

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

CURTIS LARRICK,

Plaintiff,

v.

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

Defendants.

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

MAGISTRATE JUDGE CYNTHIA REED EDDY

Electronically Filed

JURY TRIAL DEMANDED

**DEFENDANTS' REPLY TO PLAINTIFF'S RESPONSE TO DEFENDANTS'
CONCISE STATEMENT OF UNDISPUTED MATERIAL FACTS**

1. Undisputed.
2. Undisputed.
3. Undisputed.
4. Undisputed.
5. Undisputed.
6. Undisputed.
7. Undisputed.
8. Undisputed.
9. Undisputed.

10. *Immediately after Larrick and his wife separated, his wife called the police on him and accused him cutting up her clothing. RR: Appendix, Ex. B (Plaintiff Depo. at p. 102).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed that Larrick's ex-wife accused him of cutting up her clothes. To the extent that accusation is presented as true, it is

disputed. Larrick did not cut up his ex-wife's clothing. Larrick's ex-wife made multiple false accusations against Larrick, none of which resulted in charges against him. See (CL 101/In. 18-23, App. Ex. 1).

Defendants' Reply: It is undisputed that Plaintiff's ex-wife called the police accusing Plaintiff of cutting up her clothes. In reply to Plaintiff's response, it is admitted that Larrick testified that he did not engage in such alleged behavior and that no charges resulted from the police report. However, the averments in Paragraph 10 are not being offered for the truth of the matter, but rather for its effect on the listener and Alstadt's state of mind in making a recommendation regarding Plaintiff's employment. Admittedly, Larrick went to Alstadt with his personal and professional problems. See ¶ 7; Defs.' App'x, Ex. B (Plaintiff Depo. at pp. 66-67, 117-118); Ex. C (Alstadt Depo. at pp. 14, 16, 18-19, 25-25, 31). Alstadt relayed to Sheriff Guy that Plaintiff was high maintenance and ate up a lot of management's time; admittedly, Alstadt had to deal with Plaintiff's issues on a daily basis. See ¶ 48; Defs.' App'x, Ex. A (Guy Depo. at p. 84); Ex. C (Alstadt Depo. at pp. 52-53, 56). As such, Alstadt told Sheriff Guy that Plaintiff "needed to be gone." Defs.' App'x, Ex. A (Guy Depo. at p. 136); Pl.'s App'x, Ex. 3 (Alstadt Depo. at pp. 48, 52, 79-80) (time spent dealing with Larrick was a factor in his recommendation to Sheriff Guy that Plaintiff be terminated). Sheriff Guy used the information he gathered through interviews and meetings, including information provided by Alstadt, to evaluate each employee and make employment determinations. See ¶¶ 40-41, 67-70.

11. *Larrick and his wife were also involved in a custody dispute relating to their son at his school, to which the police department responded and called Alstadt at the Sheriff's Office. RR: Appendix, Ex. B (Plaintiff Depo. at pp. 103-105); Ex. D (Baden Police Report).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed that Larrick and his ex-wife were involved in a custody dispute, that police were called to the school, and that Alstadt was notified. To the extent this implies Larrick committed wrongdoing that resulted in the police being called, it is disputed. Larrick's ex-wife attempted to pick their son up from school, and the school refused to let her take him because Larrick had full custody of Cole. (CL 104/In. 10-16, App. Ex. 1). His ex-wife began to yell at staff and claim she was going to take Cole and no one was going to stop her. (CL 105/In. 2-6, App. Ex. 1). The school contacted Alstadt at the Sheriff's Office in order to reach Larrick and have him come to the school. (CL 104/In. 17-24, App. Ex. 1). Larrick was then contacted by the police and instructed to pick up his son. (CL 104/In. 20-24, App. Ex. 1). Larrick did so. (CL 105/In. 1-10, App. Ex. 1). Officers and Alstadt then explained to his ex-wife that there was a custody order in place, and that she could be arrested for this conduct. (CL 105/In. 10-17, App. Ex. 1).

Defendants' Reply: It is undisputed that Larrick and his ex-wife were involved in a custody dispute, that police were called to the school, and that Alstadt was notified. In reply to Plaintiff's response, it is admitted that Plaintiff testified as such. However, the averments in

Paragraph 11 are not being offered for the truth of the matter, but rather to demonstrate the effect on the listener, Alstadt's state of mind in making a recommendation regarding Plaintiff's employment and demonstrate Alstadt's involvement and time spent handling not work related issues, as set forth above in Defendants' Reply to Paragraph 10, which is incorporated with reference herein. See ¶ 10, Defendants' Reply.

12. Undisputed.

13. Undisputed.

14. *At one point, Larrick confronted Hurst and made threats against Hurst. Based on the threat, Larrick was enrolled in an Employee Assistance Program. RR: Appendix, Ex.B (Plaintiff Depo. at pp. 69-70).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed Larrick confronted Hurst about the situation. It is further undisputed he threatened to beat Hurst up if he contacted Larrick's then wife again. (CL 63/ln. 202-24, App. Ex. 1). It is disputed Larrick was sent to the Employee Assistance Program ("EAP") as a result of a threat that he made against Hurst. Larrick was sent to EAP because of a rumor that he drunkenly threatened to burn Hurst's house down. (CL 65/ln. 23-25, App. Ex. 1). Larrick denies ever making such a statement. 66/ln. 1-5. Further, Larrick noted Sheriff David was confused by the allegation, because he knew Larrick did not drink at that point in time. (CL 69/ln. 3-11, App. Ex. 1). No one addressed Larrick's threat to beat up Hurst with him, and it was not the reason for EAP. (CL 69/ln. 1; 70/ln. 1-9, App. Ex. 1).

Defendants' Reply: It is undisputed that Larrick threatened to beat up Hurst and at one point was enrolled in an Employee Assistance Program. To the extent that Plaintiff disputes the reason for Plaintiff's enrollment in an Employee Assistance Program, any difference is immaterial to the determination at hand. The evidence demonstrates that Plaintiff threatened to beat up Hurst and admitted to Alstadt that he made such a threat to Hurst. Pl.'s App'x, Ex. 1 (Plaintiff Depo. at pp. 64-66). Further, Alstadt was aware that Plaintiff was enrolled in an EAP upon allegations that Plaintiff threatened to burn down Hurst's house. Indeed, Plaintiff admitted that Alstadt spoke with him regarding such allegation and his need to be enrolled in the EAP. Pl.'s App'x, Ex. 1 (Plaintiff Depo. at p. 72). Whether the allegation that Plaintiff made a threat to burn down Hurst's house in true is irrelevant and immaterial. Such averments demonstrate the effect on the listener and state of mind of Alstadt in making his recommendation to Sheriff Guy that Plaintiff is high maintenance, and as such, needed to be gone. See ¶ 10, Defendants' Reply.

15. *In 2011, Larrick's ex-wife's new husband sent the Sheriff's Office a letter detailing harassment by Larrick. RR: Appendix, Ex. B (Plaintiff Depo. at pp. 89-98); Ex. E (Letter Dated 9/11/11).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed that Larrick's ex-wife's husband sent a letter to the Sheriff's Office accusing Larrick of harassment. To the extent this paragraph represents those accusations as true, it is disputed. Mr. Jeschke and Larrick's ex-wife went to four police departments and filed four false reports against Larrick. (CL 88/ln. 8-11, App. Ex. 1). Each report was proven false. (CL 88/ln. 8-11, App. Ex. 1). Larrick's divorce attorney eventually contacted them advising them to cease and desist, after which Jeschke stopped making these accusations. (CL 88/ln. 12-16, App. Ex. 1). Larrick denies that he ever harassed Jeschke. (CL 89/ln. 8-11; 90/ln. 16-20; 91/ln. 1-3; 97/ln. 12-13, App. Ex. 1). Larrick never had contact with Jeschke. (CL 97/ln. 12-13, App. Ex. 1). Larrick's ex-wife never told him she thought Larrick was harassing Jeschke or her. (CL 97/ln. 10-20, App. Ex. 1).

Defendants' Reply: It is undisputed that Larrick's ex-wife's husband sent a letter to the Sheriff's Office accusing Plaintiff of harassment. In reply to Plaintiff's response, it is admitted that Larrick testified as such regarding the harassment allegations. Whether such harassment allegations are true is irrelevant and immaterial as Paragraph 15 is not being offered for the truth of the matter, but rather for its effect on the listener, Alstadt's state of mind in making a recommendation regarding Plaintiff's employment and demonstrate that Alstadt spent time dealing with Plaintiff's personal matters. See ¶ 10, Defendants' Response. Indeed, Alstadt approached Plaintiff regarding the allegations of harassment made by Larrick's ex-wife's husband. Pl.'s App'x, Ex. 1 (Plaintiff Depo. at p. 88-90).

16. *Larrick's ex-wife and her new husband filed a PFA against Larrick. Chief Alstadt and Sheriff David were aware of this PFA. When the PFA was obtained, Larrick had to relinquish his guns and pistol permit. RR: Appendix, Ex. B (Plaintiff Depo. at pp. 88, 99).*

Plaintiff's Response: Disputed. Jeschke attempted to file a PFA against Larrick at multiple police departments. (CL 98/ln. 17-20, App. Ex. 1). Jeschke was not granted a PFA. (CL 88/ln. 22-23, App. Ex. 1). Jeschke was told he did not qualify for a PFA because he and Larrick were neither family nor involved in sexual activity together. (CL 98/ln. 22-25; 99/ln. 1-2, App. Ex. 1). Jeschke filed no other charges against Larrick. (CL 99/ln. 11-15, App. Ex. 1). In March 2016, Larrick's ex-wife attempted to file for a PFA against Larrick on behalf of their son, not herself. (CL 99/ln. 21-24; 101/ln. 5-6, App. Ex. 1). She accused him of striking and abusing his son. She was granted a temporary one. (CL 100/ln. 2-4, App. Ex. 1). At that time, Larrick had to relinquish his gun and pistol permit. (CL 100/ln. 9-11, App. Ex. 1). Shortly after that, it was determined that Larrick had

done nothing wrong and that their son had been coached. (CL 100/ln. 13-16; 101/ln. 11-17, App. Ex. 1). Larrick's ex-wife then dropped her claim. (CL 101/ln. 14-17, App. Ex. 1).

