

1 APPEARANCES:

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On behalf of the Plaintiff:

3

TERRY GILBERT, ESQ.
Friedman & Gilbert
1370 Ontario Street, Suite 600
Cleveland, Ohio 44113
(216) 241-1430

6

7 On behalf of the Defendants:

8

JULIE A. BICKIS, ESQ.
Mazanec, Raskin & Ryder Co., L.P.A.
100 Franklin's Row
34305 Solon Road
Cleveland, Ohio 44139
(440) 248-7906

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On behalf of Lorain County:

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DAN PETTICORD, ESQ.
Assistant Prosecuting Attorney
Lorain County Justice Center
225 Court Street, 3rd Floor
Elyria, Ohio 44035
(440) 329-5389

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18 ALSO PRESENT:

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Joseph Montelon

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MR. GILBERT

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- - -

OBJECTIONS BY

MR. PETTICORD

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25, 27, 31, 32, 33,
44, 45(2), 49(2)
39, 49(2)

MS. BICKIS

- - -

1 RICHARD RESENDEZ
2 a Witness, called for examination by the Plaintiff,
3 under the Rules, having been first duly sworn, as
4 hereinafter certified, deposed and said as follows:

5 CROSS-EXAMINATION

6 MR. GILBERT: Let the
7 record reflect that we are here to do the
8 deposition of Richard Resendez per an
9 informal agreement to make him available.

10 We appreciate that.

11 BY MR. GILBERT:

12 Q. Mr. Resendez, I'm going to ask you some
13 questions, and if you have any concern about
14 whether the question is clear or not, just feel
15 free to let me know.

16 A. Yes, I will.

17 Q. Of course, you have to give audible answers so
18 the court reporter can take everything down.

19 A. Yes.

20 Q. Fair enough?

21 A. Fair enough.

22 Q. For the record, please state your name.

23 A. Richard Resendez, R-E-S-E-N-D-E-Z.

24 Q. And, Mr. Resendez, are you currently employed?

25 A. Yes, I am.

1 Q. And in what capacity?

2 A. I'm the investigator inspector for North Coast
3 Correctional.

4 Q. What kind of institution is that?

5 A. It's a level 1 prison for the State of Ohio
6 located in Grafton, Ohio.

7 Q. And how long have you been in that position?

8 A. Fifteen months.

9 Q. So you're actually employed by the State of Ohio;
10 is that correct?

11 A. No, that's not correct. I'm employed by
12 Management Training Corporation. North Coast
13 Correction is one of the two privately ran
14 prisons in the State of Ohio.

15 Q. Management Training --

16 A. Corporation, MTC.

17 Q. But this prison houses offenders through the
18 state system; is that correct?

19 A. That's correct.

20 Q. All right. And prior to your employment at North
21 Coast Correctional, where were you employed?

22 A. Lorain County Sheriff's Office.

23 Q. How long were you there?

24 A. Eight years.

25 Q. And why did you leave the Lorain County Sheriff's

1 Department?

2 A. I was laid off.

3 Q. What year was that?

4 A. 2010.

5 Q. Is that because of budgetary issues?

6 A. Yes, sir.

7 Q. And who was the sheriff in 2010?

8 A. Phil Stammitti.

9 Q. Is he still there?

10 A. Yes.

11 Q. And what was your rank when you were laid off?

12 A. Captain.

13 Q. How long had you been a captain before you
14 departed?

15 A. All eight years.

16 Q. What were your duties?

17 A. For seven of the eight years I was the director
18 of law enforcement. And my last year there I was
19 the director of corrections.

20 Q. Prior to being a Lorain County Sheriff's
21 employee, where did you work?

22 A. Lorain Police Department.

23 Q. And tell me the years you were there.

24 A. 1976 to 2002.

25 Q. Just give me a brief rundown of your career

1 assignments or promotions during that period.

2 A. 1976 I was hired as a police cadet, which was an
3 18-month program, federally funded program. Once
4 I completed that, I became a Lorain City
5 Correctional officer, worked in the jail for a
6 short period of time. At age 22 I took the
7 police exam and subsequently got on the police
8 department in 1979 as a sworn officer.

9 From '79 to 2002 as a sworn officer the
10 majority of my duties were in the detective
11 bureau, narcotics, and the adult division. In
12 narcotics and the adult division I subsequently
13 made rank of sergeant and lieutenant, and my last
14 several years there I was assigned as a staff
15 lieutenant to the chief's office.

16 Q. Why did you leave Lorain Police Department?

17 A. Sheriff Stammitti contacted me and asked me if I
18 ever thought of coming to the sheriff's office
19 and he offered me the captain's position as the
20 director of law enforcement.

21 Q. There was no ill will or anything with the Lorain
22 Police Department?

23 MR. PETTICORD: Objection.

24 Relevance. I understand it's his
25 background, very little movement.

1 If you want to answer, go ahead.

2 A. The question?

3 Q. Let me rephrase it.

4 You were not disgruntled with your job at
5 Lorain; were you?

6 MR. PETTICORD: Same
7 objection.

8 Go ahead.

9 A. Absolutely not.

10 Q. You considered this to be a career advancement?

11 A. I wouldn't say an advancement. I would say an
12 opportunity.

13 Q. Did you know Joseph Montelon?

14 A. Yes.

15 MR. PETTICORD: Objection.
16 Which one?

17 MR. GILBERT: The plaintiff
18 in this case.

19 THE WITNESS: There's two.

20 MR. PETTICORD: There's two,
21 right.

22 BY MR. GILBERT:

23 Q. You knew his father?

24 A. Yes, I worked with his father.

25 Q. Did you know his son, Joe Montelon, Jr?

1 A. Yes.

2 Q. How did you know him?

3 A. My years at the Lorain Police Department. Mr.
4 Montelon, Jr. subsequently became a police
5 officer and was on the department at the same
6 time I was.

