

COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
DIVISION NO. III
CIVIL ACTION NO. 15-CI-551

PAUL KEARNEY, M.D.,)	DEPOSITION TAKEN ON
)	BEHALF OF PLAINTIFF
PLAINTIFF)	<u>BY: NOTICE</u>
)	
VS.)	
)	
UNIVERSITY OF KENTUCKY,)	Witness:
)	
DEFENDANT)	JAY BLANTON

* * * * *

The deposition of JAY BLANTON was taken before Desiree J. Wright, Court Reporter and Notary Public in and for the State of Kentucky at Large, at the law offices of Sturgill, Turner, Barker & Moloney, PLLC, 333 West Vine Street, Suite 1500, Lexington, Kentucky, on Monday, September 12, 2016, commencing at the approximate hour of 2:30 p.m. Said deposition was taken pursuant to Notice, heretofore filed, to be read and used as evidence on behalf of the Plaintiff at the trial in the above-captioned action and all other purposes as permitted by the Kentucky Rules of Civil Procedure.

* * * * *

APPEARANCES:

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ATTORNEYS FOR DEFENDANT

ALSO PRESENT:

Paul Kearney, M.D.

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1 The witness, JAY BLANTON, after
2 first being duly sworn, was examined and testified
3 as follows:

4 EXAMINATION

5 By Mr. Pafunda:

6 Q For the record, you're Jay Blanton?

7 A Yes, sir.

8 Q You're employed at the University of
9 Kentucky?

10 A Yes, sir.

11 Q What is your job title?

12 A I'm the Executive Director of Public
13 Relations and Marketing.

14 Q And your educational background is?

15 A I have a Bachelor's degree in
16 Journalism from the University of Kentucky and a
17 Master's degree in Education from the University
18 of Kentucky.

19 Q And briefly, your employment
20 history?

21 A I have -- how far back do you want
22 me to go?

23 Q We could go to the 1800's.

24 Go back ten years and just see where
25 we're at.

1 A In the last ten years I've been
2 Deputy Communications Director for -- well, that's
3 15 years. Deputy Communications Director for
4 Jerry Abramson. The Executive Director of PR and
5 Marketing for the University of Kentucky. The
6 Communications Director for Governor Steven
7 Beshear and the Communications Director for the
8 Keeneland Association.

9 Q Were you Communications Director for
10 Governor Beshear when the Ron Mills case was going
11 on?

12 A I don't recall that case, sir.

13 Q Did you serve out his entire term?

14 A No, I was there for one year, 2008
15 to 2009.

16 Q And then after 2009, you went to
17 where?

18 A Keeneland.

19 Q Were at Keeneland for how long a
20 period of time?

21 A Eight months.

22 Q Then to the University of Kentucky?

23 A Came to the University of Kentucky.

24 Q I take it from your response you
25 were employed twice at the University of Kentucky?

1 A Yes, sir.

2 Q First time was from when to when,
3 and in what capacity?

4 A Approximately 2004 to 2008, roughly;
5 same capacity that I'm in now.

6 Q That's public relations?

7 A Yes, sir.

8 Q Why did you leave the first time?

9 A I was offered the job of
10 Governor Beshear's communications director.

11 Q What particular expertise do you
12 bring to the table in public relations or
13 marketing?

14 A I have a Bachelor's degree in
15 Journalism from the University of Kentucky. I've
16 worked as a journalist both while in school and
17 afterward. And then for the last -- since 1993
18 have worked in a number of public relations
19 capacities in the private sector and in the public
20 sector.

21 Q What particular skills do you
22 believe that you've picked up in the field of
23 public relations or marketing? What makes you
24 unique?

25 A I don't know that anything makes me

1 unique, but I think I'm a good writer and a good
2 oral communicator and a spokesperson, which is
3 usually the capacity that I play on behalf of the
4 institution.

5 Q Right. On behalf of the University
6 of Kentucky, do you think it's important to have a
7 public relations person?

8 A Yes, sir.

9 Q For what reason or reasons?

10 A To promote the institution and its
11 brand.

12 Q At the present time, under
13 Dr. Capilouto --

14 A (Witness indicating yes.)

15 Q -- tell me what you believe the
16 brand of the University to be.

17 A We want to be one of the premier
18 public residential campuses in the United States
19 of America known for outstanding health care
20 enterprise that reaches across the Commonwealth
21 and the region.

22 Q But it's not at that status at this
23 time, is it?

24 A I think we're aspiring to that. In
25 some areas we certainly are -- many areas we

1 certainly are, and we're aspiring to get even
2 better as outlined in our strategic plan of past
3 October.

4 Q But you recall when Lee Todd said he
5 wanted to make it a top 20 University?

6 A Yes, sir.

7 Q And the University of Kentucky is
8 not a top 20 University, is it?

9 A No, not by -- in some areas it's
10 close and in some areas it's not.

11 Q Do you know where the University of
12 Kentucky ranks academically in the Southeastern
13 Conference?

14 A Within the Southeastern Conference,
15 it depends on your -- well, I don't think there is
16 an official academic ranking within the
17 Southeastern Conference. As a research
18 institution, we're probably near the top. In some
19 areas we're not.

20 Q Do you, in fact, know where it ranks
21 academically?

22 A It depends on what your measurement
23 is. Is there a specific measurement you're asking
24 about?

25 Q No. But if you take Harvard or

1 Yale, you would certainly describe those as top
2 academic universities, would you not?

3 A Sure.

4 Q So in the SEC, where is the
5 University of Kentucky ranked?

6 A Again, I don't know the specific
7 ranking you're talking about so I couldn't
8 specify.

9 Q But if you were to have to describe
10 it to the general public, where would you place
11 the University of Kentucky academically in the
12 SEC?

13 A As a research -- in the research
14 area, I would place it in probably the top half.
15 In the graduation rates, probably in the second
16 half.

17 Q And if I were to look for studies to
18 back up that statement, where would I look?

19 A NIH rankings for research,
20 graduation rates. You could look in a number of
21 sources, but certainly U.S. News and World Report
22 would be one.

23 Q Now, U.S. News and World Report, is
24 it not mainly a marketing tool for universities?

25 A I think some consider it that.

1 Q Do you consider it that?

2 A Largely, yes.

3 Q And your reason for considering U.S.
4 News and World Report such a marketing tool is
5 what?

6 A The measurements change often. Some
7 of them are quantifiable. Some of them are more
8 subjective and qualitative, so it's a real mix.

9 Q Would you consider yourself to a
10 large degree the face of the University in terms
11 of public relations?

12 A In terms of public relations, yes,
13 sir.

14 Q As the face of the University, what
15 mission statement is out there on behalf of the
16 University of Kentucky at the present time?

17 A Probably the strategic plan adopted
18 in October of 2015 would be the most readily
19 available one.

20 Q Now, that's the plan put together by
21 whom?

22 A It was put together by some of the
23 president's leadership team and it was adopted by
24 the Board of Trustees. There was input from
25 faculty, students and staff and a number of

1 committees and groups along the way, but adopted
2 by the Board in October of 2015.

3 Q And that's posted publicly, is it
4 now?

5 A Yes, sir.

6 Q And if you will, please be succinct
7 as to that strategic mission statement says what?

8 A I think it says a number of things,
9 but I think most specifically it talks about our
10 aspirations to be among the top residential public
11 research campuses in the United States of America.

12 Q When you say it was put together by
13 the president, did they also call in outside
14 consultants to help formulate that?

