

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CURTIS LARRICK,

Plaintiff,

v.

THE SHERIFF OF BEAVER COUNTY,
PENNSYLVANIA, BEAVER COUNTY,
PENNSYLVANIA and ANTHONY GUY,
Sheriff of Beaver County in his individual
capacity,

Defendants.

Civil Action No. 2:16-cv-282-CRE

MAGISTRATE JUDGE CYNTHIA REED EDDY

Electronically Filed

JURY TRIAL DEMANDED

**DEFENDANTS' RESPONSE TO PLAINTIFF'S CONCISE STATEMENT OF
UNDISPUTED MATERIAL FACTS PRECLUDING SUMMARY JUDGMENT**

While Defendants believe a Motion to Strike Plaintiff's Concise Statement of Undisputed Material Facts would have been appropriate, because a 503 paragraph filing is anything but concise and includes voluminous paragraphs recounting matters which are not material, Defendants file this Response. Plaintiff's filing could easily be perceived as an unfortunate waste of the Court's time and the Defendants' resources, and Defendants believe the Court could simply review their Concise Statement of Undisputed Material Facts with response and reply thereto as a full record on which to address Defendants' Motion for Summary Judgment. Defendants perceive Plaintiff's voluminous filing to be a mechanism for the Court to find a question of fact, but the Defendants believe no material questions of fact can be found as relates to the straight-forward legal issue of political discrimination in the case. Out of an abundance of caution and rather than creating an extra step for the Court's consideration, Defendants file this Response to Plaintiff's "Concise" Statement of Undisputed Material Facts.

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.

8. Larrick received no counseling or attendance warnings at that time. (CL 23/ln. 12-14, App. Ex. 1).

Defendants' Response: Denied as stated. Plaintiff testified that he received no counseling at that time, but was told by Sheriff David that the divorce was affecting Plaintiff's job performance and once he could back on his feet, the position would still be there. Pl.'s App'x, Ex. 1 (Plaintiff Depo. at p. 23). However, that did not occur, as Plaintiff continued to experience personal problems after his divorce. See Defendant's Concise Statement of Material Fact, ¶ 17 (undisputed).

9. As deputy sheriff, Larrick's duties included transporting people, helping in the courtroom, and working the doors. (CL 157/ln. 2-10, App. Ex. 1).

Defendants' Response: Denied as stated, as this is not job description for a deputy sheriff, but some of the tasks that Plaintiff may have taken on at some points in addition to other duties. Pl.'s App'x, Ex. 1 (Plaintiff Depo. at p. 157).

10. Larrick was told near the end of Sheriff David's tenure that his attendance was an issue, because Sheriff David was having a hard time accepting Larrick being out on FMLA leave. (CL 23/ln. 22-25; 24/ln. 1-5, App. Ex. 1).

Defendants' Response: Denied as stated. Plaintiff's absenteeism had become a burden on the office. Sheriff David felt that Plaintiff's personal life was interfering with his job performance and that Alstadt had to counsel Plaintiff on numerous occasions.

11. In 2014 and 2015 Larrick was on medical leave for himself because he was diagnosed with ischemic colitis. (CL 24/ln. 8-11, App. Ex. 1); (RD 20/ln. 8-13, App. Ex. 2).

Defendants' Response: Admitted to the extent that Plaintiff was on leave during those times. However, Plaintiff was repeatedly seeking leave, off work for medical reasons and seeking adjustments to his schedule that were not typical shifts. Defs.' App'x, Ex C. (Alstadt Depo. 21, 48). Plaintiff was off on medical leave during the election for Sheriff in November 2016 through his termination in 2017.

12. Admitted.

13. Larrick was on long term leave for his stomach from July of 2015 until the end of the year. (CL 145/ln. 14-21; 146/ln. 10-12, App. Ex. 1).

Defendants' Response: Admitted that Plaintiff was on leave during that time. However, Plaintiff was repeatedly seeking leave, off work for medical reasons and seeking adjustments to his schedule that were not typical. Defs.' App'x, Ex C. (Alstadt Depo. 21, 48). Plaintiff was off on medical leave during the election for Sheriff in November 2016 through his termination in 2017.

14. He missed a total of six months of work. (CL 145/ln. 25; 146/ln. 1, App. Ex. 1).

Defendants' Response: Denied. Plaintiff missed six months on leave at that point. However, Plaintiff was repeatedly seeking leave, off work for medical reasons and seeking adjustments to his schedule that were not typical shifts. Defs.' App'x, Ex C. (Alstadt Depo. 21, 48). Plaintiff was off on medical leave during the election for Sheriff in November 2016 through his termination in 2017.

15. Admitted.

16. Admitted.

17. Admitted.

18. Larrick was later informed by Darbut that Sheriff David wanted him fired because he did not believe his medical needs warranted being on FMLA leave. (CL 26/ln. 5-11, App. Ex. 1).

Defendant's Response: Denied. Plaintiff testified as such, however, the evidence demonstrates that Sheriff David wanted to fire Plaintiff because of the way his personal life was affecting his job performance and relationship with his co-workers. Indeed, Sheriff David noted that Alstadt already had to counsel Plaintiff on such issues multiple times. Defs.' App'x, Ex. M (David Memo re: Larrick).

19. It is admitted that Plaintiff's leave was approved.

20. Admitted.

21. Larrick provided testimony against Sheriff David during trial. (CL 130/ln. 18-22, App. Ex. 1).

Defendants' Response: Denied. Larrick testified against Sheriff David related to a bond issue. While awaiting criminal charges, Sheriff David's conditions of release prohibited Sheriff David from using firearms. Plaintiff witnessed Sheriff David with a firearm and testified relative to Sheriff David's violation of his conditions of release. Pl.'s App'x, Ex. 1 (Pl.'s Depo. at 130-31).

22. Admitted.

23. Admitted.

23[sic]. Admitted. (Plaintiff's Concise Statement of Material Facts Precluding Summary Judgment contain two different averments numbered Paragraph 23.)

24. Admitted.

25. Admitted.

26. Admitted.

27. Admitted.

28. Admitted.

29. Admitted.

30. Admitted.

LARRICK'S POLITICAL INVOLVEMENT

31. Larrick has a history of political involvement. (CL 33/ln. 21, App. Ex. 1).

Defendant's Response: Denied as stated as it Plaintiff's averment is vague. It is admitted that Plaintiff held some political offices. However, there is no evidence that Sheriff Guy had any knowledge of Plaintiff holding such offices or his history of political involvement.

32. Admitted.

33. Admitted.

34. Admitted.

35. Admitted.

36. Admitted.

37. Admitted.

38. Admitted.

39. However, he remained extremely active in politics after he ceased being a formal committee person. (CL 36/ln. 5-10, App. Ex. 1).

Defendant's Response: Denied as stated as it Plaintiff's averment is vague. There is no evidence that Sheriff Guy had any knowledge of Plaintiff's political involvement beyond the event cited in paragraph 88 herein.

40. Admitted.

41. Larrick supported Wayne Kress as the Democratic candidate against George David in the primary. (CL 36/ln. 17-19, App. Ex. 1).

Defendant's Response: Admitted to the extent that Plaintiff supported Kress generally, but it is denied to the extent that the averment provides that Sheriff Guy had any knowledge of who Plaintiff supported in the Democratic primary. See ¶¶ 31, 88; Defs.' App'x, Ex. A (Guy Depo. at 44-45).

42. Admitted.

43. Admitted.

44. Admitted.

45. Admitted.

46. Admitted.

47. Frantangeli was not subject to any discipline as a result. (CL 40/ln. 5-9, App. Ex.

1).

Defendants' Response: Admitted to the extent that Fratangeli was not disciplined under Sheriff David for his improper support of the same. However, Fratangeli was terminated upon Sheriff Guy taking office. See ¶¶ Pl.'s App'x, Ex. 11 (Letter dated January 4, 2016).

48. Admitted.

49. Admitted.

50. Admitted.

51. Admitted.

52. Larrick was not aware of any other Sheriff's Office employees supporting Kress.

(CL 42/ln. 24-25; 43/ln. 1-2, App. Ex. 1).

Defendants' Response: Admitted to the extent that Larrick testified as such. However, Plaintiff's knowledge of which candidate employees supported is irrelevant to the determination at hand. By way of further response, it was believed that most employees of the Sheriff's Office supported the Democratic candidate, Wayne Kress. Defs.' App'x, Ex. C (Alstadt Depo. at p. 46).

53. He was aware of a rumor that Joe O'Shea supported Kress, but was not sure if it was true. (CL 43/ln. 7-12, App. Ex. 1).

Defendants' Response: Admitted to the extent that Larrick testified as such. However, Plaintiff's knowledge of which candidate employees supported is irrelevant to the determination at hand. By way of further response, it was believed that most employees of the Sheriff's Office supported the Democratic candidate, Wayne Kress. Defs.' App'x, Ex. C (Alstadt Depo. at p. 46).

54. Despite no longer being a committee person for the county's Democratic party, Larrick remained active in supporting the whole slate of Democratic candidates through the committee. (CL 44/ln. 10-14, App. Ex. 1).

Defendants' Response: Admitted that Plaintiff testified as such. However, there is no evidence to suggest that Sheriff Guy had any knowledge of Plaintiff's involvement in Democratic politics, beyond seeing Plaintiff at the polls on the day of the election wearing a Kress t-shirt. Therefore, such averment is irrelevant and immaterial. See ¶¶ 31, 88; Defs.' App'x, Ex. A (Guy Depo. at 44-45).

55. Admitted.

56. Admitted.

57. Admitted.

58. It is admitted that Plaintiff believed such.

59. This was due in part to Kress's platform that he would clean up certain aspects of the Sheriff's Office, including potentially making changes with some of the deputies. (CL 50/ln. 1-3; 52/ln. 11-15, App. Ex. 1).

Defendants' Response: It is admitted that Kress ran on a platform that the Sheriff's Office needed cleaned up. By way of further response, Sheriff Guy also ran on a similar issue stating that " there were a lot of problems in the Sheriff's Office . . . a lack of professionalism, lack of

organization.” Then Sheriff David “had been arrested. . . there was a lot of turmoil involved in that.” See Defs.’ CSMF, ¶¶ 30, 39 (undisputed).

THREATS AGAINST LARRICK

60. The summer prior to the election, Larrick overheard that he would be terminated if Guy was elected. (CL 53/ln. 3-6; 148/ln. 11-15, App. Ex. 1).

Defendants’ Response: Denied as stated. Plaintiff testified that he heard that he would be terminated if Sheriff Guy was elected from Randy Tallon and Mike Hurst. There is no evidence attributing this statement or knowledge of this statement to Sheriff Guy. The statements made by Tallon and Hurst are inadmissible hearsay.

61. Larrick heard this was because he supported Kress. (CL 53/ln. 3-6, App. Ex. 1).

Defendants’ Response: Denied. Plaintiff testified that he heard that he would be terminated if Sheriff Guy was elected from Randy Tallon and Mike Hurst, because he was a rat in testifying against then-Sheriff David. Further, such testimony is inadmissible hearsay. Pl.’s App’x, Ex. 1 (Pl.’s Depo. at p. 53).

