

WAYNE STATE UNIVERSITY
DISMISSAL PROCEEDING - FACULTY WITH TENURE

In the Matter of:

WAYNE STATE UNIVERSITY
SCHOOL OF MEDICINE,

Employer,

Volume 2

and

RICHARD BRUCE NEEDLEMAN, Ph.D.,

Respondent Tenured Faculty Member.

/

Transcript of the proceedings held in the above-entitled matter before CHAIRPERSON JAMES STATHAM and a Committee, at Scott Hall, Wayne State University, Detroit, Michigan, on Thursday, March 30, 2017, commencing at or about 9:00 a.m.

HEARING COMMITTEE MEMBERS:

UNIVERSITY PANEL:

Jennifer Condon

Jose A. Rico-Ferrer

Lisa ZeWinters

SCHOOL OF MEDICINE PANEL:

Donald Kuhn

Philip Philip

Samiran Ghosh

(Continued)

APPEARANCES: (Continued)

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CSMR 2656, CER 2656

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1 Detroit, Michigan
2 Thursday, March 30, 2017 - 9:05 a.m.
3 VIRGINIA DELANEY-BLACK
4 (At 9:05 a.m., previously sworn,
5 testified further as follows)
6 CROSS-EXAMINATION
7 BY MR. GREGORY:
8 **Q Good morning, Doctor. It's good to see you again.**
9 **Can you summarize for me your role in the process**
10 **that resulted in the letters that were sent to, I**
11 **believe, some 30 people or perhaps more, and from**
12 **that point on?**
13 **We have fragments of it from your**
14 **testimony, but just tell us in general what you did.**
15 A Well, I think I summarized that yesterday under
16 direct review. However, I was involved as an
17 assistant to the Dean to independently review the
18 records, to advise the Dean and the Committee, and I
19 sat through the--some of the discussion with the
20 Committees--the Committee. I shouldn't make that
21 plural.
22 Then I sat in at each of the meetings with
23 each of the individuals that got a letter, or I
24 should say most of those. There were a few that Dr.
25 Sobel did on his own.

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1 **Q Anything else?**
2 A If there is anything else that you wanted to know.
3 **Q Right. You became Vice Dean in 2014, as I recall?**
4 A That is correct.
5 **Q Now at that time did you initiate any processes with**
6 **regard to alleged under-performing faculty?**
7 A You asked if I initiated any? No, I did not.
8 **Q Did you have any responsibility at that time?**
9 A I had responsibility for promotion and tenure in
10 2014. I did not have responsibility for the
11 Selective Salary Program in 2014.
12 **Q Who did at that time?**
13 A Roberta Sanino (phonetic) in 2014.
14 MR. GREGORY: Linda, would you give the
15 Doctor copies of Exhibit 8 and 9, please?
16 MS. GALANTE: They are in the book here.
17 8 is the dossier, and 9 is--okay. There you go.
18 **Q (By Mr. Gregory) Did you prepare the form that is**
19 **reflected in Exhibit 8, Doctor?**
20 A As I said yesterday, I did not.
21 **Q But you had some responsibility for its completion?**
22 A No. I had responsibility for some of the data that
23 went into the form.
24 **Q What data did you have responsibility for?**
25 A The Selective Salary documents. So anything that

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1 would have come from Selective Salary.
2 **Q Now would you please look at Exhibit 9?**
3 A Yes.
4 **Q Did you prepare that?**
5 A I did not prepare that.
6 **Q Who did?**
7 A Honestly, I don't know. It contains data that--
8 well, honestly, I don't know who prepared that form.
9 **Q Now do you know when it was prepared?**
10 A I do not specifically know what date it was
11 prepared, no.
12 **Q Do you know, was it prepared for this particular**
13 **hearing?**
14 A I don't know if it was prepared for this hearing.
15 **Q Can you tell us why it has expanded the information**
16 **in Exhibit 8, which ends with 2013, and this goes**
17 **back to 2010?**
18 **My concern is the Committee is being**
19 **presented with evidence that was not part of the**
20 **dossier or part of the decision of the Dean to bring**
21 **the charges.**
22 A I don't know that one can actually say that. The
23 information that was brought to the Committee was
24 extensive, and as I said, I read all of the--I said
25 yesterday if I didn't say earlier today that I read

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1 all of the documents in Dr. Needleman's personnel
2 files.
3 So that information would have been
4 available to the Committee, even if it wasn't on the
5 initial dossier that came to the Committee.
6 **Q Well, Doctor, you're not disputing the fact, are**
7 **you, that the information does not appear on Exhibit**
8 **8, the dossier that Dean Sobel testified was**
9 **utilized in these hearings?**
10 A It was one of the documents that was used in this
11 hearing. It's not the only document, sir.
12 **Q Well, was Exhibit 8 used by Dr. Sobel and you in the**
13 **various meetings, the 20-minute meetings that were**
14 **held with faculty?**
15 A Well, I believe Dr. Sobel yesterday indicated that
16 they weren't 20-minute meetings with the faculty,
17 and at the time that we met with the faculty member
18 we had the most recent data that was available.
19 **Q Did you have Exhibit 8 in your possession when you**
20 **had those meetings?**
21 A Yes. That would have been one of the documents that
22 we had in our possession, yes.
23 **Q Did you have Exhibit 9?**
24 A As it looks today, I can't say that I had that
25 document, but I had the data that existed in Table

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1 9.
2 **Q How did you have it? How was it communicated to**
3 **you?**
4 A My office is the one that is in charge of Selective
5 Salary, and so when I became Vice Dean in 2014 I
6 took on all of the responsibility for all of that
7 data.
8 **Q Are faculty required to attend the annual Selective**
9 **Salary Review?**
10 A The Selective Salary Review is not a personal
11 interview. The faculty members are required to
12 submit dossiers to their individual departments that
13 are specified by the University and by the School of
14 Medicine.
15 Those documents consist of a complete
16 C.V., a teaching portfolio--not a portfolio, a
17 teaching grid, and an annual review of all of their
18 information.
19 That is actually in the contract under
20 Article XII, describes some of the process for
21 Selective Salary, but it's not an interview, so they
22 don't come to a meeting.
23 It's a meeting of the elected Salary
24 Committee for the department that obtains this
25 information initially from the faculty member.

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1 **Q Are there sanctions if a faculty does not cooperate?**
2 A If a faculty member fails to participate, there are
3 sanctions, yes.
4 **Q What are those sanctions?**
5 A The sanctions have to do with if you--if the faculty
6 member does not contribute their required materials
7 in two out of five years, then they are sanctioned
8 by not getting an across-the-board raise for five
9 years, and they also clearly are not eligible for
10 merit because merit is judged based upon the
11 information that is included.
12 So the year that they don't participate
13 they get no merit, and if they don't participate two
14 out of five years, they don't get the across-the-
15 board.
16 They also, if they're tenured, don't
17 receive--as I recall, but I would certainly look at
18 the contract if I were asked this by a faculty
19 member--I think they don't get credit towards their
20 sabbatical leaves.
21 **Q Would you agree that effectively there is an option**
22 **in the faculty to waive a Selective Salary--**
23 A No. I would absolutely not agree with that.
24 **Q Why is that mistaken?**
25 A It's a requirement.

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1 **Q And if it's not met?**
2 A Then there is a penalty.
3 **Q Sanction? All right.**
4 A But it is a requirement. It's stated in the
5 contract. It's stated from the Provost's office.
6 It's stated from my office.
7 **Q Did the departmental Promotion and Tenure Committee**
8 **recommend the dismissal of Dr. Needleman?**
9 A No.
10 **Q Did the Salary Committee of the department make such**
11 **a recommendation?**
12 A It's not in the purview of either of those
13 committees to do so, sir.
14 **Q So your answer to that would be no?**
15 A No. It would have been inappropriate.
16 **Q Did the chair recommend dismissal?**
17 A No, not this chair, the prior chair.
18 **Q Did you recommend dismissal?**
19 A I was on the committee that assisted the Dean. It
20 was the Dean that recommended dismissal to the
21 President.
22 **Q Did you make a recommendation to the Dean?**
23 A I contributed to the recommendation that the Dean
24 made.
25 **Q And what was your contribution?**

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1 A By providing him with the data, by providing him
2 with my opinions.
3 **Q Were others involved in that particular process?**
4 A Yes. As I've stated on several occasions, there was
5 a committee that discussed each of the faculty.
6 **Q Can you name the others for us again?**
7 A Well, I think Dean Sobel listed them yesterday.
8 They included--I believe that John Vander Weg was
9 there. I believe that Lou Lessem was there, or an
10 attorney from the University.
11 It included Vice Deans specifically
12 related to their expertise. It also brought in
13 individuals that were not part of the committee,
14 such as individuals that would know about the
15 teaching of the faculty, so individuals from Medical
16 Education came in.
17 So I believe that Dr. Walz came in. Mr.
18 Munson was there. The Chief of Staff--the Dean was
19 there. I personally did not keep minutes, so I may
20 well be missing other members that were there.
21 **Q Can you name those that were on the medical team, I**
22 **think you mentioned, and also the Vice Dean, I take**
23 **it, other than yourself?**
24 A I said that Vice Deans came in also to that meeting.
25 **Q What Vice Dean?**

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1 A I believe that Dr. Baker was there at times, and I
2 believe that Dr. Hazelton also came in at times.
3 Whether they were there for all of the meetings, I
4 would have to go back and look at the minutes.
5 MS. GALANTE: Hazelton? Did you mean
6 Hazelton or Hazlett?
7 THE WITNESS: Oh, I'm sorry. Linda
8 Hazlett.
9 MS. GALANTE: All right. I just wanted to
10 correct the record.
11 MR. GREGORY: All right. Thank you.
12 **Q (By Mr. Gregory) Would you look, please, at**
13 **administration Exhibit 15?**
14 A Yes.
15 **Q Would you consider this to be an academic**
16 **assignment?**
17 A Yes, I would.
18 **Q And could you be a little more specific as to why**
19 **that constitutes an academic assignment?**
20 A Well, for one thing it requires an up-to-date C.V.
21 from the faculty member, which is an important
22 requirement for the institution as part of the
23 accreditation, for example, of the University.
24 We are required to have information about
25 each faculty member that would be included in an

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1 up-to-date C.V.
2 So the University's accreditation process
3 is dependent upon us having accurate information,
4 should the accreditor decide to ask about a specific
5 faculty member's activities, for example.
6 **Q And that is your position, even though it provides**
7 **that you could be scored "DNP," "Did not**
8 **participate"?**
9 A No. It doesn't suggest that that is an option that
10 faculty should consider. It says that that's what
11 the administration has to do when a faculty fails to
12 comply.
13 **Q Did you ever meet personally with Dr. Needleman**
14 **regarding his performance?**
15 A Prior to the meeting with the Dean?
16 **Q Yes.**
17 A No. I did not.
18 **Q Subsequent to the meeting with the Dean on May 23 of**
19 **last year, did you meet with Dr. Needleman?**
20 A No. I did not.
21 **Q Why not?**
22 A I saw no reason to. The Dean did not ask me to. We
23 had the information. Dr. Needleman was very
24 specific about what his thoughts were.
25 He was adamant that he was more productive

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1 than most faculty on this campus, and I saw no
2 reason to meet with Dr. Needleman.
3 **Q Did you find his conduct at the May 23 hearing to be**
4 **inappropriate?**
5 A Well, you know, honestly, I had to read the minutes
6 of that meeting in order to remember exactly about
7 his conduct, because we were there to discuss the
8 facts, and so the conduct of the faculty was only
9 important in terms of their willingness to improve
10 their outcomes in the future.
11 So his conduct wasn't of concern
12 specifically to me.
13 **Q Was it hostile, as has been suggested by another**
14 **witness?**
15 A Oh, yes. It was quite hostile. I remembered it
16 being hostile. I just couldn't remember exactly
17 what had happened.
18 **Q Did you find that particularly unusual, in that a**
19 **man's career was on the line and they had already**
20 **been charged in a March 23 letter with not**
21 **performing and being threatened with dismissal?**
22 A It's not what happened with most of the faculty, no.
23 **Q Were there others though that displayed similar**
24 **conduct in the meetings?**
25 A There were a few.

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1 **Q Some expressed outrage. Correct?**
2 A I don't know if I would say "outrage." Some were
3 distraught or distressed with the idea of being
4 called nonproductive, but there were very few of all
5 the people that we met with.
6 **Q Did numerous faculty express concern that there was**
7 **publicity about the letters they had received, that**
8 **their colleagues knew about it? Indeed the whole**
9 **school knew about it?**
10 A If their colleagues knew about it, it didn't come
11 from our office, sir.
12 **Q Were you part of the decision to formulate and**
13 **distribute the March 23 letter that went to all the**
14 **faculty?**
15 A I'm not sure--
16 MS. GALANTE: I think I'm going to object.
17 There is no testimony that that letter went to all
18 faculty.
19 MR. GREGORY: Well, I'm sorry. All
20 faculty it went to.
21 THE WITNESS: You know, honestly, I don't
22 even recall. I doubt that I was part of that.
23 **Q (By Mr. Gregory) Was it to your knowledge the same**
24 **letter that went to those faculty who were selected?**
25 A I have no idea, sir.

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1 **Q If I told you that that was the case, would you have**
2 **any reason to disagree?**
3 A I would want to see it, sir.
4 **Q For the record, Doctor, of course we're looking at**
5 **Joint Exhibit 2, the March 23, 2016 letter from the**
6 **Dean to Dr. Needleman.**
7 **It is my understanding, since I attended a**
8 **number of the meetings with you and the Dean, that**
9 **everyone got the same letter. You certainly must**
10 **remember that, do you not?**
11 A You referred to a letter that was sent to all of the
12 faculty.
13 **Q Well, I'm sorry. Let me correct myself. I'm**
14 **talking about the letter that was sent to those who**
15 **were not productive.**
16 A All right. So that is a different--certainly a
17 different question. So I am aware of the letter
18 that was sent to each of the faculty that got it. I
19 was not the one that created this letter.
20 This is from the Dean's office, and so no,
21 I did not prepare this letter.
22 **Q But you don't disagree, the same letter was sent to**
23 **everyone who was alleged to be an under-productive**
24 **faculty?**
25 A Well, I have just testified that I didn't

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1 present--I didn't create this letter. I can't tell
2 you that it went to every faculty member, because I
3 didn't create it and I don't recall.
4 **Q I take it then you were not part of any discussions**
5 **leading to how it would be distributed?**
6 A I don't recall that I was at this time.
7 **Q Do you have any knowledge or information as to why**
8 **the Dean didn't simply contact affected faculty and**
9 **ask them to come in for this chat, if you will, to**
10 **decide about options, rather than send the same**
11 **letter to everyone?**
12 A I don't know.
13 **Q Does Dr. Needleman have a national and international**
14 **reputation in his field?**
15 A The Dean testified yesterday that Dr. Needleman's
16 research career was exemplary in the earliest parts
17 of his career and that it wasn't until 2000 that
18 things began to deteriorate, or after 2000.
19 So yes, the Dean testified that his early
20 work certainly provided him with a national
21 reputation at that time.
22 **Q Thank you, Doctor. We know what Dean Sobel said,**
23 **but I'm asking you, do you know whether or not**
24 **currently Dr. Needleman has a national and**
25 **international reputation?**

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1 A Well, in order to maintain a national/international
2 reputation that would be successful in getting
3 grants, one has to continue to publish.
4 So I would certainly say that his
5 reputation at NIH, for example, would not qualify
6 for having a current national reputation. His prior
7 reputation certainly exists and never goes away, and
8 no one--neither the Dean nor I--are trying to say
9 that he was not a superb investigator during his
10 beginning years here at the University.
11 **Q Respectfully, Doctor, does Dr. Needleman have or**
12 **have not a national and international reputation at**
13 **this time? Yes or no?**
14 A He had a national reputation. Now his reputation is
15 sullied by having had a long period of
16 nonproductivity.
17 MR. GREGORY: Would you hand the Doctor
18 Exhibit A6, please?
19 MS. GALANTE: A6?
20 MR. GREGORY: A. Administrator--
21 REPORTER: We have called them "Employer."
22 MR. GREGORY: Oh, is that what we're
23 doing? Oh, I'm sorry.
24 MS. GALANTE: I just didn't--it didn't
25 resonate with me, A6.

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1 **Q (By Mr. Gregory) Doctor, directing your attention**
2 **to Employer Exhibit 6 in evidence, are these the**
3 **factors that it is claimed should have been followed**
4 **and implemented by Dr. Needleman?**
5 A These are the factors from the School of Medicine,
6 yes.
7 **Q And it would be your position that he did not**
8 **comply, fully at least, with the factors set forth.**
9 **Correct?**
10 A He did not comply.
11 **Q Would you turn, please, to the last page, page 15?**
12 **I note the Factors were signed and dated March 30,**
13 **2016, so that is a week after Dr. Needleman had**
14 **already been charged with alleged nonproductivity.**
15 **So I don't see how these Factors could**
16 **have possibly applied to him.**
17 A There is a previous document for the previous year.
18 **Q So what you have given the Committee then is not**
19 **accurate. This is not the same document, and I have**
20 **no idea what the difference is, because it is not my**
21 **obligation to do so, but this is not what was in**
22 **effect with Dr. Needleman, is it?**
23 A They were certainly in effect when Dr. Needleman met
24 with the Committee and when the Dean made his
25 decision about recommending to the President the

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1 dismissal of Dr. Needleman.
2 **Q Doctor, bear with me, but Exhibit 6 was not in**
3 **effect with Dr. Needleman?**
4 A I would disagree. It was not in effect--it was in
5 effect by the time the Dean met with Dr. Needleman.
6 It was in effect when Dr. Sobel made his
7 recommendation to the President, and it is in effect
8 today.
9 **Q So six weeks later the Dean met with Dr. Needleman,**
10 **and you are saying in that period of time then Dr.**
11 **Needleman was supposed to comply with this**
12 **particular document. Is that your position?**
13 A No, not in six weeks. The Factors and Guidelines as
14 identified in the contract may be altered every
15 year, and the Executive Committee of the Faculty
16 Senate does that determination, as to whether the
17 Factors need to be revised.
18 Those Factors are available to every
19 faculty member on the website for the Office of
20 Faculty Affairs. When they get changed, they also
21 get changed on the website.
22 We leave off actually two sets of Factors,
23 so if you look today, because the Promotion and
24 Tenure Committee is still meeting at the University,
25 there would be two documents, and I believe that the

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1 Dean testified yesterday that there were very little
2 changes that were made between one year and the next
3 in the Factors.
4 **Q Were you part of the decision to charge Dr.**
5 **Needleman with "failure to perform academic**
6 **assignments competently"?**
7 A So you're talking about the Dean's recommendation to
8 the President, sir?
9 **Q Well, I'm talking about that, the charge, where yes,**
10 **it was made to the President.**
11 A All right.
12 **Q Were you part of that decision?**
13 A That was a decision made solely by the Dean. The
14 Dean obtained advice, but he made that decision
15 solely on his own.
16 **Q Do you agree that that charge is not defined in the**
17 **Board of Governors' statute?**
18 A I don't know what you mean.
19 **Q Well, you're familiar, of course, with the**
20 **definition. I'm asking is there a definition**
21 **anywhere of what constitutes failure to complete an**
22 **academic assignment competently?**
23 A I'm still not sure I know what you are asking me.
24 **Q Who decides whether a faculty has not performed an**
25 **academic assignment competently?**

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1 A So the requirements for faculty are defined, both in
2 the contract and in the Factors. So the individuals
3 that would be appropriate to make that decision is
4 the Dean and the President.
5 **Q And in their discretion, I assume?**
6 A And based--no, not just discretion. Based upon what
7 the requirements are for the school or college or
8 unit.
9 **Q Where does it say--so the faculty knows--that they**
10 **are on an academic assignment and they must perform**
11 **it competently?**
12 A I think anyone who is employed knows that there are
13 going to be expectations from the employer.
14 **Q So everyone knows about the employer's expectations?**
15 A No. You asked would anyone know that they were
16 going to have expectations in your first question.
17 In your second question, I think you are asking are
18 there specifics that they would know.
19 **Q In the last--let's even go back ten years. Has Dr.**
20 **Needleman performed academic assignments?**
21 A He has done some publishing in the last ten years.
22 The Dean testified, and I think you have his C.V.
23 available in the documents that indicate that he did
24 do some publishing.
25 He also taught 15 credit hours a year--not

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1 credit hours, I'm sorry, 15 contact hours. So that
2 means each year it was 12 or 15 that he did.
3 So those were some of the assignments that he did.
4 Is that what is expected of a tenured
5 faculty member at the level of Professor?
6 Absolutely not.
7 **Q Now when he was on campus, as far as you know, he**
8 **was performing academic assignments?**
9 A I don't know what he did when he was on campus.
10 **Q You don't know. Do you have any evidence that those**
11 **academic assignments he did perform were not**
12 **performed competently?**
13 A Yes. His C.V. was never kept up-to-date. He says
14 in his C.V. that he doesn't know exactly what he
15 did, that the administration should be recording
16 that.
17 That's not a competent way to maintain a
18 record of what you have done. He did not
19 consistently comply with the requirements for
20 submitting Selective Salary documents. He got poor
21 teaching scores.
22 He failed to--he had two five-year periods
23 where he had no grants submitted, and yet he was a
24 tenured full professor at the time.
25 **Q Was all that communicated to him at any time?**

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1 A He got Selective Salary scores annually, and we
2 heard testimony yesterday from his chair, his
3 previous chair, that he certainly got information
4 from the prior chair about not doing his assignments
5 competently.
6 He also got teaching scores, and we heard
7 yesterday from his previous chair that the teaching
8 scores were poor and there were complaints from the
9 students.
10 **Q It seems to me you are telling us many things that**
11 **are not in the charges. It appears to me he was**
12 **basically charged and would be dismissed because he**
13 **didn't raise any grant money. Isn't that correct?**
14 A Would you re-state that question?
15 **Q Wasn't the big problem that he did not produce**
16 **grants?**
17 A That was one of the problems, so he did not have
18 publications that would support grants, even going
19 forward in the future. He had not submitted for
20 grants, not just that he didn't get funds, but he
21 had not submitted.
22 When someone doesn't have funding and
23 their effort is supposed to be for a grant
24 submission, that is certainly an academic assignment
25 that is not being competently done.

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1 He was not publishing in a consistent
2 manner that would permit future grants. So we saw
3 yesterday that his publications were in various
4 areas, liver failure, CNS damage, central nervous
5 system damage.
6 These are not--changing one's topic is
7 exactly something that when you change your topic
8 you need a focus to go forward, and the focus that
9 is described in the Factors that is expected of a
10 tenured faculty member was not present.
11 So it's great to change your topic if that
12 is what you want to do, but you need to focus on
13 something so that you can be productive in terms of
14 grants.
15 **Q When did you learn his focus in research had been**
16 **changed?**
17 A In reviewing his C.V. and in meeting with him.
18 **Q And when was that, prior to March 23 of last year?**
19 A Yes.
20 **Q What action if any did you take to counsel with him**
21 **or determine the prospect of his new research**
22 **leading to publications and grants?**
23 A Well, the Dean had already initiated a committee to
24 review faculty, so I participated in that committee,
25 and that's what I did.

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1 **Q Let me ask my question again. Did you personally**
2 **take any action as Vice Dean in charge of research**
3 **and contact him with your concerns?**
4 A I'm not the Vice Dean responsible for research. I'm
5 the Vice Dean of the faculty.
6 **Q You had no responsibility then?**
7 A I didn't say that, sir. I said that I wasn't the
8 Vice Dean of research.
9 **Q Do you know, why didn't you talk to him?**
10 A As I said, when Dr. Needleman's dossier came to me,
11 it was in the context of this process. The Dean had
12 already started a process, and it was the Dean's
13 process, so I did not meet individually with any of
14 the faculty.
15 **Q Were you involved with other faculty whose**
16 **publication and grant record was less than**
17 **productive, to use the term utilized by the Dean?**
18 A I meet with many faculty over the course of the
19 year, some of whom have problems with their
20 productivity.
21 **Q And how many have been placed on mentoring?**
22 A Well, the mentoring, we actually in every Letter of
23 Offer we recommend to the faculty, we require of the
24 faculty that they obtain a mentor when they start
25 here at the School.

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1 So we recommend mentoring to every faculty
2 member.
3 **Q Would you repeat that? I was interrupted, Doctor.**
4 **I'm sorry.**
5 A I said the Letter--the current Letters of Offer
6 identify that someone should find a mentor here at
7 the School to help them in the process. We
8 recommend that every faculty have a mentor.
9 **Q With regard to those faculty called in for the**
10 **meeting with the Dean that you attended, how many**
11 **were placed on what could be called "expectations"?**
12 A I don't recall the number.
13 **Q Maybe ten? Does that sound about right?**
14 A I would say it's somewhat over ten, but I don't
15 recall specifically the number.
16 **Q Tell the Committee, if you will, please, what are**
17 **these expectations and your role in administering**
18 **them?**
19 A The expectations as Dean Sobel stated yesterday were
20 very specific to each faculty member. So some
21 faculty members who expressed a desire to increase
22 their research productivity were given assistance
23 about how they could potentially increase that
24 research success.
25 We met with--"we" meaning typically Julie

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1 Serdar (phonetic) and myself--met with the chair and
2 the faculty member to go over the expectations.
3 Julie and I met with the chairs in advance
4 to discuss the potential for what that could be, and
5 those individuals that were interested in doing more
6 research and being more successful about their
7 research were given advice, and they meet regularly
8 with their chairs, and the chairs report back to
9 Julie about their success.

10 **Q What criteria were used in determining who would be**
11 **placed on expectations?**

12 A The Dean chose what the outcome was after the
13 meetings with the faculty member.

14 **Q Were you involved in that decision?**

15 A Only to the extent that I gave recommendations to
16 the Dean, as did others.

17 **Q What criteria did you use to make a positive**
18 **recommendation that a faculty go on expectations?**

19 MS. GALANTE: First of all, I want to
20 place an objection. That has been asked and
21 answered several time. The Dean explained how he
22 looked at each case individually, and I think that
23 she has, but I just want to note that objection.

24 MR. GREGORY: Well, the Doctor has
25 testified--we all know what the Dean said, and she

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1 has been identified as a person implementing the
2 program, so--

3 CHAIRPERSON STATHAM: I will overrule it
4 and allow the question. Go ahead.

5 **Q (By Mr. Gregory) What criteria did you use then,**
6 **Doctor, to determine who would get expectations and**
7 **who would not?**

8 A Well, I didn't determine that. The Dean determined
9 it. So my advice to the Dean was based upon whether
10 there were questions or comments.

11 We looked at the publication record
12 because individuals that had not been publishing in
13 a focused way for over a decade were unlikely to be
14 successful in getting any grants.

15 The expectation was that they had to be
16 interested in improving their performance. They had
17 to be willing to put the work into doing it.

18 They had to have some preliminary data,
19 not all the preliminary data but some preliminary
20 data that would allow them to be successful at
21 writing a grant and having a successful grant.

22 So that was one of the primary--and they
23 had to be working on academic assignments.

24 **Q Why wasn't Dr. Needleman offered expectations?**

25 A Well, Dr. Needleman was quite clear that he saw no

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1 evidence of a poor performance in his record. That
2 was one of the major things that came out of that
3 discussion with Dr. Needleman.

4 He, as I have said earlier today, and the
5 Dean said yesterday, he compared himself to the rest
6 of the faculty, I believe at the School, saying that
7 he was one of the most productive members of the
8 faculty at the School.

9 It is very hard to get someone to change
10 their methodology when they don't see that there is
11 a problem, so that was one of the issues.

12 Another issue was that he had no focus of
13 research in the last decade. He had no publications
14 in the last decade that would support a substantial
15 external grant funding.

16 It was clear that he did not want to work
17 with a mentoring committee, meaning either his
18 chair, which is what we had asked, that the faculty
19 member identify colleagues that could be helpful,
20 that the chair would work with them, and it was
21 quite clear that he did not want to do that.

22 **Q Did he tell you or the Dean in this meeting that he**
23 **had no interest in an expectation procedure?**

24 A He told the Dean and I that he was the better judge
25 of where he was in his career than either of us.

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1 **Q Let me try my question again, Doctor. Did he tell**
2 **you that he had no interest in expectations?**

3 A I don't recall specifically that that question was
4 addressed in the way that you have posed it.

5 **Q Did he tell you that he was engaged in research with**
6 **Dr. Brusilow--**

7 A Yes.

8 **Q That would lead to publications once the data had**
9 **been secured?**

10 A Yes.

11 **Q He did. Did you make any inquiry about the**
12 **substance of that research, of the timetable of that**
13 **research, the prospect of grants deriving from that**
14 **research?**

15 A The Dean and I both felt that this was nothing
16 different than what Dr. Needleman had been doing.

17 **Q How could you reach that conclusion if you didn't**
18 **ask him what the nature of the research was and the**
19 **timetable? I have trouble understanding that,**
20 **Doctor.**

21 A Well, we had also--the Dean had also met with his
22 chair. The Dean had others that were available to
23 him, and the reality is that we have a ten-year
24 period of time, more than a ten-year period of time
25 of nonproductivity.

