**
 20 **then I described Ricky's interview. I told him**
 21 **we were recommending Charlie Chirafesi at some**
 22 **point in the conversation.**

23 **That Mike didn't want the job. That**
 24 **we determined that we thought it best to stay**
 25 **within the County, to not offer it to somebody**

1 that would have a learning curve outside the
2 County.

3 And that we all thought Charlie was
4 qualified and would do a good job.

5 Q. Now, when you said Ricky came in
6 fourth or fifth, what exactly do you mean?
7 Fourth or fifth in what?

8 A. In ranking.

9 Q. What was the reason, the basis, that
10 Mr. Lapolla came in fourth or fifth in ranking?

11 A. His interview was shocking to me. It was
12 shocking to me. I like Ricky. I had expressed
13 that I didn't have any problem if Ricky got the
14 job, and I actually heard that from my fellow
15 interviewers.

16 Nobody had a problem if Ricky got
17 the job. Ricky came in and Ricky said that, and
18 I believe it's -- well, I guess it's paraphrasing
19 but it's almost a quote -- "Everything was
20 complete shit before I got this job. Everything
21 was perfect once I was in this job. And
22 everything has been complete shit since I've left
23 this job. And the only way to get things right
24 again is to put me back in this job. And no one
25 outside the County," meaning the County

1 I know that the guy was a really
2 good candidate. There were other issues. There
3 were issues of salary. There were just -- you
4 know, he interviewed really good. I thought he
5 would be really good at his job.

6 As we looked at everything we
7 determined we'd be better off as a County if we
8 did stay internally, and we offered it to
9 Charlie. That was the determination made, based
10 on our recommendations, that the County Manager
11 made.

12 It doesn't mean that we couldn't
13 consider somebody. We seriously considered
14 somebody outside the County. And there were --
15 institutional knowledge is a component. Just a
16 component.

17 Q. So the job was never offered to the
18 gentleman from NJIT as far as you know?

19 A. I'm sure it wasn't.

20 Q. You're sure it wasn't?

21 A. Yeah.

22 Q. How do you know that?

23 A. Because we recommended Charlie and Charlie
24 was hired.

25 Q. So did Mr. Lapolla tell you why it

1 employees, "is qualified and no one inside the
2 County is qualified other than me."

3 And I just, I mean, I was stunned by
4 it. I was stunned by his presentation, and I
5 thought it would be impossible for me as a
6 director, were I the director of that department,
7 which I am not, to have him work in my department
8 under me and work for the people that would be
9 under him given that attitude.

10 That's what I thought. And I was
11 frankly shocked by it, and I conveyed that to the
12 County Manager. I think that's my job.

13 Q. Did Mr. Lapolla tell you why it was
14 his belief that no one outside the County was
15 qualified?

16 A. Institutional knowledge.

17 Q. You agree with that, correct?

18 A. Not necessarily.

19 Q. Well, you agreed with that when you
20 recommended Mr. Chirafesi over Mr. NJIT outside
21 the community?

22 A. That's a conclusion that -- I did not. I
23 did not agree with that. I don't know whether
24 that's the case or not. That's a little more
25 specific.

1 was that in his opinion no one inside the County
2 qualified?

3 A. I think that's when he said the part about
4 everything being one way when he was not in the
5 job and another way when he was in the job.

6 Q. Was Mr. Lapolla given the ranking of
7 fourth or fifth for any other reason other than
8 what you've described with regard to his
9 interview?

10 A. Yes. Yes. He clearly was above some of
11 the other candidates in terms of experience, in
12 terms of institutional knowledge, in terms of
13 ability, in terms of his ability to articulate
14 and communicate.

15 I think it was his -- there were
16 some things that some candidates were not capable
17 of doing and didn't really qualify for a
18 managerial type of position. It didn't appear
19 that way. Ricky did. Ricky did.

20 Q. So the only reason he was ranked
21 fourth or fifth is because of what you described
22 that happened in the interview?

23 MR. RENAUD: I object to the form of
24 the question.

25 MR. VARADY: I object to the form of

1 the question.

2 **A. The ranking was done based on the**
3 **interviews.**

4 **Q.** That's what the ranking was based
5 on, the interview, is that correct?

6 **A. And the resumé.**

7 **Q.** Well, that's what I'm asking you.

8 **A. Okay.**

9 **Q.** My question was -- first of all, the
10 ranking that you did with regard to Mr. Lapolla,
11 ranking him fourth or fifth, was the reason he
12 was ranked fourth or fifth based on what you told
13 me he said at the interview, or what you
14 described happened during the interview?

15 **A. I think it was based on the totality of**
16 **his experience and his interview.**

17 **Q.** Well, as far as his experience, was
18 there anybody more qualified than him?

19 **A. No. His experience was parallel to a few.**
20 **And that was part of it. He would have ranked**
21 **lower given his interview if it weren't for that.**
22 **In my view. In my view.**

23 **Q.** You said that he was above the other
24 candidates in many ways, correct?

25 **A. I did?**

1 **Q.** I thought you did.

2 **A. I think I said he was qualified for the**
3 **position. He had the experience.**

4 **Q.** Let me ask you this. What was
5 required as far as you were concerned to make the
6 person qualified for the position?

7 **A. He had to work within -- he had to work**
8 **within the Department of Public Works for**
9 **Director Graziano, with Director Graziano, with**
10 **his coworkers, and perform the duties of the**
11 **position.**

12 **Q.** Was there any prior experience that
13 was required in order for a candidate to be
14 qualified for the position?

15 **A. No. We interviewed everybody that applied**
16 **regardless of their qualifications. And we made**
17 **a recommendation based on our review of the**
18 **document and the interviews.**

19 **Q.** When you were ranking the candidates
20 did you take into account the qualifications of
21 the candidate outside of how they interviewed?

22 **A. I did.**

23 **Q.** What specifically? Were there any
24 requirements in order for the person to be
25 qualified when you were doing the ranking?

1 **A. No.**

2 **Q.** So when you did the ranking you did
3 not consider whether or not what the person's
4 prior experience was?

5 **A. I considered what Joe Graziano said about**
6 **that.**

7 **Q.** That's all?

8 **A. That's what I did.**

9 **Q.** Did Mr. Lapolla say to you that none
10 of the other candidates met the minimum
11 qualifications for the position?

12 **A. I've already told you what I remember that**
13 **Ricky said.**

14 **Q.** You don't remember him saying that
15 they met the minimum, none of the other
16 candidates met the minimum qualifications for the
17 position?

18 **A. I don't remember the word minimum. I**
19 **remember he said nobody else, nobody internally**
20 **can do the job. Only he qualified. He was the**
21 **only one.**

22 **Q.** When you were doing the rankings did
23 you require the candidates to meet the
24 requirements set forth in the posting of the job
25 vacancy marked Faella-4?

1 **A. I think we looked at it. We looked at it,**
2 **and it had something to do with the rankings,**
3 **probably. It was one of the factors.**

4 **Q.** Did Mr. Chirafesi meet the minimum
5 requirements set forth in Faella-4?

6 **A. Yes.**

7 **Q.** What do you recall about how he met
8 the minimum requirements?

9 **A. I don't recall -- strike that. I do**
10 **recall something about his past.**

11 **Q.** What do you recall?

12 **A. Experience. I can't remember who he**
13 **worked for prior to the County, but he had some**
14 **experience in the building construction area.**

15 **He was offered a job, didn't want to**
16 **relocate, wanted to stay in the area. And that he**
17 **supervised some people in his current position.**
18 **That's what I recall.**

19 **Q.** May I just see that for a moment?
20 According to the notice of job vacancy the
21 minimum requirements were, "A minimum of seven
22 years of experience of administration of building
23 construction/maintenance functions and operations
24 of facilities systems, including three years of
25 related supervisory experience." Is that

1 correct?
 2 **A. I believe that's correct.**
 3 **Q.** When you were ranking the candidates
 4 did you consider the fact as to whether or not
 5 Mr. Chirafesi, Mr. Brennan, and Mr. Gentleman
 6 from NJIT met that requirement?
 7 **A. Yes.**
 8 **Q.** And it's your testimony that
 9 Mr. Chirafesi met that requirement?
 10 **A. Yes.**
 11 **Q.** If he didn't meet that requirement,
 12 could he have been ranked number one, two, three,
 13 four, five, six; could he have been ranked at
 14 all?
 15 **A. Yes.**
 16 **Q.** And how could he have been ranked at
 17 all?
 18 **A. Well, he had other -- I don't recall all**
 19 **of the interviewees by name. We had some that I**
 20 **think clearly weren't -- we interviewed everyone.**
 21 **I said that before.**
 22 **Q.** But if Mr. Chirafesi did not meet
 23 that minimum requirement, would you agree with me
 24 that he could not have been ranked above
 25 Mr. Lapolla?

1 Faella-1.
 2 So it's your testimony that when
 3 you ranked Mr. Chirafesi in the top three that he
 4 met the minimum requirements of the notice of job
 5 vacancy, is that correct?
 6 **MR. VARADY:** Objection. Asked and
 7 answered.
 8 **Q.** Is that correct?
 9 **A. I already answered it.**
 10 **MS. FELLMAN:** Here is
 11 Mr. Chirafesi's documents. Let's mark these
 12 Albert-2.
 13 (Whereupon a cover letter and resumé
 14 were received and marked for identification as
 15 Exhibit Albert-2.)
 16 **MS. FELLMAN:** What is the Bates
 17 stamp number on the bottom there?
 18 **MR. VARADY:** 000314. What time is
 19 it, Sue?
 20 **MS. FELLMAN:** Ten after 12.
 21 **MR. VARADY:** How much longer are you
 22 going to be?
 23 **MS. FELLMAN:** A little while. Do
 24 you want to do Mr. Graziano another day?
 25 **MR. VARADY:** Yes, I guess so. I'll

1 **A. No.**
 2 **Q.** Why not?
 3 **A. Because he could go anywhere on the scale.**
 4 **Q.** Well, how could anybody who didn't
 5 meet the minimum requirement on the job posting,
 6 Faella-4, how could anyone who didn't meet that
 7 minimum requirement be considered for the
 8 position even after the interview, even
 9 considering they did a great interview?
 10 **A. The rankings weren't so that we could go**
 11 **down the list and get to number 12. The rankings**
 12 **weren't somewhere to be held in some vault to**
 13 **hire somebody, or have the right to have that job**
 14 **at some point.**
 15 **The rankings were what we did. We**
 16 **interviewed everybody and we ranked them.**
 17 **Q.** What I'm saying to you is, if
 18 Mr. Chirafesi did not meet the minimum
 19 requirements of the notice of the job vacancy,
 20 how could he have been ranked at all?
 21 **MR. VARADY:** Objection. Asked and
 22 answered, twice.
 23 **A. I answered that question already, and I'm**
 24 **not answering it again.**
 25 **Q.** Let me show you what's been marked

1 call him off. That's what I need to know.
 2 **MS. FELLMAN:** It's going to be too
 3 late and we won't be able to finish him.
 4 **Q.** What's the Bates stamp number on the
 5 bottom?
 6 **A. 314.**
 7 **Q.** I'll show you what's been marked
 8 Albert-2. And it is Mr. Chirafesi's cover letter
 9 to Mr. Graziano, along with his resumé that has
 10 been provided to us by the County.
 11 **A. Yup.**
 12 **Q.** Have you had a chance to review
 13 these?
 14 **A. I looked at the cover letter. I didn't**
 15 **look at the resumé.**
 16 **MR. VARADY:** Look at the whole
 17 thing.
 18 **A. Okay.**
 19 **Q.** Does this refresh your recollection
 20 about Mr. Chirafesi's experience?
 21 **A. No.**
 22 **Q.** No. Did you review this resumé --
 23 **A. I'm sure that --**
 24 **MR. VARADY:** Let Ms. Fellman finish
 25 her question.

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1 Q. -- in connection with your ranking

2 him?

3 A. I'm sure I saw it.

4 Q. Can you point to the section of the
5 resumé that indicates in what way Mr. Chirafesi
6 met the minimum requirement of "a minimum of
7 seven years of experience in administration of
8 building construction/maintenance functions and
9 operations of facilities systems, including three
10 years of related supervisory experience"?

