

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA
HAYWARD HALL OF JUSTICE

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AMBROSE AGU, individually and as)
successor-in-trust of TED AGU,)
and EMILIA AGU, individually ,)
)
Plaintiffs,)

vs.)

No. RG-14735588

THE REGENTS OF THE UNIVERSITY OF)
CALIFORNIA, et al.,)
)
Defendants.)

DEPOSITION OF SOLOMON FULP

Berkeley, California

September 23, 2015

REPORTER: LAURA AXELSEN, CSR 6173

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BE IT REMEMBERED THAT, pursuant to Notice and on
Tuesday, September 23, 2015 at 11:14 a.m. thereof at
2130 Center Street, Berkeley, California, before me,
LAURA AXELSEN, a Certified Shorthand Reporter,
personally appeared

SOLOMON FULP,
called as a witness by the plaintiffs.

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APPEARANCES

FOR THE PLAINTIFFS:

JEFFREY MURPHY LAW

BY: JEFFREY D. MURPHY, ESQ.

800 W. De Leon Street

Tampa, Florida 33606

FOR THE DEFENDANTS:

LOMBARDI, LOPER & CONANT, LLP

BY: JEFFREY D. HOSKING, ESQ.

1999 Harrison Street, Suite 1950

Oakland, California 94612

There also being present Donald Grant,
videographer.

MARKED PORTIONS

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PAGE LINE

At the time that you were deputy 24 22
director of athletics, were -- were
Damon Harrington's punishment drills
acceptable to you?

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EXAMINATION BY MR. MURPHY

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11:13:47 1 VIDEOGRAPHER: Good afternoon. Here begins
2 the videotaped deposition of Solomon "Sully" Fulp. This
3 is disc one, volume one in the matter of Ambrose Agu
4 versus the Regents of the University of California.

11:14:00 5 Today's date is 9 -- is September 23rd, 2015. And the
6 time on the video monitor is 11:14. The video operator
7 is Donald Grant, representing Hahn & Bowersock Court
8 Reporters. And the court reporter today is Laura
9 Axelsen reporting on behalf of Hahn & Bowersock Court
11:14:24 10 Reporters. Today's deposition is being taken on behalf
11 of the plaintiff, and it is taking place at, uhm, 2130
12 Center Street, Berkeley California, 94704. Counsel,
13 will you please introduce yourselves and state whom you
14 represent?

11:14:42 15 MR. MURPHY: Jeff Murphy for the Agu family.

16 MR. HOSKING: Jeff Hosking for defendants.

17 VIDEOGRAPHER: Thank you. The court reporter
18 will please swear in the witness.

19 SOLOMON FULP

11:15:00 20 having been duly sworn, testified as follows:

21 EXAMINATION BY MR. MURPHY

22 MR. MURPHY: Q. All right. Sir, please
23 tell us your name.

24 A. Solomon Bernhard Fulp.

11:15:06 25 Q. All right. And Mr. Fulp, you're employed by

11:15:09 1 the University of California?

2 A. I am.

3 Q. And what is your position?

4 A. My current position -- I am the executive
11:15:15 5 director of university business partnerships and
6 services.

7 Q. Okay. And what does that involve?

8 A. So I report directly to the vice-chancellor of
9 administration and finance. I oversee our recreational
11:15:28 10 sports program, and my main focus is looking at and
11 aggregating our corporate partnership activity across
12 campus, and having select corporate partners with
13 business aspect and advertising aspect. And unlocking
14 new revenues on campus in that regard.

11:15:49 15 Q. And how long have you been in that position?

16 A. Five months.

17 Q. And what did you do prior to that?

18 A. I was the deputy director of athletics chief
19 operating officer.

11:16:01 20 Q. And how long were you the deputy director of
21 athletics?

22 A. Three years, eight months.

23 Q. Okay. So going back to -- when did you start?

24 A. 2000 -- 2011. November of 2011.

11:16:17 25 Q. All right. And what did you do prior to that?

11:16:20 1 A. I was the vice president of -- of the Pac-12
2 conference for IMG.

3 Q. Okay. So you've been employed by Cal Berkeley
4 since 2011?

11:16:33 5 A. Yeah. I was with U.C. Berkeley from 2003 to
6 '05 for 2 years. Went to work for ISP/IMG, came back in
7 2011.

8 Q. What did you do at Berkeley from '03 to '05?

9 A. Assistant athletic director for corporate
11:16:51 10 development.

11 Q. And what generally were your duties as the
12 deputy director of athletics?

13 A. So I was a sports supervisor for football,
14 baseball and also oversaw our ticket operations. Uhm,
11:17:12 15 all business and fundraising aspects of 30-sport
16 program, mostly focused on revenue generation.

17 Q. Okay. And as the sports supervisor for
18 football, what did you do?

19 A. Sports supervision for football was primarily
11:17:30 20 based on evaluation of the coaches from -- from their
21 conduct on the field to off the field. How they
22 operated the football program, conduct to student
23 athletes on and off the field, uhm, operations, budget,
24 recruiting, all the aspects that go into a football
11:17:54 25 program.

11:17:54 1 Q. Did you have any involvement in the hiring of
2 Sonny Dykes?

3 A. I did not.

4 Q. What about the hiring of any of the strength
11:18:06 5 and conditioning coaches?

6 A. I approved the hiring of Damon Harrington with
7 Sandy Barber.

8 Q. And Sandy Barber --

9 A. Was the athletic director at the time.

11:18:19 10 Q. Was she your boss?

11 A. Uh-huh.

12 Q. Is that a yes?

13 A. Yes.

14 Q. You need to give a verbal response --

11:18:23 15 A. Okay.

16 Q. -- instead of uh-huh, because it's hard for
17 her to type down.

18 A. Okay. Yeah. Got it.

19 Q. And what about any of the other strength
11:18:33 20 coaches for football?

21 A. Damon was the only one.

22 Q. Okay. The only one who you were involved
23 in --

24 A. That's right.

11:18:41 25 Q. -- hiring?

11:18:43 1 A. That's right.

2 Q. And what about any of the athletic trainers?

3 A. No.

4 Q. That's the sports medicine?

11:18:49 5 A. That's right.

6 Q. Do you have any involvement in hiring

7 Dr. Batten?

8 A. No.

9 Q. Did you have any involvement in supervising

11:18:56 10 anybody in the sports medicine department?

11 A. No.

12 Q. Try to -- we're having a conversation here

13 which is fine, but try to make sure that you wait until

14 I'm done because if we speak over each other --

11:19:06 15 A. Okay.

16 Q. -- it's hard for her to type it down. Who --

17 uhm, who had reporting duties to you when you were the

18 deputy director of athletics? In other words, who were

19 you the boss of?

11:19:25 20 A. Sonny Dykes, head coach for the football

21 program. Dave Esquer, head coach for the baseball

22 program. Ashwin Puri, who oversaw our ticket and

23 operations. Chris Pezman, who oversaw our facilities.

24 So those were my direct reports.

11:19:44 25 Q. Okay. As far as -- the only direct report you

11:19:47 1 had in the football program was Sonny Dykes?

2 A. That's right.

3 Q. And how often would you meet with Coach Dykes?

4 A. Once a week.

11:19:59 5 Q. And did you ever meet -- other than maybe the
6 initial hiring process, which I'll ask you about, did
7 you ever meet with Damon Harrington about his job
8 performance?

9 A. We met about an incident related to punishment
11:20:19 10 of the football team and wanted to get verification from
11 his perspective what had happened.

12 Q. Was that the Fabiano Hale, J.D. Hinnant
13 incident?

14 A. That's right. So I asked him to walk me
11:20:33 15 through that with Sonny Dykes, and that was the only
16 interaction I had.

17 Q. And did he walk you through that?

18 A. He did.

19 Q. And what, generally, did he tell you about
11:20:47 20 that?

21 A. I'm going to give you a general answer because
22 it's hard to recall that -- the specifics to it that
23 there was punishment due to Fabiano not making practice.
24 So he walked me through the punishment of the team for
11:21:07 25 his -- for him missing practice and what that entailed.

