

UNITED STATES DISTRICT COURT : DISTRICT OF CONNECTICUT
RICHARD E. BURGESS :
VS. : NO.: 3:11-CV-01129 (CSH)
TOWN OF WALLINGFORD; CHIEF : MARCH 16, 2012
DOUGLAS L. DORTENZIO, IN
HIS INDIVIDUAL AND
OFFICIAL CAPACITIES;
LIEUTENANT ANTHONY
MARTINO, IN HIS INDIVIDUAL
AND OFFICIAL CAPACITIES;
SERGEANT MICHAEL
COLAVOLPE, IN HIS
INDIVIDUAL AND OFFICIAL
CAPACITIES; OFFICER
GABRIEL GARCIA, IN HIS
INDIVIDUAL CAPACITY;
OFFICER DEVIN FLOOD, IN
HIS INDIVIDUAL CAPACITY;
AND MARK VANAMAN

DEPOSITION OF RICHARD E. BURGESS

A P P E A R A N C E S:

For the Plaintiff:
LAW OFFICE OF RACHEL M. BAIRD
Attorney at Law
Stonegate Professional Building
379 Prospect Street
Torrington, Connecticut 06790-5239
BY: RACHEL M. BAIRD, ESQUIRE

A P P E A R A N C E S C O N T I N U E D

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For the Defendants:
HOWD & LUDORF, LLC
Attorneys at Law
65 Wethersfield Avenue
Hartford, Connecticut 06114
BY: KRISTAN M. MACCINI, ESQUIRE

Also Present: Joseph E. Gasser

Jody G. Frink, CMR, LSR
Connecticut License No. 00183

NIZIANKIEWICZ & MILLER
REPORTING SERVICES

1 Deposition of Richard E. Burgess, the
2 Plaintiff in the above-entitled action, taken at the
3 request of the Defendants pursuant to the Rules of
4 Practice, on Friday, March 16, 2012, commencing at 10:14
5 a.m., before Jody G. Frink, a Notary Public qualified by
6 law to administer oaths, at the Law Offices of Howd &
7 Ludorf, LLC, Attorneys at Law, 65 Wethersfield Avenue,
8 Hartford, Connecticut 06114.

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14 S T I P U L A T I O N S
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17 It was stipulated and agreed by counsel
18 that all formalities in connection with the taking of the
19 deposition, including time, place and sufficiency of
20 notice, were complied with; that the qualifications of the
21 Notary Public were waived; that all objections except as to
22 form were reserved to the time of trial.
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1 R I C H A R D E. B U R G E S S ,

2

3 The Plaintiff herein, having
4 Been first duly cautioned and
5 Sworn by Jody G. Frink, a
6 Notary Public commissioned and
7 Qualified within and for the
8 State of Connecticut, deposed
9 And testified as follows:

10

11 DIRECT EXAMINATION BY MS. MACCINI:

12 Q Good morning, Mr. Burgess, am I pronouncing
13 your last name right?

14 A. Correct.

15 Q My name is Kristan Maccini and I represent the
16 Town of Wallingford and several officers that you've
17 brought a lawsuit against related to an incident that
18 occurred on May 16th, 2010. Have you ever been deposed
19 before?

20 A. No, I have not.

21 Q Have you ever testified in Court before?

22 A. No, I have not.

23 Q Okay. I just want to go through some ground
24 rules that will make the process run smoother. As you can
25 see, there's a court reporter taking down all my questions

1 and your responses.

2 A. Um hum.

3 Q And she'll prepare a written transcript. So
4 that the record is clear, I need all of your answers to be
5 verbal, you can't shake your head yes or no as you would in
6 normal --

7 A. Right.

8 Q -- conversation. Is that fair?

9 A. Yes.

10 Q If at any time you don't understand my
11 question, just let me know and I'll repeat or rephrase it
12 until you're able to understand it; is that fair?

13 A. Yes, it is.

14 Q If you answer my question, I'm going to assume
15 you've understood it; is that fair?

16 A. Yes.

17 Q You can take a break at any time, just let me
18 know, I would just ask that you answer any question that's
19 pending before we do so; is that fair?

20 A. No problem.

21 Q Have you taken any medication today?

22 A. Sudafed. I'm nursing a cold, I'm sorry.

23 Q Okay, anything at all that would affect your
24 ability to testify truthfully here today?

25 A. No.

1 Q Anything that would affect your ability to
2 understand my questions?

3 A. No.

4 Q Can you state your full name for the record.

5 A. Richard Burgess.

6 Q No middle name?

7 A. Earl.

8 Q Okay. And your date of birth?

9 A. [REDACTED]

10 Q Are you married?

11 A. No.

12 Q Have you ever been married?

13 A. No.

14 Q Do you have any children?

15 A. No.

16 Q And before we get into the actual incident, I'm
17 just going to ask you some questions to get to know you a
18 little better, and then we'll get into the actual incident.

19 A. Okay.

20 Q Where do you currently reside?

21 A. [REDACTED], North Branford,
22 Connecticut.

23 Q And how long have you lived at that address?

24 A. I'm not a hundred percent sure. Over eight
25 years I would say.

1 Q Does anyone reside with you [REDACTED]
[REDACTED]?

3 A. Yes.

4 Q And who resides with you?

5 A. Anna Filipkowska.

6 Q And can you spell Anna's last name for the
7 reporter.

8 A. Yes. F-I-L-I-P-K-O-W-S-K-A.

9 Q Is Anna your significant other?

10 A. Yes.

11 Q And how long have you been together?

12 A. Probably about eight years as well.

13 Q And do you own [REDACTED]?

14 A. Yes.

15 Q Okay. Is that a condo?

16 A. Yes.

17 Q And on the date of the incident on May 16th,
18 2010, were you living [REDACTED]?

19 A. Correct, nothing's changed.

20 Q And you were born in what State, sir?

21 A. Connecticut.

22 Q And you lived in Connecticut all your life?

23 A. No. Three years in California.

24 Q And when were you living out in California?

25 A. Ages between four and seven I would say.

1 Q Okay. And did you graduate from high school?

2 A. Yes.

3 Q And what high school?

4 A. The Morgan School in Clinton, Connecticut.

5 Q Okay. Is that a private school?

6 A. No.

7 Q Public school?

8 A. Yeah. Everybody asks that, but, no. It's a
9 public high school.

10 Q Okay. And did you have any education, sir,
11 after high school?

12 A. No.

13 Q Any certificates, any trade schools, anything
14 like that?

15 A. No.

16 Q And are you currently employed?

17 A. Yes.

18 Q And where are you employed?

19 A. [REDACTED].

20 Q And what do you do [REDACTED]
[REDACTED]?

22 A. Electrical project engineer.

23 Q Okay, and what does that mean? Can you
24 summarize for me your job duties.

25 A. Okay. It's a -- I design large machines, and

1 the controls for those machines, but only on the electrical
2 side.

3 Q What kind of machines?

4 A. They're large industrial rolling mills. For
5 steel purposes.

6 Q Okay. What is the name of the company that
7 you're employed by again?

8 A. It's [REDACTED], but I think
9 by now they go by [REDACTED].

10 Q Okay.

11 A. But I'm not sure which one would bring them up
12 with the Secretary of State.

13 Q How long have you been with that company?

14 A. I think this April will be six years with them.

15 Q Okay. Are you paid by the hour?

16 A. Yes.

17 Q And how much are you -- do you earn per hour?

18 A. I believe it's [REDACTED]. I could be a
19 little off on that, but it's in that range.

20 Q Are you employed full-time?

21 A. Yes.

22 Q How many hours per week?

23 A. At least forty.

24 Q So you do some overtime as well?

25 A. Oh, yeah. Lots.

1 Q And what's your supervisor's name?

2 A. [REDACTED].

3 Q And what is his title?

4 A. Hum. [REDACTED].

5 Q Okay.

6 A. I guess.

7 Q Were you employed by [REDACTED] at the time of
8 this incident?

9 A. Yes.

10 Q And you are claiming lost wages as a result of
11 the incident?

12 A. I don't believe we are.

13 Q Did you miss any time from work due to the
14 incident?

15 A. I missed one day to go to Court.

16 Q Okay. And that's it?

17 A. (Nodding affirmatively).

18 Q You have to answer verbally.

19 A. Yes. Yes, sorry.

20 Q And how much do you earn per average for one
21 day? Is that an eight hour day?

22 A. Yeah, I -- I think that's fair.

23 Q Back in 2010, what was your hourly rate?

24 A. I believe it was the same. I...

25 Q [REDACTED]

1 A. Yeah.

2 Q Okay. Where did you work prior to [REDACTED]?

3 A. That would be Bausch and Stroebel, Bosco
4 Machine Tool.

5 Q Was it the same line of work?

6 A. Yeah, it's basically, but for pharmaceutical
7 package instead of machines.

8 Q Okay.

9 A. They changed names and ownership and stuff,
10 it's a tricky situation.

11 Q Did you go to an electrical trade school?

12 A. No.

13 Q How did you come into this line of work?

14 A. Self-taught.

15 Q And when did you first start working in this
16 field?

17 A. Hum. You want a year?

18 Q (Nodding affirmatively).

19 A. I would say three years after I graduated,
20 probably about 2003.

21 Q You graduated from high school --

22 A. 2000.

23 Q -- in what? 2000?

24 A. (Nodding affirmatively).

25 Q Other than the lawsuit that we're here to talk

1 about today, have you ever been a party to any civil
2 lawsuit, either as a plaintiff or a defendant?

3 A. No.

4 Q Have you ever been convicted of a felony?

5 A. No.

6 Q Ever been arrested for any crime involving
7 truth or dishonesty?

8 A. No.

9 Q Are you a member of any clubs or organizations?

10 A. Yes.

11 Q Okay. And what clubs do you belong to?

12 A. There's CCDL, Connecticut Citizens Defense
13 League.

14 Q Okay. And how long have you been a member of
15 that organization?

16 A. Probably about two years now.

17 Q Are you just a member, or do you hold any
18 official title?

19 A. Just a member.

20 Q Any other clubs?

21 A. I think that's it.

22 Q Are you involved with Connecticut Carry,
23 Incorporated?

24 A. Yes.

25 Q And what is Connecticut Carry, Incorporated?

1 A. It's a nonprofit that I run.

2 Q And you're the president of that nonprofit?

3 A. Yes, I am.

4 Q How many members does Connecticut Carry have?

5 A. I believe we're up to thirty-five now.

6 Q And you formed this organization?

7 A. Yes.

8 Q It's a nonprofit?

9 A. Yes.

10 Q What is the mission of Connecticut Carry?

11 A. To protect the rights of citizens to bear arms.

12 Q How did it come about that you formed this
13 organization?

14 A. I -- I -- that's a tricky question. I guess
15 I'm just active now ever since my arrest and the ensuing
16 problems that I've had, I decided that, you know, somebody
17 should really be out there to help people such as me, so
18 I'm hoping to be there to help other people.

19 Q What's the difference between Connecticut Carry
20 and CCDL?

21 A. None that's real formal. I think we're just
22 trying to take a more proactive approach.

23 Q And how is Connecticut Carry taking a more
24 proactive approach?

25 A. I would like to set up legal defense funds and

1 other things like that. To help people. CCDL is more on
2 the legislative side.

3 Q Okay. Does Connecticut Carry have a treasurer?

4 A. Yes.

5 Q And who's that?

6 A. Don Mei. Last name is M-E-I.

7 Q And who are the other members in positions of
8 authority with Connecticut Carry?

9 A. The other director is Ed Peruta. Edward
10 Peruta.

11 Q Okay.

12 A. And Anna is also on there, Anna Filipkowska.

13 Q And what's Anna's role?

14 A. She's performing tasks as secretary right now.
15 Don is also a director by the way in addition to being
16 treasurer.

17 Q All right, and you've brought your lawsuit
18 against the Chief of Police, Douglas Dortenzio?

19 A. Correct.

20 Q Lieutenant Martino, Sergeant Michael Colavolpe?
21 I'm sure I'm butchering his name.

22 A. I did that too.

23 Q Gabriel Garcia and Devin Flood?

24 A. Correct.

25 Q Did you know any of these individuals before

1 May 16th, 2010?

2 A. No.

3 Q Ever have any contact with any of those
4 officers?

5 A. Beforehand?

6 Q Before May 10th of 2000 --

7 A. No.

8 Q Before May 16th of 2010?

9 A. No.

10 Q Prior to the incident that's the subject of
11 your lawsuit, did you ever have any contact with any other
12 members of the Wallingford Police Department?