Defendants' Reply: It is undisputed that Plaintiff's ex-wife's husband attempted to file a PFA against Larrick and that Plaintiff's ex-wife received a PFA against Plaintiff on behalf of their son. It is further undisputed that, as a result of the PFA, Plaintiff had to relinquish his gun and pistol permit. In reply to Plaintiff's response, it is admitted that Plaintiff testified as such regarding Plaintiff's ex-wife and her new husband attempting and obtaining PFA's. However, whether such allegations are true is irrelevant and immaterial as Paragraph 16 is not being offered for the truth of the matter, but rather for its effect on the listener, Alstadt's state of mind in making a recommendation regarding Plaintiff's employment and to demonstrate that Alstadt spent time dealing with Plaintiff's personal matters. See ¶ 10, Defendants' Response. Indeed, Alstadt approached Plaintiff regarding Plaintiff's ex-wife's husband attempting to obtain a PFA against Plaintiff. Pl.'s App'x, Ex. 1 (Plaintiff Depo. at p. 88).

17. Undisputed.

18. *When Larrick's divorce was finalized, he failed to remove his ex-wife from his health insurance and benefits. He notified County Human Resources a year after his divorce was finalized and notified Alstadt about the problems he was experiencing in attempting to remedy the issue. RR: Appendix, Ex. B (Plaintiff Depo. at pp. 118-123); Ex. F (Insurance Documents).*

Plaintiff's Response: Disputed. Larrick's attorney informed Human Resources of Larrick's divorce at the time of divorce and presented them with documents related to the divorce. (CL 119/ln. 16-25, App. Ex. 1). The County had Larrick's divorce papers on file. (CL 119/ln. 9-13, App. Ex. 1). Larrick's attorney did this in order to find out how long the process would be and what Larrick's wife was entitled to, and also informed HR of the exact date of the divorce. (CL 120/ln. 4-11, App. Ex. 1). Larrick's wife then went to the courthouse to change her last name back to her maiden name. (CL 120/ln. 12-16, App. Ex. 1). She then had discussions with someone from the County named Krista about how she was no longer covered. (CL 120/ln. 18-24, App. Ex. 1). Larrick learned this from his ex-wife herself. (CL 121/ln. 1, App. Ex. 1). Larrick does not recall ever being shown the email from Richner to Alstadt requesting paperwork from Larrick regarding the divorce. (CL 121/ln. 8-23, App. Ex. 1). He also does not recall receiving requests for the paperwork. (CL 121/ln. 8-23, App. Ex. 1).

Defendants' Reply: It is admitted that Plaintiff testified as such regarding his ex-wife's health care benefits. However, the insurance documents speak for themselves and the County was not aware of the date of Plaintiff's divorce. See Defs.' App'x Ex. F (Insurance Documents). Nevertheless, Plaintiff's response is irrelevant and immaterial to the determination at hand.

Paragraph 18 is not being offered for the truth of the matter, but rather for its effect on the listener, Alstadt's state of mind in making a recommendation regarding Plaintiff's employment and to demonstrate that Alstadt spent time dealing with Plaintiff's personal matters. See ¶ 10, Defendants' Reply. Admittedly, Plaintiff himself testified that he discovered that his wife was still receiving his health care benefits when he received a bill regarding his ex-wife's health care and he "presented [the issue] to [Alstadt]" himself. Pl.'s App'x, Ex. 1 (Plaintiff's Depo at pp. 118, 120-21). Further, the insurance documents demonstrate that proper paperwork from Plaintiff and his ex-wife was sought by Payroll to remedy the issue. Defs.' App'x Ex. F (Insurance Documents); Pl.'s App'x, Ex. 1 (Plaintiff's Depo. at p. 121).

19. Undisputed.

20. *When Plaintiff's ex-wife got remarried, somebody put the wedding announcement in Larrick's work mailbox. Larrick approached Alstadt to handle the issue. RR: Appendix, Ex. B (Plaintiff Depo. at pp. 73-75).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed when Larrick's ex-wife got remarried, somebody put the wedding announcement in Larrick's mailbox. It is disputed that Larrick "approached" Alstadt to handle the issue. Larrick discovered 20 copies of the wedding announcement in his mailbox at work. (CL 73/ln. 19-22, App. Ex. 1). When he discovered them, Alstadt was standing right by him. (CL 74/ln. 7-8, App. Ex. 1). Larrick reacted to finding the copies by saying "You've got to be kidding me." (CL 74/ln. 7-10, App. Ex. 1). Alstadt then asked Larrick what was wrong and, upon learning what happened, said he would address it and that it needed to stop. (CL 74/ln. 10-14, App. Ex. 1).

Defendants' Reply: It is undisputed that Plaintiff testified that someone put copies of Plaintiff's ex-wife's new wedding announcement in Plaintiff's work mailbox and that Alstadt had to address the issue. In reply to Plaintiff's Response such characterization of the testimony is denied as stated. The testimony speaks for itself and provides that when Plaintiff saw the wedding announcements at his mailbox, Plaintiff testified that "I was like, you got to be kidding me. He [Alstadt] goes, what? And I said, what is this? And he even said, he said this is ridiculous. He said I'll address it, and he said it will stop. And it did, as far as the newspaper clippings." Pl.'s App'x, Ex. 1 (Plaintiff' Depo. at pp. 73-74). By way of further response, Plaintiff's Response is irrelevant and immaterial to the determination at hand. Paragraph 20 is not being offered for the truth of the matter, but rather for its effect on the listener, Alstadt's state of mind in making a recommendation regarding Plaintiff's employment and to demonstrate that Alstadt spent time dealing with Plaintiff's personal matters and problems getting along with others. See ¶ 10, Defendants' Reply.

21. *Sheriff David and Alstadt received a complaint regarding Larrick saying inappropriate things to Deputy Kayla Stevenson. Alstadt took the issue to Human Resources to investigate. RR: Appendix, Ex. B (Plaintiff Depo. at p. 123); Ex. G (Darbut Depo. at pp. 26-27); Ex. H (Darbut Memo re: Sexual Harassment).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed David and Alstadt received a complaint that Larrick said inappropriate things to Deputy Stevenson that Human Resources then investigated. It is disputed that these allegations were true. (CL 124/ln. 11-16; 125/ln. 17-22, App. Ex. 1). Indeed, Darbut had been told in advance by other deputies that there was a conspiracy to make these claims against Larrick, and that Stevenson would be coming forward with this complaint. (CL 125/ln. 1-9, App. Ex. 1). Part of the reason for the investigation was the possibility that the claims had been spearheaded by George David. (CL 125/ln. 5-9, App. Ex. 1). Stevenson admitted to Larrick she was coerced into making this complaint and apologized to him. (CL 124/ln. 11-16; 125/ln. 17-22, App. Ex. 1). Darbut says he issued a letter to Alstadt and Paul Clark, the Chief Union Steward for the association, letting them know he had investigated her claims and had made no finding. (RD 24/ln. 10-18, App. Ex. 2).

Defendants' Reply: It is undisputed that Alstadt received a complaint regarding Larrick saying inappropriate things to Deputy Stevenson and that Human Resources investigated the claim. In reply to Plaintiff's Response, it is admitted that Plaintiff testified as such regarding the sexual harassment allegations against him, but there is no evidence of any such "conspiracy" or of Deputy Stevenson recanting her complaint to Human Resources. Human Resources investigated the claim and did not have enough evidence to make a finding against Plaintiff. Nevertheless, whether the allegations of sexual harassment were true is immaterial and irrelevant to the determination at hand. Indeed, the averments set forth in paragraph 21 are offered to demonstrate the effect on the listener such allegations had with respect to Alstadt, Alstadt's state of mind when offering his recommendation regarding Plaintiff's employment and the amount of time Alstadt spent in managing Plaintiff. Alstadt relayed to Sheriff Guy that Plaintiff was high maintenance and ate up a lot of management's time, more time than any other employee; admittedly, Alstadt had to deal with Plaintiff's issues on a daily basis. See ¶ 48; Defs.' App'x, Ex. A (Guy Depo. at p. 84); Ex. C (Alstadt Depo. at pp. 52-53, 56, 48, 52). As such, Alstadt told Sheriff Guy that Plaintiff "needed to be gone." Defs.' App'x, Ex. A (Guy Depo. at p. 136); Pl.'s App'x, Ex. 3 (Alstadt Depo. at pp. 48, 52, 79-80) (time spent dealing with Larrick was a factor in his recommendation to Sheriff Guy that Plaintiff be terminated). Further, several others relayed such information about Larrick's interactions with women to Sheriff Guy during interviews the Sheriff conducted with staff, demonstrating that Plaintiff "always had something going on. . . or there [was] some kind of conflict" Defs.'s App'x, Ex. A (Guy Depo. at p. 136) and could not work well on a team. Id at pp. 131-136. Sheriff Guy used the information he gathered through interviews and meetings, including information provided by Alstadt, to evaluate each employee and make employment determinations. See ¶¶ 40-41, 67-68, 70.

22. *Alstadt learned that Judge Kwidis complained about Larrick bothering his female law clerk by trying to communicate with her in a way which she wanted to stop. RR: Appendix, Ex. C (Alstadt Depo. at pp. 23-25); Ex. I (Incident Report); Ex. B (Plaintiff Depo. at p. 127).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed that Alstadt was contacted with a complaint that Judge Kwidis did not want Larrick to communicate with his female law clerk. It is disputed that Larrick spoke to the law clerk in a way she wanted to stop. Judge Kwidis told Larrick that he did not want him contacting the law clerk because he did not think Larrick was "her type." (CL 128/lm. 1-18, App. Ex. 1). Larrick maintained that that was not the nature of their relationship. (CL 128/lm. 1-5, App. Ex. 1). Larrick spoke to the clerk when he was assigned to Judge Kwidis's courtroom. (CL129/lm. 2-7, App. Ex. 1). Larrick and the clerk also exchanged a couple text messages while Larrick was off duty regarding only her nephew, his son, and Easter. (CL 129/lm. 15-18, App. Ex. 1). Alstadt addressed this issue with Larrick. (RD 29/lm. 23-24, App. Ex. 2). He told him to avoid the clerk while on duty, which Larrick did. (CL 129/lm. 19-23; 130/lm. 9-12, App. Ex. 1). Larrick showed Alstadt the text messages they had exchanged. (CL 130/lm. 7-10, App. Ex. 1). A written disciplinary report with no attached disciplinary action was generated as a result of this incident. (RD 29/lm. 25; 30/lm. 1-4, App. Ex. 2).