62. Admitted.

63. Admitted that Plaintiff testified as such.

64. Admitted that Plaintiff testified as such.

65. Admitted.

66. Admitted.

67. Admitted.

68. Admitted.

69. Admitted.

70. Admitted that Plaintiff testified as such.

71. Admitted.

72. Admitted.

73. Admitted.

74. Admitted that Plaintiff testified as such. However, Alstadt does not recall such conversation. See ¶ 69.

75. Larrick perceived this as a clear threat that he would be terminated if Guy won the election. (CL 150/ln. 16-25, App. Ex. 1).

Defendants' Response: Admitted to the extent that Plaintiff testified as such. However, this "threat" or knowledge of this threat could not be attributed to Sheriff Guy. Indeed, Tallon's "threat" centered on the idea that Plaintiff was a rat who testified against Democrat Sheriff David, not Plaintiff's support of democrat Kress or lack of support of Sheriff Guy. Pl.'s App'x, Ex. 1 (Pl.'s Depo. at p. 53, 133).

76. This understanding was bolstered by a statement made by Tallon before Larrick's leave that if Guy was hired, Larrick would be fired. (CL 151/ln. 2-4, App. Ex. 1).

Defendants' Response: Admitted to the extent that Plaintiff testified as such. However, this "threat" or knowledge of this threat could not be attributed to Sheriff Guy. Indeed, Tallon's "threat" centered on the idea that Plaintiff was a rat who testified against Democrat Sheriff David, not Plaintiff's support of democrat Kress or lack of support of Sheriff Guy. Pl.'s App'x, Ex. 1 (Pl.'s Depo. at p. 53, 133).

ELECTION DAY

77. Admitted.

78. Admitted.

79. His shirt also had stickers from several other candidates from the Democratic party's endorsed slate. (CL 44/ln. 3-9, App. Ex. 1).

Defendants' Response: Denied as stated. There is no evidence to demonstrate that Sheriff Guy saw the stickers of Democratic candidates or had any knowledge of Plaintiff's history of Democratic support, beyond his support of Kress. Defs.' App'x, Ex. A (Guy Depo. at 44).

80. Admitted.

81. While working at the polls, Larrick was approached by an elderly gentleman who became irate and started cursing at him. (CL 138/ln. 1-5, App. Ex. 1).

Defendants' Response: It is admitted that Plaintiff testified as much and relayed such story to Sheriff Guy. However, Sheriff Guy found the story "fantastic" and difficult to believe. Defs.' App'x, Ex. A (Guy Depo. at 108).

82. The man referred to Larrick as Tony, at which Larrick expressed confusion and the man's wife attempted to tell him he had the wrong person. (CL 138/ln. 7-11, App. Ex. 1).

Defendants' Response: It is admitted that Plaintiff testified as much and relayed such story to Sheriff Guy. However, Sheriff Guy found the story "fantastic" and difficult to believe. Defs.' App'x, Ex. A (Guy Depo. at 108).

83. After voting, the man came back out and again began to yell at Larrick while indicating he thought him to be Tony Guy. (CL 138/ln. 12-21, App. Ex. 1).

Defendants' Response: It is admitted that Plaintiff testified as much and relayed such story to Sheriff Guy. However, Sheriff Guy found the story "fantastic" and difficult to believe. Defs.' App'x, Ex. A (Guy Depo. at 108).

84. Larrick attempted to correct the man, and the man's wife apologized. (CL 138/ln. 22-23, App. Ex. 1).

Defendants' Response: It is admitted that Plaintiff testified as much and relayed such story to Sheriff Guy. However, Sheriff Guy found the story "fantastic" and difficult to believe. Defs.' App'x, Ex. A (Guy Depo. at 108).

85. Larrick said he did not understand why the man thought he was Guy, as they look very different. (CL 138/ln. 22-25; 139/ln. 1-2, App. Ex. 1).

Defendants' Response: Admitted. Indeed, Sheriff Guy found the story to be "fantastic." Defs.' App'x, Ex. A (Guy Depo. at 108, 147).

86. Larrick was further confused because he was wearing a shirt with Kress's name on it. (CL 139/ln. 7-9, App. Ex. 1).

Defendants' Response: Admitted. Indeed, Sheriff Guy found the story to be "fantastic." Defs.' App'x, Ex. A (Guy Depo. at 108).

87. Larrick found the situation funny and laughed about it. (CL 139/ln. 16-17, App. Ex. 1).

Defendants' Response: Admitted. Indeed, Sheriff Guy found the story to be "fantastic." Defs.' App'x, Ex. A (Guy Depo. at 108).

88. Admitted.

89. Admitted.

90. Larrick then shared the story with Guy about his encounter with the elderly man, and said he wanted to warn him about the situation. (CL 140/ln. 8-18, App. Ex. 1).

Defendants' Response: Denied. Larrick did not attempt to "warn" Sheriff Guy of the encounter. He wanted to give Sheriff Guy the "heads up" about the encounter Plaintiff thought was funny. Pl.'s App'x, Ex. 1, (Pl. Depo. at 139-40).

91. Larrick said he did not know how anyone could mistake him for Guy, as he even had a Kress shirt on. (CL 140/ln. 19-22, App. Ex. 1).

Defendants' Response: Admitted. Indeed, Sheriff Guy found the story to be "fantastic." Defs.' App'x, Ex. A (Guy Depo. at 108).

92. Guy replied that he saw the shirt, and did not appear happy Larrick was wearing it. (CL 140/ln. 19-23, App. Ex. 1).

Defendants' Response: Denied. At no time did Larrick or Sheriff Guy testify that Sheriff Guy made any statement regarding Plaintiff wearing a shirt supporting Kress. According to both Plaintiff and Sheriff Guy, the two were having a conversation regarding Plaintiff spreading information he heard from other sources regarding Sheriff Guy's potential employment determinations and Sheriff Guy's wish that Plaintiff would have approached Sheriff Guy about rumors relating to future hiring decisions. Pl.'s App'x, Ex. 1, (Pl. Depo. at 139-41); Defs.' App'x, Ex. A (Guy Depo at 46-47). To the extent that Plaintiff attempts to interject his own beliefs that he thought Sheriff Guy was upset regarding his support of his opponent, such belief is self-serving testimony and not corroborated by the undisputed evidence regarding the nature of the conversation according to both parties. Pl.'s App'x, Ex. 1, (Pl. Depo. at 139-41); Defs.' App'x, Ex. A (Guy Depo at 46-47).

93. Admitted.

94. Larrick responded he had only told people that he heard he was being fired. (CL 141/ln. 4-6, App. Ex. 1).

Defendants' Response: Denied. In reviewing both Plaintiff and Guy's recitation of the interaction on election day, while there is some dispute in exact verbiage used, the substance of the conversation is the undisputed. Plaintiff approached Sheriff Guy, introduced himself and told Sheriff Guy a story about an elderly man confusing Larrick and Sheriff Guy. Upon realizing who Plaintiff was and with the prior understanding that Plaintiff was spreading unverified information about Sheriff Guy's possible employment decisions, Sheriff Guy asked why Plaintiff said Sheriff Guy was going to be firing people, when Plaintiff had not talked to Sheriff Guy personally about such accusations. Larrick replied that he was only repeating what others had been telling and would do so anyway. (Pl.'s App'x, Ex. 1, (Pl. Depo. at 139-41); Defs.' App'x, Ex. A (Guy Depo at 46-47)

95. Guy asked Larrick who told him, and Larrick responded Tallon and Hurst. (CL 141/ln. 6-8, App. Ex. 1).

Defendants' Response: Denied. In reviewing both Plaintiff and Guy's recitation of the interaction on election day, while there is some dispute in exact verbiage used, the substance of the conversation is the undisputed. Plaintiff approached Sheriff Guy, introduced himself and told Sheriff Guy a story about an elderly man confusing Larrick and Sheriff Guy. Upon realizing who Plaintiff was and with the prior understanding that Plaintiff was spreading unverified information about Sheriff Guy's possible employment decisions, Sheriff Guy asked why Plaintiff said Sheriff Guy was going to be firing people, when Plaintiff had not talked to Sheriff Guy personally about such accusations. Larrick replied that he was only repeating what others had been telling and do so anyway. (Pl.'s App'x, Ex. 1, (Pl. Depo. at 139-41); Defs.' App'x, Ex. A (Guy Depo at 46-47)

96. Guy told Larrick he wished Larrick had come to him prior to the election. (CL 141/ln. 9-10, App. Ex. 1).

Defendants' Response: Denied as stated. Sheriff Guy asked why Plaintiff said Sheriff Guy was going to be firing people, when Plaintiff had not talked to Sheriff Guy personally about such accusations. Larrick replied that he was only repeating what others had been telling. Both Larrick and Guy testified that Sheriff Guy stated, "I wish you would have come to me." (Pl.'s App'x, Ex. 1, (Pl. Depo. at 139-41); Defs.' App'x, Ex. A (Guy Depo at 46-47). Plaintiff, by his own admission, indicated that talking to Guy would have not made a difference as he stated "it's not going to change." (Pl.'s App'x, Ex. 1, (Pl. Depo. at 139-41). At no time did Larrick or Sheriff Guy testify that Sheriff Guy said that he wished Plaintiff would have offered his support or made any statement to Larrick regarding Plaintiff wearing a shirt supporting Kress. (Pl.'s App'x, Ex. 1, (Pl. Depo. at 139-41); Defs.' App'x, Ex. A (Guy Depo at 46-47). According to both Plaintiff and Sheriff Guy, the two were having a conversation regarding Plaintiff spreading information he heard from other sources regarding Sheriff Guy's potential employment determinations and Sheriff Guy's wish that Plaintiff would have dealt with learning such information by approaching the issue with Sheriff Guy. (Pl.'s App'x, Ex. 1, (Pl. Depo. at 139-41); Defs.' App'x, Ex. A (Guy Depo at 46-47).

97. Larrick said it would not have changed who he supported, as he was friends with Kress. (CL 141/ln. 9-13, App. Ex. 1).

Defendants' Response: Denied as stated. It is admitted that Plaintiff testified that it would not have changed anything but also said it was what information regarding who was going to be terminated is what he heard and he was going to say it anyway, despite what Guy stated. (Pl.'s App'x, Ex. 1, (Pl. Depo. at 139-41); Defs.' App'x, Ex. A (Guy Depo at 46-47). Indeed, according to

both Plaintiff and Sheriff Guy, the two were having a conversation regarding Plaintiff spreading information he heard from other sources regarding Sheriff Guy's potential employment determinations and Sheriff Guy's wish that Plaintiff would have dealt with learning such information by approaching the issue with Sheriff Guy. At no time did Larrick or Sheriff Guy testify that Sheriff Guy said that he wish Plaintiff would have come talk to him and offered his support or made any statement to Larrick regarding Plaintiff wearing a shirt supporting Kress. (Pl.'s App'x, Ex. 1, (Pl. Depo. at 139-41); Defs.' App'x, Ex. A (Guy Depo at 46-47).

98. Admitted that Plaintiff testified as such.

99. Guy told Larrick he did not have close involvement with those people, to which Larrick replied he was only telling Guy what they were telling him. (CL 142/ln. 1-8, App. Ex. 1).