11 A. All his professional experience on his
12 resumé shows that he qualifies for those
13 requirements.

14 MR. VARADY: The witness is
15 indicating Bates stamp document 000315.

16 Q. Can you tell me specifically in what
17 manner, what part of his experience, meets that
18 minimum requirement?

19 A. All of it.

20 Q. Well, what in particular? Where
21 does it say that he had a minimum of seven years,
22 seven years experience, in administration of
23 building construction/maintenance functions?

24 A. I believe that --

25 MR. VARADY: In those words?

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1 requirements for the job of Director of
2 Facilities Management.

3 Q. In which of the jobs that are set
4 forth in his resumé does it indicate that he had
5 a minimum of three years of supervisory
6 experience in connection with his seven years of
7 experience in administration of building
8 construction maintenance functions and operations
9 of facilities systems?

10 A. I don't understand that question.

11 MS. FELLMAN: Can you read it back
12 please?

13 MR. RENAUD: He didn't say he didn't
14 hear it.

15 MR. VARADY: I'll object to the
16 form.

17 MS. FELLMAN: Okay.

18 Q. Would you like it read back, Mr.
19 Albert?

20 A. No.

21 Q. Can you answer the question?

22 A. No.

23 Q. Why can't you?

24 A. I can't answer because the sum total of
25 his professional experience showed me he was

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1 MS. FELLMAN: Yes.

2 A. It's not specifically in those words. But
3 all his job experience, professional experience,
4 indicates that he had much more than that in
5 terms of administration of building construction
6 maintenance functions and operations of
7 facilities systems.

8 Q. Well, can you tell me what
9 experience you are referring to?

10 A. All of it.

11 Q. You mean when he worked as an inside
12 sales estimator from 1995 to '98?

13 A. Yes.

14 Q. And how does that qualify him? How
15 does that meet the minimum requirements set forth
16 in Faella-4?

17 A. I don't know if that does alone. I said
18 all of it.

19 Q. Well, that's what I'm asking you.
20 What specifically? When he was a carpenter
21 in 2003 to 2005 doing carpentry repair in new
22 construction projects?

23 A. I will say that the sum total of his
24 professional experience related on Bates stamp
25 000315 shows that he is qualified for the minimum

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1 qualified for those requirements. And your
2 question was unintelligible.

3 Q. Well, then I'll be glad to restate
4 my question.

5 On Faella-4 the minimum requirement
6 for the job says that out of the seven years
7 experience in the administration of building
8 construction maintenance functions and operation
9 of facilities systems the person must have three
10 years of related supervisory experience.

11 And my question to you is what part
12 of his resumé indicates that he had three years
13 of supervisory experience?

14 A. That's your question now, okay. His
15 experience as a plant manager and his experience
16 as a special project coordinator indicates to me
17 that he has had that supervisory experience
18 necessary to qualify for the position.

19 Q. And do you know when he was the
20 plant manager what the nature of the supervisory
21 experience was?

22 A. Not as we sit here today.

23 Q. Did you know at the time?

24 A. Well, I know that he satisfied the
25 inquiries from the department head regarding that

1 **aspect of the job during the interview process,**
 2 **and impressed me that he did.**

3 **Q.** Did Mr. Graziano ask him about his
 4 experience in supervising people in connection
 5 with the administration of building construction
 6 and maintenance functions and operations of
 7 facilities systems?

8 **A. Mr. Graziano asked him what he needed to**
 9 **to see if he was qualified for the job. I don't**
 10 **specifically recall what the questions were.**

11 **Q.** But you believe that Mr. Graziano
 12 had an outline, is that correct, that he asked
 13 about?

14 MR. VARADY: He didn't say that.

15 **Q.** I thought you said he had an
 16 outline. What is your recollection, did
 17 Mr. Graziano have an outline?

18 **A. I'm not sure. I don't know. He might**
 19 **have. He asked the questions. He might have had**
 20 **an outline of questions. I'm not sure.**

21 **Q.** Just one other thing and then we'll
 22 take our break.

23 Who completed, who determined, what
 24 the substance of this notice of job vacancy was
 25 going to be, the requirements of the job and the

1 **Q.** I mean, is there some book that you
 2 go to if it's a certain division head position
 3 and you open it up and it says, okay, this is
 4 what this division head position description is?

5 **A. I don't know.**

6 **Q.** What about the requirements for the
 7 position that are set forth in Faella-4, who
 8 would have determined what the minimum
 9 requirements were?

10 **A. Melinda Allen.**

11 **Q.** Do you know where she would have
 12 gotten that information as to what to put into
 13 this?

14 **A. No.**

15 **Q.** Is there some sort of a computer
 16 program or a hard copy of documents that sets
 17 forth descriptions of these jobs?

18 **A. I don't know.**

19 **Q.** Okay. Let's take our break.
 20 (A break was taken.)
 21 (The record was resumed.)

22 **Q.** You told us about the one-on-one
 23 conversation you had with Mr. Faella, and I want
 24 to ask a few other questions about that.

25 Did you give him the total list of

1 brief description of the position? Who would
 2 have been the person to have formulated those two
 3 portions of the notice of job vacancy marked
 4 Faella-4?

5 **A. Melinda Allen, I believe.**

6 **Q.** Well, Ms. Allen wouldn't have the
 7 expertise to know what the description of the
 8 position is, correct?

9 MR. VARADY: Object to the form of
 10 the question.

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

12 **Q.** Well, somebody would have to tell
 13 her what the description of the position was,
 14 correct?

15 MR. VARADY: Object to the form of
 16 the question.

17 **A. I don't know that.**

18 **Q.** Well, explain to me then. Maybe I
 19 don't understand Ms. Allen's position.

20 How would Ms. Allen know what to put
 21 into the form with regard to the description of
 22 the position?

23 MR. VARADY: Object to the form of
 24 the question. You can answer.

25 **A. I don't know.**

1 the rankings of all the people you interviewed?

2 **A. No.**

3 **Q.** Did you have a list of all the
 4 rankings of all the people you interviewed?

5 **A. No.**

6 **Q.** Have you told me everything that you
 7 told Mr. Faella in that meeting that you talked
 8 about before the break?

9 **A. That I recall, yes.**

10 **Q.** Did he say anything to you after you
 11 told him your recommendation and what transpired
 12 with regard to Mr. Lapolla's interview?

13 **A. I don't recall.**

14 **Q.** How long was your meeting that we've
 15 been speaking of with Mr. Faella?

16 **A. I don't recall.**

17 **Q.** I mean, are we talking an hour, are
 18 we talking five minutes?

19 **A. As I related earlier, I'm in there**
 20 **numerous times during the day on numerous**
 21 **subjects. I don't remember if it was the subject**
 22 **of a single discussion or multiple discussions.**
 23 **I have no memory of how long it was.**

24 **Q.** Did you ever have another discussion
 25 with Mr. Faella after that regarding who should

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1 fill the position of the Division Head for
 2 Facilities?
 3 **A. I do not recall one.**
 4 **Q.** Did you ever have a meeting with
 5 Mr. Faella and the other people that were part of
 6 the interview committee with regard to who should
 7 fill the position of Division Head for
 8 Facilities?
 9 **A. No.**
 10 **Q.** So as far as I recall the only
 11 conversation you had with Mr. Faella after you
 12 conducted the interviews regarding filling the
 13 position of the Division Head for Facilities was
 14 the one discussion you've told us about today, is
 15 that correct?
 16 **A. That's correct.**
 17 **Q.** Did Mr. Lapolla during his interview
 18 tell you what he did, what his accomplishments
 19 were, when he first came to the County and
 20 started working in Facilities?
 21 **A. He described things he did in Facilities.**
 22 **I don't recall what the time frame was to those**
 23 **discussions.**
 24 **Q.** Do you recall any of the things that
 25 he described that he did while he was working in

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1 Facilities?
 2 **A. No.**
 3 **Q.** Did he describe any of the
 4 conditions that he handled and dealt with when he
 5 was in Facilities?
 6 **A. Yes.**
 7 **Q.** And what do you recall that he
 8 described?
 9 **A. He described various -- he discussed a few**
 10 **projects and how they were handled or mishandled.**
 11 **The mishandling had nothing to do with him. The**
 12 **handling had something to do with him. I don't**
 13 **recall the specifics of it.**
 14 **Q.** Did he describe why it was that he
 15 believed that he was the most qualified for the
 16 position?
 17 **A. I believe he did.**
 18 **Q.** What do you recall him saying?
 19 **A. I've already told you what I recall him**
 20 **saying in that regard.**
 21 **Q.** You don't recall anything more
 22 specific as to the reasons as to why he was the
 23 most qualified for the position?
 24 **A. No. I think he specifically said that**
 25 **everything was shit before he got there and shit**

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1 **after he left, and everything was great when he**
 2 **was there. That's what I recall.**
 3 **Q.** That's all he said why he was the
 4 most qualified for the position?
 5 **A. As I said earlier he did give some**
 6 **specific examples on projects being managed and**
 7 **mismanaged. But I've already said that. I don't**
 8 **recall the details of it.**
 9 **Q.** After you completed the interview
 10 process did the three of you conducting the
 11 interviews, the committee members, did you have a
 12 discussion together as to your impression of the
 13 candidates?
 14 **A. As I said, yes. As I previously testified**
 15 **to, yes, we did.**
 16 **Q.** Do you recall what it was that
 17 Mr. Graziano said during that meeting?
 18 **A. Not specifically.**
 19 **Q.** Do you recall anything generally
 20 that he said?
 21 **A. Yes.**
 22 **Q.** What did he say generally?
 23 **A. Generally he wanted Mike Brennan, but Mike**
 24 **didn't really want the job, and he didn't want to**
 25 **force it on him and he thought Mike did the best.**

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1 **And he thought the other guy was**
 2 **impressive. And Charlie clearly could do the job**
 3 **and would be respected by the workers, he could**
 4 **work with the people under him and would work**
 5 **with the people above him and was qualified.**
 6 **And he agreed with my -- I believe I**
 7 **was the first one to assess what I thought of**
 8 **Ricky's interview, and he agreed with me.**
 9 **Q.** What do you recall him saying to you
 10 about that?
 11 **A. "I was a little surprised too." Something**
 12 **like that. It wasn't as -- I was shocked.**
 13 **I don't recall him using the same --**
 14 **I don't know that I said I was shocked. I**
 15 **probably did say I was shocked. But I don't**
 16 **think he did. But he was surprised, at least.**
 17 **Q.** Do you recall anything else that
 18 Mr. Graziano said during that meeting that the
 19 three of you had following the completion of the
 20 interviews?
 21 **A. No.**
 22 **Q.** And this meeting that you had
 23 following the completion of the interviews was
 24 before you spoke to Mr. Faella giving him the
 25 recommendation, correct?

1 **A. Yes.**

2 **Q.** What was it that Mr. Reyes had to
3 say during the meeting with the three of you?

4 **A. I don't recall specifically. We all**
5 **discussed our impressions and we were all in**
6 **relative agreement.**

7 **Q.** But you don't recall anything
8 specifically Mr. Reyes had to say?

9 **A. I do not.**

10 **Q.** Did Mr. Reyes have any comments
11 about Mr. Lapolla?

12 **A. I don't recall.**

13 **Q.** Was Mr. Lapolla's performance in his
14 jobs that he had held in the department, in the
15 Division of Facilities, was that any part of the
16 discussion among the three of you?

17 **A. No. Strike that. It might have been.**
18 **Not in terms of the decision.**

19 **Perhaps we might have said something**
20 **about something he said about some project or a**
21 **project with the County that he was involved.**
22 **That's possible. I'm not sure that that wasn't**
23 **said.**

24 **Q.** But was there any discussion about
25 his history, his job history, his performance,

1 how it had been at the County throughout the time
2 he was there?

3 **A. I don't believe so.**

4 **Q.** Was there any discussion about any
5 performance problems that he may have had?

6 **A. No.**

7 **Q.** Mr. Lapolla, I mean.

8 **A. Not that I recall.**

9 **Q.** So in short, is it correct that
10 Mr. Lapolla's performance, past performance, was
11 not a subject of discussion among the three of
12 you committee members, is that correct?

13 **A. I don't know that that's completely**
14 **correct, but it certainly wasn't a factor in the**
15 **decision of where to rank him or whether to offer**
16 **him the job.**

17 **Q.** And what about Mr. Chirafesi, was
18 his past performance, his past job performance,
19 how he had done and what he had done, was that a
20 discussion amongst the three of you?