15 A Yes.

16 Q Do you recall the consulting firm or
17 firms?

18 A I believe Huron was utilized.

19 Q You'll have to spell that.

20 A H-U-R-O-N.

21 Q Thank you.

22 A Yes, sir.

23 Q Any other firms?

24 A For the University's strategic plan?

25 Q Yes.

1 A Not that I'm aware of.

2 Q Did you participate in it,
3 Mr. Blanton?

4 A Yes, sir.

5 Q To what degree?

6 A I helped write the document.

7 Q Was the document already authored
8 and you just put it into words?

9 A There --

10 Q Or did you have more direct input
11 into it?

12 A I would say I was more involved in
13 the drafting and some of what I would call the
14 preface of the document and editing some of the
15 document at different stages of it. I don't know
16 that I would say I was the author of it. That
17 would be incorrect.

18 Q Who had the final say over the final
19 draft of that?

20 A The provost. The provost and then
21 ultimately the president, but the provost was
22 directing that.

23 Q And I take it from your earlier
24 comment, ultimately the Board of Trustees?

25 A Yes. They adopted it, yes, sir.

1 Q And in terms of the chain of
2 command, the Board of Trustees is responsible for
3 the operation of the University of Kentucky, is it
4 not?

5 A I think they're responsible for the
6 policy direction of the University.

7 Q You make a distinction on what basis
8 between policy and operation?

9 A I think the president is charged
10 with the day-to-day operations of the University.
11 The Board, who is his primary employer, sets a
12 policy direction, but the president is in charge
13 of the management of the institution on a
14 day-to-day basis.

15 Q In terms of policy direction, what
16 is the present day policy direction of the Board
17 of Trustees as spelled out for UK Healthcare, if
18 there is one?

19 A There's a Healthcare Committee to
20 which the operations of the healthcare enterprise
21 report in to, but I guess -- I'm not trying to be
22 obtuse. I'm not really following your question.

23 Q Is there a policy put out by the
24 Healthcare Committee of the Board of Trustees?

25 A Policy?

1 Q Yes, policy.

2 A The hospital has a strategic plan as
3 well that I believe the Healthcare Committee has
4 adopted, so it's certainly -- certainly is setting
5 forth that strategy, yes, that has been adopted by
6 the Healthcare Committee and ultimately the Board.

7 Q But a moment ago, and we may be
8 speaking in cross-purposes, you said the Board of
9 Trustees sets forth the policy and the president
10 is delegated to the day-to-day operations of the
11 University?

12 A That's true.

13 Q My question is, is there a specific
14 policy set forth by the Board of Trustees or any
15 committee thereof that says here, UK Healthcare,
16 this is the direction we want to take and this is
17 how we want to achieve it?

18 A I guess I would say it's set forth
19 in the strategic plan of the hospital.

20 Q The same plan that was adopted by
21 the Board of Trustees?

22 A No, they're separate plans.

23 Q And that likewise is publicly
24 published; is that correct?

25 A Yes, sir.

1 Q Did you have a hand in that drafting
2 also?

3 A No, sir.

4 Q And the reason you didn't?

5 A I don't know that it's ever been
6 part of my --

7 Q Job duty?

8 A -- job portfolio, no, sir.

9 Q So you're pretty much not in touch
10 with UK Healthcare and the PR --

11 A No, sir.

12 Q -- attached thereto; is that
13 correct?

14 A No, sir, that's not true.

15 Q Tell me the extent you're involved.

16 A The public relations or media
17 relations function for both the University and the
18 healthcare enterprise reports up to me. The
19 marketing for the main or academic campus also
20 reports up to me. The marketing for UK Healthcare
21 does not report to me. That's the delineation.

22 Q Marketing doesn't report to you --

23 A For the hospital.

24 Q Correct. And when you say
25 marketing, what do you mean by marketing?

1 A I think marketing is often thought
2 of as the business functions, the paid
3 advertising, the TV ads, the direct mail, the --
4 as Dr. Kearney would know, the physician liaison
5 function, that kind of thing, does not report to
6 me.

7 Q Who does it report to?

8 A The Director of Brand Strategies.
9 Her name is Julie Balog.

10 Q Your department, does it have a
11 name?

12 A Public Relations and Marketing.

13 Q Who's in it, Mr. Blanton?

14 A We have about --

15 Q The principals?

16 A The principals, I report to
17 Tom Harris, who's the Vice President of University
18 Relations. And then I have essentially three
19 managers who report to me, one for medical, med
20 center, and the six colleges of the health campus,
21 one for the main academic campus and one for
22 marketing on the main campus.

23 Q Sticking with just the health
24 campus, UK health campus, who is that individual
25 you just named?

1 A Kristi Lopez.

2 Q And you are her supervisor in that
3 regard?

4 A Yes, sir.

5 Q Just in terms of standard procedure,
6 when you're about to make a statement to the
7 press, do you have to run it by someone for
8 approval?

9 A A lot of people.

10 Q Give me the list.

11 A It depends on --

12 Q Who's at the top of that chain?

13 A Generally either Tom Harris, my
14 direct boss, or Bill Swinford, the Chief of Staff
15 for the president.

16 Q And who else is involved?

17 A On the healthcare side, generally
18 Mark Birdwhistell or Rob Edwards.

19 Q Anyone else involved?

20 A Sometimes the general counsel,
21 Bill Thro.

22 Q If you're going to have a press
23 release or a marketing strategy for UK Healthcare,
24 do you have to run that by Dr. Michael Karpf
25 likewise?

1 A Sometimes, yes, sir.

2 Q Give me the times you have to run it
3 by Dr. Karpf, Bill Thro. What calls in those
4 occasions?

5 A Generally if Dr. Karpf is going to
6 be quoted in something, he will review it, and
7 usually it's for a press conference. That is the
8 general context in which he would review
9 something.

10 Q When you say he'll review it, do you
11 draft the press release for him?

12 A Yes, sir -- I usually don't for him.

13 Q Who usually does?

14 A Kristi Lopez would generally draft
15 something for Dr. Karpf.

16 Q Do you get involved in any step of
17 that process?

18 A I review it, certainly.

19 Q So as I understand it, if Dr. Karpf
20 is going to make a press statement, it's passed by
21 yourself as well as Kristi Lopez; is that correct?

22 A Generally speaking, that's true.

23 Q Are there any occasions when he just
24 makes a press release without any approval from
25 you all?

1 A A press release?

2 Q Yes.

3 A No, sir.

4 Q So I take it that there are strict
5 policies that govern press releases by the
6 University through your office; is that correct?

7 A I don't know if they're written in
8 the governing regs, but it's pretty well
9 understood across the campus. I think it is
10 within the regulations that -- that the public
11 relations department speaks on behalf of the
12 institution. I don't know, to be honest with you,
13 about press releases, but it's pretty well
14 understood that those come out of Public Relations
15 and Marketing department.

16 Q And when you say there's a policy
17 even though it may not be written, what is your
18 understanding of that policy?

19 A That press releases and speaking for
20 the institution are done by the office that I
21 manage.

22 Q And likewise, do those on occasion
23 have to be run by the legal office?

24 A Yes, sir.

25 Q What triggers when a press release

1 has to be run by general counsel's office?

2 A Generally if it's a matter that
3 involves ongoing litigation or the potential for
4 litigation.

5 Q Any other instances where it would?

6 A Generally, no. There may be, but I
7 can't recall.

8 Q Are there occasions when you get
9 sideways with the legal office on what's to be
10 contained in a press release?

11 A I am sure that we discuss it and
12 sometimes we agree or don't agree, but sideways is
13 not a word that I would use.