Defendants' Response: It is admitted that Plaintiff testified as such. However, Plaintiff's characterization is denied. Sheriff Guy asked why Plaintiff said Sheriff Guy was going to be firing people, when Plaintiff had not talked to Sheriff Guy personally about such accusations. Larrick replied that he was only repeating what others had been telling him. Both Larrick and Guy testified that Sheriff Guy stated, "I wish you would have come to me." (Pl.'s App'x, Ex. 1, (Pl. Depo. at 139-41); Defs.' App'x, Ex. A (Guy Depo at 46-47). Plaintiff, by his own admission, indicated that talking to Guy would have not made a difference as he stated "it's not going to change." (Pl.'s App'x, Ex. 1, (Pl. Depo. at 139-41); Defs.' App'x, Ex. A (Guy Depo at 46-47). At no time did Larrick or Sheriff Guy testify that Sheriff Guy said that he wished Plaintiff would have offered his support or made any statement to Larrick regarding Plaintiff wearing a shirt supporting Kress. According to both Plaintiff and Sheriff Guy, the two were having a conversation regarding Plaintiff spreading information he heard from other sources regarding Sheriff Guy's potential employment determinations and Sheriff Guy's wish that Plaintiff would have dealt with learning such information by approaching the issue with Sheriff Guy. (Pl.'s App'x, Ex. 1, (Pl. Depo. at 139-41); Defs.' App'x, Ex. A (Guy Depo at 46-47).

100. Admitted.

101. Larrick felt during this interaction that Guy was unhappy he was supporting Kress. (CL 141/ln. 19-25, App. Ex. 1).

Defendants' Response: Denied to the extent that Plaintiff attempts to interject his own beliefs that he thought Sheriff Guy was upset regarding his support of his opponent, such belief is self-serving testimony and not corroborated by the undisputed evidence regarding the nature of

the conversation according to both parties. (Pl.'s App'x, Ex. 1, (Pl. Depo. at 139-41); Defs.' App'x, Ex. A (Guy Depo at 46-47).

102. Larrick says that Guy was initially laughing with him about the situation with the elderly man, but that things then became uncomfortable. (CL 141/ln. 20-25, App. Ex. 1).

Defendants' Response: Denied. Sheriff Guy found the story about the elderly man to be "fantastic." Defs.' App'x, Ex. A (Guy Depo. at 108). By way of further response, Plaintiff testified that things became uncomfortable, but such subjective belief is not corroborated. Indeed, there is no evidence to demonstrate that things became uncomfortable in the conversation as a result of Plaintiff supporting Kress. (Pl.'s App'x, Ex. 1, (Pl. Depo. at 139-41); Defs.' App'x, Ex. A (Guy Depo at 46-47).

103. Admitted.

104. Admitted.

105. Admitted.

106. Admitted.

107. Admitted.

108. Guy confirms that Larrick was wearing a t-shirt that indicated his support for Kress, and may have had a ball cap and some stickers or buttons on the t-shirt in addition to that. (AG 44/ln. 21-25, App. Ex. 4).

Defendants' Response: Denied as stated. It is admitted that Sheriff Guy saw Plaintiff wearing a Kress t-shirt. Sheriff Guy did not know if Plaintiff was wearing any additional stickers or political buttons with respect to political support. Defs.' App'x, Ex. A (Guy Depo. at 44).

109. Admitted.

110. Admitted.

111. Admitted.

112. Guy also recalls that he talked to Larrick about difficulties he had under the current sheriff due to his relationship with him. (AG 47/In. 21-25, App. Ex. 4).

Defendants' Response: Denied as stated. Sherriff Guy testified that Plaintiff stated that he wanted to let Sheriff Guy know about some things in regard to his relationship with Sheriff David and some of the difficulties he had in the office. However, Sheriff Guy is not sure the specifics of the conversation. Defs.' App'x, Ex. A (Guy Depo. at 47).

113. Admitted.

114. Admitted.

115. Admitted.

116. Admitted.

INTERVIEWS

117. Admitted.

118. Admitted.

119. Admitted.

120. Admitted.

121. Admitted.

122. Admitted.

123. Admitted.

124. Admitted.

125. Admitted.

126. Admitted.

127. Admitted.

128. Admitted.

129. Admitted.

130. Admitted.

131. Admitted.

132. Admitted.

133. Admitted.

134. Admitted.

135. Admitted.

136. Guy admits that the Troopers reported having no problem with Larrick's honesty.

(AG 134/ln. 16-19, App. Ex. 4).

Defendants' Response: Denied. The testimony provides that "in their limited exposure" to Plaintiff during Sheriff David's criminal matter, the troopers did not have a problem with Plaintiff's honesty. Defs.' App'x, Ex. A (Guy Depo. at 134).

137. Admitted.

138. Admitted.

139. Admitted.

140. Admitted.

141. Admitted.

142. Guy initially claimed he did not specifically recall anything Alstadt said to him regarding Larrick at that meeting. (AG 84/ln. 1-3, App. Ex. 4).

Defendants' Response: Denied as stated. Sheriff Guy recalled that Larrick stated that Alstadt needs to be gone, because he had issues with truthfulness, was high maintenance and was unreliable. Alstadt indicated that others in the office did not trust Plaintiff and called Plaintiff "Lying Larrick. " See ¶¶ 143-145.

143. Admitted.

144. Admitted.

145. Admitted.

146. Admitted.

147. Alstadt denies thinking Larrick was a liar. (JA 30/ln. 5-6, App. Ex. 3).

Defendants' Response: Denied. Plaintiff mischaracterizes Alstadt's testimony relating to Plaintiff's truthfulness. Alstadt testified that others in the office believed that Plaintiff was a liar, as evidenced by his nickname, Lying Larrick. Pl.'s App'x, Ex. 3 (Alstadt Depo. at p. 30). Alstadt also testified that "Curt, I don't want to say that he – he would over exaggerate of over state something and then not be able to follow through. So I had minor issues with me, that's all" and that he did so to make himself look better. Pl.'s App'x, Ex. 3 (Alstadt Depo. at pp. 29-30). These statements could be interpreted as a polite way of saying Larrick lied.

148. Admitted.

149. Admitted.

150. Admitted.

151. Admitted.

152. Admitted.

153. It was brief. (CL 156/ln. 7, App. Ex. 1).

Defendants' Response: It is admitted that Plaintiff testified as such. However, by Plaintiff's own admission, he had time constraints which he reported before the interview. See ¶ 155.

154. Admitted.

155. Admitted that Plaintiff testified as such.

156. A question was raised about George David. (CL 156/ln. 16-18, App. Ex. 1).

Defendants' Response: Denied as stated. It is disputed whether a question was raised. However, it is admitted that Plaintiff's involvement with Sheriff David was brought up in the meeting.

157. Admitted.

158. Admitted.

159. Admitted.

160. At this time, Larrick informed them he had ongoing problems with Randy Tallon and Mike Hurst. (CL 157/ln. 20-24, App. Ex. 1).

Defendants' Response: Denied as stated. The testimony provides that when he was asked to tell the good and bad about each employee from a list, he told them "up front" that he had ongoing issues with Randy Tallon and Mike Hurst. Pl.'s App'x, Ex. 1 (Plaintiff Depo. at p. 157). He provided the phone records to Sheriff Guy and Dean Michael. Pl.'s App'x, Ex. 1 (Plaintiff Depo. at pp. 157-58).

161. When asked about this, Larrick explained an incident where Hurst had been contacting his then-wife while on duty, and provided them with the phone records. (CL 157/ln. 24- 25; 158/ln. 1-2, App. Ex. 1).

Defendants' Response: Denied as stated. It is undisputed that testimony provides that when he was asked to tell the good and bad about each employee from a list, he told them "up front" that he had ongoing issues with Randy Tallon and Mike Hurst. Pl.'s App'x, Ex. 1 (Pl. Depo. at p. 157). He provided the phone records to Sheriff Guy and Dean Michael. Pl.'s App'x, Ex. 1 (Pl. Depo. at pp. 157-58). It is denied that Plaintiff provided the records upon being asked about the incident. Pl.'s App'x, Ex. 4 (Guy Depo. at pp. 85, 119); Defs.' App'x, Ex. A (Guy Depo. at 146-47); Ex. O (Michael Depo. at p. 15-16).

162. Admitted that Plaintiff testified as such.

163. Guy's notes do not include Larrick's opinion on other personnel. (Guy's Interview Notes re: Curtis Larrick, App. Ex. 7).

Defendants' Response: Admitted to the extent that Sheriff Guy indicated he did not want to take notes during the interview portion in which the employees gave feedback of other employees, to allow for candid answers. Defs.' App'x, Ex. A (Guy Depo. at 95).

164. Admitted.

165. Admitted.

166. Larrick explained there were bad feelings towards him because he testified against George David. (CL 159/In. 14-16, App. Ex. 1).

Defendants' Response: Admitted that Plaintiff testified as such. However, Sheriff Guy and Michael do not recall the specifics of the "unremarkable" interview. Defs.' App'x, Ex. A (Guy Depo. at 116-17); Ex. O (Michael Depo. at p. 15-16, 41).

167. He further said David made it clear to the office that Larrick was no good and could not be trusted as a result of the situation. (CL 159/In. 14-23, App. Ex.).

Defendants' Response: Admitted that Plaintiff testified as such. However, Sheriff Guy and Michael do not recall the specifics of the "unremarkable" interview. Defs.' App'x, Ex. A (Guy Depo. at 116-17); Ex. O (Michael Depo. at p. 15-16, 41).

168. Admitted.

169. Admitted.

170. Michael claims he does not recall who told him Larrick had a problem being truthful. (DM 16/In. 15-17, App. Ex. 6).

Defendants' Response: Denied as stated. Michael indicated that it was a common theme among the several other deputies he interviewed that Plaintiff had an inability to be truthful. Defs.' App'xEx. O (Michael Depo. at p. 15-17).

171. Michael does not recall asking anyone outside the Sheriff's Department about Larrick, and did not review any documents or personnel files before recommending his termination. (DM 29/ln. 2-12, App. Ex. 6).

Defendants' Response: Admitted. By way of further response, Sheriff Guy attempted to obtain the personnel files of the Sheriff's Office employees but was not able to obtain them before he took office on January 4, 2017. Therefore, there was no opportunity to review personnel files or documents. Defs.' App'x, Ex. A (Guy Depo. at 67).

172. Michael admits other than employees telling him Larrick was not truthful, there was nothing else that helped him decide not to recommend retaining Larrick. (DM 29/ln. 13-17, App. Ex. 6).

Defendants' Response: Admitted to the extent that Michael was told by other employees that Plaintiff was not truthful. However, Michael only made a recommendation to Sheriff Guy and did not make any employment determinations. Sheriff Guy took into consideration all of the information stemming from the interviews and interactions in making his employment determinations. Defs.' App'x, Ex. A (Guy Depo. at 103-04).

173. Guy's notes from Larrick's interview do not include any reference to the discussion about Larrick's honesty or any personnel issues. (Guy's Interview Notes re: Curtis Larrick, App. Ex. 7).