13 A. Not that I'm aware of.

14 Q Never been arrested by any member of the
15 Wallingford Police Department?

16 A. No.

17 Q Any other department?

18 A. No.

19 Q What, if anything, did you do to prepare for
20 your deposition here today?

21 A. I -- Rachel and I went over it and --

22 Q I don't want to know about any conversations
23 that you had with your attorney. Did you review any
24 documents when you met with Attorney Baird?

25 A. Not really.

1 Q What do you mean by not really?

2 A. She asked me various questions about documents,
3 but I don't think we went over any in-depth.

4 Q Did you review your Complaint in this matter?

5 A. No.

6 Q Any statements that you gave to the police
7 department?

8 A. No. Again, no document in-depth.

9 Q Did you speak with anyone other than your
10 attorney to prepare for your deposition here today?

11 A. No.

12 Q Have you prepared any notes documenting what
13 you recall about this matter?

14 A. For the deposition, or for before this?

15 Q Before this. For any reason whatsoever?

16 A. Before this, I submitted them to the
17 Wallingford Police Department through my Internal Affairs
18 Investigation.

19 Q Okay.

20 A. I wrote a complete statement based on
21 everything that went on that night.

22 Q Other than that statement that you provided to
23 the Wallingford Police Department, do you have any personal
24 notes, diaries related to this matter?

25 A. No. There is a blog site.

1 Q Okay. And what's the address of that blog?

2 A. That's withregardstorights.com. All the way it
3 sounds.

4 Q And what name do you write under?

5 A. I'm the only one who writes under there, so.

6 Q Okay.

7 A. I don't know what it is. Probably admin or
8 something like that.

9 Q Are you aware of any audio recordings related
10 to this matter?

11 A. Audio recordings, there would be the audio
12 recordings I believe of the police department in their
13 dispatch. I believe there -- there was an audio and video
14 recording that was somehow lost by the police department
15 with regards to the pool hall. I believe there was an
16 audio recording taken during the Internal Affairs
17 Investigation. I believe that's it. Oh, there's also a
18 transcript of Sarah Dabinski, the witness statement from
19 her, I believe that was taken audio.

20 Q The pool hall had a -- had a surveillance
21 camera?

22 A. The owner told us that, yes. But it was
23 unrecoverable, according to the Wallingford Police.

24 Q Okay. And when did the Wallingford Police tell
25 you it was unrecoverable?

1 A. On 5-17, the day after the incident.

2 Q And who told you that?

3 A. I -- it was the pool hall owner and Officer
4 Flood. I'm not sure if Officer Flood told us that day or
5 afterwards.

6 Q What specifically did the pool hall owner say
7 about that?

8 A. He said that they went in there, and all of a
9 sudden it was unrecoverable. He didn't really give any
10 further explanation.

11 Q And that's Robert Hilton?

12 A. Yes.

13 Q And you believe the -- there's also audio that
14 went along with that surveillance footage?

15 A. That's what he seemed to indicate at the time,
16 that it was full audio and video.

17 Q Okay.

18 A. That he takes it all over the pool hall.

19 Q And where was that camera located within the
20 pool hall?

21 A. I couldn't tell you, he didn't point it out to
22 me or anything, and I never saw it when I was there.

23 Q Okay.

24 A. I wasn't aware that it was being video
25 recorded.

1 Q Okay. All right, I'd like to talk to you now
2 about your firearms background.

3 A. Um hum.

4 Q Do you currently hold a gun permit?

5 A. Yes.

6 Q And you held a gun permit at the time of the
7 incident; correct?

8 A. Yes.

9 Q And --

10 A. Just to clarify, it's a pistol -- a permit to
11 carry pistols and revolvers.

12 Q Okay. And when did you obtain that permit?

13 A. I don't know, but I have it with me, I could
14 check the date on it if you'd like.

15 Q Yes, please.

16 A. Issued 09-18-07.

17 Q Okay. Did you go through any training to get
18 that permit?

19 A. Yes, an NRA Basic Pistol Course. Basic Pistol
20 Safety Course maybe.

21 Q Where did you take that course?

22 A. Chris's Indoor Range in Guilford, Connecticut.

23 Q And do you recall when you took that course?

24 A. No.

25 Q Was it a one day course?

1 A. Yes. Approximately eight hours.

2 Q What was covered in that course?

3 A. Basic firearm safety, how to load, unload, the
4 difference between single action, double action. Things
5 like that.

6 Q Do you remember who your instructor was?

7 A. Yes, the owner, Chris. I don't remember his
8 last name off the top of my head.

9 Q Were you provided with any course materials,
10 any written materials or documents?

11 A. I don't recall.

12 Q Were you taught in that course that even though
13 it's legal to carry a pistol in public in Connecticut, that
14 you must be judicious about where and when you do so to
15 avoid alarming citizens?

16 A. No.

17 Q That wasn't discussed at all?

18 A. Not that I recall.

19 Q Before you obtained your pistol permit, did
20 anyone with the State of Connecticut throughout that
21 process tell you that?

22 A. I don't think I had any contact with the State
23 before that.

24 Q Okay. Would you agree with me that there are
25 limitations on your right to openly carry a handgun with a

1 permit?

2 A. In what regard?

3 Q Well, you have an obligation to carry the
4 weapon responsibly; correct?

5 A. Correct.

6 Q Would you ever go into a bank, for example,
7 with an exposed handgun?

8 A. Yes.

9 Q You would?

10 A. Yes.

11 Q You don't think that would be a problem?

12 A. No. It's never been a problem.

13 Q You have gone into a bank with your weapon
14 visible?

15 A. Yes.

16 Q And it's never drawn attention?

17 A. Nope.

18 Q Never caused you a problem?

19 A. No.

20 Q How many times have you done that?

21 A. I couldn't say off the top of my head,
22 that's...

23 Q More than ten?

24 A. Probably.

25 Q Is it always --

1 A. I did -- I don't go --

2 Q -- the same bank?

3 A. -- to banks very often, so, you know.

4 Q You've definitely done that though?

5 A. Yes.

6 Q Subsequent to May 16th, 2010, you've done that?

7 A. I don't recall whether I have or haven't before
8 May 16th.

9 Q And what bank would that be?

10 A. Wells Fargo mostly.

11 Q And where's that?

12 A. That's my bank. Branford. I believe there's
13 one in Wallingford as well that I've been to.

14 Q If you're on property owned by another person
15 and that person asks you to conceal your weapon, would you
16 agree with me that in that event, you would have to conceal
17 your weapon?

18 A. No. I -- I agree with you that they can ask me
19 to leave, they cannot ask me to conceal.

20 Q Okay.

21 A. They don't dictate my form of carry. But
22 certainly they're within their rights to ask me to leave.

23 Q Okay. When did you first handle a pistol?

24 A. Hum. Probably when I was a kid with an air gun
25 pistol.

1 Q Are you a member of any gun club?

2 A. No.

3 Q Like a fish and game club?

4 A. Yeah, that's what I figured you said, but no.

5 Q Okay.

6 A. That's why it took me a second.

7 Q Any gun organizations like the NRA or anything
8 like that?

9 A. I'm a member of the NRA.

10 Q Anything else?

11 A. Like I said, CCDL, I'm the president of
12 Connecticut Carry.

13 Q And how long have you been a member of the NRA?

14 A. Off and on for, again, probably since about the
15 time I started handling them as a kid. I think I was a
16 junior member back then too.

17 Q Okay.

18 A. But I couldn't give you a good time period.

19 Q When did you first shoot a handgun? At what
20 age?

21 A. I couldn't tell you for sure. I wouldn't want
22 to speculate, but, again, young.

23 Q And do you have formal training shooting
24 handguns?

25 A. No.

1 Q How did you learn how to shoot a handgun?

2 A. From my parents.

3 Q And what do your parents do?

4 A. They're just normal people. Nothing related to
5 firearms.

6 Q Nothing related -- not in law enforcement or
7 anything like that?

8 A. No, nothing like that.

9 Q Currently how often do you shoot handguns?

10 A. Once a month probably.

11 Q And where do you do that?

12 A. Chris's Indoor Range, or Blue Trails in
13 Wallingford.

14 Q Is that -- is Blue Trails, is that a gun range?

15 A. Yes.

16 Q But you're not a member?

17 A. No.

18 Q You don't have to be a member?

19 A. No, you buy it hourly.

20 Q Okay. The specific handgun involved in this
21 matter is a Glock 40; correct?

22 A. Correct. It's actually a Glock 23 is the
23 model, forty is the caliber.

24 Q Oh, okay. Glock 23, .40 caliber?

25 A. Yes.

1 Q When did you first come into possession of that
2 gun?

3 A. Probably the same day I was issued my pistol
4 permit.

5 Q Which again was?

6 A. 9-18-07.

7 Q Did you buy the gun?

8 A. Yes.

9 Q And where did you buy it?

10 A. I believe it was -- they've had two name
11 changes. I believe it was Cubetas at the time. Not
12 Cabela's.

13 Q Right.

14 A. It's Cubetas. And it's New England Field and
15 Stream. I think they changed it. They're -- I believe
16 they're now out of business.

17 Q And from the day that you purchased the gun on,
18 you know, back in September of 2007, did you carry the gun
19 outside your home on a regular basis?

20 A. No, I believe I took it to the range first and
21 made sure it worked and all that good stuff. I would say
22 probably a week after I started carrying it.

23 Q And then did you always carry it with you when
24 you left your home?

25 A. Anywhere that was legal, yes.

1 Q Okay. And why did you want to do that?

2 A. I like to protect myself. I like to have tools
3 to, you know, protect myself on my body.

4 Q Did you have a past experience where you were
5 without a gun and felt unprotected?

6 A. Actually, yes.

7 Q Tell me about that.

8 A. I had a person with road rage try to assault me
9 and block my car in and, you know. It ended up being
10 resolved with the police, but I had been concerned that
11 that could happen again, and maybe the police wouldn't get
12 there as quickly, or he would be successful in blocking my
13 car.

14 Q Did this person physically assault you?

15 A. He would have if I had gotten out of the car,
16 but I'm not getting out of the car for somebody.

17 Q Okay, when did this incident occur?

18 A. It was before my pistol permit, but I couldn't
19 give you an exact date.

20 Q And did this incident prompt you to get the
21 pistol permit?

22 A. No.

23 Q What prompted you to get the pistol permit?

24 A. I've always had a -- a love for shooting
25 sports, you know, shooting sports and firearms ownership.

1 Q But it was this incident that compelled you to
2 want to have a gun on you at all times?

3 A. No. It just happens to be and it's -- it's
4 nice to...

5 Q Do you have your gun with you right now?

6 A. No.

7 Q Why not?

8 A. No real reason.

9 Q How do you -- how do you --

10 A. If I -- if I had my gun and I wanted you to
11 know about it, you would know about it and I would be open
12 carrying, but.

13 Q So what dictates for you when you want to have
14 it and you want people to know that you have it?

15 A. That's not really -- that's a loaded question.
16 I mean, I -- if I -- if I wanted to be open carrying it,
17 that's when I want to be, you know, open and honest about
18 the fact that I am carrying a firearm, so.

19 Q I'm just trying to determine, you got your
20 gun -- you got your gun back in 2007; correct?

21 A. Yes.

22 Q How often do you leave your house with a gun?
23 From 2007 forward, let's start with the year 2007.

24 A. I would say about ninety-five percent of the
25 time.

1 Q The five percent of the time that you don't
2 have your gun with you, how is that decision made not to
3 take it?

4 A. It's all based on my choice, my comfort. I
5 don't think I could articulate why I choose to carry it or
6 not carry it.

7 Q And is that consistent from 2007 to now, 2012?

8 A. Yes.

9 Q Pretty much ninety-five percent of the time you
10 leave -- you leave your home, you got your gun with you?

11 A. Yes.

12 Q Did you not bring your gun with you today
13 because you thought maybe it would be alarming for the
14 folks in this building if you had it with you?

15 A. No.

16 Q Why didn't you bring it with you today if you
17 have it with you ninety-five percent of the time?

18 A. Just because I made the decision not to. I
19 didn't know if you would have a sign posted, I didn't know
20 how that would be handled. If you had a sign posted, how
21 am I going to leave it in my car? It's Hartford.

22 Q So there are certain times when you will not
23 exercise your right to open carry your weapon?

24 A. Yes.

25 Q And what would make you choose not to exercise

1 that right?

2 A. All personal decision. I have the right to
3 carry either way I want to carry. It's lawful. And I make
4 that decision as I'm leaving the door. It's -- it's
5 more I would say equivalent to a wardrobe decision. It
6 really is.

