

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

CURTIS LARRICK,

Civil Division

Plaintiff,

No.16-282

v.

Magistrate Judge Eddy

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

Defendants.

JURY TRIAL DEMANDED

**PLAINTIFF'S RESPONSE TO DEFENDANT'S STATEMENT OF UNDISPUTED
MATERIAL FACTS**

1. Undisputed.

2. Undisputed.

3. Undisputed.

4. Undisputed.

5. Undisputed.

6. Undisputed.

7. Undisputed.

8. Undisputed.

9. Undisputed.

10. 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/lr. 18-23, App. Ex. 1).

11. 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/ln. 10-16, App. E x. 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/ln. 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/ln. 17-24, App. Ex. 1). Larrick was then contacted by the police and instructed to pick up his son. (CL 104/ln. 20-24, App. Ex. 1). Larrick did so. (CL 105/ln. 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/ln. 10-17, App. Ex. 1).

12. Undisputed.

13. Undisputed.

14. 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).

15. 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).

16. 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).

17. Undisputed.

18. 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).

19. Undisputed.

20. 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).

21. 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).

22. 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/ln. 1-18, App. Ex. 1). Larrick maintained that that was not the nature of their relationship. (CL 128/ln. 1-5, App. Ex. 1). Larrick spoke to the clerk when he was assigned to Judge Kwidis’s courtroom. (CL129/ln. 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/ln. 15-18, App. Ex. 1). Alstadt addressed this issue with Larrick. (RD 29/ln. 23-24, App. Ex. 2). He told him to avoid the clerk while on duty, which Larrick did. (CL 129/ln. 19-23; 130/ln. 9-12, App. Ex. 1). Larrick showed Alstadt the text messages they had exchanged. (CL 130/ln. 7-10, App. Ex. 1).

A written disciplinary report with no attached disciplinary action was generated as a result of this incident. (RD 29/ln. 25; 30/ln. 1-4, App. Ex. 2).

23. 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).

24. Undisputed.

25. 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).

26. 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.

27. Undisputed.

28. 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).

29. 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).

30. Undisputed.

31. Undisputed.

32. Undisputed.

33. Undisputed.

34. Undisputed.

35. Undisputed.

36. 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).

37. Undisputed.

38. 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. (AG 47/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).

39. Undisputed.

40. Undisputed.

41. Undisputed.

42. Undisputed.

43. Undisputed.

44. Undisputed.

45. Undisputed.

46. Undisputed.

47. 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).

48. Undisputed.

49. 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).

50. 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).

51. 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).

52. 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).

53. Undisputed.

54. 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).

55. Undisputed.

56. 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).

57. 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).

58. 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).

59. Undisputed.

60. 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).

61. 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).

62. 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).

63. 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).

64. Undisputed.

65. Undisputed.

66. Undisputed.

67. Undisputed.

68. 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).

69. 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).

70. 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).

71. Undisputed.

72. Undisputed.

73. 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/lm. 22-25, App. Ex. 6).

74. Undisputed.

75. 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/lm. 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/lm. 13-14, App. Ex. 4).

76. Undisputed.

77. Undisputed.

78. Undisputed.

79. Undisputed.

80. 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/lm. 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/lm. 23-25, App. Ex. 4).

81. Undisputed.

82. Undisputed.

83. Undisputed.

84. Undisputed in part. Disputed in part. It is undisputed that Alstadt expressed some support to Guy during the election. (AG 19/lm. 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/lm. 25; 39/lm. 1-2, App. Ex. 3). He met with both Kress and Guy during the election process. (JA 38/lm. 4-19; 43/lm. 8-24, App. Ex. 3). Alstadt met with Guy to tell him why he needed to keep him. (JA 43/lm. 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/lm. 6-12, App. Ex. 3). Guy claims Alstadt contacted him and told him he would like to see Guy win. (AG 19/lm. 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/lm. 3-4, App. Ex. 4).

85. Undisputed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify on this 13th day of July, 2017, I served a copy of *Plaintiff's Response to Defendant's Statement of Undisputed Material Facts* via electronic mail upon the following:

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