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1 The Dean is well aware, as many members of
2 the Committee were, of the inability of someone to
3 get a grant after such a long period of time of
4 being unproductive.
5 **Q Did you have any expertise in the area of**
6 **research--**
7 A No.
8 **Q Then engaged in by--no?**
9 A No.
10 **Q So did the Dean? Do you know?**
11 A No.
12 **Q How would you make an assessment then that the**
13 **research was not going to ultimately be productive**
14 **and produce grants, as well as publication?**
15 A It had not.
16 **Q It had not, but you had not inquired about the**
17 **timetable?**
18 A The timetable of more than ten years without a grant
19 and without a focused research project.
20 **Q How many other faculty--**
21 A I wasn't finished with my statement, sir.
22 **Q I'm sorry. Pardon me.**
23 A So a ten-year timeframe is more than adequate to see
24 that things had not been productive.
25 **Q How many other School of Medicine faculty were**

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1 **treated differently in terms of not being offered**
2 **expectations but having dismissal charges filed**
3 **against them?**
4 MS. GALANTE: I want to place an objection
5 to the characterization of that question, that other
6 faculty were treated differently. I don't think
7 there is any foundation for that.
8 CHAIRPERSON STATHAM: I will overrule you
9 and allow the question. Go ahead.
10 **Q (By Mr. Gregory) How many others were not given an**
11 **opportunity at self-correction?**
12 A No one was given an opportunity at self-correction.
13 So the individuals that got expectations were
14 expected to meet with their chairs, and there were
15 very specific goals and measures put in place to try
16 and help them be successful.
17 **Q Well, how many were not offered expectations besides**
18 **Dr. Needleman?**
19 A So are you asking how many got the letters from the
20 President?
21 **Q Yes. I think so.**
22 A All right, and honestly I don't know. I don't
23 recall the number. I think the Dean testified to
24 that yesterday, but I'm sorry. I don't remember.
25 **Q Will you please look at Joint Exhibit 2? I know you**

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1 **have seen this many times, Doctor, and as lawyers**
2 **are fond of saying, it speaks for itself, but**
3 **starting with the first paragraph the Dean speaks**
4 **about the productivity of our faculty.**
5 The last sentence talks about the lack of
6 scholarly and research productivity, and then in the
7 second paragraph it talks about not maintaining a
8 sufficient level of productivity, and then says in
9 effect, "If things don't shape up, we're going to
10 bring charges."
11 MS. GALANTE: Well, I'm going to object to
12 your characterization. You are now characterizing
13 this letter. The document speaks for itself. There
14 is nothing in that letter that says, "If you don't
15 shape up," so--
16 MR. GREGORY: All right. Let me strike
17 that.
18 **Q (By Mr. Gregory) But it does go on to tell the**
19 **faculty that if they fail to perform academic**
20 **assignments that could be a consequence of further**
21 **action, and then that the Dean, of course, wants to**
22 **discuss whatever options there might be.**
23 Now I'm concerned about the frequent
24 reference to productivity, and I don't believe that
25 is set forth in the Promotion and Tenure Factors, is

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1 **it?**
2 A The word "productivity" does not come in the
3 Factors.
4 **Q In terms of the School of Medicine, what is**
5 **productivity, and what are the expectations of**
6 **productivity?**
7 A Well, the expectations are well-specified in the
8 Factors. For a Research Educator, Full Professor
9 with tenure at the School of Medicine, it is to have
10 a focused research program that is successful in
11 terms of scholarly publications and research
12 external funding, and those are specified.
13 It also specifies teaching, and it
14 specifies service assignments.
15 **Q Does it have anything to do with grant income?**
16 A It says "external funding," substantial--let's go
17 back to the document.
18 **Q All right.**
19 A And then I won't mis-quote it.
20 **Q What document are you referring to?**
21 A The Factors. It says:
22 "Research accomplishment must be
23 rigorous and original or novel with
24 some fundamental significance or impact."
25 **Q Where are you reading?**

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1 A On page 5. (Reading):
2 "Publications of original investigations
3 in peer-reviewed journals is required.
4 Research accomplishments will result in an
5 appropriate (E.G., national or international)
6 recognition, leadership stature, and eminence
7 in the peer group that is appropriate for
8 the area of research. Evidence of eminence
9 shall include continued success in obtaining
10 substantial competitive investigator-
11 initiated extramural funding at the national
12 or international level."
13 That would be what the School's
14 expectations were. That would be what Dr. Needleman
15 was supposed to produce for research. Then it goes
16 on to talk about teaching, and then it also goes on
17 to talk about service on page 6.
18 **Q Look at page 5. What does the caption say at the**
19 **top of the paragraph you just read?**
20 A Yes. It says:
21 "Requirements for Appointment or
22 Promotion to Professor in the Research
23 Educator Track,"--
24 oh, I don't have my copy of the contract.
25 MS. GALANTE: You do. It's here. I was

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1 using it. Sorry.
2 THE WITNESS: Okay. So under the
3 Selective Salary Program it also says on page 25
4 that these are the criteria that are used to judge
5 the faculty ongoing. It says on page 25--this is
6 Article XII--
7 "In recommending Selective Salary
8 increases the Committee shall be guided
9 by unit factors and general University
10 criteria and Factors for Tenure and
11 Promotion."
12 **Q Is productivity a University Factor?**
13 A As I said, productivity is an English word that says
14 that we are to produce. The Factors identify what
15 the faculty member is to produce, based upon their
16 track, their rank and their tenure status.
17 The word "produce" may not be in the
18 Factors, or to my knowledge, I don't know whether it
19 is in the University documents.
20 **Q How would the faculty know that productivity was a**
21 **certain number of, say, publications, a certain**
22 **number of grants, amount of grants? Isn't that**
23 **something that they should be apprised of?**
24 A The faculty get their Selective Salary scores
25 annually, and so if they are participating in

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1 Selective Salary they would get their score
2 indicating whether they were identified as
3 under-productive.
4 So the Selective Salary scores plus
5 talking to their chairs would be evidence of their
6 expectations, or whether they are meeting
7 expectations, but certainly the Factors are there on
8 the website for anyone who wants to read them to
9 know exactly what was expected of them.
10 MR. GREGORY: Linda, would you give the
11 Doctor Respondent Exhibit 5, please?
12 MS. GALANTE: I have to find it. I can go
13 make a quick copy. Just for the record I want to
14 again object to the use of this document because
15 Dean Sobel testified that this was a draft, that he
16 has not yet approved, and also indicated that there
17 were some changes that he anticipated he would be
18 making before approving it.
19 **Q (By Mr. Gregory) Doctor, for the record--**
20 CHAIRPERSON STATHAM: Isn't this like,
21 this exhibit--Mr. Gregory?
22 MR. GREGORY: For the record--I'm sorry?
23 CHAIRPERSON STATHAM: What is your
24 response? She objected.
25 MR. GREGORY: Oh, yeah. As I believe I

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1 indicated yesterday, the form was obtained from a
2 member of the faculty. Several of the faculty have
3 received the form and are of the impression they are
4 to complete it.
5 Despite the Dean's testimony that he has
6 not signed off, it is my understanding it is going
7 to be used, and I think it's relevant to have the
8 Committee hear about it now, rather than resume the
9 hearing at another time.
10 CHAIRPERSON STATHAM: Overruled. I will
11 allow it.
12 MS. GALANTE: He did not--can I just add
13 for the record, he did not say that it would be used
14 in this current form.
15 CHAIRPERSON STATHAM: Okay. I'm going to
16 overrule you and allow it.
17 **Q (By Mr. Gregory) Now, Doctor, will you be**
18 **responsible for implementing this form if it is**
19 **finally approved by the Dean?**
20 A No.
21 **Q Who will be, if you know?**
22 A I don't know.
23 **Q Did you have any responsibility in the development**
24 **of the form?**
25 A In the development of the form? No.

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1 **Q Have you seen it previous to today?**
2 A I'm not sure I saw this version, but I have seen
3 previous versions, if not this one.
4 **Q Isn't this a form of post-tenure review?**
5 MS. GALANTE: Objection. You haven't
6 defined what you mean by "post-tenure review."
7 MR. GREGORY: Well, she knows what I mean
8 by "post-tenure review."
9 MS. GALANTE: Well, I don't know. There
10 is--I have five articles in my--on that whole topic
11 that are lengthy. It's a subject of great debate,
12 and unless you are giving her a definition, how is
13 she going to answer the question?
14 MR. GREGORY: Well, she hasn't said that
15 she didn't understand the question, so I take
16 exception to you signaling the witness.
17 **Q (By Mr. Gregory) Do you understand what**
18 **"post-tenure review" is?**
19 A Why don't you describe to me what you mean by
20 "post-tenure review"?
21 **Q No. I am asking the questions, unfortunately.**
22 A Then I'm not sure what you mean by "post-tenure
23 review."
24 **Q Arguendo, hypothetically this form is distributed to**
25 **School of Medicine faculty, perhaps with the**

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1 **deletions mentioned by the Dean. What will be the**
2 **disposition of it, if you know?**
3 A I have already said that it didn't come from my
4 office, and I don't know what the plans are.
5 **Q You don't. Are you aware that the form when**
6 **completed and filed would be subject to public**
7 **disclosure under the Freedom of Information Act?**
8 A I don't know.
9 **Q You don't know. Is that a concern?**
10 A As I said, I have not been involved with the form.
11 I don't know whether it would be available for
12 public information, and so I would leave that to
13 Legal.
14 **Q Is that going to be looked into, do you know?**
15 A I have no knowledge of anything about this form.
16 May I give this back?
17 **Q Oh, yes. Thank you.**
18 MR. GREGORY: I have no further questions.
19 Thank you, Doctor.
20 CHAIRPERSON STATHAM: Anything on
21 redirect?
22 MS. GALANTE: Yeah. I do have some
23 redirect.
24 REDIRECT EXAMINATION
25 BY MS. GALANTE:

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1 **Q So, Dr. Delaney-Black, would you consider--you're a**
2 **tenured faculty member. Correct?**
3 A I am.
4 **Q Would you consider yourself to be a professional?**
5 A Yes.
6 **Q And would you consider all faculty in this**
7 **University to be considered professionals?**
8 A I do.
9 **Q And as a professional, is it the expectation by both**
10 **faculty and the administration that a faculty**
11 **member's work would be self-motivated?**
12 MR. GREGORY: Objection, leading.
13 CHAIRPERSON STATHAM: I think that is a
14 leading question. Could you rephrase that?
15 **Q (By Ms. Galante) What is your expectation, what is**
16 **your understanding of expectations, both by faculty**
17 **and the administration in terms of how and when a**
18 **faculty member initiates their academic assignments?**
19 A Well, each faculty is given the broad Factors and
20 Guidelines to implement in their own research area
21 for tenured research, or for a tenure-track faculty.
22 So they would be expected to develop a
23 research focus. They would be expected to
24 understand what was required of them and to comply
25 with what the University requirements are, which for

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1 non-tenured faculty would include an annual review.
2 For tenured--and in addition, for tenured
3 faculty and non-tenured faculty, completion of the
4 Selective Salary Program, looking at E-mail from the
5 University and from the School of Medicine to inform
6 them about things that were happening.
7 So it would require a great deal of
8 recognition of their responsibility for handling
9 their career and their success in their career,
10 taking advantage of the opportunities that the
11 University offers to improve their teaching, to
12 improve their research skills, to go to grant-
13 writing. So it is a very self-motivated career.
14 **Q You were questioned by Mr. Gregory on cross-**
15 **examination about whether or not you participated in**
16 **the Dean's final decision to recommend dismissal.**
17 **The question I have for you is, do you**
18 **agree with the Dean's decision to recommend**
19 **dismissal in Professor Needleman's case?**
20 A I do.
21 **Q Counsel on cross-examination also asked you a bit**
22 **about Professor Needleman's national reputation and**
23 **citations to his work.**
24 **My question for you is, are citations to**
25 **one's historical work one of the factors that the**

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1 **School of Medicine looks at as established, both in**
2 **the School of Medicine Factors and the contract, in**
3 **measuring a faculty member's productivity, or**
4 **whether or not they're meeting--what level they're**
5 **at in terms of their scholarship?**
6 A No, and specifically the Factors talk about evidence
7 of eminence requires continued success in obtaining
8 competitive investigator-initiated grants.
9 So citations from work from previous
10 years, decades previously, would not be considered
11 as adequate productivity.
12 **Q So my one final question is about the School of**
13 **Medicine Promotion and Tenure Factors that is**
14 **Exhibit 6, the administration's Exhibit 6.**
15 **Counsel asked you about the fact that this**
16 **was dated March 30TH of 2016, and I take full**
17 **responsibility for the copy that was submitted as an**
18 **exhibit. I took this because this was the document**
19 **that was produced to Mr. Gordon under his request.**
20 **However, you work with these documents on**
21 **a regular basis in your job. Is that correct?**
22 A That is correct.
23 **Q Are you aware of any significant changes between**
24 **last year's Factors and this year's Factors?**
25 MR. GREGORY: Objection. The best

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1 evidence would be the Factors.
2 MS. GALANTE: And I will get a copy of
3 them and submit it.
4 CHAIRPERSON STATHAM: Overruled. Let her
5 answer.
6 THE WITNESS: There are no substantive
7 changes for Research Educator faculty that are
8 tenured professors. The expectations are still the
9 same.
10 MS. GALANTE: And before I rest, I will
11 get a copy of last year's and offer it as an
12 exhibit, so that if the Committee wants to compare
13 word-for-word and see if there are any changes they
14 can do so.
15 I just want to go through my notes
16 quickly, and then--I think that's all I have.
17 CHAIRPERSON STATHAM: Mr. Gregory?
18 MR. GREGORY: Yes.
19 RE-CROSS EXAMINATION
20 BY MR. GREGORY:
21 **Q Doctor, when asked about citations, you indicated in**
22 **your attorney's question that was not adequate**
23 **productivity. What is the difference between**
24 **adequate productivity and scholarship?**
25 A So let me revise my statement. It's not evidence of

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1 current productivity. Does that help your--with
2 your question?
3 **Q No. I'm asking you. You used the phrase, "adequate**
4 **productivity." Correct? Do you remember it?**
5 A Yes.
6 **Q All right, and my question is, is that the same as**
7 **scholarship, or different?**
8 A You know, honestly, your question doesn't make
9 sense. That's why I tried to rephrase my answer,
10 previous answer.
11 **Q That's all right. I'll see if I can make better**
12 **sense out of it. Is "adequate productivity"**
13 **different from "scholarship"?**
14 A Well, we talked about everything that a faculty
15 member has to do, so I'm not sure why or how you
16 compute adequate productivity to scholarship. They
17 don't seem to make sense in a sentence to me.
18 **Q If my work is cited numerous times by colleagues and**
19 **others in the field, isn't that evidence of**
20 **scholarship?**
21 A No. That is absolutely not evidence of scholarship.
22 **Q Why is that absolutely not?**
23 A So it's evidence of prior scholarship, decades ago.
24 The citations are--there is--and again, I've
25 testified to this. The Dean testified to this, and

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1 I can testify again.
2 We all agree that Dr. Needleman was an
3 eminent scientist with a significant body of
4 research that he did over a period of time, but it
5 is not adequate to do something in the past and not
6 do--continue to work.
7 So the Factors are clear. The
8 expectations are clear. Faculty cannot stop working
9 and think that their prior work is an adequate
10 evidence of why they are currently productive.
11 Dr. Needleman--and it appears you--think
12 that that is adequate. It is not. It is not at
13 all.
14 **Q Do you personally know how many citations Dr.**
15 **Needleman had after 2010?**
16 A The citations refer to all of the citations. They
17 don't describe the citations--so I'm sorry.
18 **Q Are you finished?**
19 A No. I wasn't finished. I thought I was being
20 interrupted, so--
21 **Q I don't think I did. Sorry.**
22 A All right. So the citations refer to what has
23 happened over time. So, for example, in my field of
24 research, one of the most cited publications is a
25 paper that never actually got published.

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1 It's still somebody's dissertation, and
2 it's how you measure economic status of an
3 individual. That was published, I think in 1975.
4 Virtually every manuscript that I see in
5 my research area cites that 1975 publication, even
6 though it's not a publication, that dissertation,
7 even though that individual didn't publish it.
8 So that is certainly not scholarship.
9 That was one evidence in 1975 of scholarship, but
10 the number of citations would be in the hundreds of
11 thousands probably, because every social scientist
12 uses the Hollingstadt (phonetic).
13 You have to cite that dissertation,
14 because that is the original citation. That is not
15 evidence of ongoing scholarship.
16 The School of Medicine requires, the
17 University requires that all of us continue to do
18 our job, not just the first decade of our employment
19 but throughout our employment as a faculty member.
20 That is where lack of productivity comes
21 in. It doesn't mean that somebody's work is still
22 not cited. It doesn't mean that that prior work
23 wasn't outstanding, but it's not adequate.
24 Does that answer your question?
25 **Q No, but we'll move along.**

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1 A I thought it did.
2 **Q Let me conclude, Doctor, by asking then, we**
3 **apparently have a new Factor, if you will, called**
4 **"productivity," "lack of productivity,"**
5 **"unproductive."**
6 MS. GALANTE: I just want to put--
7 **Q (By Mr. Gregory) It has been my privilege to**
8 **represent the faculty for many years, tenure cases**
9 **and the rest, and we have not actually been**
10 **confronted with that Factor or that concept.**
11 **So that's why I'm asking the difference**
12 **between productivity and scholarship and**
13 **expectations. It seems like a rather amorphous**
14 **situation to apply, and I'm wondering if you could**
15 **enlighten us as to how the faculty is judged in**
16 **terms of productivity.**
17 MS. GALANTE: Before you answer, I'd like
18 to place an objection, that there is no foundation
19 in the record that productivity is a new Factor.
20 I think there have been numerous
21 explanations given as to what it means, what that
22 word means, but there is no evidence or foundation
23 to say, "We now have a new Factor." It's a way--
24 MR. GREGORY: Well, Joint Exhibit 2 is,
25 Counsel. The team alleges at three different times

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1 that there is an unproductive Factor.
2 MS. GALANTE: It's a way of describing
3 somebody's record. It doesn't mean that we have now
4 added a new Factor to the Factors that have been
5 well-established.
6 CHAIRPERSON STATHAM: Okay. Overruled.
7 I'll allow the question. Ask the question again.
8 MS. GALANTE: If you remember the
9 question. Sorry about that.
10 THE WITNESS: Would you like to repeat the
11 question?
12 **Q (By Mr. Gregory) Do you recall it?**
13 A Would you like to repeat it, please?
14 **Q I will if you--**
15 A Yes. Please.
16 **Q Yes, certainly. No. I asked the difference between**
17 **productivity and scholarship and how--the fact we**
18 **know, the primary concern, it is almost Aurelian in**
19 **terms of some faculty are productive but others can**
20 **be more productive.**
21 **How do we know, Doctor, how to apply that?**
22 A So there are no new Factors. The Factors are
23 created by the Executive Committee of the Faculty
24 Senate, and the administration does not create the
25 Factors.

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1 The Dean receives the Factors from the
2 Faculty Senate, the Executive Committee, and then
3 can accept those if he concurs. So there is no new
4 Factor.
5 I find it difficult to understand that if
6 there are expectations of the faculty that are very
7 well specified in the Factors and Guidelines that
8 individuals, members of the faculty would not be
9 expected that their response to the Factors and
10 Guidelines would be to create, to produce, to comply
11 with those Factors.
12 So I find it very difficult to believe
13 that anyone cannot understand that if you don't
14 comply with the Factors you are going to be labelled
15 as being unproductive or ineffective or whatever
16 other terminology one might wish to use, a similar
17 synonym.
18 That's the best I can do, but there is no
19 new Factor. We're not making widgets.
20 **Q Has the Executive Committee adopted the concept of**
21 **productivity?**
22 A The Executive Committee has not created a new
23 Factor, and I don't recall that it has ever
24 discussed adopting the concept of productivity,
25 because I think that most faculty members know that

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1 we have to be productive and that the criteria for
2 being productive are the Factors.
3 **Q Has the Executive Committee been asked to take**
4 **action to indicate that grantsmanship is of prime**
5 **importance if one is going to retain their tenured**
6 **faculty position?**
7 A No one ever said or asked the Executive Committee to
8 say that grantsmanship was the primary--in fact, you
9 can't get a grant without having preliminary data,
10 publications, and a record that allows you to get
11 grants.
12 So no one has ever tried to get the
13 Executive Committee, to my knowledge, to make that a
14 stipulation.
15 MR. GREGORY: Thank you, Doctor. That's
16 all I have.
17 MS. GALANTE: Thank you.
18 (At 10:21 a.m., witness excused)
19 CHAIRPERSON STATHAM: Okay. Step down.
20 Do you want to take a five-minute break?
21 (At 10:21 a.m., recess taken)
22 (At 10:32 a.m., back on the record)
23 CHAIRPERSON STATHAM: Would you like to
24 call your next witness?
25 MS. GALANTE: I would. The administration

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1 calls Dr. Daniel A. Walz.
2 CHAIRPERSON STATHAM: Dr. Walz, would you
3 raise your right hand? Do you swear to tell the
4 truth, the whole truth and nothing but the truth?
5 DR. WALZ: I do.
6 CHAIRPERSON STATHAM: Thank you. Go
7 ahead.
8 DANIEL A. WALZ
9 (At 10:33 a.m., sworn as a witness,
10 testified as follows)
11 DIRECT EXAMINATION
12 BY MS. GALANTE:
13 **Q Dr. Walz, could you tell this Committee where you**
14 **are currently employed?**
15 A Currently employed at the School of Medicine, Wayne
16 State University, as the Associate Dean for Research
17 and Graduate Programs.
18 **Q And how long have you held that position?**
19 A I have been the Associate Dean for Research and
20 Graduate Programs since the year 2014.
21 **Q And give us a brief idea of your responsibilities as**
22 **Associate Dean for Research and Graduate Programs.**
23 A My primary responsibilities are on the Graduate
24 Programs side of the dual appointment, where I
25 oversee the intake of new Ph.D. students.

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1 We monitor the application process through
2 the individual departments, and we also coordinate
3 the Master's program in the School of Medicine.
4 **Q Do you have supervision over then the teaching of**
5 **courses in the graduate program?**
6 A We monitor the teaching of it, but individual
7 departments determine what courses they are going to
8 teach, how frequently they are going to teach, and
9 who the participant in that instructional material
10 is.
11 So Department (A)--my department happens
12 to be Physiology--our offerings are set by the
13 Department of Physiology, but that program has to go
14 through the University's graduate school and has to
15 be certified by the University's Board of Governors.
16 **Q Do you currently hold any other positions at the**
17 **University?**
18 A I have a faculty appointment in the Department of
19 Physiology, where I'm a professor, and I'm also the
20 Director of the MD/PhD program for the School of
21 Medicine.
22 **Q And what does that involve, as Director?**
23 A The MD/PhD program is a specialized track where
24 applicants both apply to a program where they will
25 simultaneously be studying medicine for two years,

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1 followed by a four-year cycle into our graduate
2 programs, where they will complete their PhD work.
3 Then they return to the medical program
4 for the final two years of their clinical training.
5 At the end of that eight-year period of time they
6 receive both the medical degree, M.D., and the Ph.D.
7 degree.
8 **Q You indicated that you have been a faculty member**
9 **here at Wayne?**
10 A Yes.
11 **Q Are you tenured?**
12 A Yes, I am.
13 **Q And how long have you been a faculty member here at**
14 **the University?**
15 A I was appointed to the faculty in 1973.
16 **Q And what other positions have you held at the**
17 **University in the past, other than your current**
18 **ones?**
19 A Sure. In addition to my holding a position in the
20 Department of Physiology, in 1989 I was asked to
21 join the University's central administration, where
22 I served first as the Associate Vice President for
23 Research, and subsequently served as both the
24 Interim and then the Vice President for Research, as
25 well as the Dean of the graduate school.

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1 When I finished that tour of duty, if I
2 can use that phrase, I re-joined the School of
3 Medicine and was also dually appointed as the Deputy
4 Director of the Environmental Health Sciences
5 Institute for the University.

6 **Q Do you still do research?**

7 A Yes, I do. I share--I do not have my own laboratory
8 at the present time. I share space with a colleague
9 in the Department of Physiology, where we are
10 studying some basic cell biology of the blood cell
11 called blood platelet.

12 **Q In addition to your administrative responsibilities,
13 do you still teach?**

14 A Yes. Actually I start a cycle of teaching in the
15 graduate Physiology course in April, where I teach
16 mechanisms of blood coagulation.

17 For 19 years I have been the Co-Director
18 of a spring curriculum that is referred to as
19 "Responsible Conduct in Research," which is a course
20 required of all students who receive stipend or
21 graduate stipend support from the National
22 Institutes of Health.

23 **Q So in your role as the Associate Dean of Research
24 and Graduate Programs, are you aware of whether or
25 not Professor Needleman has taught or does teach in**

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1 **the graduate programs?**

2 A My awareness of it would be, as it would be for any
3 faculty member, through the syllabus that is offered
4 in a given course, and we receive a summary that is
5 kept in our office of the individual's--what is
6 called a SET score, Student Evaluation of Teaching
7 score for individual courses and instructors in
8 those courses.

9 **Q Do you know who Professor Needleman is?**

10 A I do.

11 **Q Have you had an opportunity to review Professor
12 Needleman's teaching activities in your graduate
13 programs?**

14 MR. GREGORY: Objection, no foundation.
15 When was this done? I suspect it was subsequent to
16 the charges and therefore would be irrelevant.

17 CHAIRPERSON STATHAM: Okay. Would you
18 rephrase your question?

19 **Q (By Ms. Galante) Do you have any knowledge of what
20 Professor Needleman's teaching activities have been
21 in the graduate program--**

22 CHAIRPERSON STATHAM: In when?

23 **Q (By Ms. Galante) Over the last five years or so?**

24 CHAIRPERSON STATHAM: Okay.

25 MR. GREGORY: Well, still the same

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1 objection, Mr. Chairman, because it has not been
2 established. This was pre-charges of Dr. Needleman,
3 and if that is not the case, then it's irrelevant.

4 MS. GALANTE: Why is it irrelevant to
5 document what the University's records show in terms
6 of his teaching record?

7 The University, the Dean testified that he
8 relied upon that in summary form. This gives us the
9 documents that support that.

10 MR. GREGORY: Because it--

11 CHAIRPERSON STATHAM: How about--do you
12 have any indication that he checked Dr. Needleman's
13 record prior to March 23RD or 24TH of 2016? Did he
14 know about that?

15 MS. GALANTE: I think he--

16 **Q (By Ms. Galante) Have you been aware of or checked
17 Dr. Needleman's record prior to March of 2016?**

18 A It's a memory question. Prior to March of 2016. I
19 can't say with certainty that I have or I have not.
20 We look at them. They are in our office.

21 I know we have evaluated the curriculum,
22 not specific instructors, but we have evaluated the
23 curriculum over time as we reorganized and
24 repurposed some of our courses, one of which Richard
25 was teaching.

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1 **Q And when you say "Richard," you are referring to Dr.
2 Needleman?**

3 A Dr. Needleman, excuse me.

4 **Q Okay.**

5 MR. GREGORY: Mr. Chairman, this is so
6 important that I am confident it's after-acquired
7 evidence, and one of the elements, as you know, of
8 adequate cause is adequacy of investigation.

9 We have asserted in our Answer and the
10 evidence will show that the investigation was
11 inadequate, flawed, and this is bootstrapping, pure
12 and simple, to call in people to say, "Oh, yeah. He
13 didn't meet productivity standards," when it's not
14 evidence that was before the Dean or relied upon by
15 the Dean.

16 Thus there is no foundation for this
17 witness's testimony.

18 CHAIRPERSON STATHAM: I'm going to sustain
19 that, because I think that--

20 MS. GALANTE: Well, can I respond to that?

21 CHAIRPERSON STATHAM: Yeah.

22 MS. GALANTE: All of this information is
23 in summary form in the Selective Salary
24 documentation that the Dean has relied upon and that
25 Dr. Delaney-Black has testified to.

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1 This is not evidence that we are creating
2 after the fact. The SET scores for his teaching
3 have been established at the end of each of the
4 courses that he taught.
5 This is evidence that is in his files,
6 that is in the department records and that was part
7 of the Selective Salary evaluation. He was judged
8 by the committees, year after year after year, on
9 his teaching.
10 Those scores show how he was judged. This
11 is the documentation that supports that. It's not
12 newly-created evidence. It's evidence that existed
13 all along.
14 MR. GREGORY: Not through this witness.
15 She has not established the fundamental fact that he
16 was consulted, that he was involved in any respect
17 with the charges against Dr. Needleman.
18 MS. GALANTE: But why do we have to
19 establish that he was consulted? The Dean testified
20 about all the people that were invited in, all the
21 records that were pulled.
22 They then summarized those records and
23 came up with the chart that is listed in Exhibit 8
24 and the records that are listed in Exhibit 9. So
25 that is all the summary of what his teaching has

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1 been.
2 CHAIRPERSON STATHAM: Okay, and what is
3 the purpose of this witness now?
4 MS. GALANTE: To inform the Committee of
5 what his SET scores have been that justified the
6 teaching scores that he has gotten.
7 CHAIRPERSON STATHAM: Okay. I will allow
8 it.
9 MR. GREGORY: It's in evidence, and he
10 wasn't involved. This is all after the fact. He
11 had nothing to do with the charges. I'm assuming
12 that because he hasn't been asked that question.
13 MS. GALANTE: Whether he has been
14 involved--no, he has not been involved in the Dean's
15 process, but the Dean relied upon records that are
16 contained in his department.
17 CHAIRPERSON STATHAM: And he is testifying
18 as to the records that the Dean relied on.
19 MS. GALANTE: He is testifying on the
20 records that--I mean, I can't tell you that the Dean
21 actually looked at the SET scores, because that is
22 not something that he would--I mean, if he had to do
23 that, he would never have time for anything, but he
24 relied upon the summaries and the Selective Salary
25 scores.