Defendants' Reply: It is undisputed that Alstadt received a complaint from Judge Kwidis that he did not want Larrick to speak to his female law clerk in a manner in which it appeared to the Judge that Plaintiff attempted to engage in a romantic relationship and that Alstadt addressed the complaint with Plaintiff. In reply to Plaintiff's Response, it is admitted that Plaintiff testified as such regarding the nature of his communications with the law clerk, but the evidence demonstrates that Judge Kwidis and the law clerk believed the conversations to be inappropriate as Judge Kwidis felt the need to address such communications with Plaintiff's command staff. Nevertheless, the averments set forth in paragraph 22 are not being offered for the truth of the matter, but rather demonstrate the effect on the listener such allegations had with respect to Alstadt, Alstadt's state of mind when offering his recommendation regarding Plaintiff's employment and the amount of time Alstadt spent in managing Plaintiff. Alstadt relayed to Sheriff Guy that Plaintiff was high maintenance and ate up a lot of management's time, more time than any other employee; admittedly, Alstadt had to deal with Plaintiff's issues on a daily basis. *See* ¶ 48; Defs.' App'x, Ex. A (Guy Depo. at p. 84); Ex. C (Alstadt Depo. at pp. 52-53, 56, 48, 52). As such, Alstadt told Sheriff Guy that Plaintiff "needed to be gone." Defs.' App'x, Ex. A (Guy Depo. at p. 136); Pl.'s App'x, Ex. 3 (Alstadt Depo. at pp. 48, 52, 79-80) (time spent dealing with Larrick was a factor in his recommendation to Sheriff Guy that Plaintiff be terminated). Further, Alstadt relayed the complaint to Sheriff Guy. Defs.' App'x, Ex. A (Guy Depo. at p. 84); Ex. N (Guys Notes from Deputies). Sheriff Guy used the information he gathered through interviews and meetings, including information provided by Alstadt, to evaluate each employee and make employment determinations. *See* ¶¶ 40-41, 67-68 70.

23. *Deputy David Hunter approached Alstadt regarding Larrick texting with Hunter's girlfriend and that Hunter was upset about such communications. Alstadt addressed the issue with Larrick. RR: Appendix, Ex. B (Plaintiff Depo. at p. 112).*

Plaintiff's Response: Disputed. The deposition transcript cited by Defendant does not reference text messages between Larrick and Hunter's girlfriend. (CL 112/ln. 1-25, App. Ex. 1). Larrick stated Hunter complained that Larrick was speaking to his girlfriend. Larrick would speak to her while they were both on duty at the courthouse. (CL 114/ln. 8-13, App. Ex. 1). Hunter thought she and Larrick were getting too close because they were friends and regularly conversed. (CL 113/ln. 6-17, App. Ex. 1). Hunter did not think it was appropriate for Larrick to speak to her at all. (CL 113/ln. 15-23, App. Ex. 1). Larrick attempted to reassure Hunter that their conversations primarily focused on a medical issue that Hunter's girlfriend and Larrick's then-wife were both experiencing. (CL 114/ln. 1-7, App. Ex. 1). Larrick later explained the situation to Alstadt.(CL 115/ln. 8-18, App. Ex. 1). Alstadt agreed this situation was different than the situation between Hurst and Larrick's wife. (CL 115/ln. 21-25, App. Ex. 1). Larrick was ultimately counseled it was best not to communicate while on duty with someone else who was also on duty. (CL 116/ln. 21-23, App. Ex. 1).

Defendants' Reply: It is undisputed that Alstadt counseled Plaintiff with regards to his interactions with Deputy Hunter's girlfriend. In reply to Plaintiff's response, it is admitted that Larrick testified as such regarding the interactions. Nevertheless, any dispute regarding the nature of the interactions between Plaintiff and Deputy Hunter's girlfriend is immaterial and irrelevant as the averments in Paragraph 23 are not being offered for the truth of the matter, but rather for its effect on the listener and Alstadt's state of mind in making a recommendation regarding Plaintiff's employment. Alstadt relayed to Sheriff Guy that Plaintiff was high maintenance and ate up a lot of management's time; admittedly, Alstadt had to deal with Plaintiff's issues on a daily basis. See ¶ 48; Defs.' App'x, Ex. A (Guy Depo. at p. 84); Ex. C (Alstadt Depo. at pp. 52-53, 56). As such, Alstadt told Sheriff Guy that Plaintiff "needed to be gone." Defs.' App'x, Ex. A (Guy Depo. at p. 136); Pl.'s App'x, Ex. 3 (Alstadt Depo. at pp. 48, 52, 79-80) (time spent dealing with Larrick was a factor in his recommendation to Sheriff Guy that Plaintiff be terminated). Sheriff Guy used the information he gathered through interviews and meetings, including information provided by Alstadt, to evaluate each employee and make employment determinations. See ¶¶ 40-41, 67-70.

24. Undisputed.

25. *Larrick had an incident with the police in Ocean City Maryland while vacationing with a former Deputy and his family, when his wife called the police after Larrick's son*

complained to her by phone of a physical altercation between Larrick and his son. Larrick told Alstadt about the incident. RR: Appendix, Ex. B (Plaintiff Depo. at pp. 105-108); Ex. K (OCMD Police Report); Ex. G (Darbut Depo. at p. 31).

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed Larrick was involved in an incident where his ex-wife called the police and told them he was abusing their son and that Alstadt was informed. It is disputed Cole told her there was a physical altercation between himself and Larrick. Larrick's ex-wife called the police after she called her son and learned her son and daughter had a fight. (CL 106/ln. 21-24, App. Ex. 1). The Ocean City police investigated and determined that there was no abuse. (CL 107/ln. 8-17, App. Ex. 1). The police also said they were going to refer his former spouse to Children and Youth Services in Pennsylvania for filing a false report, but CYS was not able to do anything because it was out of its jurisdiction. (CL 107/ln. 8-22, App. Ex. 1). Despite the report being false, Larrick called Alstadt and the Sheriff's Office to let them know what had happened. (CL 107/ln. 22-25; 108/ln. 1-3, App. Ex. 1). This was protocol, because police had been called. (CL 107/ln. 24-25, App. Ex. 1).

Defendants' Reply: It is undisputed that Plaintiff has involved in a police incident in which his ex-wife called the police on Plaintiff while vacationing, accusing Larrick of abuse behavior, and that Alstadt was informed of the police incident. In reply to Plaintiff's Response, it is admitted that Plaintiff testified as such regarding the nature of the incident and outcome. However, any dispute regarding the nature of the police incident and the outcome are immaterial and irrelevant as the averments in Paragraph 25 are not being offered for the truth of the matter, but rather for its effect on the listener and Alstadt's state of mind in making a recommendation regarding Plaintiff's employment. Alstadt relayed to Sheriff Guy that Plaintiff was high maintenance and ate up a lot of management's time; admittedly, Alstadt had to deal with Plaintiff's issues on a daily basis. See ¶ 48; Defs.' App'x, Ex. A (Guy Depo. at p. 84); Ex. C (Alstadt Depo. at pp. 52-53, 56). As such, Alstadt told Sheriff Guy that Plaintiff "needed to be gone." Defs.' App'x, Ex. A (Guy Depo. at p. 136); Pl.'s App'x, Ex. 3 (Alstadt Depo. at pp. 48, 52, 79-80) (time spent dealing with Larrick was a factor in his recommendation to Sheriff Guy that Plaintiff be terminated). Sheriff Guy used the information he gathered through interviews and meetings, including information provided by Alstadt, to evaluate each employee and make employment determinations. See ¶¶ 40-41, 67-70.

26. *Larrick complained to Alstadt that deputies were making fun of the fact that he vacationed with another deputy. RR: Appendix, Ex. L (Memo dated 10/29/14).*

Plaintiff's Response: Disputed. The memorandum Defendant cites to does not support this assertion. The memorandum Defendant cites is unsigned, but appears to have been issued by Darbut, not Alstadt, based on its content. Further, the memorandum states that Jones was the

one to complaint that others were making fun of the fact that he and Larrick vacationed together, not Larrick.

Defendants' Reply: Admitted in part and denied as stated in part. The memorandum also sets forth multiple issues that Human Resources and Alstadt dealt with relating to Plaintiff to demonstrate Alstadt's state of mind in making his recommendation with respect to Plaintiff's employment. Alstadt relayed to Sheriff Guy that Plaintiff was high maintenance and ate up a lot of management's time, more time than any other employee. See ¶ 48; Defs.' App'x, Ex. A (Guy Depo. at p. 84); Ex. C (Alstadt Depo. at pp. 52-53, 56, 48, 52). As such, Alstadt told Sheriff Guy that Plaintiff "needed to be gone." Defs.' App'x, Ex. A (Guy Depo. at p. 136); Pl.'s App'x, Ex. 3 (Alstadt Depo. at pp. 48, 52, 79-80) (time spent dealing with Larrick was a factor in his recommendation to Sheriff Guy that Plaintiff be terminated). Sheriff Guy used the information he gathered through interviews and meetings, including information provided by Alstadt, to evaluate each employee and make employment determinations. See ¶¶ 40-41, 67-68, 70. Further, the notes support Sheriff Guy's belief that Plaintiff "always had something going on. . . or there [was] some kind of conflict" Defs.'s App'x, Ex. A (Guy Depo. at p. 136) and could not work well on a team based on what others told him. *Id.* at pp. 131-136.