21 **A. Probably to some degree.**

22 **Q.** Can you recall?

23 **A. I don't.**

24 **Q.** At the time that you went to speak
25 to Mr. Faella you knew that Mr. Brennan didn't

1 want the job, correct?

2 **A. Yes.**

3 **Q.** And at the time you went to
4 Mr. Faella you knew there was some issue with the
5 salary that was being requested by the gentleman
6 from NJIT, is that correct?

7 **A. No.**

8 **Q.** I thought you said there was some
9 salary issue with regard to that gentleman?

10 **A. I don't know that I said that.**

11 **Q.** Was there a salary issue with regard
12 to the gentleman from NJIT?

13 **A. I believe I said there might have been.**
14 **There might have been.**

15 **Q.** But you don't recall?

16 **A. But I don't recall. The decision was made**
17 **that we were going to go with Charlie.**

18 **Q.** I'm sorry. What did you just say?

19 **A. I said the decision was made we were going**
20 **to recommend Charlie, not the gentleman from**
21 **NJIT.**

22 **Perhaps part of it was salary. I'm**
23 **not sure. I don't know. He interviewed very**
24 **well, ranked very highly in all our**
25 **determinations.**

1 **Q.** So you told Mr. Faella, when you
2 spoke with him privately, you told him about the
3 rankings of the individuals.

4 **And you told us what you said who**
5 **ranked first, who ranked second and so forth --**

6 **A. I said I mentioned the rankings. I don't**
7 **know that I told him where specifically everybody**
8 **ranked.**

9 **Q.** And then did you actually give him a
10 recommendation as to what the three of you were
11 recommending?

12 **A. Yes.**

13 **Q.** And what was that recommendation?
14 Was the recommendation that --

15 **A. I've already told you the recommendation.**

16 **Q.** Well, it's kind of been all over the
17 place.

18 **A. It has not been. I've said one thing.**

19 **Q.** The recommendation was that because
20 Brennan didn't want the job and because you
21 thought it was better to stay in-house that you
22 were recommending Mr. Chirafesi?

23 **A. No. The recommendation was Charlie.**
24 **That's what I said before and that's what I'll**
25 **say again.**

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1 Q. Did you tell him why you were
2 recommending, the committee had recommended,
3 Mr. Chirafesi?
4 MR. VARADY: Objection to form.
5 Asked and answered.
6 **A. No. I only specifically told him why I**
7 **wasn't recommending Ricky. That's it.**
8 Q. See, that's why. You're getting
9 annoyed with me and --
10 **A. I'm not.**
11 MR. VARADY: No, no. Just relax.
12 Q. On one hand I asked you what you
13 recommended, and then you turn around and say to
14 me that you only told him about why you weren't
15 recommending Mr. Lapolla. So it's confusing.
16 I just want to know did you make a
17 specific recommendation, say to him the committee
18 is recommending Mr. Chirafesi? Is that what you
19 said?
20 **A. I don't recall. We recommended Charlie.**
21 **I recall that.**
22 Q. Did you communicate that to
23 Mr. Faella?
24 **A. Again, yes.**
25 Q. And did you tell him why you were

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1 recommending Charlie?
2 MR. VARADY: Objection.
3 **A. Asked and answered. I can't tell you that**
4 **again. It's in the transcript.**
5 Q. Do you recall during the interview
6 with Mr. Lapolla that you advised him that you
7 recognized his passion for the job?
8 **A. I don't specifically recall saying that.**
9 **But it is something I would say.**
10 Q. Do you recall Mr. Lapolla showing,
11 demonstrating, a passion for the job?
12 **A. Yes.**
13 Q. Was Mr. Lapolla's lawsuit ever a
14 subject of discussion among you and the other
15 committee members?
16 **A. No.**
17 Q. Did you ever discuss with Mr. Faella
18 Mr. Lapolla's lawsuit?
19 **A. No. Let me take that back. In connection**
20 **with this interview process you're talking about**
21 **and the decision to hire Charlie?**
22 Q. Yes.
23 **A. No. I don't know that I haven't ever**
24 **discussed any lawsuit. I used to be in County**
25 **Counsel.**

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1 **I believe I was probably in County**
2 **Counsel when the lawsuit was filed. So whether**
3 **I've had discussions regarding that lawsuit, I**
4 **strike my answer that I said no.**
5 **I may have had discussions with**
6 **Mr. Faella regarding that lawsuit but not in**
7 **connection -- it had no bearing on the decision**
8 **to recommend Charlie for this job, and to**
9 **specifically not recommend Ricky, which I gave**
10 **him specific reasons for.**
11 Q. But you knew, obviously, that
12 Mr. Lapolla had filed this lawsuit, correct, at
13 the time you were conducting these interviews and
14 making a recommendation?
15 **A. Yes.**
16 Q. And did Mr. Graziano also know that
17 Mr. Lapolla had filed this lawsuit?
18 **A. I assume so.**
19 Q. And did Mr. Reyes also know that
20 Mr. Lapolla had filed this lawsuit?
21 **A. I don't know that. I don't think Mr.**
22 **Reyes met Ricky Lapolla until the interview. So**
23 **I don't know what he knew or didn't know.**
24 Q. Did Mr. Faella know about
25 Mr. Lapolla's lawsuit at the time that you made

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1 this recommendation to him as to who to hire?
2 **A. I'm sure he did.**
3 Q. Did you ever speak to any of the
4 Freeholders regarding Mr. Lapolla or his lawsuit?
5 MR. VARADY: Objection. If you
6 clarify that -- I'm instructing the witness that
7 any conversations he had with the County
8 Counsel's office are privileged and don't answer
9 the question.
10 Q. I was just going to exclude any
11 conversations that you may have had in connection
12 with your position as --
13 MR. VARADY: I'm going to object to
14 that form of question. I think you need to be
15 more specific.
16 Q. Did you ever have any conversations
17 with any Freeholders regarding Mr. Lapolla's
18 lawsuit, excluding any that you may have had in
19 connection with your job when you were the First
20 Assistant County Counsel?
21 MR. VARADY: I'm going to object to
22 the question. I don't understand that. You have
23 to be more specific.
24 **A. I started November 18, 2013.**
25 Q. So after November 18th, 2013 did you

1 ever have any discussion with any of the
 2 Freeholders regarding Mr. Lapolla?
 3 **A. Not that I recall.**
 4 **Q.** Did you ever have any discussion
 5 with any Freeholders regarding Mr. Lapolla's
 6 lawsuit?
 7 **A. Not that I recall. During the same time**
 8 **frame you're talking about, correct?**
 9 **Q.** After November 18th, 2013?
 10 **A. Not that I recall.**
 11 **Q.** Now, all of the people that applied
 12 for the job, did you interview all of the
 13 candidates who applied for the job?
 14 **A. I believe so.**
 15 **Q.** Did all three of you interview all
 16 candidates?
 17 **A. I believe so. I think the one that I**
 18 **mentioned before about the administration**
 19 **building, I think Bill might have joined us by**
 20 **phone because his kid was sick or something. He**
 21 **may not have been there. But I think he joined**
 22 **us.**
 23 **MR. VARADY:** The question was did
 24 you all do the interviews.
 25 **A. He might have tried to join. I don't**

1 bottom.
 2 **A. Yes.**
 3 **Q.** And it's from Michael Brennan to
 4 you.
 5 **A. The e-mail.**
 6 **Q.** And it says, "Per Mr. Graziano,
 7 attached please find my resumé for Director of
 8 Facilities' position posted by personnel." And
 9 the date of this is February 20.
 10 **A. Okay.**
 11 **Q.** Who is Claudia Martins?
 12 **A. She is the Deputy Director of the Division**
 13 **of Personnel and Labor Management.**
 14 **Q.** Okay. And you looked at Mr.
 15 Brennan's resumé, correct?
 16 **A. I did.**
 17 **Q.** Did you ever make a determination
 18 that Mr. Brennan's experience matched, or that he
 19 was qualified based on his experience for the
 20 position of Division Head for Facilities as
 21 detailed in the job vacancy posting that's been
 22 marked Faella-4?
 23 **A. No. I don't believe I did.**
 24 **Q.** And yet you recommended him to
 25 Mr. Faella, is that correct?

1 **recall. It was a courtesy interview so it wasn't**
 2 **that important. But I think he tried to join us.**
 3 **I'm not sure if he did make it.**
 4 **Q.** Okay.
 5 **A. I don't think the guy ended up in the**
 6 **rankings.**
 7 **Q.** Let me show you. It's Bates stamp
 8 000311.
 9 **A. I'm sorry. 311?**
 10 **Q.** 311, 312, and 313.
 11 **MS. FELLMAN:** We'll mark that.
 12 (Whereupon an e-mail and resumé were
 13 received and marked for identification as Exhibit
 14 Albert-3.)
 15 (Whereupon an e-mail and resumé were
 16 received and marked for identification as Exhibit
 17 Albert-4.)
 18 **A. I have it.**
 19 **Q.** Take whatever time you need to
 20 review. I'll represent on the record that it was
 21 provided by County Counsel by the County of
 22 Union. And it's Mr. Brennan's resumé, with an
 23 e-mail from Mr. Brennan to you.
 24 **A. Okay. I've reviewed it.**
 25 **Q.** Let's look at Bates stamp 313 at the

1 **A. No.**
 2 **Q.** You didn't recommend him to
 3 Mr. Faella?
 4 **A. No.**
 5 **Q.** Well, you would have recommended him
 6 to Mr. Faella, but Mr. Brennan said he didn't
 7 want the job, is that correct?
 8 **A. Yes.**
 9 **Q.** Because you ranked him number one,
 10 correct?
 11 **A. Yup.**
 12 **Q.** Do you know whether or not
 13 Mr. Brennan meets the minimum qualifications set
 14 forth in the job vacancy posting marked Faella-4?
 15 **A. I assume he did at the time, and certainly**
 16 **I can see by his resumé he would. In my opinion,**
 17 **just based on his being the assistant to the**
 18 **Department of Engineering since '06.**
 19 **Q.** Do you know what he did as an
 20 assistant to the Department Head of Engineering?
 21 **A. We talked about it in the interview. I**
 22 **don't specifically recall. And it says so here.**
 23 **Q.** It says, "Assistant to the
 24 Department Head from August 2006 to present."
 25 Did you understand that that was the

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1 same job or a different job than his position as
2 division head or, as it says here, Director of
3 Park Maintenance Division?

4 **A. Never gave it a thought.**

5 **Q.** So do you know what his job duties
6 were when he was the Director of the Division of
7 Park Maintenance?

8 **A. No.**

9 **Q.** Do you know whether --

10 **A. Not specifically.**

11 **Q.** Do you know whether or not he had
12 any job functions from 2006 to present other than
13 his job duties as Director of Park Maintenance?

14 **A. I don't understand the question.**

15 **Q.** Well, it says here, he writes,
16 "Assistant to the Department Head of Engineering,
17 Public Works, and Facilities (Director of Park
18 Maintenance Division)."

19 The Department Head of Engineering,
20 Public Works, and Facilities is Mr. Graziano,
21 correct?

22 **A. Yes.**

23 **Q.** Do you know when he wrote
24 "assistant" to Mr. Graziano, was he speaking of
25 the work that he did in his position as Director

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1 of Park Maintenance?

2 **A. I don't know.**

3 **Q.** Did you know at the time when you
4 made this decision to rank him number one?

5 **A. Whether he was referring to that or
6 something else, no, I don't believe so.**

7 **Q.** So at the time when you ranked Mr.
8 Brennan number one, did you have an understanding
9 that Mr. Brennan's experience met the minimum
10 experience requirements that were set forth in
11 Faella-4, the posting for the job vacancy?

12 **A. Yes.**

13 **Q.** You did know that?

14 **A. Yeah.**

15 **Q.** And how did you know that?

16 **A. I knew that based on the interview and the
17 documentation that he provided. It was my
18 determination that that was the case.**

19 **Q.** What documentation did he provide
20 other than this resumé?

21 **A. I think that's it.**

22 **Q.** So what in his resumé indicates that
23 he had the minimum experience that was required
24 as set forth in the posting?

25 **A. I've already told you that.**

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1 **Q.** I think what you said, and I just
2 want to confirm what you said, was his work as
3 the "Assistant to the Department of Engineering,
4 Public Works, and Facilities (Director of Park
5 Maintenance Division)." Is that it?