11:21:17 1 Q. Did he have -- to your understanding did he
2 have any involvement in the fact that J.D. Hinnant
3 assaulted Fabiano Hale?

4 A. I specifically asked him about that and he
11:21:29 5 said he did not.

6 Q. You're aware that one of the players reported
7 that -- at least one of the players reported that Coach
8 Harrington made some sort of a gesture of throwing his
9 fist into his hand saying, you guys need to take care of
11:21:43 10 this?

11 A. Right.

12 Q. Or words to that effect. Did you ask Coach
13 Harrington about that?

14 A. I did.

11:21:49 15 Q. And he denied it?

16 A. He denied it.

17 Q. Did you talk to the football player who made
18 that complaint?

19 A. I did not talk to the football player who made
11:21:54 20 that complaint.

21 Q. Are you aware -- strike that.

22 Would the meeting that you had with Damon
23 Harrington have been before Ted Agu's death?

24 A. Let me back up to your previous question. I
11:22:09 25 did talk to a student athlete that was at that -- Joey

11:22:11 1 Mahalic. And he did tell me about his perception of what
2 Damon Harrington was alluding to.

3 Q. And was his perception what I talked about --
4 the fist into the hand?

11:22:30 5 A. He -- I believe he recalled that it could be
6 interpreted that way.

7 Q. All right. Did you talk to any other players?

8 A. No.

9 Q. Did Joey Mahalic -- that's M-a-h-a-l-i-c. Did
11:22:45 10 he make any -- well, strike that.

11 Were your discussions with Damon Harrington
12 about the Fabiano Hale incident and your discussion with
13 Joey Mahalic about that incident before Ted Agu's death?

14 A. It was after.

11:23:04 15 Q. Both of those discussions were after?

16 A. Both of those discussions were after.

17 Q. Do you know when the Fabiano Hale incident
18 occurred?

19 A. I do not know. I don't want to speculate when
11:23:16 20 that happened.

21 Q. That's fine, but that happened before Ted
22 died?

23 A. That's right.

24 Q. Did you speak -- did you ever talk to Damon
11:23:24 25 Harrington, other than during the hiring process, before

11:23:28 1 Ted Agu's death?
2 A. Casually.
3 Q. Okay. But nothing related --
4 A. Nothing related, no.
11:23:35 5 Q. -- to the workouts --
6 A. No.
7 Q. -- or the football program?
8 A. That's right.
9 Q. Just, Hey, how you doing?
11:23:41 10 A. That's right. In fact, we had -- I conducted
11 senior exit interviews after the season prior to Ted's
12 death, and all the seniors gave very positive reviews on
13 Damon Harrington, and how he had -- how the strength and
14 conditioning program was very positive from their
11:24:07 15 aspect, which I documented and shared with the -- with
16 the team.
17 Q. When was that?
18 A. Ironically that -- uhm, I shared the
19 presentation with the team on the senior exit interviews
11:24:22 20 the week of Ted's death, and commended Damon on the
21 feedback from the seniors.
22 Q. That was in the days prior to Ted's death?
23 A. That's right.
24 Q. Ted died on a Friday so it was --
11:24:39 25 A. It was on a Monday, I believe.

11:24:40 1 Q. Earlier that week?
2 A. That's right.
3 Q. Okay. And what seniors are you talking about?
4 Seniors who graduated in December?
11:24:46 5 A. That's right.
6 Q. Okay. Because you have May or June graduation
7 and then a December or January graduation?
8 A. Uhm, I believe it was all our seniors. We do
9 senior exit interviews once the season's over.
11:25:02 10 Q. Okay. And how many seniors did you meet with?
11 A. I want to say six. Six to eight.
12 Q. And were there any notes kept of those exit
13 interviews?
14 A. There was.
11:25:18 15 Q. And who would have those?
16 A. I have those.
17 Q. Would your notes from those exit interviews
18 reference what those players said about Damon
19 Harrington?
11:25:32 20 A. They would.
21 Q. And if I wanted to ask for those notes through
22 your lawyer, what would I ask for? The exit interviews?
23 A. Senior exit interviews. Uh-huh.
24 Q. From the December-January time frame?
11:25:47 25 A. Uh-huh.

11:25:47 1 Q. Is that yes?

2 A. Yes.

3 Q. Do you remember the names of any of the
4 players who you interviewed?

11:25:55 5 A. I don't. But they're all documented.

6 Q. None of those players would have been through
7 a winter conditioning program with Coach Harrington,
8 correct? Because he didn't come until the summer of '13
9 or --

11:26:18 10 A. I'm not sure.

11 Q. Okay.

12 A. We would have to look.

13 Q. It is what it is, though.

14 A. Right.

11:26:23 15 Q. Okay.

16 A. I know for sure they went through the fall
17 workouts prior to football season -- or the summer/fall.

18 Q. And did any of those players who you
19 interviewed express any dissatisfaction with either

11:26:38 20 Coach Harrington or the conditioning program?

21 A. No.

22 MR. HOSKING: So -- I'm going to object that I
23 don't think it's discoverable given the status of the
24 pleadings in the demurrer as to the negligent hiring
11:26:53 25 retention claim, but given the response he can actually

11:26:56 1 answer.

2 MR. MURPHY: Q. Uhm, did you -- other than
3 the six or eight exit interviews prior to Ted's death,
4 did you ever speak with any other football player about
11:27:21 5 Damon Harrington or the strength and conditioning
6 program prior to Ted's death?

7 A. No.

8 Q. Were you aware of any complaints that Joey
9 Mahalic or any other football player may have made about
11:27:39 10 Damon Harrington or the strength and conditioning
11 program before Ted died?

12 A. No.

13 Q. Have you become aware that, uhm, any football
14 players made any complaints about Coach Harrington prior
11:27:56 15 to Ted's death to anyone?

16 A. No.

17 Q. There's some reference I saw somewhere, I
18 think perhaps in Joey Mahalic's statement to the police
19 that he had gone and complained to somebody in
11:28:11 20 administration before Ted died. Do you have any
21 knowledge of that?

22 A. I do not.

23 Q. Were you aware, uhm, before Ted died that
24 Coach Harrington conducted punishment drills for the
11:28:30 25 football players?

11:28:32 1 MR. HOSKING: I'll object that it's vague.
2 You can answer.

3 THE WITNESS: Okay. Uhm, I was with the
4 incident that occurred with J.D. and Fabiano.

11:28:45 5 MR. MURPHY: Q. And how did you learn about
6 that punishment drill? In the paper?

7 A. Well, I walked through with Coach what had
8 happened. I asked him. Sonny Dykes recounted the
9 incident for me.

11:28:59 10 Q. All right. So let me just make sure I'm clear
11 that there's two different conversations you would have
12 had.

13 A. Uh-huh.

14 Q. One was with Coach Harrington after Ted's
11:29:08 15 death?

16 A. That's right.

17 Q. And then you're telling me that you had a
18 conversation with Coach Dykes about this Fabiano Hale
19 incident before Ted died?

11:29:17 20 A. That's right.

21 Q. Okay. Detail your discussion with Coach Dykes
22 for me.

23 A. It's going to be hard for me to give detail,
24 but I will --

11:29:27 25 Q. Right. Just --

11:29:28 1 A. I'll --

2 Q. -- your best --

3 A. -- recap the best -- my best recollection is
4 Sunny walked through with me the workout, the
11:29:37 5 punishment, and then the incident.

6 Q. And, uhm, what do you recall regarding the
7 workout and the punishment?

8 A. That like I said to you previously, that
9 Fabiano Hale missed a workout. Damon brought the kids
11:30:01 10 out, ran them through some exercises on the field. Some
11 kids got sick from the workout, which Sunny told me
12 happened from time to time regardless of workouts. And,
13 uhm -- and then the incident happened after that.