14 Q Is disagreement a better word?

15 A Sometimes, sure.

16 Q When you reach such a disagreement,
17 who has the final say?

18 A Generally the Chief of Staff would.

19 Q And the Chief of Staff being?

20 A Bill Swinford.

21 Q So as I understand the chain of
22 command, you have yourself?

23 A Yes, sir.

24 Q Then you have your immediate
25 supervisor, who is whom?

1 A Tom Harris.

2 Q Then if you have to go through
3 general counsel's office, you deal with primarily?

4 A Mr. Thro.

5 Q But if there's a, as you used it,
6 disagreement, then it goes to Mr. Swinford, who's
7 Chief of Staff for the president?

8 A Yes, sir.

9 Q Does the president step in directly
10 on occasions, and if so, when?

11 A Very occasionally.

12 Q What about the president's press
13 releases, does he do his own?

14 A No, sir.

15 Q Who has input with respect to the
16 president's press releases?

17 A The office that I manage would draft
18 those for review again by Mr. Harris and
19 Dr. Swinford generally.

20 Q So for lack of a better expression,
21 you kind of have to be on your toes?

22 A Yes, sir.

23 Q And when I say --

24 A You mean like now?

25 Q No.

1 MR. PAFUNDA: Do you want something
2 to drink?

3 THE WITNESS: No, sir, I'm good.

4 MR. PAFUNDA: If you do, just --

5 THE WITNESS: Yes, sir, thank you.

6 I appreciate it.

7 Q But you have to be on your toes not
8 only in terms of your ability to accomplish the
9 press release and put it together accurately;
10 correct.

11 A Yes, sir.

12 Q But you also have to be on your toes
13 in terms of timing, because you don't know when
14 something is going to hit the media, so to speak;
15 correct?

16 A Not always.

17 Q So you don't have an 8-to-5 job in
18 the traditional sense of the word?

19 A No, sir.

20 Q Your hours can extend beyond that?

21 A Yes, sir.

22 Q And do they often?

23 A Yes, sir.

24 Q Give us examples so that we
25 understand what you do on a day-to-day basis.

1 A I'm usually at work between 7:30 and
2 8 in the morning. I'm usually in the office until
3 about 6 most days, and -- although our office
4 rotates among our 20, 25 staff members with an
5 on-call rotation, because we take calls for the
6 hospital from the media, I would say generally
7 speaking I'm on call 24/7.

8 Q And when you say you're on call, if
9 you're not at your office -- which is located
10 where on campus?

11 A The Mathews Building.

12 Q If you're not in the Mathews
13 Building and you're at home and you receive an
14 on-call, do you go back to your office, or do you
15 respond to it from your office and use e-mail?

16 A Both.

17 Q Depending on the situation?

18 A Yes, sir.

19 Q As well as the exigencies of the
20 circumstances?

21 A Yes, sir.

22 Q Recently the University of Kentucky,
23 as well as its president, has been in the news;
24 correct?

25 A Yes, sir.

1 Q On a number of topics; correct?

2 A Yes, sir.

3 Q From his pay raise to the Kentucky
4 Kernel; correct?

5 A Yes, sir.

6 Q Across a broad spectrum?

7 A Yes, sir.

8 Q And have you responded in those
9 situations to the coverage?

10 A Yes, sir.

11 Q Just in a general sense, how have
12 you responded, who do you work with mainly?

13 A In terms of responding to?

14 Q Yes.

15 A A number of media outlets, but
16 certainly the Herald-Leader.

17 Q Let's just focus on the
18 Herald-Leader, otherwise we're going to get to
19 Paducah.

20 A Right.

21 Q Go ahead, Herald-Leader.

22 A The Herald-Leader, the Kernel, which
23 is our student newspaper, the TV stations in town.
24 The three network stations in town probably are
25 the most prevalent.

1 Q When you prepare a press release in
2 response to some news article that the
3 Herald-Leader has done or is about to do, you have
4 to call in other people, do you not, to get
5 approval of the --

6 A Yes, sir, sure.

7 Q And as a general rule, who do you
8 reach out to first?

9 A Probably Bill Swinford most often.

10 Q So you and Bill have a, for lack of
11 a better -- well, heck, it is an accurate
12 representation, is it not, a close working
13 relationship?

14 A Yes, sir.

15 Q Day-to-day relationship?

16 A Yes, sir.

17 Q Depending on the number of articles
18 or news media items that the University has to
19 respond to?

20 A Yes, sir.

21 Q And would you agree with me that the
22 University on all occasions tries to put the best
23 face forward?

24 A We certainly try.

25 Q Whether it's accurate or not, it's

1 important just to put the best face forward;
2 correct?

3 A Yes, it's certainly important to
4 try.

5 Q Now, as a public relations person,
6 is it your job primarily to put spin on bad facts?

7 A I think it's --

8 Q Let's just cut to the chase.

9 A I think it's certainly my
10 responsibility to speak on behalf of the
11 institution and present its perspective as
12 accurately and truthfully as possible.

13 Q Well, let me run this by you: In
14 your position in public relations, I take it you
15 have to have a rather intimate knowledge of the
16 working day-to-day operations of the University;
17 correct?

18 A I think I have a good relationship.
19 Intimate is a pretty strong word.

20 Q Let's just say, you have to have a
21 very good understanding of the day-to-day
22 operations of the University to conduct your
23 public relations?

24 A I try to.

25 Q For example, let's take UK

1 Healthcare. In terms of hands-on on your part,
2 what have you tried to understand about the
3 University of Kentucky Healthcare system?

4 A I think its overarching goals, and
5 then generally we try to promote stories that
6 speak to those goals and form those goals.

7 Q Now, recently there were several
8 newspaper articles about the Kentucky Medical
9 Services Foundation?

10 A Yes, sir.

11 Q Did you participate in the
12 preparation of any public relations response on
13 behalf of Kentucky Medical Services Foundation?

14 A Yes, sir.

15 Q What is your understanding of the
16 Kentucky Medical Services Foundation?

17 A It was created in the late 1970's in
18 large part because the healthcare enterprise was
19 losing doctors, could not pay them competitively
20 in terms of benefits under existing University
21 rules, could not offer a competitive compensation
22 package compared to what other academic medical
23 centers were offering, so the Foundation was
24 created as a 501(c)(3), I believe, to be able to
25 offer extraordinary benefits, fringe benefits, in

1 order to help with the recruitment and retention
2 of doctors. And it also has a secondary mission,
3 which I think is stated, to support the missions
4 of both the healthcare enterprise and that of the
5 institution at large.

6 Q And when did you come to have that
7 knowledge of the Kentucky Medical Services
8 Foundation, and how did you acquire it?

9 A I would say over the last year or so
10 as there have been some press inquiries about KMSF
11 and its functions, roughly.

12 Q To use one expression, it's been
13 on-the-job training as concerns Kentucky Medical
14 Services Foundation for you; is that --

15 A Sure, yes, sir.

16 Q And you also understand that the
17 Kentucky Medical Services Foundation collects,
18 does it not, the billings for patient care that
19 the physicians generate?

20 A That's my understanding.

21 Q And as a general rule, not to be
22 precise, it maintains an annual budget of
23 200,000,000 or even more than 200,000,000?

24 A I think those are its collections.
25 I think the annual budget is less than that, but

1 yes, those are its collections.

2 Q And that money primarily that is
3 collected off of physicians work is to be returned
4 back in terms of salary, benefits for the
5 physicians?

6 A The lion's share, yes.

7 Q From what you've learned, who runs
8 Kentucky Medical Services foundation?

9 A There -- it exists --

10 Q Just from what you know.

11 A It exists for the doctors, but
12 there's an elected body from the doctors that
13 serves as its Board of Directors.