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1 Those took into consideration his teaching
2 record and how he was viewed.
3 CHAIRPERSON STATHAM: Okay.
4 MS. GALANTE: And he can tell us what
5 courses that Professor Needleman taught and what
6 years he taught them. That is the kind of detail
7 that isn't in the summary.
8 The summary is the compilation of all of
9 that. This is the detail of what that is.
10 MR. GREGORY: Well, and it's obviously not
11 material that was considered by the Dean. The Dean
12 has testified. Dr. Delaney-Black has testified.
13 You have the evidence, and again, this is
14 pure bootstrapping.
15 CHAIRPERSON STATHAM: I think he has a
16 point, Counselor. If we are talking about anything
17 that was discovered after the discipline was
18 rendered, was instituted, it was after-acquired
19 evidence.
20 MS. GALANTE: But it--make that statement
21 again. I was listening to what you said, that if
22 this was what?
23 CHAIRPERSON STATHAM: Well, I think Mr.
24 Gregory has a point. If he is testifying about
25 something discovered after the discipline was

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1 rendered, it's not what the Dean relied on when he
2 disciplined.
3 MS. GALANTE: Well, it's--
4 CHAIRPERSON STATHAM: It says something
5 that came after.
6 MS. GALANTE: Okay. It's not evidence
7 that was discovered afterwards. Dr. Delaney-Black
8 testified that she reviewed his entire department
9 file, personnel file, his department records which
10 contain all of this information.
11 MR. GREGORY: That's the end of it. You
12 have it.
13 MS. GALANTE: So am I allowed to proceed?
14 CHAIRPERSON STATHAM: If you're testifying
15 about something that happened prior to his
16 discipline, yeah.
17 MS. GALANTE: Okay. Yeah, we are
18 covering--all of this covers prior to. So let's go
19 back then--I lost track of where I was.
20 **Q (By Ms. Galante) Can you tell the Panel what**
21 **courses Professor Needleman has taught prior to**
22 **today--so in other words, prior to March of 2016,**
23 **what his historical record of teaching has been**
24 **over, say, the last four or five years?**
25 A It has been in the--there are several courses that

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1 Dr. Needleman has been engaged in from our records.
2 The main one from my point of view is the
3 fundamental course in Biochemistry that is available
4 to all graduate students.
5 Biochemistry is BMB 7010. That course
6 there is--we offer courses in two different
7 structures. We admit doctoral students, Ph.D.
8 students, into an integrated Biomedical Sciences
9 curriculum.
10 That is called the IBS Curriculum. Prior
11 to two years ago that curriculum had two phases to
12 it, the first phase being Cell Biology, and the
13 second phase being Biochemistry.
14 Two years ago that was collapsed into a
15 unified course and rearranged, and the curriculum
16 draws from all seven of our Basic Science
17 departments.
18 In parallel, there each department--
19 Biochemistry and Molecular Biology being one,
20 Physiology being another as an example, they each
21 offer their own doctoral program, starting with a
22 foundational course, and in this case that would
23 have been BMB 7010.
24 Dr. Needleman has been an instructor in
25 that BMB 7010, I believe our records show since 2008

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1 annually. That course is offered annually during
2 the fall semester.
3 It is a required course for all doctoral
4 students in Biochemistry, and it is open to any
5 other doctoral program student in the School of
6 Medicine.
7 **Q And I think you described basically what that was.
8 So is this course individually taught by Dr.
9 Needleman?**
10 A No, it is not. The BMB 7010 course consists of at
11 least four instructors from the Department of
12 Biochemistry, one of whom is Dr. Needleman.
13 **Q That is the total in terms of instructors for the
14 course? They are all from Biochemistry?**
15 A They are all from Biochemistry.
16 **Q Do you know, do you have any firsthand knowledge of
17 how many--so different faculty give different
18 lectures in terms of that course. Do you know how
19 many lectures he gives in that course?**
20 A Our records indicate that Dr. Needleman presents
21 six--has been presenting six credit hours--six
22 contact hours, excuse me--six contact hours each
23 year in Biochemistry 7010.
24 CHAIRPERSON STATHAM: Is that six hours a
25 week or--

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1 THE WITNESS: Six hours total.
2 CHAIRPERSON STATHAM: Total in the year,
3 student contact?
4 THE WITNESS: In the semester, yes.
5 **Q (By Ms. Galante) And that is only offered once a
6 year?**
7 A It's offered in the fall semester.
8 **Q Fall semester, so that is a total of six contact
9 hours for the year?**
10 A For the semester.
11 **Q For that course. For that semester, but it is only
12 offered once?**
13 A Yes.
14 **Q Are you aware of whether or not--so would the
15 lectures that Professor Needleman teaches, these six
16 one-hour lectures, are they the same year after year
17 since he has been teaching it?**
18 A I think by topic, by heading they are. Content-wise
19 it can vary from year to year as new discoveries are
20 made and lectures are altered and changed over the
21 course of one year, compared to the next and
22 compared to the next.
23 **Q And so it would be up to the individual faculty
24 member to update those materials?**
25 A Correct.

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1 **Q And do you know whether or not Professor Needleman
2 for this course has listed any preparation hours?**
3 A For the records that I have available, there is no
4 indication of preparation hours, preparation time.
5 There is no number of hours listed.
6 **Q Okay. So he hasn't listed--generally when you are
7 updating your course materials, would that be
8 considered preparation time?**
9 A Yes.
10 **Q And you said this would have been done in the fall,
11 this course, the fall semester?**
12 A Yes.
13 **Q Can you tell us--so these are all Biochemistry
14 professors, but this particular course, can you tell
15 us how Professor Needleman's load for this course is
16 compared to the other faculty members?**
17 A The course has a total of 48 contact hours, credit
18 hours--contact hours through the semester, and Dr.
19 Needleman has responsibility for six of them.
20 **Q And have you had an opportunity to check--well,
21 let's explain for the Panel what SET scores are,
22 because that was mentioned.**
23 A Sure. SET scores are--the acronym is Student
24 Evaluation of Teaching. The University mandates
25 that all courses have the opportunity for students

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1 who are the recipients of the information, the
2 opportunity to evaluate both the content of the
3 material being provided, as well as the individual
4 instructors and how the students would rate that
5 instructor on each year.

6 **Q And have you pulled the SET scores for Professor
7 Needleman for the years, 2011 to 2015?**

8 A We have, yes.

9 **Q One other preliminary question. When you talk about
10 the ratings in SET scores, can you tell us what the
11 range of ratings are and what they mean?**

12 A Yeah. This is very uniform across the University.
13 They range from a SET score of 1 to 5, 5 being
14 excellent and going down to 1 being poor. So it's a
15 1, 2, 3, 4 or 5 issued by each individual student
16 who is responding--who has completed a SET score
17 request.

18 MR. GREGORY: Well, objection. I don't
19 recall anything in the charges or Dean's testimony
20 about the SET scores or reliance, so this is all new
21 material.

22 MS. GALANTE: Well, there wasn't any. I
23 mean, he didn't get down to that much specifics, but
24 both he and Dr. Delaney-Black testified that they
25 relied upon his Selective Salary Reviews for the

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1 last four or five years, all of which evaluate
2 teaching.

3 One of the factors in evaluating teaching
4 is how that faculty member is perceived by the
5 students that they teach.

6 CHAIRPERSON STATHAM: I will allow it and
7 overrule Mr. Gregory, but I should say that one
8 thing--it may be a business document, but it is
9 certainly hearsay.

10 He can't cross-examine the students, and
11 we don't know who the students were, but I will take
12 it for what it's worth.

13 MS. GALANTE: Okay. This would be the
14 administration's Exhibit 16.

15 (At 10:54 a.m., Employer's
16 Exhibit 16 marked and received)

17 CHAIRPERSON STATHAM: And it relates to
18 teaching, which is one of the accusations--

19 MS. GALANTE: It relates to the teaching
20 of this particular course.

21 **Q (By Ms. Galante) So have you had an opportunity to
22 review this Employer's Exhibit 16, Dr. Walz?**

23 A I have.

24 **Q And so you would have been the one that obtained
25 this information from the University's business**

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1 **records?**

2 A Into our office. It comes in to one of our staff
3 people, and I obtained it from her.

4 **Q And have you had a chance to review this?**

5 A Yes, I have.

6 **Q And it covers specifically Professor Needleman's SET
7 scores for fall of 2011 through fall of 2015 for BMB
8 7010. Am I correct?**

9 A Correct.

10 **Q And could you interpret this for us and tell us what
11 the scores are, or represent?**

12 A Well, I'll start with the--

13 MR. GREGORY: Objection to reading from it
14 until it is offered and received.

15 MS. GALANTE: Oh, I'm sorry. You're
16 correct.

17 CHAIRPERSON STATHAM: It's in.

18 MS. GALANTE: Yeah. I thought he had said
19 that it was admitted.

20 MR. GREGORY: Did you say it was admitted?

21 CHAIRPERSON STATHAM: I admitted it.

22 MR. GREGORY: Oh, I didn't hear that. Beg
23 your pardon.

24 THE WITNESS: I will look just at the top
25 page, which is the fall of 2015. The subsequent

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1 ones, the format is exactly the same. The scoring
2 numbers you can find on the summary sheets.

3 Starting at the very top you will see that
4 on the top right-hand corner it says how many
5 students responded. In this particular year 16
6 students completed their SET score evaluation out of
7 the 69 students involved in the course.

8 CHAIRPERSON STATHAM: And this is the team
9 taught class we're talking about?

10 THE WITNESS: This is the team taught
11 class, and there is a summary for every instructor,
12 for each one. This happens to be Dr. Needleman's.

13 CHAIRPERSON STATHAM: Oh, these are
14 graded--okay. Yeah. I see it.

15 **Q (By Ms. Galante) So just to clarify, based on your
16 question, this is an evaluation only of Professor
17 Needleman's performance?**

18 A Correct.

19 **Q His six lectures?**

20 A Correct.

21 CHAIRPERSON STATHAM: Yeah. It's clear.

22 THE WITNESS: So on the first box that you
23 see at the top it says, "Summary of the Overall
24 Course Evaluation." The students have rated the
25 overall course as 3, which would put it right in the

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1 middle of "Good," using the vocabulary of the
2 scoring system.
3 "How much did you learn from this course?"
4 It was 3.6, so it would be somewhere between "Good"
5 and "Very Good," and the next line down was the
6 individual instructor evaluation.
7 This particular year Dr. Needleman was
8 evaluated as a 2.9, which put him on the edge of
9 being evaluated as "Good," his overall teaching.
10 If you want to go down further, you can
11 find the same box for 2014, which is about three or
12 four--three pages--I think it's three pages, fourth
13 page down, and 2014, 53 of the 78 students enrolled
14 in that year, a much bigger sample size.
15 The students overall rated the course 4 as
16 compared to 3 the prior year, and Dr. Needleman was
17 evaluated as a 4.1, which would put him between
18 "Very Good" and "Excellent" in 2014.
19 If you go down three more pages to 2013,
20 now we have a similar large statistical sample, 54
21 of 77. The students were equally or almost equally
22 favorable to the course as a whole, 3.8.
23 Dr. Needleman was evaluated a 2.8 that
24 particular year, so we're looking at an individual
25 year compared to the next.

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1 I think if you look at all of them on
2 average, you would see that Dr. Needleman averages
3 out to just slightly above 3.0, "Good," to put a
4 vocabulary word on it.
5 **Q (By Ms. Galante) And in your opinion when you look**
6 **at these SET scores, what does this tell you? This**
7 **is--**
8 MR. GREGORY: Well, objection. He was not
9 involved.
10 CHAIRPERSON STATHAM: Sustained.
11 MR. GREGORY: His opinion now is--
12 MS. GALANTE: But he evaluates--
13 CHAIRPERSON STATHAM: I think the
14 documents speak for themselves.
15 MR. GREGORY: Yeah.
16 CHAIRPERSON STATHAM: He testified it was
17 1 in 5, 1 being bad, 5 being good, and these
18 documents, all in there, plus the student comments.
19 **Q (By Ms. Galante) So this is an instructor that is**
20 **very experienced?**
21 A Correct.
22 **Q Teaching material that he has taught for many years.**
23 **Is that correct?**
24 A Correct.
25 **Q And is this the type of instructor that you would**

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1 **continue to seek out, based on these scores--**
2 MR. GREGORY: Objection.
3 **Q (By Ms. Galante) For teaching this course?**
4 MR. GREGORY: It has now been stated
5 several times. He was not involved. This is
6 opinion that was not relied upon by the Dean.
7 **Q (By Ms. Galante) Let's move on to the next course**
8 **that he has taught, BMB 7030. Is that correct, or**
9 **is that the one that we just talked about?**
10 A 7030?
11 **Q 7030.**
12 A Correct. 7030 is basically a techniques course,
13 introducing graduate students to techniques that
14 might be of value to them as they proceed in their
15 doctoral training, covering the fundamentals of the
16 how to and why in biotechnology.
17 CHAIRPERSON STATHAM: Again, what is the
18 number of this course?
19 THE WITNESS: 7030. BMB 7030.
20 **Q (By Ms. Galante) And is this also a team taught**
21 **course?**
22 A I believe that it is.
23 **Q And did you pull Dr. Needleman's SET scores for this**
24 **course?**
25 A We did.

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1 MS. GALANTE: This would be our proposed
2 Exhibit 17.
3 (At 11:01 a.m., Employer's
4 Exhibit 17 marked)
5 **Q (By Ms. Galante) Well, what do your records show in**
6 **terms of Professor Needleman's contact hours for**
7 **this team taught course, 7030?**
8 A I believe this one also had contact hours totaling
9 six.
10 MR. GREGORY: Could we get copies,
11 Counsel?
12 MS. GALANTE: Of what? Oh, no. That was
13 the wrong one. I'm just asking him questions about
14 it still.
15 MR. GREGORY: About what?
16 MS. GALANTE: About what his knowledge of
17 in terms of the contact hours, how much did
18 Professor Needleman teach in BMB 7030. I haven't
19 asked about SET scores yet.
20 THE WITNESS: Contact hours, I believe,
21 were six contact hours in this course as well.
22 **Q (By Ms. Galante) Do you know how many years he**
23 **taught this course?**
24 A I don't recall. It's a number of years, but I can't
25 give you the range or time on that.

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1 **Q And do you have SET scores on this course?**
2 A There are SET scores on this course as well. I
3 believe Dr. Needleman's SET score ranged between 2.4
4 and 2.8.
5 **Q So did Professor Needleman teach any of the IBS**
6 **courses?**
7 A He did teach in the IBS curriculum when we had two
8 separate sections, when we had the Cell Biology
9 section and the Biochemistry section. He was an
10 instructor in the Biochemistry component of that
11 course.
12 **Q Do you know what years he taught IBS 7010?**
13 A 7010 and 7020, I believe, and I think the years were
14 up to 2014. That's when we reorganized the course.
15 **Q Does he still currently teach any portion of the IBS**
16 **course?**
17 A Not when it was reorganized into a common course
18 where both Biochemistry and Cell Biology were
19 combined into a single offering. Dr. Needleman does
20 not teach in that course.
21 **Q Do you know why he no longer teaches in that course?**
22 A Well, it was at the direction of the course
23 coordinators, who at the time were Dr. Trulecki
24 (phonetic), who has left the University, and Dr.
25 Finley (phonetic), who is currently the course

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1 director. It was their decision, I'm told.
2 MR. GREGORY: Objection, hearsay.
3 CHAIRPERSON STATHAM: Sustained.
4 **Q (By Ms. Galante) Do you have any firsthand**
5 **knowledge of why Professor Needleman is no longer**
6 **teaching this course?**
7 A No, I do not. I have comments from those who
8 coordinated the course, but that would be my
9 personal knowledge.
10 **Q Do you know whether it was Professor Needleman's**
11 **choice to no longer teach it, or the course**
12 **Director's?**
13 MR. GREGORY: Objection. She is leading.
14 MS. GALANTE: I'm asking him if he--
15 MR. GREGORY: He said he did not know.
16 CHAIRPERSON STATHAM: Sustained.
17 **Q (By Ms. Galante) Do you have the SET scores for**
18 **this course?**
19 A We do.
20 **Q And is this the document--take a look at this. This**
21 **would be the Employer's Exhibit 17.**
22 CHAIRPERSON STATHAM: This was your
23 proposed Exhibit 17?
24 MS. GALANTE: 17, yes.
25 CHAIRPERSON STATHAM: Mr. Gregory?

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1 MR. GREGORY: Voir dire?
2 CHAIRPERSON STATHAM: Yeah.
3 MR. GREGORY: Doctor, when did you extract
4 proposed Exhibit 17 and 16 from your files?
5 THE WITNESS: Probably--as you have them
6 in your hands now?
7 MR. GREGORY: Yeah. Two weeks ago?
8 THE WITNESS: Oh, several months ago.
9 MR. GREGORY: Several months ago at the
10 request of Ms. Galante, I would assume.
11 THE WITNESS: Correct.
12 MR. GREGORY: Were they previously given
13 to Dean Sobel?
14 THE WITNESS: I do not know.
15 MR. GREGORY: You did not personally?
16 THE WITNESS: I did not, no.
17 MR. GREGORY: But you did not personally
18 give them to him?
19 THE WITNESS: No, I did not.
20 MR. GREGORY: Did you give them to Dr.
21 Delaney-Black?
22 THE WITNESS: No, I did not.
23 MR. GREGORY: Were you consulted by Dean
24 Sobel regarding the SET scores?
25 THE WITNESS: No, I was not.

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1 MR. GREGORY: Were you consulted by Dr.
2 Delaney-Black?
3 THE WITNESS: No.
4 MR. GREGORY: Were you consulted by anyone
5 regarding Dr. Needleman's SET scores?
6 THE WITNESS: By Dr. Trulecki as we were
7 reviewing the reorganization of the course.
8 MR. GREGORY: But that is the only other
9 occasion?
10 THE WITNESS: Correct.
11 MR. GREGORY: Again, Mr. Chair, it's
12 irrelevant. It's after-acquired. I would note that
13 it is not on the dossier, Employer Exhibit No. 8.
14 It has everything else practically.
15 If the SET scores had been considered, I'm
16 certain it would have appeared on this document, and
17 it doesn't. So now again I use the term,
18 bootstrapping, and that is exactly what it is.
19 CHAIRPERSON STATHAM: I'm going to admit
20 the SET scores as they relate to the accusations of
21 teaching that led to discipline in your evidence.
22 By the same token, as I said before, I
23 think SET scores may be a business document, but
24 they are certainly hearsay, because I don't know how
25 you examine the students or identify the students.

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1 MS. GALANTE: I understand.
2 CHAIRPERSON STATHAM: Who filled these
3 out.
4 MS. GALANTE: So Employer's Exhibit 17--
5 CHAIRPERSON STATHAM: Is admitted.
6 MS. GALANTE: Is admitted, and it speaks
7 for itself.
8 (At 11:08 a.m., Employer's
9 Exhibit 17 received)

10 **Q (By Ms. Galante) Dr. Walz, are you aware of any**
11 **other courses that Professor Needleman has taught in**
12 **the last five years in the graduate program?**
13 A I believe in the Department of Biochemistry there is
14 an additional course that is referred to as BMB
15 7330.
16 **Q And what is your knowledge of his teaching in that**
17 **course?**
18 A Similar to my knowledge based on others, which is
19 the enrollment numbers and the Student Evaluation of
20 Teaching at the end of the course.
21 **Q Do you know what years he taught that course?**
22 A I believe it was first offered in 2014, although I'm
23 not positive that is the starting year, and 2015.
24 **Q And the only SET scores you pulled were for 2016?**
25 A Yes.

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1 **Q Which would have ended at what point?**
2 A 2016, the academic year would have ended in late
3 April, early May of 2016.
4 MS. GALANTE: So given the Arbitrator's
5 ruling, I won't offer these for admission, because
6 they are technically during that same time period,
7 but I will just withdraw that.
8 **Q (By Ms. Galante) Did you have an opportunity to**
9 **review the department--so as you were pulling all of**
10 **this information, the department records would show**
11 **who teaches what and what they revealed to the**
12 **department in terms of their contact hours and**
13 **preparation hours? Is that--**
14 A Yes.
15 **Q Okay, and so that's where you would have gotten the**
16 **information, directly from what Professor Needleman**
17 **submits to the department?**
18 A That is correct.
19 **Q In terms of his contact hours, and to your knowledge**
20 **then, has he ever listed anything more than this 12**
21 **to 15 contact hours a year for teaching?**
22 MR. GREGORY: Objection, leading, and
23 again, after acquired. Clearly this is evidence
24 that was not submitted and considered by the Dean.
25 CHAIRPERSON STATHAM: I'll overrule you

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1 and let her ask the question, how many hours,
2 contact hours was he teaching, based on your
3 records, prior to the discipline.
4 MS. GALANTE: Okay, and that is the
5 question.
6 **Q (By Ms. Galante) How many hours, based upon the**
7 **records that you pulled, was he teaching per year**
8 **prior to March of 2016? You can look at that.**
9 MS. GALANTE: I'm not going to offer this
10 unless Counsel would like it, but I have redacted
11 names of everybody else, but it gives him an
12 opportunity to refresh his recollection.
13 THE WITNESS: The total on the form in my
14 hands right now is 15. 15 contact hours.
15 CHAIRPERSON STATHAM: 15 total contact
16 hours in a year? Correct?
17 MS. GALANTE: For teaching.
18 CHAIRPERSON STATHAM: Not per semester or
19 anything else?
20 THE WITNESS: No.
21 CHAIRPERSON STATHAM: Total in a year?
22 THE WITNESS: Per year.
23 **Q (By Ms. Galante) And does he list any preparation**
24 **hours?**
25 A No, he does not.

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1 MS. GALANTE: I have no more questions.
2 Oh. I have one more question.
3 **Q (By Ms. Galante) In one of your roles--I'm not sure**
4 **which one it was--did you ever have an opportunity**
5 **to implement moving Professor Needleman's lab space**
6 **from Scott Hall to the Lande Building?**
7 A Yes, I did.
8 **Q And when would that have occurred?**
9 A I believe it was in the year 2008 and 2009, in that
10 window of time.
11 **Q And who made that request to you?**
12 A Dr. Rosen.
13 **Q Dr. Rosen?**
14 A Dr. Rosen made the request. It went to the Dean's
15 office and it came to me via Dr. Mentzer, who was
16 Dean at the time.
17 **Q So you would have taken your direction from the**
18 **Dean?**
19 A Correct.
20 **Q You would have had to have the Dean's approval to**
21 **make that change?**
22 A Correct.
23 **Q Is that something in your role at that time that you**
24 **would have done with faculty?**
25 A Yes. At that time we did not have the

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1 administrative structure we have in place today, so
2 we did not have a Vice Dean for Research in the
3 School of Medicine.
4 **Q Okay.**
5 A So in my capacity as the Associate Dean for
6 Research, I had to intercede when departments
7 requested additional space for new faculty
8 recruitment or reassignment of space inside of the
9 inventory they managed.
10 **Q Do you have any firsthand knowledge as to why this**
11 **change was being made?**
12 A The Department of Biochemistry was in the process of
13 hiring a new faculty member, Dr. Li, L-I, and Dr.
14 Rosen specifically requested that the laboratory
15 space Dr. Needleman had assigned to him be in turn
16 assigned to the recruitment of Professor Li, Dr. Li.
17 **Q And is that something that is typically done for a**
18 **new faculty member that is brought in as a**
19 **researcher, that they are given laboratory space?**
20 A Yes, it is.
21 MS. GALANTE: I have no more questions.
22 CHAIRPERSON STATHAM: Mr. Gregory?
23 MR. GREGORY: Yes.
24 CROSS-EXAMINATION
25 BY MR. GREGORY:

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1 **Q How are courses assigned in Dr. Needleman's**
2 **department?**
3 A Within every department there are structures in
4 place for what courses are being proposed and
5 created. Within the department it is generally the
6 course coordinator who makes up the syllabus and
7 assigns curriculum.
8 He has to make sure that individual
9 faculty members are going to be available during
10 that particular period of time.
11 They may be on sabbatical. They may be
12 absent from the University, so it has to be balanced
13 out. Generally it is done on an annual basis.
14 **Q Is the course coordinator a separate position from**
15 **the chair?**
16 A Yes.
17 **Q What is the chair's role, if any, in assigning**
18 **classes?**
19 A The chair's role generally is making sure that there
20 is a balance of instructional offerings throughout
21 the respective department. It depends a little bit
22 on the individual chairs.
23 Some chairs are more engaged in the
24 teaching activity. Some chairs are more engaged in
25 the research, so it's a balancing point, and

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1 graduate education is separate from medical school,
2 medical student education.
3 We're talking specifically about graduate
4 student education.
5 **Q What option, if any, does the faculty have to**
6 **decline to teach a course?**
7 A I think if the area subject matter were clearly
8 outside of their area of expertise or training they
9 would have the prerogative of saying perhaps there
10 is a better individual, but they would also be told
11 that there is a shared responsibility for making
12 sure that our curriculum is covered.
13 **Q Let me understand the preparatory hours you spoke**
14 **to.**
15 A Yes.
16 **Q Is that a requirement to be recorded?**
17 A Recorded? Requirement?
18 **Q Yeah. You were referring to some document.**
19 A Yes.
20 **Q And you said that prep time did not show, and I'm**
21 **just asking what the practice is or the requirement.**
22 A It's self-reported. So it can be--so we can
23 typically account for when an individual is being
24 asked to take on new teaching material it requires a
25 significantly greater amount of preparation time,

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1 but every year--I can only use myself as an example
2 in the question you're asking.
3 Every year as I am preparing to repeat my
4 lectures, I spend approximately an hour to an hour
5 and a half of time for each one of my contact hours,
6 refreshing my material, making sure that it's
7 contemporary and ready to be delivered.
8 **Q What significance if any does it have for this**
9 **Committee? Are you saying he didn't prepare?**
10 A I have no idea if he prepared. All I can say is he
11 reported no preparation time.
12 **Q Was he disciplined or admonished about that?**
13 A Don't know.
14 **Q Did you review the SET scores as they come in?**
15 A Do I typically review the SET scores?
16 **Q Yes.**
17 A I want to understand your question. No, I do not.
18 **Q You do not. Does anyone else that you know?**
19 A Certainly at the departmental level they do. When
20 SET scores are released, they come back to the
21 course coordinator, and whoever that individual is
22 then breaks them down and shares them with the
23 individual lecturers.
24 **Q Could Dr. Needleman have taught courses that you**
25 **would not have a record of or access to a record of?**

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1 A If he is an instructor of record, no. We would have
2 that record.
3 **Q So the record is clear, Doctor--bear with me. You**
4 **answered this in part, but as I understand, you had**
5 **no conversations with Dean Sobel about the SET**
6 **scores prior to August 5 of 2016?**
7 A That is correct.
8 **Q Or even to-date?**
9 A Correct.
10 **Q To-date, all right, and the same question as to Dr.**
11 **Delaney-Black. No conversation with her?**
12 A Also correct.
13 **Q What you have done here today was prepare these**
14 **documents at Ms. Galante's request and testify?**
15 A Correct.
16 MR. GREGORY: All right. Nothing further.
17 Thank you, Doctor.
18 MS. GALANTE: I just want to--just
19 redirect.
20 REDIRECT EXAMINATION
21 BY MS. GALANTE:
22 **Q These are not--these records have been in existence**
23 **at the time they were created. Is that correct?**
24 A They were not created for me. They are University
25 records that are compiled annually and put into our

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1 office records, as well as the departmental records.
2 **Q Did you ever personally receive any complaints about**
3 **Professor Needleman's teaching?**
4 A We have had--personally to me by a student, no, but
5 I had to interact with Dr. Trulecki in my capacity
6 as Associate Dean--he was the Assistant Dean--in how
7 to manage the complaints that Dr. Trulecki was
8 receiving as one of the course coordinators.
9 **Q About Professor Needleman?**
10 MR. GREGORY: Objection, hearsay. Move to
11 strike.
12 CHAIRPERSON STATHAM: Sustained.
13 MS. GALANTE: I have no more questions.
14 Thank you, Dr. Walz.
15 THE WITNESS: Thank you.
16 CHAIRPERSON STATHAM: All right. Step
17 down.
18 (At 11:18 a.m., witness excused)
19 MS. GALANTE: I have one more thing. We
20 had talked about the Article XXIV and Lee
21 Hornberger's decision on this matter, and I think my
22 understanding is a little bit different of Gordon's,
23 and I just want to make sure that the record is
24 clear.
25 I don't think I have to admit the Opinion

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1 if he is willing to stipulate that the Arbitrator
2 ruled that an Article XXIV proceeding was not
3 mandatory or necessary in order for the University
4 to implement a Board of Governors dismissal
5 proceeding under this statute.
6 Are we stipulating to that?
7 MR. GREGORY: We will so stipulate, but I
8 think we made it clear yesterday. To phrase another
9 way, the use of Article XXIV is not a condition
10 precedent to a Board of Governors statute dismissal
11 proceeding.
12 MS. GALANTE: And that was the
13 Arbitrator's ruling. At this time the
14 administration rests in terms of its case, but I
15 would like to reserve the right for rebuttal.
16 CHAIRPERSON STATHAM: Okay. Do you want
17 to proceed, Mr. Gregory, with your opening
18 statement, or would you rather break for lunch and
19 then do it?
20 MR. GREGORY: Well, I would like about ten
21 or fifteen minutes with my client.
22 CHAIRPERSON STATHAM: That's fine.
23 MR. GREGORY: For discussion.
24 (At 11:20 a.m., recess taken)
25 (At 12:27 p.m., back on the record)

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1 CHAIRPERSON STATHAM: Ready to go back on
2 the record, and we'll start with your motion,
3 Counselor?
4 MR. GREGORY: Yes. May it please the
5 Committee and you, Mr. Chairman, during the recess
6 we distributed a document entitled, "Respondent's
7 Motion to Dismiss the Charges."
8 It should be considered frankly in
9 conjunction with the Answer and Rebuttal of Charges
10 that we filed yesterday at the outset of the
11 hearing.
12 I submit that if the Committee goes into
13 Executive Session and examines the motion, the
14 Answer and Rebuttal and the exhibits to-date, it
15 will be clear that the Employer has not established
16 a prima facie case, that they have not by
17 preponderance of evidence shown a violation of the
18 specific charge of failure to complete an academic
19 assignment competently.
20 Thus it is very appropriate that a Motion
21 to Dismiss be granted at this time, and that
22 recommendation in turn go to the President of the
23 University.
24 CHAIRPERSON STATHAM: All right. We will
25 take that motion under advisement.

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1 MS. GALANTE: Do you want me to respond at
2 this point?
3 CHAIRPERSON STATHAM: If you would like,
4 yeah.
5 MS. GALANTE: I would like to at least
6 address some of the information in here. I haven't
7 had an opportunity to do a very thorough--because I
8 just saw this on my desk when I got back from lunch.
9 The same thing with the Response that Mr.
10 Gregory submitted to everyone, which is not part of
11 the procedure in something like this. I read that
12 last night.
13 It was probably 9:00, 10:00 o'clock at
14 night when I finally got to it, and it's just full
15 of all kinds of undocumented hearsay, and pretty
16 outrageous in that regard in terms of the statements
17 that are made in there that are totally unsupported.
18 Most of the statements here are also
19 unsupported speculation. They are now claiming
20 discrimination, that people with lesser job
21 performance were treated differently.
22 He has submitted--there is no evidence of
23 that, but getting to the actual nitty gritty of it,
24 the statute itself, the Board of Governors' statute
25 has no provision for granting the motion to dismiss

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1 a case.
2 It basically says that this Committee
3 should be proceeding by a stenographer, and this
4 Committee is supposed to consider this matter in an
5 Executive Session and prepare a report for the
6 President as expeditiously as possible.
7 It should include specific and clear-cut
8 findings on all the factual issues, using the
9 standard of the preponderance of the evidence.
10 I'd like to--and the contract itself
11 between the parties acknowledges--so the Union
12 acknowledges the validity of this statute under
13 Article VII:
14 "Continuation of past policies,
15 except as modified by this agreement,
16 the following actions formally approved
17 by the Board of Governors shall remain
18 unchanged for the members of the bargaining
19 unit."
20 One of those is Statute 2.51.01, which we
21 are relying upon here. Preponderance of the
22 evidence, as I stated in my opening statement, this
23 is not a criminal matter that requires beyond a
24 reasonable doubt.
25 Preponderance of the evidence is not a

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1 heavy burden. We just have to show a little bit
2 more evidence in our favor on the subject of whether
3 or not the charge has been sustained.
4 The statutes when they're written, whether
5 they are written by the Michigan legislature, the
6 U.S. Senate, the Board of Governors here, they are
7 generally written in broad terms, in language that
8 can cover a variety of circumstances.
9 In this case they gave three different
10 reasons for just adequate cause, and one of them is
11 this failure to complete academic assignment--
12 perform competently.
13 You have heard a lot of testimony here
14 about academic assignments and what that means.
15 This is a highly skilled profession, highly educated
16 people who have the academic freedom to decide for
17 themselves how they are going to teach, what
18 research they are going to do, what their topic of
19 research is going to do.
20 This administration cannot invade that
21 province, but they made it clear, everybody's
22 expectations. The initial offer letter that
23 Professor Needleman received that I was going to use
24 on cross-examination of him tells him you have to do
25 teaching, research, service.