14 Q. The J.D. and --

11:30:26 15 A. That's right.

16 Q. Okay. Uhm, did Coach Dykes tell you that
17 punishment drills were conducted by Coach Harrington
18 other than on that one occasion?

19 A. I can't recall.

11:30:41 20 Q. Was there any discussion about whether or not
21 Coach Harrington conducts punishment drills on a regular
22 basis?

23 A. There was.

24 Q. Okay.

11:30:49 25 A. I just can't recall the details of how many

11:30:51 1 times or of that conversation.

2 Q. Was it your understanding that punishment
3 drills were something that were conducted --

4 A. That's right.

11:30:58 5 Q. -- prior to Ted's death?

6 A. That's right.

7 Q. How often, you don't know?

8 A. I just don't know.

9 Q. Do you know what the reasons for the
11:31:04 10 punishment drills were?

11 A. I do --

12 Q. I mean, obviously --

13 A. They could be anything. They could be -- I
14 mean, I don't recall exact. But it's missed practices,
11:31:14 15 it's missed classes, it's personal conduct. Those type
16 of things.

17 Q. Do you know whether or not Coach Harrington
18 conducted punishment drills before Ted's death for poor
19 performance in an actual workout?

11:31:39 20 A. I do not.

21 Q. In other words, if a team was in a race and
22 they came in last place, do you know whether or not they
23 might have to do punishment drills?

24 A. No.

11:31:47 25 Q. You don't know?

11:31:47 1 A. I do not know.

2 Q. Okay. Your understanding was that punishment
3 drills were for things like missed classes, being late,
4 poor grades, those sorts of things?

11:32:00 5 MR. HOSKING: Misstates testimony.

6 MR. MURPHY: Q. Let me ask this. What is
7 your understanding of what the reasons -- all the
8 reasons that Coach Harrington would conduct punishment
9 drills before Ted died?

11:32:12 10 MR. HOSKING: I think it's asked and answered.

11 MR. MURPHY: You mentioned a couple, but I
12 wanted to make sure I have them all.

13 THE WITNESS: I can't get specific. I gave
14 you some general references. Uhm, effort and attitude
11:32:23 15 probably fall in those categories.

16 MR. MURPHY: Q. Are you speculating or do
17 you know that?

18 A. I'm speculating.

19 Q. Okay. I don't want to speculate.

11:32:33 20 A. Okay.

21 Q. Okay. Did -- was it okay from your standpoint
22 and from Coach Dykes' standpoint -- was it acceptable
23 that Coach Harrington conducted punishment drills?

24 MR. HOSKING: Okay. You're asking for a
11:32:49 25 qualitative commentary on whether it was appropriate or

11:32:52 1 not. That's an expert question.

2 MR. MURPHY: I'm asking whether it's
3 acceptable to him -- whether it was acceptable to him
4 and the coach. That's not an expert question. Did they
11:33:00 5 accept it or did they object to it?

6 MR. HOSKING: Was it right or wrong, I'm not
7 going to let him answer this question.

8 MR. MURPHY: Q. Let me ask this. Was it
9 acceptable to you and Coach Dykes -- or did you try to
11:33:11 10 stop it -- that Coach Harrington conducted those
11 punishment drills.

12 A. We had a discussion about it, Coach Dykes,
13 Damon, and I. And I want to go back as we're talking
14 through this. I'm not sure when that meeting was,
11:33:27 15 whether it was before or after Ted Agu's death when we
16 had that discussion. It was focused around the
17 punishment of the team on that incident. So --

18 Q. Okay.

19 A. So we -- I'd like to strike my previous
11:33:41 20 statement and look at the actual calendar on when that
21 discussion was.

22 Q. Okay.

23 A. Okay.

24 Q. That's fair enough, and I appreciate you
11:33:49 25 clearing that up. So we're talking about one meeting

11:33:51 1 that you had with Coach Dykes --
2 A. Dykes.
3 Q. -- and Coach Harrington --
4 A. That's right.
11:33:57 5 Q. -- where you discussed the Fabiano Hale
6 incident?
7 A. That's right.
8 Q. And you discussed the punishment drills.
9 A. That's right.
11:34:02 10 Q. And as you sit here right now you can't recall
11 whether -- let me finish. You can't recall whether or
12 not that meeting occurred before or after Ted died?
13 A. That's right.
14 Q. All right. Tell me what was discussed in that
11:34:16 15 meeting, other than I know you talked about the Fabiano
16 Hale incident.
17 A. Right.
18 Q. Did you talk about punishment drills in
19 general with Coach Harrington?
11:34:24 20 A. I asked him to recount it for me, and then I
21 expressed my concerns -- maybe concerns isn't the right
22 word. But as a sports supervisor I expressed my, uhm,
23 my perspective on making sure when we punish a team for
24 one player's -- for one player's actions that -- that
11:34:59 25 it's properly, uhm, monitored by the coaches and that

11:35:03 1 we're not putting our student athletes in a position
2 where there's fights after a practice.

3 Q. And Coach Harrington understood that?

4 A. That's right.

11:35:16 5 Q. Was there any discussion that you had with
6 Coach Harrington about the punishment drills?

7 A. No.

8 Q. And how would we be able to find out when that
9 meeting took place? Would it be on your calendar?

11:35:31 10 A. It should be on my calendar.

11 Q. Were there any notes from that meeting?

12 A. No.

13 Q. Did you discuss that meeting with Sandy
14 Barber?

11:35:40 15 A. I did.

16 Q. And what was your discussion with Ms. Barber?

17 A. That Damon recounted what had happened, and I
18 felt satisfied with the discussion we had.

19 Q. Did she make any comments to you about whether
11:35:56 20 or not punishment drills were appropriate?

21 A. I can't recall.

22 Q. At the time that you were deputy director of
23 athletics, were -- were Damon Harrington's punishment
24 drills acceptable to you?

11:36:12 25 MR. HOSKING: Yeah. So back to my same

11:36:14 1 objection. Number one, this incident didn't occur
2 during a punishment drill so I don't think it's relevant
3 to the facts of the case. And you're asking him for an
4 expert opinion on whether it's appropriate or not
11:36:24 5 appropriate. So I'll ask him not to answer the
6 question.

7 MR. MURPHY: No, I'm not asking him whether it
8 was appropriate or not. I'm asking you -- the question
9 is this: Was the fact -- while you were deputy director
11:36:35 10 of athletics, was the fact that Damon Harrington
11 conducted punishment drills before Ted Agu's death
12 acceptable to you?

13 MR. HOSKING: Same objection. Same
14 instruction.

11:36:46 15 MR. MURPHY: Not to answer?

16 MR. HOSKING: Yeah.

17 MR. MURPHY: On what grounds?

18 MR. HOSKING: Same ones I just stated. You're
19 asking for expert opinion. You're asking for --

11:36:52 20 MR. MURPHY: No, I'm asking whether it was
21 acceptable to him.

22 MR. HOSKING: Right. Whether it was right or
23 wrong.

24 MR. MURPHY: Whether it was okay with him.

11:36:58 25 MR. HOSKING: Exactly. Whether it was

11:36:58 1 acceptable or not.

2 MR. MURPHY: It's a fact question.

3 MR. HOSKING: And Ted didn't die during a
4 punishment drill. He died during a regular workout. So

11:37:06 5 I don't think it goes to the facts of the case. Doesn't
6 bear on causation, doesn't bear on liability.

7 MR. MURPHY: So you're instructing him not to
8 answer because why?

9 MR. HOSKING: The reasons I just stated.

11:37:22 10 MR. MURPHY: So in California you can instruct
11 a witness not to answer because you think it's not
12 relevant? Is that what you're telling me?

13 MR. HOSKING: Well, there's more to it than
14 that. The reasons I've stated a couple of times. It's
11:37:34 15 not relevant, it's not reasonably calculated to lead to
16 the discovery of admissible evidence, and you're asking
17 for expert opinion.