7 Q. Were you aware of circumstances that caused him
8 to leave the department?

9 A. Yes.

10 Q. It was public knowledge, right, that he had a
11 criminal matter?

12 A. Yes.

13 Q. Did you work with Mr. Montelon in the field?

14 A. I don't believe so. I --

15 Q. Were you involved in any investigations back then
16 when Mr. Montelon was in the department that
17 pertained to him?

18 A. No.

19 MR. PETTICORD: Let him
20 finish the question before you start,
21 okay? Saves her a lot of trouble and
22 consequently me a lot of trouble.

23 BY MR. GILBERT:

24 Q. Did you have any role in connection with his
25 being terminated from the department?

1 A. No.

2 Q. I take it that you had a relationship, a
3 professional relationship, with Cel Rivera, the
4 chief; correct?

5 A. Yes.

6 Q. Did you know Thomas Nimon?

7 A. Yes.

8 Q. Did you work with him?

9 A. Yes.

10 Q. Did you know an Andrew Mathewson?

11 A. Yes.

12 Q. Did you work with him?

13 A. Yes.

14 Q. I assume you were friends with the chief?

15 A. Yes.

16 Q. And Mathewson as well?

17 A. Yes.

18 Q. And how about Tom Nimon?

19 A. Yes.

20 Q. Now, calling your attention to the mid 2000s, I
21 understand you were asked to get involved in some
22 allegations concerning the Lorain Police
23 Department from the sheriff's department; is that
24 right?

25 MR. PETTICORD: Objection.

1 If you understand the question that he
2 asked, you can answer.

3 BY MR. GILBERT:

4 Q. Do you understand the question?

5 I guess you didn't.

6 MR. PETTICORD: Fair summary.

7 A. I guess in the mid 2000s, I would just ask for
8 some clarification.

9 Q. From the time that you left to become a member of
10 the Lorain County Sheriff's Department had you
11 done work for special assignments for the Lorain
12 City Police Department?

13 A. Yes.

14 Q. Okay. Tell us about those assignments.

15 A. Chief Rivera had contacted Sheriff Stammitti and
16 asked him if he would assign me to look into
17 allegations that an individual he felt at the
18 Lorain Police Department may be providing
19 internal documents and information to people
20 outside the police department.

21 Chief Rivera did not know who that individual
22 may or may not have been, so he could not go to
23 -- within his department. Having been with the
24 Lorain Police Department, he asked Sheriff
25 Stimitti if he would assign me to look into those

1 allegations, and that was my assignment.

2 Q. What year was that?

3 MR. PETTICORD: If you
4 remember.

5 A. I really don't remember.

6 Q. Was this in connection also with the so-called
7 anonymous letters that were being disseminated in
8 the community?

9 A. No, no, it wasn't.

10 Q. It had nothing to do with that?

11 A. No.

12 Q. Was it around the time that these letters were
13 being disseminated that you were asked to provide
14 this service?

15 MR. PETTICORD: Do you want
16 to go ahead?

17 I just was going to make a statement
18 to counsel, but that's all right.

19 A. I believe it was prior to these letters.

20 MR. PETTICORD: If you want
21 to ask him what the assignment pertained
22 to, if that would help you.

23 BY MR. GILBERT:

24 Q. I know you were assigned to the Jessie Sanchez
25 matter, is that what you were referring to?

1 A. That's what I was referring to.

2 Q. I got confused.

3 A. No.

4 Q. So the first time that you ever were borrowed to
5 do some work with the Lorain City Police
6 Department had to do with the Jessie Sanchez
7 matter; correct?

8 A. That's correct.

9 Q. And that had to do with the disclosures in the
10 Sarah Long case; is that right?

11 I'm trying to speed this along.

12 A. Yes, that's correct.

13 Q. Did the name Joseph Montelon surface in
14 connection with that matter?

15 A. I can't remember.

16 Q. What was your job assignment in connection with
17 that investigation?

18 A. With the Jessie Sanchez investigation?

19 Q. Yes.

20 A. To specifically come up -- Jessie Sanchez had
21 filed an affidavit and named specific points in
22 this affidavit, and to determine his knowledge of
23 those points in the affidavit whether he had
24 firsthand knowledge or he didn't.

25 Q. I take it that you interviewed Jessie Sanchez in

1 connection with that investigation?

2 A. Yes.

3 Q. And were you involved in a criminal investigation
4 or was it -- I mean, what was the nature of that
5 investigation?

6 A. Again, just to determine based on the affidavit
7 that Mr. Sanchez had filed whether he knew or he
8 didn't know firsthand the allegations that were
9 in there.

10 Q. And did you prepare some kind of a finding?

11 A. Yes.

12 Q. And what was your finding?

13 A. That Officer Sanchez did not have firsthand
14 knowledge of any of the allegations.

15 Q. Now, do you know a reporter by the name of Mark
16 Puente?

17 A. Yes.

18 Q. When did you first meet him?

19 A. I couldn't tell you the year, sir.

20 Q. Did you ever meet him?

21 A. Yes.

22 Q. Personally?

23 A. Yes.

24 Q. And in what context would that have been?

25 A. Through my assignment as a staff lieutenant. I

1 was the public information officer for the Lorain
2 Police Department to provide information to the
3 local media.