7 Q Would you have ever come to my office here
8 today and open carry?

9 A. Yeah. Now that I know there is no sign on the
10 door and that you seem to be open to it, yes.

11 Q Well, I'm not saying I'm open to it, but. I
12 was just curious why you didn't have it with you.

13 All right, so let's now go to the incident that
14 forms the basis of your lawsuit. My records indicate that
15 that occurred on May 16th, 2010.

16 A. Um hum.

17 Q Is that correct?

18 A. That is correct.

19 Q If I refer to that as the incident, you'll know
20 what I'm talking about?

21 A. Yes, I will.

22 Q Okay. What time did the incident occur
23 approximately?

24 A. It all depends on if you're talking about when
25 the police came or when I arrived, but I -- I believe I

1 arrived somewhere in the neighborhood of seven-thirty,
2 eight o'clock at night. I wasn't really paying attention
3 to the time at that point.

4 Q Okay. Do you recall what day of the week it
5 was?

6 A. It was a Sunday.

7 Q And the incident occurred at Yale Billiards,
8 correct?

9 A. Correct.

10 Q And that's at 950 Yale Avenue in Wallingford?

11 A. I believe so.

12 Q Could you tell me your activity earlier that
13 day before you went to Yale Billiards.

14 A. I -- I don't know. I couldn't recall that. It
15 was a pretty normal errands type of day.

16 Q Do you generally have the weekends off?

17 A. Yes.

18 Q So you weren't working that day?

19 A. No, I was not working that day.

20 Q When did you make the decision to go to Yale
21 Billiards?

22 A. I don't really recall. Probably about thirty
23 minutes to an hour before we went there. It was somewhat
24 of a spontaneous decision. We wanted to play pool and we
25 decided to go there. I had been there one time before.

1 Q And when was the one time before May 16th, 2010
2 that you had been to Yale Billiards?

3 A. It was a few years before that. It was just a
4 company function, so. Again, I wouldn't really remember
5 the date. It was uneventful.

6 Q Were you working at [REDACTED] when you went to
7 that company function?

8 A. Yes.

9 Q Do you bring your weapon with you to work?

10 A. No.

11 Q Why not?

12 A. My company has a policy forbidding it.

13 Q Okay. So on the prior occasion when you went
14 to Yale Billiards, you didn't have your handgun with you?

15 A. Correct.

16 Q And --

17 A. That would accompany -- that would account for
18 ninety-five percent of the, you know.

19 Q That's the five percent that --

20 A. Yeah, I mean, I guess it doesn't really line up
21 with time as such, but as far as decisions go, yes.

22 Q Prior to May 16th, 2010, had you ever gone to a
23 bar and openly carried your --

24 A. Yes.

25 Q -- handgun? And what bar?

1 A. I would say the most obvious one would be
2 Crooked Shillelagh.

3 (Whereupon, the court reporter asked
4 the witness to repeat himself.)

5 BY THE WITNESS:

6 A. It's S-I or S-H-I-L-L-E-L-A-G-H I believe.

7 Q Anywhere else? Any other bar?

8 A. Not that I recall, but it's very possible. We
9 used to do a lot of walking at the time, so we'd stop just
10 about anywhere.

11 Q How many times did you go to the Crooked
12 Shillelagh with your gun exposed?

13 A. I couldn't give you a number, it's a regular
14 hangout spot for us.

15 Q Whenever you went, you had your gun with you?

16 A. Yes.

17 Q Exposed?

18 A. Sometimes, sometimes not.

19 Q Okay. From September of 2007 to May 16th,
20 2010, roughly how many times did you go to the Crooked
21 Shillelagh?

22 A. I couldn't answer that. It's a -- it's a
23 regular bar that's real close to us that, you know, we stop
24 at all the time, so I couldn't tell you.

25 Q What Town is it located in?

1 A. Branford, Connecticut.

2 Q Did you go there once a week, once a month?

3 A. At least once a week probably.

4 Q Okay. And on those occasions once a week when
5 you went to that bar, what percentage of time did you have
6 your gun with you?

7 A. I would say --

8 Q Exposed.

9 A. -- easily 50/50. Fifty percent.

10 Q And this is prior to May 16th, 2010?

11 A. Yes.

12 Q And nobody ever asked you to conceal your
13 weapon on those occasions?

14 A. No.

15 Q Police were never called?

16 A. Nope. The owner's very friendly with us.

17 Q Who's the owner?

18 A. Bob. I know his first name, and I -- I want to
19 say his last name is Whelan, W-H-E-L-A-N. Maybe.

20 Q So did Bob know you as a regular customer?

21 A. Yeah. Still does.

22 Q Okay. What were you wearing on May 16th, 2010
23 when you were at Yale Billiards?

24 A. I had a pair of cargo shorts and a T-shirt. A
25 CCDL T-shirt.

1 Q Can you describe the T-shirt for me.

2 A. I believe it was a dark blue, navy blue maybe.

3 Q Did it have the image of a handgun on it?

4 A. I believe it had it up in the breast area of
5 it. And then on the back it says CCCL -- CCDL, sorry.

6 Q Did it have a saying on it or anything like
7 that?

8 A. I believe the -- the Connecticut Constitution
9 Article 1 Section 15 was quoted down below, but I'm not
10 sure. I haven't seen it in a little while, so.

11 Q Okay. And you were wearing your handgun at the
12 time; correct?

13 A. Correct.

14 Q Can you describe for me how you were wearing
15 it.

16 A. It was in a right side outside the waistband
17 holster.

18 Q What was the color of the holster?

19 A. I believe it was tan.

20 Q Was the gun loaded?

21 A. Correct.

22 Q Is it correct that it had a thirteen round
23 magazine inserted in it?

24 A. Yes.

25 Q And one round in the chamber?

1 A. Correct.

2 Q When you carried your gun from September of
3 2007 to May of 2010, did you generally have it loaded
4 wherever you went?

5 A. Absolutely. I've never carried an unloaded
6 gun.

7 Q Always with one round in the chamber and a
8 thirteen round magazine?

9 A. Correct.

10 Q And were you also carrying other ammunition?

11 A. Yes.

12 Q And what were you carrying for additional
13 ammunition?

14 A. Two extra magazines, identical, thirteen round.

15 Q So you had a total of forty bullets?

16 A. Correct.

17 Q On your person?

18 A. (Nodding affirmatively). Correct.

19 Q And why did you have that much ammunition with
20 you?

21 A. That's standard load for me to carry.

22 Q It seems excessive.

23 A. To?

24 Q To me. Would you disagree?

25 A. Do you carry a firearm on a regular basis?

1 Q I -- I don't, but.

2 A. Okay, then I would assume that the Glock would
3 be excessive to you then.

4 Q What kind of situation would present itself
5 where you would need forty rounds?

6 A. If my -- if one magazine fails in a
7 semiautomatic firearm, the firearm is rendered useless. So
8 carrying two is really only carrying two spare magazines.
9 It's not about having forty bullets.

10 Q How often does a magazine fail?

11 A. It's actually a pretty common occurrence in a
12 semiautomatic firearm. It's one of the few things that'll
13 render it completely useless.

14 Q Did you go from your home to Yale Billiards?

15 A. I believe so, but again, I can't really recall
16 what happened before. It was a pretty unremarkable day.

17 Q Okay. Can you tell me everything you did at
18 Yale Billiards.

19 A. Okay. We went in, we saw the woman behind the
20 counter. She gave us -- you know, we paid and she gave us
21 our balls and the little chalk things and everything we
22 needed. Sent us to a table. And we proceeded to play
23 pool.

24 Q How many pool tables are there in that
25 establishment?

1 A. At least a dozen I would say.

2 Q And you were aware that you were wearing your
3 gun when you walked into Yale Billiards?

4 A. Yes, I was.

5 Q How many customers were there in the
6 establishment at that time?

7 A. I don't know, but I do recall afterwards saying
8 about forty, and I would probably say that that's a pretty
9 reasonable number.

10 Q You don't dispute that number?

11 A. No, I -- I would have no way of disputing it
12 one way or another. I don't normally take a count of the
13 people in a pool hall when I walk in.

14 Q Did you notice if there were any kids in the
15 establishment?

16 A. Yes, there were. There was two standing next
17 to me.

18 Q And how old were those kids?

19 A. I'm not very good with ages of children, but
20 probably nine, ten, somewhere in there.

21 Q Was the holster that you had your gun in, was
22 it orange by any chance?

23 A. I -- I seen accounts of that in the police
24 report, but it really is a tan leather, so it may have had
25 an orange hue at the time, I don't really know where that

1 came from.

2 Q You wouldn't describe it as a bright orange?

3 A. No.

4 Q Do you still have that holster?

5 A. Yes.

6 Q And I -- if I asked you to give that holster to
7 your attorney, would you be able to do that?

8 A. Sure.

9 Q Do you use that holster to carry your gun
10 today, or do you have a new one?

11 A. I don't use that one as much anymore. I just
12 wasn't a big fan of it.

13 Q Why not?

14 A. It was actually a new holster. It just wasn't
15 as comfortable as I liked. And, you know, I have other
16 ones that are very similar.

17 Q All right. So how long did you play pool for
18 before there was some controversy?

19 A. It's hard to say, but I -- I believe we
20 completed at least one game, and we're not very good at it,
21 so it took awhile.

22 Q What's awhile?

23 A. Probably at least fifteen, twenty minutes I
24 would think.

25 Q Okay. Tell me what happened in your own words.

1 A. We were standing there playing pool, and I was
2 approached by the owner, Robert Hilton, he just came over
3 and very calmly and casually we walked over to the side of
4 the table as -- I think he was trying to take me aside. So
5 he -- he asked me, you know, I notice you have a gun on
6 your hip. And I said, yes, I do. And he said, I didn't
7 think that was legal, I have a concealed carry permit. And
8 I told him it's not a concealed carry permit. And I did
9 inform him that, you know, it's his property and if he
10 wished me to leave, I would do so peacefully and
11 immediately. And he said, no, he -- he said, but he just
12 doesn't -- didn't think it was legal at the time. And so I
13 said to him, you know, well, here's some literature. And I
14 did have some literature with me at the time. I supplied
15 that to him, and he was -- he seemed appreciative. And he
16 said, if I check on this, everything will line up? And I
17 said, sure. I'm just pausing. I don't want to swamp you.
18 After that, Robert Hilton walked away and he, you know,
19 he -- he actually told me to stay and continue playing
20 pool. And I offered to leave, but he, you know, offered to
21 stay and -- allow me to stay. So we continued playing
22 pool, and it wasn't, I mean, maybe a minute, a minute and a
23 half later I guess we -- I -- we had just tried to go back
24 playing pool, and somebody, later known as Mark Vanaman
25 came charging across the -- the pool hall at me. And it

1 was pretty noticeable, because he's a pretty large guy.
2 And of course I -- I -- I was upset by this because, you
3 know, there was a large man charging me, so I took kind of
4 a defensive position and started asking him, who are you?
5 Are you an officer? And he was pretty loud, yelling at me.

6 Q Are you recording this deposition?

7 A. Yes.

8 Q Okay, you can't record this deposition.

9 MS. BAIRD: Why not?

10 MS. MACCINI: He does not have a
11 right to record the deposition. The deposition is
12 being recorded by a court reporter.

13 MS. BAIRD: Do you have a -- do you
14 have a role of authority for that, or?

15 MS. MACCINI: I -- I do. I will go
16 get some.

17 MS. BAIRD: Okay, let's take a break.

18 MS. MACCINI: Sure.

19 MS. BAIRD: I'll be pleased to look
20 at it.

21 (Whereupon, a recess was taken at
22 10:52 and resumed at 11:42).

23 MS. MACCINI: All right, back on the
24 record. All right, we went off the record for some
25 amount of time where we got the assistance of Judge

1 Haight who has ordered that the deposition not be
2 recorded. He sustained my objection to that.
3 Attorney Baird has agreed to keep the thirty-eight
4 minutes that was recorded, to look for the Judge's
5 order and decide whether that recording should be
6 disposed of once we receive the order, but the Judge
7 was very clear that that recording shall not be
8 released to the public in any event.

9 I also want to put on the record that
10 the co-defendant, Mark Vanaman was notified of this
11 deposition, we spoke with him yesterday, and he
12 apparently decided not to appear here today, but he
13 did have notice. Could you read back my last question
14 and his response.

15 (Whereupon, the court reporter read
16 back the testimony.)