18 MR. MURPHY: So it's your position that me
19 asking him whether something was acceptable to him at
11:37:50 20 the time asked for an expert opinion?

21 MR. HOSKING: Yeah. You're asking him for a
22 qualitative comment on what was done or not done.

23 MR. MURPHY: Do we certify the question here
24 in California? Did that make sense to you when I ask
11:38:03 25 you to certify the question?

11:38:08 1 (Discussion off the record.)

2 MR. MURPHY: Q. Yes, please. Did you ever
3 discuss Damon Harrington or the strength and
4 conditioning program with John Wilton?

11:38:22 5 A. I did.

6 Q. And when was that?

7 A. When Joey Mahalic came to me with concerns
8 about the strength and conditioning program.

9 Q. Was that before or after Ted's death?

11:38:37 10 A. That was after Ted's death.

11 Q. Okay. And what specifically did Joey complain
12 to you about? I know we talked about the Fabiano Hale
13 incident. Was there anything else?

14 A. That was one.

11:38:52 15 Q. What were the other --

16 A. Was the Fabiano Hale incident, and the nature
17 and spirit of the workouts. He raised concerns about
18 instilling a toughness factor in that he felt it had
19 crossed the line.

11:39:20 20 Q. And did he say, specifically, what he thought
21 had crossed the line?

22 A. I can't recall. I think it was more just a
23 general tone of the workouts from his perspective.

24 Q. And why did you discuss this with John Wilton?

11:39:37 25 What was his relationship to you at that time?

11:39:39 1 A. He was our direct report and oversaw the
2 athletics department. So I discussed it with Sandy
3 Barber and John Wilton.

4 Q. At the same time?

11:39:49 5 A. I can't recall.

6 Q. Okay. I --

7 A. I elevated it to both my bosses.

8 Q. So Wilton would have been Sandy's boss?

9 A. That's right.

11:39:57 10 Q. Okay. Is he still in that position?

11 A. He is.

12 Q. What's the title?

13 A. Vice-chancellor of administration and finance.

14 Q. And what was the discussion with -- let's

11:40:09 15 break it down.

16 A. Uh-huh.

17 Q. With Sandy Barber and with John Wilton.

18 A. Whenever we have a student athlete that

19 makes -- uhm, that raises concerns of a nature that Joey

11:40:26 20 raised as far as the workouts, and he was emotional and

21 felt that there was some connection with Ted's passing

22 that he felt compelled to bring it to my attention, and

23 as the sports supervisor make me aware of it. And based

24 on the incident of Ted's passing and a student athlete

11:40:58 25 coming to me, I felt it was my responsibility to elevate

11:41:01 1 the discussions I had with Joey.

2 Q. Okay. Did any player other than Joey ever, to
3 your knowledge, complain to you or to anybody about
4 Damon Harrington's conditioning drills?

11:41:17 5 A. Like I stated -- no. Like I stated before,
6 the only feedback I received was very positive feedback
7 to that time.

8 Q. Okay. And, uhm, did you ever discuss Damon
9 Harrington with Professor Jacobson?

11:41:40 10 A. There was a time where Professor Jacobson, Dan
11 Mogulof, Sandy, John Wilton and myself reviewed Joey
12 Mahalic's comments together as a group.

13 Q. And why was Professor Jacobson involved?

14 A. He's a faculty representative for athletics.

11:42:02 15 Q. Okay. And the other gentleman -- Mogulof?

16 A. Dan Mogulof is our communications person for
17 the university.

18 Q. And I think you mentioned one other person?

19 A. Sandy.

11:42:13 20 Q. Okay. And then Wilton?

21 A. That's right.

22 Q. Was there anybody else?

23 A. Chris Patti, our lawyer.

24 Q. And what was ultimately -- we'll strike that.

11:42:27 25 Were Joey Mahalic's complaints all verbal or

11:42:32 1 were they in writing?

2 A. They were primarily verbal. I mean he texted
3 me to -- we had text exchanges where I asked how he was
4 doing, followed up with him to make sure his -- he was
11:42:47 5 okay with his emotional state. But it was all verbal.

6 Q. Was there anything in writing from Joey about
7 any specifics of what his complaints were?

8 A. No. Not that -- I know that he met with the
9 police.

11:43:02 10 Q. Right. Right. Talking about with you.

11 A. But not with me.

12 Q. Okay. Do you still have your text messages
13 with Joey?

14 A. No.

11:43:16 15 Q. Did you ever hear any players complain to
16 anyone regarding the difference in the strength and
17 conditioning program between Mike Velasquez and Damon
18 Harrington?

19 A. Like I said, there were no complaints. In
11:43:30 20 fact, in the senior reviews it was very positive
21 feedback saying that they felt like the strength and
22 conditioning program had improved.

23 Q. Did you, at any time before Ted's death, ever
24 advise Damon Harrington to stop conducting punishment
11:43:52 25 drills?

11:43:52 1 A. On -- can you restate that question?

2 Q. Yes. Did you, at any time before Ted's death,
3 advise Damon Harrington or request Damon Harrington to
4 stop conducting punishment drills?

11:44:07 5 A. No. I asked him when we met -- again, I'm not
6 sure when this meeting happened because those incidences
7 were fairly close in time. But when he recounted his
8 punishment on that specific incident, I asked him to
9 make sure when we do punishment drills that there's
11:44:30 10 proper supervision by our coaches.

11 Q. What about -- did you ask him that there be
12 proper supervision by medical staff, too?

13 A. I did not ask for that.

14 Q. Let me ask you some questions about some
11:44:50 15 documents.

16 A. With that stated, Jeff, I was -- it's protocol
17 at every workout we do that we have staff -- medical
18 staff available.

19 Q. Okay. And how do you know -- is that
11:45:01 20 something you're aware of?

21 A. That's Ryan Cobb's team that make sure we have
22 trainers on hand for every football workout.

23 Q. How are you aware of that?

24 A. It's our standard protocol.

11:45:17 25 Q. Sports medicine's not underneath you.

11:45:18 1 A. That's right.

2 Q. But you're still aware --

3 A. I'm aware of it.

4 Q. Are you aware --

11:45:21 5 A. It's an expectation I have as a sports
6 supervisor, whether it's a baseball workout or a
7 football workout.

8 Q. Do you have an expectation that the athletic
9 trainers follow applicable NCAA guidelines?

11:45:35 10 MR. HOSKING: Objection; calls for speculation
11 to the extent that he has -- and lacks foundation that
12 he knows what those are.

13 MR. MURPHY: Q. You can answer if you
14 understand the question.

11:45:44 15 A. I don't know what the NCAA guidelines are for
16 trainers.

17 Q. I understand that, but do you have an
18 expectation -- you said you have an expectation that
19 they're going to be at the workouts.

11:45:55 20 A. That's right.

21 Q. That's Berkeley protocol?

22 A. That's right.

23 Q. Do you have an expectation whether the
24 trainers are going to follow applicable NCAA guidelines?

11:46:04 25 A. Yes.

11:46:05 1 MR. HOSKING: Same objection.

2 MR. MURPHY: Q. You expect them to do that?
3 And do you also expect the trainers to follow applicable
4 guidelines from the national athletic trainers
11:46:17 5 association?

6 MR. HOSKING: Same objection.

7 THE WITNESS: Jeff, I have no idea what those
8 guidelines are.

9 MR. MURPHY: Q. Right. Do you know whether
11:46:21 10 or not it was -- strike that.

11 I'm not asking you if you know what the
12 guidelines are or aren't, but I'm asking you if you
13 expected the athletic trainers to follow whatever
14 guidelines there are from the national athletic trainers
11:46:36 15 association?

16 A. I'm going to abstain.

17 Q. Okay. Okay. Well, unfortunately, abstaining
18 is not one of the options. You can answer to the best
19 of your ability.

11:46:50 20 A. Since I don't know what those guidelines are,
21 I don't feel comfortable answering that question.