4 Q. Your title again was?

5 A. Public information officer.

6 Q. What time frame was that?

7 MR. PETTICORD: Again, he's
8 looking for your best recollection.

9 A. It was probably 1999 through 2002.

10 Q. Were you the point man to give information to the
11 media regarding matters relevant to the Lorain
12 Police Department?

13 A. Yes.

14 Q. Did you have regular contact with Mr. Puente
15 during that period of '99 to 2002?

16 A. Yes, I had regular contact.

17 Q. Was he a reporter for the Plain Dealer then, if
18 you recall?

19 A. I couldn't tell you which paper he was a
20 reporter.

21 Q. Now, after 2002 did you have contact with him
22 while you were in the sheriff's department?

23 A. Yes.

24 Q. And why would you have contact with him while you
25 were in the sheriff's department?

1 A. Same capacity, to provide information to the
2 local media based on any law enforcement issues
3 that the Lorain County Sheriff's Office would
4 come into.

5 Q. So you performed a similar function with the
6 media when you went to the sheriff's department?

7 A. Yes.

8 Q. And was there a title?

9 A. No, no title. It was just part of the job
10 assignment as director of corrections, or excuse
11 me, director of law enforcement.

12 Q. And how frequently -- give us your best estimate
13 -- did you have contact with Mr. Puente?

14 MR. PETTICORD: Talking about
15 when he's in the sheriff's department;
16 right?

17 MR. GILBERT: Yes.

18 A. Every couple weeks. It would depend on what
19 situation was going on at the sheriff's office.

20 Q. Did you have contact with Mr. Puente during the
21 period in which you were investigating the
22 allegations from Jessie Sanchez?

23 A. I don't remember.

24 MR. PETTICORD: Talking about
25 relevant to Mr. Sanchez, or just

1 generally?

2 MR. GILBERT: Well, we've
3 established that he was asked to perform
4 an investigation for the Lorain Police
5 Department regarding the Jessie Sanchez
6 allegations.

7 BY MR. GILBERT:

8 Q. Question is, during that period when you were
9 performing that function did you have contact
10 with Mark Puente?

11 A. I don't remember.

12 Q. Do you recall an article that was written by the
13 Plain Dealer concerning the allegations of sexual
14 misconduct in the Lorain City Police Department?

15 A. I recall an article, yes.

16 Q. Did you give any information or make any comment
17 with respect to that article, that you recall?

18 MR. PETTICORD: Objection.
19 Outside of the scope.

20 Go ahead.

21 Unless I tell you don't answer,
22 answer.

23 A. I don't recall.

24 Q. Now, the contact that you had with Mr. Puente,
25 was that over the phone or was it in person, or

1 both?

2 A. Both.

3 Q. So, you know, if he walked into this room you'd
4 know who he was or you would recognize him?

5 A. Yes.

6 Q. Where have you met him in terms of locations?

7 A. Lorain Police Department. Lorain County
8 Sheriff's Office. Crime scenes.

9 Q. Any other reporters with the Plain Dealer that
10 you had contact with, that you recall?

11 A. I would receive calls and speak with John
12 Caniglia, who was with the Plain Dealer.

13 Q. Anyone else that you can think of?

14 A. From the Plain Dealer?

15 Q. Yes.

16 A. No, I don't recall.

17 Q. Would it be more accurate to say that you had
18 more contact with Mark Puente than John Caniglia?

19 A. Yes.

20 Q. Now, did there come a time when you became aware
21 of letters, anonymous letters, that were being
22 sent out into the community making accusations
23 against various public officials, including the
24 chief of police for Lorain?

25 A. Yes.

1 Q. And do you recall whether your name came up in
2 any of those anonymous letters?

3 A. I recall it did.

4 Q. Tell us what you recall about how your name was
5 used in those letters.

6 A. I was referred to -- and I received some of those
7 letters, not all of them, I was referred to as in
8 my capacity and friendship with the chief of
9 police, I believe one letter referred to me as
10 his toga boy.

11 Q. Anything else you can recall?

12 A. No, not really.

13 Q. Now, we have received information in this case
14 that you learned that Joseph Montelon was the
15 writer of these letters?

16 A. That's correct.

17 MS. BICKIS: Is that a
18 question?

19 BY MR. GILBERT:

20 Q. Okay?

21 A. Yes.

22 Q. And I want to ask you, have you reviewed any
23 documents or depositions that have been taken in
24 this case in preparation for your deposition
25 today?

1 A. No.

2 Q. Were you aware that there was a search warrant
3 culminating in a search of Mr. Montelon's home in
4 Lake County?

5 A. Yes.

6 Q. Did you have any role in the investigation that
7 culminated in that search?

8 MR. PETTICORD: Do you want
9 to ask him to break it down a little bit?

10 BY MR. GILBERT:

11 Q. Were you part of the investigation of Joseph
12 Montelon?

13 A. No.

14 MR. PETTICORD: That's fine.

15 A. No.

16 Q. Did you provide any information to investigators
17 who were investigating Mr. Montelon?

18 A. I provided information to the chief of police.

19 Q. And you did that in a professional capacity or as
20 a friend or just a fellow law enforcement
21 officer?

22 Can you explain in what capacity you did that?

23 A. Probably a combination of all three.

24 Q. All right. And what was the information you
25 provided to the chief?

1 A. That Joseph Montelon was mentioned as a letter
2 writer.

3 Q. Do you remember how it is that you conveyed that
4 information to the chief?

5 A. No, I don't remember whether it was phone call or
6 in person.

7 Q. Did you make any kind of written memorandum of
8 that contact with the chief?

9 A. No.

10 Q. Do you remember the year that you gave the chief
11 that information?

12 A. It would be the year that the search warrant was
13 executed.

14 Q. Do you remember the time of year that you gave
15 him that information?

16 A. Best of my recollection it was mid-summer, late
17 summer.

18 Q. This was before the search; correct?

19 A. Correct.

20 Q. You were at the search, were you not?

21 A. Correct.

22 Q. So from a time reference standpoint, weeks or how
23 many months before that search warrant did you
24 tell the chief that Joseph Montelon was mentioned
25 as the letter writer?

