

EXHIBIT A

CERTIFIED
COPY

In The Matter Of:
MARK S. LUBUS vs. TOWN OF REDDING

Mark Lubus

February 17, 2022

*A Plus Reporting Service LLC
55 Whiting Street, Suite 1A
Plainville, CT 06062
203.269.9976*

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF CONNECTICUT

3
4 NO. CIVIL ACTION NO. 3:21cv00166(SRU)

5 MARK LUBUS
6 Plaintiff,

7 VS. February 17, 2022

8 TOWN OF REDDING,
9 Defendant.

10
11
12 Deposition of MARK LUBUS taken on behalf of the
13 Defendant in the hereinbefore entitled action, pursuant
14 to Federal Rules of Civil Procedures, before Karen L.
15 Vibert, a duly qualified Notary Public in and for the
16 State of Connecticut, held remotely for all
17 participants, with the witness located in, Connecticut,
18 commencing at 10:02 a.m., on February 17, 2022.

19
20
21
22
23
24
25 Karen Vibert, CT CSR No. 00064

1 A No.

2 Q Does anybody live in your household with
3 you?

4 A Yes.

5 Q Who is that?

6 A My father.

7 Q And your father's name is [REDACTED]

8 A Correct.

9 Q How old is your father?

10 A He's 87 years old.

11 Q How long has he been living with you?

12 A I bought the house in 1997; so, since
13 then.

14 Q Do you own the house yourself or do you
15 co-own it with your father?

16 A I own it.

17 Q What is your address?

18 A [REDACTED] Bridgewater,
19 Connecticut 06752.

20 Q Okay. Prior to 1997, did you own any
21 other home?

22 A I did.

23 Q Was that also in Bridgewater?

24 A No. I owned one in Danbury.

25 Q Was it one you lived in?

1 A No. I rented it.

2 Q Do you own any other real estate at the
3 moment?

4 A At the moment I own a piece of property
5 that's undeveloped.

6 Q Where is that located?

7 A Danbury.

8 Q What's the address?

9 A [REDACTED] Danbury.

10 Q How long have you owned that property?

11 A Since 2013.

12 Q Do you have any intention of developing
13 it?

14 A No. I'm trying to sell it at this time.

15 Q Is it on the market?

16 A Yes.

17 Q How long has this been on the market?

18 A Probably about four years.

19 Q Okay. Is it a large property?

20 A It's a one-acre parcel, single-family
21 dwelling.

22 Q It's zoned for single family?

23 A Correct.

24 Q Any other real estate besides that
25 property and your home?

1 A No.

2 Q So, it's you and your father living
3 together. Is your mother still living?

4 A Yes.

5 Q Where does your mother live?

6 A I don't know at this time.

7 Q What's your mother's name?

8 A Marlene Lubus. She might have a different
9 name.

10 Q You don't know?

11 A I don't.

12 Q Your parents were, at some point, married?

13 A Yes.

14 Q Do you know what year they were divorced?

15 I'm assuming they were divorced, first of all, but
16 do you know when they were divorced?

17 A Yeah. Probably about '98. 1998, '99.
18 Around there.

19 Q Once you were an adult?

20 A Yes, I was an adult.

21 Q Do you know the cause of the divorce?

22 A No.

23 Q When was the last time you saw your
24 mother?

25 A 1997.

1 Q Do you go to church for those holidays?

2 A No.

3 Q So, you celebrate those holidays in a
4 secular way?

5 A Yeah.

6 Q In your lawsuit you allege that you have
7 Jewish ancestors?

8 A Yes.

9 Q Who are your Jewish ancestors? How far
10 back?

11 A My Aunt Carol. Her parents were -- were
12 in the Holocaust. I know her father was.

13 Q So your Aunt Carol. Whose sibling is
14 that?

15 A It's on my father's side. His wife -- his
16 brother's wife was -- is my aunt.

17 Q So, your father's side, your father's
18 brother. What's your father's brother's name?

19 A It was Robert Lubus.

20 Q So, it's also your uncle?

21 A Yeah, Robert.

22 Q Robert Lubus?

23 A Yup.

24 Q And he married Carol?

25 A Correct.

1 Q And Carol was Jewish?

2 A Yes.

3 Q Okay. Is anyone related to you who is
4 Jewish?

5 A Related?

6 Q Yes.

7 A Other than that, no; but, my girlfriend's
8 children's children were raised in the Jewish faith.

9 Q Okay. Is Debra Jewish?

10 A No, she's not. But her husband was. Her
11 first husband, ex-husband.

12 Q What's his name?

13 A Charles Jarrow.

14 Q And he was Jewish?

15 A Yes.

16 Q And were their children Doug and Craig
17 raised Jewish?

18 A Yes.

19 Q Did they convert to Judaism?

20 A Not that I know of. I mean, I don't know
21 that, if they practice. I know that they celebrate
22 Hanukkah. And they do, you know, the prayers during
23 the holidays. Craig and Doug both teach their
24 children also the meaning of Hanukkah and the other
25 portions.

1 A Two.

2 Q Did they have bar or bat mitzvahs?

3 A No, they didn't.

4 Q To your knowledge, you yourself don't have
5 any Jewish blood; is that accurate?

6 A Correct.

7 MS. ZELMAN: I didn't quite make it an
8 hour, but let's take a break from now until 11:00
9 just to stretch our legs, and then we will go back
10 on the record at 11:00.

11 (Recessed from 10:52 a.m. until 11:05 a.m.)

12 MS. ZELMAN: Let's go back on the record.

13 BY MS. ZELMAN:

14 Q Mr. Lubus, or Mark, we talked a little bit
15 about your employment history. I just want to make
16 sure I have it. There's no other employer that we
17 haven't spoken about, or no other company that
18 you've worked with that we haven't already spoken
19 about or anything that we haven't spoken about?