Defendants' Response: Admitted. By way of further response, Sheriff Guy took minimal notes during the interviews of deputies, especially to the extent that the conversation involved others in the office to ensure that the deputies felt comfortable talking freely. Defs.' App'x, Ex. A (Guy Depo. at 95).

174. Other employees reacted with surprise at how short Larrick's interview was. (CL 161/ln. 22-24, App. Ex. 1).

Defendants' Response: Denied as stated. It is admitted Plaintiff testified as such, however such averment is inadmissible hearsay that is not corroborated by the evidence. Further, by Plaintiff's own admission, he had time constraints that he reported before the interview. See ¶ 55.

175. Guy also asked other employees about Larrick. (AG 96/ln. 20-25; 97/ln. 1-2, App. Ex. 4).

Defendants' Response: Admitted that Sheriff Guy asked others about Larrick. Most indicated that Plaintiff had a problem with the truth and it was nearly universally believed that Plaintiff could not be trusted. Other deputies called Plaintiff "Lying Larrick." Pl.'s App'x, Ex. 3 (Alstadt Depo. at p. 30); Defs.' App'x, Ex. A (Guy Depo. at pp. 113, 119-120, 133-34); Ex. O (Michael Depo. at pp. 16-20).

176. Admitted.

177. Admitted.

178. Admitted.

179. Admitted.

180. Admitted.

181. Admitted.

182. Admitted.

183. Guy claims Alstadt told him Larrick was high maintenance, and that Larrick had been on FMLA leave related to both his own medical issue and issues related to caring for his son. (AG 91/ln. 23-25; 92/ln. 1-3, App. Ex. 4).

Defendants' Response: Denied as stated. Alstadt told Sheriff Guy that Plaintiff was high maintenance and that his absenteeism was a burden on the office. Pl.'s App'x Ex., 4 (Guy Depo. at 91-92).

184. Admitted.

185. Admitted.

186. Admitted.

187. Admitted that Plaintiff testified as such.

188. Admitted that Plaintiff testified as such.

189. When Larrick called Alstadt to find out if this was true, Alstadt confirmed there was a list of people who would potentially be terminated. (CL 163/ln. 1-4, App. Ex. 1).

Defendants' Response: Denied. Alstadt indicated that no decisions had been made.

190. Alstadt later participated in a second interview with Guy and Michael at Guy's residence to discuss personnel. (DM 21/ln. 10-16, App. Ex. 6).

Defendants' Response: Denied as stated to the extent that Plaintiff characterizes the interaction as an interview. Rather, Alstadt met with Guy and Michael at Guy's residence to discuss employment decisions, and Alstadt made recommendations.

191. According to Dean Michael, the final decision of who would be terminated was made during the meeting at Guy's home between Guy, himself, and Alstadt. (DM 28/ln. 19-25; 29/ln. 1, App. Ex. 6).

Defendants' Response: Denied as stated. It is admitted that a meeting took place at Guy's home involving Guy, Alstadt and Michael and that employment decisions were discussed and recommendations were made. However, Sheriff Guy made the employment determinations. Defs.'s App'x, Ex. C (Alstadt Depo. at pp. 47-48, 52-53).

LARRICK IS TERMINATED

192. On December 31, 2015, Larrick received a call from Dave Mangerie telling him he was terminated. (CL 163/ln. 5-8, App. Ex. 1).

Defendants' Response: Admitted. By way of further response, Dave Mangerie was the employee union President. Defs.' App'x, Ex. B (Pl. Depo. at 42).

193. Admitted.

194. Admitted.

195. Larrick's termination notice states his termination is "department restructuring," and again references County Code Section 1620. (Larrick Termination Notice, App. Ex. 12).

Defendants' Response: Admitted to the extent that the document generally provides such information. However, the document was not drafted by Sheriff Guy and did not contain specifics relating to the termination determination. Defs.' App'x, Ex. A (Guy Depo at 129-30).

196. Admitted.

197. Admitted.

198. When asked in his deposition why he decided not to keep Larrick, Guy replied "character issue." (AG 131/ln. 12-15, App. Ex. 4).

Defendants' Response: Admitted. By way of further response, Sheriff Guy believes that character issues included honesty, integrity and his inability to work as a member of a team. These qualities appeared to Sheriff Guy to be lacking in Larrick. Defs.'s App'x, Ex. A (Guy Depo. at 131).

199. Specifically, he cited "honesty, integrity, trustworthiness, ability to work well as a member of a team." (AG 131/ln. 19-20, App. Ex. 4).

Defendants' Response: Admitted. By way of further response, Plaintiff found such issues to be qualities inappropriate for the position of Sheriff Deputy. Defs.'s App'x, Ex. A (Guy Depo. at 131).

200. During his deposition, however, Guy also said “the several instances of inappropriate conduct with females” was a factor in deciding to terminate Larrick. (AG 131/ln. 20-25; 132/ln. 1-2, App. Ex. 4).

Defendants’ Response: Admitted to the extent that information about such instances played a role in Sheriff Guy’s determination. By way of further response, Sheriff Guy considered Larrick’s characterization of the incidents underlying the sexual harassment allegations to be proof that Plaintiff had a problem with the truth and that he mischaracterized incidents. Pl.’s App’x, Ex. 4 (Guy Depo. at 85-86).

201. Admitted.

202. Guy also said during his deposition that he factored in his personal interaction with Larrick on election day. (AG 132/ln. 16-20, App. Ex. 4).

Defendants’ Response: Denied as stated. Guy considered his interaction with Plaintiff on election day to the extent that he considered Plaintiff’s story about an elderly man approaching Larrick and confusing him with Guy unbelievable (Defs.’ App’x, Ex. A (Guy Depo. at p. 108)) and that he was willing to repeat information after Guy told him it was not true. Defs.’ App’x, Ex. A (Guy Depo. pp. 46-47). Indeed, such evidence demonstrates Plaintiff’s problem with the truth and his propensity to mischaracterize events to make himself sound better. Defs.’ App’x, Ex. A (Guy Depo. pp. 131-36).

203. Guy specifically considered the story Larrick told him, and his willingness to repeat information someone else told him. (AG 132/ln. 16-25, App. Ex. 4).

Defendants’ Response: See Defendants’ Response to ¶ 202, which is incorporated with reference herein.

204. Admitted.

205. Guy claims he does not recall whether Larrick said anything to him about his hearing he would be fired when Guy took over. (AG 58/ln. 23-25; 59/ln. 1-3, App. Ex. 4).

Defendants' Response: Denied as stated. Sheriff Guy recalls that he heard that Plaintiff was things about Sheriff Guy planning hiring and firing certain people. Defs.' App'x, Ex. A (Guy Depo. pp. 46-47). It is undisputed that the substance of the conversation between Plaintiff and Sheriff Guy on election day centered around Plaintiff telling people that Sheriff Guy would make employment determinations without Plaintiff learning that information directly from Sheriff Guy and repeating it after being told by Sheriff Guy it was not necessarily so. Defs.' App'x, Ex. A (Guy Depo. pp. 46-47); Pl.'s App'x, Ex.1 (Pl. Depo. at p. 139-41).

206. When asked what information he considered in deciding not to retain Larrick, Guy said the information he obtained about Larrick showed he was not a team player, created drama, and was high maintenance and took up management's time with his issues that were at time personal in nature. (AG 108/ln. 5-12, App. Ex. 4).

Defendants' Response: Admitted. By way of further response, these are qualities in which Sheriff Guy found to be inappropriate for a Deputy Sheriff. Defs.' App'x, Ex. A (Guy Depo. at 135-36).

207. Admitted.

208. Guy admits he also considered his personal interaction with Larrick and the conversation he had with him at the polls. (AG 108/ln. 19-25, App. Ex. 4).

Defendants' Response: Denied as stated. Guy considered his interaction with Plaintiff on election day to the extent that he considered Plaintiff's story about an elderly man approaching Larrick and confusing him with Guy unbelievable (Defs.' App'x, Ex. A (Guy Depo. at 108)) and that he was willing to repeat unverified information regarding Sheriff Guy after being told from Sheriff Guy that it was not true. (Defs.' App'x, Ex. A (Guy Depo. at 46-47). Indeed, such evidence demonstrates Plaintiff's problem with the truth and his propensity to mischaracterize events to make himself sound better. Defs.' App'x, Ex. A (Guy Depo. at 131-36).

Sexual Harassment

209. Admitted.

210. Admitted.

211. Admitted.

212. It is admitted Plaintiff testified as such. By way of further response, Human Resources investigated Stevenson's complaint and interviewed Plaintiff regarding her complaint. Pl.'s App'x, Ex. 2 (Darbut Depo. at 24, 72-73).

213. Kayla admitted to Larrick she was coerced into making this complaint and apologized to him. (CL 124/ln. 11-16; 125/ln. 17-22, App. Ex. 1).

Defendants' Response: Denied. Human Resources investigated Stevenson's complaint and did not have enough evidence to make a finding that the incident had occurred. Stevenson told Darbut during his investigation that the incidents occurred. Stevenson never recanted her complaint of sexual harassment to Human Resources. No one indicated that Sheriff David or put her up to making a complaint. Pl.'s App'x, Ex. 2 (Darbut Depo. at 19-23, 27-28).

214. Kayla further told him she was coached by Tallon to try to "jam him up." (CL 124/ln. 16-17, App. Ex. 1).

Defendants' Response: Denied. Human Resources investigated Stevenson's complaint and did not have enough evidence to make a finding that the incident had occurred. Stevenson told Darbut during his investigation that the incidents occurred. Stevenson never recanted her complaint of sexual harassment to Human Resources. No one indicated that Sheriff David or anyone put her up to making a complaint. Pl.'s App'x, Ex. 2 (Darbut Depo. at 19-23, 27-28).

215. Admitted.

216. Admitted.

217. Admitted.

218. Darbut had been told in advance by other deputies that there was a conspiracy to make these claims against Larrick, and that Stevenson would be coming forward with this complaint. (CL 125/ln. 1-9, App. Ex. 1).

Defendants' Response: Denied. No one indicated that Sheriff David or anyone put her up to making a complaint. Stevenson made a complaint and then Human Resources investigated Stevenson's complaint. There was not enough evidence to make a finding that the incident had occurred. Stevenson told Darbut during his investigation that the incidents occurred.

219. Part of the reason for the investigation was the possibility that the claims had been spearheaded by George David. (CL 125/ln. 5-9, App. Ex. 1).

Defendants' Response: Denied. Stevenson made a complaint and then Human Resources investigated Stevenson's complaint. There was not enough evidence to make a finding that the incident had occurred. Stevenson told Darbut during his investigation that the incidents occurred. Pl.'s App'x, Ex. 2 (Darbut Depo. at 19-23, 27-28).

220. Admitted.

221. Admitted.

222. Admitted.

223. Admitted.

224. Admitted.

225. Admitted.

226. Admitted.

227. Admitted.

228. Admitted.

229. Admitted.

230. Admitted.

231. Admitted.

232. Darbut did not learn much from these interviews. (RD 28/ln. 6-11; 27/ln. 21-24, App. Ex. 2).

Defendants' Response: Denied as to Plaintiff's characterization. Indeed, Darbut conducted interviews of Stevenson, Hamilton, Rapko and Branchetti who provided their version of the allegations. Pl.'s App'x, Ex. 2 (Darbut Depo. at 27-28).