27. Undisputed.

28. *Sheriff David complained to Human Resources regarding Larrick's personal problems interfering with his work and indicated that Alstadt has had to address the issues on numerous occasions. RR: Appendix, Ex. M (David Memo Re: Larrick).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed that David complained of these things to Human Resources. To the extent this is represented as true, it is disputed. The memorandum cited by Defendant is undated, so it is unclear when it was issued. However, Larrick denies that his divorce affected his performance. (CL 22/ln. 17-25, App. Ex. 1). The letter also vaguely references Larrick's contact with female employees as a cause of concern. Larrick had a friendship with the clerk of Judge Kwidis. (CL 128/ln. 1-5, App. Ex. 1). Judge Kwidis wanted this friendship to end because Larrick was "not her type." (CL 128/ln. 1-18, App. Ex. 1). Alstadt instructed Larrick to cease communications with her while on duty, which Larrick did. (CL 129/ln. 19-23; 130/ln. 9-12, App. Ex. 1). No disciplinary action was taken against Larrick. (RD 29/ln. 25; 30/ln. 1-4, App. Ex. 2). Larrick also communicated with Hunter's girlfriend while at the courthouse. (CL 114/ln. 8-13, App. Ex. 1). Larrick attempted to reassure Hunter that their conversations primarily focused on a medical issue that Hunter's girlfriend and Larrick's then-wife were both experiencing. (CL 114/ln. 1-7, App. Ex. 1). Larrick was ultimately counseled it was best not to communicate while on duty with someone else who was also on duty. (CL 116/ln. 21-23, App. Ex. 1). Further, accusations by Sheriff George are suspect where it was clear he wanted Larrick fired.(CL 26/ln. 5-11, App. Ex. 1). Larrick was later informed by Darbut that

Sheriff David wanted him fired because he did not believe his medical needs warranted him being on FMLA leave. (CL 26/ln. 5-11, App. Ex. 1). Further, David was aware Larrick testified against him in his criminal proceedings. (CL 132/ln. 20-23, App. Ex. 1).

Defendants' Reply: It is undisputed that former Sheriff David, a democrat, complained of these issues to Human Resources. The substance of memo speaks for itself and provides that Alstadt had to address issues with Plaintiff numerous time. Indeed, Plaintiff's own response corroborates such. See ¶¶ 21-23, 28 (Plaintiff's Responses). It is undisputed that Alstadt stated that Plaintiff was a high-maintenance employee and for that basis, needed to be fired. Alstadt relayed such information and recommendation to Sheriff Guy and considered such interactions described in the memo and in Plaintiff's Responses to Paragraphs 21-23, 28 in making said recommendation. Pl.'s App'x, Ex. 3 (Alstadt Depo. at pp. 48, 52-53, 56, 79-80). In reply to Plaintiff's response, it is admitted that Plaintiff testified as regarding his interactions with women and his relationship with Sheriff David. Indeed, Plaintiff had longstanding employment performance issues and professional and personal relationship issues under the former Sheriff, a Democrat, before Sheriff Guy, a Republican, took office.

29. *Larrick acknowledged that the events or issues he raised with Alstadt occurred before Sheriff Guy came into office and that Sheriff Guy had no knowledge of these events. RR: Appendix, Ex. B (Plaintiff Depo. at pp. 117-118).*

Plaintiff's Response: Disputed. This paragraph is overly vague and unclear as to which issues or events it refers to. However, at no time did Larrick "acknowledge" that Guy had no knowledge of events he had reported to Alstadt. (CL 117-118, App. Ex. 1). Instead, he merely acknowledged the events took place prior to Guy coming into office. (CL 117/ln. 11-21, App. Ex. 1). Larrick told Guy on election day about Tallon's and Hurst's actions against him, and how they were documented. (CL 141/ln. 13-18, App. Ex. 1). Guy admits he was aware of issues Larrick had that Alstadt dealt with. Guy admits the Troopers told him McGeehan had retaliated against Larrick. (AG 103/ln. 6-8, 19- 24, App. Ex. 4). Larrick informed Guy during his interview of the incident in which Hurst contacted his then-wife inappropriately. (CL 157/ln. 24-25; 158/ln. 1-2, App. Ex. 1). Alstadt informed Guy during an interview Larrick's absenteeism caused controversy and burden to the office. (JA 48/ln. 1-13, App. Ex. 3). Further, Guy himself cites Larrick's reporting of incidents to Alstadt as a reason for his termination, indicating he was made aware of this. (AG 108/ln. 5-12, App. Ex. 4). Guy said in deciding not to retain Larrick he considered, among other things, that Larrick took up management's time with his issues that were personal in nature. (AG 108/ln. 5-12, App. Ex. 4).

Defendants' Reply: It is undisputed that Plaintiff acknowledged that the incidents in which Plaintiff raised with Alstadt occurred before Sheriff Guy came into office. In reply to Plaintiff's Response, it is admitted that Plaintiff testified as such regarding the interactions and that Sheriff Guy learned about certain interactions involving Plaintiff and other employees only

from interviews he conducted before taking office. Sheriff Guy had no first-hand knowledge or involvement in the events or handling of the incidents. See ¶¶ 46-43, 56-61. Indeed, Sheriff Guy attempted to retrieve human resources and personnel files before making employment determinations, but was unable to obtain them before taking office as he was not yet an employee of the County to allow him access to such information. Pl.'s App'x, Ex. 4 (Guy Depo. at p. 67).

30. Undisputed.

31. Undisputed.

32. Undisputed.

33. Undisputed.

34. Undisputed.

35. Undisputed.

36. *About a week before the election, Sheriff Guy heard that Larrick was spreading information about him that was not true. Specifically, Larrick was reporting that Sheriff Guy was going to make certain personnel determinations once in office. RR: Appendix, Ex. A (Guy Depo. at pp. 28, 46-47).*

Plaintiff's Response: Disputed. Larrick's and Guy's accounts of what Larrick had been saying differ. Guy claims Larrick had been telling people he was going to rehire George David and Joe David, and retain people who should be fired. (AG 46/ln. 16-22, App. Ex. 4). In contrast, Larrick says he only told people that he heard he himself was being fired. (CL 141/ln. 4-6, App. Ex. 1). Guy asked Larrick who told him that, and Larrick responded Tallon and Hurst. (CL 141/ln. 6-8, App. Ex. 1). Guy admits he does not know firsthand whether Larrick had or had not been saying any of these things about him. (AG 42/ln. 8-14, App. Ex. 4).

Defendants' Reply: Plaintiff's Response is denied as stated. Plaintiff is conflating two separate incidents. It is undisputed that Guy heard from others that Plaintiff was telling people that he was going to make personnel determinations about a week before the election. Pl.'s App'x, Ex. 4, (Guy Depo. at p. 46) The remaining averments provided in Plaintiff's response stem from Plaintiff and Guy's interaction on election day, a week after Sheriff Guy first heard that Plaintiff was spreading false information about Sheriff Guy's potential employment determinations. While there is some dispute about the exact verbiage of the conversation, it is undisputed that

Larrick was relaying information that he learned from others without talking to Sheriff Guy. Def.'s App'x, Ex. A (Guy Depo. pp. 46-47); Ex. B, (Plaintiff Depo. at 141). Indeed, Plaintiff himself testified that Sheriff Guy said he had wished that Plaintiff would have spoken to him before he made those statements and Plaintiff indicated that talking to Sheriff Guy would not have changed what he was saying. Def.'s App'x, Ex. A (Guy Depo. pp. 46-47); Ex. B, (Plaintiff Depo. at 141-42). Any dispute as to whether Plaintiff was saying that he heard Sheriff Guy would hire Sheriff David or fire him is immaterial, as the undisputed testimony regarding the interaction demonstrates that Plaintiff spread stories and indicated he would continue to do so even after learning it was not true. This corroborated the opinion that most of the deputies relayed to Sheriff Guy that Plaintiff had an issue with telling the truth. See ¶ 57.

37. Undisputed.

38. *At the poll, Sheriff Guy stated that he wished Larrick would have spoken to him instead of spreading things which were not true. Larrick responded that he heard those things, so that is what he was going to say anyway despite being told otherwise. RR: Appendix, Ex. A (Guy Depo. pp. 46-47).*

Plaintiff's Response: Disputed. Guy's and Larrick's account of what they discussed on election day differ. Guy claims he heard Larrick had said Guy was going to bring George David and Joe David back to work in the Sheriff's office and would also retain all the people that should be fired. (AG 46/ln. 16-22, App. Ex. 4). According to Guy, he told Larrick he wished Larrick had asked him things before he spread "lies" about him, and that Larrick responded that he had heard those things and was therefore going to repeat them. (AG47/ln. 6-13, App. Ex. 4). In contrast, Larrick says he told Guy he had only told people that he heard he himself was being fired. (CL 141/ln. 4-6, App. Ex. 1). Guy asked Larrick who told him that, and Larrick responded Tallon and Hurst. (CL 141/ln. 6-8, App. Ex. 1). While Guy did tell Larrick he wished he had approached him prior to the election, Larrick understood this to mean that Guy wished he had Larrick's support in the election. (CL 141/ln. 9-10- 13, App. Ex. 1). Larrick told him it would not have changed who he supported, because he was friends with Kress. (CL 141/ln. 9-13, App. Ex. 1).