20 A No. Nope, that's it.

21 Q Okay. Have you ever been -- aside from
22 the Town, have you been let go from any other job in
23 the past?

24 A No.

25 Q Have you ever been terminated from a job?

1 A No.

2 Q Have you ever been disciplined by an
3 employer aside from the Town?

4 A No.

5 Q No. Okay. Now, do you recall when you
6 applied for the job with Redding?

7 A With Redding? I don't remember the month;
8 but, it was in 2007.

9 Q Okay. Where are you currently employed?

10 A Oh, it was September. Yeah, September.

11 Q September of 2007?

12 A I think I applied in June and they didn't
13 hire me until September.

14 Q Okay. Where are you currently employed?

15 A Right now I'm currently working for the
16 Town of Middlebury, Connecticut.

17 Q What are you doing in Middlebury?

18 A I am the building official for Middlebury.

19 Q How long have you held that position?

20 A Since June 28th of 2021.

21 Q And are you paid on an hourly basis or
22 salary basis?

23 A I'm on salary, but they give me an hourly
24 figure.

25 Q Okay. What is your annual salary?

1 Q How is it different?

2 A Well, I'm the -- I'm the only building
3 official and I don't have any assistants, so, I have
4 to do more of the -- all the work versus a portion
5 of the work.

6 Q In Redding, you were an assistant building
7 official, right?

8 A Yes.

9 Q So you reported to a building official?

10 A Correct.

11 Q So, in Middlebury you're the boss?

12 A Yes.

13 Q Do you have any staff?

14 A I do. I have one assistant,
15 administrative assistant.

16 Q Let's turn back to Redding. You said you
17 became employed there in September of 2007?

18 A Correct.

19 Q Did you have experience as a building
20 official prior to that?

21 A No.

22 Q Were you promoted at all from 2007 through
23 2020?

24 A You could say that. There was at the time
25 two full-time assistant building officials and one

1 chief building official and then the chief building
2 official retired; therefore, I became the assistant
3 building official and one of the assistant building
4 officials became the building official, who had more
5 experience.

6 Q Okay. So, it went from a department of
7 three, so one building official, two assistants to
8 just one official and one assistant?

9 A Yes.

10 Q When did that occur?

11 A 2009. No. Maybe '10. 2009, '10.

12 Q And who was that building official? The
13 one who was promoted?

14 A Shaun Donnelly, D-O-N-N-E-L-L-Y, and it's
15 S-H-A-U-N.

16 Q Shaun is still the building official
17 there, correct?

18 A Correct.

19 Q What was your relationship like with
20 Mr. Donnelly?

21 A It was good. It was good up until the
22 last, you know, six months that I was there.

23 Q What happened in the last six months?

24 A He decided to treat me with rigid
25 restrictions on what I did.

1 A Yes.

2 Q Now, notwithstanding this one incident in
3 July of 2019, so prior to that had you ever been
4 disciplined in your employment with Redding?

5 A No.

6 Q Prior to July of 2019, what was your
7 relationship with the selectwoman?

8 A I never corresponded with her because she
9 was across the street in a different building, so I
10 never interacted with her.

11 Q All right. Had you ever met her prior to
12 July of 2019?

13 A Yes. When she first got elected, she came
14 in and said her door is always open for anything
15 that we wanted to discuss, and I said, you know,
16 I'll probably one day do that. So that was -- I see
17 her at Town functions, you know, where they have a
18 party or something.

19 Q When was she elected?

20 A I can't even remember, but she probably
21 was there for two terms; so, she's probably on her
22 third term, so she's probably there for five years.

23 Q Are they two-year terms or four-year
24 terms?

25 A Two-year, yes.

1 Q So, in 2019, she would have already been
2 there, you said, for about five years?

3 A Four years, five years, yeah.

4 Q So, you said she was in a separate
5 building. Does the Town have more than one
6 municipal building?

7 A Yes. We were called the annex building,
8 which was across the street in the town hall. It
9 was just made up of a post office and our
10 department.

11 Q So, there were no other employees in the
12 building except for your department?

13 A Correct.

14 Q And how many people -- let's say in July
15 of 2019, how many employees were there in the
16 building official's office?

17 A Three.

18 Q Who were they?

19 A Linda Kansoa.

20 Q How do you spell that?

21 A K-A-N-S-O-A.

22 Q Okay.

23 A Myself and Shaun Connelly.

24 Q You said the post office was in the
25 building as well?

1 A I'm sorry.

2 Q It's okay. I should have been more
3 specific. You can just read it to yourself.

4 A Yes. Okay.

5 Q Okay. So, the part that's kind of
6 indented right, your claim is that this was --
7 paragraph 6 -- that this was posted on the Town of
8 Redding website?

9 A Correct.

10 Q Is that accurate?

11 A Yes.

12 Q When you say, "Website," what do you mean
13 by, "Website"?

14 A It was a Town of Redding website that was
15 sent to my phone that I subscribe to to tell me if
16 there is any roads that are closed due to paving or
17 anything that's happening in the Town of Redding.

18 Q So, was it like a bulletin?

19 A I would say it's a website because the
20 person in charge of the website is a Town employee
21 who puts this up.

22 Q So, the Town has a website, right?

23 A Yes.

24 Q It's www.townofredding.com, or something
25 along those lines?

1 A Something.

2 Q Do you recall what it is?

3 A No because I -- I didn't pay attention to
4 how its form was.

5 Q Does townofreddingct.org sound right?

6 A Yeah.

7 Q Okay. So, when you are talking about the
8 Town website, are you talking about that website?

9 A I'm talking about an informational website
10 that is put out by the Town.

11 Q Is it an email?

12 A It also has an email form. I'm sure it's
13 on the -- if you look at a desktop computer you can
14 go on there and get the same information that is
15 sent versus on email.

16 Q Was it sent to your personal phone?

17 A It was. Well, the Town phone that I had.
18 So, it was my personal website, though. It is
19 lubuslanddevelopment@aol.com, which I set up. It
20 wasn't a Town website that I had email. It was a
21 personal email account.