233. Darbut told Mangerie and Clark, the union representatives at the time, and Alstadt, that the matter was over and there was nothing to the allegation. (CL 126/ln. 19-25, App. Ex. 1).

Defendants' Response: Denied as stated. Darbut indicated that there was not enough evidence to make a finding of sexual harassment. Pl.'s App'x, Ex. 2 (Darbut Depo. at 24).

234. Larrick says Darbut also told Larrick that he was being set up. (CL 127/ln. 8, App. Ex. 1).

Defendants' Response: Plaintiff testified as such. However, no one indicated to Darbut that Sheriff David or anyone put Stevenson up to making a complaint. Pl.'s App'x, Ex. 2 (Darbut Depo. at 19-23, 27-28).

235. Admitted.

236. Admitted.

237. Darbut advised Larrick not to talk to Stevenson to protect himself. (CL 127/ln. 9-14, App. Ex. 1).

Defendants' Response: It is admitted that Plaintiff testified as such. However, such testimony is not corroborated. Larrick was told not to talk to Stevenson as a result Stevenson indicating that she did not want Plaintiff to talk to her. See ¶ 236.

238. Admitted.

239. However, he also says that an office employee named Stephani overheard Sheriff David talking to Paul Clark about Stevenson's allegation about whether it was something they could use against Larrick. (RD 25/ln. 2-21, App. Ex. 2).

Defendants' Response: Denied. Plaintiff mischaracterizes the testimony. Subsequent to the sexual harassment investigation regarding Stevenson's complaint, Plaintiff asked Human Resources to investigate what other people in the office were saying. This included the allegation that Stefani heard Sheriff David and Paul Clark discussing Stevenson's allegation against Plaintiff.

240. Admitted.

241. Admitted.

242. Admitted.

243. After Stevenson's complaint, there were no other complaints regarding Larrick's interaction with women. (RD 32/ln. 21-25, App. Ex. 2).

Defendants' Response: Denied. In October 2014, Alstadt learned that Judge Kwidis complained about Larrick bothering his female law clerk by trying to communicate with her in a way which she wanted to stop. Appendix, Ex. C (Alstadt Depo. at pp. 23-25); Ex. I (Incident Report); Ex. B (Plaintiff Depo. at p. 127). Further, Alstadt received a complaint from Deputy Hunter previously indicating that Plaintiff was inappropriately interacting with Hunter's girlfriend. See Defs.' App'x, Ex. B (Pl.'s Depo. at 112).

244. Admitted.

245. Admitted.

246. Admitted.

247. Admitted.

248. However, Guy said he does not know if he ever asked Alstadt whether Larrick was disciplined for these incidents. (AG 87/ln. 6-8, App. Ex. 4).

Defendants' Response: Admitted to the extent that Sheriff Guy did not know if discipline ensued as a result of these incidents, as Sheriff Guy could not access the personnel files from Human Resources before taking office, as he was not yet a County employee. Defs.' App'x, Ex. A (Guy Depo. at 67).

249. Admitted.

250. Admitted.

251. Hunter did not think it was appropriate for Larrick to speak to her at all. (CL 113/ln. 15-23, App. Ex. 1).

Defendants' Response: It is admitted that Plaintiff testified as such. However, such averment is inadmissible hearsay.

252. Admitted.

253. Admitted.

254. Admitted.

255. Admitted.

256. Admitted.

257. Admitted.

258. The judge told Larrick he was not the type of guy for the clerk. (CL 128/ln. 1-5, App. Ex. 1).

Defendants' Response: Admitted that Plaintiff testified as such. However, the judge approached Alstadt regarding the interactions between his clerk and Plaintiff and asked that Alstadt put a stop to it. Defs.' App'x, Ex. C (Alstadt Depo. at pp. 23-25); Ex. I (Incident Report); Ex. B (Plaintiff Depo. at p. 127).

259. Admitted that Plaintiff maintained as such.

260. Admitted.

261. Admitted.

262. Admitted.

263. Admitted.

264. Admitted.

265. Guy admits his knowledge of whether the harassment actually occurred was based only on the interviews he conducted with deputies and command staff and information he had collected. (AG 132/ln. 3-10, App. Ex. 4).

Defendants' Response: Admitted. By way of further response, Sheriff Guy attempted to retrieve Human Resources' personnel files before making employment determinations, but was unable to obtain them before taking office as he was not yet an employee of the County to allow him access to such information. Defs.' App'x, Ex. A (Guy Depo. at 67).

266. Guy admits he does not know whether Larrick was ever disciplined regarding any sexual harassment allegations. (AG 121/ln. 4-7, App. Ex. 4).

Defendants' Response: Admitted. By way of further response, Sheriff Guy attempted to retrieve Human Resources' personnel files before making employment determinations, but was unable to obtain them before taking office as he was not yet an employee of the County to allow him access to such information. Defs.' App'x, Ex. A (Guy Depo. at 67).

267. Admitted.

268. Admitted.

269. Admitted.

270. Admitted.

271. Guy also did not speak with any of the individuals that Larrick allegedly sexually harassed. (AG 122/ln. 11-14, App. Ex. 4).

Defendants' Response: Denied as stated. There were allegations of sexual harassment made by Deputy Stevenson. Sheriff Guy attempted to contact and interview Stevenson, however she was suspended at the time of the interviews due to her involvement in harboring a fugitive and Stevenson's attorney would not produce her for an interview. See ¶ 272; Defs.' App'x, Ex. A (Guy Depo. at 122).

272. Guy did not ever interview Stevenson, because she was suspended from her job at that point. (AG 122/ln. 15-22, App. Ex. 4).

Defendants' Response: Admitted. By way of further response, see Defendants' Response to ¶ 271, which is incorporated with reference herein.

Untruthfulness

273. Admitted.

274. However, when asked if there was anything specific Alstadt told him thought Larrick lied to him about during that meeting, Guy could not think of any examples. (AG 85/ln. 1-25; 86/ln. 1-10, App. Ex. 4).

Defendants' Response: Denied. When asked about Plaintiff's lying, Sheriff Guy indicated that it was believed that Plaintiff lied about attending funerals to the extent that a deputy sheriff went to a funeral to ensure Plaintiff was actually there. Pl.'s App'x, Ex. 4 (Guy Depo. at pp. 85, 119); Defs.' App'x, Ex. O (Michael Depo. at p. 19). Sheriff Guy provided that Plaintiff would mischaracterize events to make himself look better; Guy cited to Plaintiff's recitation of the incidents underlying the sexual harassment complaints made against him as evidence of Plaintiff mischaracterizing events. Pl.'s App'x, Ex. 4 (Guy Depo. at pp. 85-86). Guy also cited to an incident in which Plaintiff claimed to have a relationship with a news reporter, but the news reporter denied knowing Plaintiff. Defs.' App'x, Ex. A (Guy Depo. at pp. 118-119). Sheriff Guy also provided the example that deputies told him that Larrick complained about getting in trouble for admitted he was not wearing a seatbelt and that was the one and only time he actually told the truth. Defs.' App'x, Ex. A (Guy Depo. at pp. 119-120).

275. He also admits the Troopers had no problem with Larrick's honesty. (AG 134/In. 16- 19, App. Ex. 4).

Defendants' Response: Denied. See Response to ¶ 136 , which contains the same allegation as set forth in Paragraph 275, and Defendants' Response, which is incorporated with reference herein.

276. Admitted.

277. However, Guy admits he was also told that Larrick was indeed at the funeral home. (AG 85/In. 17-19, App. Ex. 4).

Defendants' Response: It is admitted that Plaintiff told Sheriff Guy as such. However, Sheriff Guy was told by numerous deputies that Plaintiff was accused of such behavior to the extent that they sent a deputy to see if Plaintiff was actually at the funeral. Plaintiff was at said funeral, but there is no evidence that Plaintiff actually attended the other funerals which he alleged to have attended. Pl.'s App'x, Ex. 4 (Guy Depo. at pp. 85, 119); Defs.' App'x, Ex. O (Michael Depo. at p. 19).

278. Admitted.

279. Admitted.

280. Larrick denies that he ever lied to his co-workers about being in a relationship with or knowing a news reporter. (Larrick Declaration at ¶ 2, App. Ex. 15).

Defendants' Response: It is admitted that Plaintiff declared as such. However, Plaintiff's self-serving affidavit providing that he did not lie to his co-workers about a relationship with a reporter cannot be used to defeat summary judgment. *Blair v. Scott Specialty Gases*, 283 F.3d 595, 608 (3d Cir. 2002).

281. Admitted.

282. Admitted.

283. Admitted.

284. Alstadt says he had no issues with Larrick's truthfulness pertaining to the job. (JA 29/ln. 12-18; 30/ln. 11-16, App. Ex. 3).

Defendants' Response: Denied. Plaintiff mischaracterizes Alstadt's testimony relating to Plaintiff's truthfulness. Alstadt testified that others in the office believed that Plaintiff was a liar, as evidenced by his nickname, Lying Larrick. Pl.'s App'x, Ex. 3 (Alstadt Depo. at p. 30). Alstadt also testified that "Curt, I don't want to say that he – he would over exaggerate of over state something and then not be able to follow through. So I had minor issues with me, that's all" and that he did so to make himself look better. Pl.'s App'x, Ex. 3 (Alstadt Depo. at pp. 29-30). These statements can be interpreted as a polite way of saying Larrick lied.

285. He also says he only had minor issues outside of work related to over-exaggerating or overstating something and not being able to follow through. (JA 29/ln. 19-23, App. Ex. 3).

Defendants' Response: Denied. Plaintiff mischaracterizes Alstadt's testimony relating to Plaintiff's truthfulness. Alstadt testified that others in the office believed that Plaintiff was a liar, as evidenced by his nickname, Lying Larrick. Pl.'s App'x, Ex. 3 (Alstadt Depo. at p. 30). Alstadt also testified that "Curt, I don't want to say that he – he would over exaggerate of over state something and then not be able to follow through. So I had minor issues with me, that's all" and that he did so to make himself look better. Pl.'s App'x, Ex. 3 (Alstadt Depo. at pp. 29-30). These statements can be interpreted as a polite way of saying Larrick lied.

286. Alstadt denies thinking Larrick was a liar. (JA 30/ln. 5-6, App. Ex. 3).

Defendants' Response: Denied as stated. Plaintiff mischaracterizes Alstadt's testimony relating to Plaintiff's truthfulness. Alstadt testified that others in the office believed that Plaintiff was a liar, as evidenced by his nickname, Lying Larrick. Pl.'s App'x, Ex. 3 (Alstadt Depo. at p. 30). Alstadt also testified that "Curt, I don't want to say that he – he would over exaggerate of over state something and then not be able to follow through. So I had minor issues with me, that's all" and that he did so to make himself look better. Pl.'s App'x, Ex. 3 (Alstadt Depo. at pp. 29-30). These statements can be interpreted as a polite way of saying Larrick lied.

287. Admitted.

288. Admitted.

289. Admitted.

290. Admitted.

291. However, despite asking, Alstadt never learned why Larrick had that nickname.

(JA 31/ln. 10-16, App. Ex. 3).