6 **A. I guess. The record will say what I said.**

7 **Q.** Well, was there anything else?

8 **A. I believe that his resumé and his
9 interview showed that he was qualified and that
10 he met the minimum necessary qualifications.**

11 **Q.** I want to know was there anything on
12 his resumé other than what you've said, which was
13 the experience that he notes in the first
14 paragraph of his resumé from August 2006 to
15 present?

16 Was there anything else on his
17 resumé that indicates that he was qualified for
18 the job with the minimum requirements set forth
19 in Faella-4?

20 **A. Yeah.**

21 **Q.** That's what I'm asking. What else?

22 **A. Everything.**

23 **Q.** Well, what?

24 **A. Everything.**

25 **Q.** The next one says, "Special

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1 Assistant to the Deputy County Manager."

2 **A. That's good. He can work with people.**

3 **That's good. That helps.**

4 **Q.** Does it set forth anything in there
5 that lets you know that he met the minimum
6 requirements of the job vacancy posting?

7 **A. Yes. Contract management.**

8 **Inter-governmental relations. Yes. Yup.**

9 **Q.** Does it indicate that he has seven
10 years' experience?

11 **MR. VARADY:** Is the question does it
12 say those words?

13 **MS. FELLMAN:** Yes. May I have that
14 back? I couldn't find my copy. I apologize.

15 **MR. VARADY:** That's all right.

16 **Q.** According to the job posting, "A
17 minimum requirement of seven years' experience in
18 administration of building construction/
19 maintenance functions and operations of
20 Facilities' systems, including three years of
21 related supervisory experience."

22 My question to you is, what
23 specifically in his resumé that we've marked
24 Albert-3 fits that requirement?

25 **A. I believe all his professional experience**

1 relates to that and helps him get the
2 administration of building
3 construction/maintenance functions and operations
4 of Facilities' systems.

5 And the background of the earlier
6 jobs supported him being able to do it in his
7 last job that's on here. And it all qualifies.

8 Q. Can you point to the job that's
9 related on his professional experience that
10 indicates that he had seven years, a minimum of
11 seven years' experience, in the administration of
12 building construction/maintenance functions and
13 operations of Facilities' systems?

14 A. Yes.

15 MR. VARADY: Objection to the form
16 of the question. You can answer.

17 Q. What?

18 A. His job at the County of Union from 2006
19 to present.

20 Q. "The assistant to the Department
21 Head of Engineering, Public Works, and Facilities
22 (Director of Park Maintenance Division)," is that
23 correct?

24 A. Yes.

25 Q. Did you know at the time that you

1 ranked him number one what his job was as the
2 Director of Park Maintenance Division?

3 A. I knew what his job was. What he
4 specifically does?

5 Q. Yes. What job --

6 A. Other than what he told us at the
7 interview I couldn't really tell you.

8 Q. Did you ask him what he did in his
9 position as Division Head of Park Maintenance?

10 A. I've already told you I didn't ask
11 questions.

12 Q. Did anyone ask him that?

13 A. I don't recall.

14 Q. As you sit here today do you know
15 what the Division Head of Park Maintenance does?

16 A. I think he directs park maintenance
17 issues.

18 Q. Do you know what that consists of?

19 A. Not specifically, other than maintaining
20 buildings and facilities and parks.

21 Q. That's your understanding of what
22 park maintenance does?

23 A. Uh-huh.

24 Q. The Park Maintenance Division does?

25 A. Uh-huh.

1 MR. VARADY: You have to say yes or
2 no.

3 A. Yes.

4 Q. Where did you get that
5 understanding?

6 A. My experience with the County. I
7 negotiate with the park maintenance union. I
8 mean, we talk about what they do.

9 Q. At the time when you ranked
10 Mr. Brennan number one did you have an
11 understanding that he did anything else during
12 August of 2006 to present -- present meaning at
13 the time of the resumé Albert-3 -- other than
14 working as the Director of the Park Maintenance
15 Division?

16 A. I'm sorry. I don't understand the
17 question.

18 Q. The way it's written here, he states
19 that he was assistant to the Department Head of
20 Engineering, Public Works, and Facilities, and he
21 puts in parentheses, Director of Park Maintenance
22 Division, closed parentheses.

23 Other than his work as the Director
24 of the Park Maintenance Division from August 2006
25 to the present, which meant the time of the

1 resumé, did you have an understanding at the time
2 you ranked him number one that he did something
3 in addition to assisting the Department Head of
4 Engineering, Public Works, and Facilities?

5 A. Yeah. I think he was the acting Director
6 of the Division of Facilities.

7 Q. He was acting director after Mr.
8 -- Excuse me -- after Mr. Palmieri left?

9 A. Yes.

10 Q. Other than that, when he was acting
11 director, did he do anything else in regard to
12 assisting the Department Head of Engineering,
13 Public Works, and Facilities?

14 A. I think he did.

15 Q. What was your understanding?

16 A. My understanding was that he was the go-to
17 guy, and if Joe wasn't there he stepped in.

18 Q. That was your understanding?

19 A. Yeah.

20 Q. Was that discussed during his
21 interview, or did Mr. Graziano tell you that, or
22 where did you get that idea?

23 A. It's just something you know if you work
24 there.

25 Q. You just knew this from working in

1 the County?
 2 **A. Yes. And it may have been discussed. I**
 3 **don't recall.**

4 **Q.** If you would please look at what has
 5 been marked Albert-4, which is Bates stamp 000323
 6 through 326, which has been supplied to us by the
 7 defendant County of Union. If you could review
 8 it and then let me know.

9 **A. Okay. I recall seeing it.**

10 **Q.** Let's start with the bottom page,
 11 which is 326. It's an e-mail from Mr. Lapolla to
 12 you, and then you to Melinda Allen?

13 **A. Right.**

14 **Q.** And here Mr. Lapolla is sending off
 15 his resumé to you?

16 **A. Okay.**

17 **Q.** I know you told us about a
 18 conversation you had with Mr. Lapolla regarding
 19 this position.

20 Does reviewing any of this, or as
 21 the day has gone on do you remember any further
 22 discussions or communications you had with
 23 Mr. Lapolla regarding the position of the
 24 Division of Facilities?

25 **A. Other than what I testified to earlier?**

1 **Q.** In considering the ranking of the
 2 candidates would that have been a factor, would
 3 that have been something you would have been
 4 interested in knowing, whether or not he had
 5 performed proficiently, that the position was a
 6 position he had already occupied and performed
 7 proficiently from 1990 to 2005?

8 **A. I believe I knew that he had occupied the**
 9 **position and that he could -- that he was**
 10 **qualified for the position and that he could**
 11 **perform it.**

12 **That wasn't -- I believe I knew that**
 13 **it wasn't, because he said it here or he said it**
 14 **in his interview, which he also did.**

15 **That was certainly a factor to be**
 16 **considered, but it wasn't the factor that won the**
 17 **day. There was another factor which won the day.**

18 **Q.** And the factor that won the day was
 19 what?

20 **A. It was that it was my determination,**
 21 **coupled with the agreement by the committee, that**
 22 **Mr. Lapolla could not work with the people above**
 23 **him or the people under him, and there would be a**
 24 **problem if he got the job.**

25 **That was the problem based on his**

1 **Q.** Yes.

2 **A. Other discussions?**

3 **Q.** Yes.

4 **A. I don't recall any.**

5 **Q.** So Mr. Lapolla sent this e-mail
 6 dated February 24th?

7 **A. Right.**

8 **Q.** So in the second paragraph of his
 9 cover letter, which is Bates stamp 000323 --

10 **A. The second paragraph. I'm sorry. Go**
 11 **ahead.**

12 **Q.** Mr. Lapolla says, "I feel I am the
 13 most qualified candidate for this position not
 14 only because of my expertise and experience in
 15 this type of field, but ironically because this
 16 is the position I have already occupied in which
 17 I had performed proficiently from 1990 to 2005."
 18 You see that, correct, sir?

19 **A. Yes.**

20 **Q.** Did you ever make a determination
 21 whether or not that this was a position that he
 22 had already occupied and performed proficiently
 23 from 1990 to 2005? Did you ever make a
 24 determination whether or not that was true?

25 **A. No, I don't think I did. No.**

1 **interview and his opinions. And that's what I**
 2 **related to the County Manager.**

3 **Q.** And what was the reason that you
 4 made the determination that Mr. Lapolla could not
 5 work with the people above him or below him?

6 **MR. VARADY:** Objection. Asked and
 7 answered at length this morning.

8 **A. I've already told you that.**

9 **Q.** Well, I think it's pretty important.

10 **A. Good. Then look at the transcript.**

11 **Q.** Well, I believe what you testified
 12 to was that he said, "It was shit when I got here
 13 and it was shit when I left." That's my
 14 understanding of what you related to
 15 Mr. Devanney -- Mr. Faella.

16 Was there anything else that caused
 17 you to conclude that Mr. Lapolla could not work
 18 with the people above him or under him?

19 **MR. VARADY:** Objection to the form
 20 of the question. Other than anything he
 21 testified to this morning, you're asking?

22 **A. I've related what my discussions were.**

23 **Q.** Was there something about something
 24 he said other than "The place was shit when I got
 25 here and shit when" -- I forgot the phrase that

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1 you used.
 2 Was there anything else that he said
 3 or that he projected that caused you to conclude
 4 that he could not work with people above him or
 5 under him?
 6 MR. VARADY: Other than what was
 7 testified to?
 8 MS. FELLMAN: I think that's all he
 9 testified to.
 10 **A. Other than what I've already testified to,**
 11 **no.**
 12 **Q.** Well, I think you could tell me what
 13 it was about what happened in that half hour
 14 interview that caused you to conclude that he
 15 could not work with people above him or under
 16 him?
 17 MR. VARADY: We went over that this
 18 morning.
 19 **A. I've testified to that already.**
 20 **Q.** Then we're going to have to find it
 21 in the transcript.
 22 MR. VARADY: Well, then find it.
 23 MS. FELLMAN: Don't you think that
 24 will take a lot longer than telling me?
 25 MR. VARADY: I don't understand why

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1 MS. FELLMAN: So it was the
 2 comments.
 3 MR. VARADY: It was more than that.
 4 MS. FELLMAN: Well, that's what I'm
 5 trying to understand.
 6 MR. VARADY: He said it.
 7 MS. FELLMAN: What did he say was
 8 more than the comments?
 9 MR. VARADY: Go read it. We're not
 10 redeposing him.
 11 **Q.** You told me about the comments, but
 12 I don't understand what else, other than the
 13 comments, caused you to conclude that he couldn't
 14 work with anybody?
 15 **A. Other than what I've testified to before,**
 16 **I've given you my reasons why I made the**
 17 **recommendation I did to the County Manager.**
 18 **Q.** I want to understand what it was.
 19 Was it the nature of the comments, or the way he
 20 said the comments? You told us what the comments
 21 were.
 22 MR. VARADY: And he told you how he
 23 felt about the comments.
 24 MS. FELLMAN: Okay.
 25 **Q.** So it's your conclusion about how

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1 you have to repeat that question ad nauseam.
 2 MS. FELLMAN: No. Because I have a
 3 right to understand what exactly went on. And if
 4 he said something to me in a response that was
 5 about what I heard him say --
 6 MR. VARADY: You want to recheck
 7 what you think you heard him say?
 8 MS. FELLMAN: You're not going to
 9 let him answer the question?
 10 MR. VARADY: No. I said is your
 11 question other than what he's testified already.
 12 MS. FELLMAN: I want to know what
 13 other --
 14 MR. VARADY: We're not going to go
 15 over everything that's he's testified to already.
 16 That's what you're asking him.
 17 MS. FELLMAN: No. I'm not asking
 18 other than. I'm trying to get a clarification,
 19 an understanding --
 20 MR. VARADY: He said the comments
 21 that Mr. Lapolla made.
 22 MS. FELLMAN: Yes.
 23 MR. VARADY: And he gave you his
 24 interpretation of those comments and why he
 25 thought he couldn't recommend him.