22 Q So, it came into your email?

23 A Yes.

24 Q So, you first saw it when it came into an
25 email box?

1 A Yeah.

2 Q Yes?

3 A Yes.

4 Q Do you still have that?

5 A I don't have the phone anymore.

6 Q What was the email address it came into?

7 A You know, that was probably
8 lubuslanddevelopment -- or lubusland@aol.com.

9 Q Lubusland@aol.com?

10 A Yes.

11 Q Do you still have access to that email
12 address?

13 A Yes.

14 Q Do you check that email?

15 A Yes.

16 MS. ZELMAN: So, I would ask for this
17 document to be produced.

18 A I produced what I had printed out that
19 day.

20 MS. ZELMAN: All right. Matt, are you
21 aware if you produced it?

22 MR. PARADISI: Whatever he gave us, you
23 have, assuming it wasn't privileged. So, I don't
24 have a photographic memory of everything that was
25 produced.

1 only thing on the email or were there other items on
2 it as well?

3 A No. It was just this.

4 Q It wasn't in like a weekly bulletin of
5 items coming up?

6 A No.

7 Q What is Lights for Liberty?

8 A I have no idea. I don't know if it was a
9 group or if it's a -- just what they were calling
10 the event. I have no explanation of it.

11 Q Okay. So, are you telling me that you
12 have no knowledge as to whether these Lights for
13 Liberty was affiliated with the Town?

14 A I have no -- nope, I don't.

15 Q Okay. Did you Google what it was?

16 A No.

17 Q Now, it talks about a vigil and that it's
18 going to be held in the Redding town green.

19 A Right.

20 Q Do you see that? What is the Redding town
21 green?

22 A It's a parcel of land. It's right next to
23 the town hall.

24 Q And it could be used to hold public
25 events, right?

1 A Yes.

2 Q And if you know, you can get permission to
3 use it, right?

4 A Yes.

5 Q And anybody can use it, right?

6 A That I don't know.

7 Q You don't know?

8 A I don't know. They have different events
9 there.

10 Q What kind of events do they hold there?

11 A Oh, they hold anything from a charity
12 event to a person coming in for political reasons.

13 Q Have they held other vigil-type events
14 there in the past?

15 A No.

16 Q Do people come and give speeches there
17 ever?

18 A You know what? I never experienced it
19 because it's always after work. So, I never saw
20 anything.

21 Q So, you've never been to any event at the
22 Redding town green?

23 A No.

24 Q Now, as you read -- you were upset by
25 this. Is that accurate?

1 A Yes.

2 Q Why were you upset by it?

3 A Because of the words, "Concentration
4 camps." I don't believe that we have concentration
5 camps in our nation and I don't believe it gives any
6 tribute. It takes away from anything that happened
7 during the Holocaust at real concentration camps.

8 Q What's your understanding of the meaning
9 of concentration camp?

10 A My meaning of concentration camps is that
11 people are being held against their will, are being
12 tortured under terrible conditions that are
13 inhumane.

14 Q Okay. Is it your opinion that -- strike
15 that.

16 This text specifically is referencing
17 immigrant detention camps; is that accurate?

18 A No, it says, "Detention camps." It says,
19 "Horrific conditions in human detention camps in the
20 United States. Locations world-wide as well as to
21 concentration camps." So the concentration camps
22 are separate from the detention camps.

23 Q Okay.

24 A We have concentration camps where we
25 inhumanely treat people and torture them.

1 (* The record was read.)

2 MR. PARADISI: Objection to form. You can
3 answer if you understand.

4 A My political knowledge is like my
5 religious knowledge. If I'm practicing Christianity
6 or just believe in Christianity just because I'm a
7 Republican doesn't mean I look at everything the
8 Republicans say as truthful or terrible. Same thing
9 with the Democrats. I make my own opinion. There
10 is no opinion on the immigration policy of the
11 United States because I have no influence on that
12 policy.

13 BY MS. ZELMAN:

14 Q Okay. So, we're going to get into this a
15 little bit more.

16 When you saw this quote, which is set
17 out in paragraph 6, you did go and speak with
18 Julia Pemberton about it, correct?

19 A I did.

20 Q What was -- was your motivation in going
21 to speak with her because you believed it was
22 antisemitic?

23 A Yes.

24 Q So your motivation in going to speak with
25 her was not political in nature?

1 A No.

2 MR. PARADISI: Objection to the form.

3 BY MS. ZELMAN:

4 Q What was your answer?

5 A No.

6 Q All right. And just so I'm clear, your

7 sole objection was the use of the words,

8 "Concentration camps"?

9 A Yes.

10 Q All right. Have you ever looked at the

11 actual definition of concentration camps?

12 A No.

13 MR. PARADISI: Objection to form.

14 Q In paragraph 6, you say that this

15 announcement was made on or about July 9th of 2019.

16 Do you know what day you actually saw it?

17 A It was July 9th.

18 Q The same day?

19 A Yes.

20 Q Do you recall the time of day?

21 A Approximately 4:00 o'clock p.m.

22 Q Okay.

23 MS. ZELMAN: Can you all hear me?

24 MR. PARADISI: Yes.

25

1 BY MS. ZELMAN:

2 Q So, do you know if this event took place?

3 A No, I don't.

4 Q Do you know if there was any follow-up
5 email by the Town related to this event? This
6 email?

7 A Yes, there was.

8 Q What was the follow-up email?

9 A The follow-up email was that it took out
10 the words, "Concentration camps."

11 Q Okay.

12 A And they posted that the new way they were
13 promoting the event, it was not a Town-sponsored
14 event.

15 Q Not every event that takes place on the
16 town green is Town sponsored, right?

17 A I have no idea.

18 Q And I think you already testified, you
19 don't know whether this event was originally
20 supposed to be sponsored by the Town, right?

21 A Right.

22 Q When you received this email, were you at
23 work?

24 A Yes.

25 Q You were in your office?

1 A I was in the building, yes.

2 Q What did you do when you received it?

3 A I looked at it and I voiced my
4 dissatisfaction to Linda.

5 Q What did you say to Linda?

6 A I said, "Can you look at this email that I
7 got?" And she pulled it up, and I believe she
8 pulled it up on the Town website at the time and see
9 read it and looked at it and she had some
10 unfavorable words on it.