Defendants' Response: Denied. When Alstadt asked, most of the employees would say "you'll see" or "you'll find out."

292. Admitted.

293. Specifically, he said Tallon lied when he was caught with a woman in a county vehicle. (JA 32/ln. 14-15; 21-23, App. Ex. 3).

Defendants' Response: Admitted. By way of further response, Tallon retired and stopped working at the beginning of 2017 and never worked for Sheriff Guy. Therefore, Sheriff Guy did not need to make any employment determination about Tallon. Defs.' App'x, Ex. A (Guy Depo. at 57-58, 141).

294. Alstadt also stated that Paul Clark, Don Fratangelli, and Tom Ochs had also lied to him. (JA 32/ln. 16-20, App. Ex. 3).

Defendants' Response: Admitted. By way of further response, these employees were terminated by Sheriff Guy. Defs.' App'x, Ex. R (Termination Letter).

295. Admitted.

296. Admitted.

297. Admitted.

298. Admitted.

299. However, Guy admits he does not recall telling Larrick about any of the specific incidents where he allegedly lied in order to rebut them. (AG 117/ln. 23-25; 118/ln. 1-8, App. Ex. 4).

Defendants' Response: Denied. When asked about Plaintiff's lying, Sheriff Guy indicated that it was believed that Plaintiff lied about attending funerals to the extent that a deputy sheriff was sent to a funeral to ensure Plaintiff was actually there. Pl.'s App'x, Ex. 4 (Guy Depo. at pp. 85, 119); Defs.' App'x, Ex. O (Michael Depo. at p. 19). Sheriff Guy provided that Plaintiff would mischaracterize events to make himself look better; Guy cited to Plaintiff's recitation of the incidents underlying the sexual harassment complaints made against him as evidence of Plaintiff mischaracterizing events. Pl.'s App'x, Ex. 4 (Guy Depo. at pp. 85-86). Guy also cited to an incident in which Plaintiff claimed to have a relationship with a news reporter, but the news reporter denied knowing Plaintiff. Defs.' App'x, Ex. A (Guy Depo. at pp. 118-119). Sheriff Guy also provided the example that deputies told him that Larrick complained about getting in trouble for admitted he was not wearing a seatbelt and that was the one and only time he actually told the truth. Defs.' App'x, Ex. A (Guy Depo. at pp. 119-120).

300. Admitted.

301. Guy was also told by multiple deputies that Larrick had told the truth regarding an automobile crash where he was on duty and not wearing a seat belt. (AG 119/ln. 20-25; 120/ln. 1, App. Ex. 4).

Defendants' Response: Denied as stated. Deputies told Sheriff Guy that Plaintiff complained about getting in trouble for admitting he was not wearing a seatbelt and that Plaintiff stated that was the one and only time he actually told the truth. Defs.' App'x, Ex. A (Guy Depo. at pp. 119-120).

302. Admitted.

302. Admitted.

303. Admitted.

304. Admitted.

305. Admitted.

306. Guy admits Larrick told the truth about not wearing his seatbelt. (AG 120/ln. 3-6, App. Ex. 4).

Defendants' Response: Denied as stated. Deputies told him Sheriff Guy that Plaintiff complained about getting in trouble for admitting he was not wearing a seatbelt and that Plaintiff stated that was the one and only time he actually told the truth. Defs.' App'x, Ex. A (Guy Depo. at pp. 119-120).

307. Guy claims he thinks he was told Larrick said the one time he told the truth he got in trouble for it. (AG 120/ln. 1-6, App. Ex. 4).

Defendants' Response: Denied as stated. Deputies told him Sheriff Guy that Plaintiff complained about getting in trouble for admitting he was not wearing a seatbelt and that Plaintiff stated that was the one and only time he actually told the truth. Defs.' App'x, Ex. A (Guy Depo. at pp. 119-120).

308. Admitted.

309. Admitted.

310. Admitted.

311. Admitted.

312. Despite the report being false, Larrick called Alstadt and the Sheriff's Office to let them know what had happened. (CL 107/ln. 22-25; 108/ln. 1-3, App. Ex. 1).

Defendants' Response: Denied as stated. It is admitted that Plaintiff called Alstadt to discuss the incident. It was protocol for deputies to report police contact to the Office.

313. Admitted.

314. Admitted.

315. Admitted.

316. Admitted.

317. Admitted.

318. Admitted.

High Maintenance

319. Admitted.

320. Admitted.

321. Admitted.

322. Admitted.

323. Admitted.

324. Admitted.

325. Admitted.

326. Admitted.

327. Alstadt says the time he spent dealing with Larrick's issues was not why he recommended Larrick's termination. (JA 79/ln. 16-21, App. Ex. 3).

Defendants' Response: Denied. The testimony cited by Plaintiff provides that the time Alstadt spent dealing with Plaintiff was a factor in his recommendation to Sheriff Guy that Plaintiff be terminated. Pl.'s App'x, Ex. 3 (Alstadt Depo. at 16-21).

328. Instead, he recommended Larrick be let go because of controversy within and burden on the office caused by Larrick's absenteeism. (JA 48/ln. 1-13, App. Ex. 3).

Defendants' Response: Denied as stated. Alstadt recommended that Plaintiff be terminated because he was high maintenance, in that Alstadt had to deal with issues with Plaintiff on a daily basis, Plaintiff was not trusted by the other deputies and because his absenteeism for a year and half had been a burden on the office. Defs.'s App'x, Ex. C (Alstadt Depo. at pp. 47-48, 52-53); Ex. A (Guy Depo. at 84-85).

329. Alstadt did not disclose the phone conversations he regularly had with Larrick at that time. (JA 79/ln. 19-24, App. Ex. 3).

Defendants' Response: Denied as stated. Alstadt told Sheriff Guy that Plaintiff was high maintenance and had controversy with most people in the office. Alstadt did not include all of the specific incidents when discussing his recommendation to Sheriff Guy to terminate Plaintiff. Defs.'s App'x, Ex. C (Alstadt Depo. at pp. 47-48, 52-53, 79).

330. Alstadt said Larrick began to become a burden near the end of his employment because of his troubled relationship with the sheriff and deputies. (JA 80/ln. 19-23, App. Ex. 3).

Defendants' Response: Denied as stated. Alstadt dealt with Plaintiff's issues long before the end of his employment, but towards the end he felt there was no resolution or end to the problems with Plaintiff. See Defs.' Reply CSMF at ¶¶ 8-28; Ex. C (Alstadt Depo. at 48, 80).

331. Some of these issues stemmed from Larrick's being out of the office on medical leave. (JA 80/ln. 19-25; 81/ln. 1-3, App. Ex. 3).

Defendants' Response: Denied as stated. Plaintiff mischaracterizes the testimony. The issues toward the end of Plaintiff's employment stemmed from his absenteeism. However, Plaintiff had conflict with most people in the office.

PERSONNEL CHANGES

332. Guy decided to terminate Ochs, Tibolet, Frantangeli, Clark, Kuhlber, Stevenson, and Larrick. (01/04/2017 Notice of Intent to Invoke Act 1620 Rights, App. Ex. 15); (DM 22/ln. 7-18, App. Ex. 6).

Defendants' Response: Admitted to the extent that Sheriff Guy made the decision to terminate the above individuals. By way of further response, Sheriff Guy also demoted Alstadt from Chief Deputy to Captain and McGeehan from Captain to Deputy Sheriff. Defs.' App'x, Ex. R (Termination Letter).

Ochs

333. Guy claims he does not know who Ochs supported in the general election. (AG 51/ln. 2-3, App. Ex. 4).

Defendants' Response: It is admitted that Sheriff Guy testified as such, and there is no evidence to suggest that Sheriff Guy knew otherwise.

334. Admitted.

335. Admitted.

336. Admitted.

337. Admitted.

338. Admitted.

339. Admitted.

340. According to Dean Michael, the primary reason for Ochs not being retained was his being arrested by the Pennsylvania State Police. (DM 22/ln. 22-24, App. Ex. 6).

Defendants' Response: Michael did not make the decision to terminate Ochs. Sheriff Guy made the decision to terminate Ochs. Indeed, Ochs was terminated due to his character issues-including his issues with the State Police which were documented by the papers and his involvement in Sheriff David's investigation in which he failed to tell the truth initially. See ¶ 340.

Tibolet

341. Guy claims he does not know who Tibolet supported in the general election. (AG 50/ln. 24-25; 51/ln. 1, App. Ex. 4).

Defendants' Response: It is admitted that Sheriff Guy testified as such, and there is no evidence to suggest that Sheriff Guy knew otherwise.

342. Admitted.

343. Admitted.

344. Admitted.

345. Admitted.

Frantangeli

346. Admitted.

347. Admitted.

348. Towards the end of the election process, Frantangeli supported Guy. (JA 41/In. 20-21, App. Ex. 3).

Defendants' Response: Admitted to the extent that towards the end of the election process refers to the general election. See ¶ 46.

349. Admitted.

350. Admitted.

351. Admitted.

352. Admitted.

353. Admitted.

354. Admitted.

355. Admitted.

356. Admitted.

357. Admitted.

358. Admitted.

359. Admitted.

360. Admitted.

361. Admitted.

362. Admitted.

363. Admitted.

364. Admitted.

Clark

365. Admitted

366. Guy's notes indicate Clark supported Kress in the general election. (AG 125/In. 10- 20, App. Ex. 4).

Defendants' Response: Denied as stated. Sheriff Guy's notes indicating Clark supported Kress came from Fratangeli. Sheriff Guy wrote this down as a statement from Fratangeli, indicating that Fratangeli thought such political information was important. Fratangeli's emphasis on politics did not fit Plaintiff's view of the office. Guy does not believe who someone supported or voted for in the election for Sheriff's Office makes a difference in the performance of their duties. Defs.' App'x, Ex. A (Guy Depo. 125-57).

367. Kress confirms that Clark and Larrick supported his campaign, including putting up signs and attending campaign events. (Kress Declaration at ¶ 2, App. Ex. 17).

Defendants' Response: Admitted that Kress so declared, but there is no evidence demonstrating Sheriff Guy's knowledge of Clark and Larrick's activities in Kress' campaign.

368. Admitted.

369. Admitted.

370. Admitted.

371. Admitted.

372. In his notes from Frantangeli's interview, Guy wrote, "No fucking good, initially hit it off, supported Kress wannabe," next to Clark's name. (AG 125/ln. 10-20, App. Ex. 4).

Defendants' Response: Admitted. By way of further response, Sheriff Guy wrote this down that Clark supported Kress as a statement from Fratangeli. Defs.' App'x, Ex. A (Guy Depo. 125-57).

373. Admitted.

374. Admitted.

375. Admitted.

Kuhlber

376. Kuhlber supported Kress in his campaign for Sheriff. (Kress Declaration at ¶ 7, App. Ex. 17).

Defendants' Response: It is admitted that Kress declared that Kuhlber supported his campaign, but there is no evidence to demonstrate that Sheriff Guy knew of Kuhlber's support of Kress. See ¶ 377.