Defendants' Reply: Denied as stated. Plaintiff's Response is a disingenuous attempt to create a question of fact, but Plaintiff takes his own testimony out of context. Plaintiff's testimony speaks for itself. In reviewing both Plaintiff and Guy's recitation of the interaction on election day, while there is some dispute in exact verbiage used, the substance of the conversation is undisputed. Plaintiff approached Sheriff Guy, introduced himself and told Sheriff Guy a story about an elderly man confusing Larrick and Sheriff Guy. Upon realizing who Plaintiff was and with the prior understanding that Plaintiff was spreading unverified information about Sheriff

Guy's possible employment decisions, Sheriff Guy asked why Plaintiff said Sheriff Guy was going to be firing people, when Plaintiff had not talked to Sheriff Guy personally about such accusations. Larrick replied that he was only repeating what others had been telling. Both Larrick and Guy testified that Sheriff Guy stated, "I wish you would have come to me." Defs.' App'x, Ex. A (Guy Depo. pp. 46-47); Pl.'s App'x, Ex.1 (Pl. Depo. at p. 141). Plaintiff, by his own admission, indicated that talking to Guy would have not made a difference as he stated "it's not going to change." Defs.' App'x, Ex. A (Guy Depo. pp. 46-47); Pl.'s App'x, Ex.1 (Pl. Depo. at p. 141). At no time did Larrick or Sheriff Guy testify that Sheriff Guy said that he wish Plaintiff would have come talk to him and offered his support or made any statement regarding Plaintiff wearing a shirt supporting Kress. According to both Plaintiff and Sheriff Guy, the two were having a conversation regarding Plaintiff spreading information he heard from other sources regarding Sheriff Guy's potential employment determinations and Sheriff Guy's wish that Plaintiff approached the issue with Sheriff Guy. Defs.' App'x, Ex. A (Guy Depo. pp. 46-47). Even upon learning the that information was false, Plaintiff indicated he was going to say it anyway. To the extent that Plaintiff attempts to interject his own beliefs that he thought Sheriff Guy was upset regarding his support of his opponent, such belief is self-serving testimony and not corroborated by the undisputed evidence regarding the nature of the conversation according to both parties.

39. Undisputed.

40. Undisputed.

41. Undisputed.

42. Undisputed.

43. Undisputed.

44. Undisputed.

45. Undisputed.

46. Undisputed.

47. *Larrick was the first employee Alstadt identified during his meeting with Sheriff Guy. Alstadt told Sheriff Guy that Larrick "needs to be gone," because he would not be part of the vision for the office. RR: Appendix, Ex. A (Guy Depo. at p. 84); Ex. C (Alstadt Depo. at p. 52); Ex. N (Guy Notes from Deputies).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed Alstadt recommended Larrick be terminated, and that he would not be part of Guy's vision for the office. The characterization of this interaction is disputed. Alstadt made this comment in his second meeting with Guy, which occurred at Guy's residence. (JA 51/ln. 20-25; 52/ln. 1-11, App. Ex. 3). Further, nothing cited to by Defendant identifies Larrick as the "first" employee Alstadt identified. Alstadt provided that he told Guy Larrick would not be part of Guy's vision for the office after being asked by Plaintiff's counsel whether Larrick was discussed in the second meeting and what was said about him. (JA 52/ln. 8-17, App. Ex. 3). Guy's notes from his first meeting with Alstadt list Larrick's name first, after initial notes about morale and needing a fresh approach, but there is no corresponding note next to Larrick's name. (Guy's Notes from Trooper Interviews with Jay Alstadt DEFDISC054, App. Ex. 5). There is only a dash mark. (Guy's Notes from Trooper Interviews with Jay Alstadt DEFDISC051- DEFDISC054, App. Ex. 5). In contrast, other employees like McGeehan, Lupo, and Stevenson have notes next to their names. Guy states this line was "just a line," and was different than the minus signs he placed next to other names in his interview with the State Troopers. (AG 84/ln. 1-7, App. Ex. 4).

Defendants' Reply: It is undisputed Alstadt recommended Plaintiff be terminated, and that he would not be part of Guy's vision for the office. In reply to Plaintiff's response, the averment is denied as stated. Alstadt's recommendation regarding Plaintiff was given by Alstadt twice, during his first meeting with Sheriff Guy and during his the second meeting with Sheriff Guy referenced in Plaintiff's Response. Defs.'s App'x, Ex. C (Alstadt Depo. at pp. 47-48, 52-53). Alstadt based his recommendation that Plaintiff "would not be apart of the Sheriff's new vision of the office and the direction it needed to go" on "everything surrounding [Plaintiff]", including "[Plaintiff's] attitude and the attitude of others toward each other, it was very disruptive. It was a- I dealt with it every single day." Defs.'s App'x, Ex. C (Alstadt Depo. at pp. 52-53). During that meeting Alstadt told Sheriff Guy that Larrick needed "to be gone", because of "his untruthfulness as well as that he . . . always had issues. Ate up a lot of time in managing things that were going on with him. He was high maintenance. He was undependable, unreliable. He was the first person that Alstadt brought up." Alstadt's interpretation of Sheriff's Guys new vision of the office was admittedly in line with Sheriff Guy's and Plaintiff's belief that change was needed in the office after many years of turmoil. See ¶¶ 39, 41-42; Pl.'s App'x, Ex. 1 (Pl.'s Depo. at p. 50).

48. Undisputed.

49. *Alstadt relayed to Sheriff Guy that Larrick had problems with truthfulness and that the other deputies do not believe him. Larrick was referred to by other deputies as "Lying Larrick." RR: Appendix, Ex. A (Guy Depo. at p. 84); Ex. N (Guy Notes from Deputies).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed Larrick had the nickname "Lying Larrick." It is disputed that this nickname is accurate. Michael asked Larrick in his interview about others thinking he was a liar. (CL 159/ln. 8-12, App. Ex. 1). Larrick explained there were bad feelings towards him because he testified against George David. (CL 159/ln. 14-16, App. Ex. 1). He further said David made it clear to the office that Larrick was no good and could not be trusted as a result of the situation. (CL 159/ln. 14-23, App. Ex. 1). When asked to name examples of times Larrick had actually lied, he struggled to name examples. (AG 85/ln. 1-25; 86/ln. 1-10, App. Ex. 4). Guy admits he was also told that Larrick was indeed at the funeral home. (AG 85/ln. 17-19, App. Ex. 4). It is also disputed that Alstadt ever told Guy that Larrick had problems with truthfulness. Alstadt denies thinking Larrick was a liar. (JA 30/ln. 5-6, App. Ex. 3). Alstadt further stated he did not remember Larrick ever lying to him on the job. (JA 30/ln. 11-16, App. Ex. 3).

Defendants' Reply: It is undisputed Larrick had the nickname "Lying Larrick." In reply to Plaintiff's Response, Plaintiff's characterization of the testimony is denied. As an initial matter, Plaintiff mischaracterizes Alstadt's testimony relating to Plaintiff's truthfulness. Alstadt testified that others in the office believed that Plaintiff was a liar, as evidenced by his nickname, Lying Larrick. Pl.'s App'x, Ex. 3 (Alstadt Depo. at p. 30). Alstadt also testified that "Curt, I don't want to say that he – he would over exaggerate or over state something and then not be able to follow through. So I had minor issues with me, that's all" and that he did so to make himself look better. Pl.'s App'x, Ex. 3 (Alstadt Depo. at pp. 29-30). Indeed, when asked about Plaintiff's lying, Sheriff Guy cited examples of when he would mischaracterize events to make himself look better; Guy cited to Plaintiff's recitation of the incidents underlying the sexual harassment complaints made against him as evidence of Plaintiff mischaracterizing events. Pl.'s App'x, Ex. 4 (Guy Depo. at pp. 85-86). Guy also cited to an incident in which Plaintiff claimed to have a relationship with a news reporter, but the news reporter denied knowing Plaintiff. Defs.' App'x, Ex. A (Guy Depo. at pp. 118-119). Sheriff Guy also provided the example that deputies told him that Larrick complained about getting in trouble for admitting he was not wearing a seatbelt and that was the one and only time he actually told the truth. Defs.' App'x, Ex. A (Guy Depo. at pp. 119-120). With regard to the testimony regarding Plaintiff attending funerals, it was alleged that Plaintiff would falsely attend funerals to the extent that they sent a deputy to a funeral to see if he was there. While he was actually at the one funeral in which they checked, such testimony does not provide that Plaintiff did not lie about allegedly attending previous funerals. Pl.'s App'x, Ex. 4 (Guy Depo. at pp. 85, 119). When Michael asked Plaintiff about being a liar, Plaintiff denied he was a liar, but was unable to provide specifics to rebut the allegations. Defs.' App'x, Ex. O (Michael Depo. at pp. 15-16). Nevertheless, whether Plaintiff actually lied is immaterial to the question of whether Plaintiff was terminated for his support of Sheriff Guy's democratic opponent. Sheriff Guy was told by most employees that Plaintiff was a liar, and he used this information as a basis to terminate Plaintiff. See ¶¶ 57-58, 60, 61, 68-69.

50. *Alstadt relayed to Sheriff Guy that Larrick always portrayed incidents to be much more minor to minimize his involvement. RR: Appendix, Ex. A (Guy Depo. at p. 84); Ex. N (Guy Notes from Deputies).*

Plaintiff's Response: Disputed. Alstadt denies thinking Larrick was a liar. (JA 30/ln. 5-6, App. Ex. 3). Alstadt further stated he did not remember Larrick ever lying to him on the job. (JA 30/ln. 11-16, App. Ex. 3).

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

51. *Alstadt relayed to Sheriff Guy that there was a complaint of harassment against Larrick by a Judge's Secretary. RR: Appendix, Ex. A (Guy Depo. at p. 84); Ex. N (Guy Notes from Deputies).*

Plaintiff's Response: Disputed. A complaint was made against Larrick by Judge Kwidis regarding Larrick talking to his judicial clerk. (JA 24/ln. 24-25; 25/ln. 1-2, App. Ex. 3). Alstadt inquired into Larrick's relationship with the law clerk and advised *the judge* wanted him to stay away from her while he was on duty. (CL 127/ln. 18-25; 128/ln. 1-5; 129/ln. 22-23, App. Ex. 1). Judge Kwidis also told Larrick he was not the type of guy for the clerk. (CL 128/ln. 1-5, App. Ex. 1). Larrick maintained that that was not the nature of their relationship. (CL 128/ln. 1-5, App. Ex. 1). Alstadt had the authority to issue discipline, but did not discipline Larrick over this matter. (JA 25/ln. 3-8, App. Ex. 3).