17 MR. BURGESS: Just so you know,
18 Vanaman is spelled V-A-N-A-M-A-N.

19 BY MS. MACCINI:

20 Q Okay, there's a lot of information there, so
21 let me just break some of that down. When Robert Hilton,
22 the owner first approached you, did he ask you to conceal
23 your handgun?

24 A. I -- I think he did mention, will you conceal
25 it, but he didn't order me to conceal it or demand I

1 conceal it. He just asked is that something I would do.

2 Q And your response was?

3 A. No, but I will leave.

4 Q And Robert Hilton was the manager of the Yale
5 Billiards, or the owner?

6 A. I believe he's the owner.

7 Q And he politely asked you to conceal your
8 weapon?

9 A. No, he didn't -- again, he didn't ask me to
10 conceal it, he asked if I would, or, you know, my offer to
11 him was instead of concealing, I would just leave, which
12 would solve the entire problem if he did have a problem.

13 Q I don't under -- understand the difference
14 between asking you to conceal your -- your weapon and
15 asking you if you would conceal your weapon. There's not a
16 distinction there for me. Can you explain the --

17 A. Well, there is --

18 Q -- distinction.

19 A. -- for me, because, you know, he -- it wasn't
20 an -- an issue of, you know, please conceal your weapon.
21 It was a matter of, you know, I didn't think that was
22 legal, I just want to -- you know, there's -- there's
23 somebody, either him or somebody else had a concern, I
24 don't really know. And so he decided that, you know, how
25 can we solve this problem? And so his offer to me was,

1 would you just conceal it, or would you want to leave, or
2 how do we settle this? And I said, I will leave if so
3 ordered.

4 Q And he told you, no, let me make a call, and
5 you continued playing pool?

6 A. Yeah, and -- and I don't really think he said,
7 let me make a call. But he said if I check on this. So
8 I -- I don't know what that was to mean. I -- I mean, I
9 handed him a pamphlet that had a bunch of Statutes in it
10 that I think he was going to go review.

11 Q Did you tell Mr. Hilton in that initial
12 exchange that you were quote, unquote, trying to make a
13 point?

14 A. No.

15 Q You never said that?

16 A. No.

17 Q And is it fair to say that when you went into
18 Yale Billiards on May 16th, 2010, you wanted everyone to
19 notice you were carrying a weapon; correct?

20 A. No.

21 Q You didn't want anyone to notice?

22 A. I mean, only in the -- the idea that I didn't
23 conceal my firearm. I mean, that is somewhat the point of
24 not concealing your firearm. I mean, you're consciously
25 aware that people are going to notice, but I -- it

1 wasn't -- the point of going there was to play pool, not to
2 show off my firearm.

3 Q Well, describe for me how you were wearing the
4 handgun as well as the ammunition. In detail. Describe
5 that for me.

6 A. The firearm was in a holster on my right side.
7 Outside the waistband. My ammunition, which were two spare
8 magazines, were in a magazine holder. I believe it was on
9 my left side in the small of my back.

10 Q What color was the magazine holder?

11 A. Black.

12 Q Can you describe the size of the magazine
13 holder.

14 A. Maybe two inches by three inches, it's
15 rectangular, it has a hole in it for the magazines to go
16 in.

17 Q Do you still have that magazine holder?

18 A. Yes.

19 Q If I asked you to forward that to your
20 attorney, you could?

21 A. Yeah.

22 Q Wouldn't the firearm and the holder as well as
23 the ammunition be hard to miss?

24 A. I don't know. Not in my experience. In my
25 experience, most people don't notice a -- a concealed

1 firearm actually.

2 MS. MACCINI: Could you mark this as
3 an exhibit. Can you just mark it on the back.

4 (Whereupon, Defendants' Deposition
5 Exhibit 1 was marked.)

6 BY MS. MACCINI:

7 Q Mr. Burgess, I'm showing you a five page
8 document marked as Defendants' Exhibit 1. I'd just like
9 you to take your time and take a look at that.

10 A. Um hum. (Witness complies). Okay.

11 Q Is -- do you recognize Defendants' Exhibit 1?

12 A. Yes.

13 Q And what do you recognize it as being?

14 A. That was some of the information that I had
15 that day.

16 Q Some of the information?

17 A. I -- I should say all the information I had
18 that day.

19 Q All the information you had that day?

20 A. Yeah. Sorry.

21 Q And can you just give me an overview of what is
22 contained in this document.

23 A. Sure. The first two pages it looks like,
24 although I think they were printed on a brochure which was
25 front and back. That's a CCDL brochure that lists some

1 Statutes in the State of Connecticut. The -- and a few
2 answers in here. I believe -- I think there's questions in
3 here. Yes, there is, there's questions about where you can
4 and can't carry and things like that. Which is just a
5 nice, helpful guide for people. The second one is a -- I
6 kind of forget about what this is about. This is a Bill
7 that is talking about a bunch of different proposed
8 Firearms Bills. I believe somewhere in here, although I'm
9 not seeing it right now, is about -- yes, Section 8,
10 Section 8 of the Bill provides clarification and removes
11 any ambiguity in the Statutes regarding the carrying of
12 pistols. So it's talking about open and concealed carry.
13 So basically at the time the Commissioner of the Department
14 of Public Safety knew that conceal carry was not mandated
15 by the law. The next one is Second Amendment Rally, State
16 Capital. It has a bunch of descriptions of how the State
17 Police will interact with people openly carrying a firearm.
18 On Capital grounds by the way. And that -- that's it.

19 Q Okay. And how many packets of these documents
20 did you have with you on May 16th, 2010?

21 A. On my person I believe, and I -- I can't one
22 hundred percent recall which ones, but I believe I only had
23 this brochure, the first two pages. Now, that was provided
24 to Mr. Hilton. And possibly one other page, but I -- I
25 can't be sure of that, because it was just what was in my

1 pocket at the time. I commonly shared that with people.
2 Now, the rest of it was actually obtained from my car
3 outside when the police were on the way. So I had given
4 that -- I believe I had asked my girlfriend, Anna to go get
5 the documents out of the car just to give to them when they
6 arrived.

7 Q How many CCDL -- CCDL pamphlets did you have on
8 your person?

9 A. On my person, there was one.

10 Q Okay. And why did you have that with you?

11 A. A lot of people ask questions about open carry
12 when they see it. You know, a lot of people have been told
13 that, you know, there is no way to open carry and stuff
14 like that, so they ask me.

15 Q So you were expecting there to be some
16 controversy; correct?

17 A. No.

18 Q Well, why if you -- you expected that some
19 people would have questions?

20 A. Yes.

21 Q Okay. But you didn't think they'd be alarmed?

22 A. And I wouldn't say that I expected questions at
23 the pool hall. But in general, when you're open carrying,
24 yes, people ask you about firearms. I mean, lots of people
25 in the State like firearms and lots of people like to talk

1 to them. It's actually one of the reasons that I decide
2 not to open carry all the time is because sometimes you get
3 a lot of questions and you'd like to just go about your
4 day.

5 Q All right. So why don't you continue telling
6 me what happened when Mr. Vanaman approached you.

7 A. Like I said, he was -- he was loud and
8 aggressive and started yelling, are you going to conceal
9 that? Are you going to conceal that? I still -- at this
10 point I -- I couldn't give him any response because I
11 didn't know who he was. I asked him if he was an owner, if
12 he was law enforcement, what -- who he was, what he was. I
13 mean, I had just spoken to the owner as far as I knew,
14 although I hadn't never known Robert Hilton before, so I
15 couldn't be sure he was the owner. So I was pretty
16 confused. I -- go ahead.

17 Q Mr. Vanaman was agitated; correct?

18 A. Very much so.

19 Q Alarmed?

20 A. I wouldn't say so. He was very aggressive. He
21 was -- he appeared to me like he was looking for a fight.
22 I would think if somebody was alarmed, they would go in the
23 opposite direction.

24 Q Well, he approached you and asked you to
25 conceal your weapon; correct?

1 A. He did not ask me. He -- he demanded and
2 yelled.

3 Q Okay. And did you ask -- did you ask him
4 whether he was a police officer?

5 A. Yes.

6 Q Did he respond that he was not, that he was a
7 concerned citizen?

8 A. He never responded to me. He just kept
9 yelling, that he started yelling that this was a bar, that
10 firearms couldn't be carried in a bar. I tried to inform
11 him that was not correct, but he had his own script, he...

12 Q Did -- did you tell him to get the F away from
13 you?

14 A. No.

15 Q And did you tell him, I'm not going to cover my
16 weapon?

17 A. I -- again, I didn't respond to any of his
18 questions, because I didn't know who he was.

19 Q Okay. Did he tell you he was going to call the
20 police?

21 A. That's a good question. I don't remember him
22 ever saying that.

23 Q Do you remember anybody telling you that they
24 were going to call the police?

25 A. Nope. I was unaware at the time Hilton was

1 calling the police after this incident either.

2 Q All right, what happened next after Mr. Vanaman
3 had an exchange with you?

4 A. When he wore himself out yelling at me, he
5 stormed out through the -- to the front entrance and stood
6 in front of the door. And at that time, I looked back over
7 where Mr. Hilton was now standing, which wasn't on the
8 phone or anything, he was just talking to somebody else.
9 And obviously he was in shock, I was in shock, I looked at
10 him and I said, I think we should go now. And Anna started
11 gathering things up and I started gathering things up. Mr.
12 Hilton replied that he -- he thought that that would be a
13 good idea. And I asked him is it okay if we just sit
14 outside and wait for the police to come, because, you know,
15 if somebody wasn't calling, somebody needed to call, you
16 know, this was, in my opinion, a pretty bad act that just
17 happened. So I started to proceed outside. At that time,
18 there's like a partition in the middle of the room, and
19 when we got to that partition, Anna noticed that Mr.
20 Vanaman was still standing in front of the doorway. And
21 she kind of exclaimed, oh my God, what's he going to do,
22 try to block us in? And I said, I don't know, but we got
23 to leave, so we have to go that way anyway. And we gave
24 the balls back to the -- to the woman up front behind the
25 counter, and I believe at that time Mr. Hilton came back

1 around the corner, and we proceeded to the exit, and I went
2 to sit out on the front bench.

3 Q Okay, stop there.

4 A. He did move at some point, sorry.

5 Q Okay. Stop there. Because you've given me a
6 lot of information.

7 A. Um hum.

8 Q Would you agree with me that in May of 2010,
9 under Connecticut Law, if an owner or manager wanted to,
10 they could stipulate that you couldn't have guns on their
11 premises?

12 A. Sure.

13 Q Did -- after your exchange with Mr. Vanaman,
14 did Mr. Hilton ask you to leave because people were getting
15 upset and were uncomfortable with the gun?

16 A. I -- I offered to leave, and he -- he
17 definitely replied in the affirmative, because people were
18 alarmed, but not because of the gun, but because of Mr.
19 Vanaman's actions.

20 Q Okay.

21 A. Before that when Mr. Hilton walked away from
22 me, there was nobody alarmed.

23 Q How could you tell that people were alarmed at
24 that point?

25 A. There's a loud, shouting man in the room,

1 everybody's, you know, their sticks are on the table,
2 everybody's backing away, they're looking at him. It was
3 pretty obvious at that point. I was alarmed. I could only
4 assume everybody else was.

5 Q And you believe that people were backing away
6 because of Mr. Vanaman, not because of you?

7 A. Yes. Again, I was very quiet and polite, so I
8 couldn't imagine why anybody would back away from me.

9 Q Is it possible that they were backing away
10 because they noticed for the first time that you were armed
11 and had two magazines on your person?

12 A. It's certainly possible, but playing pool in an
13 open room of forty people, I -- I find it hard to believe
14 that somebody would be first noticing.

15 Q You don't dispute that the manager of the Yale
16 Billiards, Robert Hilton, when he realized you were wearing
17 a gun asked you if you would just conceal it, you don't
18 dispute that; right?

19 A. No, we -- again, it was a conversation. He
20 didn't come over to me and ask, will you conceal that. He
21 came over and we talked about what was going on and, you
22 know, how -- how he could deal with the situation on hand,
23 because he wasn't sure if it was legal or not. Once he was
24 informed it was legal, he never asked to conceal it. When
25 it was illegal, he asked, you know, can we conceal it or

1 can you move on? And I said, it's not illegal, so what
2 would you like to do?

3 Q Well, ultimately after your exchange with Mr.
4 Vanaman, Robert Hilton did ask you to leave if you weren't
5 going to conceal it because customers were uncomfortable?