1 A. Best recollection would be a month and a half to
2 two months, if I remember correctly.

3 Q. All right. And once again, tell me everything
4 you told the chief about Joseph Montelon being
5 mentioned as the letter writer.

6 What did you actually -- I'm not asking you
7 word-for-word, but substantively what was the
8 conversation, if you can remember as specific as
9 possible?

10 A. In speaking with the chief, I told him that I
11 obtained Joseph Montelon's name as a possible
12 letter writer. And I also told him who provided
13 me that information.

14 Q. And tell me, to the best of your recollection,
15 what you said and what he said during that
16 conversation.

17 A. I told him I had met with Mr. Puente and that Mr.
18 Puente had told me that Mr. Montelon was the
19 letter writer and that he knew that. And I just
20 provided that information to the chief, and that
21 was probably the extent of it.

22 Q. Where did you meet him?

23 MR. PETTICORD: Talking about
24 the chief or Puente?

25 MR. GILBERT: No.

1 BY MR. GILBERT:

2 Q. I mean where did you meet Mr. Puente? You said
3 you met with him.

4 A. At a restaurant.

5 Q. Do you remember what restaurant it was?

6 A. No, I don't. It was in Westlake, if I remember.

7 Q. How did this meeting come together?

8 A. I don't know if -- I can't recall if I called Mr.
9 Puente or Mr. Puente called me, but we agreed to
10 meet for lunch at this restaurant in Westlake,
11 and we subsequently did.

12 Q. What was the name of the restaurant, do you
13 remember?

14 A. I don't remember.

15 Q. Was the nature of the meeting discussed before
16 you actually met?

17 A. I believe it was.

18 Q. So you don't remember if you called him or he
19 called you?

20 A. Specifically, no, because we --

21 Q. Why would you call him?

22 A. Again, through my relationship with the media
23 that I believe that Mr. Puente -- again, we may
24 have had several conversations prior to this
25 lunch date, that date, that he may know the

1 identity and I wanted to meet with him and see
2 if, in fact, we can discuss this.

3 Q. All right. So tell me about the several
4 conversations.

5 Can you recall when the first time the issue
6 of who the letter writer's identity came up?

7 A. No, I can't.

8 Q. Were you interested in finding out who the letter
9 writer was?

10 A. Yes.

11 Q. And why were you interested to find out who the
12 letter writer was?

13 A. Because I was mentioned in the letters.

14 Q. So this was just a personal thing on your part,
15 not a law enforcement kind of --

16 A. No, I wouldn't say that to be 100 percent true.
17 It was a little bit of both.

18 Q. You were not assigned to the investigation;
19 correct?

20 A. No, correct.

21 MR. PETTICORD: Again, let
22 him finish his question.

23 THE WITNESS: Yes, sir.

24 BY MR. GILBERT:

25 Q. But clearly because you were mentioned in a

1 negative light, you wanted to find out who would
2 do this to you?

3 A. Yes.

4 Q. Okay. And why would you think that Mark Puente
5 would know this information?

6 A. To the best of my recollection, I believe in our
7 conversations prior to this lunch date that I
8 felt that he, in fact, possessed information of
9 the identity of the writer.

10 Q. Why would you feel that?

11 A. Again, without recalling the specifics of the
12 conversations, it was just the gist of the prior
13 conversations I had with him. Just an intuition.

14 Q. What were the prior conversations you had with
15 him?

16 MR. PETTICORD: Objection.

17 Asked and answered.

18 If you can answer it differently, go
19 ahead.

20 A. And I don't recall the specifics of those prior
21 conversations.

22 Q. But you knew that -- did the name Joseph Montelon
23 come up in those prior conversations?

24 A. No.

25 Q. Were those prior conversations about other

1 subjects, unrelated to anonymous letters?

2 A. Well, I don't recall.

3 Q. So you don't recall what the other conversations
4 were about?

5 A. The contact.

6 Q. Before you met him at the restaurant?

7 A. No, I don't recall the specifics, no.

8 Q. Well, do you remember anything, in general, about
9 what those conversations were?

10 A. No.

11 Q. Well, can you give us any assistance here as to
12 why you would be having conversations with Mark
13 Puente of the Plain Dealer that led to a meeting
14 at a restaurant?

15 Can you give us any help on that?

16 A. Mr. Puente would call as a reporter and, again,
17 based on what was going on at specific times with
18 the sheriff's office, he may follow up on those
19 -- that particular case.

20 In those conversations we may have discussed
21 the letters that were coming out.

22 Q. Did you talk to him about the fact that you were
23 interested in knowing who the letter writer was
24 because your name was mentioned?

25 A. I don't recall.

1 Q. Is that a possibility?

2 A. Yes, it is.

3 Q. Did you request this meeting at the Westlake
4 restaurant?

5 MR. PETTICORD: Objection.

6 Asked and answered.

7 Go ahead.

8 A. I don't recall if I suggested it or not.

9 Q. Did he offer to disclose to you information that
10 would be helpful to you before you met with him?

11 A. No.

12 Q. Was the subject matter of this meeting at the
13 restaurant discussed before the meeting itself?

14 A. I can't recall.

15 Q. What was your understanding of what the purpose
16 of the meeting was?

17 A. What I wanted to do was explain my interpretation
18 and my opinion of these letters to him, to Mr.
19 Puente.

20 Q. What was your interpretation of the letters?

21 A. I felt that they were not only damaging, but in
22 certain aspects -- they were accusing individuals
23 of crimes and I wanted to relay that to him.