14 Q Are you familiar with the Dean's
15 Enrichment Fund?

16 A Enhancement fund?

17 Q Excuse me.

18 A Yes.

19 Q Is that what you understand it to
20 be? Whatever it is.

21 A I think -- whatever it is, yes, I'm
22 aware of the Dean's fund, yes, sir.

23 Q What is the purpose as you
24 understand it of the Dean's fund?

25 A To support the work of the College

1 of Medicine.

2 Q Do you have to on occasion in your
3 position as public relations manager -- is that
4 correct, Mr. Blanton, public relations manager?

5 A It's director, I think, but manager
6 is great.

7 Q No, I'll use director. You're the
8 one that got the job.

9 As Director of Public Relations,
10 what is your understanding of what the Dean's
11 Enrichment or Enhancement Fund does or what its
12 purpose is?

13 A It exists I think to support the
14 work of the faculty in the College of Medicine
15 generally, but also the healthcare enterprise.

16 Q So both Kentucky Medical Services
17 Foundation as well as the Dean's Enrichment Fund
18 are there to provide better pay, benefits and
19 compensation for the physicians as well as to
20 advance UK Healthcare; is that correct?

21 A And the University, yes, sir.

22 Q Are you saying that the Kentucky
23 Medical Services Foundation is affiliated with the
24 University?

25 A I think its precise title is a

1 nonaffiliated corporation, but.

2 Q But you're aware right now of the
3 legal battle that's going on with the Attorney
4 General; correct?

5 A Yes, sir.

6 Q You've got to know Andy Beshear;
7 right?

8 A I do know him, yes, sir.

9 (Off the record.)

10 Q Let me ask you this: Are there a
11 group of people who are running the University of
12 Kentucky behind the UK logo for their own
13 purposes?

14 A I'm not -- I have absolutely no idea
15 what you're talking about.

16 Q For example, we've got
17 President Capilouto who just threatened to resign;
18 correct?

19 A That's not true.

20 Q Why do you say that it's not true?

21 A Because he said it wasn't.

22 Q But you also have Board of Trustees
23 members who are saying that he did threaten to
24 resign?

25 A I think one member said that, yes,

1 sir.

2 Q So to put you on the spot, so the
3 president in your -- from what you understand says
4 that's not true?

5 A Yes, sir.

6 Q Board of Trustees member says it is
7 true?

8 A One does, yes, sir.

9 Q How do you draw the line? How do
10 you make the distinction? How do you make the
11 determination?

12 A I mean, I think I have made the
13 distinction.

14 Q You choose to believe the president?

15 A Yes, sir.

16 Q Is that given your position as an
17 at-will employee?

18 A No.

19 Q Why pick the president over his boss
20 and member of the Board of Trustees?

21 A I work for the president.

22 Q Okay.

23 A I also believe him.

24 Q No, go ahead.

25 A No, that's it.

1 Q But on the same token, in all
2 fairness, you're not saying that the Board of
3 Trustee member is lying, are you?

4 A No, sir.

5 MR. PAFUNDA: Mr. Blanton, I think
6 you've already got this. I'll mark your
7 copy as an exhibit. I'll mark this as
8 Plaintiff's Exhibit 1 to the Blanton
9 deposition, Mr. Blanton.

10 (REPORTER MARKS LETTER, TWO PAGES,
11 AS PLAINTIFF'S EXHIBIT NO. 1 FOR PURPOSES OF
12 IDENTIFICATION.)

13 THE WITNESS: Thank you.

14 MR. PAFUNDA: Have you seen it
15 before, Bryan? You don't have to tell me.
16 Wink or something. I mean, do you want to
17 read the whole thing?

18 MR. BEAUMAN: No, you can ask him.
19 It's okay. I don't know if he's seen it
20 before.

21 THE WITNESS: I recall.

22 Q Just take a moment and review that,
23 if you will.

24 A Yes, sir.

25 Q Have you had an opportunity to

1 review it?

2 A Yes, sir.

3 Q And what is it?

4 A It's an e-mail that I think
5 Dr. Kearney sent me some time ago.

6 Q Did he, in fact, send it to you?

7 A That is my recollection.

8 Q It was in response to what, sir?

9 A Reading from the e-mail, I think it
10 was to comments I had made.

11 Q And the comments referenced in the
12 e-mail are what that you made?

13 A Well, I mean, I think he mentions a
14 couple of specific quotes in here about --
15 relating to just a comment that I made after some
16 of the disciplinary proceedings presumably before
17 the Board, as I recall.

18 Q Does he reference those comments?

19 A Yes, sir.

20 Q Would you read those into the
21 record, please?

22 A You mean read the paragraph?

23 Q No, just the comments that he
24 references.

25 A "The terms 'verbal balance' and

1 'unfit for clinical duty.'

2 Q Let me interrupt you. Are those
3 comments that you used in the press release?

4 A I do recall "Verbal violence." I
5 don't recall "Unfit for clinical duty," but I
6 don't take issue that I likely said that if you've
7 got the article.

8 Q In your opinion, is Dr. Kearney
9 unfit for clinical duty?

10 A The institution's opinion is that
11 he's unfit for clinical duty, and I speak on
12 behalf of the institution.

13 Q So when you put that phrase out to
14 the press, "Unfit for clinical duty," who gave you
15 that information?

16 A I think it was based on consultation
17 with the people that we've talked about, as well
18 as the testimony of his -- of Dr. Kearney's
19 colleagues and those that reviewed his
20 disciplinary file in making the recommendation to
21 revoke his clinical privileges.

22 Q Be more specific if you would,
23 please. Prior to your release of that statement
24 to the press, who did you pass it in front of for
25 approval?

1 A I don't -- as I mentioned to you, I
2 don't recall specifically on the "Unfit for
3 clinical duty" statement. I do recall I think
4 verbal violence is something actually said in an
5 interview.

6 Q Did you have an approval to say that
7 prior to the time that you made that announcement?

8 A I had approval to make -- provide
9 that general sentiment, certainly. I don't know
10 if they -- the two words I had approval for, but
11 that sentiment I had approval for.

12 Q Who did you obtain that approval
13 from?

14 A I'm sure a number of people.

15 Q I need to know their names.

16 A I don't recall the specific
17 conversation, sir, but I'm sure I talked to the
18 general counsel. I'm sure I talked to
19 Dr. Swinford, but I don't recall the specific
20 conversation.

21 Q No question in your mind that you
22 talked to general counsel; correct?

23 A I talked to general counsel
24 throughout the process. I don't recall the
25 specific conversation that we're talking about.

1 Q Be patient with me. You would not
2 make a comment that Dr. Kearney engaged in verbal
3 violence without first checking with the
4 University General Counsel Thro?

5 A Certainly in this case the general
6 sentiment would have to have been in consultation
7 with him, yeah.

8 Q And the reason is to avoid
9 litigation; correct?

10 A That could be.

11 Q Any other reasons?

12 A That would be the general reason I
13 would consult with him.

14 Q And also another reason you would
15 consult with him is because you were removed
16 yourself from the disciplinary process, in other
17 words, you weren't involved; correct?