11 Q What were her words?

12 A I can't recall her dissatisfaction with
13 it. She was kind of like saying she didn't approve
14 of the words, "Concentration camps," in there,
15 because that's what I brought to her attention.

16 Q So you specifically pointed out the use of
17 the words, "Concentration camps"?

18 A Yeah.

19 Q Did she go beyond the specific words of
20 concentration camps to express any dissatisfaction?

21 A No. Then I proceeded to go across the
22 street to file my complaint or basically tell my
23 complaint.

24 Q All right. Did you immediately go across
25 the street?

1 A Yes.

2 Q So, what -- and you went to the
3 selectwoman's office, correct?

4 A Right.

5 Q What time did you arrive at the
6 selectwoman's office?

7 A 4:05.

8 Q Were you angry?

9 A I was not angry. I was upset.

10 Q Did you ever talk to Shaun about it before
11 you went over to the selectwoman's office?

12 A No.

13 Q Why don't you tell me what happened when
14 you arrived at the first selectwoman's office.

15 A Well, I arrived at the first selectman,
16 who was coming out of a kitchenette area which is
17 adjacent to her office, and then it goes to a
18 waiting area where the administrative -- the
19 assistant is, and I asked her if I could talk to her
20 in her office and she says, "Well, I just got back.
21 You can -- what's the matter?" I said, "Have you
22 seen the town website?" And she goes, "No. I just
23 got back and I don't take care of the website.
24 Michelle Grande takes care of the website." Who was
25 in another department. She is the town clerk. I

1 said, "Well, I have an issue with this left-wing
2 propaganda posting about concentration camps and I
3 think it's antisemitic and I don't believe that the
4 Town should be -- it should not be on a
5 Town-sponsored website."

6 Q Okay.

7 A She said, "Well, I don't take care of that
8 but I will look into it." I said, "Yes" --
9 actually, she said that she doesn't take care of the
10 website, and I said, "Well, I'm not going to
11 Michelle Grande. You're in charge of this Town.
12 You should look into it because I have a problem
13 with this. I'm not going to argue with Michelle
14 Grande. I'm going to take it to you because you
15 have the authority."

16 Q Okay.

17 A She said, "I'll look into it and let you
18 know," and then as I was leaving she once again
19 said, "What was the issue?" And I said, "It was
20 some left-wing propaganda and had concentration
21 camps in their language that I don't approve of."
22 she said, "Okay. I'll look into it."

23 I went over across -- back over to
24 our office. I was in the front of the office with
25 Linda, who pulled -- who had the website up on her

1 computer and we were talking and we could see
2 Julia Pemberton walking -- and this was about five
3 minutes after I arrived back -- coming out of the
4 town hall. She came over. She came in and she
5 goes, "Before you say anything, I want to get this
6 off my chest." She said, "Are you a taxpayer?" And
7 I said, "No." And she goes, "Are you a resident?"
8 And I said, "No." And she goes, "Are you an
9 employee of the Town?" And I said, "Yes." She
10 says, "You have no right to come over and tell me
11 how to run the Town or to post anything or --
12 anything on the Town -- about the Town." So I said,
13 "No. I have -- I do have concern about the
14 'concentration camps,'" and I tried to point over to
15 the website that was on the computer and she would
16 not look at it. She was pointing her finger at me,
17 pushing me up against -- we have file cabinets and I
18 had no way of getting past her, and --

19 Q She pushed you against a filing cabinet?

20 A She kept backing me up with her hand
21 gestures and --

22 Q She didn't touch you, right?

23 A No. No, she didn't touch me, but she was
24 saying, "You're not a taxpayer. You're not a
25 resident. You have no right," and she says, "You

1 can't do this on Town time." I said, "You're wrong.
2 I'm bringing this to your attention immediately." I
3 said, "Your door you said was always open and now
4 you're telling me I can't tell you what my concern
5 is on Town time, but I have to do it after on my
6 time."

7 She then said that I was -- and I did
8 tell her. I said, "If you don't take this off the
9 website, then I will sue." And then she threw up
10 her hands and said, "Sue. Go ahead." She says,
11 "You are insubordinate." And I said, "I'm not
12 insubordinate. I do my job. Just because I
13 disagree with you doesn't make me insubordinate."

14 And then my boss came out, Shaun
15 Donnelly, and she turned to him and said, "He is on
16 leave until further notice," and then she was going
17 to leave and she said, "If you want to discuss this
18 after work, you're welcome to come over." And I
19 declined and said, "No, I said what I had to, and I
20 will always bring up my disagreement immediately
21 with you. I'm not going to put it in writing and
22 send it to you or anything of that nature."

23 Q Got it.

24 A After that I left my phone and my keys
25 that were Town property there and I went home.

1 By the time I got home, they'd called
2 my significant other, Deb Jarrow, because I had no
3 phone, and she said that she -- she wanted me to
4 come back tomorrow morning, come back at 7:00. They
5 changed the website to take off the concentration
6 camps and everything. So, I said, "okay. Fine."

7 Q All right. Now, during this interaction
8 with Julia Pemberton, did you raise your voice at
9 all?

10 A Did I raise my voice? Like as far as
11 what? As far as --

12 Q Did you yell at her?

13 A No. I tend to talk strongly so that she
14 could hear me. You've got to remember, she was
15 yelling at me more than I was yelling at her.

16 Q But you did yell, right?

17 A No. I don't yell, because if you hear me
18 yell, you would hear me down the street. I don't
19 believe I raised my voice or else my boss would have
20 been out there a lot faster than being summoned.