6 A. Again, no, I -- I actually offered it, and he
7 replied in the affirmative.

8 Q That he thought that was a good idea?

9 A. Yes. I mean, at that point, I wanted to go. I
10 wasn't going to stay either way.

11 Q Did you make any effort to conceal the handgun
12 you were wearing on May 16th, 2010?

13 A. No.

14 Q Why not?

15 A. There's no reason to. I was wearing shorts and
16 a T-shirt.

17 Q Well, at least one patron was agitated because
18 you weren't concealing it; correct? Mr. Vanaman you have
19 acknowledged was agitated?

20 A. He certainly appeared to be agitated, yes.

21 Q So why not just conceal the handgun?

22 A. Because at that point I was all done with the
23 establishment. I'm not going to -- why would I conceal and
24 then leave?

25 Q So once Mr. Vanaman approached you, you had

1 made the determination that you had to leave?

2 A. Yeah, I -- I was embarrassed, why would I stay?
3 I mean, I'm embarrassed, I'm agitated. I just -- I've
4 never been in a confrontation like that. I've never had
5 somebody yell at me in public to that extent.

6 Q Would it be fair to say that if you wanted to,
7 you could have left your handgun at home on May 16th, 2010?

8 A. Sure.

9 Q But you chose instead to walk into a billiard
10 club wearing it?

11 A. Yes.

12 Q A place that serves alcohol?

13 A. Yes.

14 Q Did you appreciate when you walked into the
15 Yale Billiards on May 16th, 2010 that if members of the
16 public or employees saw your handgun, that you ran the risk
17 of alarming them?

18 A. No. I had been open carrying for a long time
19 before that. You know, at least a month. No alarm had
20 happened. So, no, that wasn't even in my head.

21 Q Well, you told me that you -- there were prior
22 occasions when you went to the bar near your home, what was
23 the name of that bar again?

24 A. Crooked Shillelagh.

25 Q Where you never had any problem, but did you

1 ever go to any other bar?

2 A. Again, I -- I can't remember off the top of my
3 head, but likely. Actually, I know, but I -- I know
4 there's another bar, Archie Moore's in Wallingford that I
5 have been at over --

6 (Whereupon, the court reporter asked
7 the witness to repeat himself.)

8 BY THE WITNESS:

9 A. Archie Moore's, sorry. Archie and then
10 Moore's, M-O-O-R-E-S. And I know I've been there, but I
11 can't remember if that was before or after the incident to
12 be honest. It just never really registered in my mind, so.

13 Q So you had been to Archie Moore's openly
14 carrying your weapon prior to May 16th, 2010?

15 A. Again, I can't be sure of whether it was after
16 or before. You know, before or after.

17 Q Okay. On how many occasions had you been to
18 Archie Moore's openly carrying your weapon?

19 A. Probably half a dozen times.

20 Q And you can't be sure if any of those times
21 occurred prior to May 16th, 2010?

22 A. I couldn't. Again, it's just another place I
23 go.

24 Q All right, what happened once you went outside?

25 A. I sat on the bench, there's a bench for what

1 looks like smoking, there's ashtrays and stuff around. I
2 sat on the bench, I asked Anna to go ahead and grab me some
3 more documentation from the car, because I did hear Mr.
4 Vanaman, he's now loudly pacing in the parking lot back and
5 forth, and he's yelling into the phone at the police, so it
6 was pretty clear at that point that he was calling the
7 police. And I don't recall if he said that he was calling
8 the police or not though. So I asked her to get the
9 documentation so that, you know, we could provide it to the
10 officers, hopefully it would just be a misunderstanding.
11 At that point a couple other patrons from inside came
12 outside and sat with me on the bench. They sat and talked.
13 And, again, they -- they asked me the pretty standard
14 questions, which at that point Anna had brought back the
15 pamphlets, so I was handing those around to people as well.

16 Q What were the names of those patrons?

17 A. The only one that I know of is Seth Tucker.

18 Q And what specifically did Mr. Tucker say to
19 you?

20 A. He was asking me about open carry. He didn't
21 know it was legal, because he didn't have a pistol permit.
22 But he said he was going for his pistol permit, and like to
23 learn more.

24 Q And was the other patron male or female?

25 A. I know there was at least one female who

1 mentioned something about going to a Police Academy, I
2 didn't get names, I wasn't getting statements at the scene.

3 Q What else did she say to you, if anything?

4 A. Everybody just was -- they were basically
5 talking about how badly Mr. Vanaman was responding and
6 acting.

7 Q Did any patrons inside the pool club say
8 anything to you after the incident while you were still
9 inside?

10 A. I was --

11 Q That's a bad question. Let me rephrase that.

12 When you were inside the pool club, and you had the
13 exchange with Mr. Vanaman, did any other patrons approach
14 you?

15 A. No, there were no other exchanges.

16 Q Okay.

17 A. Except for possibly small talk with the person
18 behind the counter when I was exchanging the balls.

19 Q Okay.

20 A. I can't remember though.

21 Q Okay. Why did you go outside where Mr. Vanaman
22 was? Instead of waiting inside?

23 A. Because I told the guy, the -- Hilton that I
24 would leave.

25 Q Okay.

1 A. So. I figured that was the least I could do,
2 you know.

3 Q Why not just go home?

4 A. Because I assumed that the police were being
5 called from Vanaman's response and his loud talking on the
6 cell phone, and I didn't want to be, you know, interpreted
7 as having run away from the scene or be pulled out on a
8 felony stop. I -- I don't know what an officer would do.

9 Q All right, what happened once police arrived?

10 A. I started noticing the police arriving in the
11 parking lot, they eventually came over to me. It seemed
12 like it took a long time. From their reports it doesn't
13 seem like it took a long time. My perception at the time
14 was it took fifteen minutes or more. Certainly we had a
15 lot of conversations out there. When the police arrived,
16 they -- I believe there were three or four stacked up, you
17 know, walking over to me. And they were just in single
18 file line, really not doing anything, just... And at that
19 time there were probably at least half a dozen people out
20 on the bench with me and Anna. And so they had no idea who
21 was the person they were responding to. So I actually, you
22 know, reached out and waved over to them, and motioned them
23 over that, you know, I was probably the person they wanted
24 to talk to. I didn't see any point in delaying anything.
25 At that time, Sergeant Colavolpe came up, and of course I

1 didn't know his name at the time, but he came up and
2 reached over onto my right side, which I lifted my arm up
3 and showed him the firearm so that, you know, he could get
4 easy access. I wanted them to know where it was. But I
5 didn't stand up because I didn't want to appear threatening
6 to them.

7 Q Um hum.

8 A. So I reached my arm up, and he pulled the
9 firearm out and then cleared it. And I'm pretty sure he
10 was the one that cleared it. After that, I mean, almost
11 immediately, maybe thirty seconds afterwards, I was
12 handcuffed. And when I was handcuffed, I asked them what I
13 was being arrested for, and they replied, breach of peace.

14 Q And who said breach of peace?

15 A. I believe Sergeant Colavolpe, and I believe it
16 was repeated at least once by Officer Gonzalez. Or, I'm
17 sorry, Garcia.

18 Q How many officers arrived?

19 A. I -- I don't know exactly. I saw about four.

20 Q Did you consume any alcohol prior to the
21 incident?

22 A. No.

23 Q Any drugs?

24 A. No.

25 Q So when the officers arrived, they approached

1 you in a single file line or in a stack formation; Sergeant
2 Colavolpe cleared the -- took the weapon and cleared it?

3 A. Um hum, yes.

4 Q And you were placed in handcuffs within thirty
5 seconds?

6 A. Yes.

7 Q Who placed you in handcuffs?

8 A. I believe Officer Garcia did all of that stuff.

9 Q Okay.

10 A. He's -- he actually kept his hand on the cuffs
11 to I guess make sure I wasn't going to run, I don't really
12 know.

13 Q And you asked, what am I being arrested for?

14 A. Yes.

15 Q And one officer replied breach of peace?

16 A. Garcia replied breach of peace at least once,
17 and Sergeant Colavolpe -- Sergeant Colavolpe appeared to be
18 the officer in charge.

19 Q Okay.

20 A. So I tried to direct most of my questions to
21 him.

22 Q What else did you say to him, if anything?

23 A. Basically just telling him that, you know,
24 you're making a mistake, because breach of peace isn't --
25 you know, there's nothing illegal about what I'm doing, so

1 I'm not really sure why I'm being placed under arrest.

2 Q Did you in fact state to him, if you arrest me,
3 then you will have big problems because I'm allowed to open
4 carry like this, read the paperwork?

5 A. I don't dispute that.

6 Q Okay. Did you try to give him some paperwork?

7 A. Yes.

8 Q Did he take it?

9 A. No, they threw it on the ground and stepped on
10 it.

11 Q Any conversation with any other officer?

12 A. Yes. I asked just about everybody on scene if
13 they understood what they were doing? And if they
14 understood that open carry was completely legal and, yeah.

15 Q Did you get a response?

16 A. Yes. Just about every one of them laughed and
17 said, no, it's not. And, you know, that's why you're in
18 handcuffs.

19 Q Any other conversation beyond that?

20 A. There -- there could have been. It was a long
21 exchange. I couldn't tell you every word I said.

22 Q How long was the exchange?

23 A. Again, especially in a circumstance like that,
24 time starts to change, but it felt like I was standing
25 there for, again, at least fifteen minutes. I know I asked

1 Officer Garcia several times -- the magazines were on my
2 back, so my hand was behind my back, and it was kind of
3 digging into my hand, plus, you know, I was concerned maybe
4 he didn't see it, I don't know. So I wanted to make sure
5 he took the ammunition off me. I don't know if it's, you
6 know, something that, you know, if I didn't tell him about
7 that I would get in trouble for going into his -- his jail
8 cell or whatever he was putting me in.

9 Q Did he take the magazines from you?

10 A. No, he kept telling me to relax, which I wasn't
11 agitated, so.

12 Q Did anybody ever remove the magazines?

13 A. They -- they finally did right before they put
14 me in the police car I believe, which is good, because that
15 would have hurt.

16 Q Who transported you to police headquarters?

17 A. Garcia.

18 Q Was it just Garcia in the car?

19 A. Yes.

20 Q Any problems during transport?

21 A. Nope.

22 Q What happened once you got to headquarters?

23 A. I was booked. You know, they brought me into
24 the booking area, they booked me, took fingerprints,
25 pictures. I asked what, again, what I was being arrested

1 for and why did he justify breach of peace, because now he
2 had the Statute Book open, so I thought that was a good
3 time for dialog. And Garcia informed me that he was not my
4 arresting officer, which I thought he was at the time. I
5 was not informed of who my arresting officer was on the
6 scene. And he told me also that at that time the charge
7 was being changed, and that they had sent down disorderly
8 conduct as a charge.

9 Q Garcia told you this?

10 A. Yes.

11 Q Were any of the other officers that were
12 present on the scene present in the booking area?

13 A. No.

14 Q So it was just Garcia that you dealt with at
15 that point?

16 A. Yes, correct.

17 Q Did you have any problems with how you were
18 treated during the booking process?

19 A. Not really. Other than just standard rude cop
20 talk.

21 Q What was the rude cop talk that you
22 experienced?

23 A. Well, it was things like, you know, I tried --
24 he tried to get me to waive my rights, I refused, and he
25 tried to push me into waiving my rights, which again I

1 refused.

2 Q How did he try to push you?

3 A. He said that I had to sign the Waiver of
4 Rights. And I told him, no I didn't, but that I would -- I
5 would sign something saying I refused.

6 Q Other than the fact that you were arrested for
7 what you feel is legal conduct, any other complaints about
8 how you were treated at the scene?

9 A. The handcuffs were put on really tight, which I
10 thought was odd because of the fact that I wasn't violent,
11 aggressive, resistive. I didn't do anything wrong, you
12 know, I wasn't trying to get away. And I kept complaining
13 about that but they wouldn't, you know, help me out or
14 anything. You know, so I had the combination of the
15 handcuffs were tight, plus they -- they had my magazines
16 still on, digging into me. It was a little annoying at
17 that time.

18 Q You're not making a claim in this case for
19 excessive force; are you?

20 A. No.

21 Q No officer struck you at the scene?

22 A. No.

23 Q Nobody took out their baton?

24 A. No.

25 Q No officer pulled a gun on --

1 A. I'm sorry, I thought it was a funny comment.

2 Q No officer pulled a gun on you?

3 A. No.

4 Q Okay. Have you told me everything about what
5 happened in your exchange with officers outside of the pool
6 club?

7 A. I believe so.

8 Q Okay.

9 MS. MACCINI: This will be 2.

10 (Whereupon, Defendants' Deposition
11 Exhibit 2 was marked.)