18 A I was not involved in it, that's
19 true.

20 Q So all information you had about the
21 disciplinary process had to come from sources
22 other than yourself?

23 A Yes, sir.

24 Q One of those sources was general
25 counsel; correct?

1 A Yes, sir.

2 Q Any other sources for that
3 information?

4 A As I recall, probably some of the
5 written documents from the testimony of the review
6 panels.

7 Q Did you review written documents
8 from the review panels, or were you provided --

9 A I'm sure I was provided with them at
10 some point.

11 Q Do you still have them?

12 A I don't recall.

13 Q Who provided those documents to you?

14 A I'm sure that would have come from
15 the general counsel.

16 Q And the other comment, "Unfit for
17 clinical duty"?

18 A I don't recall the context in which
19 I said that, but I'm not at all arguing that I
20 didn't say it. I just don't recall the context.

21 Q But what you are saying that if, in
22 fact, you did say it, it's not your opinion, it's
23 the institutions's opinion?

24 A Yes, sir.

25 Q Who said that to you, that he was

1 unfit for clinical duty?

2 A I think that's the entire crux of
3 the case.

4 Q On what basis do you offer the
5 opinion that that's the entire crux of the case?

6 A Two medical review panels that voted
7 to revoke his clinical privileges, a board panel
8 that voted to revoke his clinical privileges, the
9 testimony of his colleagues, particularly among
10 the nursing ranks, the testimony of his boss, the
11 Chief Medical Officer, Dr. Bernie Boulanger, I
12 think the totality of that certainly speaks to
13 that.

14 MR. BEAUMAN: Do you have a date on
15 this?

16 MR. PAFUNDA: No, I don't.

17 MR. BEAUMAN: Okay.

18 MR. PAFUNDA: Thanks for asking.

19 MR. BEAUMAN: Fair enough.

20 PAUL KEARNEY: I can get it.

21 MR. PAFUNDA: Don't help him out.

22 Q When you say in the context of this,
23 you're talking about the present lawsuit; correct?

24 A I'm sorry?

25 Q The present lawsuit, you're aware of

1 it?

2 A I am aware of the present lawsuit,
3 yes, sir.

4 Q What exhibit have you got there,
5 No. 1?

6 A Yes, sir.

7 Q I'll show you this as No. 2.

8 (REPORTER MARKS 10/14/15 ARTICLE AS
9 PLAINTIFF'S EXHIBIT NO. 2 FOR PURPOSES OF
10 IDENTIFICATION.)

11 Q Quick question -- are you ready?

12 A Okay.

13 Q You see the highlighted portions?

14 A Yes, sir.

15 Q First question, did you help prepare
16 President Capilouto with respect to his apology?

17 A No, sir.

18 Q So he did that on his own?

19 A Yes, sir.

20 Q That was rather unusual, was it not,
21 for a press release?

22 A It wasn't a press release.

23 Q What was it?

24 A I believe this is in comments he
25 made to the faculty senate. Or -- wait a minute.

1 Yeah.

2 Q Which he did on his own with no
3 input whatsoever; correct?

4 A I didn't say that. I did not
5 provide him input.

6 Q Who provided him input, if you know?

7 A I don't know.

8 Q Are you saying that there was some
9 input?

10 A I don't know.

11 Q The pages aren't numbered, but if
12 you'll turn to Page 3.

13 A Yes, sir.

14 Q Oh, they are numbered. Thank you.
15 I was looking at the bottom.

16 The hard drive --

17 A Yes, sir.

18 Q -- you made a press -- you made a
19 statement with respect to the hard drive; correct?

20 A Yes, sir.

21 Q That wasn't a statement you were
22 issuing to the University students or faculty, was
23 it? That was a statement you were issuing to the
24 press; correct?

25 A I think it was in response to a

1 question.

2 Q From the press?

3 A Yes, I believe so.

4 Q Walk me through it. When you get a
5 question from the press, do you take time out to
6 go filter a response?

7 A Yes, sir.

8 Q Do you recall this specific response
9 and request that was made by the press?

10 A I believe this was in response to
11 concerns that either you or Dr. Kearney had
12 raised, and I believe the -- I went to the general
13 counsel for the institution's response.

14 Q When you say either I or
15 Dr. Kearney, had the press raised any questions in
16 this regard about this hard drive?

17 A I think the question came from the
18 press.

19 Q Do you recall the question from the
20 press or what triggered it?

21 A My recollection is again based on
22 concerns that you had raised or Dr. Kearney had
23 raised, but I don't recall anything more than
24 that.

25 Q Then why would you say that?

1 A Because that's what I recall.

2 Q What do you recall about concerns
3 that either myself or Dr. Kearney had -- well, let
4 me ask it this way: Have you and I ever had a
5 discussion prior to today?

6 A No, sir.

7 Q We haven't even met, have we?

8 A Not that I'm aware of.

9 Q And other than the e-mail I showed
10 you a moment ago as Exhibit No. 1 and maybe some
11 casual conversation, you and Dr. Kearney haven't
12 discussed these matters, have you?

13 A No, sir.

14 Q And other than the press making an
15 inquiry as to Dr. Kearney's hard drive, where
16 would you get the information that I or
17 Dr. Kearney had made any inquiries concerning
18 that?

19 A Probably in response to the press.

20 Q What about from General Counsel
21 Bill Thro?

22 A I -- could be, but generally I think
23 everything in here was probably in response to
24 questions from the press.

25 Q And your response, if you will, just

1 with respect to Dr. Kearney's hard drive, if
2 you'll just read into the record what you informed
3 the press.

4 A "UK kept the hard drive to ensure
5 Kearney could not access protected health
6 information. Although Dr. Kearney claimed that no
7 (protected health information) was on the hard
8 drive, the University has found 17 documents and
9 an additional 18 files that contain (it)."

10 Q Now, you didn't find those
11 documents; correct?

12 A No, sir.

13 Q So somebody had to tell you there
14 were 17 documents and 18 files that had patient
15 information; correct?

16 A Yes, sir.

17 Q Do you recall who told you that?

18 A My recollection would be someone in
19 the general counsel's office.

20 Q And likewise above that, it says,
21 "UK spokesman Jay Blanton said UK kept the hard
22 drive to ensure Kearney could not access protected
23 health information"?

24 A Yes, sir.

25 Q Who told you that was the reason why

1 the hard drive was still being kept?

2 A Again, I would presume it was
3 someone in the general counsel's office.

4 Q Did you make notes of those
5 conversations to make a record of them?

6 A I don't recall if I made notes about
7 this. I do make notes often.

8 Q And when you say make notes often,
9 not only notes as to what the Herald-Leader may
10 ask and so on and so forth, but also the input
11 that you're receiving from people employed by the
12 University; correct?

13 A Yes, sir.

14 Q So if general counsel makes some
15 input or the president makes some input, you're
16 going to make notes of it so you have an accurate
17 record; correct?

18 A Yes, sir.

19 Q So that there's no disagreement down
20 the road about who said what and when; correct?

21 A Yes, sir.

22 (REPORTER MARKS 9/2/15 ARTICLE AS
23 PLAINTIFF'S EXHIBIT NO. 3 FOR PURPOSES OF
24 IDENTIFICATION.)

25 Q Plaintiff's Exhibit 3, if you'll

1 take a moment, Mr. Blanton, and just review that.

2 A Yes, sir.

3 Q Again, have you had an opportunity
4 to review it?

5 A Yes, sir.

6 Q And you're familiar with this
7 particular newspaper article?

8 A Yes, sir.

9 Q And for the record, Exhibit 3 is
10 entitled what?

11 A You mean the headline?

12 Q Yes.

13 A "University" --

14 Q Thank you.

15 A No problem.

16 "University of Kentucky takes
17 further action against spurned trauma surgeon
18 Paul Kearney."

19 Q Where are you from?

20 A Louisville.

21 Q You talk a little fast.

22 A My dad is from Pikeville, if that
23 counts.

24 (Off the record.)