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1 Every faculty member has to do that.
2 Maybe in the clinical setting it's a little bit
3 different, but they're seeing patients. Those are
4 the academic assignments that professionals in
5 academia perform.
6 In fact, the 1966 AAUP statement on
7 Professional Ethics states:
8 "As members of an academic institution,
9 professors seek above all to be effective
10 teachers and scholars."
11 There is a lot of self-motivation, and
12 there is a lot of room--so this isn't an hourly job.
13 This isn't my administrative assistant who I'm
14 directing and saying, "I want you to do this first,
15 and then I want you to do that. I need this today.
16 That can wait until tomorrow."
17 This is not that kind of profession, so
18 there is not specific assignments given to faculty
19 members, "Today you're going to do this. Tomorrow
20 you do something else," which is how the Union is
21 trying to characterize this procedure.
22 This statute should be interpreted
23 broadly. A couple of more things I wanted to
24 mention. Competence, the term "competence" used in
25 the statute which the Union has acknowledged or

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<p style="text-align: right;">Page 335</p> <p>1 whether you use the term "effectiveness," or 2 "excellence," excellence is the standard used in all 3 of the School of Medicine Factors. 4 To be excellent, you would have to be 5 competent. You would have to be more than 6 competent, so competence is almost like the basic 7 level of performance. 8 In all of these, whether or not somebody 9 is performing competently or effectively or 10 excellently, these are all subjects of the Selective 11 Salary Review process that is done on a yearly basis 12 and is dictated by the contract. 13 These are peer evaluations. You heard the 14 testimony in that regard. So I think given all of 15 that, to say that we have not met our prima facie 16 case of establishing this is simply untrue, and so I 17 ask that the motion be denied. 18 CHAIRPERSON STATHAM: Okay. Mr. Gregory, 19 any response? 20 MR. GREGORY: Please. There is no peer 21 evaluation. That's part of the problem. This was 22 peremptory. 23 It was driven by budget considerations, 24 and there is insufficient evidence that Dr. 25 Needleman did not perform, given the status he</p>	<p style="text-align: right;">Page 337</p> <p>1 meaning the Dean of the School of Medicine-- 2 "...I am convinced that reasonable 3 grounds exist for initiating dismissal 4 proceedings." 5 He then cites the statute and informs 6 Professor Needleman that he has a right under this 7 statute to what--this peer review. This Hearing 8 Panel is now reviewing this evidence. 9 That is what is provided for in the 10 statute. So to say there is no peer review, you 11 have to as peers, as academics, look at this 12 evidence and evaluate it, and that takes careful 13 consideration. 14 According to the statute, as I just said, 15 you have to look at the evidence, and you have to 16 make specific factual findings and then make your 17 recommendation to the President, but this statute 18 says the Board of Governors has the ultimate 19 decision here. 20 It goes to the President with the 21 recommendation from this Committee, and then the 22 President takes it to the Board of Governors. 23 So given all of that, I don't see how you 24 can say that there is no peer review involved. 25 CHAIRPERSON STATHAM: Okay. At this time</p>
<p style="text-align: right;">Page 336</p> <p>1 enjoyed with respect to any requirements of unit 2 Factors. 3 The Board of Governors statute does not 4 prohibit a Motion to Dismiss, or for summary 5 judgment. There is precedent. 6 There was one case that preceded this, and 7 a Motion to Dismiss was granted at the conclusion of 8 the Employer's case, and that is what we seek here. 9 We ask that the Committee consider it now in 10 Executive Session and grant our motion. 11 MS. GALANTE: May I just briefly address 12 his issue of peer review? The Dean and all of the 13 people that he consulted with, all the chairs, Dr. 14 Delaney-Black, the Vice President of Research, all 15 the people that we heard were involved in the 16 initial process, they were evaluating his academic 17 record as judged by his peers on a yearly basis. 18 Okay? So to say there was no peer review 19 here is simply not true, but most importantly, I 20 think, once under the statute if the President 21 agrees with the recommendation of the Dean, which he 22 did, he not only just agreed with it. 23 He did his own evaluation and said: 24 "Upon careful review of his 25 recommendation..."--</p>	<p style="text-align: right;">Page 338</p> <p>1 we will take the Committee, and we will step out and 2 go into Executive Session briefly. 3 MS. GALANTE: Okay, or do you want us to 4 leave? Because I don't know where else you can go. 5 We'll step out. 6 CHAIRPERSON STATHAM: All right. 7 (At 12:43 p.m., recess taken) 8 (At 1:16 p.m., back on the record) 9 CHAIRPERSON STATHAM: We will go back on 10 the record. Mr. Gregory, you asked the Committee to 11 consider your Motion to Dismiss in Executive 12 Session. 13 We have done that, and we are--we have 14 agreed that we will take your motion under 15 advisement and not rule on it at this time, and we 16 would like you to proceed with your case. 17 MR. GREGORY: All right. Thank you, Mr. 18 Chairman, and members of the Committee as well, for 19 your kind attention to our motion. 20 Our first--I'm going to waive an opening 21 and refer you to my Answer and Rebuttal of the 22 charges, particularly since we are trying very hard 23 to conclude this proceeding. 24 Our first witness is Dr. Parrish. 25 CHAIRPERSON STATHAM: Doctor, could you</p>

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1 raise your right hand? Do you swear to tell the
2 truth, the whole truth and nothing but the truth?
3 DR. PARRISH: I do.
4 CHARLES JAMES PARRISH
5 (At 1:17 p.m., sworn as a witness,
6 testified as follows)
7 DIRECT EXAMINATION
8 BY MR. GREGORY:
9 **Q Please state your full name for the record.**
10 A Charles James Parrish.
11 **Q And what is your position at Wayne State University?**
12 A I'm Professor of Political Science and President of
13 the Wayne State AAUP-AFT, Local 6075.
14 **Q And what department are you in at the University?**
15 A Political Science.
16 **Q And are you tenured, of course?**
17 A Yes.
18 **Q How long have you been on the faculty?**
19 A Since 1971. I trump Dan Walz.
20 **Q What is your current position in the AAUP-AFT?**
21 A I'm President of the Union.
22 **Q How long have you held that position?**
23 A Oh, on and off for 15 years.
24 **Q And what prior positions have you held?**
25 A I was chair of the Political Science Department from

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1 1971 to 1976. I was Director of the Institute of
2 Gerontology from--also from 1972 to 1985.
3 **Q Have you been a member of the Union's negotiating**
4 **committees?**
5 A On various of them, yes, a number of them.
6 **Q How many times?**
7 A Oh, beginning in 1986, I was on almost all of them,
8 lacking perhaps two. I think one. So I have been
9 involved in negotiations since then.
10 **Q Do you hold any positions in the Michigan Conference**
11 **AAUP?**
12 A I'm President of the Michigan Conference.
13 **Q For how long?**
14 A Oh, I've been President for--again, on and off,
15 because there are term-limited and so on, on and off
16 since the early 1990s.
17 **Q Do you hold or have you held positions in the**
18 **national AAUP?**
19 A I have been a member of the National Council for
20 over a decade.
21 **Q Are you currently holding any position in the**
22 **National?**
23 A Not in the National AAUP, although in the AFT I am a
24 member of the Higher Education Policy Committee of
25 the National AFT.

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1 **Q Is the Union--**
2 A I'm also Vice President of the Michigan AFT.
3 **Q Is the Union committed to providing representation**
4 **to those faculty of the School of Medicine who were**
5 **alleged to be unproductive and received notices to**
6 **that effect?**
7 A Yes. They are members, and they get representation.
8 We guarantee their right to due process.
9 **Q What has been your involvement in the process?**
10 A Among the 43 or so people who have received letters
11 basically threatening, saying that if they didn't
12 basically pull up their socks, they would--
13 MS. GALANTE: I object to the
14 characterization.
15 THE WITNESS: Sorry.
16 MS. GALANTE: There is no foundation for
17 that.
18 THE WITNESS: But they were in the course
19 of that, that they said that the proceedings could
20 lead to termination in that letter.
21 **Q (By Mr. Gregory) Do you know who was responsible**
22 **for the process that was invoked in March of 2016,**
23 **and particularly due to the fact that for many years**
24 **the School of Medicine had been told to take action**
25 **to correct alleged underperformance?**

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1 A Well, it's a complicated story, but it began back in
2 the period when Parisi was--Valerie Parisi was Dean.
3 I know that she went to the Board of Governors and
4 in the course of conversation complained about her
5 faculty, that there were people who were collecting
6 a salary and living elsewhere and so on.
7 The Board then ordered a review by the
8 internal auditor. That review has, I think, already
9 been referred to here, to see--and they looked at
10 around 50 faculty members and decided that there
11 were some that were not perhaps doing well, but most
12 of them were doing fine in terms of their--I think
13 they termed them as being active.
14 It was something that was in response to
15 the Board's deep concern about the status of the
16 faculty at the School of Medicine.
17 **Q What action if any was taken at that time?**
18 A None so far as I can tell, that--so far as I can
19 tell. The person, I think, by rumor but I don't
20 know if it's true--
21 MS. GALANTE: Well, I'm going to object if
22 it's hearsay.
23 THE WITNESS: Okay, fine.
24 CHAIRPERSON STATHAM: Sustained.
25 THE WITNESS: That's fine, but I think

WSU School of Medicine v AAUP
Richard Needleman, Ph.D., Volume 2

<p style="text-align: right;">Page 343</p> <p>1 there were some effects in the faculty, but there 2 was no--to my knowledge there was no systematic 3 attempt to bring the faculty up to a different 4 standard of productivity or anything of that sort, 5 or performance. 6 After Roy Wilson was hired as President-- 7 he was a former Dean of a medical school and former 8 President of the University of Colorado Denver--he 9 initiated changes in the Medical School which 10 involved the appointment of a different Dean, 11 appointing Jack Sobel. 12 He also hired several people externally, 13 David Hefner, his Vice President for Health Affairs. 14 Dwight Munson was brought on as his assistant, and 15 eventually Lisa Keane was brought on as the head of 16 the faculty practice plan, the University Physicians 17 Group. 18 From that time forward there was a 19 tremendous pressure on the Medical School faculty in 20 terms of the pressure to increase the productivity 21 in terms of grants that was cited in my many 22 meetings with the-- 23 Well, as part of this process, some 40 to 24 43 faculty members were sent letters saying that 25 they were--that they should have some kinds of</p>	<p style="text-align: right;">Page 345</p> <p>1 THE WITNESS: That's right. 2 CHAIRPERSON STATHAM: Testifying as to the 3 goals of the Medical School on the basis that he 4 can't speak for the Medical School. You can 5 testify, Mr. Parrish, to what somebody told you, 6 what you heard. 7 THE WITNESS: I can testify--I can 8 certainly testify to many of the things that I heard 9 in these meetings with the faculty and with their 10 administrators. 11 I can give you examples of meetings in 12 which Dr. Delaney-Black was present in which people 13 were admonished, that they should submit grants to 14 places that have high overhead, that we have a-- 15 I can give you a specific example. I was 16 asked to sit, asked to represent a faculty member in 17 Oncology, and we met with the chair of Oncology, and 18 he was-- 19 This particular faculty member was 20 presented with the results of what Dr. Delaney-Black 21 said she had basically produced based upon the 22 annual salary estimations in the Department of 23 Oncology. 24 As a result of this, this was a faculty 25 member who was tenured in 2014 and was being put on</p>
<p style="text-align: right;">Page 344</p> <p>1 expectations for improved productivity or they were 2 subject to possible termination. 3 I sat in on many of their interactions to 4 represent them, in many of their interactions with 5 the administration as this went forward. 6 I would--my estimate, my judgment is that 7 the goals of the Medical School-- 8 MS. GALANTE: I'm going to object that you 9 are stating what the goals of the Medical School 10 are. I think there is no foundation for him to-- 11 CHAIRPERSON STATHAM: Sustained. 12 THE WITNESS: Well, my-- 13 MS. GALANTE: That means you can't answer 14 the question. 15 THE WITNESS: No. I understand that. 16 CHAIRPERSON STATHAM: You don't have to 17 explain. 18 THE WITNESS: Thank you very much. I 19 understand. I've been here many times, Linda. 20 MS. GALANTE: I stand corrected. I stand 21 corrected. Since the question was sustained, and he 22 was continuing to answer-- 23 CHAIRPERSON STATHAM: Yeah. He was 24 talking about the goals, and you objected to his-- 25 MS. GALANTE: Right.</p>	<p style="text-align: right;">Page 346</p> <p>1 the list to be de-tenured in 2016. It was reversed. 2 We had a variety of people. Professor 3 Larry Matherly (phonetic) was there and so on, and 4 the result was that the chair did not know that he 5 had submitted, I think, three other grants since 6 that time and that--and it was eventually he was 7 taken off the list, but this was wholly an 8 administrative operation. 9 He was told that he should not submit 10 to--basically he should submit to-- 11 MS. GALANTE: I'm going to object. Isn't 12 this hearsay, that he is telling us what other 13 people said as out of court statements? 14 CHAIRPERSON STATHAM: I'm going to 15 overrule you, and--well, it is hearsay. I'll take 16 it for what it is. 17 MS. GALANTE: I mean, we don't know the 18 specifics. How do I cross-examine? I don't know 19 who the faculty member is. I don't know when this 20 meeting took place-- 21 THE WITNESS: I can tell you-- 22 MR. GREGORY: He just told us that part. 23 THE WITNESS: I just told you I can tell 24 you. 25 CHAIRPERSON STATHAM: I think that's a</p>

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1 question you can ask him on cross.
2 THE WITNESS: Sure.
3 CHAIRPERSON STATHAM: And it is hearsay,
4 but we'll take it for what it's worth.
5 THE WITNESS: It's what I experienced
6 myself and heard, and it was also supported, by the
7 way, by an earlier version of the expectations grid
8 that we saw here, in which people that had a thing
9 which said in that grid--and you can look at it if
10 it is available--
11 It said that you should submit to NIH,
12 NSF, or the Department of Defense, and the reason
13 was the high--as Dr. Beppler (phonetic), chair of
14 the department, said, it was high overhead.
15 So it was pretty directive in terms of
16 what you should be doing in terms of your own work.
17 **Q (By Mr. Gregory) Why is that a concern?**
18 A It's a concern because it is a violation of the
19 academic freedom that is guaranteed by tenure.
20 Tenure is a guarantee of academic freedom and a
21 guarantee that you can do the research that you
22 think is interesting and important to you.
23 Once you get tenure you have that right,
24 and the problem is that at the present in my
25 estimation, in my experience from sitting in on all

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1 of these things, is that the School of Medicine is
2 interested in bringing in money from grants to
3 defray the salaries of the researchers, and that
4 that is a paramount concern, and their concern for
5 tenure is de minimus.
6 **Q Does that mean the Union sanctions faculty that**
7 **perhaps really do nothing?**
8 A If you do nothing, there are--we have over the
9 period of our negotiations, we have negotiated in
10 Article XXIV various kinds of ways in which you can
11 mentor faculty who are seen in the annual salary
12 process to not do as well as others in professional
13 terms.
14 That we have negotiated. We have made it
15 stronger as we have had these discussions. For
16 example, we--I think Dr. Delaney-Black had testified
17 that we put sanctions in so that if you persistently
18 don't submit--
19 We did have cases of people who would not
20 submit their annual summaries, their three-year
21 summaries, and they were being given across-the-
22 board. Now they cannot do that. If they do it two
23 years in a row there are sanctions, and you don't
24 even get any salary increase for that.
25 The Union has agreed that this is a way in

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1 which to bring pressure on people who perhaps aren't
2 performing up to the level that the Salary
3 Committees believe they ought to be performing.
4 If they are not performing there are these
5 sanctions, and we even have a section at the end of
6 it which says that if you--that the administration
7 if they--if people don't perform well and improve
8 their thing, that it's up to the administration at
9 that point to do what they please with respect to
10 the Board of Governors statutes.
11 So we have been very deeply concerned
12 about this, and we have great sympathy with the
13 problems of the Medical School, but at the outset of
14 this I advised Jack Sobel and I advised the faculty
15 that what they should do is they should go through
16 this mentoring process.
17 I talked with the President about this.
18 The President's response was he wasn't prepared to
19 wait three years, and I reminded him that tenure
20 takes a long time. Tenure revocation takes a long
21 time too, and it is a very difficult process.
22 So am I--is that responsive enough?
23 **Q Yes, indeed. Let me return momentarily, Dr.**
24 **Parrish, and I'm looking at Respondent's Exhibit 1,**
25 **which was the copy of the internal audit done in**

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1 **September of 2010, and at page 6 of that exhibit the**
2 **auditors recommended that a determination be made if**
3 **there was compliance with the University policy,**
4 **05.05, which is also in evidence, and calls for peer**
5 **review of performance.**
6 **It also references Article XXIV, at that**
7 **time, which did have a provision about performance:**
8 **"...substantially below the unit**
9 **factors expectations for a period of**
10 **three years."**
11 A Right.
12 **Q Do you know based upon your knowledge and experience**
13 **whether there was any follow-up by the School of**
14 **Medicine in regard to those--**
15 A So far as I know, there was none. The Article XXIV
16 has been, despite our struggles in negotiating it in
17 attempting to address this, the administration has
18 been very, very reluctant to invoke this or to deal
19 with this particular issue.
20 I know of no Article XXIV actions in the
21 School of Medicine.
22 **Q What is post-tenure review and the Union's position**
23 **regarding it?**
24 A Post-tenure review is to review people who have not
25 measured up in terms of the standards as you

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1 enunciated them with Article XXIV, and to deal with
2 this. There is a great movement toward post-tenure
3 review in higher education.
4 You have states like Wisconsin which are
5 passing laws, and Iowa, Texas, that are passing laws
6 to try to force post-tenure review in a systematic
7 way.
8 We have dealt with that through Article
9 XXIV, and that's what we thought we were getting
10 when we did these very difficult negotiations. The
11 administration has not responded appropriately in
12 the view of the Union to this.
13 **Q Why is peer evaluation important, if it is, and does
14 it also involve elements of faculty governance?**
15 **A** That is the key. The key is tenure is a difficult
16 subject. The criticism is why should people have
17 lifetime, you know, protection due to tenure.
18 My view of tenure is that it's somewhat
19 like Churchill's view of democracy. It's the worst
20 of all possible systems except for all others.
21 This system is to be--this system is one
22 that has--that does incur some losses, some
23 problems, but it is the one that protects the
24 concept of why we have universities.
25 We have universities to generate

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1 knowledge, and the generation of knowledge means
2 that the research that is done there must be
3 protected and that the researchers must be
4 protected.
5 After we get--we go through a tenured
6 system and the tenure system decides that you get
7 tenure, well, after that what you do in research is
8 really up to the individual person.
9 If you take the instant case, an argument
10 can clearly be made, and it will be made, I think,
11 that Professor Needleman changed his research.
12 He was--for whatever reason. It's up to
13 him--he changed his research, and that research is
14 not valued by the administration of the Medical
15 School or the administration of the University.
16 The problem is that our view is that peer
17 review has to be part of the process, has to be at
18 the heart of the process of the protection of
19 tenure.
20 Tenure is vital, and I'm afraid that if
21 this case goes negatively, that this will be the
22 opening shot for a broader--much broader tenure
23 attack, and I don't know of any other university
24 that has singled out 40-some faculty members and
25 said that they are basically subject to possible

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1 termination, tenure track faculty members.
2 I think when the President appointed the
3 team that is running the Medical School, Hefner and
4 Keane and Dwight Munson, that we started down this
5 track of the revocation of tenure.
6 We now have two cases, and the main--on
7 the main campus, and they are going to have a lot
8 more, I suspect.
9 Once the administrators get this in
10 their--and particularly after this latest
11 arbitration, which I think the University and the
12 Union both lost, we are going to have administrators
13 picking off faculty members they don't like or who
14 are perhaps vulnerable in the fact that they haven't
15 published much in the last few years.
16 It's going to transform Wayne State
17 University. It's going to transform our nature in
18 higher education.
19 There is a possibility if this continues
20 that we will become a pariah university, where we
21 will find that people will not want to come here
22 because of our reputation and the lack of respect
23 for tenure.
24 I think that this is a responsibility that
25 this Hearing Panel has to put an end to it and stop

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1 it right now.
2 **Q Dean Sobel in his March 23, 2016 letter to some 40
3 members of the faculty in the School of Medicine
4 asserts that they have failed--**
5 MS. GALANTE: Wait. I'm going to object
6 there, because you're taking one letter and now
7 saying that all 40--which you haven't established
8 how many letters have been sent out--all say the
9 same thing.
10 There is no foundation for that. I think
11 we need to stick to the facts of this case, which is
12 one letter.
13 MR. GREGORY: Well, I thought we had
14 testimony that it was the same letter.
15 CHAIRPERSON STATHAM: I thought--that's my
16 recollection too.
17 MS. GALANTE: From whom?
18 MR. GREGORY: I thought that--
19 MS. GALANTE: No. Dr. Delaney-Black said
20 she did not--she did not say that. I can probably
21 find it.
22 MR. GREGORY: Well, I'll tell you what.
23 I'll recall Dr. Parrish, but meanwhile I will call
24 Dean Sobel and he can testify.
25 Will you produce him for me then, so we

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1 can clear this up?
2 MS. GALANTE: You want all 43 letters that
3 were sent out. I will stipulate--
4 MR. GREGORY: I don't want the letters,
5 because I know they are all the same.
6 MS. GALANTE: Well, then why don't you ask
7 the witness if he has seen them and if he can verify
8 that they are the same?
9 I mean, your question was based on the
10 assumption that they are all the same.
11 MR. GREGORY: Well, I'm confident they
12 were all the same, but if you are disturbed by that,
13 we'll get the Dean back in. Do you want to do that?
14 MS. GALANTE: Not right now. I think you
15 should finish with your case. I guess the question
16 is, you're asking this witness about what these
17 letters say without establishing that he has seen
18 them all.
19 That is a simple question, and now you
20 want to call the Dean back in.
21 MR. GREGORY: Yeah, I do, because you are
22 phrasing that, because I think you know as well as I
23 do they were--
24 MS. GALANTE: I have not seen 43 letters.
25 The only letter I have seen is the letter in this

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1 case, so I can't--I mean, I don't understand why
2 this is--either this witness has seen them and can
3 testify to them or he can't, but I don't--
4 I object to a broad question about all 43
5 letters in this case.
6 CHAIRPERSON STATHAM: Okay. Do you want
7 to rephrase your question?
8 MR. GREGORY: I understand. I'll
9 rephrase, but I'm not going to abandon the other
10 question.
11 **Q (By Mr. Gregory) Dr. Parrish, our Joint Exhibit 2**
12 **in this case is a March 23, 2016 letter from Dr.**
13 **Sobel to Dr. Needleman, and in it the Dean asserts,**
14 **and I quote:**
15 **"...because of their..."--**
16 **meaning among others Dr. Needleman--**
17 **"...failure to maintain sufficient level**
18 **of productivity."**
19 **Is that a term you are familiar with? Do**
20 **you know what that means?**
21 A No. I don't know specifically what that means. I
22 can certainly tell you what my impression is in
23 dealing with these people. I have seen more than
24 one letter.
25 I'm quite sure that they are all the same

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1 letter that were sent, and I think that from the
2 meetings that we held in which Dr. Delaney-Black was
3 present at most of them, we held with various
4 faculty members who had received that letter, to my
5 knowledge, to the best of my knowledge they received
6 that letter.
7 They were certainly having meetings, and I
8 have seen more than one letter, and they are all
9 the--all the ones I've seen are the same.
10 I think that you--that we find that
11 productivity is almost always defined in terms of
12 grants and grant money, increasing grant money and
13 increasing salaries devoted to put on those grant
14 monies.
15 **Q We have noted on this record that productivity does**
16 **not appear in the collective bargaining agreement.**
17 A No.
18 **Q Does not appear in the School's Promotion and Tenure**
19 **Factors, does not appear in the scoring. Is it**
20 **essentially a non-academic concept, productivity,**
21 **just from administrators worried about the budget in**
22 **the School of Medicine?**
23 A It's a commonly used euphemism, I think, for work,
24 scholarly work or whatever, and then administrators
25 are more prone to use that than I think are faculty

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1 or faculty leadership.
2 The question is from my experience in
3 these meetings, is that it is very clear that this
4 is something that was particularly present in the
5 meetings and in the information that the faculty was
6 being given after the advent of this new management
7 team, who is very experienced and very talented
8 people but primarily are their non-academics.
9 They're not professors. They're not
10 clinicians. They are people who know medical
11 finances and are pretty good at that, and I have to
12 say, you know, I admire their expertise.
13 I don't think they should be in charge of
14 medical schools.
15 **Q Based on your experience, does every grant provide**
16 **full salary compensation?**
17 A No, not usually.
18 **Q How does that work?**
19 A Well, what happens is that you provide indirect
20 costs. You will have an allocation of your salary,
21 part of your salary. The average, I think, of your
22 salary is probably in the--across NIH, probably in
23 the range of 25% or more.
24 Traditionally here there was a problem of
25 people not putting enough of their salaries on the

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1 direct costs, and certainly that needed to be
2 increased because people here were paid 12 months
3 salaries.
4 If you were sitting there and looking at
5 whether or not to allocate 25 or 30% of the salary
6 on your grant, or allocate 10% and then put the
7 other money into a post-doc, you would get greater
8 productivity, and you assume--
9 The problem with that system was that the
10 chairs signed off on this. The administrators
11 signed off on this. The public view seemed to be
12 that it was all the fault of the faculty members.
13 The incentives were there, and they were
14 signed off on by faculty chairs and so on. So
15 certainly there is a challenge to increase the
16 amount of money that is offloaded on the grants, but
17 everybody has got some problems with it.
18 Everybody has got their hands dirty with
19 that particular system, and I think that it has been
20 announced publicly. It was announced in my hearing
21 at one of the retreats that I was graciously invited
22 to by the Dean of Medicine, that the average out
23 there was 40% across medical schools.
24 That was countered by some work that was
25 done by faculty members in which they said it was

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1 nearer 25% at best. So it's a complex kind of
2 series of issues.
3 **Q Has the administration at the School of Medicine or**
4 **the University generally come to you to negotiate**
5 **any changes to deal specifically with the School of**
6 **Medicine budget issues?**
7 A No. I have advised--I advised Jack and I advised--
8 you know, I wrote to the faculty of the School of
9 Medicine that I knew--that we would hope that the
10 devices in the contract were sufficient to deal with
11 these problems, and they said no.
12 The President said no, that he wasn't
13 prepared to wait three years while the mentoring
14 process went on.
15 **Q Was there a substantial amendment to Article XXIV,**
16 **Section (C), in the last collective bargaining?**
17 A Yes.
18 **Q And what was that amendment?**
19 A That was making much more--making stronger the
20 sanctions for those people who had not submitted
21 their three-year summaries of their CVs in each
22 year, so--
23 **Q Was there a recommendation prior to that from a**
24 **two-in committee?**
25 A Yes.

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1 **Q And who was on that committee?**
2 A I'm sorry. I didn't review that. There are so many
3 two-in committees. I can't recall.
4 **Q Was Provost Margaret Winters on it, for example?**
5 A Yes, she was. She was. Yes. That--you're quite
6 right, and I appreciate your reminding me, but
7 Provost Margaret Winters and so on, we thought we
8 had a reasonable solution to this.
9 What had happened was that in the period
10 of the previous President, we had a proposal, a
11 Draconian proposal on tenure that we pointed out
12 that tenure revocation could come, that a person
13 could be notified for tenure in their proposal on
14 one day, have a hearing that day with whoever was
15 the administrator, be fired the next day, and the
16 Union couldn't do anything until they were already
17 on the street.
18 We stopped that, a combination that didn't
19 come--I think we talked with the Board of Governors,
20 and we talked with people externally, and they
21 ultimately withdrew it, but we had--
22 We did work this out, and this was--and
23 Margaret was one of the people involved in the
24 recommendations.
25 **Q Now did this joint two-in committee of**

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1 **administration and faculty reach an agreement and**
2 **recommendation?**
3 A Yes. I don't remember all the details, but
4 essentially it was--the weight was in strengthening
5 the mentoring process.
6 **Q And do you recall consideration of whether the**
7 **procedure should be punitive or remedial, and they**
8 **decided it would be remedial?**
9 A They decided that it should be remedial rather than
10 punitive. That was the key to it.
11 **Q And do you recall, did they deal with concerns of**
12 **academic freedom and due process?**
13 A Yes, and that people should have academic freedom
14 and due process, and they should--and it wasn't
15 spelled out with great specificity, but the
16 principle was certainly enunciated.
17 **Q Prior to the situation we now have in the School of**
18 **Medicine--you have been around here a long time--**
19 A To say the least.
20 **Q How many dismissal proceedings have we had?**
21 A We have had two in my experience, and one was in the
22 Adamany administration, but around 1990, and it was
23 a member of the Engineering Department, and it
24 was--it got to the hearing--to a Hearing Panel.
25 I sat in on that panel although he had his

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1 own lawyer, not the Union's lawyer, and the panel
2 voted in favor of the faculty member, and that was
3 the end of that.
4 The second one was the one that we
5 referred to here. It was a case of someone who was
6 tenured at 40%. Because he was tenured at 40% he
7 was not a member of the bargaining unit. You have
8 to be 50% to be a member of the bargaining unit.
9 So we did not represent him, but his
10 lawyer went through the same procedure that we have
11 here, and it was dismissed in summary judgment
12 before any defense was given.
13 **Q And to your knowledge, there are four School of
14 Medicine cases pending after this case?**
15 A Yes. So we don't have the schedule. They're not
16 all scheduled.
17 **Q And in the faculty generally, there are two
18 possibilities pending, you say?**
19 A There are two in the--there are two on the other
20 side of the campus, and one in the Education School
21 and one in the College of Liberal Arts and Sciences,
22 and they are just at the beginning stage of this.
23 I met with the individual, the people and
24 the Deans involved, and we will have another meeting
25 shortly.