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1 you felt about the comments is the reason that
 2 you told Mr. Faella your impression about
 3 Mr. Lapolla, is that correct?
 4 **A. Yes. I was convinced after the interview**
 5 **that it would be not correct to offer the job to**
 6 **Mr. Lapolla.**
 7 **It was confirmed by my fellow**
 8 **interviewers, that they felt the same way, and I**
 9 **related that to Mr. Faella.**
 10 **Q.** So what I'm trying to understand is,
 11 other than the comments that he made that you've
 12 told us about and your impression of those
 13 comments, was there anything else that caused you
 14 to be convinced after the interview that
 15 Mr. Lapolla could not work with people above him
 16 or under him, and that there would be problems if
 17 he got the job?
 18 **A. Yeah. Not that I haven't testified to.**
 19 **Q.** All you testified to, sir, was his
 20 comments and your impression of the comments and
 21 how it left you feeling.
 22 I'm trying to understand if
 23 Mr. Lapolla did anything or said anything else
 24 besides the comments that you've told us about
 25 that caused you to conclude that he could not

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1 work with people above him or under him, and that
2 there would be a problem if he got the job?

3 MR. VARADY: Objection. Asked and
4 answered, two minutes ago.

5 **A. I've already answered it. I've already
6 answered it.**

7 Q. So it was his comments and your
8 impression of what those comments meant?

9 MR. VARADY: Objection.

10 **A. It was the interview.**

11 Q. Is that correct?

12 **A. It was the interview.**

13 Q. Well, what else about the interview
14 caused you to come to that conclusion?

15 **A. Nothing but what I've testified to
16 earlier.**

17 Q. You haven't told me what it was
18 about the interview --

19 MR. VARADY: Susan, can you stop
20 arguing?

21 Q. -- except the comments that he made?

22 MR. VARADY: He did tell you.

23 Q. My recollection and my notes
24 indicate that you said that Mr. Lapolla stated
25 that "Everything was complete shit since I left

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1 the job and" -- oh, and that he said no one
2 outside of the County is qualified and no one
3 inside the County is qualified. I apologize.
4 You did say that.

5 MR. VARADY: And we went through two
6 hours of cross-examination about those things,
7 where you pointed out resumés, and Mr. Albert
8 answered questions about why he thought those
9 people were qualified.

10 There was a whole lot of stuff. And
11 you want to reduce it. But we've gone over all
12 of it. You're not going to do it again.

13 Q. I want to know other than what Mr.
14 Lapolla said about everything being shit, and
15 about no one outside the County and no one inside
16 the County being qualified --

17 MR. VARADY: But he's testified to
18 that.

19 Q. -- was there anything else that
20 Mr. Lapolla said during the interview or anything
21 else that you based your conclusion on that
22 Mr. Lapolla could not work with people above him
23 or under him; if he got the job there would be a
24 problem?

25 MR. RENAUD: He also said that he

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1 said everything was complete shit before he got
2 there.

3 MS. FELLMAN: Right. I meant the
4 shit before and after. I was trying to condense
5 the shit comment down.

6 **A. Well, I can't really condense it. I
7 testified to everything that I heard, my
8 impressions, and what I conveyed. I don't know
9 what more else I can say.**

10 Q. Well, I'm just wondering why it was
11 that based on what Mr. Lapolla said, that I've
12 now reminded you of, why it was that based on
13 what he said you drew the conclusion that he
14 could not work with anybody above him or under
15 him if got the job and that there would be
16 problems?

17 **A. Why I thought that?**

18 Q. Yes.

19 **A. I thought that because he was sitting
20 right next to Joe Graziano, who was going to be
21 his boss if he got this job, and he basically
22 derided everything Joe did when he was at the
23 County by his statement.**

24 **That was my interpretation. I was
25 shocked by it, as I testified earlier. And I was**

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1 -- **I came into the interview with an open mind
2 and when I left my mind was made up.**

3 **And I have a job to do, and my job
4 was to contribute to the committee decision and
5 convey it to Mr. Faella, and I did.**

6 **Right or wrong, I determined to tell
7 Mr. Faella about Ricky's interview and what I
8 thought about it. And that he was not
9 appropriate to get this position. Charlie was.
10 And I did that.**

11 Q. Well, now you've told us something
12 else.

13 **A. I don't think I did.**

14 Q. Yes, you did. You never told us
15 about sitting next to Mr. Graziano and deriding
16 everything that he did.

17 MR. VARADY: Objection. He did. He
18 said Graziano was there and was asking questions.

19 MS. FELLMAN: He never said that
20 Mr. Lapolla derided everything he did.

21 MR. VARADY: You're not going to
22 nitpick, Susan. Move on.

23 **A. I did. Yes, I did.**

24 MR. VARADY: No, no, no. Don't do
25 that.

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1 Q. Now you said it. So now I want to
 2 know about that. In what way did Mr. Lapolla
 3 deride everything that Joe did?
 4 A. Okay. Asked and answered.
 5 Q. You've told me the ways that Mr.
 6 Lapolla derided everything that he did?
 7 A. Yeah. "Everything was shit before I got
 8 here and everything has been shit since I left."
 9 Q. Okay.
 10 A. That statement.
 11 Q. That's what I wanted to know. Was
 12 there anything else that Mr. Lapolla said that
 13 you considered to be deriding everything Joe did?
 14 A. Not that I haven't testified to already.
 15 Q. What did Mr. Graziano think about
 16 Mr. Lapolla's presentation?
 17 MR. VARADY: Objection to mental
 18 impressions of Mr. Graziano. How would he know
 19 that?
 20 Q. Did he say anything to you?
 21 A. I've already testified to it.
 22 Q. You said he agreed but he was not
 23 shocked. You were shocked but he was not
 24 shocked.
 25 MR. RENAUD: No, no. He didn't say

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1 A. I think I properly gave him the basis for
 2 my conclusions and he didn't have to ask me
 3 anything.
 4 Q. Do you know how long Mr. Graziano
 5 was in the position, was the director of the
 6 department that this position was being filled,
 7 the position of Facilities?
 8 A. Don't know.
 9 Q. The division head?
 10 A. No.
 11 Q. Was Mr. Lapolla's salary a factor in
 12 you reaching the conclusion that you reached in
 13 ranking people?
 14 A. Could you repeat that question?
 15 Q. Was Mr. Lapolla's salary a factor in
 16 your ranking of the candidates? In other words,
 17 was he ranked higher or lower due to his salary,
 18 Mr. Lapolla?
 19 MR. VARADY: That's two different
 20 questions.
 21 Q. Was Mr. Lapolla ranked higher or
 22 lower due to his salary?
 23 A. Everything about his ranking was due to
 24 his interview.
 25 Q. Let's go on to Mr. Lapolla's resumé.

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1 he was shocked. He doesn't know whether he was
 2 shocked or not because he's not a mind reader.
 3 MR. VARADY: And obviously we went
 4 over this because you're saying what he said.
 5 A. Exactly.
 6 Q. What I meant to ask you was did
 7 Mr. Graziano express to you, or to the group,
 8 that Mr. Lapolla derided everything that he had
 9 done?
 10 A. I've already told you what my memory was
 11 about what Mr. Graziano said. I've already told
 12 you that.
 13 Q. Okay. Did Mr. Faella ask you why it
 14 was that you believed that it would be a problem
 15 if Mr. Lapolla got the job?
 16 A. I don't believe so because I already told
 17 him.
 18 Q. You told him what Mr. Lapolla said,
 19 right?
 20 A. Yes.
 21 Q. And you told him what your
 22 conclusion was, correct?
 23 A. Yup.
 24 Q. Did Mr. Faella ask you about the
 25 basis for your conclusions?

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1 So that is 324 and 325 of Albert-4. You reviewed
 2 Mr. Lapolla's resumé?
 3 A. Yes.
 4 Q. Did you understand what
 5 Mr. Lapolla's job was from June 2002 to February
 6 2005 where he was the department head of the
 7 Department of Operations and Facilities?
 8 A. No.
 9 Q. Pardon?
 10 A. No.
 11 Q. Did you know whether or not he was
 12 the director of the department that had within it
 13 the Division of Facilities from 2002 to 2005?
 14 A. No. No. I thought he was in the job for
 15 15 years, and I didn't review it any deeper.
 16 I knew that he had previously held
 17 this position that was now being interviewed for.
 18 I didn't go any deeper than that.
 19 Q. So there was no question in your
 20 mind that Mr. Lapolla was qualified for the
 21 position of Director of the Division of
 22 Facilities, correct?
 23 MR. VARADY: Object to the form of
 24 the question.
 25 A. I mean, on paper he clearly was qualified.

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1 **He clearly was qualified on paper. I had no**
2 **doubt in my mind.**

3 **Q.** And that he met the minimum
4 requirements of the posting --

5 **MR. VARADY:** Objection. Asked and
6 answered. We went through this.

7 **Q.** -- set forth in the posting marked
8 Faella-4, is that correct?

9 **A. Yes.**

10 **Q.** Did you know at the time that
11 Mr. Lapolla was interviewed where he was working
12 in the County?

13 **A. No.**

14 **Q.** Did you know the circumstances of
15 the position that he was holding at the time of
16 the interview?

17 **MR. VARADY:** Object to the form of
18 the question.

19 **Q.** Let me restate it. Did you know
20 what his job position was at the time?

21 **A. No.**

22 **Q.** Did you know where he was located?

23 **A. No.**

24 **Q.** Did you know that he was in the
25 Watchung Stables?

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1 **A. No.**

2 **Q.** You didn't know that, correct?

3 **A. I didn't know where he was located.**

4 **Q.** Did you have any idea what his job
5 was?

6 **A. No idea.**

7 **Q.** Were you aware that Mr. Lapolla had
8 been assigned to the Vo-Tech, the Vocational
9 Technical School?

10 **A. I may have been. I don't know. No.**

11 **Q.** I mean at the time you were --

12 **A. When was that? Is it in here? I have no**
13 **idea. In this?**

14 **MR. VARADY:** The witness is
15 indicating is it in Exhibit Albert-4, the resumé.

16 **A. Nothing here tells me that.**

17 **Q.** Did you know at the time that you
18 were conducting the interviews and made your
19 rankings and your recommendation, did you know
20 that Mr. Lapolla had been assigned to the
21 Watchung Stables?

22 **A. Asked and answered.**

23 **Q.** You didn't know?

24 **A. I didn't know.**

25 **Q.** Did you know that before he was

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1 assigned to the Watchung Stables he had been
2 assigned to the Juvenile Detention Center?

3 **A. Nope.**

4 **Q.** Did you know that before the
5 Juvenile Detention Center that he had been
6 assigned to the Vo-Tech?

7 **A. No.**

8 **Q.** Did anyone ever come to you,
9 particularly Mr. Faella or anyone on his behalf
10 come to you, to ask you whether or not a job that
11 Mr. Faella was going to assign Mr. Lapolla to was
12 consistent with Mr. Lapolla's civil service job
13 title?

14 **MR. VARADY:** Object to the form of
15 the question. You can answer.

16 **A. No.**

17 **Q.** Was there any discussion among the
18 three of you when you were doing your rankings,
19 or with Mr. Faella, at any time regarding the
20 salary to be paid to the person that would fill
21 the position of Division Head of Facilities?

22 **A. Not that I recall. Not that I recall. I**
23 **don't think I was involved in any discussion of**
24 **salary.**

25 **Q.** When you and Mr. Faella spoke --

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1 just to be sure that this doesn't refresh your
2 recollection -- was there any conversation
3 between you and Mr. Faella whether or not
4 Mr. Chirafesi, whether Mr. Lapolla, or somebody
5 else who would be given the position of Division
6 Head of Facilities would save or cost the County
7 any additional money?

8 **A. That does not refresh my recollection to**
9 **any conversation regarding money.**

10 **Q.** In your capacity as Director of
11 Administrative Services and the Division of
12 Personnel and Labor Management, do you have any
13 involvement in any of the reorganizations that go
14 on within the County?

15 **A. I don't have any idea what you're talking**
16 **about.**

17 **Q.** Well, the County seems to go through
18 reorganizations of the departments on occasion.
19 We've gotten a lot of testimony about that.

20 **A. Okay. I object to that -- I'm sorry.**

21 **Q.** Do you have any involvement in any
22 reorganizations?

23 **MR. VARADY:** I object to the form of
24 the question.

25 **MS. FELLMAN:** Let me restate the

1 question.

2 Q. Do you know that sometimes the
3 departments and the divisions are reorganized
4 within the County, isn't that correct?