25 Q If you will, turn to Page 3, which

1 is numbered. If you will, and I've highlighted --
2 I didn't highlight it on your copy -- "UK
3 spokesman" --

4 A Yes, sir.

5 Q -- if you would, read that sentence
6 into the record, please?

7 A The quote?

8 Q Yes, please.

9 A "The explicit determination that
10 Dr. Kearney is unfit to perform the duties of a
11 clinician raises significant concerns regarding
12 any interaction with house staff. The president
13 decided (in consultation with the dean of the
14 college, the Chief Medical Officer and the Chair
15 of Surgery) that the University will exercise
16 extraordinary care to avoid any circumstances that
17 might raise questions from our accreditors."

18 Q Above that there's also a quote from
19 you, and if you would read that sentence into the
20 record.

21 A "UK spokesman Jay Blanton said
22 Kearney's interaction with medical employees was
23 being restricted because of possible concerns that
24 might arise from agencies that accredit the
25 hospital."

1 Q Now, are you familiar with the
2 accreditation process?

3 A Not intimately.

4 Q Are you familiar with it at all?

5 A Not really.

6 Q Who passed that information on to
7 you that Dr. Kearney's interaction with medical
8 employees was being restricted because of possible
9 accreditation concerns?

10 A My recollection would be the general
11 counsel's office.

12 Q When was that meeting? Just when
13 was that meeting, if you recall?

14 A About the quote?

15 Q Yeah, when you got this information
16 from general counsel?

17 A I don't recall.

18 Q Did you make a record of it,
19 Mr. Blanton --

20 A I don't recall.

21 Q -- what he said?

22 A What who said, the general counsel?

23 Q Yes.

24 A I don't recall.

25 Q But it is your standard practice to

1 make notes to make sure that you get it right and
2 there's no disagreement down the road between you
3 and general counsel as to what he said; correct?

4 A Yes, sir.

5 Q And to use street language, that's
6 to cover yourself?

7 A Sure thing.

8 Q Understandably so in these
9 situations; correct?

10 A Yes, sir.

11 Q Because, for lack of a better
12 expression, these situations are intense where
13 there's a release or a statement by you on behalf
14 of the University, and you don't want to be put
15 out on a limb and not have what you say
16 substantiated by those who gave you the
17 information?

18 A Yes, sir.

19 Q Thank you.

20 Did general counsel describe to you
21 how Dr. Kearney's interaction with medical
22 employees would adversely affect the hospital's
23 accreditation?

24 A I don't recall a specific
25 conversation about it.

1 Q But what you do recall from the
2 conversation is -- was released to the press;
3 correct?

4 A I believe that's an accurate quote,
5 yes, sir (indicating).

6 Q Go to the next one, "The explicit
7 determination that Dr. Kearney is unfit to perform
8 the duties of a clinician raises significant
9 concerns regarding any interaction with house
10 staff."

11 A Yes, sir.

12 Q I take it you got that from general
13 counsel too?

14 A Yes, sir.

15 Q The general counsel, and I -- this
16 is Mr. Thro?

17 A Generally speaking, it would be.

18 Q On both occasions with respect to
19 the accreditation from the hospital likewise as
20 the interaction with house staff?

21 A That would be my recollection.

22 Q Again, and I don't mean to belabor
23 the point, but I will, if you made notes, you
24 would still have those notes?

25 A I didn't say that.

1 Q No, I know you didn't say that.

2 A I don't know that I would.

3 Q Is it your practice to retain those
4 notes?

5 A Not necessarily.

6 Q Did Mr. Thro or anybody in the legal
7 office go into detail as to why Dr. Kearney was
8 unfit to perform the duties of a clinician?

9 A I don't recall.

10 Q But whether he is or he is not, you
11 don't have any personal opinion one way or the
12 other; correct?

13 A I'm speaking on behalf of the
14 institution.

15 Q You were aware, were you not, during
16 his 27-year tenure of employment there,
17 Dr. Kearney was regarded as one of the best trauma
18 surgeons in the country?

19 A Yes, sir.

20 Q You were also aware that during his
21 27 years at the University of Kentucky he received
22 over 26 teaching awards?

23 A Yes.

24 Q Did you also know that he had an
25 endowed chair?

1 A Yes, sir.

2 Q Do you recall the amount of money
3 that was placed in his endowed chair?

4 A A million dollars, as I recall.

5 Q Is it unusual for an active member
6 of the medical faculty to have an endowed chair,
7 and I emphasize the word "active"?

8 A I don't have a frame of reference
9 for that.

10 Q You don't know who else has an
11 endowed chair, whether they're active, dead,
12 alive?

13 A No, sir.

14 Q Is it important for a university to
15 receive endowed chairs?

16 A Yes, sir.

17 Q Now just from a PR point of view,
18 tell me why.

19 A It generally speaks to the quality
20 or the commitment of a donor, certainly.

21 Q And just from a public relations or
22 marketing standpoint, why is it important?

23 A Again, it speaks to -- I think
24 donations speak to the commitment of people to the
25 institution, and it also can speak to the quality

1 of the academician or the clinician.

2 Q If you'll go on in the statement
3 that you continue to issue on behalf of the
4 University, and if you'll read that next sentence,
5 it begins "The president."

6 A "The president decided (in
7 consultation with the dean of the college, Chief
8 Medical Officer and the Chair of Surgery) that the
9 University will exercise extraordinary care to
10 avoid any circumstances that might raise questions
11 from our accreditors."

12 Q From whom did you receive that
13 information?

14 A I assume the general counsel's
15 office.

16 Q And prior to your release of these
17 statements, did you prepare them, draft them and
18 get approval to release them?

19 A I'm sure I did. I'm sure we swapped
20 statements back and forth or back and forth
21 between the general counsel, myself and perhaps
22 others like Dr. Swinford. I don't recall the
23 specific circumstances here, but that would
24 generally be the case.

25 Q But there was a team involved;

1 correct?

2 A There usually is.

3 Q Was there a team involved in this
4 case?

5 A I don't recall the specifics, sir.

6 Q Was the president directly involved
7 in this?

8 A No, sir.

9 Q And you say that emphatically, so no
10 question about it, the president was not involved?

11 A I don't recall him being involved in
12 it.

13 Q And when you say it goes back and
14 forth, I take it it's by e-mail?

15 A Generally.

16 Q Was it in this instance or was it
17 face-to-face?

18 A I don't recall.

19 Q So if there's an e-mail from
20 Mr. Thro to you about Dr. Kearney's interaction
21 with medical employees and hospital accreditation,
22 that would be retained on a server, would it not?

23 A I believe so, but I don't know for
24 sure.

25 Q Do you know if you've retained it?

1 A I don't know.

2 MR. PAFUNDA: Bryan, why don't we
3 take a break. We're going to take a
4 five-minute break; is that okay?

5 **THE WITNESS:** Yes, sir.

6 (Off the record.)

7 (REPORTER MARKS ARTICLE DATED
8 7/31/15 AS PLAINTIFF'S EXHIBIT NO. 4 FOR
9 PURPOSES OF IDENTIFICATION.)

10 CONTINUED EXAMINATION

11 By Mr. Pafunda:

12 Q Have you had an opportunity to
13 review that newspaper article marked as
14 Plaintiff's Exhibit No. 4?

15 A Yes, sir.

16 Q On Page 2 there's a quote from you?

17 A Yes, sir.

18 Q And again, you're speaking on behalf
19 of the University?

20 A Yes, sir.

21 Q And would you read your quote to the
22 newspaper into the record?

23 A "I think a clear message was sent
24 today. The University is not going to tolerate a
25 pattern of abusive behavior and verbal violence

1 toward colleagues, patients, staff and students."