21 Q So you don't think you raised your voice
22 at all?

23 A No.

24 Q Were you angry?

25 A I'm never angry.

1 Q You lost no pay as a result of this,
2 right?

3 A Correct.

4 Q You did, however, receive a written
5 warning, right?

6 A Afterwards.

7 Q Can you pull up what's been marked as
8 Exhibit 6? The date September 26, 2019 is at the
9 top.

10 A Yes.

11 Q Is this the written warning you received?

12 A Yes.

13 Q You recall receiving it?

14 A I do.

15 Q All right. And you filed a response as
16 well, correct?

17 A Yes.

18 Q If you pick up Exhibit 7.

19 A Yes.

20 Q Okay. So, in this letter, if you look --
21 is this your letter to Ms. Pemberton in response to
22 the written warning?

23 A Correct.

24 Q If you look at the third paragraph in
25 this --

1 Q Okay. Who was your other attorney?

2 A I just went to her for the response
3 letter.

4 Q The October 7th response letter?

5 A Yes.

6 Q Who was that?

7 A I forgot her name.

8 Q What was her name?

9 A I forgot her name.

10 Q Oh, you forgot it. I'm sorry.

11 A Yeah. It's been a while.

12 Q Okay. But you did consult with an
13 attorney in providing a response?

14 A Yes.

15 Q When did you first contact Attorney
16 Paradisi about this issue?

17 A I don't recall when I came in.

18 Q Was it after your position was eliminated?

19 MR. PARADISI: Objection to form. You can
20 answer the question.

21 A Yes.

22 BY MS. ZELMAN:

23 Q Okay. Did you have a conversation with
24 Shaun Donnelly about this incident?

25 A No.

1 Q You never spoke about it?

2 A He wanted to. I didn't agree to it.

3 Q Okay. So, when did Mr. Donnelly want to
4 speak about it?

5 A The next day when I came back.

6 Q What did Mr. Donnelly say to you?

7 A Mr. Donnelly wanted to know what happened
8 and I said, "It's between myself and
9 Julia Pemberton, and there's no need to get
10 involved." And he said, "Well, then I would
11 appreciate you not bringing this into my office. My
12 department."

13 Q Okay. So you told him you didn't want to
14 discuss it with him?

15 A Correct.

16 Q Did you respond to him saying that he
17 appreciated you not bringing it into his office?

18 A I said, "Shaun, it's none of your
19 business." And he said it again and I just kept
20 quiet, and then I said, "Well, you know what? I
21 have to go on Family Leave Act. I have to take care
22 of my father." So, I gave him a note and I left.
23 He says, "Make sure you have your phone on you in
24 case I need to get in touch with you." That's what
25 he said because I was going to leave the phone.

1 Q And there was no other conversation
2 between you and Mr. Donnelly ever about this
3 incident?

4 A Correct.

5 Q Okay. Anything else you can remember
6 about the conversation that you did have with him
7 that you haven't already said?

8 A About the incident?

9 Q Yes.

10 A That's it.

11 Q And the assistant's name is Linda. Did
12 you have any other conversation with Linda about it?

13 A She wanted to not get involved and I said,
14 "Well, you already are involved because you're a
15 witness to what happened."

16 Q When did she tell you she didn't want to
17 be involved?

18 A The day that it -- the day that I came
19 back after two weeks.

20 Q So, did she just approach you and say, "I
21 don't want to be involved in it"?

22 A Pretty much, yes.

23 Q Okay. Did she know that you were going to
24 pursue legal charges?

25 A I wasn't pursuing legal charges until I

1 was let go.

2 Q So, it was just totally unsolicited when
3 she came to you?

4 A Yeah, because -- I mean, we talked about
5 it and, you know, she says, "Well, I don't want to
6 get involved," and I said, "Okay. You're already
7 involved."

8 Q You said you didn't want to talk about it,
9 but was there discussion going on between you?

10 A I think that happened the day that I left,
11 to tell you the truth, the day that the incident
12 happened because I had to give her my phone and my
13 car keys. So, I did tell her that and that's when
14 she told me that she didn't want to be part of this.

15 Q Okay. What did you tell her when you were
16 giving her the car keys and the phone?

17 A So, she said, "I don't want to be" -- and
18 I said, "Well, you're a witness." She said, "Well,
19 I don't want to be," and I said, "Well, you already
20 are. You can't undo it."

21 Q Okay. And there was no further discussion
22 at all?

23 A No, none.

24 Q All right. Now, you mentioned you went --
25 you started on FMLA leave the next day, right?

1 A The day that I came back, yup.

2 Q Okay. So on July 9th, did you know the
3 next day you were going to be taking an FMLA leave?

4 A Well, my father was coming home from the
5 hospital, so, yes, I did.

6 Q Okay. So, let's go back a little bit.
7 Your father was in the hospital?

8 A Yes.

9 Q When did your father go into the hospital?

10 A I believe it was July -- no, it wasn't.
11 It was -- he didn't go in the hospital until the end
12 of July. So, he was getting ready to go into
13 surgery before then.

14 Q Okay. So, as of July 10th, your father
15 was not in the hospital?

16 A No, but he was having doctor issues. He
17 was having a lot of problems.

18 Q Okay. So, I'm going to go back to my
19 question from before.

20 On July 9th, did you know that the
21 next day you would be starting an FMLA leave?

22 A Yes.

23 Q You didn't mention it to anyone?

24 A No.

25 Q Why not?

1 A Because it's -- what do you mean, Why not?
2 How would I know if I'm going to go on FMLA
3 without -- I mean, the thing is that you used to be
4 able to take time off whenever you needed it, not
5 ahead of time. In other words, I didn't have to
6 say, Oh, two weeks from now I have to take an FMLA.
7 I take it when I need it, which I thought I could
8 work through it, but with all this going on, I took
9 and the FMLA leave.

10 Q So, you decided to take FMLA, at least in
11 part, on the day you took it because of what was
12 going on the day before?

13 MR. PARADISI: Objection to form.
14 Mischaracterizes his testimony.

15 MS. ZELMAN: He can explain. He can
16 explain.

17 MR. PARADISI: You can answer the
18 question.

19 A I took the FMLA. I tried to work through
20 everything on a daily basis up until that point, but
21 because of the issue of not getting along with Shaun
22 or anyone else, I took the time to regroup and do --
23 take care of my father.