Defendants' Reply: Plaintiff's Response does not speak to the substance of Defendants' Paragraph 51, and therefore, such statement is deemed undisputed. In reply to Plaintiff's response, Plaintiff merely provides his interpretation of the Judge's request, which is immaterial to the determination at hand. *See* ¶ 22 It is undisputed that Alstadt relayed to Sheriff Guy that such complaint occurred and that Alstadt had to deal with the complaint. Sheriff Guy used the information he gathered through interviews and meetings, including information provided by Alstadt, to evaluate each employee and make employment determinations. *See* ¶¶ 40-41, 67-68, 70.

52. *Alstadt relayed to Sheriff Guy that Larrick had been making phone calls and contacting another deputy's girlfriend. RR: Appendix, Ex. A (Guy Depo. at p. 84).*

Plaintiff's Response: Disputed. As an initial matter, Guy stated he was told Larrick had been making phone calls *"or"* having contact with Hunter's girlfriend. (AG 86/ln. 21-24, App. Ex. 4). Deputy Hunter's girlfriend was a cleaning person at the courthouse. (CL 112/ln. 25; 113/ln. 1, App. Ex. 1). Larrick communicated with Hunter's girlfriend while they were both on duty at the courthouse. (CL 114/ln. 8-13, App. Ex. 1). Hunter thought she and Larrick were getting too close because they were friends and regularly conversed. (CL 113/ln. 6-17, App. Ex. 1). Hunter did not think it was appropriate for Larrick to speak to her at all. (CL 113/ln. 15-23, App. Ex. 1). Larrick attempted to reassure Hunter that their conversations primarily focused on a medical issue that Hunter's girlfriend and Larrick's then-wife were both experiencing. (CL 114/ln. 1-7, App. Ex. 1). Alstadt agreed this situation was different than the situation between Hurst and Larrick's wife. (CL 115/ln. 21-25, App. Ex. 1). Larrick was ultimately counseled it was best not to communicate while on duty with someone else who was also on duty. (CL 116/ln. 21-23, App. Ex. 1).

Defendants' Reply: Plaintiff's response does not speak to the substance of Defendants' Paragraph 52, and therefore, such statement is deemed undisputed. In reply to Plaintiff's response, Plaintiff merely challenges an interpretation of the underlying incident, which is immaterial to the determination at hand. See ¶ 23. It is undisputed that Alstadt relayed to Sheriff Guy that such complaint occurred and that Alstadt had to deal with the complaint. Sheriff Guy used the information he gathered through interviews and meetings, including information provided by Alstadt, to evaluate each employee and make employment determinations. See ¶¶ 40-41, 67-68 70.

53. Undisputed.

54. *He asked Dean Michael to sit in on the interviews of the Sheriff's Office personnel due to his experience in law enforcement. Dean Michael and Sheriff Guy came up with a list of questions to ask each employee and that format was followed throughout each interview. RR: Appendix, Ex. A (Guy Depo. at p. 84); Ex. O (Michael Depo. at pp. 18, 37-38); Ex. Q (Interview Outlines).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed Michael was asked to sit in on the interviews and assisted in coming up with a list of questions. To the extent this represents Michael indeed sat in on every interview, it is disputed. Michael participated in the

majority of the interviews, but was not present for the interviews of Frantangeli, McGeehan, Alstadt, Tallon, or Ochs. (DM 13/ln. 5-14; 20/ln. 5-10, App. Ex. 6).

Defendants' Reply: Undisputed.

55. Undisputed.

56. *During the interviews, others, including Hunter, Mike Kress, Jim McGeehan, Kristen Chapes, Fratangeli and Jim Brown, brought up Larrick's sexual harassment allegations. RR: Appendix, Ex. A (Guy Depo. at p. 95); Ex. N (Guy Notes from Deputies).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed that Guy says these individuals told him about sexual harassment allegations against Larrick in their meetings. To the extent these are represented as accurate allegations, disputed. As an initial matter, these allegations are not referenced in the interview notes Defendant cites to. (Guy's Interview Notes re: John Frantangeli, App. Ex. 8); (Guy's Interview Notes re: Jim McGeehan, App. Ex. 10). Further, the allegations were not accurate. Stevenson admitted to Larrick she was coerced into making this complaint and apologized to him. (CL 124/ln. 11-16; 125/ln. 17-22, App. Ex. 1). Darbut says he issued a letter to Alstadt and Paul Clark, the Chief Union Steward for the association, letting them know he had investigated her claims and had made no finding. (RD 24/ln. 10-18, App. Ex. 2). Larrick's conversations with Hunter's girlfriend were friendly in nature, mostly focused on a medical issue Hunter's girlfriend and Larrick's wife both had, and resulted in no discipline being issued. (CL 114/ln. 1-7; 116/ln. 21-23, App. Ex. 1). The complaint against Larrick talking to Judge Kwidis's law clerk was made by the judge, who told Larrick he did not think he was the law clerk's "type." (JA 24/ln. 24-25; 25/ln. 1-2, App. Ex. 3); (CL 128/ln. 1-5, App. Ex. 1). Again, no discipline was issued against Larrick for this matter. (JA 25/ln. 3-8, App. Ex. 3).

Defendants' Reply: It is undisputed that Guy says these individuals told him about sexual harassment allegations against Larrick in their meetings. In reply to Plaintiff's response, the remaining averments only speak to incidents underlying the complaints and it is admitted that Plaintiff testified as such with respect to his characterizations of the incidents. However, any dispute relating to the underlying allegations is immaterial to the determination at hand. It is undisputed allegations of sexual harassment were relayed to Sheriff Guy by several deputies. Sheriff Guy used the information he gathered through interviews with the deputies including to evaluate each employee and make employment determinations. *See ¶¶ 40-41, 68.*

57. *During the interviews with other deputies, most of them said that Larrick was a liar, his nickname was Lying Larrick and he could not be trusted. RR: Appendix, Ex. A (Guy Depo. at pp. 113, 120); Ex. O (Michael Depo. at pp. 16-20).*

Plaintiff's Response: Disputed. While Guy states that "most" of the deputies stated this in their interviews, his notes indicate that comments related to lying were made only by Ochs and Fratangeli. While McGeehan's interview notes list a negative comment about Larrick, it does not refer to his honesty. Guy also claims Hurst called Larrick a liar. (AG 114/ln. 6-13, App. Ex. 4). Guy claims that Alstadt also called Larrick untruthful. (AG 84/ln. 13-17, App. Ex. 4). However, Alstadt denies thinking Larrick was a liar. (JA 30/ln. 5-6, App. Ex. 3).

Defendants' Reply: It is undisputed that most deputies stated in their interviews that Plaintiff was a liar. Otherwise, Plaintiff's response is denied. As an initial matter, Guy only took extensive notes during the interviews of command staff in which Dean Michael was not able to sit in, which included Fratangeli and Ochs. See ¶154, (Plaintiff's Response); Defs.' App'x, Ex. A (Guy Depo. at pp. 95-96). Further, Sheriff Guy did not want to take notes during the interview portion in which the employees gave feedback of other employees, to allow for candid answers without the threat of repercussions. Defs.' App'x, Ex. A (Guy Depo. at p. 95). By way of further response, Alstadt told Sheriff Guy about Larrick's issues with the truth and Plaintiff mischaracterizes Alstadt's testimony relating to Plaintiff's truthfulness. Alstadt testified that others in the office believed that Plaintiff was a liar, as evidenced by his nickname, Lying Larrick. Pl.'s App'x, Ex. 3 (Alstadt Depo. at p. 30). Alstadt also testified that "Curt, I don't want to say that he – he would over exaggerate of over state something and then not be able to follow through. So I had minor issues with me, that's all" and that he did so to make himself look better. Pl.'s App'x, Ex. 3 (Alstadt Depo. at pp. 29-30). These statements could easily be interpreted as politely indicating he felt Larrick lied.

58. *During the interviews with other deputies, it was reported that Larrick said he was attending multiple funerals and lied about attending. Others indicated that Larrick claimed to have a relationship with a news reporter, but the news reporter denied knowing Larrick. RR: Appendix, Ex. A (Guy Depo. at pp. 85, 118-119); Ex. O (Michael Depo. at p. 19).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed Guy claims he was told these were instances in which Larrick lied. It is disputed that Larrick lied about either instance. Guy asked Larrick in his interview if he had lied about the funerals he claimed to have attended, and that Larrick said they were all legitimate. (AG 119/ln. 16-19, App. Ex. 4). Guy also admits that a deputy was sent to the funeral home to see if Larrick was actually there, and Larrick was indeed found to be at the funeral home where he said he would be. (AG 85/ln. 10-

19, App. Ex. 4). Further, Larrick denies that he ever lied to his co-workers about being in a relationship with or knowing a news reporter. (Larrick Declaration at ¶ 2, App. Ex. 15).

Defendants' Reply: It is undisputed that Sheriff Guy was provided with examples from other deputies about Plaintiff's problem with the truth. See ¶157. Otherwise, Plaintiff's response is denied as stated. With regard to the testimony regarding Plaintiff attending funerals, it was alleged that Plaintiff would falsely attend funerals to the extent that they sent a deputy to a funeral to see if he was there. While he was actually at the one funeral in which they checked, such testimony does not provide that Plaintiff did not lie about allegedly attending previous funeral. Pl.'s App'x, Ex. 4 (Guy Depo. at pp. 85, 119). Whether Plaintiff actually lied is immaterial to the determination at hand- whether Plaintiff was terminated for his support of Sheriff Guy's democratic opponent; Sheriff Guy was told by most employees that Plaintiff was a liar, and he used this information as a basis to terminate Plaintiff. See ¶¶ 57-58, 60, 61, 68-69. Further, Plaintiff's self serving affidavit providing that that he did not lie to his coworkers about a relationship with a reporter is also immaterial to the determination at hand. Nevertheless, despite its immateriality, such sham affidavits cannot be used to defeat summary judgment. See *Blair v. Scott Specialty Gases*, 283 F.3d 595, 608 (3d Cir. 2002).