22 Q. Are you telling me that you don't know because
23 you don't know what the guidelines are?

24 A. I can't -- I can't have expectations for
11:47:03 25 something I don't -- I'm not aware of.

11:47:07 1 Q. Do you know what the NCAA guidelines are for
2 trainers?

3 A. No.

4 Q. Okay. But you already testified that you
11:47:13 5 expected the trainers to follow the applicable NCAA
6 guidelines?

7 A. Right.

8 Q. Even though you don't know what those
9 guidelines are?

11:47:18 10 A. Right.

11 Q. So the same --

12 A. So probably to that -- to your point, I
13 probably should have answered I'm abstained on that
14 question, too. Because I -- I have expectations that
11:47:31 15 they're out there. I defer to Ryan Cobb and his staff
16 and Casey Batten on what those expectations are.

17 Q. Did you have expectations one way or another
18 whether or not athletic trainers were going to have
19 oxygen available at workouts?

11:47:47 20 A. I never contemplated whether oxygen was going
21 to be available at workouts.

22 Q. Something outside the realm of your --

23 A. That's right. That's right.

24 Q. Okay. And you rely on the sports medicine
11:47:57 25 staff --

11:47:57 1 A. That's right.

2 Q. -- to do what needs to be done?

3 A. Yes.

4 Q. Do you have any knowledge of the sickle cell

11:48:02 5 trait?

6 A. Not -- I had no -- I was generally aware of

7 it, but had no in-depth knowledge of sickle cell trait.

8 Q. And --

9 A. Again, that -- medical issues are with Casey

11:48:17 10 and Ryan.

11 Q. You don't know anything about the signs and

12 symptoms and treatment?

13 A. No.

14 Q. Okay. All right. Let me ask you, sir, just

11:48:25 15 some questions regarding some documents that we had

16 requested. And my intent here is to make sure that --

17 that I have what we've asked for.

18 A. Sure.

19 Q. And you may tell me, yeah, Jeff, you already

11:48:38 20 have it, or no, I got some things back in my office.

21 A. Sure.

22 Q. So I can find out. Okay. E-mails between you

23 and anyone regarding the Ted Agu incident. Have you

24 looked for those?

11:48:54 25 A. I have not.

11:48:56 1 Q. Okay. If somebody wanted to get those e-mails
2 off of your computer, would they have to do that with
3 your knowledge?

4 A. They would.

11:49:06 5 Q. All right. And has anybody asked you to look
6 for e-mails that you've written to or from somebody else
7 regarding the Ted Agu incident?

8 A. No.

9 Q. And what about -- this is probably the same
11:49:21 10 answer, e-mails between you and Sandy Barber regarding
11 to this incident?

12 A. No.

13 Q. Have you looked for those?

14 A. No.

11:49:30 15 Q. And nobody's asked you to look for those?

16 A. That is correct.

17 Q. Would there be any e-mails between you and
18 anyone regarding this incident?

19 A. I can't recall.

11:49:45 20 Q. Would you have written anybody other than
21 through an e-mail, maybe a letter, a text that you might
22 still have, regarding this incident?

23 A. Again, I can't recall.

24 Q. Have you had any e-mails or correspondence
11:50:07 25 with anybody regarding sickle cell trait?

11:50:14 1 MR. HOSKING: Relative to this athlete?

2 MR. MURPHY: No, just sickle cell trait,
3 period. And then I was going to --

4 THE WITNESS: I want to say no, but I can't
11:50:22 5 recall specifically.

6 MR. MURPHY: Q. Do you have -- uhm, do you
7 work off the same computer that you used when you were
8 deputy director of athletics?

9 A. Yes.

11:50:36 10 Q. Uhm, what about e-mails or correspondence
11 between you and anybody else regarding Ted Agu and
12 sickle cell trait?

13 A. Again, I want to say no, but I -- I can't
14 recall.

11:50:52 15 Q. As you sit here today, you haven't looked for
16 any of these categories of e-mails on your computer?

17 A. No.

18 Q. And nobody's asked you to do that?

19 A. No.

11:51:14 20 Q. Just a couple quick things here. Your name --
21 it was on a couple of e-mails with -- with some people,
22 and I just want to see if you know what this might be
23 about. First one is Bates number 9383. It's an e-mail
24 from Ryan Cobb to you dated August 5, 2014, where he's
11:51:37 25 asking to you call him.

11:51:39 1 MR. HOSKING: Right. Thank you.

2 MR. MURPHY: Q. Yeah. Just want to see if
3 that jogs your memory as to any discussions you might
4 have had with Ryan Cobb regarding Ted Agu after his
11:51:53 5 death?

6 A. No.

7 Q. You don't recall any discussions at all with
8 Mr. Cobb after Ted -- after Ted's death about Ted Agu?

9 A. I had discussions with Ryan. Uhm, Ryan and I
11:52:11 10 were the ones that told the team up at the stadium that
11 Ted had passed. So --

12 Q. Okay.

13 A. In detail, I can't recall my conversations
14 with Ryan related to this.

11:52:27 15 Q. There were also some e-mails that talked about
16 video cameras outside the stadium in the -- one of the
17 things that we requested early on in this case was any
18 video that might have captured what happened either on
19 Bowles parking lot or back at the stadium. And I think
11:52:49 20 you were told that there were none, and these e-mails
21 seemed to indicate that perhaps the video at the stadium
22 for some reason wasn't working, but I'll let you give me
23 the details on this. Uhm, Bates numbers 9450 through
24 9453.

11:53:06 25 MR. HOSKING: I got it. Thank you.

11:53:08 1 MR. MURPHY: Q. Just take a -- I'm not
2 going to ask you in depth. Just take a quick look at
3 that, Mr. Fulp. Tell me if you recall what that was
4 about.

11:53:25 5 A. So we had warranty issues with our cameras all
6 over the stadium.

7 Q. Because they weren't working properly?

8 A. They -- they weren't working properly, right.
9 It was inconsistent. Sometimes they would be working,
11:53:40 10 sometimes they would not be working. And so we were --
11 that's what this is related to.

12 Q. Okay. And was it your understanding that any
13 video cameras that might have -- that might have been in
14 a spot where they could have seen any part of this
11:54:01 15 incident involving Ted were not working at the time?

16 A. So after the incident I asked specifically if
17 those cameras were working, and I found out that those
18 cameras were not working.

19 Q. Right. To your knowledge, uhm, are there any
11:54:15 20 video cameras at Bowles Hall?

21 A. I do not have any knowledge of that.

22 Q. Did you ever check on that?

23 A. No.

24 Q. Would the same company that was responsible
11:54:34 25 for the video cameras at the stadium do any that might

11:54:37 1 be at Bowles Hall?

2 A. No. I'm speculating, but I'm pretty sure that
3 those are different camera systems.

4 Q. If I wanted to ask, uhm, whether or not there
11:54:47 5 was a camera system outside of Bowles Hall the day Ted
6 died, who would I direct that request to?

7 A. UCPD.

8 Q. Right. Did you have any discussions with UCPD
9 about Ted's death?

11:55:07 10 A. I did.

11 Q. And who did you speak with?

12 A. Marc DeCoulode.

13 Q. And what did you talk with him about?

14 A. The video camera was one thing I wanted to --

11:55:18 15 Q. Obviously with --

16 A. Yeah, we just talked about that.

17 Q. Anything else?

18 A. That was it. Primarily related to that.

19 Q. Did you ever have any discussions with anybody
11:55:33 20 at UCPD regarding what players had said happened on the
21 hill?

22 A. The -- I can't recall on that.

23 Q. Would there be anybody else at Cal PD who you
24 might have talked to other than Marc DeCoulode?

11:55:56 25 A. Mark was my contact.