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1 **Q Do you have any knowledge or information as to why
2 the President didn't meet with Dr. Needleman and
3 perhaps others before the charges were actually
4 issued?**
5 A No. I have no--I have not discussed that with the
6 President at all.
7 MR. GREGORY: I have nothing further.
8 Thank you, sir.
9 CHAIRPERSON STATHAM: Counsel?
10 MS. GALANTE: Thank you.
11 CROSS-EXAMINATION
12 BY MS. GALANTE:
13 **Q So in your direct examination, Professor Parrish,
14 you indicated that these letters that the Dean sent
15 to the faculty stated before taking further steps
16 there was--your criticism was there was no attempt
17 to increase the level of productivity.
18 So you yourself had used the term,
19 "productivity," haven't you?**
20 A Yes, and mistakenly.
21 **Q Mistakenly? I have to laugh, but that's what you
22 said. So you talk about this internal audit, and
23 Dean Parisi. Now that was a different
24 administration. Am I not correct?**
25 A You are absolutely right.

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1 **Q And you heard Dean Sobel's testimony here?**
2 A Yes.
3 **Q Correct? Are you telling this Panel that you do not
4 believe Dean Sobel is sincere when he says he has
5 the highest respect for the concept of tenure?**
6 A No, I--
7 **Q That's a "yes" or "no," and--**
8 MR. GREGORY: No, no.
9 THE WITNESS: No. Well--
10 MR. GREGORY: He can answer it.
11 MS. GALANTE: It's a "yes" or "no"
12 question, and he is saying no, he is not.
13 THE WITNESS: Yes, or no. I said no.
14 CHAIRPERSON STATHAM: She can ask leading
15 questions.
16 THE WITNESS: No. I believe that Jack
17 has--is a sincere man. He is a very decent man. He
18 is someone I have had great respect for over time.
19 Indeed I was the one who first introduced
20 him to President Wilson, and that was the first time
21 he had gotten to meet him.
22 I was very pleased when Jack was appointed
23 as Dean, because I thought that Jack had a sincere
24 commitment to academic values. I think that he has
25 made some mistakes, I think, in terms of the way in

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1 which this has operated, and I have differences with
2 him, but I respect him.
3 **Q (By Ms. Galante) Do you believe his testimony when
4 he said that he gave careful and individual
5 consideration to every one of these cases?**
6 A Oh, I think that's--yes. I think that's--I believe
7 him. That's the problem. The problem is that--
8 **Q My question doesn't call for you to give me a whole
9 explanation. Yes or no?**
10 A I won't explain it to you.
11 **Q It's just a "yes" or "no," if you believe him or you
12 don't, and you said that you do.**
13 MR. GREGORY: No. This thing doesn't work
14 that way.
15 MS. GALANTE: Yes, it does. On cross-
16 examination if he wants to--
17 CHAIRPERSON STATHAM: She can ask leading
18 questions, but I think he has got a right to give
19 you an answer to your question.
20 MS. GALANTE: My question was does he
21 believe him or does he not, and he answered that he
22 does believe him.
23 CHAIRPERSON STATHAM: Okay. True.
24 **Q (By Ms. Galante) So how many faculty are there
25 total--well, am I correct that there are at least**

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1 **600 faculty in the School of Medicine?**
2 A Yes.
3 **Q And out of those 600 faculty, am I also correct that**
4 **there were only 40 to 43 letters that were sent,**
5 **such as the letter that Professor Needleman**
6 **received? Is that correct?**
7 A Yes, but I can--
8 **Q That's all my question was. Were there more**
9 **letters?**
10 A Yes, only 43.
11 **Q Only 43. Now that may sound like a lot. I'm not**
12 **minimizing that by any stretch, but he testified**
13 **that he was doing a review of all the faculty, and**
14 **he also testified--**
15 **Do you believe that he was sincere in his**
16 **statement about how--what he identified as**
17 **unproductive faculty affected the morale of other**
18 **hard-working faculty in this School?**
19 A Not as much as the action against the 43 is
20 affecting morale.
21 **Q So you think that that has more effect, but do you**
22 **believe him when he says that--well, this is a new**
23 **procedure.**
24 A I believe him.
25 **Q You believe him. Okay.**

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1 A It's a new procedure because it is so unusual.
2 **Q Well, there have been questions throughout here on**
3 **cross-examination by your Counsel about why didn't**
4 **we do something before.**
5 **So now that we are finally doing it, you**
6 **are criticizing the administration for doing what**
7 **they are being criticized for not having done**
8 **sooner. Is that correct?**
9 A I'm criticizing them for not having taken advantage
10 of the remedies that we negotiated to try to deal
11 with this problem.
12 **Q Which brings me to the decision in the grievance**
13 **that you filed, and Mr. Gregory represented you, and**
14 **I now have to admit this entire decision, because**
15 **many of the statements you made here are arguments**
16 **that you raised in this arbitration.**
17 **Am I correct that the Union did not**
18 **negotiate and could have negotiated--they might not**
19 **have gotten an agreement, but there was no agreement**
20 **that Article XXIV is a mandatory process? It's an**
21 **option?**
22 A The decision that was taken in the Hornberger
23 decision is a decision in my view that the
24 administration and the Union lost.
25 **Q Well, I understand that there are other pieces to**

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1 **it, but I'm only talking about Article XXIV. The**
2 **arbitrator ruled, did he not, that after pages--this**
3 **is a 38-page decision that went through all of the**
4 **arguments that were raised by the Union. Is that**
5 **correct?**
6 **He thoroughly addressed all the arguments**
7 **raised?**
8 A He addressed them. He did not thoroughly address
9 any of them, many of them.
10 **Q But he addressed them. Okay. We're not going to**
11 **criticize arbitrators here today, but--**
12 A Oh, I am.
13 **Q Well, you can, but he--read this if I am correct:**
14 **"I deny the grievance that utilization**
15 **of Article XXIV is a mandatory predicate**
16 **before the Employer can bring a Board of**
17 **Governors statute dismissal proceeding for**
18 **alleged performance issues."**
19 **Have I read that correctly?**
20 A You have read that correctly, and--
21 **Q And that's on page 36. That's the only question on**
22 **the table, whether I have read it correctly, and**
23 **that is on page 36 of this Opinion.**
24 MS. GALANTE: I move for admission of this
25 as the Employer's Exhibit 18.

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1 (At 1:59 p.m., Employer's
2 Exhibit 18 marked)
3 CHAIRPERSON STATHAM: Mr. Gregory?
4 MR. GREGORY: I wish Counsel--in fairness,
5 would you read the second part to the Committee
6 about mentoring? What does it say about--
7 MS. GALANTE: That's not the issue we are
8 discussing.
9 MR. GREGORY: Oh, yes, it is.
10 MS. GALANTE: The issue is whether or
11 not--no. There is a procedure for mentoring under
12 Article XXIV.
13 MR. GREGORY: And it's mandatory, is it
14 not?
15 MS. GALANTE: No. What it says is--
16 MR. GREGORY: You can't have your cake and
17 eat it too.
18 MS. GALANTE: All right. I will read it.
19 "I grant the grievances that the
20 Employer cannot use a mentoring procedure
21 different from the mentoring procedure in
22 Article XXIV."
23 So if we're going to mentor Professor
24 Needleman, we are supposed to do it pursuant to
25 Article XXIV, but it doesn't say that mentoring is

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1 mandatory.
2 MR. GREGORY: Well, you are mentoring now,
3 so--
4 MS. GALANTE: I'm mentoring?
5 MR. GREGORY: I'm trying to tell you
6 you--well, never mind.
7 MS. GALANTE: You know what?
8 CHAIRPERSON STATHAM: Do you have any
9 objection, Mr. Gregory, to the admission of the
10 Hornberger arb decision?
11 MR. GREGORY: Yes. It's irrelevant.
12 MS. GALANTE: I don't see how it can be
13 irrelevant when Dr. Parrish is here testifying about
14 Article XXIV and raising the same arguments that
15 were raised.
16 CHAIRPERSON STATHAM: I'm going to
17 overrule you. I think the Committee would like to
18 see the arbitration award.
19 MR. GREGORY: All right.
20 CHAIRPERSON STATHAM: After all the talk
21 about it.
22 (At 2:00 p.m., Employer's
23 Exhibit 18 received)
24 MS. GALANTE: I have copies of just the
25 ruling portion, but I will have copies made of the

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1 entire Opinion.
2 CHAIRPERSON STATHAM: Yeah. We'd like the
3 whole--
4 MS. GALANTE: Because it has become an
5 issue.
6 **Q (By Ms. Galante) I would like to now turn your**
7 **attention to Article XXIV, which was negotiated, and**
8 **ask you under Section (1), "Faculty Professional**
9 **Duties," Subparagraph (c), "Professional Review and**
10 **Development, Paragraph (5) under there.**
11 **Am I correct that it says, "...may**
12 **recommend"?**
13 A Yes.
14 **Q Okay. So again--**
15 A It is what it is.
16 **Q The language of the contract is that it is**
17 **permissible, but it is not mandatory. Correct?**
18 A Yes. That is correct.
19 **Q So of these 43 letters, would you agree with me, Dr.**
20 **Parrish, that this letter that Professor Needleman**
21 **received from Dean Sobel dated March 23 puts him on**
22 **notice that the University may be taking further**
23 **action?**
24 A Yes.
25 **Q And the reason that the prior case that you**

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1 **referenced involving a faculty member who was a 40%**
2 **was dismissed was on the notice issue. Is that**
3 **correct?**
4 A I don't know. I didn't--I never saw his letters or
5 his interaction. That, it was all--it would be all
6 hearsay. I talked with him.
7 **Q And I could--I have that Opinion with me. If it's**
8 **necessary I can probably admit that. Let me give**
9 **that some thought.**
10 **Again, it's a separate case with separate**
11 **facts. Will you agree to that?**
12 A Of course.
13 **Q And you were not involved in that case?**
14 A No.
15 **Q Nor the other one, so you don't really know what the**
16 **facts were?**
17 A I was involved in the first one.
18 **Q You were in the first one. I stand corrected. Of**
19 **the 43 letters that were sent, you heard Dean**
20 **Sobel's testimony about how when he met with them,**
21 **some of them he felt that there were other things**
22 **that could be done?**
23 **He gave individual consideration to each**
24 **case. Do you have reason to disbelieve him in that**
25 **regard?**

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1 A Dean Sobel did that, and he did it entirely on his
2 own judgment, no reference to any peer review
3 whatsoever.
4 **Q Do you consider this hearing peer review?**
5 A I consider this hearing as following the required
6 Board statutes. The peer review I'm concerned with
7 is the peer review when you take--when you first
8 accuse people or bring them into the tenure
9 revocation.
10 **Q Is there anything in the Board of Governors's**
11 **statute that says that the administration has to**
12 **have some peer review in addition to the**
13 **recommendation of the Executive of the School to the**
14 **President, and then the President giving his**
15 **recommendation?**
16 A The statute says what it says.
17 **Q Okay, and this Hearing Panel consists of all faculty**
18 **members. Correct?**
19 A It says what it says. Of course it does.
20 **Q And of these 43 cases, there are five that are**
21 **subject to this dismissal proceeding?**
22 A The Dean has stated that they are up to 11 that are
23 being counted right now.
24 **Q But there has been no action taken on those cases?**
25 A No.

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1 **Q So there are a total of five cases?**
2 A Yes.
3 **Q One of which is this current case?**
4 A Yes.
5 **Q And I know you have expressed on your direct**
6 **examination that you are fearful that this is going**
7 **to be the downfall of Wayne State University, and**
8 **that this is going to open the flood gates to**
9 **faculty being de-tenured.**
10 **Do you not think that the process**
11 **implemented here gives a faculty member adequate due**
12 **process, to have a hearing like this with six**
13 **faculty members?**
14 A I think that--certainly I'm not criticizing the fact
15 that we--that there are six faculty members
16 available who can exercise their judgment as to the
17 validity of the administration's case.
18 What I am much more deeply concerned about
19 is the meat axe approach of identifying 43 faculty
20 members, or any large group of faculty members for
21 the possibility of sending them through this
22 process.
23 **Q So you describe it as a meat axe approach, sort of**
24 **just putting people on the chopping block, which**
25 **means you are saying that you don't believe Dean**

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1 **Sobel's testimony about how he reviewed every single**
2 **file?**
3 A I have--of course I believed every word that the
4 Dean said, but I am not endorsing the Dean's
5 judgment.
6 **Q Okay. That's fair enough.**
7 A I mean, why--
8 **Q But you're talking about a process, and you're**
9 **saying--I mean, he engaged in a process.**
10 A A wrong process.
11 **Q So basically it boils down to you disagree with the**
12 **Dean?**
13 A I disagree with the process. I disagree with the
14 process whereby this is wholly an administrative
15 decision. Indeed, Dr. Delaney-Black testified as to
16 the membership of the committee that first
17 identified these 43 people or however many.
18 There was no academic faculty
19 representation on that committee. I think there was
20 one person who was basically an administrator who
21 had faculty status on this committee with Dwight
22 Munson and these other people who identified them.
23 They are administrators. They are not
24 even academics.
25 **Q And Dean Sobel testified they didn't make any**

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1 **decisions. He made the decision?**
2 A They made recommendations to--I think Dr.
3 Delaney-Black said that they made recommendations to
4 the Dean. Of course the Dean made the decisions.
5 He is the responsible person.
6 **Q There is nothing about this process that violates**
7 **the contract, however, is there?**
8 A I would reserve judgment on that. I don't--every
9 aspect of this, it depends. We believe that the
10 contract gives due process to every faculty member,
11 and we wish to defend it, and any violations of that
12 we view as a violation of the contract.
13 **Q And aren't you defending that here today?**
14 A Absolutely.
15 **Q Okay, but you haven't filed a grievance, at least to**
16 **my knowledge, saying that this process violated the**
17 **contract?**
18 A We have to see how this comes out.
19 **Q So depending on the results, you may do that, but as**
20 **of this point--**
21 A We'll see.
22 **Q We'll see. Okay. Am I correct in reading Article**
23 **VII:**
24 **"Except as modified by this agreement,**
25 **the following actions formally approved by**

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1 **the Board of Governors shall remain unchanged**
2 **for members of the bargaining unit,"**
3 **and among them is Statute 2.51.01?**
4 A Absolutely. It's our view that those statutes have
5 been read into the contract.
6 **Q It's a different issue whether or not it is**
7 **incorporated. Do you agree that this is what it**
8 **states?**
9 A I know what it states, and I--
10 **Q The following action--**
11 A It states what it states. They can all read it too.
12 **Q Okay. So this is the same statute that has this**
13 **process set forth in it. Correct?**
14 A The process is something we have agreed to remains
15 the same unless we agree to some change in it. The
16 actual process--processes can be misused. You can
17 have the violation of people's due process rights.
18 In this, if you decide that someone who is
19 a highly honored scholar in the Humanities or
20 wherever is subject to this, I think we would object
21 to it. It's no different than what are our
22 objections with respect to Mr. Needleman.
23 **Q But your rights as President of the Union in**
24 **defending your faculty members would be that if you**
25 **felt that the process was violating the contract,**

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1 **your option is to file a grievance. Correct?**
2 A Yes. We can always do that.
3 **Q I understand, but as of today that has not been**
4 **done. Do you have any firsthand knowledge that**
5 **Dwight Munson or David Hefner identified any of the**
6 **43 individuals?**
7 A Only as was testified by Dr. Delaney-Black.
8 **Q You're mischaracterizing her testimony, but you have**
9 **no--**
10 A She identified the committee that made the
11 recommendations, and Munson was on it.
12 **Q No, she--well, her testimony stands as it is.**
13 A It does.
14 **Q And the committee, but you have no firsthand**
15 **knowledge of what took place in any of those**
16 **meetings?**
17 A Of course not. I wasn't in the meetings.
18 MS. GALANTE: I have no more questions.
19 Thank you.
20 CHAIRPERSON STATHAM: Mr. Gregory?
21 MR. GREGORY: Nothing further.
22 CHAIRPERSON STATHAM: Any more questions?
23 MR. GREGORY: No.
24 CHAIRPERSON STATHAM: Dr. Parrish, you can
25 step down.

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1 THE WITNESS: Thank you.
2 (At 2:10 p.m., witness excused)
3 CHAIRPERSON STATHAM: Can we take a
4 five-minute break before you call your next witness?
5 MR. GREGORY: Fine.
6 (At 2:10 p.m., recess taken)
7 (At 2:22 p.m., back on the record)
8 CHAIRPERSON STATHAM: Can we go back on
9 the record? Are you ready to call your next
10 witness?
11 MR. GREGORY: Yes, we are. We call Dr.
12 Needleman.
13 CHAIRPERSON STATHAM: Doctor, would you
14 raise your right hand? Do you swear to tell the
15 truth, the whole truth and nothing but the truth?
16 DR. NEEDLEMAN: I do.
17 RICHARD B. NEEDLEMAN
18 (At 2:23 p.m., sworn as a witness,
19 testified as follows)
20 DIRECT EXAMINATION
21 BY MR. GREGORY:
22 **Q Doctor, please state your full name for the record.**
23 A Richard Bruce Needleman.
24 **Q In a moment we are going to hand you Respondent**
25 **Exhibit 6 for identification. Give us a moment**

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1 **while we pass them out to the Committee.**
2 **(At 2:24 p.m., Respondent's**
3 **Exhibit 6 marked)**
4 **Q (By Mr. Gregory) I show you Respondent's 6 for**
5 **identification, Doctor. Can you identify it,**
6 **please?**
7 A Yes. It's my current C.V.
8 **Q All right, and it was prepared and is up-to-date as**
9 **of February 6TH of 2016?**
10 A Yes. It's up-to-date.
11 **Q It is up-to-date?**
12 A Yes, it is.
13 MR. GREGORY: Well, we offer Respondent's
14 6 into evidence.
15 MS. GALANTE: Just give me a second. I
16 would like to place an objection to this document
17 because it was prepared and never submitted to the
18 University administration as part of this dismissal
19 proceeding.
20 CHAIRPERSON STATHAM: Mr. Gregory?
21 MR. GREGORY: We have had testimony from
22 witnesses for the Employer as to his activity
23 subsequent and to-date, and that's why it's being
24 offered, plus it would be inclusive of matters that
25 were in that period just prior to the charges.

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1 I think it an appropriate defense in any
2 event to the charges which are before the Committee,
3 of course.
4 CHAIRPERSON STATHAM: Anything else?
5 MS. GALANTE: But what he is saying, he
6 has objected to things that were not--the
7 administration when they made the decision did not
8 have this document from Professor Needleman.
9 I mean, he met with the Dean on May 23RD.
10 He didn't say, "Here's my updated resume." This
11 document was never considered by the administration
12 as part of its process.
13 We're seeing it now for the first time
14 today, and so it's irrelevant to the decision that
15 was made by the Dean because he didn't have this
16 information.
17 CHAIRPERSON STATHAM: Okay. Your
18 objections are duly noted. I'm going to overrule
19 them and admit it. You can argue weight it should
20 be given in closing arguments or post-hearing
21 briefs. It's admitted, Respondent Exhibit 6, Dr.
22 Needleman's C.V.
23 (At 2:28 p.m., Respondent's
24 Exhibit 6 received)
25 (At 2:28 p.m., Respondent's

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1 Exhibit 7 marked)

2 **Q (By Mr. Gregory) I show you Respondent Exhibit 7**

3 **for identification entitled, "Expanded NIH**

4 **Biographical Statement." Can you identify it?**

5 A Yes, I can.

6 **Q Tell us what it is.**

7 A The NIH requires now a biographical statement in

8 addition to the C.V. This is a biographical

9 statement that compares my 2016 grant submission,

10 but I have appended in italics some extra personal

11 information, so to tell the Committee what the

12 entries actually mean.

13 **Q When was this document prepared?**

14 A It was prepared when I submitted my first--well, the

15 NIH document was prepared probably in October, 2016,

16 but I prepared the expanded version maybe two weeks

17 ago.

18 **Q Was this something that would be used for future**

19 **grant applications?**

20 A Well, the expanded biographical statement would be.

21 Everything not in italics would be used, and in fact

22 it will be.

23 **Q Is this required by--**

24 A Yes, it is.

25 **Q The grant? All right.**

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1 MR. GREGORY: We offer Respondent's 7 in

2 evidence.

3 MS. GALANTE: I again object for the

4 reason that he says this document was prepared two

5 weeks ago.

6 It was not provided to the Dean prior to

7 when he met with him or any time after that so that

8 the Dean could take it under consideration and give

9 it what weight he thought was due to it.

10 So think it's irrelevant to the issue that

11 is before this Panel, whether or not we had evidence

12 to justify our decision.

13 CHAIRPERSON STATHAM: I'll overrule you

14 and admit that, and again it goes to--you can argue

15 to the weight it should be given.

16 (At 2:31 p.m., Respondent's

17 Exhibit 7 received)

18 **Q (By Mr. Gregory) A great deal of the information we**

19 **need, Doctor, is in your C.V. and the NIH bio, but**

20 **tell the Committee briefly your educational**

21 **background and why you came to Wayne State**

22 **University for employment.**

23 A Okay. I went to high school in Brooklyn, and I was

24 on a track team with Bernie Sanders, which only

25 explains my accent and the fact I'm very old.

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1 After high school I went to Brandeis

2 University, and I majored in Mathematics. However,

3 I was really a Physics major. Mathematics simply

4 has fewer requirements than Physics for lab work.

5 I then went to the Stony Brook Institute

6 of Theoretical Physics, where I was working on a

7 thesis on Kaluza-Klein field theory. It's a quantum

8 field theory.

9 At the same time I was getting interested

10 in Biology, which was common at the time. I met Sy

11 Fogel, who was a biologist at City University of New

12 York, and he recruited me to go to City University

13 of New York at Brooklyn College.

14 Sy was a major figure in yeast biology. He

15 basically established the basic rules for DNA

16 recombination using yeast.

17 After I went to Brooklyn College with Sy,

18 I took a post-doc at Albert Einstein College of

19 Medicine, but before that I went to the Public

20 Health Research Institute of New York for a brief

21 period, where my thesis advisor was taking a

22 sabbatical and the sabbatical prevented my defending

23 my thesis.

24 During that time I developed the first

25 mitochondrial genetic system. That is to say, I

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1 found the first system where I could easily make

2 mutations in mitochondrial DNA, as well as nuclear

3 DNA, that affected mitochondrial development.

4 Let me--before I talk about science, I'm

5 going to talk in normal language, as if I met

6 someone at a party in explaining this. Okay? I

7 know--

8 **Q If you could go more slowly, Doctor--**

9 A Okay. I know many people here are technically

10 trained, but I would like to just talk very simply

11 about what is going on. So this was the first

12 system. We learned how mitochondrial genes work.

13 We learned to identify them. By making

14 mutations we could study what these products did. I

15 received a call from Jim Watson while I was at

16 Julius's laboratory, asking me to come to Cold

17 Spring Harbor and give the university a seminar.

18 I went to Cold Spring Harbor. I gave a

19 seminar and afterwards found that some of my papers

20 were reflected in the book called, "Landmarks of

21 Yeast Biology."

22 This basic discovery allowed me basically

23 to choose any medical school I wished to go to,

24 not--major campuses. I was hired by this medical

25 school, and I was also offered a position at the

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1 University of California Berkeley with Sy Fogel, who
2 moved out there, and also the Wayne State University
3 undergraduate campus.
4 I came to Wayne State University School of
5 Medicine because it was a hard money school. Most
6 medical schools are soft money.
7 They require that you sign a contract on
8 joining them that says that a certain percentage of
9 your grant money must be supported, must support
10 your salary.
11 The amount decreases. Albert Einstein
12 College of Medicine in New York offered me a soft
13 money contract. I would have much preferred going
14 to Albert Einstein everything else being equal, but
15 Wayne State was a hard money school.
16 The presumption was that you would never
17 have to use grant money to support your salary. It
18 was never a condition of tenure. That is the reason
19 I came here. Should I continue about my experience
20 in the department, or--
21 **Q Yes, please.**
22 **A** Okay. So I joined the Biochemistry Department, and
23 at the time it was a very old-fashioned department.
24 At the time it was really the flowering of yeast
25 genetics. There were about 50 yeast geneticists in

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1 the world. I was one of them. Our department was
2 mostly protein chemistry, rather old-fashioned.
3 Ray Brown, who was chairman, didn't
4 exactly want to hire me, but Sepia Lee (phonetic),
5 who is an old-time famous mitochondrialist, wanted
6 to, and my job here was secured when Ray Brown
7 called up Sy Fogel in Berkeley and found out I was
8 actually offered a tenure line in Berkeley.
9 So I came here. After a few years Ray
10 Brown retired and Barry Rosen came in, and in the
11 beginning Barry Rosen decided we were going to have
12 a modern department.
13 So he started hiring molecular biologists,
14 geneticists. Alex Nympha (phonetic) came from the
15 Stanich's (phonetic) lab at MIT. Ephylo demia
16 Studitsky (phonetic) came from Misha Beckoff's
17 (phonetic) lab in Russia, a very famous lab, many
18 other people, and the early years were quite good.
19 We had seminars together. We had joint
20 parties together outside the school. Our doors at
21 the labs were always open. People circulated back
22 and forth.
23 Graduate students came in, came out, and
24 it was quite nice.
25 **Q What was the department in its composition back**

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1 **then?**
2 **A** Well, there was--Barry hired molecular biologists,
3 and we had the old-time protein chemists. We had
4 the new young molecular biologists, but over a time
5 interval Barry decided that he wanted to have a
6 European or Japanese type department, which means
7 there is one professor and everybody works for him.
8 So Barry wanted all the Assistant
9 Professors to do his work with him, to collaborate.
10 Needless to say, people objected to it. In fact,
11 people left.
12 The entire Molecular Biology section left.
13 Alex went to University of Michigan. Studitsky went
14 to Fox-Chase. We were completely decimated. Barry
15 hired new people who were physical biochemists and
16 made--under the conditions that they work and do his
17 research for him.
18 Bill Brusilow and I were the two last
19 molecular biologists in the department, and we
20 essentially withdrew from the department. We
21 essentially didn't go to the faculty meetings, and
22 we didn't participate at all in the department.
23 **Q Why did you do that?**
24 **A** We did it because Barry was taking all the resources
25 of the department, everything that we had in

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1 overhead and putting it into his laboratory.
2 We couldn't get any kind of--usually you
3 could ask for some money to do some project. I
4 might need a microscope. My team might need a
5 microscope, so we put in some money. We asked Barry
6 to supply the rest from grant overhead.
7 Barry would not supply or help anybody
8 there except himself. Okay? He was taking over
9 more and more labs, and we withdrew, and you saw the
10 consequences when Barry came here.
11 I was at the height of my, you know,
12 research career when Barry claims he sent a memo to
13 the Dean asking for my dismissal and Brusilow's
14 dismissal. I don't know--
15 **MS. GALANTE:** I'm going to object to the
16 characterization of the record. You're saying he
17 claimed. He had a document.
18 **THE WITNESS:** Oh, yeah. He had a
19 document, fine.
20 **MS. GALANTE:** That showed that.
21 **THE WITNESS:** Yeah, sure. He did.
22 **MR. GREGORY:** It's inappropriate to argue.
23 **MS. GALANTE:** I'm sorry.
24 **THE WITNESS:** No. You're absolutely
25 right. He had a document showing that. I had no

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1 knowledge of this document. I don't want to
2 speculate why, but I had no knowledge, and my
3 research record was good, and so was Bill's.
4 That is my interaction with Barry Rosen.
5 Barry left, and we had a temporary chair who was
6 Robert Frank, who was an ophthalmologist, for a
7 couple of years, who had no biochemistry experience
8 at all.
9 This was followed by Bharati Mitra, who
10 was appointed by the Dean with no input from the
11 faculty. We were not allowed to vote on her
12 appointment. She was essentially an Emergency
13 Manager appointed by the Dean, representing the Dean
14 and not the faculty.
15 That persisted up to this year, when our
16 departments were combined. My department was
17 combined with Immunology, Microbiology, and Phil
18 Pellet (phonetic) was appointed in the same way.
19 Once again, no democratic vote. He
20 represents the Dean. So for the past ten years or
21 so we have had no chair representing the faculty.
22 **Q Did you nonetheless pursue your research and publish**
23 **then?**
24 A Yeah. Maybe I should go to the last ten years, and
25 we should come to this dispute here. I won't go

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1 through all the stuff I did. Okay.
2 So I and colleagues had a--well, I was a
3 PI on an NSF grant on bacteriorhodopsin and
4 halorhodopsin. It concerned proton transport.
5 Proton transport is quite important in Biology.
6 In fact, if you think about the most
7 important proteins, you would come up with maybe DNA
8 polymerase which makes DNA, but you would certainly
9 come up with the ATPAs, which is the proton
10 translocating membrane-bound enzyme.
11 The halorhodopsin and bacteriorhodopsin
12 are similar. They are retinal proteins. They're
13 purple. They're gorgeous. They sit in the
14 bacterium. Light comes in. The photons are
15 absorbed. A proton is pumped out, and those protons
16 then are used to do work.
17 This is actually the basis of almost all
18 Biology, the use of these proton gradients. So we
19 did this, and we have essentially completed--I
20 worked with Yanos Lanyi at the University of
21 California Irvine, and Akio Maeda, Kyoto University.
22 She was chair of Biophysics.
23 It was the best collaboration of my life.
24 We essentially solved the entire problem of proton
25 transport. We had a complete model. It appears in

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1 all the textbooks.
2 In addition, we were able to make some
3 materials which are good for biodetection, and
4 unfortunately biowarfare as well, and for computing.
5 It's a purple membrane. So that means when photons
6 absorb it goes through a color change.
7 If you make certain mutants, you can use
8 it to store information, but more importantly you
9 can also use it for rapid information storage.
10 For example, if you are doing, let's say,
11 missile defense, you don't need permanent storage,
12 but you need rapid and fast and large scale storage.
13 If you think of a camera, a camera has 24
14 megapixels. These--each molecule was a pixel.
15 Okay? You can make holographic movies in three
16 dimensions that move, okay, and I did this for
17 awhile in the Pentagon.
18 I did this with--well, I consulted for the
19 Pentagon, like I said, and we had the MetroLaser
20 contract, and it became the basis really of
21 optogenetics, which is a major research area in the
22 20TH century, 21ST century.
23 **Q When did that take place, timeframe-wise?**
24 A My C.V. is very bad. As somebody said, you would
25 have to look here. In the '90s, late '90s probably.