5 A. **I'm aware that there have been
6 reorganizations.**

7 Q. Have you been a part, involved, in
8 any way in connection with your job either with
9 County Counsel or as the Director of
10 Administrative Services or the Department of
11 Personnel and Labor Management, have you been
12 involved in any way in any of those
13 reorganizations?

14 A. **I don't believe so.**

15 Q. Outside of your work with County
16 Counsel, eliminating that, did you have any
17 involvement in your new job since November of
18 2013 with regard to the lawsuit brought by Mr.
19 Travisano?

20 A. **Since November 18th, 2013?**

21 Q. Yes.

22 A. **I was involved in that case at County
23 Counsel. I don't have any recollection of any
24 involvement. That case has been over for years.**

25 Q. I'm just asking. I don't know when

1 so not that I recall.

2 Q. Did you ever read Mr. Lapolla's
3 deposition in the Travisano case?

4 A. **Gee. I was involved in the Travisano
5 case. I don't specifically recall what
6 depositions I read. But I argued appellate
7 arguments in that case. I probably did, I guess.**

8 **But it's a long time ago when I was
9 in County Counsel and I have no recollection of
10 even what his testimony would have been.**

11 Q. When a lawsuit comes into the County
12 does it -- I know that it's sent to County
13 Counsel, but does the existence of a lawsuit
14 become known to you in your capacity as Director
15 of Administrative Services?

16 MR. VARADY: Could you rephrase that
17 question then if that's where you're going? How
18 about since he's been appointed to the position.

19 MS. FELLMAN: Well, of course.

20 MR. RENAUD: You mean in any
21 lawsuit?

22 MS. FELLMAN: Any lawsuit.

23 MR. VARADY: What does that have to
24 do with this?

25 MR. RENAUD: A trip and fall on a

1 it was over, that's why I'm asking.

2 MR. VARADY: So the answer is what?

3 Q. The answer is no?

4 A. **The answer is no.**

5 Q. What about the lawsuit brought by
6 Mr. Kolbeck?

7 MR. VARADY: What about it?

8 Q. Same answer, since your new position
9 as of November of 2013 have you had any
10 involvement in Mr. Kolbeck's lawsuit?

11 A. **No.**

12 Q. Have you read any depositions in
13 this case?

14 A. **No.**

15 Q. Have you spoken with anyone other
16 than counsel regarding Mr. Lapolla's performance
17 regarding this lawsuit?

18 MR. VARADY: Regarding Mr. Lapolla's
19 performance in this lawsuit?

20 MS. FELLMAN: Let me start all over
21 again.

22 Q. Have you had any conversations other
23 than with counsel regarding this lawsuit?

24 A. **Probably when I was at County Counsel, but
25 I was never directly involved in it in any way,**

1 sidewalk, whatever it is. That's what you want
2 to know?

3 MS. FELLMAN: Yes.

4 Q. I want to know if procedurally
5 lawsuits that come into the County go through, in
6 some way, the Department of Administrative
7 Services?

8 A. **Well, I don't know the answer to that
9 question, if that's what you're asking me. I
10 don't believe they come through my desk.**

11 Q. Do you know whether or not the
12 lawsuit in this case would have gone into the
13 office, the Department of Administrative
14 Services?

15 A. **No idea.**

16 Q. Is the first time you became aware
17 of this lawsuit while you were still working for
18 County Counsel?

19 A. **I'm sure.**

20 Q. Does the Office of Administrative
21 Services have any input into what goes on the
22 agenda to the Freeholders?

23 A. **You mean the Department of Administrative
24 Services?**

25 Q. Yes.

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1 **A. Yes.**

2 **Q.** And how does that work?

3 **A. If I have something to put on the agenda I**
4 **have to submit it to the clerk of the Freeholder**
5 **Board, or my department submits it.**

6 **Q.** When a department head makes a
7 determination to make a hiring, to hire someone,
8 I understand that there would be a position
9 control form and that it would go through Finance
10 and then it would go to the County Manager to
11 sign off.

12 What is the Department of
13 Administrative Services' role in that process?

14 **A. I don't believe you've properly described**
15 **the steps of the process.**

16 **Q.** All right. Well, could you please
17 tell me what they are?

18 **A. I will do the best I can to describe the**
19 **steps of the process.**

20 The department seeks to hire
21 someone. They generate a position control. It
22 comes to the Department of Personnel then goes to
23 Finance.

24 Then it comes to the Department of
25 Administrative Services, and then it gets

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1 presented to the County Manager. That's the
2 process. Assuming a sign off on each level, the
3 County Manager considers it.

4 **Q.** And then once the County Manager
5 signs off on it, what happens next?

6 **A. To the document?**

7 **Q.** To the document, to the hiring?

8 **A. I believe the document goes to my**
9 **secretary who gives it, I assume, to the**
10 **department. I'm not really sure. And the hiring**
11 **occurs at that point, I believe.**

12 **Q.** Does the same process apply to a
13 promotion or a transfer, does that require a
14 position control form and the same process?

15 **A. Yes. Yes, it does.**

16 **Q.** Does that process apply to
17 exclusionary employees?

18 **A. Yes.**

19 **Q.** And to union employees?

20 **A. Yes.**

21 **Q.** Now, you said that you were hired
22 originally by the Board of Freeholders, hired by
23 the Board of Freeholders in 1997?

24 **A. Yes.**

25 **Q.** Why did you say you were hired by

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1 the Board of Freeholders?

2 **A. Because I remember getting a copy of the**
3 **resolution voting on my appointment.**

4 **Q.** And that was to County Counsel, is
5 that correct?

6 **A. Yes.**

7 **Q.** When you were hired into the
8 position of the Director of Administrative
9 Services, did you go through the same process
10 that you've told me about where there was a
11 position control form, it went to the Department
12 of Personnel, the Department of Administrative
13 Services, and into the County Manager for sign
14 off?

15 **A. Well, you've left out some steps, but I**
16 **assume so. I never saw it. Well, maybe I did.**
17 **I might have even signed it actually, but I don't**
18 **remember.**

19 **Q.** But it was the same process?

20 **A. It's the same process for everybody, I**
21 **think.**

22 **Q.** Who was the County Manager at the
23 time that you were hired into the County
24 Counsel's office, was it Michael --

25 **A. Michael Lapolla, yes. Yes, it was**

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1 **Michael.**

2 **Q.** Do you know whether or not it was
3 Michael Lapolla who was responsible for getting
4 you your job?

5 **A. No, I don't know.**

6 **Q.** Who was it that put in the request
7 for you to be hired as an Assistant County
8 Counsel?

9 MR. VARADY: I object to the form of
10 the question.

11 **A. I don't know. I was told to contact**
12 **somebody and get my resumé to her, and I did.**

13 **Q.** You don't know who it was?

14 **A. Who told me?**

15 **Q.** Yes.

16 **A. That's not what you asked me.**

17 **Q.** I'm sorry.

18 **A. Are you asking me who told me to contact**
19 **Carol Cohen and give her my resumé?**

20 **Q.** Yes. Who was that?

21 **A. It was Fred Kessler.**

22 **Q.** And do you know whether or not
23 Michael Lapolla had any involvement in your being
24 hired as County Counsel, Assistant County
25 Counsel?

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1 **A. He was the County Manager. I imagine so.**
 2 **Q.** But you don't know?
 3 **A. I don't know what his involvement was in**
 4 **any way, shape, or form, other than that he was**
 5 **County Manager, and knowing the process now, he**
 6 **might have opined on it.**
 7 **Q.** Have you ever been to Charlotte
 8 DeFilippo's home?
 9 **A. Yes.**
 10 **Q.** And what were the circumstances that
 11 you were at Ms. DeFilippo's home?
 12 **A. They were always of a political nature.**
 13 **Q.** Do you recall any specific political
 14 candidacy or campaign that was going on that you
 15 were at her home for?
 16 **A. Absolutely. Yes.**
 17 **Q.** What was that?
 18 **A. How many do you want to know about?**
 19 **Q.** As many as you can remember.
 20 **A. Well, four or five times running for**
 21 **assembly. Running for township committee in**
 22 **Cranford.**
 23 **And every campaign while I was the**
 24 **chairman of the Cranford Democratic Party for**
 25 **three or four years. I don't recall exactly how**

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1 **MR. VARADY:** Why are we doing this?
 2 What does this have to do with this lawsuit?
 3 **A. Seriously.**
 4 **MR. VARADY:** If you want to talk to
 5 him afterwards, I'll allow you to chitchat about
 6 the politics in Cranford.
 7 **A. Jon Bramnick and Eric Munoz, until he**
 8 **died, then I lost to a dead guy. His wife took**
 9 **over. Whoever it is now.**
 10 **Q.** Was there any other Democrat that
 11 was vying for the position at any time that you
 12 ran for the assembly?
 13 **A. Yes.**
 14 **Q.** And who was that?
 15 **A. Ellen Steinberg and Melanie Selk. There**
 16 **were three of us at one point that sought the**
 17 **nomination one year.**
 18 **Other years I ran with Bruce Bergen,**
 19 **unopposed, for the nomination. I can't remember.**
 20 **There may have been someone else.**
 21 **Q.** Who would make the decision as to
 22 which of you, Ms. Ellen --
 23 **A. Steinberg.**
 24 **Q.** -- and Melanie Selk?
 25 **A. The voters would make the determination in**

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1 **many.**
 2 **Q.** So you yourself ran for assembly?
 3 **A. Yes.**
 4 **Q.** Is that what you just said?
 5 **A. Yes.**
 6 **Q.** And did Ms. DeFilippo support your
 7 candidacy on those four to five candidacies?
 8 **A. Support my candidacy?**
 9 **Q. Yes.**
 10 **A. She asked me to run. I'm not sure if she**
 11 **did or not.**
 12 **Q.** Well, if she asked you to run, I
 13 think you could presume she supported your
 14 candidacy?
 15 **MR. VARADY:** I object to the form of
 16 the question.
 17 **A. Well, I'm not going to do that. You may.**
 18 **Q.** You mean she might have asked you to
 19 run and didn't support your candidacy?
 20 **A. She didn't live in the district, so...**
 21 **Q.** Why did she ask you to run?
 22 **A. She wanted to fill a spot on the ballot, I**
 23 **believe.**
 24 **Q.** Who did you run against on the four
 25 to five times you ran?

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1 **the Democratic primary.**
 2 **Q.** So all three of you were on the
 3 ticket, on the ballot?
 4 **A. On the ballot, yes. And two of us were**
 5 **selected.**
 6 **Q.** There was another position that was
 7 filled, the Deputy Director of Economic
 8 Development.
 9 **Do you know whether or not that**
 10 **position was filled since you became the Director**
 11 **of Administrative Services?**
 12 **A. The Deputy Director of Economic**
 13 **Development?**
 14 **Q.** Economic Development.
 15 **A. I believe that it was filled during**
 16 **reorganization. You used the term reorganization**
 17 **before. That's what the formation of the**
 18 **government basically is called in January.**
 19 **So I believe during that reorg that**
 20 **there was a Director of Economic Development**
 21 **named, but I really wasn't involved in it. I was**
 22 **very new to the position. So I don't think there**
 23 **was -- I really don't have any knowledge of it.**
 24 **I believe that there was, yes. I**
 25 **believe Amy Wagner became the deputy director but**

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- 1 **I didn't have any involvement at all.**
 2 **Q.** Do you know whether that position,
 3 before it was given to Amy Wagner, was posted?
 4 **A. I have no idea of anything to do with that**
 5 **position at all.**
 6 **Q.** As far as you know you weren't
 7 involved in any committee to interview people for
 8 that position, correct?
 9 **A. I have no knowledge of how that position**
 10 **was filled in any way, shape, or form.**
 11 **Q.** Have you ever attended a Freeholder
 12 meeting where Mr. Lapolla or his lawsuit was
 13 discussed either in open or closed session?
 14 **MR. VARADY:** In regard to closed
 15 session, in your capacity with the County
 16 Counsel's office, or in your current capacity, I
 17 would object to your answer as being privileged.
 18 **MS. FELLMAN:** I think he can answer
 19 whether or not he attended. That's all the
 20 question is.
 21 **MR. VARADY:** You can say yes or no.
 22 **A. Yes.**
 23 **Q.** Was that before or after you became
 24 the Director of Administrative Services, or both?
 25 **A. I think before, but I'm not sure.**