11:55:57 1 Q. Do you know him personally?
2 A. I do.
3 Q. Is he your friend or --
4 A. He's a colleague. This is recorded, so he'll
11:56:07 5 probably be bummed out if I didn't say friend. So he's
6 a friend.
7 Q. All right. Let's talk about the day Ted died.
8 How did you find out?
9 A. Ryan Cobb called me on my way to work.
11:56:32 10 Q. That morning?
11 A. Yes.
12 Q. And what did he tell you?
13 A. That he believes we have a serious incident.
14 Possible a fatal incident. And instructed me to come to
11:56:45 15 the stadium.
16 Q. And I assume you did that?
17 A. I did.
18 Q. What time, about, did you get there?
19 A. About 7:30.
11:56:54 20 Q. And when you got there, was EMS still there?
21 A. No.
22 Q. Who is the first person you saw when you got
23 there?
24 A. Ryan.
11:57:04 25 Q. Where?

11:57:05 1 A. Uhm, in the football wing at the Simpson
2 Center.

3 Q. Right. And you talked to him, I assume?

4 A. I did.

11:57:14 5 Q. What was discussed?

6 A. He generally recounted the -- the incident of
7 Ted fainting or passing out. I can't remember
8 specifically, but let me know that an ambulance had come
9 up, that he had been worked on for a while while the
11:57:43 10 ambulance was coming up. And he felt concerned and --
11 and told me that Sandy -- I actually called Sandy about
12 the incident as soon as Ryan called me on my way in --
13 told Sandy. Sandy and Sunny went down to the hospital,
14 and I went to the stadium to be with the players. Ryan
11:58:07 15 recounted very generally the incident. He didn't have a
16 lot of information. He was still gathering at that
17 time. Uhm, and then we had a protocol where UCPD was
18 going to call us and give us the outcome of what was
19 going on.

11:58:24 20 Q. Did you talk to the police that morning?

21 A. I informed the players that Ted had passed
22 about 30 minutes later once I learned.

23 Q. What time was that approximately?

24 A. I'm speculating. It's a blur at that point.

11:58:42 25 It's maybe within an hour that I had arrived.

11:58:45 1 Q. Okay. Did you talk to any football players
2 that morning about what had happened?

3 A. I can't recall, uhm, other than I was
4 consoling players. Uhm, there was a perception that the
11:59:10 5 ambulance had taken too long to get there by some
6 players. I can't recall whether that feedback was that
7 morning or not.

8 Q. Did you ask any questions about what had --
9 what the workout was, what they had been doing?

11:59:31 10 A. I did not interact with the players on that --
11 our student athletes on that.

12 Q. Okay.

13 A. I asked -- I got a general recount or recap
14 from Ryan.

11:59:43 15 Q. Right.

16 A. But I didn't -- besides Ryan, I didn't -- I
17 didn't go around asking people.

18 Q. I mean as deputy director of athletics, was
19 one of your goals to figure out what had happened?

11:59:54 20 A. At that point my goal was to support our team.

21 Q. Okay.

22 A. I mean everyone was visibly upset. So I was
23 not in a investigate -- investigative mode.

24 Q. Understood. At some point in time did it
12:00:09 25 become your goal to find out what had happened that day?

12:00:12 1 What they had been doing?

2 A. Yeah. Yeah. Yes.

3 Q. All right. And what did -- what did Ryan Cobb
4 tell you had happened that morning?

12:00:21 5 A. I can't sp -- that morning, I can't
6 specifically remember.

7 Q. At what point in time -- would it have been
8 day later, a week later, did it become your goal to
9 figure out what happened out there?

12:00:35 10 A. It was within that week.

11 Q. Did you at some point learn that they had been
12 doing a drill over on Bowles --

13 A. Yes.

14 Q. -- parking lot? Did you -- did that concern
12:00:48 15 you at all that they had been doing a drill on that
16 parking lot?

17 A. No.

18 MR. HOSKING: Lacks foundation. Calls for
19 speculation.

12:00:56 20 MR. MURPHY: Q. Had you ever seen the
21 football team doing a conditioning drill on that parking
22 lot?

23 A. No.

24 Q. Had you ever seen the football team do a
12:01:05 25 conditioning drill in the stadium?

12:01:06 1 A. Yes.

2 Q. Uhm, okay. What did you do to try to find out
3 what happened?

4 A. I asked Ryan and Dr. Batten to recap with me
12:01:22 5 specifically what had happened.

6 Q. And what did they tell you?

7 A. That there was a workout that was done. They
8 were running up hills in teams. And, uhm, Ted passed
9 out. And they got a cart up there, brought him down,
12:01:43 10 and he had shown signs that he was okay. He had said he
11 was fine. He waved his teammates off because I guess he
12 had stumbled. Uhm, and they were talking to him. He
13 was coherent on the cart coming down, and then he went
14 into cardiac arrest. And, uhm, they worked on him while
12:02:11 15 they were waiting for the ambulance.

16 Q. Did they -- uhm, did they tell you anything
17 about what happened on the hill that caused somebody to
18 check on him?

19 A. Uhm, I'm just trying to think right now. It's
12:02:30 20 hard for me to go into detail. There were no signs of
21 distress until he had passed out. And in the -- there
22 was a -- a team meeting after that where players were
23 recalling and there was multiple accounts from different
24 players. Some thought Ted was fine and never showed any
12:03:03 25 signs of distress. Some thought he did.

12:03:08 1 Q. Just so I'm clear, though, Dr. Batten told you
2 that within a week after Ted's death, that they were
3 running the drill on the hill and that Ted seemed to be
4 doing fine until he suddenly passed out?

12:03:21 5 A. Dr. Batten or Ryan.

6 Q. Okay. That was what they told you?

7 A. Right.

8 Q. Okay. Uhm, and do you know the names of any
9 players who said that Ted was fine?

12:03:34 10 A. I can't recall. I just remember there being
11 different recollections and --

12 Q. Do you remember the names of any of the
13 players who said that Ted was having difficulty?

14 A. Again, I can't recall.

12:03:49 15 Q. Uhm, to your knowledge, did anybody at the
16 university ever take any sworn statements from any
17 football players?

18 A. Not to my knowledge, other than Joey Mahalic
19 for the incident that -- and --

12:04:07 20 Q. The Fabiano Hale incident?

21 A. That and his issues, I believe, he had, or his
22 perception of the workouts that he met with Marc
23 DeCoulode.

24 Q. Okay. Aside from statements that might have
12:04:21 25 been given to the Cal Police Department --

12:04:25 1 A. Right.

2 Q. -- which I understand is part of the
3 university.

4 A. Right.

12:04:27 5 Q. But let's separate out the police.

6 A. Okay.

7 Q. To your knowledge, did Joey or any football
8 players give any statements to anybody at the
9 university?

12:04:35 10 A. No.

11 Q. Did, uhm -- from what Dr. Batten and/or Ryan
12 Cobb told you within a week after Ted died, when they
13 said that he had suddenly passed out. Did they say that
14 occurred on the hill, before the golf cart got him?

12:05:00 15 A. I believe it was at the tunnel.

16 Q. Okay.

17 A. At the stadium.

18 Q. All right. I want to focus on what Dr. Batten
19 and Ryan Cobb told you about what happened on the hill.

12:05:12 20 Why they brought him back to the stadium.

21 A. Uh-huh.

22 Q. What happened up there while they were doing
23 the drill?

24 A. Uh-huh. I -- again, I can't get into detail
12:05:23 25 about it. That there was some signs of distress or that

12:05:27 1 he had passed out and they got a cart up there to aid
2 him.

3 Q. Okay. In any event what they had told you was
4 that when he had struggling or when he passed out on the
12:05:41 5 hill that it was something that happened suddenly?

6 A. I don't know. I -- I can't recall that.

7 Q. Okay. Do you recall whether or not they told
8 you there was a period of struggling that went on on the
9 hill before he had problems?

12:05:58 10 A. No. There was signs of distress or there
11 was -- they -- clearly something was wrong and they got
12 the cart up there to aid him.

13 Q. Okay. Did they tell you that -- that they
14 intervened and checked on Ted as soon as they saw
12:06:15 15 something wrong?