377. Guy claims he does not know who Kuhlber supported in the general election. (AG 41/ln. 7-9, App. Ex. 4).

Defendants' Response: It is admitted that Sheriff Guy testified that he did not know who Kuhlber supported the election for Sheriff. There is no evidence to suggest the Sheriff Guy knew otherwise.

378. Admitted.

379. Admitted.

380. Admitted.

381. Admitted.

382. Admitted.

383. Admitted.

384. Admitted.

385. Admitted.

386. Admitted.

387. Admitted.

388. Admitted.

389. Admitted.

390. Admitted.

391. Admitted.

392. Admitted.

393. Admitted.

Stevenson

394. Guy claims he does not know who Stevenson supported in the general election.

(AG 50/ln. 18-23, App. Ex. 4).

Defendants' Response: It is admitted that Sheriff Guy claimed he did not know who Stevenson supported in the general election. There is no evidence to suggest that Sheriff Guy knew otherwise.

395. Admitted.

396. Admitted.

397. Admitted.

398. Guy says that Stevenson was eliminated due to her short tenure with the Sheriff's office and problems related to her harboring her brother, which he saw as a character issue. (AG 99/ln. 24-25; 100/ln. 1-5, App. Ex. 4).

Defendants' Response: Denied as stated with respect to Plaintiff's characterization of the fact that Stevenson had a short tenure. Sheriff Guy indicated that due to Stevenson's short tenure, there was no good information to potentially weigh against the allegations that she was harboring a fugitive, who was her brother. It is admitted that Sheriff Guy terminated Stevenson because of the character issues demonstrated by harboring a fugitive.

McGeehan

399. Admitted.

400. Olayer recommended terminating McGeehan. (AG 76/ln. 21-25; 77/ln. 1-3, App. Ex. 4).

Defendants' Response: Denied as stated. Sheriff Guy interviewed two state troopers who were involved in the investigation and criminal trial of former Sheriff David. While Trooper Olayer recommended terminating McGeehan, Trooper Masura did not think McGeehan should be terminated. Defs.' App'x, Ex. A (Guy Depo at 62-64, 68, 77).

401. Admitted.

402. Admitted.

403. Guy's notes reflect the Troopers may have said McGeehan falsified information at the grand jury. (AG 77/ln. 10-18, App. Ex. 4); (Guy's Interview Notes from Trooper Interviews with Jay Alstadt DEFDISC0052, App. Ex. 5).

Defendants' Response: Denied as stated. It is admitted that Olayer thought that McGeehan may have falsified information to the grand jury, but Masura did not believe that McGeehan falsified such information. Defs.' App'x, Ex. A (Guy Depo at 62-64, 68, 77).

404. Guy does not believe they told him specifically what they thought McGeehan falsified, but admits he does not recall. (AG 77/ln. 19-25; 78/ln. 1-3, App. Ex. 4).

Defendants' Response: Denied as stated. It is admitted that Olayer thought that McGeehan may have falsified information to the grand jury, but Masura did not believe that McGeehan falsified such information. It is admitted that Sheriff Guy does not recall the specifics of the falsification allegation made by Olayer.

405. Admitted.

406. Admitted.

407. Despite this, McGeehan was retained by Guy, and remained an employee of Defendant until retirement. (AG 53/ln. 8-19, App. Ex. 4).

Defendants' Response: Denied. McGeehan was demoted from Captain to Deputy Sheriff by Sheriff Guy when Sheriff Guy took office on January 4, 2016. He remained a deputy sheriff until he retired. Defs' App'x, Ex. R (Termination Letter).

408. While McGeehan did receive a demotion, it was only done so that Alstadt could fill his position. (AG 56/ln. 10-13, App. Ex. 4).

Defendants' Response: Admitted in part, denied in part. It is admitted that McGeehan was demoted. However, Plaintiff mischaracterizes the testimony with respect to the demotion. Sheriff Guy appointed Dean Michael to his Chief position. Indeed, it was typical of incoming Sheriff's to appoint their own Chief given that they have policy making authority. As such, Dean Michael's appointment is irrelevant to the determination, as his is a position in which affiliation could matter. In appointing Dean Michael to Chief, he demoted Alstadt to captain, because he believed Alstadt should still have a leadership role given that he held the office together during the tumultuous times under the former sheriff. Pl.'s App'x, Ex. 4 (Guy Depo at 55-56). Alstadt did not openly support either candidate during the general election for Sheriff. See ¶¶ 409-414. Sheriff Guy also believed that McGeehan managed in a gruff manner. As such, McGeehan was demoted from a command position to deputy sheriff. Pl.'s App'x, Ex. 4 (Guy Depo at 55-56).

Alstadt

409. Admitted.

410. Admitted.

411. Admitted.

412. Admitted.

413. Admitted.

414. Admitted.

415. When Guy met with the Troopers, Olayer recommended that Alstadt be terminated. (AG 64/ln. 9-10, App. Ex. 4).

Defendants' Response: Denied as stated. Sheriff Guy interviewed two state troopers who were involved in the investigation and criminal trial of former Sheriff David. While Trooper Olayer recommended terminating Alstadt, Trooper Masura did not think Alstadt should be terminated. Defs.' App'x, Ex. A (Guy Depo at 62-64, 68, 77).

416. He made this recommendation because he believed Alstadt may have lied to the Grand Jury during the criminal proceedings against Sheriff David. (AG 64/ln. 13-16, App. Ex. 4) (Guy's Interview Notes from Trooper Interviews with Jay Alstadt DEFDISC 51, App. Ex. 5).

Defendants' Response: Denied as stated. Sheriff Guy interviewed two state troopers who were involved in the investigation and criminal trial of former Sheriff David. While Trooper Olayer recommended terminating Alstadt based on his opinion that he may have lied during the grand jury, Trooper Masura did not agree. Defs.' App'x, Ex. A (Guy Depo at 62-64, 68, 77).

417. Olayer also relayed that Alstadt had showed up for his interview with the state police in his uniform. (AG 68/ln. 16-20, App. Ex. 4); (Guy's Interview Notes from Trooper Interviews with Jay Alstadt DEFDISC 51, App. Ex. 5).

Defendants' Response: Denied as stated. Sheriff Guy interviewed two state troopers who were involved in the investigation and criminal trial of former Sheriff David. While Trooper Olayer stated as such, Trooper Masura did not agree that showing up in uniform was an issue. Defs.' App'x, Ex. A (Guy Depo at 62-64, 68, 77).

418. Olayer felt Alstadt did this in an attempt to assert some authority. (AG 68/ln. 23-24, App. Ex. 4).

Defendants' Response: Denied as stated. Sheriff Guy interviewed two state troopers who were involved in the investigation and criminal trial of former Sheriff David. While Olayer stated as such, Trooper Masura did not agree that showing up in uniform was an issue. Defs.' App'x, Ex. A (Guy Depo at 62-64, 68, 77).

419. Alstadt was retained. (AG 53/ln. 9-10; 55/ln. 17-21, App. Ex. 4).

Defendants' Response: Denied as stated. Alstadt was demoted from Chief to Captain when Sheriff Guy took office on January 4, 2017. Defs.' App'x, Ex. R (Termination Letter).

420. Admitted.

421. Admitted.

Tallon

422. Randy Tallon campaigned for Guy. (CL 60/ln. 2-3, App. Ex. 1).

Defendants' Response: Denied. Sheriff Guy does not recall meeting Randy Tallon during his campaign and believes he met him after the election. Sheriff Guy does not know who Tallon supported in the election. Defs.' App'x, Ex. A (Guy Depo. at 23-24).

423. Kress confirms that Tallon was a vocal supporter of Guy for Sheriff in 2015. (Kress Declaration at ¶ 3, App. Ex. 17).

Defendants' Response: It is admitted that Kress declared that Tallon supported Sheriff Guy in 2015. However, this averment is denied to the extent that the sham affidavit is self-serving and is not corroborated by any other evidence. Indeed, Sheriff Guy does not recall meeting Randy

Tallon during his campaign and believes he met him after the election. Sheriff Guy does not know who Tallon supported in the election. Defs.' App'x, Ex. A (Guy Depo. at 23-24).

424. Tallon's support of Kress included posting a critical Facebook post about Kress and in support of Guy. (Kress Declaration at ¶ 4, App. Ex. 17).

Defendants' Response: It is admitted that Kress declared that Tallon supported Sheriff Guy in 2015. However, the averment is denied to the extent that the sham affidavit is self-serving and is not corroborated by any other evidence. There is no evidence that Sheriff Guy had any knowledge of such Facebook post or Tallon's support of Guy during the campaign. Sheriff Guy does not know who Tallon supported in the election. Defs.' App'x, Ex. A (Guy Depo. at 23-24).

425. The Facebook post was shared by Guy's running mate, Beaver County Coroner candidate David Gabauer, to his campaign Facebook page. (Kress Declaration at ¶ 5, App. Ex. 17).

Defendants' Response: It is admitted that Kress declared that Tallon supported Sheriff Guy in 2015. However, the averment is denied to the extent that the sham affidavit is self-serving and is not corroborated by any other evidence. There is no evidence that Sheriff Guy had any knowledge of such Facebook post or Tallon's support of Guy during the campaign. Sheriff Guy does not know who Tallon supported in the election. Defs.' App'x, Ex. A (Guy Depo. at 23-24).

426. This Facebook post was later deleted. (Kress Declaration at ¶ 6, App. Ex. 17).

Defendants' Response: It is admitted that Kress declared that Tallon supported Sheriff Guy in 2015. However, the averment is denied to the extent that the sham affidavit is self-serving and is not corroborated by any other evidence. There is no evidence that Sheriff Guy had any knowledge of such Facebook post or Tallon's support of Guy during the campaign. Sheriff Guy does not know who Tallon supported in the election. Defs.' App'x, Ex. A (Guy Depo. at 23-24).

427. Tallon made threats in the past against different deputies. (CL 55/ln. 11-12, App. Ex. 1).

Defendants' Response: It is admitted that Larrick complained that Tallon made threat towards him. However to the extent that the statements made by Tallon were threats, it is denied as stated. Tallon made statements to Plaintiff in connection with Plaintiff's testimony against Sheriff David. It is admitted that Plaintiff indicated that Tallon made threats against others, but such statement is self-serving, inadmissible hearsay that is not corroborated by evidence.

428. Larrick was one of the deputies he threatened. (CL 56/ln. 13-14, App. Ex. 1).

Defendants' Response: It is admitted that Larrick complained that Tallon made threat towards him. However to the extent that the statements made by Tallon were threats, it is denied as stated. Tallon made statements to Plaintiff in connection with Plaintiff's testimony against Sheriff David. Defs.' App'x, Ex. B (Pl. Depo. at 53, 58).

429. One day, Tallon showed people a countdown on his phone and said when it got to zero it was "D Day" and he was taking people out. (CL 55/ln. 19-21, App. Ex. 1).

Defendants' Response: Denied as stated. It is admitted that Larrick testified that Tallon made such statements about D-Day in connection to Plaintiff's testimony against Sheriff David. There is no evidence to support that Tallon was "taking people out" or what this meant relative to Sheriff Guy. Defs.' App'x, Ex. B (Pl. Depo. at 53, 55, 58).