59. Undisputed.

60. *During the interviews with other deputies, they indicated that Larrick would spin events differently than what really happened. RR: Appendix, Ex. A (Guy Depo. at pp. 119-20).*

Plaintiff's Response: Disputed. While Guy did mention incidents in which Larrick was accused of lying, he had trouble naming specific instances where Larrick lied and indeed cited an instance in which Larrick told the truth about not wearing a seatbelt which resulted in his getting into trouble. (AG 85/ln. 7-17 ; 119/ln. 4-25; 120/ln. 1-6, 11-23, App. Ex. 4).

Defendants' Reply: Denied. Sheriff Guy specifically cited to Plaintiff's recitation of the incidents underlying the sexual harassment complaints made against him as evidence of Plaintiff mischaracterizing events. Pl.'s App'x, Ex. 4 (Guy Depo. at pp. 85-86). Further, Plaintiff mischaracterizes the testimony in which he claims he was being truthful. The testimony provides that deputies told Sheriff Guy that Plaintiff complained about getting in trouble for admitting he was not wearing a seatbelt and that Plaintiff stated that was the one and only time he actually told the truth. Defs.' App'x, Ex. A (Guy Depo. at pp. 119-120). By way of further response, Sheriff Guy indeed provided examples of Plaintiff's untruthfulness. See ¶48.

61. *Sheriff Guy found the lack of trust for Larrick to be "nearly universal" to those in the Sheriff's Office. RR: Appendix, Ex. A (Guy Depo. at pp. 133-34).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed that Guy claims this to be the case. It is disputed that this label is accurate or warranted. Indeed, when asked, Guy had trouble naming specific instances in which Larrick had lied. (AG 85/ln. 7-19, App. Ex. 4) Further, Alstadt denies thinking Larrick was a liar. (JA 30/ln. 5-6, App. Ex. 3).

Defendants' Reply: It is undisputed that Guy found that the lack of trust for Plaintiff was nearly universal in the office. Otherwise, Plaintiff's response is denied. Plaintiff mischaracterizes Alstadt's testimony relating to Plaintiff's truthfulness. Alstadt testified that others in the office believed that Plaintiff was a liar, as evidenced by his nickname, Lying Larrick. Pl.'s App'x, Ex. 3 (Alstadt Depo. at p. 30). Alstadt also testified that "Curt, I don't want to say that he – he would over exaggerate of over state something and then not be able to follow through. So I had minor issues with me, that's all" and that he did so to make himself look better. Pl.'s App'x, Ex. 3 (Alstadt Depo. at pp. 29-30). When asked about Plaintiff's lying, Sheriff Guy cited examples of when he would mischaracterize events to make himself look better; Guy cited to Plaintiff's recitation of the incidents underlying the sexual harassment complaints made against him as evidence of Plaintiff mischaracterizing events. Pl.'s App'x, Ex. 4 (Guy Depo. at pp. 85-86). Guy also cited to an incident in which Plaintiff claimed to have a relationship with a news reporter, but the news reporter denied knowing Plaintiff. Defs.' App'x, Ex. A (Guy Depo. at pp. 118-119). Sheriff Guy also provided the example that deputies told him that Larrick complained about getting in trouble for admitting he was not wearing a seatbelt and that Plaintiff stated was the one and only time he actually told the truth. Defs.' App'x, Ex. A (Guy Depo. at pp. 119-120). Further, Sheriff Guy stated that Plaintiff lied about allegedly attending funerals to the extent that a deputy sheriff went to the funeral to see if Plaintiff was actually attending. Defs. App'x, Ex. A (Guy Depo. at pp. 85-86).

62. *During Larrick's interview, Dean Michael asked Larrick about what others had said regarding his inability to tell the truth. Larrick denied having such an issue. Plaintiff could not provide specifics to rebut allegations of being known as a liar. RR: Appendix, Ex. A (Guy Depo. at pp. 133-34); Ex. O (Michael Depo. at pp. 16).*

Plaintiff's Response: Disputed. During the interview, Michael told Larrick others had made comments that Larrick was untrustworthy and a liar, and told Larrick he was being given the opportunity to defend himself. (CL 159/ln. 8-12, App. Ex. 1). Larrick explained there were bad feelings towards him because he testified against George David. (CL 159/ln. 14-16, App. Ex. 1). He further said David made it clear to the office that Larrick was no good and could not be trusted as a result of the situation. (CL 159/ln. 14-23, App. Ex. 1). Larrick denied having a problem being truthful. (DM 16/ln. 8-14, App. Ex. 6). Despite allegations that Larrick failed to dispute any specific claims of his being a liar, Guy admits he does not recall telling Larrick about any of the specific incidents where he allegedly lied in order to rebut them. (AG 117/ln. 23-25; 118/ln. 1-8, App. Ex. 4). Guy later stated he thinks he asked Larrick if he had lied about the

funerals he claimed to have attended, and that Larrick said they were all legitimate. (AG 119/ln. 16-19, App. Ex. 4).

Defendants' Reply: It is undisputed that Plaintiff was asked about his lying and given an opportunity to defend himself. It is further undisputed that Plaintiff denied being a liar, but did not rebut the allegation. Otherwise, Plaintiff's response is denied as stated. While it is admitted that Plaintiff told Sheriff Guy that he did not lie about the funerals, the undisputed evidence is that Plaintiff had the nick name Lying Larrick and did not have a response to rebut the nomenclature. Defs.' App'x, Ex. A (Guy Depo. at pp. 133-34); Ex. O (Michael Depo. at pp. 16). Most deputies indicated that Plaintiff had a problem with telling the truth and Sheriff Guy used such information to evaluate and make employment terminations. See ¶ 57.

63. *During Larrick's interview, without being asked about it, Plaintiff immediately wanted to discuss the issue with Deputy Hurst texting his wife. Larrick brought in phone records to show phone calls or text messages to tell his side of the story. RR: Appendix, Ex. A (Guy Depo. at pp. 133-34); Ex. O (Michael Depo. at pp. 15-16).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed that Larrick discussed the incident in which Hurst texted his wife in his interview, and that he brought phone records with him. It is disputed that he "immediately" wanted to discuss this without being asked about it. During his interview, after discussing background information and Larrick's testimony in the Sheriff David trial, Larrick was provided with a list of deputies' names, and was asked to tell him good or bad things about each one. (CL 156/ln. 16-23, 157/ln. 2-19, App. Ex. 1). At this time, Larrick informed them he had ongoing problems with Randy Tallon and Mike Hurst. (CL 157/ln. 20-24, App. Ex. 1). When asked about this, Larrick explained an incident where Hurst had been contacting his then-wife while on duty, and provided them with the phone records. (CL 157/ln. 24-25; 158/ln. 1-2, App. Ex. 1).

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

64. Undisputed.

65. Undisputed.

66. Undisputed.

67. Undisputed.

68. *Sheriff Guy terminated Larrick because of Larrick's "character issues," which included honesty, integrity, trustworthiness, ability to work well as a member of the team and instances of inappropriate conduct with females, which he learned from the interviews he conducted. RR: Appendix, Ex. A (Guy Depo. at pp. 131-136).*

Plaintiff's Response: Disputed. It is disputed this is the true reason for Larrick's termination. When discussing the issue of truthfulness, Guy struggled to name an instance he was aware of where Larrick had actually been untruthful. (AG 85/ln. 7-19, App. Ex. 4). He also admitted the State Troopers told him Larrick was truthful. (AG 134/ln. 16-19, App. Ex. 4). Alstadt denies thinking Larrick was a liar. (JA 30/ln. 5-6, App. Ex. 3). It is further denied Larrick had instances of inappropriate conduct with females. (CL 114/ln. 1-7; 124/ln. 11-16; 125/ln. 17-22; 128/ln. 1-5, App. Ex. 1). Guy admits his knowledge of whether the harassment actually occurred was based only on the interviews he conducted with deputies and command staff and information he had collected. (AG 132/ln. 3-10, App. Ex. 4). Guy admits he does not know whether Larrick was ever disciplined regarding any sexual harassment allegations. (AG 121/ln. 4-7, App. Ex. 4). Further, Guy does not recall whether he even asked Larrick about the sexual harassment allegations during his interview. (AG 122/ln. 1-4, App. Ex. 4). Guy also did not speak with any of the individuals that Larrick allegedly sexually harassed. (AG 122/ln. 11-14, App. Ex. 4).

Defendants' Reply: It is admitted that the State Troopers told Sheriff Guy that Plaintiff was truthful in the investigation and prosecution of Sheriff David. However, the remaining averments are denied. With respect to the State Troopers indicating that Plaintiff told the truth, such averment is denied as stated to the extent that Plaintiff seeks to discredit Sheriff Guy's basis for terminating Plaintiff, as the State Troopers were not involved in the day-to-day operations of the Sheriff's Office. Sheriff Guy was provided with examples from other deputies about Plaintiff's problem with the truth. See ¶¶57-58. Alstadt told Sheriff Guy that Plaintiff had a problem with the truth. See ¶¶ 47, 49. Plaintiff mischaracterizes Alstadt's testimony relating to Plaintiff's truthfulness. Alstadt testified that others in the office believed that Plaintiff was a liar, as evidenced by his nickname, Lying Larrick. Pl.'s App'x, Ex. 3 (Alstadt Depo. at p. 30). Alstadt also testified that "Curt, I don't want to say that he – he would over exaggerate of over state something and then not be able to follow through. So I had minor issues with me, that's all" and that he did so to make himself look better. Pl.'s App'x, Ex. 3 (Alstadt Depo. at pp. 29-30). Sheriff Guy cited to Plaintiff's recitation of the incidents underlying the sexual harassment complaints made against him as evidence of Plaintiff mischaracterizing events. Pl.'s App'x, Ex. 4 (Guy Depo. at pp. 85-86). Further, Guy was told about instances of sexual harassment by several deputies and by Alstadt. Appendix, Ex. A (Guy Depo. at pp. 84, 95); Ex. N (Guy Notes from Deputies). Sheriff Guy used the information he gathered through interviews and meetings

with the deputies, including information provided by Alstadt, to evaluate each employee and make employment determinations. Appendix, Ex. A (Guy Depo. at pp. 131-136).