24 Q. Were you accused of crimes?

25 A. I don't believe so.

1 Q. Did you report your interpretations to a law
2 enforcement official that would have jurisdiction
3 over that matter?

4 A. I don't understand the question.

5 Q. Well, I mean, you felt these letters were
6 damaging and included accusations that
7 individuals are committing crimes; correct?

8 A. Correct.

9 Q. Did you, rather than just go to Mr. Puente, did
10 you bring your concerns to any law enforcement
11 officials that would have an interest in looking
12 into this?

13 A. I may have had conversations with my supervisor,
14 Sheriff Stimitti, and the chief.

15 Q. Well, when did you talk to the chief prior to
16 this -- strike that.

17 Prior to the meeting at the restaurant, did
18 you talk to Chief Rivera about these letters?

19 A. Yes.

20 Q. Were those conversations in person or were they
21 by phone?

22 A. Both.

23 Q. Tell us what your conversations were.

24 A. I had received some, not all, letters. The chief
25 would receive some letters that maybe I didn't

1 receive. And if I received a letter, I would
2 contact him and say, hey, I got a letter today.
3 Or the sheriff was even receiving letters, he got
4 a letter today or the chief, when he would
5 receive a letter, he would contact me and say,
6 hey, I got a letter today.

7 It was just a continuing conversation between
8 the law enforcement agencies.

9 Q. When you were talking to the chief or the sheriff
10 about these letters, I guess you were kind of
11 comparing notes or ideas about it; right?

12 A. We didn't know if we all got them or one person
13 got them. We were just, again, sharing the
14 information that was in the letter.

15 Q. And were these discussions pursuant to any
16 official investigation that was going on?

17 A. I don't know.

18 Q. You were just talking to him as a friend about
19 these letters?

20 A. A friend and a fellow law enforcement officer.

21 Q. Did the chief indicate to you what he was doing
22 about these letters, if anything?

23 A. I don't believe he did.

24 Q. So just to recap, you had a running dialog with
25 the chief concerning these letters prior to your

1 meeting with Mark Puente; correct?

2 A. Yes.

3 Q. And you had some discussions with Mark Puente
4 about the letters, in general, prior to the time
5 that you met with him at the Westlake restaurant
6 for lunch; correct?

7 A. Correct.

8 Q. Had he written about these letters in an article
9 prior to you meeting with him at the restaurant,
10 if you recall?

11 A. I don't recall.

12 Q. Tell us what happened at the lunch meeting.

13 A. We discussed the letters. I provided what I knew
14 about them that was sent to me, to Mr. Puente.
15 Mr. Puente had information. Whether he received
16 letters or not was unbeknownst to me, he had
17 information. And during the course of lunch I
18 pointed out the fact to him that, again, in some
19 of these letters individuals were being accused
20 of committing a crime or crimes and I felt that
21 that wasn't right.

22 Q. Okay, continue on.

23 A. As I explained in my opinion, the difference to
24 Mr. Puente saying if somebody says something
25 about me personally, that's one issue. But if

1 somebody says that I committed a crime, that's
2 another issue, and I explained, again, in my
3 opinion I thought that was a very, very serious
4 matter.

5 And as we discussed this, Mr. Puente began to
6 indicate to me, well, you know the individual.

7 Q. Okay, continue.

8 A. And then he would give me clues as to, well, the
9 individual didn't retire from the police
10 department.

11 Q. Continue.

12 A. As I tried to go through the years of the police
13 department to figure out who retired and who
14 didn't retire, under whatever status that they
15 left the police department, I started throwing
16 out names. Mr. Montelon's name was not one of
17 the ones I threw out.

18 As we started to continue the discussion, Mr.
19 Puente indicated, you're just not getting it. At
20 which point he goes, the individual is, and he
21 referred to him as Joey. And I said, Montelon?
22 He said yes.

23 Q. Who paid for lunch?

24 MR. PETTICORD: Objection.

25 If you remember.

1 A. I don't remember.

2 Q. Was this an off-the-record discussion?

3 He's a reporter, you're a non-reporter, you're
4 talking about matters relating to these letters.
5 Was there any kind of statement by him that this
6 is off the record?

7 A. I can't remember. I don't know if that was ever
8 said or not.

9 Q. Did he tell you not to mention my name if anybody
10 asks you where you got this information?

11 A. Yes, he did. He did mention that.

12 Q. What did he say?

13 A. Exactly what you said, that not to mention his
14 name.

15 Q. But you did mention his name to the chief; right?

16 A. Yes.

17 Q. So why didn't you respect his request?

18 MR. PETTICORD: Objection.

19 Argumentative.

20 A. Again, I don't -- because he requested it when I
21 provided that information to the chief that the
22 name of Joseph Montelon was given to me, I also
23 provided Mr. Puente's name as the person who gave
24 it to me.

25 Q. So you did not abide by his wish that you leave

1 his name out of it; correct?

2 MR. PETTICORD: Objection.

3 Argumentative.

4 Yes or no?

5 A. No.

6 Q. Okay. Did you consider Mark Puente, you know,
7 someone who you had a pleasant and amiable
8 relationship with prior to that point?