430. Larrick was the first person he made reference to at that time. (CL 55/ln. 19-24, App. Ex. 1).

Defendants' Response: Denied as stated. Tallon made statements to Plaintiff in connection with Plaintiff's testimony against Sheriff David. Defs.' App'x, Ex. B (Pl. Depo. at 53, 55, 58).

431. Larrick interpreted this to mean Tallon intended to harm him physically. (CL 56/ln. 2-5, App. Ex. 1).

Defendants' Response: It is admitted that Larrick testified as such. However to the extent that the statements made by Tallon were threats, it is denied as stated. Tallon made statements to Plaintiff in connection with Plaintiff's testimony against Sheriff David. There is no evidence to

suggest that Tallon intended or stated that he would physically harm Plaintiff. Defs.' App'x, Ex. B (Pl. Depo. at 53, 55, 58).

432. Admitted.

433. At that time, comments began to be made that David was telling the truth, and Larrick had lied. (CL 56/ln. 11-12, App. Ex. 1).

Defendants' Response: Denied as stated. It is admitted that Larrick testified as such. However, such statement is self-serving, inadmissible hearsay that is not corroborated by the evidence. Indeed, the evidence provides that some people thought Plaintiff "ratted out" Sheriff David. Defs.' App'x, Ex. B (Pl. Depo. at 133).

434. Admitted.

435. Tallon also threatened Matt Jones and Richard Woznicki, as well as other county detectives. (CL 57/ln. 16-21, App. Ex. 1).

Defendants' Response: Denied as stated. It is admitted that Larrick testified as such. However, such statement is self-serving, inadmissible hearsay that is not corroborated by the evidence. There is no evidence Tallon made threats to others about which Sheriff Guy had any knowledge.

436. The county detectives were threatened in relation to an incident where Tallon was caught engaged in sexual conduct with a female in his county vehicle. (CL 56/ln. 22-25, App. Ex. 1).

Defendants' Response: It is admitted that Plaintiff testified as such. However, there is no evidence of record to corroborate such statement or to indicate Sheriff Guy had any knowledge of such alleged threats.

437. This incident occurred during a prostitution sting the county detectives were conducting, and they witnessed his conduct. (CL 57/ln. 1-7, App. Ex. 1).

Defendants' Response: Denied as stated. There is no evidence to corroborate any threat or to indicate Sheriff Guy's knowledge of the threat. However, it is admitted that Tallon was involved in an incident in which he had a female in his county vehicle. Indeed, this incident occurred when Sheriff David was in office.

438. Tallon was demoted from assistant chief to deputy as a result, and blamed the detectives for his demotion. (CL 57/ln. 4-7; 59/ln. 12-13, App. Ex. 1).

Defendants' Response: It is admitted that Tallon was demoted by Sheriff David. However, it is denied that Tallon cast such blame, as such testimony by Plaintiff is inadmissible hearsay.

439. Admitted that Plaintiff testified as such.

440. Admitted that Plaintiff testified as such.

441. Admitted to the extent that no discipline ensured.

442. Admitted

443. Tallon was suspended by Sheriff David in relation to allegations he had sexual relations with a female in a county vehicle. (JA 27/ln. 13-22, App. Ex. 3).

Defendants' Response: Admitted. By way of further response, Tallon was also demoted by Sheriff David from Assistant Chief Deputy to the position of a Deputy Sheriff in relation to the allegations that Plaintiff had a female in a county vehicle. Defs.' App'x, Ex. B (Pl. Depo. at 57).

444. Admitted.

445. Tallon was retained. (DM 22/ln. 7-18, App. Ex. 6).

Defendants' Response: Denied. Tallon was not retained. Sheriff Guy took office on January 4, 2017. Tallon stopped working at the turn of the new year to begin retirement. He was still technically employed by the County, but was using up his remaining time off and therefore never worked under Sheriff Guy. Defs.' App'x, Ex. A (Guy Depo. at 57-58, 141).

446. Admitted.

Cumberledge and Bredemeir

447. Admitted.

448. Admitted.

449. Admitted.

450. However, Guy did not learn this until after he took office, when she told him. (AG 37/ln. 11-18, App. Ex. 4).

Defendants' Response: Denied as stated. Sheriff Guy believed most deputies supported the Democratic candidate. He also knew that Bredemeir was political before he took office on January 4, 2017. So knowing that Bredemeir was political, and that Sheriff Guy did not see her at any of his campaign events, it is reasonable to believe that Bredemeir was not a supporter of Guy. Defs.' App'x, Ex. A (Guy Depo.at pp. 22-23).

451. Guy admits that he is certain he did not find out Bredemeir supported Kress until after January 4th, when he determined which employees would be retained. (AG 37/ln. 19-22, App. Ex. 4).

Defendants' Response: Admitted to the extent that Sheriff Guy testified as such. However, it bears noting that it was believed most deputies supported the Democratic candidate. Defs.' App'x, Ex. C (Alstadt Depo. at p. 46). Guy knew that Bredemeir was political before he took office on January 4, 2017. So knowing that Bredemeir was political, and that Sheriff Guy did not see her at any of his campaign events, it is reasonable to believe that Bredemeir was not a supporter of Guy. Defs.' App'x, Ex. A (Guy Depo.at pp. 22-23).

452. He believes he found out Bredemeir supported Kress after she had been moved from part time to full time. (AG 37/ln. 23-25, App. Ex. 4).

Defendants' Response: Admitted to the extent that Sheriff Guy testified as such. However it bears noting that it was believed most deputies supported the Democratic candidate. Defs.' App'x, Ex. C (Alstadt Depo. at p. 46). Guy knew that Bredemeir was political before he took

office on January 4, 2017. So knowing that Bredemeir was political, and that Sheriff Guy did not see her at any of his campaign events, it is reasonable to believe that Bredemeir was not a supporter of Guy. Defs.' App'x, Ex. A (Guy Depo. at pp. 22-23).

Hurst

453. Admitted.

454. Despite seeing Hurst at an event for Guy, Michael denies knowing whether Hurst supported Guy. (DM 32/ln. 14-17, App. Ex. 6).

Defendants' Response: Denied as stated. While Hurst attended a luncheon for Sheriff Guy, Michael had no knowledge that Hurst actually supported Sheriff Guy.

455. Admitted.

456. Admitted.

457. Admitted.

458. Hurst initially denied having any relationship with Larrick's wife, and told Alstadt that Larrick was lying about it and could not be trusted. (CL 64/ln. 17-19; 65/ln. 2-8, App. Ex. 1).

Defendants' Response: Denied as stated. It is admitted that Plaintiff testified as such. However, soon thereafter admitted such. Plaintiff's recitation of Alstadt and Hurst's conversation is inadmissible hearsay and not corroborated by the evidence. There is no evidence to demonstrate that Hurst said that Plaintiff could not be trusted. See ¶¶ 459-61

459. Hurst admitted he had been talking to Larrick's wife after being shown that Larrick had phone records detailing 117 phone calls between himself and Larrick's wife. (CL 64/ln. 17-25; 65/ln. 1-8, App. Ex. 1).

Defendants' Response: Denies as stated. It is admitted that Plaintiff showed phone records and that Hurst admitted to the conversation. However, Plaintiff threatened to beat up Hurst as a result of the conversation. Defs.' App'x, Ex. B (Pl. Depo. at 69-70).

460. Admitted.

461. Admitted.

462. Admitted.

463. Admitted.

464. Admitted.

465. Hurst was retained. (DM 22/ln. 7-18, App. Ex. 6).

Defendants' Response: Denied as stated. It was known to Guy that Hurst was planning on retiring within a year, so no employment decision needed to be made. Defs.' App'x, Ex. A (Guy Depo. at 58).

Chapes

466. Admitted.

467. Admitted.

468. It is admitted that Plaintiff testified and believed as such.

469. Admitted.

470. Admitted.

471. Admitted that Plaintiff testified this was his concern.

472. Admitted.

Michael

473. Admitted.

474. Guy hired him into this position in December 2015, after his election. (DM 7/ln. 16-18; 27/ln. 6-11, App. Ex. 6).

Defendants' Response: Denied. Sheriff Guy did not appoint Michael to the position of Chief Deputy Sheriff until January 4, 2017, when Sheriff Guy took office. Defs.' App'x, Ex. R (Termination Letter).

475. Admitted.

476. Admitted.

477. Admitted.

478. Admitted.

479. Admitted.

480. After becoming Chief Deputy, allegations of sexual harassment were made against Michael. (AG 138/ln. 6-12, App. Ex. 4).

Defendants' Response: Denied as stated. Allegations of inappropriate language towards a female were made against Michael.

481. Admitted.

482. Admitted.

483. Admitted.

484. Admitted.

485. Admitted.

486. Admitted.

487. According to Guy, his investigation revealed the issue to be unfounded, other than the use of inappropriate language with a clerk in his office named Jackie Springston. (AG 139/ln. 18-23; 140/ln. 4-7, App. Ex. 4).

Defendants' Response: Denied as stated. The investigation revealed the complaint to be unfounded. It was learned that Michael may have used questionable language toward an office clerk, but it did not rise to the level of harassment.

488. Admitted.

489. Admitted.

490. Guy further admitted that he would not consider it appropriate to discipline Michael for an unfounded sexual harassment allegation. (AG 139/ln. 8-13, App. Ex. 4).

Defendants' Response: Denied as stated. Guy believed discipline was not appropriate for unfounded allegations and based upon the circumstances surrounding the incident.

Lupo

491. Sergeant Kevin Lupo supported Guy in the general election. (JA 66/ln. 5-12, App. Ex. 3).

Defendants' Response: Denied as stated. It is admitted that Alstadt testified as such. However, Guy had no knowledge of who Lupo supported. Indeed, it was believed most Sheriff's Office employees supported Democratic candidate Kress. Defs.' App'x, Ex. C (Alstadt Depo. at p. 46).

492. Admitted.

493. Admitted.

494. Admitted.

495. Prior to Guy taking office, Rapko was involved in an incident in Aliquippa with an Aliquippa policeman while off duty for which he was never disciplined. (JA 71/ln. 15-22, App. Ex. 3).

Defendants' Response: Denied as stated. Alstadt knew of such incident. However, there is no evidence that he told Sheriff Guy of the incident or that Sheriff Guy had any knowledge of the incident.

496. Admitted.

497. Admitted.

498. Admitted.

499. Admitted.

500. Admitted.

501. Guy claims he learned this after the election, but prior to his taking office. (AG 38/ln 21-25; 39/ln. 1, App. Ex. 4).

Defendants' Response: Admitted and there is no evidence to suggest that Sheriff Guy knew otherwise.

502. Guy claims he does not know who Sallis, Branchetti, Ralph Ramana, Matzie, Hunter, John Kutzko, or Yasick voted for in the general election. (AG 38/ln. 10-15; 40/ln. 2-6, 13 19, App. Ex. 4).

Defendants' Response: Admitted and there is no evidence to suggest that Sheriff Guy knew otherwise. It was believed that most employees supported Kress. Defs.' App'x, Ex. C (Alstadt Depo. at p. 46).

503. Admitted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been forwarded to all counsel of record by:

- U.S. First Class Mail, Postage Paid
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Facsimile Transmittal
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