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- 1 discussion, was the discussion that you were
 2 present for, was that anywhere in time relative
 3 to the interviewing and the decision as to who to
 4 hire for the position of manager of the
 5 Facilities?
 6 **MR. VARADY:** Objection. Asked and
 7 answered.
 8 **A. I've already said I don't know.**
 9 **Q.** It could have been you just don't
 10 recall?
 11 **MR. VARADY:** He said no. His answer
 12 is he doesn't know.
 13 **A. I don't know.**
 14 **Q.** You're not going to tell me what was
 15 said, obviously --
 16 **MR. VARADY:** That's very obvious.
 17 **Q.** -- do you recall anything that was
 18 said?
 19 **MR. VARADY:** No. Don't answer that.
 20 **MS. FELLMAN:** You're not going to
 21 let him answer if he recalls anything that was
 22 said?
 23 **MR. VARADY:** No. No.
 24 **MS. FELLMAN:** I'm not asking him
 25 what was said, I'm asking if he recalls what was

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- 1 **Q.** How many?
 2 **A. One.**
 3 **Q.** And that was in executive session?
 4 **A. Yes.**
 5 **Q.** Just to see if this affects your
 6 recollection. Did you attend an executive
 7 session meeting regarding Mr. Lapolla's lawsuit
 8 in or around the time that the interview process
 9 was going on to fill the position of Facilities,
 10 the Head of Facilities Division?
 11 **MR. VARADY:** It's just a yes or no.
 12 **A. I'm not sure when it was. I was not a**
 13 **part of the discussion. I don't know.**
 14 **Q.** What do you mean you weren't part of
 15 the discussion?
 16 **A. I was there for another purpose.**
 17 **Q.** Oh, okay. That's fair. So you have
 18 never attended an executive session or an open
 19 session where Mr. Lapolla's lawsuit was being
 20 discussed, or his performance, or he was being
 21 discussed where you were there for that
 22 discussion. Is that correct?
 23 **A. That's correct. Not that I recall. I'm**
 24 **sure I did not.**
 25 **Q.** Your being present during this

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- 1 said.
 2 **MR. VARADY:** No. He's not answering
 3 it. It's privileged.
 4 **MS. FELLMAN:** Well, it's not
 5 privileged if he wasn't there in the capacity of
 6 counsel.
 7 **MR. VARADY:** I guess you can argue
 8 that on a motion.
 9 **Q.** Who else was present at this meeting
 10 that you recall?
 11 **A. Bob Varady. I don't know what of the**
 12 **Freeholders. Obviously a majority of them. I**
 13 **believe most of them. I'm sure the County**
 14 **Manager -- well, I'm not sure if he was there or**
 15 **not.**
 16 **I don't recall why I was there, if**
 17 **it was for another item on the agenda, so I don't**
 18 **recall. I don't remember when it was. I'm not**
 19 **sure which Freeholders were there.**
 20 **Q.** That brings a question up in my
 21 mind. When the Freeholders go into executive
 22 session to discuss something private, I guess
 23 confidential, do they discuss one matter or will
 24 they discuss more than one matter in executive
 25 session?

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1 **A. It depends.**
 2 **Q.** So anybody who's permitted to be in
 3 the executive session can be present for whatever
 4 they're discussing, is that how it works?
 5 **A. It depends.**
 6 MR. VARADY: Excuse me. Why don't
 7 we take a break.
 8 (A break was taken.)
 9 (The record was resumed.)
 10 **Q.** We just had our break. I wanted to
 11 finish looking at Mr. Lapolla's letter. So we
 12 looked at --
 13 **A. Here it is.**
 14 **Q.** That's your copy. Where is my copy?
 15 To save time, if you don't mind I'm going to look
 16 over your shoulder.
 17 **A. Okay.**
 18 **Q.** The second paragraph we read
 19 already. The third paragraph Mr. Lapolla says
 20 that, quote, "You will see that my work history
 21 is perfectly suited to perform this position from
 22 a functional perspective."
 23 And he also talks about his
 24 experience in County procedures and that he's a
 25 current employee on the payroll.

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1 Mr. Graziano felt he could work with Mr. Lapolla?
 2 **A. I don't recall.**
 3 **Q.** Now, you've told us a couple of
 4 times you interviewed everybody, correct?
 5 **A. I believe so.**
 6 **Q.** And you also told us that there were
 7 people in the list who were clearly not qualified
 8 for the position, correct?
 9 **A. Yes.**
 10 **Q.** Why did you interview people who
 11 were not qualified for the position?
 12 **A. Well, I didn't know who all the people**
 13 **were. I don't know everybody at the County.**
 14 **There were just some people that you could**
 15 **just -- that just didn't appear qualified.**
 16 **Q.** I understand that. So my question
 17 is --
 18 **A. Why? They applied, we interviewed them.**
 19 **Q.** Why did you interview people that
 20 you could tell from the resumés were clearly not
 21 qualified?
 22 **A. I didn't say I could tell it from the**
 23 **resumés.**
 24 **Q.** Then what would you base it on when
 25 you said that you interviewed people that were

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1 And he says in short, "This means,
 2 of course, that not only will I 'hit the ground
 3 running' alleviating any need for a learning
 4 curve other candidates would likely require, but
 5 financially beneficial to the County. Naming me
 6 to the position would reduce expenses, saving up
 7 to \$150,000 between salary and benefits for the
 8 eliminated head count."
 9 Did you have discussion with
 10 Mr. Faella about what Mr. Lapolla was doing at
 11 the present time and whether or not it would
 12 reduce the County's expenses if Mr. Lapolla could
 13 leave the job he was presently at and take the
 14 job of Head of Facilities?
 15 **A. No.**
 16 **Q.** Was that a consideration that you
 17 gave when you were making your rankings?
 18 **A. No.**
 19 **Q.** When you had your discussion with
 20 the other two committee members, did you ask
 21 Mr. Graziano or did Mr. Graziano say anything
 22 about whether he thought he'd be able to work
 23 with Mr. Lapolla?
 24 **A. I don't recall.**
 25 **Q.** Did Mr. Faella ask you about whether

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1 not qualified?
 2 **A. Because once I interviewed them I knew**
 3 **they weren't qualified.**
 4 **Q.** I see. So you didn't do any
 5 prescreening before you did the interviews?
 6 **A. No.**
 7 **Q.** Is that correct?
 8 **A. That's correct.**
 9 **Q.** Isn't it correct that -- I apologize
 10 if I asked you. I don't think I did. At any
 11 time since you've been the Director of
 12 Administrative Services since November 18th, 2013
 13 -- I'll represent to you that Mr. Lapolla has
 14 been assigned to a location at the Watchung
 15 Stables. You've already indicated you don't know
 16 anything about that job.
 17 My question to you has anybody come
 18 to you, or anybody in your department that you
 19 know of, for an opinion whether or not
 20 Mr. Lapolla's job duties at the Watchung Stables
 21 in his present capacity meet his civil service
 22 title requirements?
 23 **A. I had no such discussion and I have no**
 24 **knowledge of any such thing.**
 25 **Q.** If that became a question, if the

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1 department head or the County Manager asked you
 2 that question, what would you do to make that
 3 determination?
 4 **A. I have no idea. Probably sit with Melinda**
 5 **Allen and discuss it. And perhaps I'd probably**
 6 **take very good notes on what the question was and**
 7 **I would try to come up with an answer.**
 8 **But I have no idea. Nobody has ever**
 9 **asked me to do such a thing.**
 10 **Q.** You would start probably, I assume,
 11 by looking at the civil service job description
 12 of the person, correct?
 13 **A. No.**
 14 **Q.** What would you start with?
 15 **A. As I said, I would contact Melinda Allen.**
 16 **Q.** And what would you discuss with her,
 17 what would be the process?
 18 **A. I'd probably give her the written question**
 19 **of whatever you just asked me and say, "How do we**
 20 **deal with this, Melinda? You've got 40 years**
 21 **experience."**
 22 **But it's all speculation because**
 23 **it's never happened, and I really don't**
 24 **understand what the question relates to.**
 25 **Q.** Well, do you have an understanding

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1 **Q.** Take a look at that.
 2 **A. I see it.**
 3 **Q.** Being in your position as the
 4 Director of Administrative Services and
 5 Personnel, do you have an understanding as to
 6 what kind of a job a person with a civil service
 7 title of Director of Repair and Maintenance can
 8 be assigned to in the County of Union?
 9 **A. I think he can be assigned to anything in**
 10 **the County. I don't know for sure.**
 11 **Q.** So you think a person with a civil
 12 service title of Director of Repair and
 13 Maintenance could be assigned to a job such as a
 14 carpenter?
 15 **A. Well, maybe. I'm not sure about that. I**
 16 **think he could have been Director of Facilities**
 17 **and still held his civil service title, and maybe**
 18 **if the Director of Facilities was eliminated he**
 19 **could go back to it. I don't really know how it**
 20 **works.**
 21 **Q.** Well, it gives a definition of the
 22 civil service title. You can read it yourself.
 23 **A. Okay.**
 24 **Q.** It says that -- the summary, the
 25 definition of this job, civil service title,

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1 that if a person in the County has a civil
 2 service title that their County appointment has
 3 to be consistent with their civil service title?
 4 **A. No. That's not my understanding at all.**
 5 **Q.** It's not?
 6 **A. No.**
 7 **Q.** What is your understanding about
 8 that?
 9 **A. I have a lot of understanding. That's not**
 10 **one of them.**
 11 **Q.** What is your understanding about the
 12 relationship between a civil service title and a
 13 County position?
 14 **MR. RENAUD:** Object to the form of
 15 the question.
 16 **MR. VARADY:** Objection to the form
 17 of the question.
 18 **A. I don't know how to answer that question.**
 19 **I just don't know what you're talking about.**
 20 **Q.** I'm going to show you, sir, what has
 21 been marked Devanney-16, which has been
 22 identified as Mr. Lapolla's civil service title
 23 and the details of that title for the position of
 24 Director of Repair and Maintenance.
 25 **A. Okay.**

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1 rather, is "Under direction is responsible for
 2 the planning and supervision and administration
 3 of the construction, alteration, maintenance, and
 4 repair programs for publically owned buildings
 5 and structures. Does related work as required."
 6 **And then it gives a bunch of**
 7 **examples of work, and then it gives the**
 8 **experience that you have to have to get this job.**
 9 **Correct?**
 10 **A. Okay.**
 11 **Q.** So would you agree with me that the
 12 person who has the civil service title of
 13 Director of Repair and Maintenance that the job
 14 they would give them in the County would have to
 15 meet the definition set forth in this document
 16 Devanney-16?
 17 **A. No, I wouldn't agree with that. I**
 18 **wouldn't disagree with you either. I don't know.**
 19 **Q.** You already told us nobody ever
 20 raised it with you, right?
 21 **A. Raised what with me?**
 22 **Q.** Whether or not a job assignment in
 23 the County of Union would be consistent or not
 24 consistent with the person's civil service title.
 25 **That's never been raised with you?**

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1 **A. I don't believe so. I've seen that some**
 2 **people hold civil service titles for jobs that**
 3 **they are not in and it affords them in certain**
 4 **circumstances, maybe bumping rights when layoffs**
 5 **occur. But as for the details of the**
 6 **requirements, I'm really not sure.**

7 **Q.** Melinda Allen would be the one you
 8 would engage --

9 **A. I would ask her. Maybe I would call civil**
 10 **service and ask them. Certainly they're**
 11 **available to us all the time and we talk to them**
 12 **all of the time when we have questions. That's**
 13 **something they determine really.**

14 **Q.** Thank you.

15 **A. You're welcome.**

16 **Q.** Do you recall how long the interview
 17 was with Mr. Lapolla?

18 **MR. VARADY:** Objection. Asked and
 19 answered.

20 **MS. FELLMAN:** No. I asked him how
 21 long all the interviews were.

22 **MR. VARADY:** No. You actually
 23 prefaced the question with saying the approximate
 24 half hour you spent with Mr. Lapolla, about an
 25 hour ago.

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1 Mr. Chirafesi.

2 I'd like you to tell me if you can
 3 recall by reviewing these documents, or the names
 4 on the list on that cover sheet, if there was
 5 anyone other than those -- and Mr. Brennan, of
 6 course -- was there anyone other than those three
 7 gentlemen that was ranked higher than
 8 Mr. Lapolla?