9 A. Yes.

10 Q. Had he ever given you information in the past
11 about matters that were part of his journalistic
12 inquiries?

13 A. No.

14 Q. So this is the first time he disclosed
15 information to you about something that he had
16 been involved with as a journalist; is that
17 correct?

18 A. That's correct.

19 Q. Did you ask him how he knew that the individual
20 who was the letter writer was Joe Montelon?

21 A. Yes.

22 Q. And what was his answer?

23 A. That Mr. Montelon told him he was.

24 Q. Any other information that you got from Mr.
25 Puente that you didn't know before you went into

1 that meeting?

2 A. Other than Mr. Montelon's name, no.

3 Q. Were any other names mentioned as associates of
4 Mr. Montelon or people who might have assisted
5 him in anything?

6 A. No, not that I recall.

7 Q. I think you said you didn't remember if you met
8 in person with the chief or did this by phone, is
9 that correct, when you went to disclose this
10 information?

11 A. That's correct.

12 Q. Did the chief ask you questions about how
13 reliable this information was?

14 A. I don't believe so.

15 Q. And you told the chief -- you used the term
16 "mentioned as the letter writer," but Mr. Puente
17 said he, in fact, was the letter writer. That's
18 a little different; right?

19 A. Initially he mentioned Mr. Montelon as the letter
20 writer. When I inquired how he knew, he
21 expounded and said he was told by Mr. Montelon he
22 was the letter writer.

23 Q. Did you tell the chief exactly what Mr. Puente
24 had told you at the lunch?

25 A. Yes.

1 Q. Did the chief ask you to find out any additional
2 information?

3 A. No.

4 Q. Did you have any further meetings with Mr. Puente
5 after that?

6 MR. PETTICORD: About this
7 topic?

8 MR. GILBERT: About
9 anything.

10 A. Oh, about anything? I couldn't tell you.

11 Q. Well, do you remember seeing him again?

12 A. I can't --

13 MR. PETTICORD: Hold on, let
14 him finish his answer.

15 A. Again, I was still employed at the sheriff's
16 office and cases of criminal matter would come
17 through the sheriff's office. I may or may not
18 have had contact after this meeting based on my
19 employment and providing information as the
20 director of law enforcement.

21 Q. So you don't remember?

22 A. I don't remember. I could have.

23 Q. So you specifically can't remember if you
24 actually saw him again, personally, after that
25 meeting?

1 A. No, not specifically.

2 Q. Did you tell anyone else, other than the chief,
3 about this meeting and what was told you by Mr.
4 Puente?

5 A. Yes.

6 Q. Who was that?

7 A. Gino Taliano.

8 Q. Who's Gino Taliano?

9 A. A former Lorain -- retired Lorain police officer.

10 Q. And where does he live?

11 A. Where does he live?

12 Q. Yes.

13 A. In Lorain.

14 Q. How did it come about that you told him?

15 A. Mr. Taliano and I were partners for the majority
16 of our career at Lorain Police Department and I
17 felt that I could confide in Mr. Taliano about
18 this information.

19 Q. Anyone else that you told this information to?

20 A. Sheriff Stammitti.

21 Q. And when did you tell this information to Sheriff
22 Stammitti?

23 A. Shortly after my meeting with Mr. Puente.

24 Q. And did he have any comments to make about this?

25 A. I can't recall.

1 Q. Well, do you remember how it came about you told
2 him?

3 Did you go into his office and say I have
4 something I want to share with you?

5 A. The sheriff had received letters just -- he was
6 on the mailing list so he had received some
7 letters. So when I obtained this information, as
8 him being the sheriff and my supervisor, I went
9 in and told him, hey, I obtained this information
10 and I want to let you know. And I provided him
11 the same information that I've already testified
12 on.

13 Q. So we have Taliano -- did you tell Taliano before
14 you told the sheriff about this information?

15 MR. PETTICORD: If you
16 remember.

17 A. I don't remember.

18 Q. Who else did you talk to about this, other than
19 those two and the chief?

20 A. I believe that's all.

21 Q. And did you have any further conversations with
22 the chief concerning these letters after that
23 disclosure to the chief?

24 A. I can't recall.

25 Q. Did you meet with anyone else?

1 Did you ever meet with Dennis Will concerning
2 this information that you received from Mark
3 Puentes?

4 You know who Dennis Will is; right?

5 A. Yes.

6 Q. County prosecutor?

7 A. Yes.

8 I don't know that I provided that information
9 to Mr. Will, per se. I did meet with Mr. Will,
10 though.

11 Q. And what was the reason you met with Mr. Will?

12 A. Mr. Will wanted -- during the -- apparently
13 during the course of an investigation some trash
14 had been pulled and my purpose was to review the
15 items in the trash for historical issues and
16 information.

17 Q. I'm not sure what you mean.

18 What do you mean by historical?

19 A. The officers that were assigned the investigation
20 by the chief were not part of the Lorain Police
21 Department when Mr. Montelon was there or his
22 father was there. Some of the letters referred
23 and made mention of circumstances that had
24 occurred well before those officers assigned to
25 investigate were on the department.

1 Having been on the department in the late
2 1970s and early 1980s I did, in fact, know about
3 some of the -- some of the historical issues that
4 had occurred and I would be able to say, yeah,
5 this is what he's referring to or I don't
6 understand what -- again, just for historical
7 purposes.