24 BY MS. ZELMAN:

25 Q So, had the issue of July 9th not

1 happened, would you have taken an FMLA leave on
2 July 10th?

3 A Yes, I would have.

4 Q You would have?

5 A Yes.

6 Q So, you came into work on July 10th
7 knowing that you were going to take an FMLA leave
8 that day?

9 A Yes.

10 Q But you did not mention it until after
11 Shaun Donnelly already came to you and tried to
12 discuss with you this issue?

13 A Uh-hum.

14 Q Okay. Why didn't you give -- if this was
15 pre-planned, why didn't you provide a prior notice?

16 A It's a personal decision that I made. I
17 don't -- I don't -- I had time off to take, anyway,
18 so I could have taken vacation days, also. But I
19 chose FMLA because I didn't know how long it was
20 going to take.

21 Q Your father wasn't sick at -- strike that.

22 A I still could use my vacation days in lieu
23 of an FMLA leave until they're used up and then you
24 go on a no-paid FMLA leave. So, therefore, I would
25 still be getting paid whether I took a vacation day

1 or not.

2 Q When did your father go into the hospital?

3 A I believe it was around July 28th, near
4 his birthday.

5 Q What were the issues that your father was
6 having as of July 10th?

7 A He was having some urinary issues.

8 Q Was he having those same issues prior to
9 July 10th?

10 A Yes.

11 Q For how long?

12 A Probably for about two to three months he
13 had -- from his accident, he had a bag, you know, so
14 he couldn't urinate, and he had to have prostate
15 surgery and try to relieve that.

16 Q When was the prostate surgery?

17 A Pardon?

18 Q When was the prostate surgery?

19 A It was around July 28th, 29th.

20 Q That was the prostate surgery?

21 A Yeah.

22 Q Okay. So, the urinary issues, though, had
23 started -- you said a couple months, so --

24 A Right.

25 Q -- April? May?

1 A For a while, yeah.

2 MS. ZELMAN: Let's go off the record for a
3 second.

4 (Recessed from 12:26 p.m. until 1:18 p.m.)

5 MS. ZELMAN: I hope everyone enjoyed their
6 lunch. Let's go back on the record.

7 BY MS. ZELMAN:

8 Q Mark, prior to July 10th of 2019, had you
9 told anyone in Redding that you would need to take
10 time off to care for your father for his surgery?

11 A Not in a formal way.

12 Q Informally had you?

13 A Yeah.

14 Q What was the informal way that you told
15 someone?

16 A Well, I told Linda that, you know, my
17 father was having issues and that he was going to
18 have surgery and that I would have to, you know, go
19 to the doctor's and get his clearance for the
20 medical procedure to go ahead. So, there was a time
21 frame where I was going to be out because I had to
22 get all that blood work and stress test and all his
23 doctors to sign off before he could have this one
24 particular surgery performed.

25 Q Okay. How long did it take for you to get

1 all that -- strike that.

2 How many appointments did you have in
3 order to get all this information?

4 A He had about -- let's see. Blood work, he
5 had a stress test. He had two doctors for his
6 report. I had to go to the VA, have his GP certify
7 he was okay, and then I had to also make
8 arrangements for after his release from the hospital
9 because I couldn't take care of him for what he
10 needed. So, he had to go into a nursing home for
11 about a month, I think, after the surgery, before he
12 could come home.

13 Q What were the exact dates of your FMLA
14 leave?

15 A I'm sorry?

16 Q What were the exact dates of your FMLA
17 leave?

18 A I have -- I don't recall.

19 Q It was 14 days from the first date you
20 took off, though?

21 A At least.

22 Q All right. Was it more than 14 days?

23 A That I did what?

24 Q You were on FMLA leave?

25 A I don't recall. I'm sure it was.

1 Throughout the year?

2 Q No. Just following the continuous leave
3 you took following -- beginning July 10th.

4 A Right. I took two weeks off. It could
5 have been three weeks. I don't recall. When I came
6 back.

7 Q Did you go back before or after your
8 father's surgery?

9 A I went back I believe after his surgery.

10 Q Do you recall how many days after?

11 A No.

12 Q But you said your father went into a
13 nursing home?

14 A Yes. He went to Hancock Hall in Danbury.

15 Q All right. Prior to July 10th of 2019,
16 had you provided any paperwork to anyone with
17 respect to the FMLA leave?

18 A I did give Shaun Donnelly the paperwork
19 prior to July --

20 Q Sorry. Listen to the question.

21 Prior to July 10th of 2019, did you
22 provide any paperwork?

23 A No.

24 Q Did you get any certification from your
25 father's physicians of your need -- to certify your

1 need to take the FMLA leave prior to July 10th of
2 2019?

3 A No.

4 Q Can you please look at Exhibit 3.

5 A Yup.

6 Q Are you familiar with this document?

7 A Yes.

8 Q What is it?

9 A It's to inform Shaun Donnelly that I was
10 taking Family Leave starting 7-10-2019 to take care
11 of my father who was having medical issues and to
12 tend to him.

13 Q When did you draft this note?

14 A July 10th.

15 Q Was it before or after the conversation
16 you had with Mr. Donnelly about the events from the
17 prior day?

18 A Same day.

19 Q Was it before or after that Mr. Donnelly
20 and you spoke about the events from the prior day?

21 A I wrote the note because I'd get in there
22 before him, before he got there.

23 Q So, let's go back to the timeline. Okay?
24 You said that -- you testified before that
25 Mr. Donnelly attempted to speak with you about the

1 events from the prior day, and then afterwards, you
2 told him that you would be taking an FMLA leave?

3 A Yup. I had the letter already drafted.

4 Q You already had it drafted. Okay. And
5 did you hand it to him at that time?

6 A Yes, I did.

7 Q So, did you draft the letter after you
8 arrived to work?

9 A No. I had -- I had it prior to going to
10 work.

11 Q You handwrote it before going to work?

12 A Yup.

13 Q Can you look at **Exhibit 4**?

14 A Yes.

15 Q Do you have that?

16 A Yes.

17 Q Okay. What is this?

18 A It's my follow-up letter.

19 Q Why did you send this letter?

20 A Because I knew that I had to do it
21 formally according to the Town of Redding, and I had
22 to apply, which I didn't know you have to apply with
23 FMLA forms and whatnot. I thought you could just
24 take FMLA whenever you needed it by just informing
25 them.