12 BY MS. MACCINI:

13 Q Mr. Burgess, I'm showing you a two page
14 document marked as Defendants' Exhibit 2.

15 A. Um hum.

16 Q It's dated May 28, 2010. Can you take a moment
17 and read that document.

18 A. Yep. (Witness complies). Okay.

19 Q Do you recognize the document?

20 A. Yes.

21 Q Is that your signature on the bottom right-hand
22 corner of both pages of the document?

23 A. Yes, it is. And I do see something that, you
24 know, happened as well that I forgot all about, that I had
25 tried to make a complaint about the -- Vanaman on the scene

1 but was told no.

2 Q Okay.

3 A. I again tried that at the police department
4 too.

5 Q Okay. Is this a statement that you gave to
6 Sergeant Samuel Soukup of the Wallingford Police Department
7 on May 28, 2010?

8 A. Yes.

9 Q Actually, I'm sorry, it's May 25th.

10 A. 25th.

11 Q May 25th?

12 A. That doesn't really make sense with the dates.

13 Q It says at the top that the date and time of
14 this statement is May 25th, 2010 at about --

15 A. Oh, okay.

16 Q -- six thirty-five.

17 A. Yeah.

18 Q Does that sound right?

19 A. Yeah, that does sound right I guess.

20 Q Do you recall doing that?

21 A. Yes. I think I'm just confused by the dates,
22 but.

23 Q Is there anything in the statement that you
24 believe is incorrect?

25 A. No.

1 Q And drawing your attention to page two, the
2 fifth sentence in.

3 A. Um hum.

4 Q It says: Within the span of a couple minutes,
5 I was able to shoot maybe one or two more balls, and I was
6 approached by a large, white male wearing a New York
7 Yankees jersey that was fairly clean-cut who was agitated
8 who got very close to me in my personal space.

9 A. Um hum.

10 Q That was Mr. Vanaman; correct?

11 A. Yes, that was.

12 Q And you agree that he appeared agitated?

13 A. Yes.

14 Q That's what you stated; correct?

15 A. Yes.

16 Q About a third of the way through the second
17 page you state: At that point the owner, Robert approached
18 me again with a look of bewilderment or confusion. I
19 looked at him, at my girlfriend and said to him, I think we
20 better leave now before we cause anymore disruption.

21 A. Yeah.

22 Q Is that correct?

23 A. Yep.

24 Q So you believed that you caused a disruption?

25 A. I wouldn't say that. I mean, at that time my

1 words aren't going to be the, you know, the best
2 qualification. I was under a lot of duress, so. Yeah, I
3 mean, I believed the disruption happened, and I just wanted
4 to get out of there because I was concerned about him
5 coming back.

6 Q Well, you gave this statement nine days after
7 the incident; correct?

8 A. Right. And I believe those are my words, I'm
9 not disputing that, I'm just saying I don't think that's a
10 fair way to judge my words, that I believed I was causing a
11 disruption. I believe Vanaman caused a disruption. And I
12 did then too.

13 Q Would you agree with me that on May 25th, 2010,
14 your recollection of the incident would be clearer than it
15 is today?

16 A. Yeah. And like I said, I don't disagree that
17 those are my words, but I believe what I meant to say by
18 that was that people cause their own disruption. And, you
19 know, Mark Vanaman caused a disruption that day, and I was
20 worried that it might cause more of a disruption by me
21 staying there. I don't know if he's going to come back and
22 try and demand it, or.

23 Q Would the disruption, as you say, have occurred
24 had you not gone into the pool club with your gun exposed?

25 A. There's no way I could possibly answer that, I

1 can't judge by Mark Vanaman's actions, he might have chosen
2 anybody that day.

3 Q Are you claiming that his actions were
4 motivated by anything other than the fact that you were
5 carrying an unconcealed weapon?

6 A. I have no way of answering his motivations.

7 Q Well, did he say anything to you that would
8 indicate that he was motivated -- motivated by anything but
9 the handgun that you were carrying?

10 A. He didn't mention any motivations. All he said
11 was, are you going to conceal that? Are you going to
12 conceal that? And stormed away, telling everybody that it
13 was illegal.

14 Q And how many times did he say, are you going to
15 conceal that?

16 A. Several, but I couldn't give you a number.

17 Q Seven?

18 A. Half a dozen would be a fair estimate. Along
19 with a lot of other types of exclamations.

20 Q And you told me that reading this statement
21 that you gave on May 25th, 2010 jogged your recollection
22 that you tried to make a complaint against Mr. Vanaman?

23 A. Um hum.

24 Q Tell me about that.

25 A. When I was on scene, I -- I asked why I was

1 being arrested since I wasn't the one who caused the
2 disruption. I mean, they told me breach of peace, and I
3 said, why? And they said, because you caused a scene or,
4 you know, something to that effect. And I said, actually,
5 the man who caused the scene is over there. And he was
6 still, you know, pacing, agitated, back and forth and
7 yelling and doing stuff. So my point was, I'm the polite
8 guy who's standing here and I'm, you know, talking to the
9 police, you know, I haven't tried to run away, I haven't
10 tried to do anything agitated, clearly there is a man who
11 is agitated who anybody on scene will tell you caused the
12 disruption. Why is he not in handcuffs?

13 Q Did you actually say that to officers, why is
14 he not in handcuffs?

15 A. I'm pretty sure I did, but I couldn't say it
16 was verbatim.

17 Q What officer did you direct this comment to?

18 A. Sergeant Colavolpe and then again to Garcia and
19 then later at the scene -- at the police department when
20 they were releasing me on a Promise to Appear, I requested
21 to talk to Lieutenant Martino about it.

22 Q Okay, starting when you were on scene, did you
23 actually request that Mr. Vanaman be arrested?

24 A. Yeah.

25 Q And what did the officers respond to that?

1 A. They laughed. They told me that I was the one
2 with the firearm, so I was going to jail.

3 Q So this is Sergeant Colavolpe?

4 A. Colavolpe, yeah.

5 Q Colavolpe.

6 A. I did the same thing.

7 Q As -- as well as Officer Garcia?

8 A. Yes.

9 Q Any other officer on scene that you had any
10 conversations about Mr. Vanaman?

11 A. I don't believe so, no. The other officers
12 were mostly mulling about, and they were just quick
13 interactions.

14 Q And then once you were off scene, you
15 complained about Mr. Vanaman again?

16 A. Yes.

17 Q At police headquarters?

18 A. Yes.

19 Q To who?

20 A. It started when I -- when I left the booking
21 room, I -- they transported me upstairs, I believe Officer
22 Garcia actually escorted me up. Waiting for me was --
23 Officer Flood was there, although it was the first time I
24 had seen him, who was my arresting officer. And I believe
25 Sergeant Colavolpe was sitting at his desk. And I can't

1 remember, I'm pretty sure there was another police officer
2 in the room that I recognized from the scene, but I can't
3 remember which one it was upstairs. They had my firearm on
4 the table and my ammunition next to it and a pink sheet of
5 paper, which turned out to be my Promise to Appear. And
6 they wanted me to sign that, and they said the lieutenant
7 was releasing me on a Promise to Appear. They also said
8 that I would be getting my gun back and my ammunition back.
9 I said, that's fine. I said, am I going to be -- I'll get
10 into that later, but at that time I said, you know, I would
11 like to press charges, I'd like to have the other man
12 arrested, you know, what's going on with that? Because
13 they denied me on scene. They said, well, we have to talk
14 to the lieutenant about that. I said, okay. And so I
15 believe it was Colavolpe, although it could have been one
16 of the officers -- other officers, walked out of the room
17 and came back with the lieutenant. And the lieutenant told
18 me, absolutely not, that because I was carrying a firearm,
19 I had waived my rights to have somebody else...

20 Q Waived your rights to have somebody else?

21 A. Arrested, sorry.

22 Q Lieutenant Martino told you that your right to
23 have somebody else arrested was waived because you were
24 carrying a firearm?

25 A. That is correct.

1 Q Would you -- do you have any problems with
2 Sergeant Colavolpe -- Colavolpe, do you have any problems
3 with how he addressed your complaint?

4 A. I mean, he -- he brought it up to his
5 commanding officer. I mean, I have my opinions that he
6 should have filed a complaint anyway, but he did respond
7 from his commanding officer, he didn't make the decision,
8 so.

9 Q Well, it sounds like he addressed it with his
10 superior?

11 A. Right, by bringing his superior in the room.
12 So, I mean, I -- yes, I have an issue, just because you
13 have an order from your commanding officer doesn't mean you
14 have to follow their order, but, I mean.

15 Q You believe that --

16 A. I'm not sure whose ultimate decision it should
17 be and was.

18 Q If the ultimate decision lied with Lieutenant
19 Martino, would you agree that Sergeant Colavolpe did
20 everything he could to address your complaint?

21 A. Yes, but there is two different scenarios we're
22 talking about. Yes, in the police headquarters he did
23 everything he could by bringing the lieutenant in. But not
24 on scene. On scene he was the commanding officer as far as
25 I know. And he did not address my concerns then.

1 Q Where was Mr. Vanaman when you were placed in
2 handcuffs, was he still there?

3 A. There's the benches in front of the -- the pool
4 hall, sorry, and then there's a row of cars behind there,
5 and he seemed to be pacing back and forth. At -- at one
6 point he had actually taken photos of our car too and the
7 license plate.

8 Q Did he talk with any officer while you were on
9 scene? Did you observe him just --

10 A. I don't think --

11 Q -- talking to an officer?

12 A. -- I ever observed him talking to a police
13 officer, no.

14 Q You didn't hear what he said to officers?

15 A. No, he was too far away.

16 Q Did you observe any officer go and speak with
17 him, even if it was out of hearing distance?

18 A. No. Sorry. I'm not always sure when you're
19 finished with your question.

20 MS. MACCINI: This will be 3.

21 (Whereupon, Defendants' Deposition
22 Exhibit 3 was marked.)

23 BY MS. MACCINI:

24 Q Mr. Burgess, I'm showing you a seven page
25 document that's been marked as Defendants' Exhibit 3.

1 A. Um hum.

2 Q It's dated June 27th, 2010.

3 A. Okay.

4 Q Do you recognize that document?

5 A. Yes.

6 Q And is that your signature on the left-hand
7 corner of page seven?

8 A. Yes, it is.

9 Q And what is this document?

10 A. This is my statement on what happened that day.
11 In pretty good detail apparently. That was given to
12 Lieutenant Martino during the Internal Affairs
13 Investigation.

14 Q Did you have an opportunity to review that
15 statement before coming here today?

16 A. Yes, when I wrote it and when -- before I gave
17 it to him.

18 Q Is there anything in that statement that you
19 believe to be incorrect?

20 A. No.

21 Q Do you need time to review it before answering
22 that question?

23 A. Not really.

24 Q How did it come about that you prepared this
25 seven page statement?

1 A. I wrote this after the incident, and I wanted
2 to make sure that I had a detailed answer to, you know, the
3 complaint. I didn't think that in an Internal Affairs
4 Investigation that they would sit down and talk with me
5 personally, so I thought I would have to file this with
6 them.

7 Q Did you write this in one sitting?

8 A. I can't remember that.

9 Q What --

10 A. I often write stuff and revise and revise and
11 revise to try to clear up wording.

12 Q Was there more than one draft of this
13 statement?

14 A. Not -- no, not published or anything else.

15 Q Do you still have the computer that you had
16 back in June of 2010?

17 A. No.

18 Q Do you have any copies of any prior drafts of
19 this seven page document?

20 A. I couldn't say for sure, but it might be
21 published under with regards to the --
22 withregardstorights.com.

23 Q A prior draft might be located on that site?

24 A. No, it would be the same one.

25 Q Okay. So you prepared this statement on your

1 own volition for use with the Internal Affairs
2 Investigation?

3 A. Right.

4 Q You anticipated that you would be questioned?

5 A. Yeah.

6 Q And you wanted to provide this to the
7 investigating officer?

8 A. Right.

9 Q And why was the statement that you gave on May
10 25th, 2010 insufficient in that regard?

11 A. Because I had filed a complaint the next day,
12 you know, that I had been falsely arrested, and I wanted to
13 make sure that, you know, I wrote everything down so that
14 they'd have a copy of it. The statement that I made on
15 5-25 was for Vanaman's arrest, not for...