8 Q. And where did you review this material from the
9 trash pull?

10 MS. BICKIS: Objection.

11 We're getting a little bit close to a
12 confidential issue.

13 BY MR. GILBERT:

14 Q. Can you answer that?

15 MS. BICKIS: Can you
16 answer it without revealing the exact
17 location?

18 MR. GILBERT: I didn't ask
19 him -- I asked him about the location.

20 A. I can't without revealing.

21 Q. I'm asking you, the question is where did you
22 look at these items?

23 A. At an office.

24 Q. At a law enforcement office?

25 A. No.

1 Q. Who else was there when you went through these
2 items?

3 A. To the best of my recollection it was myself,
4 Dennis Will and maybe Tom Nimon.

5 Q. What did you look at?

6 A. Trash.

7 Q. I mean specifically that related to historic
8 material, do you remember?

9 A. Just -- I recall just some papers that had been
10 discarded, practice letters, I guess --

11 Q. I'm sorry?

12 A. Practice letters, I guess, I could paraphrase it
13 as that were discarded in the trash.

14 Q. You're saying that some of these letters referred
15 to people and places and events early on and
16 years ago in connection --

17 A. Some of them did.

18 Q. -- in connection with the police, the Lorain
19 Police; right?

20 A. Yes.

21 Q. And you were kind of a resource person explaining
22 what those letters might be referring to?

23 A. Yes.

24 Q. Anything else that you -- any other people that
25 you -- strike that. I can't remember what the

1 question was that started this whole thing.

2 Did you ever meet with the FBI --

3 A. No.

4 Q. -- concerning these matters?

5 A. No.

6 Q. Other than the meeting with Cel Rivera, did you
7 talk about your conversations with Puente about
8 who the letter writer was?

9 Did you talk to anybody else that we haven't
10 mentioned?

11 A. I don't recall. I don't believe so.

12 Q. Now, you know what a confidential informant is --

13 A. Yes.

14 Q. -- in law enforcement parlance; right?

15 A. Yes.

16 Q. Did you consider Mr. Puente to be a confidential
17 informant?

18 A. No.

19 Q. What is a confidential informant?

20 A. In my opinion it could be someone that is on a
21 continuing basis providing information that you
22 may or may not know and could be substantiated at
23 a later date.

24 Q. Did you consider this to be an anonymous tip what
25 Mr. Puente told you?

1 A. No.

2 Q. How would you characterize it, as just some
3 information that you got that you passed on?

4 A. Yes.

5 Q. In the course of this period, were you ever asked
6 to write up a memo or a report or statement
7 regarding what you learned about the writer of
8 the letters?

9 A. No.

10 Q. Now, you were at the house, Joe Montelon's house,
11 when the search occurred; correct?

12 A. Correct.

13 Q. How is it that you were called upon to be present
14 at this search if you were not part of the
15 investigation?

16 A. I had had -- I was made aware by Officer Watkins
17 that they were going to execute a search warrant
18 or going to try to obtain a search warrant at
19 this particular time.

20 At that point I asked Officer Watkins if I can
21 just tag along.

22 Q. Did you get permission from the sheriff's
23 department to tag along?

24 A. Absolutely.

25 Q. And who did you get that permission from?

1 A. Sheriff Stammitti.

2 Q. Were you on duty or was this off duty when you
3 went to the search search?

4 A. Was I getting paid?

5 Q. Well, that's a good start.

6 A. I was a salary employee. I didn't receive any
7 overtime.

8 Q. So you at the time felt you were there as part of
9 a law enforcement capacity?

10 A. I went there because I knew Mr. Montelon and the
11 other officers did not.

12 MR. PETTICORD: Can we hold
13 on for one second?

14 MR. GILBERT: Sure.

15 (Thereupon, there was a brief recess.)

16 BY MR. GILBERT:

17 Q. I mean, how did you become aware by Detective
18 Watkins that there was going to be a search?

19 A. He called me.

20 Q. He called you?

21 A. I believe so.

22 Q. And why did he call you?

23 Did he tell you why?

24 A. I think he just wanted to give me a heads up what
25 they were doing, a courtesy.

1 Q. Why would you need to be told this, do you have
2 any idea?

3 MR. PETTICORD: Objection.

4 If you know you can --

5 A. No, I don't know why --

6 Q. You're not part of the investigation; correct?

7 A. That's correct.

8 Q. And was this call that you received from
9 Detective Watkins on the day of the search?

10 A. Yes.

11 Q. And did you receive a call on your cell phone or
12 at the sheriff's department, do you recall?

13 A. No, I don't.

14 Q. Where were you when you received the call?

15 A. I was on duty.

16 Q. I mean, were you physically at the headquarters
17 of the sheriff's department when you got the
18 call?

19 A. Oh, I don't recall.

20 Q. How is it that you got permission?

21 Did you make a phone call to the sheriff or
22 did you see him personally?

23 A. I believe I went in and seen him personally.

24 Q. What did he tell you?

25 A. I told him that I received this call from Officer

1 Watkins and they were executing the search
2 warrant and I would like to go, can I go, and he
3 granted permission for that.

4 Q. Did he tell you that if you go, you're doing it
5 outside of the parameters of the sheriff's
6 department?

7 MR. PETTICORD: Objection.

8 Answer, if you can.

9 A. I don't recall.

10 Q. Did he tell you that if you go out there to Lake
11 County, you're going there as a civilian and not
12 as a deputy?

13 A. No.

14 Q. Were you in uniform when you went out there?

15 A. Yes.

16 Q. Did Sheriff Stammitti, was he made aware that you
17 were going through the trash from a trash pull of
18 trash at Mr. Montelon's residence?