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1 **Q During this period, did you receive any direction**
2 **from the chair as to the--**
3 A Well, seemingly, from what he just submitted--
4 REPORTER: Excuse me. He is kind of
5 cutting you off. "Did you receive any
6 direction..."--
7 THE WITNESS: Sorry.
8 **Q (By Mr. Gregory) Yeah, from the chair regarding the**
9 **focus of your research?**
10 A Sorry. Barry introduced me to Janos. The deal was
11 that I wanted to use my biophysics, my physics
12 background in some sort of pigment system.
13 Originally I wanted Chlamydomonas pigment,
14 which turned out to be more important for
15 optogenetics than the one we chose, but Janos did
16 not want to do that, so we worked on
17 bacteriorhodopsin.
18 He is a long-time bacteriorhodopsin
19 worker. He introduced me to his friend, Akio Maeda,
20 who was chair at Kyoto University, and we actually
21 had some common ancestry in terms of science.
22 So I was the head of an NSF grant. I
23 chaired many international meetings. There was a
24 patent that was possible for this procedure that I
25 had developed, but in fact the patent was never made

<p style="text-align: right;">Page 395</p> <p>1 by Wayne State, and I won't go through the long 2 story.</p> <p>3 The guy was called Dieter Osterheldt, who 4 was the head of Max Panck Institute in Munich. He 5 patented my letter I sent him explaining the 6 procedure. He had absolutely nothing to do with it.</p> <p>7 Wayne State miffed on the patent, okay, 8 and that patent also forms the basis for 9 optogenetics and may be worth something. I don't 10 know, but the end point of that research was that 11 Dieter won a 200,000 mark prize for his discovery.</p> <p>12 So we had some materials made. Okay. 13 After bacteriorhodopsin was essentially finished, 14 there was some questions that were left that it was 15 difficult or trivial or--I don't know.</p> <p>16 They were tedious questions, and we didn't 17 want to deal with them basically. I was getting 18 tired of this. Janos wanted to work with other 19 organisms to look at the photopigments, but I didn't 20 want to, because for one thing, when I deal with 21 those experiments I sit in a dark room.</p> <p>22 I don't like to have students or 23 technicians work with a laser. It's dangerous. You 24 have to adjust the beam. You wear goggles, but you 25 can't really see. You have got to take the goggles</p>	<p style="text-align: right;">Page 397</p> <p>1 A That was probably 2000--I have the paper, so 2002 or 2 something. Okay? So Bill and I started 3 investigating phenylbutyrate, first in yeast and 4 then in other systems.</p> <p>5 We also investigated MSO. There has been 6 testimony that I was working on four different areas 7 at the same time. Okay. Papers that came out of 8 that were absolutely in the same area.</p> <p>9 One says liver failure. That is the same 10 area as the ALS. It is the same area as the 11 glutamate area. This all concerned the effects of 12 glutamate, glutamine on function. It's the same 13 thing.</p> <p>14 We showed a couple of important things. 15 Bill--we had no money for this, and the idea of us 16 getting a grant on this topic is ludicrous. First 17 of all, the idea is essentially crazy, okay, because 18 even if--</p> <p>19 Take an important molecule like glutamate 20 and knock it down in the brain, you don't know what 21 is going to happen. We knew that it got to the 22 brain, because in dogs it causes convulsions.</p> <p>23 In primates it's much less toxic, so we 24 knew it would pass the brain barrier, the 25 blood/brain barrier, but the rest of it we didn't</p>
<p style="text-align: right;">Page 396</p> <p>1 off.</p> <p>2 It's too dangerous for the students and 3 too dangerous for the technicians, so I was doing 4 all the experiments myself, but doing experiments is 5 not so glamorous, and then sitting in the dark, 6 twiddling a dial, hitting a laser, recording 7 information, spending my life this way, I was tired 8 of it after ten years.</p> <p>9 So I wanted to do something else. At the 10 same time, Bill Brusilow, who was my friend and 11 colleague, decided he had to get out of E. coli 12 genetics.</p> <p>13 E. coli genetics was not being well-funded 14 by the NIH, so Bill and I got together and we went 15 to this project on--well, we had an idea, and 16 calling it an idea is probably to give it too much 17 credit, so a notion.</p> <p>18 In fact, if I had gotten this as a grant I 19 probably would have said, "You shouldn't be doing 20 this. It's very speculative." The speculation was 21 that excess glutamate is seemingly important in many 22 neurological diseases and conditions.</p> <p>23 We had a drug--two drugs actually--that 24 could modulate glutamate levels, we thought.</p> <p>25 Q Set the time for us, Doctor.</p>	<p style="text-align: right;">Page 398</p> <p>1 know very much about it, but in fact it turns out 2 that not only does it reduce glutamate in the brain, 3 but it can reduce glutamate in certain areas of the 4 brain.</p> <p>5 Glutamate can be made and destroyed in 6 many different ways. So even though we used a very 7 specific inhibitor, okay, essentially every molecule 8 of this inhibitor that binds a glutamine molecule 9 inactivates it. Glutamine synthetase inactivates 10 it.</p> <p>11 Even though we had that, we weren't able 12 to modulate glutamine levels in the brain, and 13 glutamate levels in the brain, as well as some other 14 neurochemicals.</p> <p>15 We knew it was regional. We worked with 16 Matt Galloway here, his MRS or Magic Angle 17 (phonetic), and we also showed that it can extend 18 the lifetime of the ALS mouse.</p> <p>19 It's a mouse model for ALS, and it would 20 extend the life about 8 to 10%, which doesn't sound 21 like much, but it's pretty much the average for even 22 human drugs.</p> <p>23 We also found the following. There is a 24 problem in ALS experimentation, and it's this. If 25 you have patients and you are trying to do a drug</p>

<p style="text-align: right;">Page 399</p> <p>1 trial, you can--it's difficult to find the measure 2 of the disease progression. Okay? 3 There are all stages of disease. You can 4 do physiological tests, but they are not very 5 accurate, so we wanted some sort of measure of 6 disease progression so we could do drug trials. 7 It turns out that we found that amino acid 8 changes in the blood actually can show progression 9 of the disease in ALS, and we were about to use this 10 in the clinical trial when on a day Bill tried to 11 take the human protocol to our ALS clinic here, we 12 found that Dean Parisi had a fight with the head of 13 the clinic and it closed. 14 There is an old--in Pasternak there is a 15 poem which says, "(Speaking in Russian)," which 16 means "Living one's life is not like crossing a 17 field." Okay? Don't worry about it. It's terrible 18 Russian anyway. Don't worry about it. 19 Living one's life is not like crossing a 20 field. So at the end we are completely thwarted by 21 it. We had some papers coming out of this. It 22 turns out that acute liver failure is also a major 23 disease which kills one to six million people a 24 year. 25 It's a disease of ammonia metabolism. MSO</p>	<p style="text-align: right;">Page 401</p> <p>1 mice are fine. 2 So it's another use for MLS, ALS. I'll 3 stop--once I get started talking, I don't stop. 4 Okay. So we had these four papers coming out. 5 There has been testimony here that I have no work 6 past 2010. 7 You can see in the Rebuttal of charges I 8 have four papers. Actually there is another one 9 which is a trivial paper. I didn't count it. There 10 are four papers, and they look exactly--you know, I 11 have the same productivity as any of the professors 12 that was in charge. 13 These are not a focus that has been 14 changed. The focus has always been on 15 glutamate/glutamine. It has always been on MSO or 16 phenylbutyrate, which are two drugs that modulate 17 these chemicals. 18 So the notion that these are in different 19 areas and I've lost my focus only occurs to people 20 who don't read the abstracts, okay, who read the 21 titles and think they are different subjects. 22 Q Hold it just for a second, Doctor. 23 (At 2:50 p.m., Respondent's 24 Exhibit 8 marked) 25 Q (By Mr. Gregory) I show you Respondent's Exhibit 8</p>
<p style="text-align: right;">Page 400</p> <p>1 can in fact inhibit and change ammonia metabolism in 2 the brain. Bill--mostly because this is great work, 3 it's not mine. It's mostly Bill's. 4 When Bill came back from a Padua 5 sabbatical, I helped the student to do some of the 6 immunological experiments, but basically Bill did it 7 all himself at that point. He did most of it there. 8 This is also relevant to the idea that 9 it's important to be middle author and end author. 10 We have a paper on the amino acids in ALS mice. I'm 11 not the senior author. Bill always is. 12 Bill financed all his work with his own 13 money. He bought mice. He spent hundreds of 14 thousands of dollars doing this research. Okay? 15 But according to Wayne State, it's probably not 16 worthwhile because they had no overhead money on it. 17 This is how we funded the papers that are 18 here, but in the case of acute liver failure, you 19 can take LDS and Degal (phonetic), two chemicals 20 that cause liver failure in mice. 21 When you injected the mouse, at the end of 22 24 hours 100% of the mice are dead. If you take out 23 the liver, it looks like a cracker. You can break 24 it and crack it. You give them MSO during this 25 process, you get essentially 90% survival and the</p>	<p style="text-align: right;">Page 402</p> <p>1 for identification. Can you identify it as an 2 article that you provided at my request? 3 A I did. 4 Q In regard to the Dean's assertion that you had 5 changed your research focus? 6 A I did. 7 Q The Committee will have in due course a chance to 8 read the article. What will they learn from it? 9 A Well-- 10 MS. GALANTE: Could I ask for voir dire 11 before that? 12 MR. GREGORY: Oh, I'm sorry. I quickly 13 offer--I offer 8 into evidence. 14 CHAIRPERSON STATHAM: Counsel? 15 MS. GALANTE: What is the source of this 16 article? 17 THE WITNESS: Nature. 18 MS. GALANTE: Nature? Oh, I'm asking you 19 though. I would like it on the record. 20 THE WITNESS: Nature News and Comments, 21 and-- 22 MS. GALANTE: Is this a website? 23 THE WITNESS: It's a website for Nature 24 magazine, yeah. 25 MS. GALANTE: For Nature magazine, and</p>

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1 when did you pull this document?
2 THE WITNESS: Probably--it's marked
3 October 26, 2016, so probably soon after that. I
4 don't know exactly.
5 MS. GALANTE: I have no objection.
6 CHAIRPERSON STATHAM: All right. It is
7 admitted as Respondent's Exhibit 8.
8 (At 2:52 p.m., Respondent's
9 Exhibit 8 received)

10 **Q (By Mr. Gregory) In the changed research that you**
11 **have simply described, is it still in process?**
12 A It is.
13 **Q And what is the status?**
14 A Well, unfortunately, because the ALS clinic closed,
15 I tried to get the research transferred to the ALS
16 clinic at Henry Ford, but I was told that this
17 research would not generate enough money.
18 I have always done cheap research, and
19 they decided that the research requires simply blood
20 samples in ALS patients, a longitudinal study. It
21 has been known in humans that amino acids change in
22 the blood in ALS patients.
23 This is probably from several causes. One
24 is there is a general muscle wasting in ALS
25 patients, and this leads to changes in the amino

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1 acid composition.
2 On top of that we found disease-specific
3 changes that change. All the literature on ALS
4 amino acids has been--well, I don't know, random. I
5 mean, they take ten patients and they look at them.
6 They are mixed genders and at different
7 stages of the disease, and they show abnormalities
8 in ALS in the amino acids, but they are always
9 different abnormalities. Okay?
10 What we wanted to do was to do it
11 statistically properly. We wanted to follow the
12 same patient, take blood samples every couple of
13 weeks, run the amino acid analysis on them and see
14 how the patterns changed.
15 They changed in a very particular way in
16 ALS mice. In fact, ALS non-symptomatic mice show
17 abnormalities in ALS in amino acids as well, so we
18 thought this would be a nice statistical study.
19 Our statistical studies of mice,
20 unfortunately--well, you can read the papers. We
21 did it the best way we can. I learned to do
22 statistics.
23 There are two branches of statistics.
24 There are--there is a mathematical theory, a
25 measured theory of vague integrals with functions

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1 of--there is a whole Komoltorov (phonetic) deal with
2 how you do statistics, but we didn't find anything
3 practical. Okay?
4 You would like to know things like if I
5 took a thousand light bulbs and made them, how many
6 are bad? How many do I have to take out and test to
7 find out--if I shoot a gun at a target, how many
8 things will hit the target if I only test a certain
9 number.
10 That is that branch of statistics.
11 Biologists do it all wrong, always. They use what
12 is called a Fisher t', and a Fisher t' is a number
13 which is .05. They say it's gray. It's sometimes
14 different. It's .06. They start looking for
15 excuses to fix the data, and there are many excuses.
16 So I had a graduate student, Monica Bame.
17 We worked the first time on the Internet. So I had
18 sent her data. She had sent me data. I made many
19 mistakes in data entry. She would correct them.
20 We tried to learn the proper procedures,
21 and I'm sort of proud of the way the statistics were
22 done. We used t tests for effect CIs (phonetic).
23 We did certain other things, CIs, and I think we did
24 it pretty well, but a statistician would probably
25 say it's terrible.

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1 I'm not too worried because in fact we had
2 small numbers of mice anyway, and we only accepted
3 very, very large significant changes in our paper.
4 We had many changes, and we only talked
5 about the largest ones, and it's a definite pattern
6 of changes in the plasma of these mice. So--
7 **Q Let me interrupt you, Doctor. Have you made any**
8 **grant applications with respect to the--**
9 A We were going--yeah, we were going--
10 REPORTER: Excuse me. Go ahead, Mr.
11 Gregory.
12 **Q (By Mr. Gregory) Have you made any grant**
13 **applications with regard to the use of--**
14 A Yeah. The application was going to be with the ALS
15 clinic with Rick Lewis (phonetic). We had talked to
16 him before, and we were going to use their patients
17 and follow the plasma amino acid changes.
18 It's easy. It's fast, and they are
19 sampling the patients anyway, because they are on
20 Riluzole, which is a drug which basically doesn't
21 work, frankly. It's a drug which makes very little
22 difference in the life of ALS patients when it is
23 used.
24 So we were going to piggyback on his
25 clinical research. The idea was we needed MDs. We

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1 needed patients. Once we had that we were going to
2 submit a grant on in fact a clinical study.
3 As I said, on the day Bill went down to
4 give his grant in to the Human Investigations
5 Committee, we found the clinic was dead.
6 **Q When did you first ever submit a grant to NIH?**
7 A Oh, I have no idea. When I first came.
8 **Q Several times?**
9 A Oh, yeah, when I first came. I mean, this notion
10 that I heard here was, "Well, it's easy to get a
11 grant. You get a grant, you give it to NIH, and
12 they improve it."
13 It comes back and they say, "Oh, Richard,
14 you know, the experiment really is no good. It's
15 going to need data," and I keep sending it in and I
16 keep getting corrections.
17 Let me tell you. Everyone here knows.
18 You send it in. You usually get nonsense back. You
19 get things which in total are not helpful to what
20 you are doing.
21 (At 2:56 p.m., Respondent's
22 Exhibit 9 marked)
23 **Q (By Mr. Gregory) Will you please look at Respondent**
24 **Exhibit 9 for identification?**
25 A Yes. This is a grant application.

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1 **Q When was this made in regard to your research?**
2 A Well, this is new research, unfortunately, and once
3 again I'm changing my focus. Why? Because I can't
4 do the ALS work any more, so I'm back to yeast, and
5 I'm back to using some other data.
6 There has been a lot of interest in these
7 times on genetic changes which are not really base
8 changes in genes, but changes rather in the
9 association of chromosomes.
10 In this grant application, I show for the
11 first time that in yeast there is this nomical
12 (phonetic) transvection, where genes move around and
13 change expression on different chromosomes.
14 MS. GALANTE: Can I do a voir dire on this
15 exhibit?
16 MR. GREGORY: I haven't--let me finish,
17 please.
18 MS. GALANTE: Okay.
19 **Q (By Mr. Gregory) What is this exactly, this**
20 **application?**
21 A This is an application on a new observation about
22 yeast genetic changes.
23 **Q When was it made?**
24 A Well, I had an NSF in before this, but this
25 particular one was probably--I don't know. It was

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1 submitted somewhere in October, I think.
2 **Q It was not granted?**
3 A No. I got some reviews, and I can tell you what the
4 reviews are.
5 **Q Yeah.**
6 A The reviews were amazing. One guy or gal--I have to
7 use "gal" because I don't know--said, "I don't
8 believe it." That was the end of the review.
9 You can say, "I don't believe it," but you
10 have to say, "I don't believe it why." Another
11 person said, "I think there is something wrong with
12 the strains."
13 What was wrong with the strains? I have
14 no idea. The problem is that it is entirely novel.
15 It's written in a bad way actually. It's written
16 for an expert in yeast genetics.
17 I got back reviews that show that people
18 not only didn't know yeast genetics, but told me
19 that I didn't know how to do yeast genetics. They
20 were going to help me do the basic crosses and I had
21 learned something from them, things that we do for
22 graduates in the first day in class.
23 If you look at this, there are many
24 crosses, so the notion that I couldn't do crosses is
25 kind of absurd. It went to people who knew nothing

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1 about yeast genetics, and went to people who were
2 not qualified to comment on any of these
3 experiments.
4 Usually we get back a comment on an
5 experiment, and usually if they would reject a grant
6 to say, "Not enough preliminary data," because there
7 is never enough preliminary data, or if you propose
8 Experiment A instead of Experiment B that is in the
9 grant, even though Experiment A and Experiment B are
10 essentially the same, that is a matter of taste.
11 I didn't even get any of that. I had only
12 one comment on a particular experiment when they
13 said, "This is a very difficult experiment. It may
14 not work."
15 That would be great, except for the fact
16 that when I wrote the experiment I said, "This is a
17 very difficult experiment. It may not work, but I
18 think we can make it work."
19 So all I got was a reiteration of what was
20 in the grant. Okay? So Von Hemerals (phonetic)
21 once said that if you have something novel, the
22 first time they tell you it's wrong, the second time
23 they tell you it's wrong it's right but it's not
24 interesting, and the third time they tell you it's
25 interesting, right, but someone else discovered it

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1 first.
2 So I'm still trying to get this thing
3 accepted. I need to re-write it. I need to make it
4 less forbidding, but I put it here to belie the
5 notion that I do no intellectual work. Okay?
6 MR. GREGORY: All right. We offer 9 in
7 evidence.
8 CHAIRPERSON STATHAM: Ms. Galante?
9 MS. GALANTE: I'm just trying to figure
10 out when this--I can't--there is no date on it, so
11 I'm trying to figure out--
12 THE WITNESS: It was submitted in October,
13 2016, I think, to NIH, but when I prepared it--well,
14 I prepared it before that.
15 MS. GALANTE: 2016. I'm comparing that to
16 the list I have.
17 THE WITNESS: Maybe it's this--
18 MS. GALANTE: Your grant application. I'm
19 just trying to sort through, but if you are saying
20 it was submitted--
21 THE WITNESS: It was submitted.
22 MS. GALANTE: Then I have no problem with
23 it.
24 THE WITNESS: And it's in stasis now,
25 because I can't get myself to work on it, given the

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1 nature of these hearings. I'm just not
2 psychologically ready to change this thing.
3 CHAIRPERSON STATHAM: It is admitted as
4 Respondent's Exhibit 9. It's the NIH grant
5 application.
6 (At 3:00 p.m., Respondent's
7 Exhibit 9 received)
8 MS. GALANTE: Could I ask one more
9 question about this? What is the title of this
10 grant application?
11 THE WITNESS: Good question. It's--
12 unfortunately it's in the packet.
13 MS. GALANTE: It's what?
14 THE WITNESS: It's in the packet of its
15 submission. I didn't put the cover pages from that.
16 It should be there, called "Transvection..."--
17 MS. GALANTE: I guess I object to it
18 because it is an incomplete grant application.
19 THE WITNESS: Well, the parts that you
20 want don't tell you anything. I mean, you know,
21 this is essentially--
22 MS. GALANTE: So you're admitting it's
23 incomplete?
24 CHAIRPERSON STATHAM: I will overrule you
25 on the basis that it's a grant app.

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1 THE WITNESS: No, I'm not admitting it's
2 incomplete.
3 CHAIRPERSON STATHAM: Whether it's
4 complete or not is something else.
5 THE WITNESS: The biographical information
6 would be in there, in my NIH thing which I
7 submitted, the sign-offs by the--you know,
8 bureaucrats here and so on.
9 CHAIRPERSON STATHAM: It's in.
10 (At 3:01 p.m., Respondent's
11 Exhibit 10 marked)
12 **Q (By Mr. Gregory) Doctor, I show you Respondent**
13 **Exhibit 10. Can you identify it and describe what**
14 **it represents?**
15 A I can. Since I was told in the charging letter that
16 I had no publications in 13 years, I decided to put
17 some of the publications that I had in 13 years.
18 I didn't put complete copies of the
19 earlier ones, but I put complete copies of the four
20 ALS papers, four MSO phenylbutyrate papers that I
21 had.
22 So these are the papers all in a single
23 area, regardless of what people are saying about it.
24 One is on liver failure. Two are on ALS, and one is
25 on something else, glutamine synthetase in the

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1 brain.
2 **Q And were they published in refereed journals?**
3 A Definitely. I don't understand how they decided
4 that I don't publish in refereed journals. I never
5 publish in anything else but refereed journals.
6 MR. GREGORY: We offer 10 in evidence.
7 CHAIRPERSON STATHAM: Ms. Galante?
8 MS. GALANTE: I have no objection.
9 CHAIRPERSON STATHAM: It is admitted,
10 Respondent's Exhibit 10. "Publications in Refereed
11 Journals" is the title.
12 (At 3:03 p.m., Respondent's
13 Exhibit 10 received)
14 **Q (By Mr. Gregory) Please direct your attention, Dr.**
15 **Needleman, to your Rebuttal of the charges that were**
16 **made against you by Dean Sobel.**
17 MS. GALANTE: Is this a new exhibit?
18 MR. GREGORY: It's an attachment to our
19 Answer and Rebuttal.
20 CHAIRPERSON STATHAM: Do we have a copy of
21 that?
22 MR. GREGORY: Yes, you do. You got that
23 when we started the hearing.
24 CHAIRPERSON STATHAM: Okay. Is it a Joint
25 exhibit?

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1 MS. GALANTE: No. No, no, no. I have a
2 number of things I want to address on that exhibit.
3 MR. GREGORY: It was submitted as a
4 pleading, but if you wish we could make it an
5 exhibit.
6 CHAIRPERSON STATHAM: All right. I just
7 wanted to check. Okay.
8 MR. GREGORY: Does everyone have it?
9 CHAIRPERSON STATHAM: Yeah.
10 MR. GREGORY: All right. Excellent.
11 MS. GALANTE: Just can you give me a
12 minute to find my copy?
13 MR. GREGORY: No.
14 MS. GALANTE: No? You don't happen to
15 have an extra copy. Right? If you have it. I
16 can't find mine. Are you offering this as an
17 exhibit?
18 MR. GREGORY: No. I don't ask for it to
19 be an exhibit. It's a pleading, but I'm going to
20 use it in testimony.
21 MS. GALANTE: I guess--I mean, I know he's
22 not offering it, but he is planning on using this
23 for the testimony, and it's just replete with
24 hearsay, so he has already given that to the
25 Committee, which I had no idea.

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1 It's one thing to submit a pleading, but
2 this is an 11-page document written by Professor
3 Needleman that is just full of hearsay upon hearsay
4 upon hearsay.
5 So I object to this being considered by
6 the Panel without some foundation.
7 CHAIRPERSON STATHAM: Mr. Gregory?
8 MR. GREGORY: I don't know where the
9 hearsay is. He is responding to specific charges by
10 Dean Sobel.
11 MS. GALANTE: He talks about other
12 people's records in his department with no
13 documentation of who they are, how he got that
14 information.
15 He talks about another case where he
16 claims the University did certain things, which he
17 has no first-hand knowledge of. There is tons of
18 information in here that is very objectionable.
19 CHAIRPERSON STATHAM: I'll admit it for
20 what it's worth, and you can ask him about it on
21 cross.
22 MS. GALANTE: Okay. Are we going to label
23 it as an exhibit then so that--
24 MR. GREGORY: We can. Apparently that--
25 CHAIRPERSON STATHAM: Are you going to

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1 label it as an exhibit?
2 MR. GREGORY: Let's make this Respondent
3 11.
4 MS. GALANTE: Since you're referring to
5 it.
6 CHAIRPERSON STATHAM: All right.
7 MR. GREGORY: And it's entitled, "Rebuttal
8 of Charges, a Brief Brief by Richard Needleman."
9 CHAIRPERSON STATHAM: Okay. It's in.
10 (At 3:06 p.m., Respondent's
11 Exhibit 11 marked and received)
12 **Q (By Mr. Gregory) Do you have your Rebuttal in front**
13 **of you?**
14 A I do.
15 **Q Which now is Respondent Exhibit 11.**
16 A I'm sorry for shouting, but I'm not used to this
17 thing, and I'm very nervous.
18 CHAIRPERSON STATHAM: That's okay. Keep
19 shouting and we can hear you better.
20 THE WITNESS: It's very strange.
21 **Q (By Mr. Gregory) Directing your attention to the**
22 **first page, will you tell the Committee how you**
23 **happened to compose the chart or graph that is--**
24 A Yes. In fact we have materials that show how I
25 calculated the chart. We have backup materials

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1 taken down from the lab that we can give you, but
2 the purpose of the first chart is to show--
3 You know, I saw yesterday they are saying
4 I had only two papers in the last four years. Fine.
5 The papers will be financed by Bill. Bill is
6 financing them. I think they are good papers.
7 I will spare you going into why I think
8 they are good. A lot of information we have in
9 there, but the question really is, how does that
10 compare to other people in my department?
11 According to Dean Sobel's letter--and I
12 quote:
13 "He has established a 13-year record
14 of no original research of any kind."
15 No original research of any kind, but then he says:
16 "...and only one publication as first
17 author."
18 So somehow I have no original research,
19 but I also have a publication as first author. His
20 entire letter is contradictory and filled with
21 falsehoods, and you can find my--you have before you
22 a list of some of my publications during this time
23 period.
24 The idea here is to look at the recent
25 period since 2010. You cannot distinguish me, my

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1 record, from any full professor who has not been
2 targeted by Dean Sobel. Okay?
3 I have had four publications. You could
4 argue I had five, but I omitted the publication
5 which essentially is trivial. I have my papers.
6 These papers are only in 2010.
7 Someone said that, well, you know,
8 citations in the past don't mean anything, and if I
9 was famous once I am no longer famous. You know, I
10 have no standing because on notice I haven't
11 published recently.
12 MS. GALANTE: I guess I'm objecting to his
13 mischaracterization of Dean Sobel's testimony.
14 THE WITNESS: It's not Dean Sobel.
15 MS. GALANTE: Who are you referring to?
16 THE WITNESS: Delaney-Black.
17 MS. GALANTE: Oh. Well, I object to your
18 characterization of her testimony. I think it's a
19 misrepresentation of it.
20 CHAIRPERSON STATHAM: I'll let him answer.
21 THE WITNESS: No. She said in fact--
22 MR. GREGORY: No, no. Just--there is no
23 standing to object to that testimony.
24 CHAIRPERSON STATHAM: I'll let him answer.
25 Answer the question.

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1 THE WITNESS: No. I was told that, "Well,
2 you know, Richard, you had a lot of citations. You
3 were famous once, but now you are sort of a burn
4 out. You haven't done anything lately."
5 Yeah, "We can say that you were a famous
6 scientist in your reputation, but you are not really
7 a famous scientist because you're only as good as
8 your last five years, and the citations in the last
9 five years."
10 That is nonsense, of course. However,
11 this is a chart only of the last five years. These
12 papers were written and published in the last five
13 years. My record is not distinguishable from
14 anybody else in my department who did not receive a
15 letter.
16 So how I am deficient in the last five
17 years I don't know. Earlier, yes, when Bill and I
18 changed fields, he from E. coli and me from
19 bacteriorhodopsin.
20 We knew we were not going to get a grant.
21 First of all, we had no preliminary data. Bill and
22 I had never picked up a mouse. I didn't even know
23 how to sex mice.
24 I had no idea how to feed them. I had no
25 idea about anything. Bill paid for our early

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1 experimentation. He bought all the mice, and we
2 started, and we had four or five years without
3 publications. This is true.
4 A mouse experiment takes us close to eight
5 months. We didn't even know the dose of this drug.
6 A yeast experiment takes three days. An E. coli
7 experiment takes one day.
8 So we had a section of our work that we
9 did not publish, but this is the purpose of tenure.
10 Okay? I'm a tenured professor. I should be allowed
11 to choose my own research and fund it and go in the
12 direction I want to and not be told it's
13 nonproductive and I'm not bringing in grant money.
14 I can do research without grant money,
15 external grant money, because Bill was providing it.
16 This equation of grant money with scholarship is
17 nonsense.
18 The tenure track is in fact safe. Grant
19 money cannot be substituted for scholarship.
20 Scholarship is the product of scholars, I guess. It
21 is the only way of judging scholarship, not money
22 brought in.
23 Money is not even a tenure factor for
24 tenure in the first place, so how it could be a
25 factor for continuing tenure is beyond me.