1 Q Okay.

2 A That wasn't the case. I needed to get a
3 doctor to certify it, which I did.

4 Q Okay. What time did you generally arrive
5 to work in the morning?

6 A 6:00 o'clock.

7 Q What time did you have this on July 10th?
8 What time did you have this conversation with
9 Mr. Donnelly?

10 A He came in at 7:00 a.m., or shortly
11 thereafter.

12 Q Did you have this conversation with him
13 right away?

14 A Yes.

15 Q Did someone tell you you had to send a
16 formal email?

17 A Not until later in the day.

18 Q When were you told that?

19 A They told me shortly after I left.

20 Q What time did you leave?

21 A I left right after I talked to Donnelly at
22 7:00 o'clock, so it had to be about 7:30.

23 Q Who told you that you needed to send an
24 email?

25 A I think it was Zack Smith from the Town of

1 Exhibit 5 -- before we go on to Exhibit 5, when was
2 this -- when was your father's surgery? When did
3 you schedule it originally?

4 A Oh, it was a month before.

5 Q So, the surgery had been planned for a
6 month at this point?

7 A The surgery is always tentative upon him
8 being cleared by all his physicians, so it meant
9 that if we didn't get it done -- I believe that the
10 doctor only did it once a month, so if we missed it
11 we would have to wait another month.

12 Q But he had been on the surgery schedule
13 for about a month ahead of time?

14 A Ahead of time for the date of the surgery?

15 Q Yes.

16 A Yes.

17 Q Okay. Let's go to Exhibit 5. Are you
18 familiar with this document?

19 A No, I didn't see this, or I don't recall
20 it.

21 Q Well, on the "To" line it says,
22 lubusland@aol.com, right?

23 A Yeah. That's me. And from Zack Smith.

24 Q If you look through Exhibit 5, this is the
25 FMLA paperwork, correct?

1 A Correct.

2 Q And the physician did fill this out,
3 correct?

4 A Yes.

5 Q And if you look at the -- I'm going to use
6 the numbers at the very bottom. At the very bottom,
7 it says, "Lubus," and then it says, "149." Do you
8 see where it says, "Employee Signature?"

9 A Yes.

10 Q Is that your signature?

11 A Yes.

12 Q Okay. And above it it says, "Describe
13 care you will provide to your family member." And
14 it says, "Date: 7-23-19 through 8-12-19, Assisting
15 patient in showering, dressing and doing everyday
16 activities," right?

17 A Yes, right.

18 Q So that 7-23-19, that was the date of the
19 surgery?

20 A I assume it was.

21 Q Okay. What was that date 8-12-19?

22 A I have no idea. I don't recall.

23 Q Do you recall if you were out until
24 8-12-19?

25 A I don't know. No, I don't recall. I

1 A That's the doctor's writing, not mine.

2 Q Okay. You don't recall if that date is
3 more accurate than four or five months?

4 A I can't remember that far, to tell you the
5 truth.

6 Q Okay. Do you recall if you submitted a
7 second request for FMLA for intermittent leave?

8 A For intermittent? I don't believe I did.

9 Q Okay.

10 A I don't think this one ran out.

11 Q Okay. That was my next question. Did you
12 use all of your time that you were entitled to under
13 the FMLA?

14 A No, I didn't use them all.

15 Q So you had additional time off?

16 A Yes.

17 Q And you don't recall the date on which
18 your father returned home from the nursing home?

19 A Not at this time.

20 Q You do agree that even though you don't
21 recall the date, you did return to work?

22 A Yes.

23 Q Right?

24 A Yes.

25 Q Were there any incidents between you and

1 Julia Pemberton between the time you returned from
2 your FMLA leave through July 1st of 2020?

3 MR. PARADISI: Objection to form. You can
4 answer the question.

5 A You're talking after she gave me the
6 letter of reprimand?

7 BY MS. ZELMAN:

8 Q Correct.

9 A No, I had no contact with Julia Pemberton.

10 Q So, after this incident on July 9th of
11 2019 through July 1st of 2020, you had no
12 interaction with her?

13 A I had one interaction when she gave to me,
14 in September I believe, the letter of reprimand.
15 That was the only time I saw her.

16 Q So, did you have a meeting with her in
17 September of 2019?

18 A Yes.

19 Q Okay. When was that meeting?

20 A I don't recall. It's in the documents.

21 Q Did you have any conversation with
22 Ms. Pemberton at that time?

23 A Her conversation was that she had the
24 letter of reprimand and she ran it through her
25 attorneys and she would put it in my file and if I

1 A No. Other than the only conversation was
2 business related. No other activity for personal
3 was discussed.

4 Q Okay. I want you to look back at
5 **Exhibit 1**. Look at paragraph 12.

6 A Yes.

7 Q Okay. So, here it says that the
8 clarification by the Town on the email was sent on
9 July 12th of 2019. Is that an accurate date?

10 A Yes.

11 Q Okay. Do you have that clarification
12 email as well?

13 A I don't have it in front of me.

14 Q But you do have it?

15 A Right.

16 Q Okay. I'd ask that you also provide that
17 to your attorney.

18 A Okay.

19 Q Paragraph 15.

20 A I don't know if the date was accurate,
21 though. July 12th. I could be wrong.

22 Q Okay.

23 A That's the same day as the 10th. That's
24 the only thing I can recall.

25 Q Okay. Paragraph 15.

1 Q Well, these were pre-scheduled doctor's
2 appointments, weren't they?

3 A Not always. If the doctor said he's got
4 to go to the doctor's office, he says, "I want blood
5 work right now, within the next two days," I have to
6 go and get a blood test, whether it be that day or
7 another day, as soon as I could. That's the reason.