2 Q You didn't just wake up and give
3 that on your own without seeking approval from
4 someone; correct?

5 A I think the general sentiment -- I
6 expressed the general sentiment of the
7 institution.

8 Q Who gave you that information? Who
9 did you work with to prepare that statement?

10 A I think this was in an interview, so
11 I don't think it was a written statement. I think
12 was an interview following the panel hearing.

13 Q Where were you interviewed?

14 A The 18th floor of Patterson Office
15 Tower, as I recall.

16 Q You were there?

17 A Yes, sir.

18 Q So you were there when the
19 Healthcare Committee of the Board of Trustees
20 returned Dr. Kearney to work as a full-tenured
21 professor?

22 A And revoked his clinical privileges,
23 yes, sir.

24 Q Why do you add revoked his clinical
25 privileges, because he, in fact, was returned as a

1 full-tenured professor, was he not?

2 A And his clinical privileges were
3 revoked, yes, sir.

4 Q Let's take it one at a time.
5 Was he returned as a full-tenured
6 professor?

7 A I think he retained his rights. I
8 don't think it was returned. I think he retained.

9 Q Was he given an office by the
10 Healthcare Committee?

11 A I don't recall specifically, but I
12 wouldn't doubt that.

13 Q Did the Healthcare Committee direct
14 that his e-mails be returned to him, hard drive?

15 A If this article says so, I certainly
16 would not refute it.

17 MR. BEAUMAN: "This article," you're
18 all talking about two different meetings.

19 MR. PAFUNDA: That's why I'm asking
20 him. Okay.

21 MR. BEAUMAN: But I don't think he
22 does.

23 MR. PAFUNDA: I don't think he does
24 either.

25 **THE WITNESS:** I don't recall.

1 Q If you'll take a look at it, all
2 right?

3 A Look at the article?

4 Q Yes.

5 A Yes, sir.

6 Q It will tell you that it's about the
7 three-person panel. Were you present at that
8 hearing too?

9 A Yes, I was.

10 Q So prior to that hearing, had you
11 prepared a statement for the press?

12 A I don't recall that. I think these
13 were interviews I gave, as I recall.

14 Q But you knew the press was going to
15 be present that day, did you not?

16 A Yes, sir.

17 Q In your public relations and
18 marketing position, it's always best to be
19 prepared; correct?

20 A Yes, sir.

21 Q So if you knew the press was going
22 to be there, not to argue with you, but you would
23 be prepared in case you were questioned by the
24 press; correct?

25 A Certainly mentally if not had

1 written something down. I don't recall what I did
2 here, but certainly I would think about it, yes.

3 MR. BEAUMAN: This is from Friday?

4 THE WITNESS: Yeah, this is Friday.
5 My short-term memory is not good, but I got
6 this one.

7 MR. BEAUMAN: Can you tell me what
8 relevance this has?

9 MR. PAFUNDA: It does not have to be
10 relevant to be discoverable. It has to lead
11 to relevant information. Do you want me to
12 make it relevant?

13 MR. BEAUMAN: Yes. Give me some idea
14 of how this --

15 MR. PAFUNDA: No, I'm not going to
16 give it to you like the judge.

17 (REPORTER MARKS ARTICLE DATED 9/9/16
18 AS PLAINTIFF'S EXHIBIT NO. 5 FOR PURPOSES OF
19 IDENTIFICATION.)

20 Q Ready, Mr. Blanton?

21 A Yes, sir.

22 Q Has President Capilouto taken a
23 stance with the Board of Trustees that if he
24 doesn't get his way he threatens to resign?

25 A I think we've covered this, but --

1 Q We have, but I mean...

2 A I think -- no, I don't think that's
3 what he said.

4 Q Has he taken a stance where if the
5 Board of Trustees gives him a directive, he's
6 willing to defy it despite the fact that the Board
7 of Trustees is his employer?

8 A I don't think he said that either.

9 Q I'm not asking if he said it. I'm
10 asking if that's his stance that he's taken?

11 A Not that I'm aware of.

12 Q Has he taken a stance to drive the
13 University of Kentucky more in an operational
14 sense from a corporation's -- private
15 corporation's operation?

16 A I'm not following you.

17 Q Is the University now being run
18 under Dr. Capilouto's leadership as a private
19 corporation?

20 A No, sir.

21 Q Does Dr. Capilouto, at least through
22 you as his public relations' man, maintain that
23 it's important to be -- to cherish the community
24 values of the University of Kentucky?

25 A Yes, sir.

1 Q Does he likewise in that same regard
2 maintain through you that it's important that the
3 rules and regulations of the University of
4 Kentucky are followed?

5 A Yes, sir.

6 Q And that's followed by everyone;
7 correct?

8 A Should be.

9 Q Including the president, as well as
10 general counsel?

11 A Yes, sir.

12 Q So that means that there needs to
13 be, does it not, or necessarily follows that
14 there's an open discussion between faculty members
15 and the administration; isn't that true? You
16 would expect that in your position as public
17 relations?

18 A I'm sure it happens all of the time.

19 Q Are you familiar with the Press
20 Ganey Engagement Survey?

21 A Yes, sir.

22 Q What were the results in terms of
23 the engagement between the faculty and the
24 administration in terms of ranking?

25 A The rankings were not good.

1 Q When you say not good, tell me how
2 bad they were.

3 A I don't know the specific numbers.

4 Q Is it important for you in marketing
5 and public relations to know those specific
6 numbers?

7 A I don't know how it would be.

8 Q Is that a question?

9 A No, it's a statement.

10 Q I was going to give you the first
11 time in 30 years to ask me a question -- no.

12 But wouldn't it be important in
13 terms of marketing to attract new faculty members
14 to the University to show that it has a vibrant
15 relationship, a vibrant, healthy relationship with
16 the administration?

17 A There are a lot of factors that go
18 into those relationships and into the recruitment
19 and retention of faculty and clinicians. I think
20 the record of UK Healthcare in the last 15 years
21 that I'm aware of has been outstanding if you look
22 at patient quality, its admissions.

23 Q You say patient quality --

24 A You're asking about marketing, so
25 I'm giving you a marketing answer.

1 Q Well, when you say patient quality
2 and admissions, we're talking primarily that the
3 admissions or patient care has been boosted
4 through Medicaid/Medicare in Kentucky, has it not,
5 to now account for 38 percent of the budget of the
6 hospital?

7 A If that's a question of its revenue,
8 yes.

9 Q Likewise, if we return to the
10 relationship between the faculty and
11 administration, it's important, according to
12 Dr. Capilouto that -- for the administration to be
13 open and transparent, is it not?

14 A Yes, sir.

15 Q And yet, as this newspaper article
16 points out, there are at least one, two or maybe
17 three Board of Trustees members who are distressed
18 by the whole succession of legal problems that
19 have been encountered at the University; correct?

20 A I think the trustees are quoted in
21 that article, yes.

22 Q If you would -- I believe it's
23 Trustee Hawpe; am I pronouncing his name
24 correctly?

25 A Yes, sir.

1 Q If you would, just read his quote
2 from that paragraph that I've highlighted into the
3 record?

4 A "I am distressed by the whole
5 succession of legal problems that we've
6 encountered at the University, throughout which
7 we've exhibited a blinkered view of our
8 responsibilities to protect people."

9 Q So the mission of UK Healthcare to
10 protect people has, for lack of a better
11 expression, gotten sidetracked by unnecessary
12 litigation according to that trustee?