69. *Sheriff Guy also based his decision to terminate Larrick on the interactions he had with Larrick to the extent that he relayed verified stories based upon what others had told him and exaggerated situations. RR: Appendix, Ex. A (Guy Depo. at pp. 131-136).*

Plaintiff's Response: Disputed. It is disputed this is the true reason for Larrick's termination. Larrick disputes Guy's version of the election day conversation. (CL 141/ln. 4-6, App. Ex. 1). Guy claims that he had heard Larrick had been saying things about him that were not true prior to the election. (AG 42/ln. 2-5, App. Ex. 4). Specifically, Guy claims he heard Larrick had said Guy was going to bring George David and Joe David back to work in the Sheriff's office and would also retain all the people that should be fired. (AG 46/ln. 16-22, App. Ex. 4). Larrick says that Guy told him he heard Larrick was telling people Guy was going to fire people. (CL 141/ln. 1-3, App. Ex. 1). Larrick responded he had only told people that he heard he was being fired. (CL 141/ln. 4-6, App. Ex. 1). Guy asked Larrick who told him that, and Larrick responded Tallon and Hurst. (CL 141/ln. 6-8, App. Ex. 1). Further, Guy struggled to name an instance he was aware of where Larrick had been untruthful. (AG 85/ln. 7-19, App. Ex. 4). He also admitted the State Troopers told him Larrick was truthful. (AG 134/ln. 16-19, App. Ex. 4). Alstadt denies thinking Larrick was a liar. (JA 30/ln. 5-6, App. Ex. 3).

Defendants' Reply: Denied. Alstadt testified that "Curt, I don't want to say that he – he would over exaggerate of over state something and then not be able to follow through. So I had minor issues with me, that's all" and that he did so to make himself look better. Pl.'s App'x, Ex. 3 (Alstadt Depo. at pp. 29-30). Alstadt relayed to Sheriff Guy that Larrick always portrayed incidents to be much more minor to minimize his involvement. RR: Appendix, Ex. A (Guy Depo. at p. 84); Ex. N (Guy Notes from Deputies). During the interviews with other deputies, they indicated that Larrick would spin events differently than what really happened. RR: Appendix, Ex. A (Guy Depo. at pp. 119-20). In Reply to Plaintiff's Response regarding the election day interaction, see Defendants' Reply to Paragraph 38, which is incorporated by reference herein.

70. *Sheriff Guy also terminated Larrick because it seemed "that he always had something going on, whether it was this deputy said something about him or another deputy said something or there is some kind of conflict that frankly should have be dealt with at a much lower level than the Chief Deputy [Alstadt]." Sheriff Guy though such behavior is disruptive. RR: Appendix, Ex. A (Guy Depo. at p. 136).*

Plaintiff's Response: Disputed. It is disputed this is the true reason for Larrick's termination. When Larrick had concerns, he shared them with Alstadt. (CL 66/ln. 21-25; 67/ln. 1-8, App. Ex. 1). Larrick understood Alstadt to be the type of chief that cared about his employees. (CL 67/ln. 2-4, App. Ex. 1). Larrick also considered Alstadt his friend, and spoke to him about matters as a friend. (CL 67/ln. 2-8, App. Ex. 1). Alstadt never told Larrick he thought he was coming to him too often with issues. (CL 83/ln. 3-5, App. Ex. 1). Alstadt disclosed that he and Larrick had a close relationship for a long time. (JA 30/ln. 3-5, App. Ex. 3). Further, Alstadt states that he and Larrick had a stronger bond because of the issues Larrick went through. (JA 31/ln. 17-20, App. Ex. 3). Alstadt says the time he spent dealing with Larrick's issues was not why he recommended Larrick's termination. (JA 79/ln. 16-21, App. Ex. 3).

Defendants' Reply: Denied. It is denied that Alstadt testified that the time he spent dealing with Plaintiff's issues was not why he recommended termination. The testimony cited to by Plaintiff demonstrates that the time Alstadt spent dealing with Plaintiff's issues indeed played a role in his recommendation to terminate Plaintiff. (JA 79/ln. 16-21, App. Ex. 3). It is undisputed Alstadt recommended Plaintiff be terminated. *See* ¶ 47. During two meetings with Sheriff David, Alstadt provided that "everything surrounding [Plaintiff]", including "[Plaintiff's] attitude and the attitude of others toward each other, it was very disruptive. It was a- I dealt with it every single day." Defs.'s App'x, Ex. C (Alstadt Depo. at pp. 52-53).

71. Undisputed.

72. Undisputed.

73. *Deputy Tanya Kuhlber was terminated for character issues and that she brought "a lot of drama in the Sheriff's Office" in that she had "personal issues" which were related by other deputies and Alstadt which were disruptive. RR: Appendix, Ex. A (Guy Depo. at pp. 100-102).*

Plaintiff's Response: Disputed. Guy fired Kuhlber because of domestic issues and a prank involving glitter (AG 90/ln. 21-25; 91/ln. 1-3, App. Ex. 4). Michael recalls the issue with Kuhlber being the glitter incident as well as her having domestic issues with her boyfriend or husband. (DM 25/ln. 5-15, App. Ex. 6). At one time Kuhlber filled the pockets of her old uniform with glitter when she left temporarily for another position after asking if a particular female deputy was going to get her uniform. (AG 89/ln. 22-25; 90/ln. 1-5, App. Ex. 4); (Guy's Notes from Trooper Interviews with Jay Alstadt at DEFDISC054, App. Ex. 5). Michael initially did not recommend Kuhlber for termination because he viewed the glitter incident as a prank. (DM 28/ln. 22-23, App. Ex. 6). When he told Guy this, Guy reminded Michael of Kuhlber's domestic issues. (DM 27/ln. 22-25, App. Ex. 6).

Defendants' Reply: Denied as stated. Plaintiff attempts to downplay Kuhlber's personal issues Kuhlber had been involved with a domestic dispute with her husband or boyfriend and tried to run him over with a car. she was later found walking on roads around her residence without shoes on in the winter. Pl.'s App'x, Ex. 4 (Guy Depo. at pp. 90-91); *see also* Pl.'s CSMF at ¶¶ 379-390.

74. Undisputed.

75. *Deputy Paul Clark was terminated on the basis that Sheriff Guy believed he was not a team player to the extent that other deputies relayed that Clark did as little work as he could possibly do. RR: Appendix, Ex. A (Guy Depo. at pp. 98-99).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed this is a reason Guy gave for terminating Clark. Guy also noted that he was told Clark was a bully. (AG 80/ln. 15-19, App. Ex. 5); (Guy's Notes from Trooper Interviews with Jay Alstadt at DEFDISC0053, App. Ex. 5). However, the January 4, 2016 letter to the Chief County Solicitor about the termination on which Clark is copied simply states Clark was being terminated because Guy was exercising his rights under Section 1620 of the County Code which allows him to hire or fire employees. (January 4, 2016 Letter from Guy to Rabik, App. Ex. 11). Guy was aware that Paul Clark supported Kress. (AG 41/ln. 13-14, App. Ex. 4).

Defendants' Reply: It is denied that Sheriff Guy terminated Clark for his support of Kress, as there is no evidence to support this. By way of further response, Sheriff Guy issued a form letter to all employees he terminated citing Section 1620 as the authority, not as his reason, for doing so. Defs.' App'x, Ex. R (Termination Letter).

76. Undisputed.

77. Undisputed.

78. Undisputed.

79. Undisputed.

80. *Sheriff Guy knew that Jen Bredemeir was active in politics before she was promoted to a full time position. RR: Appendix, Ex. A (Guy Depo. at pp. 37, 38, 107).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed Guy noted Bredemeir was "political" prior to promoting her to full time. To the extent this is meant to imply he knew about who she supported in the election, it is disputed. Guy admits that he is certain he did not find out Bredemeir supported Kress until after January 4th, when he determined which employees would be retained. (AG 37/ln. 19-22, App. Ex. 4). He believes he found out Bredemeir supported Kress after she had been moved from part time to full time. (AG 37/ln. 23-25, App. Ex. 4).

Defendants' Reply: It is undisputed that Sheriff Guy knew that Bredemeir was "political" prior to promoting her to full time. In reply to Plaintiff's Response, it is admitted that Bredemeir did not tell Sheriff Guy that she supported Kress in the election until after January 4, 2016 when Sheriff Guy took office and after she was moved to a full time position. However, by way further response, Sheriff Guy believed most deputies supported the democratic candidate. He also knew that Bredemeir was political before he took office on January 4, 2016. Knowing that Bredemeir was political, and that Sheriff Guy did not see her at any of his campaign events, it follows that Bredemeir was not a supporter of Guy. Defs. App'x, Ex. A (Guy Depo.at pp. 22-23).

81. Undisputed.

82. Undisputed.

83. Undisputed.

84. *Former Chief Deputy Jay Alstadt told Sheriff Guy that he supported him in the election. RR: Appendix, Ex. A (Guy Depo. at p. 19).*

Plaintiff's Response: Undisputed in part. Disputed in part. It is undisputed that Alstadt expressed some support to Guy during the election. (AG 19/ln. 1-3, App. Ex. 4). It is disputed Alstadt told him he supported him in the election. Alstadt claims he did not openly support any candidate during the general election. (JA 38/ln. 25; 39/ln. 1-2, App. Ex. 3). He met with both Kress and Guy during the election process. (JA 38/ln. 4-19; 43/ln. 8-24, App. Ex. 3). Alstadt met with Guy to tell him why he needed to keep him. (JA 43/ln. 21-24, App. Ex. 3). Alstadt also called Kress to tell him which events were important for him to attend during the election. (JA 45/ln. 6-12, App. Ex. 3). Guy claims Alstadt contacted him and told him he would like to see Guy win. (AG 19/ln. 1-3, App. Ex. 4). However, Guy also states he does not know what kind of support Alstadt may or may not have given him. (AG 19/ln. 3-4, App. Ex. 4).

Defendants' Reply: Admitted.

85. Undisputed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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

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