8 Q Okay. The dissatisfaction was
9 Mr. Donnelly's request that you provide advance
10 notice of the days you would need off?

11 A Correct.

12 Q Okay. Did he ever strike that.

13 And that's the only expression of
14 dissatisfaction he had?

15 A Yes, pretty much.

16 Q Okay.

17 A It was, you know, me not attending work
18 was, you know, more important than me taking care of
19 my father.

20 Q Well, did he ever say that to you?

21 A Not directly.

22 Q Okay. Now we're going to get into COVID
23 now, right? March 2020 comes and the world
24 explodes, right? And COVID comes and everything
25 shuts down, right? We can all agree to that, right?

1 A Right.

2 Q Now, you were employed by Redding at that
3 time?

4 A Correct.

5 Q And did the Town offices close?

6 A Yes.

7 Q Do you recall the date on which they
8 closed?

9 A Somewhere in March.

10 Q So --

11 A It could be February. February or March.

12 Q A lot of things closed around March 13th.
13 Does that -- is that the right time period?

14 A Yes.

15 Q Doesn't have to be the exact date, but
16 that general time period, right?

17 A Yes. Right, yes.

18 Q Were you given advance notice that it was
19 going to close?

20 A I think we were under like a little --
21 like one person could go in and -- you know, we were
22 like semi-closed, you know. We weren't really fully
23 operational until the country shut down and told you
24 to stay home. I think that was it.

25 Q So, prior to the full shutdown, you were

1 reducing the number of people in your office?

2 A Yes. We were wearing masks and we had to
3 be just in our area, because we were separated.

4 Q And then fully shut down, right?

5 A Right.

6 Q How long were you instructed to work from
7 home?

8 A Yes, we worked from home.

9 Q Now, how much of your job could be done
10 from home?

11 A All the permits -- everything could be
12 done except for inspections, but we were doing
13 inspections by photographs, a lot of them. So, we
14 would do photograph inspections online, the person
15 would do. It was only occasional we had to go out
16 and actually look at something. If it was empty --
17 the criteria was it had to be empty or new and
18 nobody there for 24 hours and all the windows open.

19 Q Do you recall how long you were mandated
20 to work remotely?

21 A I'm going to say until June.

22 Q Did you go into the office at all during
23 this time period?

24 A Not until June.

25 Q All right. During this time period, did

1 A No.

2 Q Let's look at what was previously marked
3 as Exhibit 9. Do you have that?

4 A Yes.

5 Q All right. Have you seen this document
6 before?

7 A Yes.

8 Q What is it?

9 A This is basically my termination letter.

10 Q Okay. Now, was this how you were notified
11 of your termination?

12 A Yes.

13 Q Did anyone speak with you about it?

14 A No. Oh, did they speak to me in the
15 letter? Yes. They said, Read this letter. Shaun
16 Donnelly and Julia Pemberton. I read it. I said,
17 Okay. He says, If you need anything, to clear out
18 your desk or whatever, grab what you need, and, you
19 know that's it. And I left.

20 Q Okay. You said that you met with both
21 Ms. Pemberton and Mr. Donnelly?

22 A Correct.

23 Q Where did you meet with them?

24 A Town hall in the conference room.

25 Q Did they call you to come over to town

1 hall?

2 A So, they said, Come on over. We've got to
3 meet with the selectmen. I said, Okay. It was 3:30
4 on a Thursday. I didn't know what it was about. He
5 didn't tell me what it was about. He said,
6 Julia Pemberton says because of COVID-19 budget
7 restraints and she gave me the letter to read and
8 that's all I could do. I left.

9 Q So, this letter is dated Wednesday,
10 July 8th?

11 A Right.

12 Q Was it delivered to you on July 8th?

13 A No.

14 Q No?

15 A Thursday.

16 Q So the next day?

17 A Oh, I'm sorry. You're right, because we
18 don't work on Fridays. It was Wednesday. I had one
19 more day left in the week. You're right. It was a
20 Wednesday.

21 Q It was July 8th?

22 A Yes.

23 MS. ZELMAN: Okay. Can we take a quick
24 break?

25 MR. PARADISI: Sure.

1 (recessed from 2:25 p.m. until 2:30 p.m.)

2 MS. ZELMAN: Sorry about the interruption.

3 MR. PARADISI: No worries.

4 BY MS. ZELMAN:

5 Q Mr. Lubus, you're muted. Okay.

6 So, prior to July 8th of 2020, you
7 were unaware your position was being cut?

8 A Correct.

9 Q Okay. And your position -- you agree with
10 me that effective July 8th of 2020, you were no
11 longer employed by Redding, right?

12 A Correct.

13 Q All right. Did you receive, I guess, pay
14 through July 16th?

15 A Yes.

16 Q All right. You filed for Unemployment,
17 right?

18 A Yes.

19 Q And you did have some vacation time left;
20 is that accurate?

21 A Yes.

22 Q And you were paid that in a lump sum?

23 A Yes.

24 Q Do you recall how much you were paid?

25 A 7,000.


1 STATE OF CONNECTICUT:
2 : ss: Bristol
3 COUNTY OF HARTFORD :

4 I, Karen Vibert, LSR No. 00064, a Notary Public
5 for the State of Connecticut, do hereby certify that
6 the deposition of MARK LUBUS, a witness, was taken
7 before me pursuant to Federal Rules of Civil Procedure,
8 held remotely for all participants, with the witness
9 located in Connecticut, commencing at 10:02 a.m., on
10 February 17, 2022.

11 I further certify that the witness was first sworn
12 by me to tell the truth, the whole truth, and nothing
13 but the truth, and was examined by counsel, and his/her
14 testimony stenographically recorded by me and
15 subsequently transcribed, to the best of my ability, as
16 here before appears.

17 I further certify that I am not related to the
18 parties hereto or their counsel, and that I am not in
19 any way interested in the event of said cause.

20 Dated at Bristol, Connecticut, this 28th day of
21 February, 2022.

22 
23 _____
24 Karen Vibert, Notary Public
25 My commission expires: 08/31/2024.