16 A. They checked on him on the way down from the
17 hill, and he was coherent. He was talking to them and
18 then all of sudden he went into cardiac arrest.

19 Q. Okay. And I want to -- I'm sorry about this,
12:06:30 20 but I need the focus on --

21 A. Sure.

22 Q. -- what they told you specifically about what
23 happened on the hill. Forget about the golf cart --

24 A. Right.

12:06:36 25 Q. -- and the north tunnel.

12:06:38 1 A. Right.

2 Q. About specifically what happened on the hill.

3 A. So, Jeff, I can't recall specifics.

4 Q. Okay. But generally it was your understanding
12:06:48 5 that on the hill --

6 A. Something had happened to require a golf cart
7 to go up there.

8 Q. Okay. Specifically what?

9 A. And -- and, uhm, I don't think -- again, I'm
12:06:59 10 speculating, but whether the players motioned for aid
11 or --

12 MR. HOSKING: You don't want to speculate.

13 MR. MURPHY: Yeah, I don't want to you
14 speculate. I'm just -- your best recollection of what
12:07:10 15 Dr. Batten and Ryan -- and then I'm going to move on
16 from this.

17 THE WITNESS: Right.

18 MR. MURPHY: Q. What's your best
19 recollection of what Dr. Batten and Ryan Cobb told you
12:07:16 20 about what happened on the actual hill?

21 A. I shared that with you, that there was
22 something that happened and they got a cart up there and
23 brought him down.

24 Q. Dr. Batten and Ryan Cobb -- do you know
12:07:30 25 whether or not they were actually at the drill?

12:07:34 1 A. I do not know.

2 Q. To your knowledge, did you ever speak to
3 anybody else who might have been present at the drill?

4 A. I did not.

12:07:46 5 Q. Never talked to Robbie Jackson?

6 A. Wasn't -- it wasn't appropriate for me to talk
7 to Robbie.

8 Q. Why was it appropriate to talk to Dr. Batten
9 and Ryan Cobb but not Robbie?

12:07:58 10 A. Because Robbie reports to Dr. Batten and Ryan,
11 and that's within their medical expertise. And the only
12 discussions I had with Robbie was to console him and let
13 him know that we supported him.

14 Q. Never got any information from him as to what
12:08:18 15 happened?

16 A. Never inquired directly with him.

17 Q. What about with Damon Harrington?

18 A. Never inquired directly with Damon.

19 Q. Who would have been, uhm, Damon Harrington's
12:08:31 20 boss?

21 A. Mike Velasquez.

22 Q. You may or may not know anything about this,
23 but there has been testimony that Damon Harrington --
24 actually I think Coach Velasquez told us that Damon

12:08:52 25 Harrington actually reported directly to Coach Dykes and

12:08:55 1 not to Coach Velasquez. Do you have any knowledge of
2 that? What that setup was?

3 A. The reports -- to my knowledge, Damon reported
4 directly to Mike Velasquez. But Damon is also
12:09:14 5 accountable to Sonny Dykes as strength and conditioning
6 coach for football -- to the head football coach.

7 Q. Did you ever talk to Coach Dykes about whether
8 Damon Harrington told him anything about what had
9 happened?

12:09:29 10 A. I know there were conversations. I can't
11 recall specifics of those conversations, though.

12 Q. What else did you do within a week after you
13 talked to Dr. Batten and Ryan Cobb? Who else did you
14 talk to in trying to figure out what happened out there?

12:09:44 15 A. That was it.

16 Q. Okay.

17 A. And Marc DeCoulode.

18 Q. Were there any -- ever any discussions with --
19 with anybody about specifically what the drill was that
12:09:59 20 they were doing that day?

21 MR. HOSKING: Outside of discussions with
22 counsel or the risk management folks.

23 THE WITNESS: With Dr. Batten and with Ryan,
24 I'm sure the specific is -- of the workouts were
12:10:21 25 discussed. In detail I can't recall those.

12:10:25 1 MR. MURPHY: Q. Do you have any strength
2 and conditioning background?

3 A. Uhm --

4 Q. Let me ask you this. Are you certified --

12:10:35 5 A. No.

6 Q. -- by any of the strength and conditioning
7 associations?

8 A. No.

9 Q. I understand you might have been an athlete in
12:10:40 10 the past, but talking about either teaching or coaching
11 strength and conditioning?

12 A. No.

13 Q. And did you at some point learn from the
14 police department whether there had been any players who
12:10:57 15 stated that Ted had struggled for a period of time on
16 the hill before the intervention?

17 A. I know there was speculation of that in the
18 team meeting when the players recounted emotionally
19 their different recollections. Some thought he did,
12:11:17 20 some thought he did not.

21 Q. Okay. And was this the team meeting the day
22 of the death?

23 A. It was either that day or the next day.

24 Q. Were you present at that meeting?

12:11:29 25 A. I was.

12:11:30 1 Q. Were you concerned at all when you heard
2 players complain that Ted had struggled for a period of
3 time on the hill before he was helped?

4 MR. HOSKING: It's vague.

12:11:44 5 MR. MURPHY: You can answer.

6 MR. HOSKING: You can answer.

7 THE WITNESS: I -- I was concerned for many
8 reasons, but I knew that UCPD was doing an
9 investigation. Uhm, Ryan -- I have the utmost
10 confidence in Ryan and Dr. Batten.

11 MR. MURPHY: Q. So were you leaving it to
12 the --

13 A. The experts.

14 Q. After you heard that from the players, did you
12:12:07 15 delve in any more --

16 A. No.

17 Q. -- in to what those players had said?

18 A. No.

19 Q. You left to it Cal PD?

12:12:13 20 A. That's right.

21 Q. And sports medicine?

22 A. That's right.

23 Q. Have you read any of the depositions of any of
24 the players that have been given in this case?

12:12:20 25 A. I have not.

12:12:26 1 Q. Let me ask you just a few questions about
2 Coach Harrington and his hire. You and Coach Dykes were
3 involved in that?

4 A. Uh-huh, yes.

12:12:36 5 Q. Yes. Okay. Who else was involved in that?

6 A. Sandy Barber.

7 Q. All right. Anybody else?

8 A. I think Ryan and Mike Velasquez were. I'm not
9 certain.

12:12:54 10 Q. Are you aware of any requirement at Cal that
11 strength and conditioning coaches be certified by any
12 particular organizations?

13 A. I'm aware that general certifications are
14 required, not in detail what those certification are.

12:13:13 15 Q. Which entity?

16 A. Right.

17 Q. Things like that?

18 A. Right.

19 Q. Who would be the one responsible for that,
12:13:17 20 would that be Velasquez?

21 A. That would be Velasquez and Ryan.

22 Q. Were you aware at the time that Coach
23 Harrington was hired that he was not certified by the
24 national strength and conditioning association?

12:13:32 25 A. I was not.

12:13:46 1 Q. Did Coach Velasquez or anybody in the strength
2 and conditioning department participate in interviewing
3 Coach Harrington?

4 A. I can't recall.

12:13:59 5 Q. Do you know who hired him?

6 A. Sandy Barber authorized the hiring of Damon.
7 And I can't recall all the interviews, but I was part of
8 that decision.

9 Q. Who -- tell me who were the decision makers?

12:14:18 10 Sandy Barber authorized it --

11 A. Right.

12 Q. -- but was this a hire that Coach Dykes
13 wanted?

14 A. Coach Dykes was the primary decision maker.

12:14:27 15 Q. Because he knew him from --

16 A. He worked with him at Louisiana Tech.

17 Q. Right. And was it a situation where Coach
18 Dykes -- that was the guy Coach Dykes wanted?

19 A. That's right.

12:14:37 20 Q. And so you interviewed him?

21 A. That's right.

22 Q. And did Sandy Barber interview him as well?

23 A. I can't recall.

24 Q. Did you recommend to Sandy Barber after the
12:14:50 25 interview that it was okay to hire him?

12:14:52 1 A. Most likely, yes. For her to authorize it
2 whether she met with him directly or based on my
3 recommendation. That's the protocol.