16 Q So this is of more complete -- a more complete
17 statement of the events that occurred from --

18 A. Correct.

19 Q -- their perspective?

20 A. Oh, this is the same one, sorry.

21 Q All right, I'd like to draw your attention to
22 page two, paragraph one of the June 27th, 2010 statement.

23 A. Okay. Can you repeat the page number.

24 Q Sure. Page two, paragraph one. Line two.

25 A. Okay.

1 Q You state: We took about one or two more turns
2 when a large man in a New York Yankees jersey, who appeared
3 very hostile and aggressive came charging towards me from
4 across the room.

5 A. Um hum.

6 Q Correct?

7 A. Correct.

8 Q And now I would like you to take a look at page
9 two of your May 25th, 2010 statement, line five. You state
10 in that statement: Within a span of a couple of minutes, I
11 was able to shoot maybe one or two more balls, and I was
12 approached by a large, white male wearing a New York
13 Yankees jersey that was fairly clean-cut, who was agitated
14 who got very close to me in my personal space.

15 A. That's correct.

16 Q Okay. Which -- which is it? Did he approach
17 you, or did he charge at you, Mr. Vanaman?

18 A. Charge is a more appropriate word.

19 Q Was he running towards you?

20 A. He was quickly paced. He was not quite at a
21 run though.

22 Q Okay.

23 A. It was more his body language that was
24 charging.

25 Q All right, I'd like to draw your attention in

1 the June 27th, 2010 statement to page two, paragraph two,
2 line two. Well, you state: At this point the owner shook
3 off his own shock and walked towards me, I looked to the
4 owner and Anna and I said, I think we better leave here so
5 we don't cause any further disruption.

6 A. Correct.

7 Q You will go deal with the police outside.

8 A. Correct.

9 Q Consistent with what you said on May 25th,
10 2010, that you decided to leave in order not to cause
11 further disruption?

12 A. Right, and I think this is better worded.

13 Yeah.

14 Q You don't disagree with that statement today?

15 A. No.

16 Q All right, I don't think the deposition is
17 going to be much longer, but would you like to take a break
18 for any reason?

19 MS. BAIRD: Well, why don't we -- why
20 don't we take like a maybe twenty minute break?

21 MS. MACCINI: Twenty minutes?

22 MS. BAIRD: Yeah.

23 MS. MACCINI: Okay.

24 MS. BAIRD: Yeah, if it's not going
25 to be much longer, we won't need to take a lunch.

1 MS. MACCINI: That's fine.

2 (Whereupon, a recess was taken at
3 12:31 and resumed at 12:58).

4 MS. MACCINI: Back on.

5 BY MS. MACCINI:

6 Q All right, Mr. Burgess, I don't think I have
7 many more questions.

8 A. Okay.

9 Q You were arrested for disorderly conduct
10 ultimately was the charge; correct?

11 A. Correct. The charge was changed.

12 Q Okay. Were you ever given anything in writing
13 or any -- did any police report indicate that it was breach
14 of peace, or was it just verbally that officers indicated
15 that was breach of peace?

16 A. No, I actually noted that the police officers
17 changed everything to disorderly conduct.

18 Q What did the police --

19 A. The only thing that did mention breach of peace
20 is the Promise to Appear. No, I'm sorry, actually, no, the
21 Promise to Appear said disorderly as well. Sorry.

22 Q Okay, is there any paperwork that says breach
23 of peace --

24 A. No.

25 Q -- that you're aware of?

1 A. The only piece of -- it wasn't really
2 paperwork, but the only thing that mentions it
3 affirmatively is the transcript.

4 Q Okay.

5 A. Of the dispatch.

6 Q Okay. And did you have to go to Court with
7 respect to that charge?

8 A. Disorderly?

9 Q Yes.

10 A. Yes.

11 Q And was that Middletown?

12 A. Meriden.

13 Q Meriden?

14 A. I don't know the GA number.

15 Q How many times did you have to go to Court with
16 respect to that charge?

17 A. Once.

18 Q And that charge was dismissed?

19 A. It was dismissed for no probable cause.

20 Q Have you spoken to any employees of Yale
21 Billiards about the incident subsequently?

22 A. Yes. Robert Hilton.

23 Q Okay, and when did you speak with Mr. Hilton?

24 A. 5-17, the day after the incident.

25 Q Where did you speak with him?

1 A. At the pool hall.

2 Q And what was the substance of that
3 conversation?

4 A. Basically it was Ed Peruta and I went back to
5 find out -- when I alerted Ed Peruta to it, he said, do you
6 know if they have any surveillance camera, or surveillance
7 footage? And I said, well, that's actually a pretty good
8 idea, it never occurred to me that, you know, a pool hall
9 might have surveillance cameras. So we went back over
10 there just to ask him if he had something and if we could
11 get a copy of it at that point. But the conversation with
12 Robert Hilton, it was just basically, you know, sorry all
13 this happened, you know, what -- I mean, I can't really do
14 anything about it, but sorry it occurred and, you know, I
15 hope you don't have any hard feelings. He indicated I was
16 welcome back.

17 Q And present for this conversation was Mr.
18 Peruta, yourself and Mr. Hilton?

19 A. Correct.

20 Q Anybody else?

21 A. Maybe some patrons, but I wouldn't know them.

22 Q Did you record that conversation?

23 A. No.

24 Q Who is Mr. Peruta?

25 A. That's a loaded question. I mean, to me, or

1 to --

2 Q Yes. Who is Mr. Peruta?

3 A. I can't give you a biography, but.

4 Q How does he play into --

5 A. He's a nice guy.

6 Q -- this matter?

7 A. He's a friend of mine from just before this.

8 He had always been an advocate on the side of bearing arms
9 in the State of Connecticut. I had had a few conversations
10 with him prior to this about, you know, open carry and gun
11 rights in particular in Connecticut. And so he was one of
12 the names I called when something went wrong. And I let
13 him know what happened and, you know, he just, as a friend,
14 he was helping me.

15 Q When did you first meet him?

16 A. You know, it might have been at the pool hall
17 that day on 5-17 that I first met him in person. Although
18 it might have been at a CCDL meeting beforehand. I can't
19 exactly recall.

20 Q So is it accurate to say that Mr. Peruta is a
21 gun rights advocate?

22 A. Um hum. Yes.

23 Q And you were familiar with him prior to the
24 incident?

25 A. Yes.

1 Q But had never met him personally?

2 A. Yeah, we didn't talk every day or anything. It
3 was a casual con -- acquaintance.

4 Q The incident occurred and you called on him for
5 help?

6 A. Yes.

7 Q And he suggested that you return to the
8 billiards club and see if there was video surveillance?

9 A. Correct.

10 Q And he didn't -- wanted to come with you?

11 A. Yes, accompanied me.

12 Q Now, why did he accompany you?

13 A. I think he was interested in seeing the
14 surveillance footage as well. I mean, certainly if he's
15 going to, you know, advocate on my side and be a friend of
16 mine, I think he'd want to know if I did anything wrong.

17 Q Were police officers in the club when you went
18 there with Mr. Peruta?

19 A. Yes, there were.

20 Q And did --

21 A. Officer Flood and another officer that I don't
22 know.

23 Q Did you have any communication with them?

24 A. No.

25 Q Were they aware of your presence?

1 A. Yes.

2 Q How do you know that they were aware of your
3 presence?

4 A. I was standing right outside the door when they
5 left. I waved to them but they wouldn't wave back.

6 Q What -- what were they doing?

7 A. They were inside. What do I think they were
8 doing? Or what -- what do they say they were doing?

9 Q What did you observe? Did you go into the pool
10 hall?

11 A. Yes, but not until after they left. I stayed
12 clear of that, just because I didn't want to complicate
13 things or get in the way.

14 Q Okay, how did you know they were inside?

15 A. I knew they were inside because their police
16 car was empty and parked directly in front of the door.

17 Q Okay. And you sort of stood outside the club?

18 A. Um hum. I waited on the same bench where I was
19 arrested.

20 Q Until the officers left?

21 A. Yes.

22 Q Did Mr. Peruta go inside while the officers
23 were there?

24 A. I don't know. He mostly waited with me, but he
25 might have gone in once or twice.

1 Q Okay.

2 A. I think he was anxious to see if Mr. Hilton was
3 there and what they were doing there, so he might have.

4 Q Okay. And there's a window front to the pool
5 club; correct?

6 A. Yes.

7 Q At least one window?

8 A. Yes.

9 Q Did you look through the window and see what
10 officers were doing?

11 A. No.

12 Q You didn't observe any of their actions inside
13 the club?

14 A. No. And -- and once we walked in, it became
15 clear to us they were in a back room anyway, because the
16 door was open and Mr. Hilton was telling us that they were
17 in back trying to get the video tapes. It looks like
18 there's an office in behind. So I wouldn't have been able
19 to see them even if I had looked in.

20 Q Okay, and what do you think that the officers
21 were doing?

22 A. They were reviewing and subsequently the tapes
23 were lost.

24 Q What forms the basis of that belief?

25 A. Because that's what Mr. Hilton told us.

1 Q Mr. Hilton told you that they were reviewing
2 the videotapes?

3 A. Um hum.

4 Q And --

5 A. When -- when we first arrived, I -- I believe
6 Mr. Peruta went in, I -- I don't know how we came about
7 this, if Mr. Hilton came out, or if Mr. Peruta went in, but
8 we were told at the time that the police were in reviewing
9 the tapes and just to give them a few minutes. And so we
10 waited outside to stay out of the way. But, again, I -- Ed
11 works in his own ways, so I was outside of that.

12 Q Who -- what were the names of the officers that
13 were in the pool club?

14 A. Officers Flood and another unknown. There's a
15 lot of members of the Wallingford Police Department.

16 Q Could you give me a physical description of the
17 other officer?

18 A. No. He was male, that's about all I got.

19 Q Okay. Caucasian, black, Hispanic?

20 A. I'm pretty sure Caucasian, but I wouldn't want
21 to go on record really.

22 Q Okay. Did -- strike that.

23 So how long were you waiting outside before officers
24 left?

25 A. Fifteen to twenty minutes maybe.

1 Q Did the officers say anything to you as they
2 walked out?

3 A. No, they made very sure to not say anything to
4 me.

5 Q Did they even look in your direction?

6 A. Yeah, I mean, they -- they couldn't have missed
7 me. And they -- I was kind of standing in front of them
8 anyway.

9 Q So after that, you and Mr. Peruta go inside the
10 club?

11 A. Um hum.

12 Q And what transpired once you were inside the
13 club?

14 A. We just talked to Mr. Hilton. You know, I -- I
15 apologized that, you know, anything happened in the place.
16 And just said, you know, I hope this doesn't sour your
17 opinion of firearms or anything else. And, you know, if
18 you have any problems with me, then, you know, let's talk
19 about them and get them clear. And he said I didn't have
20 any problem, that I was welcome back anytime.

21 Q Did you ask him for the video surveillance
22 footage?

23 A. Yes.

24 Q And what did he say?

25 A. Actually, I should clarify. I did not ask, Ed

1 did. I let him do all that stuff, I didn't want to be
2 involved.

3 Q And what was Mr. Hilton's response?

4 A. That the police had already been in trying to
5 review it, and it was gone. When I had called him
6 previously on the phone, by the way, I called up and asked,
7 you know, if he was going to be there and, you know, if
8 there was tape, and he said yes. So that's what I'm basing
9 that assumption that there was something to begin with.

10 Q Did he define what he meant by gone?

11 A. I -- I don't know. He -- he just said gone.
12 And we -- what else can you ask? Where does tape go? He
13 indicated that they did not have it.

14 Q Did he indicate that the officers had it?

15 A. No. It was my understanding, based on the
16 conversations with Hilton and with the Wallingford Police
17 Department, because I called them right afterwards, and
18 they said they didn't have it, nor did the pool hall, so.

19 Q Is it your impression that the actual physical
20 tape was missing?

21 A. I couldn't even tell you. I don't know how
22 they record their...

23 Q Okay.

24 A. I never got to see the equipment.

25 Q Okay.

1 A. For all I know, it could be on a VHS tape, a
2 cassette tape, a digital video recorder.

3 Q Did Mr. Peruta or anyone else prior to the
4 incident advise you that you should walk into Yale
5 Billiards with an exposed handgun?