13 A I don't know --

14 MR. BEAUMAN: Object to form.

15 A -- if that's what he's referring to.
16 You could ask Trustee Hawpe that.

17 (REPORTER MARKS ARTICLE DATED 9/2/16
18 AS PLAINTIFF'S EXHIBIT NO. 6 FOR PURPOSES OF
19 IDENTIFICATION.)

20 Q Exhibit 6, before I give one to
21 Mr. Beauman, did you participate in the
22 preparation of that editorial by Peggy Halcomb?

23 A No, sir.

24 Q Did you know who did?

25 A No, sir.

1 Q Did anybody, to your knowledge?

2 A I don't know that, sir.

3 Q What about Dr. Mark Randall, his
4 editorial?

5 A Yes, sir.

6 Q You did participate in that?

7 A Yes, sir.

8 Q Thank you.

9 A I didn't take the picture, but.
10 (Off the record.)

11 Q With respect to the editorial that
12 carries the byline "Dr. Marcus Randall and
13 Dr. Robert DiPaola" -- am I pronouncing his name
14 correctly?

15 A Yes, sir.

16 Q -- what input did you have in the
17 preparation of this editorial piece?

18 A I helped draft it.

19 Q Specifically, what did you do?

20 A I helped draft it.

21 Q I know that, but tell me what you
22 did. I mean, I don't --

23 A I helped write a rough draft of it
24 that was reviewed by the doctors in question and
25 also I'm sure it was reviewed by others.

1 Q Do you know if, in fact, it was
2 reviewed by others?

3 A Yes.

4 Q Who else reviewed it before its
5 release?

6 A Both Dr. Randall and Dr. DiPaola and
7 Dr. Swinford. I'm sure Mark Birdwhistell and
8 Rob Edwards.

9 Q And was it also run by legal?

10 A I -- that would -- that would be my
11 assumption.

12 Q Because there's a number of open
13 records cases in litigation over at Kentucky
14 Medical Services Foundation; correct?

15 A Yes, sir.

16 Q So you're making the assumption that
17 legal would look at it just to make sure that
18 there's nothing in there that would --

19 A Yes, sir.

20 Q -- detract from legal's position;
21 correct?

22 A Yes, sir, that would be typical.

23 Q So to come full circle, then when
24 you drafted this particular editorial for their
25 approval, it was to put the best face forward for

1 Kentucky Medical Services Foundation; is that
2 correct?

3 A It was certainly to tell the
4 perspective that we didn't think had been
5 reflected in the article about the Foundation.

6 Q What was your opinion of what was
7 placed in an article by the Herald-Leader about
8 the Foundation?

9 A I'm sorry, say again, sir.

10 Q What needed to be responded to by
11 reason of this editorial?

12 A I -- the attempt was to underscore
13 the importance of the Foundation to the community,
14 to the Commonwealth, to the healthcare enterprise
15 and the University and provide some specific
16 examples thereof.

17 Q What specific examples, even though
18 it speaks for itself, were provided so that the
19 community would understand what Kentucky Medical
20 Services does?

21 A As I mentioned earlier, it's been
22 pivotal to the recruitment and the retention of
23 outstanding clinicians. It's also been involved
24 in investing in a number of significant
25 initiatives that have saved and created jobs in

1 the community, and provided services that
2 otherwise would not have been provided.

3 Q So to answer my question, it was to
4 put the best face forward for Kentucky Medical
5 Services Foundation; correct?

6 A Yes, sir.

7 MR. PAFUNDA: Mark that as
8 Plaintiff's Exhibit No. 8.

9 (REPORTER MARKS ARTICLE, "MEDICAL
10 FOUNDATION ENSURES TOP DOCTORS, COMMUNITY
11 INVESTMENT" AS PLAINTIFF'S EXHIBIT NO. 7 FOR
12 PURPOSES OF IDENTIFICATION.)

13 (Off the record.)

14 (REPORTER MARKS ARTICLE DATED
15 8/19/16 AS PLAINTIFF'S EXHIBIT NO. 8 FOR
16 PURPOSES OF IDENTIFICATION.)

17 Q My question to you, Mr. Blanton, is
18 that Exhibit No. 7 is Kentucky Medical Services
19 Foundation's response to the Lexington Herald
20 article contained in Exhibit No. 8; is that
21 correct?

22 A Yes.

23 Q Thank you.

24 If we'll go back to Exhibit No. 6.
25 I'm handing you Plaintiff's Exhibit No. 6 which is

1 the Peggy Halcomb editorial, and if you'll read
2 what I've just highlighted, that complete
3 sentence, "In 1998."

4 A "In 1998, a car wreck on Tates Creek
5 Road took the life of a pregnant woman. Because
6 of the doctors at UK Healthcare, the baby was
7 miraculously saved, and the child was featured on
8 the Children's Miracle Network. That baby became
9 my granddaughter."

10 Q Did you know at the time that it was
11 Dr. Kearney that saved that baby's life?

12 A No, sir.

13 Q I'll hand you back Exhibit No. 5,
14 and if you will, read into the record the last
15 sentence from Dr. Capilouto.

16 A "When asked how the numerous court
17 cases intersect with his frequent talk of
18 transparency at UK, Capilouto said, 'reasonable
19 people can disagree and there's a civil way to
20 settle this.'"

21 Q That's not the entire quote,
22 Mr. Blanton.

23 A I'm sorry, you said read the last
24 sentence, didn't you?

25 Q Yeah.

1 A What are you asking me to read, I'm
2 sorry?

3 Q Let me see if I read it correctly.
4 "When asked how the numerous court
5 cases intersect with his frequent talk of
6 transparency at UK, Capilouto said, 'reasonable
7 people can disagree and there's a civil way to
8 settle this - in court.'"

9 A Yes, sir.

10 MR. PAFUNDA: I didn't hear the last
11 part.

12 Q So Dr. Capilouto's approach to a
13 reasonable settlement is to resort to litigation?

14 A At times. I think this is in
15 response to a specific case.

16 Q Well, actually we had the Board of
17 Trustees responding to a number of cases that
18 Dr. Capilouto has insisted go to court, correct,
19 particularly with the open records requests?

20 MR. BEAUMAN: None of which are
21 relevant to this action or likely to lead to
22 the discovery of anything that would be
23 relevant or admissible.

24 MR. PAFUNDA: Take off, Jay.

25 **THE WITNESS:** Thank you. Nice to

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meet you, sir.

* * * * *

THEREUPON, the taking of the
deposition of JAY BLANTON was concluded at
3:45 p.m.

* * * * *

1 STATE OF KENTUCKY)

2 COUNTY OF PENDLETON)

3

4 I, DESIREE J. WRIGHT, the undersigned
5 Notary Public in and for the State of Kentucky at
6 Large, certify that the facts stated in the
7 caption hereto are true; that at the time and
8 place stated in said caption, the witness named in
9 the caption hereto personally appeared before me,
10 and that after being by me duly sworn, was
11 examined by counsel for the parties; that said
12 testimony was taken down in stenotype by me and
13 later reduced to computer transcription by me and
14 the foregoing is a true and accurate record of the
15 testimony given by said witness.

16 No party to said action nor counsel for
17 said parties requested in writing that said
18 deposition be signed by the testifying witness.

19 My commission expires: September 11,
20 2018.

21 IN TESTIMONY WHEREOF, I have hereunto set
22 my hand and seal of office on this the 6th day of
23 October, 2016.

24

25

DESIREE J. WRIGHT
NOTARY PUBLIC, STATE AT LARGE

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