4 Q. Was anybody other than you and Coach Dykes and
12:15:04 5 Sandy Barber involved in making the decision to hire
6 Coach Harrington?

7 A. Specifically I can't recall the involvement
8 with Ryan and Mike Velasquez.

9 Q. Okay. At some point was it decided that there
12:15:34 10 should be some sort of a review of the strength and
11 conditioning program?

12 A. Yes.

13 Q. And when was that decided?

14 A. Based on the conversations with Joey and the
12:15:54 15 conversation that we had with John Wilton and Sandy
16 Barber, the decision was made to have a third party
17 review. It was in that meeting with Bob Jacobson and
18 Chris Patti and Dave Mogulof as well.

19 Q. And how was it decided who would do that
12:16:15 20 review?

21 MR. HOSKING: Well -- so if the -- if the
22 decision -- you can only answer by commenting on what
23 happened in a meeting where counsel was present,
24 Mr. Patti. I believe that's protected by
12:16:31 25 attorney-client. If you can respond based on

12:16:34 1 information outside that meeting where counsel was not
2 present, then you can answer.

3 THE WITNESS: Yeah. My recollection is that
4 decision was made with Chris Patti present.

12:16:47 5 MR. MURPHY: Q. Okay. Did you know
6 Dr. Tanji or John Murray?

7 A. I did not.

8 Q. Did you ever meet with them?

9 A. I cannot recall.

12:17:00 10 Q. What were they asked to do?

11 A. To -- Ryan Cobb led the meetings. They were
12 asked to interview our student athletes, our football
13 players. They were asked to conduct an assessment of
14 the workouts, and to provide feedback if these workouts
15 were appropriate for a NCAA division one football
16 program.

12:17:25 17 Q. To your knowledge, did anybody, either at Cal
18 or a third party, did anybody ever investigate whether
19 or not the drill that was conducted the day Ted died was
12:17:42 20 appropriate?

21 A. I believe --

22 Q. Specifically that drill.

23 A. I do not recall that.

24 Q. So you don't --

12:17:51 25 A. I'm speculating that --

12:17:53 1 MR. HOSKING: Better not speculate if you
2 don't know.

3 THE WITNESS: Right.

4 MR. MURPHY: Yeah. I don't want you to
12:17:56 5 speculate, I just want to know -- I understand, and I
6 have Dr. Tanji and Mr. Murray's report. And as you
7 indicated, they kind of reviewed the strength and
8 conditioning program as a whole.

9 THE WITNESS: Right.

12:18:08 10 MR. MURPHY: Q. And my question is more
11 specific. And I know Dr. Tanji didn't do it, but did
12 any other third party or anybody at Cal, Cal PD or
13 otherwise, ever investigate to try to find out whether
14 the drill that was conducted the day Ted died was
12:18:27 15 appropriate?

16 MR. HOSKING: Outside of investigation
17 connected by counsel or the risk management department.

18 THE WITNESS: I would not know.

19 MR. MURPHY: Q. Did you, yourself, take any
12:18:41 20 action at all to find out whether or not the actual
21 drill was appropriate?

22 A. Again, like I stated before, that's -- that
23 was in Ryan Cobb and Mike Velasquez's area.

24 Q. All right. Did you ever have any discussions
12:19:03 25 with vice-chancellor John Wilton before Ted died about

12:19:08 1 the strength and conditioning program or Damon
2 Harrington?

3 A. No.

4 Q. We're almost done. Did you meet with the
12:19:39 5 family?

6 A. I did not.

7 Q. I understand they came to Cal that -- that day
8 and night and some people met with them from Cal, but
9 you weren't one of those?

12:19:49 10 A. I was not one of them.

11 Q. Was Coach Harrington ever disciplined or
12 criticized in any way regarding what happened the day
13 Ted died?

14 MR. HOSKING: So I'll instruct the witness not
12:20:13 15 to answer. That goes to hiring and retention. It's not
16 part of this case.

17 MR. MURPHY: So instruction not to answer?

18 MR. HOSKING: Yes.

19 MR. MURPHY: Q. Did you ever review the
12:20:31 20 Tanji/Murray report?

21 A. I did.

22 Q. Do you know, uhm, whether or not they took
23 statements? When I say statements, I mean written or
24 recorded statements of any of the players who they
12:21:08 25 talked to during their investigation?

12:21:11 1 A. I do not know specifics of their interviews.

2 Q. You weren't provided with any notes from
3 any --

4 A. No.

12:21:18 5 Q. -- interviews or anything like that?

6 A. No.

7 MR. MURPHY: That's all I have.

8 MR. HOSKING: Give me two minutes with the

9 witness, please. We'll step out and then I may have one

12:21:38 10 or two questions.

11 MR. MURPHY: Okay.

12 VIDEOGRAPHER: So go off the record in a
13 moment. We're now going off the record. The time is
14 12:21.

12:21:49 15 (The deposition was in recess from to
16 .)

17 VIDEOGRAPHER: We are now back on the record.

18 The time is 12:27.

19 MR. HOSKING: Q. Mr. Fulp, thanks for
12:27:13 20 spending time with us this morning. You testified
21 earlier that you didn't have a recollection of being
22 involved in any query of your computer to look for
23 e-mails from you or to you regarding Mr. Agu. Do you --
24 having been through this process, do you have a
12:27:32 25 recollection of what happened?

12:27:34 1 A. I do.

2 Q. Were you -- did you give your consent to have
3 your computer examined for those kinds of e-mails?

4 A. I did.

12:27:41 5 Q. And were you present when that happened?

6 A. I was not.

7 Q. Are you aware that it was done at some point
8 by an I.T. professional?

9 A. I am.

12:27:49 10 MR. HOSKING: All right. Thank you very much.

11 MR. MURPHY: Q. Do you know who did it?

12 A. Someone in Andy Goldblatt's office. I believe
13 the request came from Andy Goldblatt.

14 Q. And who is Andy Goldblatt?

12:27:59 15 A. He is our risk management person.

16 Q. Okay. So somebody associated with the
17 university --

18 A. That's right.

19 Q. -- took care of that?

12:28:07 20 A. Yes.

21 Q. Okay. Thanks.

22 MR. HOSKING: We're off the record. Thanks.

23 VIDEOGRAPHER: This now concludes the video
24 deposition of Solomon "Sully" Fulp on September 23rd,
12:28:21 25 2015, and we are now off the record.

12:28:26 1 THE REPORTER: Did you want a copy of the
2 transcript, Counsel?

3 VIDEOGRAPHER: Time is a 12:28.

4 MR. HOSKING: Yes, a full-sized transcript,
12:28:48 5 please, and a PDF e-mailed to me at the address on my
6 card.

7 (The deposition was concluded at 12:28 p.m.)

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1 STATE OF _____)
2) ss.
3 COUNTY OF _____)

4 I, the undersigned, declare under penalty
5 of perjury that I have read the foregoing transcript,
6 and I have made any corrections, additions or
7 deletions that I was desirous of making; that the
8 foregoing is a true and correct transcript of
9 my testimony contained therein.

10 EXECUTED this _____ day of _____,
11 _____, at _____, _____.
12 (City) (State)

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CERTIFICATE

I, the undersigned, a Certified Shorthand Reporter, State of California, hereby certify that the witness in the foregoing deposition was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and place therein stated; that the testimony of the said witness was reported by me, a disinterested person, and was thereafter transcribed under my direction into typewriting; that the foregoing is a full, complete, and true record of said testimony; and that the witness was given an opportunity to read it and, if necessary, correct said deposition and to subscribe the same.

I further certify that I am not of counsel or attorney for either or any of the parties in the foregoing deposition and caption named, nor in any way interested in the outcome of the cause named in said caption.

Executed this 6th day of October, 2015.



LAURA AXELSEN, C.S.R. 6173

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