6 A. No.

7 Q That was your own decision?

8 A. Yes.

9 Q No one suggested it to you?

10 A. No. This was just a normal course of actions
11 in the day.

12 Q Subsequently in November of 2010, did you go
13 into a Starbucks in Old Saybrook with an exposed handgun?

14 A. Did you say previous?

15 Q Subsequently.

16 A. Subsequent, yes.

17 Q And why did you do that?

18 A. We always go there. That's where we work. We
19 drink coffee and use our wifi.

20 Q Who's we?

21 A. Me and Anna. Myself and Anna.

22 Q And prior to November of 2010, had you ever
23 gone into that particular Starbucks with an exposed
24 handgun?

25 A. Yes.

1 Q And when did you do that?

2 A. Several times before. I go to Starbucks just
3 about everyday, especially on weekends.

4 Q Everyday, especially on weekends that you go to
5 Starbucks, do you take your handgun with you?

6 A. Probably take it, yes.

7 Q Do you take it and have it visible? Do you
8 wear it?

9 A. Again, that probably ranges in the 50/50
10 territory, I...

11 Q Okay. Prior to November of 2010 when you went
12 to this Starbucks in Old Saybrook and you had your handgun
13 with you, was it visible?

14 A. Sometimes.

15 Q On how many occasions was it visible?

16 A. I couldn't tell you. Again, it was probably
17 about fifty percent of my visits there.

18 Q And how many visits would you say that you made
19 there? Since owning the gun in 2007?

20 A. More than a dozen is the best I can -- the best
21 I can offer. I don't know if all those times were
22 unconcealed or not.

23 Q Well, on this particular occasion in November
24 of 2010, the police were called; correct?

25 A. Yes.

1 Q So at least one patron of the Starbucks was
2 alarmed by the fact that you had a gun?

3 A. It seemed so.

4 Q In an unconcealed manner?

5 A. I mean, I -- if you're asking me based on what
6 I know from the time, I don't know.

7 Q You don't know?

8 A. The police just showed up and tapped me on the
9 shoulder and I walked outside with them.

10 MS. MACCINI: Just going to have that
11 be Exhibit 4.

12 (Whereupon, Defendants' Deposition
13 Exhibit 4 was marked.)

14 BY MS. MACCINI:

15 Q Mr. Burgess, I'm showing you a packet of
16 documents marked as Defendants' Exhibit 4.

17 A. Um hum.

18 Q Have you ever seen Defendants' Exhibit 4
19 before?

20 A. These are the Interrogatories we filled out;
21 right? Yep.

22 Q These are your Responses to Interrogatories and
23 Request for Production that were served on you by the
24 defendants.

25 A. Yep.

1 Q I'd like you to turn to number twelve.

2 A. Page twelve or section twelve?

3 Q Interrogatory twelve.

4 A. Okay. Excuse me, sorry.

5 MS. MACCINI: Can we go off the
6 record for a second.

7 (Whereupon, a recess was taken at
8 1:11 and resumed at 1:11).

9 BY MS. MACCINI:

10 Q With respect to Interrogatory number twelve, it
11 requests you to identify all the damages that you're
12 claiming in this matter.

13 A. Yes.

14 Q And you indicate that for compensatory damages
15 you're claiming seventy-five thousand dollars for emotional
16 distress; is that correct?

17 A. That is correct.

18 Q How did you arrive at the figure of
19 seventy-five thousand dollars?

20 A. I'm not quite sure how to answer that.

21 Q I don't want to know about any conversations
22 between you and your attorney.

23 A. Right, and that's what I'm trying to stay away
24 from.

25 Q Did you -- did you have any input into that

1 figure?

2 A. Yes.

3 Q So how did you come to the conclusion that
4 seventy-five thousand dollars was the right number?

5 A. These numbers are all fuzzy I think by nature,
6 so I mean, there is -- if you're asking me how do I feel
7 emotionally distressed, it would be, you know, I have a
8 severe problem with, you know, being around police officers
9 now. And, you know, I lost a lot of sleep on this case. I
10 mean, I was of course worried like anybody else is going to
11 Court and, you know, facing these charges.

12 Q And we'll talk about that in more detail later.
13 You are claiming twelve thousand dollars in attorney's fees
14 and five eighty-nine eighty in costs to a marshal in the
15 Court?

16 A. Yes.

17 Q Are those the total attorney's fees that you've
18 paid to date in this matter?

19 A. The attorney's fees to Attorney Baird, and you
20 didn't mention that, but the marshal in the Court are the
21 other fees, yes.

22 Q Yes. So to date, you have paid twelve thousand
23 five hundred and eighty-nine dollars and eighty cents?

24 A. Yes.

25 Q Do you have a written agreement with Attorney

1 Baird with respect to her representation?

2 A. Am I allowed to answer that?

3 MS. BAIRD: Oh, yeah, go ahead.

4 BY THE WITNESS:

5 A. I'm sorry, I don't know the attorney-client
6 thing. Yes.

7 Q Is that a contingency fee agreement?

8 A. Is that also okay to answer? I think that
9 seems irrelevant.

10 MS. BAIRD: If you can answer it.

11 You know, I'm not sure.

12 BY THE WITNESS:

13 A. I would say no. I mean. No.

14 Q Does Attorney Baird receive any legal fees, a
15 percentage of any recovery that you might have in this
16 case?

17 A. No.

18 Q Or is twelve thousand dollars all that you will
19 ever pay her?

20 A. I can't promise all I'll ever pay her, but, you
21 know. No, we are not set up on a deal of this is how much
22 you get from our - I hate to use the word winnings, because
23 I don't know how it...

24 Q So to date you've paid her twelve thousand
25 dollars five hundred and -- twelve thousand five hundred

1 and eighty-nine dollars and eighty cents?

2 A. Yes. I don't know how the five hundred and
3 eighty-nine dollars got siphoned through, if I paid
4 directly or she did.

5 Q Okay. Can you turn to Interrogatory number
6 twenty.

7 A. (Witness complies). Yes.

8 Q And Interrogatory number twenty asks if you
9 claim any lost wages, and you indicate that you're claiming
10 one day of work for approximately two hundred and
11 thirty-two dollars and eighty cents; is that correct?

12 A. Correct.

13 Q That's all you're claiming in lost wages with
14 respect to this matter?

15 A. Correct.

16 Q And with respect to Interrogatory number
17 twenty-one, which asks whether you claim impairment to
18 earning capacity, and you answer not applicable. Is it
19 correct that you're not claiming any impairment to your
20 earning capacity?

21 A. Yeah, not yet.

22 Q What do you mean by not yet?

23 A. Well, it all depends I guess. I mean, if the
24 lawsuit went further and, you know, somehow the Wallingford
25 Police damage my reputation or something, I suppose I

1 could, but I'm hesitant to say never.

2 Q To date, the incident hasn't impacted your
3 career in any way?

4 A. No. No.

5 Q It hasn't caused you to lose a job opportunity?

6 A. No.

7 Q Okay. With respect to Interrogatory number
8 thirty asks if you have any photographs, motion pictures,
9 videos with respect to the incident; and you answer not
10 applicable. Do you have any videos or any audio recordings
11 of the actual incident?

12 A. No.

13 Q Did you have your tape recorder with you at
14 Yale Billiards?

15 A. No.

16 Q All right. Thank you. You are not claiming
17 any physical injury with respect to the incident; correct?

18 A. No.

19 Q Your claim is emotional distress?

20 A. Correct.

21 Q In violation of your Constitutional Rights?

22 A. Absolutely.

23 Q Have you received any medical attention for
24 your emotional distress?

25 A. No.

1 Q None at all?

2 A. No.

3 Q No counseling?

4 A. No.

5 Q Have you ever, prior to May 16th, 2010,
6 experienced emotional distress?

7 A. Sure.

8 Q What are your -- what are the contributing
9 factors to the emotional distress you experienced prior to
10 May 16th, 2010?

11 A. I mean, I've had family members, pets die, you
12 know. I've had all sorts of -- you're asking me to
13 describe a lifetime.

14 Q Do you currently suffer from emotional distress
15 that you wouldn't attribute to the incident?

16 A. No. I'm pretty happy otherwise.

17 Q Do you plan to treat with anyone in the future
18 for emotional distress?

19 A. If everything stays the way it is, probably
20 not.

21 Q So what do you mean by if everything stays the
22 way that it is?

23 A. Well, right now I'm outside of it. This is a
24 two year old incident, I'm not receiving any problems in
25 addition right now. I mean.

1 Q Do you --

2 A. I'm sorry.

3 Q No, I'm sorry, go ahead.

4 A. I was speaking out of turn, I'm sorry.

5 Q Do you have a primary care physician?

6 A. Yes.

7 Q And who's your primary care physician?

8 A. I believe it's Doctor Honig, H-O-N-I-G.

9 Q And where is Doctor Honig located?

10 A. Branford. I couldn't tell you the address off
11 the top of my head.

12 Q Have you ever sought treatment from him related
13 to emotional distress?

14 A. It's a her, and no.

15 Q How does the emotional distress you are
16 claiming manifest itself?

17 A. Well, like I said, you know, especially in the
18 first week or so, I believe 25th was my -- May 25th was my
19 Court date, you know, there were a lot of sleepless nights.
20 And, you know, it's a real negative affect when you're
21 stressed out because you're not sure how the Court case is
22 going. I mean, I was confident in my legal understanding,
23 but that does -- as we all know, that doesn't mean that a
24 Judge is going to see it the same way or, you know, any of
25 the other things. Plus, you know, there's a -- there's a

1 mistrust of police officers after seeing a lot of their
2 statements and, you know, descriptions of what went down,
3 so. I had always been very pro-law enforcement before
4 this, and I continue to try to stay -- try to stay that
5 way, but I have to work in Wallingford, I drive through
6 Wallingford everyday, you know, obviously that's going to
7 cause a conflict of I'm afraid of the Wallingford Police
8 because they don't, you know, respect my rights.

9 Q So is it fair to say that currently the only
10 time you experience emotional distress is when you're in
11 Wallingford?

12 A. Yeah.

13 Q How often --

14 A. Currently. I mean, obviously the week after is
15 something I've already stated, but.

16 Q How often do you have to be in Wallingford?

17 A. Every single day. Well, I'm sorry, every week
18 day, every business day.

19 Q Is your work located in Wallingford?

20 A. Yes.

21 Q Do you know of any witnesses to the incident?

22 A. Yes.

23 Q And who do you know that witnessed the
24 incident?

25 A. I'm sorry, my girlfriend, Anna Filipkowska,

1 Seth Tucker, Robert Hilton, and Mark Vanaman is a
2 defendant, but he obviously witnessed it. And then all the
3 officers. And I'm sure there's lots of other witnesses in
4 the pool hall, but again, you know, I was handcuffed so I
5 couldn't exactly get statements.

6 Q Have you talked to Mr. Tucker subsequent to May
7 16th, 2010?

8 A. I think I have. No. I don't think I have.
9 Seth Tucker introduced himself to my girlfriend afterwards
10 as I was being hauled off in handcuffs, she was worried
11 about what to do, and he gave her the business card. But I
12 don't believe I have had any contact with him actually. I
13 might have seen him once or twice and said hi, and that's
14 maybe.

15 Q Have you had any contact with Robert Hilton
16 subsequent to May 17th, 2010?

17 A. No.

18 Q How about Mr. Vanaman?

19 A. No.

20 Q And what does your girlfriend do for work?

21 A. She's a lab technician I believe. Scientist.

22 Q And where does she work?

23 A. Right now for the [REDACTED].

24 Q Is there anything that I haven't asked you here
25 today that you would like to tell me about the incident, or

1 your claim?

2 A. Oh, yeah, let me tell you all about it. No.

3 Thank you.

4 MS. MACCINI: I don't have any
5 further questions.

6 MS. BAIRD: I don't have any
7 questions either.

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(Whereupon, the deposition concluded
at 1:21).

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| 4 | Defendants' Exhibit 1 | Page 45 |
| 5 | Defendants' Exhibit 2 | Page 65 |
| 6 | Defendants' Exhibit 3 | Page 74 |
| 7 | Defendants' Exhibit 4 | Page 92 |
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Richard E. Burgess

STATE OF CONNECTICUT :
: SS
COUNTY OF HARTFORD :

On the 16th day of March, 2012, before me,
the undersigned Notary Public, personally appeared
Richard E. Burgess to me known to be the person who has
subscribed to and executed the foregoing deposition
after having read and corrected it in every particular
desired manner, and acknowledged that he executed the
same as his free act and deed.

Notary Public
My Commission expires:

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STATE OF CONNECTICUT :
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COUNTY OF HARTFORD :
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SS

I, Jody G. Frink, a Notary Public, do hereby certify:

That Richard E. Burgess was by me duly sworn in the within-entitled cause;

That said deposition was reported by me, a Registered Professional Reporter, was thereafter transcribed under my direction and is a true and complete transcription of all testimony given by said witness.

I further certify that I am not a relative, counsel or attorney of any party or otherwise interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Newington, Connecticut this 16th day of March, 2012.

Notary Public
My Commission expires March 31, 2013