9 **A. There might have been one, but it doesn't**
 10 **-- I don't think so. I don't think so. There**
 11 **might have been one.**

12 **But it doesn't refresh my**
 13 **recollection to look at the names, and I'm sure**
 14 **it wouldn't to look at the rest of the documents**
 15 **since I've never seen those documents.**

16 **Q.** Well, you saw the resumés of the
 17 individuals --

18 **A. Okay, the resumés. I did. But, yeah, I**
 19 **did. I did that day.**

20 **Q.** So that's all I'm asking you to do.
 21 Just look through the resumés, look through both
 22 Faella-1 and 2 just to be sure that you can tell
 23 whether or not Mr. Lapolla would have been fourth
 24 in ranking or Mr. Lapolla was fifth in ranking?

25 **A. My belief is he was fourth. Okay. No, it**

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1 **MS. FELLMAN:** Well, perhaps I was
 2 assuming it was a half hour.

3 **Q.** You said that the interviews were
 4 between 15 to 30 minutes. My question is do you
 5 recall how long the interview was with
 6 Mr. Lapolla?

7 **A. Yes.**

8 **Q.** And how long was it?

9 **A. Between 15 and 30 minutes.**

10 **Q.** Okay.

11 **A. And that's an approximation.**

12 **Q.** I'm going to show you, sir, and ask
 13 you to look through these documents that have
 14 been produced by defendants under Faella-1 and
 15 Faella-2.

16 **A. Uh-huh.**

17 **Q.** And these are all documents that
 18 were produced in connection with the applicants
 19 for the position of Manager of Facilities.

20 **A. Director of the Division of Facilities?**

21 **Q.** Yes, Director of the Division of
 22 Facilities.

23 **A. Okay.**

24 **Q.** You've mentioned the gentleman who
 25 was from New Jersey IT, NJIT, you've mentioned

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1 **does not.**

2 **Q.** Okay.

3 **A. I believe he was fourth.**

4 **Q.** You believe Mr. Lapolla was fourth
 5 in ranking?

6 **A. I think so.**

7 **Q.** So with regard to the two
 8 candidates, the two highest candidates that were
 9 in-house, it would have been Mr. Chirafesi first
 10 and Mr. Lapolla second after Mr. Brennan told you
 11 that he didn't want the job, is that correct?

12 **A. Yeah. I didn't look at the rankings that**
 13 **way, to be honest with you. I was only asked to**
 14 **make one recommendation and I made one**
 15 **recommendation.**

16 **And as I said before, the rankings**
 17 **weren't something that we were keeping, it was**
 18 **just something we did to discuss. And that's how**
 19 **I came out, and that's how we came out as a**
 20 **committee, if you will.**

21 **And that was it. Once we made a**
 22 **recommendation the rankings really didn't mean**
 23 **anything to me.**

24 **Q.** Didn't you testify, sir, that when
 25 you spoke to Mr. Faella you told him that

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1 Mr. Brennan came in first and that the gentleman
2 from NJIT came in second, it was a one and one-A.
3 And that then you told him about Mr. Lapolla's
4 interview and at some point you mentioned
5 Mr. Brennan didn't want the job and that you were
6 recommending Mr. Chirafesi, isn't that correct?

7 MR. VARADY: I object to the form of
8 the question. You can answer.

9 **A. No. I don't think that's completely**
10 **correct. It's close, probably. I don't think I**
11 **had that specific of a recollection of the**
12 **conversation I had with Mr. Faella.**

13 **I believe that I told him generally**
14 **what you're saying. But the rankings weren't --**
15 **it just wasn't -- I didn't tell him that -- it**
16 **wasn't like somebody was assigned a ranking and**
17 **that was some key component.**

18 **It was, you know, "We really like**
19 **Mike. We thought Mike would be great. Mike**
20 **doesn't want the job. Joe doesn't want to force**
21 **it on him. We don't want to."**

22 **Whatever. You know, the other guy**
23 **was really good. We liked the other guy. But**
24 **we've decided to recommend Charlie. Then we**
25 **discussed, as I said before, I discussed, I**

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1 **specifically discussed, my impressions of the**
2 **Ricky Lapolla interview. That I recall.**

3 **Q. Right.**

4 **A. But whether I said, actually said,**
5 **anything, the word ranking, where it was -- I**
6 **don't think I did.**

7 **Q. You also told Mr. Faella that you**
8 **believed that it would be better to hire somebody**
9 **in County rather than out of the County which is**
10 **why, even though you liked the guy from NJIT, you**
11 **weren't recommending him, isn't that correct?**

12 **A. I don't know that. You know, we**
13 **discussed, we came to the conclusion we were**
14 **recommending Charlie.**

15 **And I told him we were recommending**
16 **Charlie, he's in-house. It had something to do**
17 **with transition. What I said about that or**
18 **didn't say about that I don't specifically**
19 **recall.**

20 **Q. So now as you sit here you're not**
21 **sure if you told Mr. Faella that you believed it**
22 **would be better to hire somebody in-house so you**
23 **wouldn't have to have the transition time?**

24 **A. It was one factor, and it might have been**
25 **discussed.**

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1 **Q. Have you told us today about all the**
2 **conversations, or conversation, that you can**
3 **recall having with Mr. Faella regarding the**
4 **filling of the position of the Division Head for**
5 **Facilities?**

6 **A. I believe I have.**

7 **Q. And have you told us all of the**
8 **content of that conversation or conversations**
9 **that you can recall?**

10 **A. I believe I told you why, yes. The answer**
11 **is yes.**

12 **Q. Have you told us all of the**
13 **conversations that you had with other members of**
14 **your committee either jointly or individually,**
15 **Mr. Reyes and Mr. Graziano, regarding the filling**
16 **of this position of Director of Facilities?**

17 **A. I've told you what I remember.**

18 **Q. So the answer is yes?**

19 **A. I've told you what I remember.**

20 **Q. I asked you a question. It's a yes**
21 **or no?**

22 **MR. VARADY: Objection.**

23 **Q. Have you told me everything you can**
24 **remember regarding any conversations, and the**
25 **substance of those conversations, with**

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1 Mr. Graziano, Mr. Reyes, and Mr. Faella regarding
2 Mr. Lapolla or filling of the position of the
3 Head of the Facilities Division?

4 **A. Yes.**

5 **Q. Let me show you what was marked**
6 **Lyons-1.**

7 **A. Okay.**

8 **Q. Have you ever seen that article**
9 **before?**

10 **A. Yup.**

11 **Q. As you see from the date on it,**
12 **what's the date on that article?**

13 **A. Don't know.**

14 **Q. It's up at the top?**

15 **A. January 12th, 2012.**

16 **Q. Did you see it around that time or**
17 **has it been since then that you saw it?**

18 **A. I don't know. I've seen it a number of**
19 **times.**

20 **Q. What was the context that you saw**
21 **it?**

22 **A. Sitting in my boss's office.**

23 **Q. You mean in --**

24 **A. Seeing the actual copy of this newspaper,**
25 **yes.**

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1 Q. Where did you see it sitting in your
2 boss's office, where was it?

3 A. **Sitting.**

4 Q. Where was the article that you saw?

5 A. **On his desk.**

6 Q. You're talking about Mr. Barry's
7 desk?

8 A. **Yes.**

9 Q. On the occasions while you were
10 County Counsel, First Assistant County Counsel,
11 did you see this article sitting on his desk
12 every time you went into his office since the
13 date it was written?

14 A. **I have no idea.**

15 Q. Well, what were the reasons that you
16 happened to see the article?

17 MR. VARADY: Objection.

18 A. **Because it was there.**

19 Q. It was sitting on his desk? Yes?

20 A. **That's where I recall seeing it.**

21 Q. Were you and he discussing the
22 article?

23 MR. VARADY: Objection. Don't
24 answer that question, it's privileged.

25 Q. Do you ever recall a time that you

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1 went into Mr. Barry's office to talk about
2 anything and you didn't see the article on his
3 desk?

4 A. **I'm sure that's the case. I went into his
5 office multiple times every day for six years or
6 so. So I'm sure that's the case.**

7 Q. Let me restate the question. Since
8 the date of the article, which was January 12th,
9 2012, from that time until you transferred out of
10 that department on November 18th, 2013, during
11 that period of time, you certainly went into his
12 office every day, several times a day, correct?

13 A. **He was there and I was.**

14 Q. Did you see that article on those
15 occasions?

16 A. **Every time?**

17 Q. Yes.

18 A. **I doubt it.**

19 Q. How many times do you recall seeing
20 it?

21 MR. VARADY: Come on.

22 A. **I cannot answer that question. I cannot
23 estimate the answer to that question.**

24 Q. So you were certainly aware of the
25 lawsuit, Mr. Lapolla's lawsuit?

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1 MR. VARADY: Objection. Asked and
2 answered several times before.

3 A. **Because of this?**

4 Q. Yes. Because of the article, Lyons

5 --

6 A. **No. I wasn't reading the article. I could
7 just see the "122K outcast", the headline with a
8 gentleman's back of his head on the picture.**

9 Q. You never read the article?

10 A. **No.**

11 Q. You didn't read it?

12 A. **No.**

13 Q. Oh, okay. You knew it was about
14 Mr. Lapolla though, correct?

15 A. **Yes, I think I did.**

16 Q. Let me show you what's marked DD-1.
17 We have another version of this, which is
18 Mr. Lapolla's complaint. Have you ever seen that
19 before?

20 A. **I don't recall.**

21 Q. Do you want to take a chance to look
22 at it?

23 A. **I don't recall seeing the first page. I'm
24 sure I've seen thousands of complaints in my
25 career, and I don't recall ever seeing this.**

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1 **I've seen Pat's signature on
2 complaints before but I don't remember ever
3 seeing this one.**

4 Q. Did you work on Mr. Lapolla's case
5 on behalf of the County when you were First
6 Assistant County Counsel?

7 A. **I have no recollection of so doing.**

8 Q. Thank you. What were your duties as
9 First Assistant County Counsel? Were they more
10 than just --

11 MR. VARADY: Let him answer the
12 question.

13 Q. I'll just make it simpler.

14 A. **Really.**

15 Q. I'm sorry.

16 A. **It would make it simpler if you didn't ask
17 it again when you asked it in the morning.**

18 **But I defended lawsuits. I defended
19 the County in lawsuits, sometimes individuals
20 that worked for the County in lawsuits. And I
21 did disciplinary hearings for a time.**

22 Q. I apologize. I do recall that.

23 A. **I accept your apology.**

24 Q. Thank you. As First Assistant
25 County Counsel did you have any supervisory

1 responsibilities?
 2 **A. Yes. Very limited.**
 3 **Q.** Limited, okay. Do you know whether
 4 or not you supervised anyone who was actually
 5 working on Mr. Lapolla's lawsuit?
 6 **A. I don't know. I only supervised when Mr.**
 7 **Barry was not in the office. And I don't know**
 8 **who was assigned to Mr. Lapolla's case.**
 9 **Q.** I think that's all. Thank you, sir.
 10 **A. Thank you very much.**
 11 (The deposition concluded at 3:09
 12 p.m.)

CERTIFICATE

1
 2
 3 I, BRIAN CUNNINGHAM, a Shorthand
 4 Reporter and Notary Public of the State of New
 5 Jersey do hereby certify that prior to the
 6 commencement of the examination the witness
 7 and/or witnesses were sworn to testify the truth,
 8 the whole truth, and nothing but the truth.
 9 I do further certify that the foregoing
 10 is a true and accurate computer-aided transcript
 11 of the testimony as taken stenographically by and
 12 before me at the time, place, and on the date
 13 hereinbefore set forth.

14 I do further certify that I am neither of
 15 counsel nor attorney for any party in this action
 16 and that I am not interested in the event nor
 17 outcome of this litigation.

18
 19
 20 _____
 Notary Public of the State of New Jersey
 My commission expires September 20, 2016

21 Dated: September 28, 2014

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| \$150,000 [1] - 170:7 | 2005 [6] - 102:21, 134:17, 134:23, 135:7, 148:6, 148:13 | access [1] - 44:9 | agreement [2] - 113:6, 135:21 | 65:22, 66:19, 69:11, 103:21, 103:24, |
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