19 Was he made aware that you were part of that
20 process?

21 MR. PETTICORD: Objection.

22 Misstates prior testimony.

23 Go ahead and answer.

24 A. I was not part of that process of going through
25 the trash.

1 Q. Well, you testified earlier that you looked at
2 some of the items that were taken from the trash
3 pull; correct?

4 A. On that one occasion.

5 I'm sorry, maybe I misunderstood your
6 question. I thought you asked me if I was
7 pulling the trash.

8 Q. No, I'm sorry if you got that impression.

9 The question is when you were looking at the
10 items for historical input, did you get
11 permission from Sheriff Stammitti to do that?

12 A. I don't know. I don't know if it was a
13 continuing conversation that I would continually
14 update him on anything that I would obtain as
15 being the sheriff.

16 Q. Did the chief of police of Lorain, Cel Rivera,
17 keep you advised of the status of the
18 investigation during the period leading to the
19 search warrant?

20 A. I don't believe so.

21 Q. Who asked you to attend that meeting with Dennis
22 Will and, perhaps, Tom Nimon to assist in looking
23 at the items for historical value?

24 A. I don't recall.

25 Q. You don't remember how it came about that you

1 were notified to go to this location and assist
2 in some way?

3 A. I can't recall if it was Tom Nimon that
4 called or if it was Dennis Will that called.

5 Q. When you were at the house in Wickliffe where the
6 search occurred, did you talk to Joe Montelon?

7 A. Yes.

8 Q. What did you talk about?

9 A. When we approached the house, Mr. Montelon was in
10 the driveway. He saw me and I saw him and he
11 said -- if I remember correctly, he greeted me,
12 Ricky, what's going on? I said, Joe, we need to
13 talk to you. Then we went into the house.

14 Q. And did you talk to him?

15 A. Yes, I did.

16 Q. Tell us to the best of your recollection what you
17 talked about.

18 A. I made him aware of what was going on and I felt
19 that -- I guess I wanted -- I asked him why. We
20 explained we were there about the letters and why
21 me, why was I mentioned in the letters, because
22 I've never had any issues with Mr. Montelon. In
23 fact, during his course as a police officer I
24 tried to provide him with some guidance as a
25 senior officer as compared to some other

1 officers. I've never had a problem with him and
2 I felt that maybe we had a rapport.

3 Q. Well, did he answer the question that you posed
4 to him, why me?

5 A. He did.

6 Q. What did he say?

7 A. And I don't recall. It was non-specific. He
8 didn't admit to anything in particular. It was a
9 very short conversation. He made -- he was made
10 aware that we had an FBI agent accompanying
11 Watkins and Mathewson on the search warrant and
12 he, in my opinion, wanted to speak with him, the
13 FBI agent, more than he wanted to speak with me.

14 At that point I left. I left prior to the
15 conclusion of the search warrant.

16 Q. Did you say anything to the effect to Mr.
17 Montelon that he is going to have -- he's going
18 to have a nice life after we get through with
19 him?

20 A. No, not to that -- no.

21 Q. You didn't make any threats to him, at all?

22 A. No, I didn't make any threats.

23 Q. And did you have any other role in terms of
24 meetings or conversations after you left the
25 search premises in connection with this matter?

1 MS. BICKIS: Objection.

2 We are well outside the scope of
3 qualified immunity.

4 MR. PETTICORD: Objection.

5 MS. BICKIS: Are you about
6 done?

7 BY MR. GILBERT:

8 Q. Did you have any further discussions after the
9 search concerning the information that was
10 obtained by Mark Puente?

11 MS. BICKIS: Same
12 objection.

13 MR. PETTICORD: No -- same
14 objections.

15 That's after --

16 MR. GILBERT: I'm not
17 asking him about activities after, I'm
18 asking if there was any further discussion
19 about Mark Puente concerning what was told
20 him.

21 MR. PETTICORD: After the
22 execution of the warrant?

23 MR. GILBERT: Yes.

24 MR. PETTICORD: I don't think
25 there is anything relevant after the

1 execution of the warrant.

2 MR. GILBERT: Let him
3 answer the question.

4 MR. PETTICORD: Can you
5 answer that question?

6 A. The answer is no.

7 MR. GILBERT: That
8 eliminates the problem.

9 MR. PETTICORD: Fair enough.
10 Who said lawyers can't get along?

11 (Thereupon, there was a discussion off the
12 record.)

13 (Thereupon, there was a brief recess.)

14 MR. GILBERT: We have no
15 further questions.

16 MR. PETTICORD: We'll read
17 it.

18 MR. GILBERT: You'll waive?

19 MS. BICKIS: Read.

20 MR. PETTICORD: Read.

21 - - -

22 (DEPOSITION CONCLUDED.)

23 - - -

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25 _____
RICHARD RESENDEZ (Date)

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C E R T I F I C A T E

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STATE OF OHIO,)
) SS:
COUNTY OF CUYAHOGA.)

I, Lori A. Morris, a Notary Public within and for the State of Ohio, authorized to administer oaths and to take and certify depositions, do hereby certify that the within-named witness, RICHARD RESENDEZ, was by me, before the giving of his/her deposition, first duly sworn to testify the truth, the whole truth and nothing but the truth, that the deposition as above-set forth was reduced to writing by me by means of stenotypy, and was later transcribed into typewriting under my direction; that this is a true record of the testimony given by the witness; that said deposition was taken at the aforementioned time, date and place, pursuant to notice or stipulations of counsel, that I am not a relative or employee or attorney of any of the parties, or a relative or employee of such attorney or financially interested in this action. I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office, at Cleveland, Ohio, this 28th day of December, 2011.

Lori A. Morris, Notary Public, State of Ohio.
1360 West Ninth Street, Cleveland, Ohio 44113
My Commission expires April 21, 2012.