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1 **Q Hold it just a moment before we leave Table 1.**
2 **(At 3:11 p.m., Respondent's**
3 **Exhibit 12 marked)**
4 **Q (By Mr. Gregory) I show you Respondent Exhibit 12**
5 **for identification. Can you identify it and tell**
6 **the Committee how does it relate to Table 1?**
7 A Yes. I purposely omitted the names of the
8 professors in Table 1. I don't believe the number
9 of grants--sorry, number of citations and number of
10 papers has any bearing on the quality of the work,
11 including high citation numbers.
12 I did some--I might as well comment on
13 this now. I did some very nice work, I thought, on
14 the MAL system. It got very few citations. It's
15 essentially a system which is not of interest to
16 many people.
17 I thought the work was quite good. I did
18 some other work where I got a lot of citations which
19 is more generally useful. There is no question that
20 citation numbers cannot be used to dilate people.
21 The only thing that they say, if I have a
22 lot of citations--and I do--the only thing that it
23 relates to is the fact that my work is of interest
24 to a lot of people.
25 It relates only to international

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1 reputation. So if I have a lot of people citing me,
2 I have an international reputation. If I have more
3 citations than Linda Hazlett, I'm not necessarily a
4 better professor. I'm not necessarily a better
5 scientist.
6 It doesn't relate at all to individual
7 qualities, okay, but in order to prove that this
8 table is accurate, I simply--this is simply my
9 count. It's a download, and it's a hand count of
10 how I did the table entries.
11 Unfortunately, you can see the names of
12 professors in this download, and the same thing is
13 true of Table 2.
14 **Q What is the difference between Table 1 and 2?**
15 A Table 1 has only the people who weren't cited either
16 for dismissal procedures for full professors or for
17 the other procedure, Article, what, XXIV? Whatever
18 it is.
19 The second table I put down everybody.
20 **Q Everybody in the department?**
21 A Who have not received dismissal letters only, so in
22 other words--
23 MS. GALANTE: In which table?
24 THE WITNESS: It's the second table.
25 MS. GALANTE: Oh, you're referring now to

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1 which document? Just so I'm--
2 MR. GREGORY: His rebuttal, page 2.
3 THE WITNESS: Yeah. I basically tried to
4 show that I'm not the worst professor in the
5 department, and in terms of reputation I have, you
6 know, an international reputation.
7 It doesn't try to show that I'm better
8 than anybody, and you might think I'm saying this
9 only because I want to be nice and please the
10 Committee. There may be something to that, but I
11 actually genuinely believe that.
12 It doesn't say anything at all. We have a
13 great--well, we have a very good Associate Professor
14 in our department who is exquisitely--I won't say
15 him or her--but does exquisite small scale work on
16 topics which people probably are never going to be
17 interested in.
18 He or she will never generate high
19 citation numbers, but he or she is a superb
20 scientist, and is not likely to do very well at
21 Wayne State as it is constituted right now.
22 **Q (By Mr. Gregory) Direct your attention, please, to**
23 **the charge that you engaged in minimal teaching**
24 **activity, and explain why you disagree with that**
25 **claim.**

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1 CHAIRPERSON STATHAM: Mr. Gregory, did you
2 admit--move to admit--oh, it's in. I'm sorry.
3 MR. GREGORY: Was 12 admitted?
4 CHAIRPERSON STATHAM: Respondent's Exhibit
5 12, was that admitted?
6 MR. GREGORY: Apparently not. I do.
7 CHAIRPERSON STATHAM: Do you want to move
8 that for admission?
9 MR. GREGORY: I move it, please.
10 CHAIRPERSON STATHAM: Ms. Galante?
11 MS. GALANTE: Well, I object to the
12 validity of it, of the source, Google Scholar.
13 There is like tens of sources where you can search
14 people's h scores, and they will all be somewhat
15 different, and it's controversial in that regard.
16 So I don't see that this has any validity,
17 so I object to it in that regard.
18 CHAIRPERSON STATHAM: Okay. Overruled.
19 You can argue that in your post-hearing brief. It's
20 admitted.
21 (At 3:15 p.m., Respondent's
22 Exhibit 12 received)
23 THE WITNESS: The question is not h scores
24 here. It's simply citation numbers.
25 MS. GALANTE: Oh, I'm sorry.

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1 THE WITNESS: But you are absolutely
2 right, Ms. Galante. You're absolutely right. You
3 can go to other sources and you can find
4 differences. You can find differences in h numbers,
5 but they are basically small.
6 If someone has 7,000 citations and your
7 next search is not going to find 300--you know, this
8 is the best I could do. I couldn't search every
9 one.
10 If you have a name that is difficult to
11 search that wasn't at Wayne State, I'm not trying to
12 say anything about the quality of these people. I
13 tried to disguise who they are, but in the
14 documentation you will have to see their names. I
15 had no choice.
16 MR. GREGORY: Very well. It's in.
17 **Q (By Mr. Gregory) Let's move now to the claim of**
18 **minimal teaching activity.**
19 A When the department was Molecular Genetics, I taught
20 a lot. I had a special course with Bob Akins, and
21 as Barry got rid of the molecular biologists, the
22 protein chemists decided they weren't interested.
23 They weren't interested in Molecular
24 Biology, so they started cutting my courses. I'm
25 still interested in teaching, but if I were to ask

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1 the department to actually institute some new
2 courses, I would not succeed.
3 The idea is to keep the course numbers
4 small. We have only 14 students. Only four are
5 currently taking courses.
6 If they were to give me a Molecular
7 Biology course, it would mean that some students
8 might get interested in Molecular Biology instead of
9 Protein Chemistry. Okay?
10 I've taught everything I have been asked
11 to teach. I have volunteered every time they would
12 ask me to volunteer, except for Sharon Ackerman
13 asked me recently after I got my dismissal letter to
14 volunteer, and I was not disposed to volunteer for
15 teaching under those circumstances.
16 So I teach as much as I'm asked. I've
17 never refused a teaching assignment. I don't know
18 what I'm supposed to do. I have some courses I
19 would like to teach that I'm thinking about.
20 I'd like to do a history of Molecular
21 Genetics, starting with E. coli genetics, very
22 early, and then switch to CRISPR, with yeast in
23 between.
24 I'd like to do a historical study. I
25 would like to teach a statistical study where we

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1 look at drug papers and other papers to look at
2 abnormalities, a statistical analysis, and teach our
3 students how to read a paper properly, but I have no
4 control over teaching assignments.
5 **Q You are also charged with a virtual absence of**
6 **service. What is your response to that?**
7 **A** Once again, I've run--how do I avoid service in my
8 department? There is only one way. I can refuse to
9 run for election. I've never refused to run for
10 election. I just recently ran.
11 I may have won. I have no idea. Probably
12 not, but the protein chemists vote for the protein
13 chemists, and the molecular biologists used to vote
14 for molecular biologists, obviously, for friends.
15 So as the department changed, I have run
16 every time, and I haven't won. How this is a
17 personal failing is beyond me. I can't do more
18 service.
19 Now you'll say, "Well, you should have run
20 for the Faculty Senate here." As you can see from
21 my testimony today, I'm totally unsuited to run for
22 Faculty Senate. I don't relate easily. I'm totally
23 unsuited.
24 I don't have the personality necessary to
25 be a senator, so it is what it is. The strange

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1 thing is, even though I have no service and it has
2 been this way for some years, my service scores jump
3 all over the place in the Salary Committee.
4 I'll leave that to you to understand why.
5 It means that there is an incredible amount of
6 noise, and people should be picking out numbers,
7 because my status hasn't changed.
8 The status--the Salary Committee should
9 give me the same score. It may be a bad score, but
10 the same score each year. They don't. It jumps all
11 over the place.
12 **Q You didn't apparently impress Dean Sobel about your**
13 **research. He asserted that for a decade your**
14 **research efforts have been mediocre to very low.**
15 **A** Okay. I would like him to come and test him--read
16 my papers. You have four of them here. Ask him
17 about this. Read the bacteriorhodopsin papers--
18 which he can't.
19 He can probably read the ALS papers. They
20 are written in simple language. He can't read
21 anything else, but let him come here or get some
22 expert to say, "Well, Needleman, you know, you
23 published, but it's crap."
24 I'd like when we do a review of faculty
25 not to rely on the Salary Committee, which never

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1 looks at your papers. I'd like them to be able to
2 take these papers, take a look at them, read them,
3 decide whether they are substantive, decide whether
4 it is novel or not.
5 I claim that these four papers have novel
6 ideas. Do I claim they are great papers? Probably
7 not. Are they going to change biological science?
8 Probably not, but maybe.
9 Maybe if we can modulate glutamate in the
10 brain and glutamine in the brain without
11 consequences, doing this actually you can extend the
12 lifetime of the ALS mouse, but also of the
13 Alzheimer's mouse.
14 You can also improve memory using
15 phenylbutyrate. So these drugs have a role. There
16 are also some problems with using these as drugs
17 among--but it is not colorless research.
18 There is a phrase in Catalan where they
19 say, "He has the color of a dog running away," which
20 means he is colorless, and in fact these are not
21 colorless papers.
22 They have a point of view. They have
23 substance, and they have--they are human products.
24 I don't know how good they are. It's too early to
25 tell.

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1 I'm not going to be claiming that these
2 are wonderful papers, but they are scholarly papers
3 done properly.

4 **Q Did any administrator discuss the nature or status
5 of your research?**

6 A They are unqualified to discuss it. Okay? They're
7 not scientists.

8 **Q Correct.**

9 A Tell me who is going to read the bacteriorhodopsin
10 papers or be looking at FTIR.

11 **Q Did anyone come to you and offer to--**

12 A Of course not. They're not interested.

13 **Q No?**

14 A They don't care whether in fact--what the content
15 is. Okay? They care only that it exists, or even
16 not that, that I have grant money for it. There is
17 no interest in whether the research I did was good,
18 bad or indifferent.

19 Has anybody ever been fired for doing
20 crummy research anywhere in academia? I doubt it.
21 As long as you do something, publish something and
22 get money, they're perfectly content.

23 **Q Proceeding with the Rebuttal, what is your response
24 to the other allegations of the charge, that
25 essentially for ten years you have been very**

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1 **inactive and unproductive?**

2 A It's false. I mean, the first five years I
3 explained. We had been active, but we didn't
4 publish any papers. We didn't know the system, and
5 we were essentially ignorant of everything about a
6 mouse, how to use them.

7 In fact, we set up the experiments
8 slightly wrong. What we did was we looked at end
9 point of death with some of these experiments, which
10 means the mouse's lifespan is when the mouse dies,
11 but how does a mouse die?

12 We're not allowed to let a mouse die. We
13 have to use the veterinarians. So there is a
14 certain noise in the experiments to determine the
15 time of death.

16 It's blinded. The veterinarian decides
17 this mouse is in too much distress and it's
18 essentially dead. So we have some other tests for
19 grip and some other things that don't involve death
20 when we did that.

21 Five years went by. We did work, and the
22 sixth year we published, and since then we have been
23 publishing on this. So, you know, do we have ten
24 grants? Ten graduate students turning this thing
25 out?

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1 No, but Bill Brusilow spent hundreds of
2 thousands of dollars doing this, and to be told that
3 that money doesn't count for anything, that we need
4 grant money for overhead is absurd.

5 Well, it's not absurd, but it's rather
6 troubling. So to answer the question, five years
7 nothing in terms of papers. Next five years, yes,
8 to the present time.

9 MR. GREGORY: Just give me a moment,
10 please.
11 (At 3:22 p.m., Respondent's
12 Exhibit 13 marked)

13 **Q (By Mr. Gregory) You are being shown Respondent
14 Exhibit 13 for identification. Can you state what
15 it is and explain what it purports to represent?**

16 A After I wrote the Rebuttal, I realized I needed
17 documentation for the tables, so rather than put it
18 in the Rebuttal itself I decided that I should put
19 it in an appendix.

20 It starts by telling how I compiled Table
21 1, how I compiled Table 2, and I talk a little bit
22 about the h-indexes. I don't want to offer this as
23 an h-index. I really don't. It's not a mark of
24 scholarship particularly.
25 It's a mark of arriving--well, actually

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1 it's not arriving, but of fame in some ways, how
2 many people look at your work. It has little to do
3 with the quality of the work.

4 You can do small scale work that is
5 exquisite, have a low h-index, and it should be
6 perfectly fine, but once again, I was asked about
7 international recognition, and a high h-index does
8 show international recognition.

9 There is no way of saying it doesn't.

10 MR. GREGORY: We offer 13 in evidence.

11 CHAIRPERSON STATHAM: Okay. The appendix
12 to the Rebuttal is offered. Ms. Galante,
13 objections?

14 MS. GALANTE: No objections.

15 CHAIRPERSON STATHAM: No objection? It's
16 in.

17 (At 3:25 p.m., Respondent's
18 Exhibit 13 received)

19 **Q (By Mr. Gregory) Have you in the course of your
20 career been involved internationally?**

21 A Yeah. I mean, my mitochondrial genetics work not
22 only got me a major lecture at Cold Spring Harbor.
23 I was a graduate student, and the \$500 honorarium
24 was absolutely incredible.
25 My girlfriend and I lived on that for a

<p style="text-align: right;">Page 435</p> <p>1 couple of months in Brooklyn. I chaired 2 international meetings. I chaired mitochondrial 3 meetings. I chaired international retinal meetings 4 with Don. 5 When I say "chaired," if I chaired a 6 500-person session, not a small session of it. I 7 toured China on the invitation of Wei Yue. Wei Yue 8 is the first woman in China to actually get a Ph.D. 9 She got it in Japan. She invited me to 10 tour Nanjing, Shanghai, Hangzhou. I spent two weeks 11 in her lab, talking to the people there about 12 bacteriorhodopsin. 13 It was in the 1990s, and the Chinese did 14 not really speak English. My Chinese students gave 15 me a series of Chinese slides, which I put up. I 16 knew what they were, what was on it. 17 I mumbled something in English, and they 18 were able to follow what I did. I toured Japan 19 twice. I went to Hokkaido, Tokyo, Osaka, Spring 8, 20 which is the Syncotron, Himeji. I think probably 21 that's it. 22 I spent the time lecturing. I spent time 23 in people's labs. Both trips were sponsored by the 24 Japanese government, so I have international 25 recognition, if that is the question.</p>	<p style="text-align: right;">Page 437</p> <p>1 patient activity. Hopefully we have some good 2 results. Okay? That was the basic plan. Bill was 3 willing to spend once again hundreds of thousands of 4 dollars. 5 Bill may be appearing before your 6 Committee soon. Despite spending hundreds of 7 thousands of dollars on his own research, somehow he 8 is ready for dismissal. 9 Q The Dean also asserts that you had only four grant 10 applications in the last ten years. 11 A Okay. Actually that is false, but it's not Jack's 12 fault. Okay? What it is is, the many grants we 13 write, a five- or six-page pre-grant, submit it. 14 They read it, and then they decide whether in fact 15 they want that full application. 16 I had about six or seven of those, to 17 Karmanos, to DLE, to various other places. They are 18 not in my C.V. As stated, my C.V. seems to be 19 rather deficient. 20 I'm not interested in polishing my C.V. 21 There is no reason to put those things in. They are 22 failed applications, but we looked at some other 23 applications, some other places, and we did submit. 24 We tried to submit, but he's right otherwise. 25 Q What is your response to the Dean's claim of lack of</p>
<p style="text-align: right;">Page 436</p> <p>1 Q What is your response to the Dean's assertion that 2 you have not had a funded grant for 13 years? 3 A That is absolutely true. I mean, I can't--I have 4 not had a funded grant. We could never get funded 5 for the MSO work. Why? 6 First of all, we're too old. I know this 7 comes as a shock to people on this Committee, but 8 Bernie Sanders was my classmate, which means we are 9 about the same age. 10 We have no experience in--if you look at 11 the exhibit that talks about the nature of switching 12 fields, you are not going to get an NIH grant when 13 you have never had a publication in a particular 14 field. It's impossible. 15 It's hard enough to get it when you are, 16 okay, in that field. We have no track record. We 17 have no experience. It was foolish to even try, and 18 we had no preliminary data, frankly. 19 The mice experiments took so long that we 20 had no preliminary data until the fifth year. We 21 started publishing, and the plan was, once again, to 22 go into human trials with the ALS clinic here and 23 use that to get our first clinical grant, and then 24 to build on that, on that track record. 25 We would have data. We have clinical</p>	<p style="text-align: right;">Page 438</p> <p>1 significant publications and the fact that you were 2 listed as middle author? 3 A Okay. This is complete nonsense. This may work in 4 clinical trials. In fact, Jack is not the first 5 author on any of his papers. There is no reason to 6 think that the senior author is the one that did the 7 experiments. 8 In my cases, Bill and I collaborated for 9 the last, oh, ten years. Bill did much more on the 10 liver paper, both intellectually and in terms of 11 real work than I did. 12 I worked mostly with the graduate student 13 when he came back. Bill is senior author. I did 14 much more work than Bill did on the ALS amino acid 15 paper, working with it. Bill is senior author. 16 Why is Bill senior author? He funded the 17 work. It's very simple. I've often had cases where 18 I've done 80% of the work myself with a technician. 19 My colleague, Corinne Michels, had a student who did 20 maybe 20% of the work. 21 What did we do? Did I appear first on the 22 paper? No. The student did. We wanted to give the 23 student first authorship of the paper, often the 24 first time they ever had first authorship. 25 This is what we do. Should I appear at</p>

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1 the back as prime author? No. The student is
2 Corinne's author. So it was the student, me and
3 Corinne.
4 It says nothing about who did most of the
5 work. It says nothing about prestige. Clinical
6 scientists may do this if they look down. They say,
7 well, you can put asterisks on it and say an equal
8 thing.
9 That's pretentious. I'm not worried about
10 what people think about how much work I did on a
11 paper or not. No one cares. You know, if my name
12 is on a paper, they will come up to me and ask me
13 questions about it at any meeting.
14 They are not going to say, "Well, you're
15 not senior author. We're not going to talk to you."
16 It's complete nonsense.
17 **Q Has your chair ever directed you to engage in**
18 **particular research or other activities that you**
19 **declined?**
20 A I have not said a word to my chair in 20 years, 10
21 years, since she has been chair. I think I had a
22 very brief conversation once, maybe two years ago.
23 Okay.
24 **Q Have you received instruction from the Dean or Vice**
25 **or Associate Deans?**

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1 A The procedure they are putting in place, they say,
2 "Why don't you go and get help on your grant?" Who
3 is going to give me help on this very technical
4 grant? There is no one--well, actually there is one
5 guy, Nick Davis, who I may ask for.
6 If I want help on this grant from Nick, I
7 go in and I say, "Nick, will you please read this
8 grant and tell me what you think?" I'm not going to
9 fill out a form that says--my expectation is to get
10 this grant in.
11 I'm not going to give it to anybody here
12 who thinks that just changing some of the technical
13 comments or the boilerplate is going to make this
14 grant go.
15 This grant needs a big revision to
16 simplicity. I know what it needs. I'm going to
17 have to work--if I don't get thrown out, I'm going
18 to work on it. My idea for this grant in MAL and
19 yeast is the following.
20 I'm working with Athar Ansari, who is a
21 major--who is a biologist on main campus. I found
22 out about Athar because I attended this seminar.
23 This work was done awhile ago, but we didn't publish
24 it.
25 We didn't publish it because our

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1 hypothesis was that this was chromosomal
2 interactions, chromosomes talking to each other, but
3 when we did this there was no technique at all that
4 we could confirm this.
5 Athar works in fact exactly on this. In
6 the last five years these techniques, looking at
7 chromosome associations, have become prevalent.
8 My idea for this is I would like to work
9 with Athar on this. It's a good collaboration,
10 equal collaboration, and I would like to teach him
11 the MAL system.
12 The MAL system is a very strange system.
13 No one works on it. There is all sorts of hidden
14 lore. It's even difficult to get phenotypes in this
15 system. There are all sorts of strange things that
16 happen.
17 I would like to give it to Athar, and when
18 the time comes to retire, you know, the MAL work
19 will go on, and we will have this. Plus I'll be
20 working intellectually on a topic that I think is
21 extremely interesting.
22 **Q Have you declined to participate in the Selective**
23 **Salary Review?**
24 A You know, I just looked, and I have it in my
25 computer for 2015. I don't know if I ever sent it

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1 in. I did not realize this was a requirement.
2 Well, people will say, "Well, why didn't
3 you read the Factors on page..."--whatever it is. I
4 don't read, you know, things that come from the
5 Medical School.
6 I haven't followed--she is going to--you
7 know, I'm going to get jumped on, saying, "Well,
8 it's professional responsibility. You should read
9 this."
10 You get all sorts of junk, and you know, I
11 don't pay any attention to it mostly, so--
12 **Q Any other reasons?**
13 A No. Well, no, but I was never going to get a salary
14 increase anyway from these guys. Okay? It's a
15 closed--I mean, outside of my department--I thought
16 about many ways of explaining it to the Committee.
17 I know we have somebody from the English
18 Department and somebody from Spanish. For Professor
19 ZeWinters I would say, suppose you are in a
20 department where everyone is post-Modern, and they
21 are doing Therida (phonetic) and Foucault
22 (phonetic).
23 You come in, and you decide you are going
24 to do the Spenser's Faerie Queen, the role of the
25 masque, and your critics are Epon (phonetic) and

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1 Rosemary Touf (phonetic).
2 You're not going to feel very comfortable.
3 They may be very nice people in your department, but
4 even so they are on the outside. That product, by
5 the way, was chosen by my wife, so it's not a
6 strange topic.
7 So let's say suppose you are in the
8 Spanish Department and they are all--
9 DR. FERRER: We don't have a department
10 chair.
11 THE WITNESS: Okay, but suppose you are in
12 a Spanish Department where people are doing
13 literature, comparative literature, and everyone is
14 doing a Capparano Navaka (phonetic). They are doing
15 Vega and you decide, well, you know, you are going
16 to do Neruda (phonetic).
17 The problem is that most of those guys,
18 older professors, are very nice, but they're sort of
19 maybe philanthropists, and they sort of--they are
20 against the republicans, and doing Neruda is not so
21 great.
22 Suppose it's even worse than that.
23 Suppose you decide to do Lorca, who was murdered by
24 Franco. Lorca was gay and a leftist. That's even
25 worse. Suppose it's even worse than that. Suppose

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1 you were going to do Catalan. You want to do
2 Montalban, and look at things like "The Pianist."
3 You are going to look at the--not
4 detective novels of Montalban and decide how they
5 tell us about post-Franco Spain. You are going to
6 be outside that department.
7 I'm the same way. I do the prevalent
8 work. Molecular Biology is much stronger everywhere
9 than Protein Chemistry is, but I'm on the outside.
10 I'm the same way.
11 People are nice, but we have nothing in
12 common.
13 **Q Doctor, have you been told by any administrator what**
14 **academic assignment you have not performed**
15 **competently?**
16 A No. My life is trying to figure out how things
17 work, do this, do my work. I don't talk to
18 administrators.
19 MS. GALANTE: I'm sorry. I didn't hear
20 that last answer. "I don't what?"
21 REPORTER: To administrators. "I don't
22 talk to administrators."
23 MS. GALANTE: Oh.
24 REPORTER: "My life is trying to figure
25 out how things work. I don't talk to

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1 administrators."
2 MR. GREGORY: Just a second, please.
3 **Q (By Mr. Gregory) At any time were you offered the**
4 **opportunity to engage in what we call**
5 **"expectations," in short, a form of mentoring?**
6 A Not as far as I know.
7 **Q Did you have any discussion whatsoever with your**
8 **chair regarding the charges?**
9 A Once again, I've only talked to my chair maybe three
10 sentences in the last ten years. She's not a chair.
11 She is an Emergency Manager. Okay?
12 Chairs are elected and represent the
13 faculty. We haven't had such a representative in
14 eight years.
15 **Q After the meeting with the Dean and his company on**
16 **May 23, was there any further contact from the**
17 **Dean's office regarding your performance?**
18 A Not that I know.
19 **Q Not with you directly?**
20 A No.
21 **Q Were you at any time told that you had to be**
22 **productive with respect to grant funding, and if**
23 **not--**
24 A No, but obviously I want to get grant funding. I
25 don't want Bill who is paying too much money for

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1 this stuff.
2 REPORTER: You didn't have a full
3 question. You got cut off.
4 MR. GREGORY: I got cut off?
5 REPORTER: "Were you at any time that you
6 had to be productive regarding grant funding..."--
7 A (By Mr. Gregory) At any time?
8 A No, but it's understood.
9 **Q But of course you are willing to apply, if you--**
10 A Well, I'm trying. You know.
11 **Q Yeah.**
12 A I'm trying to get funds for this yeast project.
13 Here we have a lot of preliminary data. I think it
14 is very interesting data. Will we get it? It's
15 very difficult.
16 It's very difficult because the subject
17 matter is so bizarre in some ways. It's very
18 difficult because NIH is difficult now. I'll do my
19 best.
20 MR. GREGORY: I have no further questions
21 at this time.
22 CHAIRPERSON STATHAM: Cross?
23 MS. GALANTE: Yes. I'm ready. This may
24 be a little awkward because I'm right next to you,
25 so I'll try and slide down a bit.

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1 THE WITNESS: I won't bite. I'll watch--
2 MS. GALANTE: Well, I didn't mean that. I
3 just meant in terms--I don't want to feel like I'm
4 in your face as I'm questioning you.
5 THE WITNESS: I'm not dangerous.
6 MS. GALANTE: So I was concerned about me,
7 not you, being the dangerous one.
8 CROSS-EXAMINATION
9 BY MS. GALANTE:
10 **Q Professor Needleman, would you agree with the**
11 **statement that tenure carries both rights and**
12 **responsibilities?**
13 A I don't know what it means.
14 **Q You don't know what that means?**
15 A Tenure is a legal contract between the Union and the
16 University. That's what tenure means. Whatever
17 tenure means, it's a legal question.
18 **Q So you don't believe that as a tenured faculty**
19 **member, this is that you have tenure, not the Union?**
20 A My tenure resides, as far as I understand it, in the
21 Board of Governors, and the Board of Governors'
22 statutes. I don't know what--
23 **Q But I mean, the tenure is granted to you, not to the**
24 **Union?**
25 A Yeah. Whatever rights that tenure has are granted

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1 to me via the legal apparatus that we have at Wayne
2 State.
3 **Q So you recognize that as a tenured faculty member**
4 **you have rights?**
5 A I have rights. That is according to statute,
6 whatever the statutory rights are.
7 **Q Okay. I'm not asking you to define what those**
8 **rights are. I'm just asking you do you recognize**
9 **that you have rights as a tenured faculty?**
10 A Well, clearly I have rights.
11 **Q Okay. Do you recognize that you also have**
12 **responsibilities as a tenured faculty member?**
13 A I have responsibilities as an intellectual. I'm a
14 scientist. It's not as a--
15 **Q I'm not--again, I'm going to stop you for a minute.**
16 **You're not answering my question.**
17 A No. Then, no. There are no particular
18 responsibilities as a tenured faculty member that
19 are not in the contract or are my legal obligations.
20 I mean, if it's in the contract, then yes, but if
21 it's not in the contract, then no.
22 **Q Okay. Then let's go to the contract, and so you**
23 **have no responsibilities other than what is set**
24 **forth in the contract is what you're telling us?**
25 A Well, no.

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1 **Q I am going to ask you to take a look at Article XXIV**
2 **in the contract, that first paragraph, and read that**
3 **for us.**
4 A (Reading):
5 "The duties of faculty shall be reasonable
6 and fair and shall reflect teaching duties,
7 research activity, creative professional
8 activity, and service to Wayne State
9 University."
10 **Q So I used the term "responsibilities." Would you**
11 **agree that "duties" means the same thing?**
12 A Well, sure. I should teach. I should do research,
13 and I should do as much service as possible.
14 **Q So you admit that as a tenured faculty member you**
15 **have duties or responsibilities?**
16 A As a faculty member.
17 **Q Okay. Do you believe tenure is an indefinite**
18 **entitlement?**
19 A I believe that once--that tenure can only be revoked
20 for a cause, moral turpitude, other causes as is
21 traditional. I don't believe that there is a
22 continuing tenure notion that the tenure factors can
23 extend indefinitely.
24 You get tenure today, and the same Factors
25 can be used tomorrow to deny me tenure, which seems

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1 to be the position of the University.
2 **Q So you understand that the Board of Governors'**
3 **statute that we're talking about here today, which**
4 **is an exhibit in this case, defines the adequate**
5 **cause for tenured faculty in this University?**
6 A I imagine it does. What it means, I have no idea.
7 **Q Do you agree with me that the standards at this**
8 **University for a tenured faculty member are**
9 **excellence in teaching and scholarly activity?**
10 A If that's what it says.
11 **Q So if that is what it says, you're not disagreeing**
12 **with that. You have been through how many yearly**
13 **Selective Salary Reviews, would you say?**
14 A I have no idea.
15 **Q You have no idea, but certainly at least ten to 20?**
16 **It's required by contract. Correct?**
17 A I still have no idea.
18 **Q So you have never opened the contract and looked at**
19 **it?**
20 A I have no idea about how many Selective Salary
21 things I have been through.
22 **Q Would you agree that you have been through one every**
23 **year that you have been here?**
24 A Probably not.
25 **Q Probably not? When would you not have been?**

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1 A Probably when I decided that there was no point
2 going through one, because I was never going to get
3 it, but I also did not know that it was a
4 requirement, so--
5 **Q Okay. So you are not aware of the contract
6 requirement--**
7 A No. I wasn't at that time. I am now aware of it.
8 **Q You are now aware of it since this hearing?**
9 A Right. I was amazed, actually. I thought that in
10 fact you could skip it, and if you skipped it three
11 times there was something that would happen, but
12 maybe--I have in fact the 2015 on my computer, ready
13 to go in.
14 I don't even know whether it went in or
15 not. However, I got some Selective Salary scores,
16 which suggest to me that in fact I have put in
17 Selective Salary.
18 **Q Are you familiar with the School of Medicine Factors
19 that has been marked--the School of Medicine
20 Promotion and Tenure Factors for faculty?**
21 A I think I know the first one about scholarship. I
22 don't know the others.
23 **Q Okay. So I'm going to show you it's Exhibit 5. So
24 you didn't start out as a tenured professor here.
25 Correct?**

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1 A Correct.
2 **Q You started out and worked your way through the
3 process of becoming a full professor and a tenured
4 professor?**
5 A Correct.
6 **Q And that process is dictated through the Promotion
7 and Tenure Factors for faculty in the School that
8 you're in. Correct?**
9 A Yes.
10 **Q And it spells out in detail what those factors are.
11 Is that correct?**
12 A Well, I assume it does, yes.
13 **Q You have never read that either?**
14 A Well, it has been a long time since I had to worry
15 about whether I got tenure or not. When I was
16 preparing my packet, I'm sure I read it.
17 **Q And you are a Research Educator?**
18 A Seemingly.
19 **Q So you made a statement on your direct examination
20 that you had no idea you would ever be required to
21 have funding. You would have not come here if you
22 knew that was a requirement?**
23 A No. I have stated the fact that there are two kinds
24 of medical schools. One, you sign a contract which
25 says you will get your salary, full salary for "X"

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1 number of years.
2 At year X plus five, let's say, your
3 salary will decrease by a certain amount. At X plus
4 ten it will decrease even further. Okay? Your
5 salary is not guaranteed.
6 That is a condition of tenure or
7 employment. Then there are the hard money schools,
8 which don't say that. They say nothing about--you
9 know, the assumption is in fact that your salary
10 will be present, even if you have no grants. The
11 money is hard.
12 **Q So if I'm understanding your answer correctly, you
13 are saying it's your understanding that Wayne State
14 University has never penalized a faculty member by a
15 salary reduction if they don't have grant support?**
16 A No. Wayne State University may have done a lot of
17 things, legal and illegal. I'm saying simply that
18 there is a contract.
19 I don't know what the legalisms are, but
20 there is a doctrine called something like implied
21 covenant of good faith, good will and good faith,
22 good faith and good will, which means that you can't
23 make up things after the contract.
24 I came here only because it was a hard
25 money school, and you can't all of a sudden decide

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1 that, well, it's not really a hard money school. I
2 have to support my salary on my grants.
3 **Q So you are saying that Wayne State University can
4 never change anything?**
5 A I'm not legal. I--
6 **Q I'm asking your position, that they can never change
7 anything in this school over 40 years of your
8 tenure?**
9 A I'm completely in ignorance.
10 MR. GREGORY: I'm going to object. It's
11 argumentative. It's argument now.
12 CHAIRPERSON STATHAM: I'll sustain that.
13 MS. GALANTE: Okay. I will withdraw the
14 question.
15 **Q (By Ms. Galante) So going back to the last page of
16 this document, which I will--**
17 MR. GREGORY: What document?
18 MS. GALANTE: The one we were talking
19 about, the Factors, Exhibit 6.
20 **Q (By Ms. Galante) Page 15, am I correct that this
21 document states what the expectations are in order
22 to get tenure in the first place?**
23 A It states what Jack Sobel thinks the expectations
24 are. I have no idea whether it's a legal
25 requirement. I have no idea about the contract.

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1 You have to ask Charlie about whether these are
2 legal requirements, or whether they just made them
3 up.
4 He can tell me that I need 30% of my
5 grants, my salary, you know? I cannot answer legal
6 questions. I'm completely ignorant.
7 **Q So you consider it a legal question?**
8 A Yes. All tenure--all contracts are legal. You
9 provide salary for certain benefits.
10 MR. GREGORY: There is no question. Just
11 wait for a question.
12 **Q (By Ms. Galante) Okay. So am I correct in reading**
13 **this that this document states that there is an**
14 **expectation for success in competitive external**
15 **funding on a national level?**
16 A It may state that, but whether it's true or not and
17 a condition of tenure is something for the lawyers.
18 It's something for the Union. It's not for me to
19 say.
20 **Q Does it also say:**
21 **"Sustained performance in teaching and**
22 **service are required"?**
23 A It can say anything it likes, but once again it's a
24 legal issue for what that actually means. I taught
25 as much as I can teach. I couldn't teach any more.

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1 I gave as much service as I could. I ran
2 for everything. You know, you can say--Jack Sobel
3 can say anything he likes in the document. I'm not
4 bound by it. I'm bound by the Union contract and
5 the Union's interpretation.
6 **Q Let's talk for a moment about that service. So you**
7 **testified you ran for every committee that you could**
8 **run for, and you were just never elected?**
9 A That is correct.
10 **Q So do you recognize that there are lots of other**
11 **ways that a faculty member can do service?**
12 A For example?
13 **Q For example, scholarly service, review of articles,**
14 **serve on an editorial committee?**
15 A Okay. I review articles often, but I don't put them
16 on my C.V. I don't need to polish my C.V. and spend
17 my time on it.
18 **Q Do you recognize that there are--or you can mentor**
19 **students?**
20 A Sure. I would be happy to mentor a student, but we
21 have no students to mentor. We have 14 students,
22 four of whom are taking courses, ten who are doing
23 PhDs. I have mentored students as a PhD advisor.
24 I mean, if you have an extra student
25 wandering around who wants to talk to me about

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1 science, I would be happy to do it.
2 **Q When was the last time you formally mentored a**
3 **student?**
4 A Well, Monica Bame, who is actually formally Bill's
5 student. I spent more time with her than
6 probably--Amruka, who worked on the liver paper, I
7 spent a lot of time with her.
8 **Q When?**
9 A Well, whenever the papers came out, in 2014 and--you
10 can see in the papers. Monica Bame--
11 **Q Is she still a student here?**
12 A No. She's at U. of M. She has the PhD.
13 **Q So you changed--you voluntarily, which you have the**
14 **right to do, changed your research focus in about**
15 **2008?**
16 A You know, I'm so bad with numbers. No, it's earlier
17 than that. It was earlier, because Bill and I--let
18 me quickly look at this. I'm terrible--I know. I
19 have to apologize, because there are two things I
20 can't do.
21 One is actually remember names of people,
22 for some reason, and the other thing is actually to
23 place myself in certain timelines, and I'm not
24 senile, but I have not ever been able to do this.
25 Let me see if I can find it.

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1 **Q Was it around the 2004--**
2 A I know that the phenylbutyrate--see, the
3 phenylbutyrate papers were over here where I started
4 working with Bill, so that's 2004 when I worked with
5 Bill. Yeah, 2002.
6 So somewhere around 2002, 2004 we started
7 working on glutamate, maybe a little later, MSO
8 probably later than that, 2006.
9 **Q You also talked about the fact that you were going**
10 **to submit a grant application.**
11 A Well, I'm going to try to get this--
12 **Q No. The one that we discussed. I'm not talking**
13 **about what you do in the future, but the one that**
14 **you discussed that was marked as an exhibit.**
15 A Yeah. That has to go back. It has to be revised.
16 I haven't revised it yet.
17 **Q Okay. You were going to work--you needed to work in**
18 **a clinic, you said, because you needed MD patients,**
19 **and--**
20 A Yeah. We had a research project. We were going to
21 take our last paper which shows the amino acid
22 changes in the ALS patients and ask the question.
23 This is in mice. Do these changes occur
24 in humans? We had evidence that in humans there
25 were changes, but the statistics were so bad that

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1 you couldn't conclude anything about it.
2 We had certain amino acids that would
3 predict what an asymptomatic ALS mouse was compared
4 to wild life, and we would like to be able to look
5 at drugs that they were using in the clinic and just
6 look at progression in real life patients.
7 That would be a clinical application, and
8 we tried to get funding for that, but only with the
9 MDs in the clinic.
10 **Q Okay, and you said that you could not get Henry Ford**
11 **interested?**
12 A They were definitely not interested. They were
13 arrogant, completely dismissive, and the reason
14 seems to be that this is too easy. They didn't want
15 something where you take blood--
16 **Q Well, did they give you a reason?**
17 A It's hard--this is Medical School. It's very hard
18 to get--it's like the Army. You get reasons, but
19 you are not really sure what the real reasons are.
20 **Q Okay. So did you try going to any other hospitals,**
21 **any other--**
22 A No other hospitals have ALS clinics as far as I
23 know. The U. of M. is not a place that I would even
24 try to get something.
25 **Q So there was no place outside of the Detroit area**

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1 **that you could go?**
2 A Do? No. We have to be present. We have to take
3 the blood if we are going to do the project, and
4 probably it is hard to get people interested
5 outside.
6 **Q So let's turn to Respondent's Exhibit No. 9, this**
7 **NIH grant application. Who wrote this?**
8 A Well, I wrote it.
9 **Q You wrote it?**
10 A I wrote most of it. Athar wrote the last three
11 pages of it.
12 **Q You wrote the last three pages?**
13 A No. Athar Ansari probably wrote the last three
14 pages. I wrote most of the other grant. It's
15 basically my grant, and Athar basically joined it,
16 but with 50%--we're equal on this grant.
17 **Q And this is not a complete--**
18 A It's not complete in the sense that it has to have a
19 biographical statement. It has to have a budget.
20 It has to have a cover page.
21 It has to have all these things which are
22 not relevant to the nature of the issue of whether I
23 have done some work or not.
24 **Q Thank you. So you also in this Rebuttal document**
25 **talk about the fact that you have done your own**

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1 **comparison of yourself to other people in your**
2 **department.**
3 **That would be this first chart on**
4 **Respondent's Exhibit 11?**
5 A Correct.
6 **Q There is no question yet. So my question to you is,**
7 **do you recognize, Professor Needleman, that your**
8 **department--your department, not just you, but one**
9 **at your department was one of two that were**
10 **identified by Dean Sobel as being what he considered**
11 **failed departments?**
12 **I'm asking you if--it's a "yes" or "no"**
13 **question.**
14 A Do I know that?
15 **Q Yeah.**
16 A Well, without explanation, I can say he says that,
17 yes.
18 **Q You may dispute that, but--**
19 A Oh, yes.
20 **Q You recognize that he says that. Okay, and how**
21 **many--not talking about any merger of that**
22 **department anywhere else. How many people are in**
23 **the Biochemistry Department, or were?**
24 A Right now I would--I don't know, maybe ten, twelve.
25 We have lost--we had 25 at one time. People left,

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1 so--Parisi didn't support us at all, so--
2 **Q Parisi, meaning the prior Dean?**
3 A Dean Parisi, right.
4 **Q So of the faculty members that I have listed--I**
5 **mean, I don't know who you are comparing yourself**
6 **to.**
7 **You're listing four professors here, and I**
8 **don't want to get into names, because I don't think**
9 **it's appropriate to be using names of people in this**
10 **proceeding, but my question is, do you have any**
11 **firsthand knowledge of any discussions that took**
12 **place between any of the four professors that you**
13 **list in your chart--you know who they are. We**
14 **don't--any firsthand knowledge of discussions**
15 **between them and Dean Sobel?**
16 A I have absolutely no idea of anything.
17 **Q Okay. That is all my question was. Do you have any**
18 **firsthand knowledge of how many people in your**
19 **department were given a letter such as the letter**
20 **you were given?**
21 A I can count, and--but I would rather not try. I
22 mean, none of these people I know were given letters
23 of any kind.
24 **Q These four people?**
25 A That is correct.

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1 **Q Okay. So you don't know whether and what**
2 **discussions Dean Sobel had with them regarding their**
3 **performance, because you have already told us that,**
4 **but of the ones that--**
5 **So you received a letter, and you have**
6 **already mentioned your colleague, Bill Brusilow, and**
7 **you said he is going to be here too, so he has also**
8 **received a letter?**
9 A Correct.
10 **Q And he is also subject to a dismissal proceeding.**
11 **Is that correct?**
12 A Correct.
13 **Q As for the other members of your department, I**
14 **can't--again, it's difficult to do this, but you**
15 **have no firsthand knowledge of whether or not they**
16 **have had any discussions with the Dean about their**
17 **performance. Is that correct?**
18 A Discussion--well, discussions, no, but I think I
19 know who is getting letters and who didn't. We
20 talked to them. I mean, we talked to people.
21 **Q Okay, and you know that you and Brusilow received**
22 **those letters?**
23 A I know someone else, yeah. Yes.
24 **Q So you made the comment on direct examination with**
25 **regard to this chart on the top of page 2 of your**

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1 **Rebuttal statement.**
2 **This is where you list the professors by**
3 **letters, (A), (B), (C), (D), (E) and (F).**
4 A And they are different than the first chart
5 actually. It's random.
6 **Q Correct. Okay. So this chart you list the number**
7 **of times you were cited and your h-index, and your**
8 **number of papers. Again, you're comparing yourself**
9 **to other professors in your department whose names**
10 **we don't know. Correct?**
11 A Who have not received dismissal letters.
12 **Q To your knowledge?**
13 A To my knowledge. They may have received other kinds
14 of discipline.
15 **Q And it was based on that that you make the**
16 **conclusion that you were not the worst in your**
17 **department.**
18 A Well, this chart--
19 **Q That was the statement you made.**
20 A Well, then I should take it back, because this chart
21 merely shows that I have an international
22 reputation, okay, more so than others.
23 **Q Okay, and I don't think anybody was disputing that.**
24 A No, but it doesn't mean anything.
25 **Q I want to go to page 4 of your Rebuttal, and it's a**

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1 **quite long paragraph where you say**
2 **"parenthetically." Okay? So you make some**
3 **statements here parenthetically about another**
4 **faculty member who was, according to your statements**
5 **here:**
6 **"Reappointed to the School after his**
7 **extensive fraudulent scientific activity."**
8 **So do you have any firsthand knowledge--**
9 A Yes.
10 **Q And what is that firsthand knowledge?**
11 A I'm involved in the case. I have a lawyer, at
12 Honigman and something or other, who is my lawyer in
13 this particular lawsuit that Fazlul Sarkar started
14 against certain people.
15 I'm not a party to the lawsuit, but it's
16 about to be deposed. Hence, I have complete
17 knowledge of what the filings were and what the
18 stipulations were in this case.
19 **Q And I don't think I would dispute and you're not**
20 **disputing that a committee did a research misconduct**
21 **investigation of Professor Sarkar and found that he**
22 **had committed research misconduct?**
23 A It was a wonderful investigation by Phil Cunningham.
24 It took--okay. It was tremendously done.
25 **Q All right. So the investigation was done, but my**

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1 **concern is that you are saying here that the School**
2 **of Medicine reappointed him. How do you know that?**
3 A Because I'm party to the lawsuit. I have seen the
4 filings in the ACLU. I've seen the filings with my
5 lawyer.
6 **Q So if I were to tell you that the University gave**
7 **him a one-time limited extension of his contract so**
8 **that they could complete their research misconduct**
9 **investigation, would you have any ability to dispute**
10 **that?**
11 A Would I have the ability to dispute that? As I
12 understand it, he was given a one-year extension to
13 come back to Wayne State. He was given a one-year
14 reappointment. That's as far as I know.
15 **Q So because the research misconduct investigation was**
16 **ongoing at that time?**
17 A Well, I don't know why, but he was given a
18 one-year--he came back to Wayne State for a year.
19 You know, I can't--
20 **Q And what I'm telling you is, if that were done so**
21 **that the University could complete it's research**
22 **misconduct, you can't dispute that, can you?**
23 A Yes. I mean, I have no idea whether it was done or
24 not. I can only tell you the Internet--everyone
25 knows things that in fact he came back and was

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1 completing his fraudulent work for another year, and
2 Wayne State was getting grant money.
3 That is a commonly accepted view.
4 **Q So would the University be able to under all the**
5 **discussions we have had today about due process**
6 **given to tenured faculty members, do you think the**
7 **University could just dismiss somebody without**
8 **completing their research misconduct investigation?**
9 A Yes. It's done all the time. He quit. He quit the
10 University.
11 **Q Oh, okay. Well, quitting is a different thing.**
12 A He quit, and he came back. His tenure was removed.
13 He tried to go to Mississippi. Mississippi found
14 out about him. Mississippi said, "We don't want
15 you." He's suing Mississippi.
16 **Q At what point was his tenure removed?**
17 A When he left Wayne State University. He resigned.
18 **Q Oh. Well, that's not removal. That's resigning.**
19 **That is a different thing.**
20 A But you lose their tenure when you resign.
21 MR. GREGORY: Does this have anything to
22 do with it?
23 MS. GALANTE: Well, yeah. It has to do
24 with the fact that he is making--
25 THE WITNESS: I should go to law school.

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1 MS. GALANTE: These representations to the
2 Panel about things that he has no firsthand
3 knowledge about.
4 THE WITNESS: I'm involved in the lawsuit.
5 MS. GALANTE: I find it particularly
6 offending.
7 **Q (By Ms. Galante) Are you aware of the fact that on**
8 **October 19TH of 2015 then-Provost Margaret Winters**
9 **sent Dr. Sarkar a letter indicating that:**
10 **"Your appointment terminates on January**
11 **31, 2016, and you will not be renewed"?**
12 A I have no idea.
13 **Q Okay. So you can't dispute that?**
14 A No.
15 **Q So when you make these statements here, you don't**
16 **really know for sure?**
17 A From what I have seen in the filings in the ACLU and
18 my lawyer's filings, what I'm stating is correct.
19 Now could I be wrong?
20 **Q But you don't know if those filings contain**
21 **University records about his appointments or not?**
22 A Yes. You're right. I don't know the entire history
23 of the case in all its details.
24 **Q That's all I wanted to hear, because I think it's**
25 **important. I want to go through some of the**

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1 **documents that are part of Exhibit 8, which was**
2 **admitted as an exhibit here.**
3 **In particular I want to refer to page 3,**
4 **which--**
5 MR. GREGORY: What are we looking at now?
6 MS. GALANTE: Exhibit 8, page 3.
7 MR. GREGORY: Thank you.
8 **Q (By Ms. Galante) Is a document that was part of**
9 **your Selective Salary Review with regard to teaching**
10 **for 2014/2015. Is that something you would fill out**
11 **as a faculty member?**
12 A Well, because it says "Unknown," probably.
13 **Q So if it says "Unknown," it was yours?**
14 A Oh, probably.
15 **Q And am I correct here then that you tell the**
16 **administration that hours of preparation, total**
17 **number of learners, all of that is unknown by you?**
18 A That is correct. I do not--
19 **Q So--**
20 A Should I tell you why? I just want to complete the
21 answer.
22 **Q Sure.**
23 A In one lecture course I have actually a terrible
24 first lecture. It's on bio-energetics. It's on
25 non-equal thermodynamics. I change it every year.

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1 I spend hours and hours trying to make it
2 comprehensible to students.
3 I finally wind up saying this is all
4 culture. You don't need this on your exam. Let me
5 explain it to you. Okay?
6 On that lecture alone I probably worked 75
7 hours this year. Does it get better each year?
8 Maybe. It's still not good. I have no idea how
9 many hours I spent. I'm not a bureaucrat. I don't
10 sit down and tally it.
11 I could put down any number you'd like
12 here, but it would be a lie, so I'm saying
13 "Unknown," because it actually is unknown. You
14 know, I don't know how much I work on it.
15 All I can tell you is for that lecture I
16 work an awful lot on it. I mean, it's different
17 each year, and if you go through my lectures you
18 will see it's different each year.
19 **Q So your lab is in the Lande Building. Correct?**
20 A If you can call it that, yeah.
21 **Q All right. Do you still use your lab?**
22 A Yeah.
23 **Q Okay. When was the last time--you need a OneCard to**
24 **access it. When was the last time--**
25 A Probably a long time ago. I go to the lab--look.

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1 This is not a corporation. I go to the lab when I
2 need to go to the lab. I don't go to the lab when I
3 am writing papers at home.
4 I don't go to the lab--with Monica Bame I
5 did everything by Internet. The whole notion that
6 this is an industrial deal where I have to come in
7 particular hours is antithetical to everything that
8 molecular biologists do. This is not our culture.
9 **Q And I don't think anybody is alleging that.**
10 A No, but you're trying to say that--when is the last
11 time? I have no idea. I do know recently I
12 haven't. I have been writing grants. I have also
13 unfortunately been involved in this thing.
14 There is no reason for me to go from Ann
15 Arbor to Wayne State to sit in a lab with poor
16 ventilation, where the cockroaches are as big as
17 small mice, okay, with heat that we have to use a
18 fan while we're there, when I could be sitting at
19 home and actually working on something.
20 **Q So you do the majority of your work at home?**
21 A No. It depends on where we are. It depends on
22 where I am in my career, and where we are in the
23 research. When I had graduate students I was in
24 every day, too much.
25 I was in weekends. Graduate students need

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1 constant babying. They need constant attention, and
2 they got constant attention. When I had certain--
3 At one point my technicians could make up
4 mutants by themselves. Okay? I only did the laser
5 work, the experimental work on the optical
6 multichannel analyzer.
7 So they could work, make mutants. I could
8 stay home, write and think about it, and then I
9 would come in and work. So depending on the
10 circumstances I'm in a lot, I'm in very little.
11 **Q In the last two and a half years, how many times do**
12 **you think you have come to campus?**
13 A I have no idea. I often--I mean, I have no idea.
14 **Q Where do you park?**
15 A I park on the street, or I park in the parking lot.
16 **Q In the parking structure? You have a parking access**
17 **code?**
18 MR. GREGORY: How is this relevant to
19 anything?
20 MS. GALANTE: I think it's relevant.
21 THE WITNESS: Is it relevant to anything
22 you claim in the letter?
23 MR. GREGORY: Objection. We're so far
24 afield. Where does he park, and--
25 MS. GALANTE: I think it's relevant to the

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1 lack of effort that the--
2 CHAIRPERSON STATHAM: I think the last
3 question was, in the last two and half years, how
4 many times have you come into the lab?
5 **Q (By Ms. Galante) Do you know?**
6 CHAIRPERSON STATHAM: Do you know?
7 THE WITNESS: Of course not.
8 CHAIRPERSON STATHAM: He said he didn't
9 know.
10 MS. GALANTE: He said he doesn't know.
11 **Q (By Ms. Galante) So if I tell you it was six times,**
12 **you can't dispute that, that your access card was**
13 **used?**
14 A I have no idea.
15 CHAIRPERSON STATHAM: Could we take a
16 five-minute break?
17 MS. GALANTE: Sure. I just have a little
18 bit more, but I'm trying to sort through--
19 CHAIRPERSON STATHAM: Okay. Why don't we
20 take a short five-minute break.
21 (At 4:07 p.m., recess taken)
22 (At 4:14 p.m., back on the record)
23 MS. GALANTE: I have no more cross-
24 examination for Dr. Needleman.
25 CHAIRPERSON STATHAM: All right. Dr.

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1 Needleman, you can take your seat, normal seat.
2 MR. GREGORY: Sit back down, Richard.
3 CHAIRPERSON STATHAM: Oh, I'm sorry.
4 MS. GALANTE: Gordon has more. You're not
5 finished yet.
6 THE WITNESS: I thought you said you had
7 no more questions.
8 MS. GALANTE: But your attorney does.
9 CHAIRPERSON STATHAM: Redirect.
10 REDIRECT EXAMINATION
11 BY MR. GREGORY:
12 **Q Richard, as you know, your career is on the line.**
13 **We have had a lot of discussion. Your career of**
14 **course is at stake.**
15 **We have had numerous discussions about**
16 **this case, and about the fact that you are entitled**
17 **to due process, which is going to be done by this**
18 **Committee.**
19 **Is there anything more you wish to tell**
20 **the Committee at this point about your career and**
21 **your performance?**
22 A No. I think my career has been reasonable. I
23 think, you know, we had certain up/downs, especially
24 with the change of focus. I wish I had more money
25 for the ALS work.

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<p>1 I wish we didn't have to use Bill's money, 2 but this is a researcher's life. I have been very 3 successful before this thing. 4 I think my success in the last--well, in 5 the five years I think the papers are good and may 6 be valuable, and I work on science, and I hope very 7 much that I get this grant, because this is a brand 8 new concept. 9 I love working with Athar. The biological 10 science department on main campus is fantastic now, 11 and I would very much like to finish up my career 12 looking at gene/chromosome interactions. 13 MR. GREGORY: Thank you. Thank you. 14 That's all I have. 15 MS. GALANTE: Nothing further. 16 (At 4:16 p.m., witness excused) 17 CHAIRPERSON STATHAM: No more witnesses? 18 MR. GREGORY: No. 19 CHAIRPERSON STATHAM: You are going to 20 rest? 21 MR. GREGORY: We are going to rest, yes. 22 CHAIRPERSON STATHAM: You don't have any 23 other questions for Dr. Needleman? 24 MS. GALANTE: I have no further rebuttal. 25 I just--</p>	<p>1 MS. GALANTE: The School of Medicine 2 Promotion Factors. 3 MR. GREGORY: Oh. 4 MS. GALANTE: Okay, and the copy that I 5 had was-- 6 MR. GREGORY: I don't want to substitute 7 anything. That's what you introduced, and-- 8 MS. GALANTE: So you--okay. So then we'll 9 add this as a new exhibit. 10 CHAIRPERSON STATHAM: Okay, because I 11 think, Mr. Gregory, your argument was that that was 12 not relevant because it came after the disciplinary 13 proceedings. 14 MR. GREGORY: Yes. That's right. 15 CHAIRPERSON STATHAM: And the 16 administration's answer was, well, it's the same as 17 the one we had prior to that disciplinary 18 proceeding. 19 MR. GREGORY: Well, all right, but what 20 they're saying after I brought it to their 21 attention-- 22 MS. GALANTE: That's fine. 23 CHAIRPERSON STATHAM: We'll put that in as 24 Respondent's exhibit-- 25 MS. GALANTE: Employer's.</p>
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<p>1 CHAIRPERSON STATHAM: But you do have a 2 couple of things. One--go ahead. 3 MS. GALANTE: Just housekeeping kind of 4 things. 5 CHAIRPERSON STATHAM: Go ahead. You had 6 one exhibit that was in 2016 you wanted to-- 7 MS. GALANTE: The School of Medicine 8 Factors. 9 CHAIRPERSON STATHAM: Replace that with 10 2015. We talked about that yesterday. 11 MS. GALANTE: And so the question--so this 12 is the 2014 one. So they don't necessarily get 13 updated every year. 14 CHAIRPERSON STATHAM: Okay. 15 MS. GALANTE: So this was the 2014 one, 16 for 2014/'15, and the question is, do we want to 17 substitute this? Gordon, I would certainly allow 18 you to weigh in on this. 19 Do we want to substitute this for the 20 prior one-- 21 CHAIRPERSON STATHAM: Which said 2016. 22 MS. GALANTE: Which said 2016. 23 MR. GREGORY: So what exhibit is it? 24 CHAIRPERSON STATHAM: And I think the 25 argument was that--</p>	<p>1 CHAIRPERSON STATHAM: Sorry. 2 Administration's Exhibit No. what? 3 REPORTER: Employer 19. 4 (At 4:18 p.m., Employer's 5 Exhibit 19 marked and received) 6 CHAIRPERSON STATHAM: And you got us the 7 Hornberger award. 8 MS. GALANTE: That had already been 9 admitted. 10 CHAIRPERSON STATHAM: That is already in. 11 MR. GREGORY: And what number is that? 12 18? 13 MS. GALANTE: Hornberger was the 18. 14 CHAIRPERSON STATHAM: This is 19, the 15 tenure Factors. 16 MS. GALANTE: So I guess there are a 17 couple of other things to discuss, and that is 18 briefing, final briefing. 19 I would like to submit a final brief 20 instead of a closing argument, a brief, and just set 21 forth what I believe the evidence is and our 22 support, and of course Gordon would set forth what 23 he thinks it-- 24 CHAIRPERSON STATHAM: Mr. Gregory, I 25 believe you probably want to in light of that too?</p>

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<p>1 MR. GREGORY: Yeah, indeed. I would 2 rather we had oral summation. I think the record is 3 complete, but she certainly has that prerogative. 4 CHAIRPERSON STATHAM: Okay. When--you are 5 not going to be able to do that post-hearing brief 6 until you get the-- 7 MS. GALANTE: Transcript. 8 CHAIRPERSON STATHAM: The transcript. 9 Right? When is the transcript going to be ready? 10 REPORTER: Two weeks. 11 MS. GALANTE: Two weeks. So let's look at 12 our calendars. 13 CHAIRPERSON STATHAM: I would say briefs 14 due 30 days after you receive the transcript? 15 MS. GALANTE: That's fine with me. 16 CHAIRPERSON STATHAM: Is that sufficient 17 time? That would be what date? 18 MR. GREGORY: Well, Tammy can let us know, 19 I guess, when she gets a chance. 20 REPORTER: Well, 30 days from now would be 21 around April 14TH, 15TH. 22 MS. GALANTE: No. He said 30 days from 23 when we receive the transcript. 24 REPORTER: Well, if you get the transcript 25 around April 14TH, 15TH, then it will be around May</p>	<p>1 MS. GALANTE: And send to each of the 2 panel. Okay. 3 CHAIRPERSON STATHAM: Since I understand 4 from prior conversations that in this Committee I 5 don't get a vote. 6 MS. GALANTE: Correct. 7 MR. GREGORY: Correct. 8 CHAIRPERSON STATHAM: Is everybody correct 9 on that? 10 MS. GALANTE: Yes. 11 CHAIRPERSON STATHAM: That's fine. 12 MS. GALANTE: The only other thing I can 13 think of is typically we would submit our brief in 14 pdf form. The question is, would the Panel also 15 want a Word document so that they can easily take 16 portions of either brief if they want to use it? 17 I don't know how you feel about that, 18 Gordon. 19 SHERRY: We have done that, yeah. Put it 20 in a Word document. 21 CHAIRPERSON STATHAM: Everybody wants it. 22 MS. GALANTE: So each person would get the 23 pdf, which obviously verifies this is my final brief 24 and nobody can change it, and then a Word copy of it 25 so that if they want to take it--because you guys</p>
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<p>1 14TH, 15TH. 2 CHAIRPERSON STATHAM: Well, so briefs 3 would be due around, let's say May 15TH for the sake 4 of-- 5 MS. GALANTE: That's a Monday, so that 6 would work. 7 MR. GREGORY: Okay. May 15TH. 8 CHAIRPERSON STATHAM: May 15TH, briefs 9 due. 10 MR. GREGORY: How do we serve and 11 exchange? 12 CHAIRPERSON STATHAM: Why don't you 13 E-mail them both to Sherry's E-mail? 14 MS. GALANTE: Can you give us that, 15 Sherry? 16 SHERRY: It's Sherry.Sangster@gmail.com. 17 MS. GALANTE: And so we would just submit 18 it electronically to her, and she will distribute it 19 to the Committee? 20 CHAIRPERSON STATHAM: Well, submit them to 21 her, and have you got all the Panel's E-mail 22 addresses? 23 MS. GALANTE: We do. 24 CHAIRPERSON STATHAM: Why don't you send 25 one to each of them too?</p>	<p>1 have to do a written report. 2 CHAIRPERSON STATHAM: Okay. 3 MS. GALANTE: And there is no deadline 4 under the statute. It just says as expeditiously as 5 possible. 6 CHAIRPERSON STATHAM: Okay. Well, after 7 we get-- 8 MS. GALANTE: So that is subject to 9 interpretation. 10 CHAIRPERSON STATHAM: After we get the 11 briefs and we have read them, I will contact the 12 Committee and we'll meet and discuss this report. 13 MS. GALANTE: Well, thank you very much. 14 I appreciate everyone's attention. I know this is 15 difficult. 16 CHAIRPERSON STATHAM: Thank you very much. 17 I would like to meet with-- 18 MS. GALANTE: Yes. You keep your exhibit 19 books. 20 CHAIRPERSON STATHAM: And I would like to 21 meet with my Committee briefly, five or ten minutes. 22 MS. GALANTE: Sure. We can leave. 23 (At 4:22 p.m., hearing concluded) 24 25</p>

1 CERTIFICATE OF COURT REPORTER

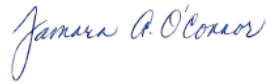
2

3

4 I certify that this transcript,
5 consisting of 245 pages, is a complete, true, and
6 correct transcript of the proceedings and testimony
7 taken in this case on Thursday, March 30, 2017.

8

9 4/11/17



10

11 Date TAMARA A. O'CONNOR

12 CSMR 2656, CER 2656

13 2385 Jakewood Drive

14 pz West Bloomfield, Michigan 48324

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